



**Cynulliad Cenedlaethol Cymru
The National Assembly for Wales**

**Y Pwyllgor Cyfle Cyfartal
The Committee on Equality of Opportunity**

**Dydd Iau, 17 Ebrill 2008
Thursday, 17 April 2008**

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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynddi yn y pwyllgor. Yn ogystal, cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

These proceedings are reported in the language in which they were spoken in the committee. In addition, an English translation of Welsh speeches is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Eleanor Burnham	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Chris Franks	Plaid Cymru The Party of Wales
Mark Isherwood	Ceidwadwyr Cymreig Welsh Conservatives
Bethan Jenkins	Plaid Cymru The Party of Wales
Ann Jones	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)

Eraill yn bresennol
Others in attendance

Heulwen Blackmore	Pennaeth yr Is-adran Cydraddoldeb a Hawliau Dynol Head of Equality and Human Rights Division
Brian Gibbons	Aelod y Cynulliad, Llafur (y Gweinidog dros Gyfiawnder Cymdeithasol a Llywodraeth Leol) Assembly Member, Labour (the Minister for Social Justice and Local Government)
Ian Skinner	Pennaeth Cyllid Cyfalaf Cyllid Llywodraeth Leol Head of Local Government Finance Capital Funding
Ian Stead	Cyfarwyddwr Adnoddau Dynol, GIG Cymru Human Resources Director, NHS Wales

Swyddogion Gwasanaeth Seneddol y Cynulliad yn bresennol
Assembly Parliamentary Service officials in attendance

Claire Griffiths	Dirprwy Glerc Deputy Clerk
Tom Jackson	Clerc Clerk
Helen Roberts	Cynghorydd Cyfreithiol Cynorthwyol Assistant Legal Adviser
Denise Rogers	Gwasanaeth Ymchwil yr Aelodau Members' Research Service

Dechreuodd y cyfarfod am 12.32 p.m.
The meeting began at 12.32 p.m.

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

[1] **Ann Jones:** I call the Committee on Equality of Opportunity to order. First, I must remind you of the usual housekeeping rules. We are not expecting a test of the fire alarm, so if it goes off, we will take our directions from the ushers. The committee operates in English or Welsh, according to Members' choice—or the presenters' choice—and the translation is available

on channel 1 of the headsets.

[2] I ask everybody please to switch off their mobile phones, BlackBerrys, pagers or anything else that might interfere with the translation or recording equipment. I think that Members all know, as we are used to coming here, but witnesses may not know that the microphones will come on automatically, so there is no need to press the buttons; they have all been set.

[3] We have received apologies today from Joyce Watson, Christine Chapman, and Angela Burns. Before we start, I thank the committee for agreeing to bring forward the meeting at such short notice, and I thank the Minister for agreeing to come today as well, given that he has other engagements to fulfil. Thank you for that.

12.34 p.m.

Yr Ymgyrch Cyflog Cyfartal The Equal Pay Campaign

[4] **Ann Jones:** I welcome Dr Brian Gibbons and his team of officials to the meeting this afternoon. We wanted to talk to you about the equal pay campaign, Minister. You have previously given the committee an update on where we are. Perhaps you could present your paper first and then we will take some questions.

[5] **The Minister for Social Justice and Local Government (Brian Gibbons):** Thank you, Chair. I think that we are all aware that the Equal Pay Act came into being in 1970. That was an important landmark, but in 2008, it indicates that we are still on a fairly long journey. However, we are hopefully approaching the end game on this for the major public services for which the Assembly Government is responsible, namely local government and the health service. It is important that we make progress towards achieving equality of pay and that we close the pay gap, not least because we, as an Assembly Government, through our statutory duty and equalities, are making significant progress through our single equality scheme. It is important that, as part of that wider commitment, we work with relevant partners to deliver the aspirations of the Close the Pay Gap campaign. From the paper, you will know that, in some senses, the situation is better in Wales than in the rest of the United Kingdom, both in terms of the number of women in full-time work and part-time work. However, the gaps that still exist certainly are not acceptable and require us to push onwards. Again, the challenge is to deliver on the basis of the campaign, but equally to recognise that part of the next phase is not only to get equality for equal work, but challenging such things as the segregated workforce, which is a significant factor in contributing to unequal pay in Wales. Thank you, Chair.

[6] **Ann Jones:** On 26 November, you wrote to the committee stating that, once a meeting of the campaign partners had been agreed, you would invite nominations for the cross-party working group. Do you have an update on that particular issue, please?

[7] **Brian Gibbons:** Yes. The Equality and Human Rights Commission has not really been able to fully engage with us yet in practice, because it is in a process of establishing its principles, and so on. So, there has been a delay in that. However, once its decks are clear, we expect to meet it. With regard to whether we reconvene the cross-party committee, we will be guided by the view of this committee, and, obviously, the views of the political parties. The Assembly Government is certainly not opposed to that if it is felt to be a wise way to move forward and the

other parties are happy to support such a proposal.

[8] **Ann Jones:** Thank you very much.

[9] **Eleanor Burnham:** I know that we are not supposed to be partisan, but I note that Wrexham County Borough Council has seemingly done quite well on this. I understand that it has come to a rational understanding with the unions and it seems that it has probably made better progress than some others. I just mention Wrexham because I happen to know about it; I do not want you to think that I am having a go at any other local authority, because I know that it is very difficult. I note the difference between what it has done and what the north-east of England seems to be doing, namely that it seems to be going down the individual tribunal route, which, in my opinion—and I just wanted to know what you thought about this and what your view is—only puts more money into legal pockets and does not overcome the underlying problem. I note that, in the last paragraph of your second page—or the second two paragraphs at the bottom of the page—you mention the difficulties. In effect, if you are looking historically and you do not move forward, you will never get anywhere, because the amount of money needed to compensate a lot of people, in true historical terms, could be absolutely astronomical. So, are you with the authorities that are trying to be rational and are moving forward, while obviously having to pay some regard to the inequalities that have happened? Do you agree that the way forward is not the way being pursued by the north-east of England?

[10] **Brian Gibbons:** Yes, I have been to Wrexham and I think that what it is doing is quite challenging. From my bilateral with Wrexham, I gather that it is making good progress and I am pleased if what you say is correct. Wrexham is trying to wrap up both the equal pay issue and the backpay issue in one overall settlement. I think that most local authorities are taking a slightly different approach, although I think that some are trying to take the Wrexham road as well. However, most local authorities are taking a staged approach. If Wrexham succeeds in delivering in the way that you have suggested, it ought to be commended on that. Presumably, it will have to go to the workforce. That is obviously very good news for the staff in Wrexham. We can only commend Wrexham for its progress on that.

12.40 p.m.

[11] There are thousands of cases before tribunals. I do not know whether it is in the paper, but there are two major classes of case before the tribunal. The first are the individual cases that are generally supported by the no-win, no-fee lawyers; and then there are a number of cases before the tribunals with a certain amount of union support. They are group claims with support from the trade unions. The latter groups, as individual local authorities, do settle with their trade unions and staff. It would be reasonable to expect that there will be fewer of that class, or group claims. Equally, it is possible that individuals, if they are offered settlement by their employers, may take the view that they do not want to continue with the no-win, no-fee lawyers. However, it is more difficult to predict that. There are one or two major class actions, particularly on the health side—and I do not know whether Ian wants to speak about it—one of which is in Cumbria. This will be a landmark case. If I am not mistaken, not only is the NHS party to the complaint, but some unions are also being brought into it. In other words, the unions are being accused—if that is the appropriate phrase—of conspiring against delivering equal pay. So, the trade unions find themselves in a difficult position in terms of delivering a collective agreement that will satisfy the equal pay requirements of virtually all of the staff, but which will not preclude one or two individuals from pursuing individual claims. I do not think that will preclude them from doing that. So, the trade unions find themselves in a somewhat tricky and difficult situation. I do not know whether either of the Ians wants to talk about those cases.

[12] **Mr Stead:** The position in the NHS is really quite complicated, because there is a whole raft of different claims. There are a number of what we originally thought were relatively straightforward ones for backpay, prior to the introduction of Agenda for Change in October 2004. There has been a settlement in North Cumbria NHS trust on a claim that was put in by the unions in the standard way. This led to a number of other individual claims supported by both the unions and by no-win, no-fee lawyers. The difficulty was whether or not there could be an agreed settlement, because there was also then a challenge by the no-win, no-fee lawyers to the basis of the equal pay arrangements under Agenda for Change, and potential challenges to unions about accepting settlements that might be less than the tribunals would have awarded. Because of that, there is really quite a complex legal situation. There has been a lot of discussion about how that should be taken forward. There has now been an agreed test case, which is scheduled to be heard in the autumn. This will look at a range of legal issues around it, and might then start to give an indication of the way forward. However, my guess is that, whatever the outcome of that case, there will be further legal challenges and appeals. So, it could take quite a long time to clarify.

[13] **Mr Skinner:** Each local authority has taken a different approach—and you mentioned the Wrexham approach. Some of the authorities that have settled already wanted to take on the backpay issue first and then move forward, but there are a number of local authorities—I can think of two or three—that think that their liability for backpay is limited. In fact, they may not have any liability. So, if employees or unions want to push the case, the route then would be through employment tribunals, and they think they have a good case to fight.

[14] **Eleanor Burnham:** May I ask a supplementary question? I understand that the tribunal happens in Shrewsbury. Does that have any implications for us in Wales and would that differ from—I do not know; I am just asking about the legal implications—the process for people from England? I do not think there is an employment tribunal in north Wales; my understanding is that it is in Shrewsbury.

[15] **Brian Gibbons:** Ideally, we would like cases to be heard in Cardiff, for the reason that you mentioned. Again, Ian may be able to give the latest on it, but my understanding is that one of the advantages of going to tribunal in Shrewsbury is that your case will probably be heard much more quickly.

[16] **Eleanor Burnham:** You can also get there quicker.

[17] **Brian Gibbons:** You can get there quicker and your case might be heard quicker as well. However, the disadvantage is that the ethos of the tribunal will be as much English as Welsh, whereas, if a Cardiff tribunal accepted it—if large numbers were heard in Cardiff—it might lead to greater consistency.

[18] **Bethan Jenkins:** My question is on the same issue, but relates to the capitalisation rules. I know that £25 million has been allocated in this area, but the evidence that we received from the equalities body and from trade unions showed that this was quite rigid, and that they had talked with you. They wondered whether there could be more flexibility in this area, and the amounts that could be borrowed and repaid may be more flexible. Have you done more research into this? The other point that they raised with us was that the Government had put more money into the equal pay-proof salary structures.

[19] **Brian Gibbons:** Sorry, which Government? Central Government or us?

[20] **Bethan Jenkins:** The Welsh Assembly Government has put money into equal pay-proof salary structures for local authorities with guidance to ring-fence the money for this purpose. However, it found that many local authorities had not used the moneys for equal pay. So, if the money is going to be extended, or if there are any plans like this in the future, how will we ensure that local authorities use this money in the way that we advise them to? We know that local authorities are more stretched in their budgets this time around and so we have to expect that they would fulfil their obligations in this area.

[21] **Brian Gibbons:** We are certainly trying to avoid getting too boxed-in in relation to the amount of money that is available for capitalisation. The £25 million comes from the £500 million that the Treasury has agreed with the Department of Communities and Local Government in England, and the £25 million is a Barnettisation of that. So, insofar as it is a benchmark or an envelope, that is its history. We are trying to retain some flexibility and not to be totally hedged in by that, but the Treasury, which has overall responsibility for managing the economy and the debt in the economy and so forth, would not allow us to stray too far from that £25 million for obvious reasons. We would like not to be totally hemmed in, in saying that it is £25 million, full stop. We think that there are some merits to having some fuzziness around the edges in terms of what is available. However, the £25 million gives you a ballpark figure without being absolutely prescriptive to the last penny. The trouble with the £54 million that has gone into the revenue support grant is that, because it is now in the baseline, it will increase as years go on, like the RSG in general. I think that, if you ring-fenced it, the word ‘negotiation’ would go out of the window.

12.50 p.m.

[22] If local authorities said, ‘We have only X amount of money in the ring-fence’, that would stop any discussion beyond that which is in the ring-fence. From the employees’ point of view, it is like playing poker and knowing what your opponent’s cards are. There is not really an effective negotiation. So, the money is in the RSG and we expect local authorities to give a fair settlement in terms of their liability, and it is obviously behoven on the trade unions to make sure that their members get a fair deal. If you ring-fenced the money in a very visible way, it completely undermines the capacity to deliver. I think that the negotiations would inevitably end up being about how the ring-fenced sum is split up.

[23] **Bethan Jenkins:** At the moment, it depends on the goodwill of the unions to converse with the local authorities with regard to where the money will go, and if it goes there. Surely, there need to be more rigid—

[24] **Brian Gibbons:** No. As Ian said earlier, some local authorities take the view that they have very limited liability in this area. Let us suppose that that is true—and, ultimately, that might only be decided in one of these tribunals—and that a local authority was engaged in an equal pay settlement that was not in line with its actual liabilities, then I am sure that the accountants might want to know why the money was being spent in that way. So, I can see the merit. We have met the public service unions to discuss this, and it is fair to say that they would report back that a number of employers—local authorities—would say that they do not have the money; you cannot see it because it is in the RSG. So, I can see from the point of view of transparency that what you are saying makes sense. However, there is a big downside to it as well. All in all, including it in the RSG will probably be the more satisfactory way to proceed, accepting that there is an argument for doing what you are saying as well.

[25] **Ann Jones:** I just want to explore that bit about the ring-fence. I take your point about

saying that if you put it into the RSG, it will increase year on year and that there is a danger about ring-fencing. However, if we look at the previous three years' experience, there are local authorities that have had—whether through the RSG or a special grant previously—money to address the equal pay issue within their local authority. So, it is now beholden on them to explain where that money has gone, if now they are now declaring that, due to this nasty Assembly—which is what they always say—they do not have the money to equalise pay, and therefore people will suffer. It is beholden on them. What audit trail has your department undertaken to make sure that councils have not just accepted that they will sort the equal pay out another day, and that they have used the money that was intended to assist those lower paid workers in authorities to have equal pay? So, what audit trail have you done and how confident are you that authorities are not pulling the wool over our eyes in the equal pay settlements?

[26] **Brian Gibbons:** I am not a lawyer, but, with regard to the requirement for equal pay, saying you will not have the money will not ultimately cut ice with an employment tribunal. There is a duty for equal pay for equal work, and that line of defence ultimately will not work in terms of delivering. People may be pragmatic and accept that the financial pressures determine the pace of progress, although the fact that so many cases are before tribunals would suggest that some people have lost patience with this system and are anxious for an earlier settlement. So, ultimately, local authorities will have a statutory duty in this regard, and that is enforceable through the tribunal process. Quite apart from the moral imperative that they resolve this, there is the more pragmatic cloud of having to deal with tribunal cases.

[27] We do not audit the money in the sense of ensuring that the money that is paid into the RSG goes into people's pockets to settle equal pay. Once it is in the RSG, then it is up to the discretion of local authorities how they spend that money. They have to meet the audit requirements and so forth, so they cannot—getting back to the point I made to Bethan—spend the money in a way in which they are not entitled to. Other than that, the ordinary accounting rules apply. I think it would be fair to say, informally, that our finance officials regularly meet finance people in local authorities and have a wide range of discussions with them on the financial pressures, and so on. The expenditure sub-group for local authorities also looks at these things. However, in terms of following every pound from here to somebody's bank account, no, that does not take place. I do not know whether Ian would want to add anything to that or even correct it if necessary.

[28] **Mr Skinner:** Certainly not to correct it. However, I would like to make a point on the two issues raised. There is the compensation and the backpay for the most disadvantaged, and the money that has gone into the revenue support grant, the £54 million that was phased in from 2005-06 to 2007-08, was for equal pay following the single status review going forwards. No money is being made available from the Welsh Assembly Government for the backpay and the compensation. We are trying to assist with that through the capitalisation directions to put local authorities in a position where they can borrow and use capital resources for what, in effect, is a revenue consequence. So, as the Minister was saying, there is no audit trail as such and each local authority is approaching the situation in the way that best suits their circumstances. Certainly, we are aware that some local authorities have been putting the money to one side. For example, I understand that Gwynedd is on the point of settling its backpay issue and is not coming to the Assembly for capitalisation directions. So, through whatever means, it has managed to put a sufficient amount away to cover its liability, which might have been quite small.

[29] **Ann Jones:** We might have to take that one up a bit more.

[30] **Bethan Jenkins:** My only concern is that, if we are not putting any obligations on local

authorities—and this has been in place now since the 1970s—how do you perceive that it will be rectified and local authorities will address this issue, if there is going to be no clear audit trail or guidance from WAG? I find that a bit perplexing.

[31] **Brian Gibbons:** Local authorities are under a legal duty to settle this, so there is a statutory duty for them to do this. Equally, through their commitment to equality and so on, there is a duty and expectation for them to deliver this. As I said, our finance people regularly meet the finance people in local authorities, and this is one of the issues that is regularly raised with them. Although it has been suspended now because of local government elections, I have started a programme of visiting all local authorities in Wales. One of the standard agenda items in those discussions is what is being done to address equal pay. However, we need to be absolutely clear that this is a corporate responsibility of each local authority as an individual employer. They have that individual corporate legal responsibility. So, no matter what we say—and we could not tell them not to worry about it, because that would be illegal—they still have that legal duty. Whether we chose to knock the door down or tell them to forget about it, it does not change the situation; they have a statutory duty to deal with this particular issue. If they do not, then, as Ian Stead said, ultimately, they could end up before a tribunal and could take a pretty hefty hit if they have not come up with a fair settlement for their employees. In other words, the individual employees will enforce their legal right to equal pay.

1.00 p.m.

[32] **Ann Jones:** I have one last question and then I will bring Mark in, and I will not ask any more questions. In your paper, looking at equal pay, it says that two authorities in 2006-07 and five in 2007-8 are concluding, or significantly moving towards a conclusion of the backpay arrears issue. What is happening in the other 15?

[33] **Brian Gibbons:** Ian will have more to say on what is happening from day to day. As Ian said, some local authorities have taken the view that they have very little or minimal liability. Gwynedd and Wrexham are pressing on and making progress, and at least one or two others are very close to agreement. So, around 50 per cent of local authorities are there or thereabouts. I am happy that those that I have visited, even if they are not as far down the road as those that have settled, realise that this is something with which they really have to crack on. It cannot be left in the long grass, which has been the case for the best part of a decade. All local authorities, certainly that I know of—and Ian may want to comment on it—realise that we are in the endgame phase of this now and they really have to get on with it, or they will end up with their employees, either individually or through their union, legally enforcing their rights through tribunals, which may not ultimately be in the local authorities' interest. I do not know whether Ian has anything to add.

[34] **Mr Skinner:** I would like to confirm that we regularly contact all local authorities and work with the Welsh Local Government Association to find out the position. I am aware of three that are fighting things, which, I think, have a very robust position. I am aware of a number that are on the point of settling. The majority are talking about the possibility of a settlement in this financial year or the next, depending on the circumstances and depending on negotiations, and so on. So, I would say that all are making good progress. In terms of when they actually conclude things, that, for some, is a little less clear.

[35] **Ann Jones:** All right, thank you. Mark, you have been very patient.

[36] **Mark Isherwood:** Thank you. You referred earlier to the legal position regarding trade

unions. I understand that there was one class action in the north of England that the trade union lost initially on the grounds that it had been settling illegally since the Equal Pay Act 1970 was introduced. However, it subsequently appealed, and, I think, had some success with the appeal. Could you clarify the current legal state of play on that?

[37] You refer to a number of authorities focusing initially more on backpay than looking to settle matters across the whole organisation currently. Can you confirm that all 22 have completed their job evaluations, and, on that basis, help us to understand how they can address backpay and the current situation separately, when the job evaluations surely would apply to both and would be the basis for the backpay action?

[38] In terms of capitalisation directions, Wrexham has been referred to as it is not applying to borrow money; it believes that it can do it without borrowing. However, were authorities to conclude that they could not, and apply to you for capitalisation direction, could Treasury rules actually lead you to having to decline some of those applications? What would be the position for those local authorities in those circumstances?

[39] You referred, as did Eleanor, to the fact that some local authorities believe that they have no, or limited, liability being prepared to fight their corner in a tribunal. Are those Welsh authorities? You referred to Cumbria and the north-east of England, and I was wondering, even if you cannot name them, what proportion of local authorities are taking that approach?

[40] Finally—as most of my other points have been raised—what is the current position with regard to people who find themselves at a job evaluation at the top of the new scale and, therefore, find themselves facing-below inflation increases, below those who are now in the main bandings? There was some talk of legal action by some of them on the basis they felt their equal pay was being compromised, although I know that this is common practice in job evaluation in the private and voluntary sectors, having been a victim of this myself in the past, but there you are. Thank you.

[41] **Brian Gibbons:** I was impressed with your expertise, but obviously there is nothing like personal experience to inform you about the small print of that. I will give Ian a chance to think about that last question. Other than Wrexham, I am not sure that a job evaluation on single status has been completed in any local authority, even though it is ongoing. Again, Ian might have a better idea of the current situation. They are probably all doing it, but I would not be able to give you a pecking order or league table in terms of where they are on that. To date, for whatever reason, five or six local authorities have taken a different approach to Wrexham, in the sense that they have settled their backpay issue. Sometimes, that is with union endorsement and sometimes it is not, for the reason that you have touched on. However, at the end of the day, it is up to the individual to decide on the offer that is being made to them in settlement for backpay, and whether they are happy that this will be a final settlement. Some people might take the view that they may be entitled to a little bit more, or a lot more, but are happy to take the bird in the hand rather than the bird in the bush; or they may not want the hassle and aggravation of going to tribunals, as they would not know when the tribunal would be held.

[42] In these circumstances, local authorities make an offer to the individual with the trade unions present, so that the individual may meet their trade union representatives. In most cases, the Advisory, Conciliation and Arbitration Service is also present, so that individuals are not steamrollered into accepting anything that they, in their own value judgement, think is fair enough. It may not be everything, but it may be a bit more than they were expecting. Sometimes it happens. Sometimes people look at the settlement and are glad to take the money, as they did

not think that they would get anything like that. So, it cuts both ways, but it is up to the individual to decide on the offer and, as I said, the safeguards are there. You are not brought in in front of the human resources or personnel people and told that you either take the offer, or you do not. You have an opportunity to speak to your union; you have an opportunity to go to ACAS. It is hopefully a personal choice, and people are not put under any duress to make that decision. It is a tactical decision for local authorities as to whether or not they want to go down the Wrexham road, or that of the five or six local authorities that have settled backpay cases and are still working their way through single status; I do not think that we should tell them how to do that. You are right; it has not happened yet, but it is certainly theoretically possible that there could be a problem with the capitalisation if the Treasury took the view that the extent of the capitalisation was likely to breach Treasury rules, which is why I answered Bethan by saying that we do not want to be absolutely arguing to the last penny about where the ring-fence is if there is a bit of give and take around the edges. However, there is a ball park figure of around £25 million.

1.10 p.m.

[43] **Brian Gibbons:** We do not know, but if, last year, we had a capitalisation package of £75 million, the Treasury would certainly have taken a view on that. Theoretically, there is a risk; in practice, there may not be, which is weird to see. As I said, this is something that local authorities should have known about for many a long day. We are pretty confident that many local authorities have put money into their reserves for the backpay, and we have provided the extra money in the RSG for the single status agreements. Many are resisting claims; my guess is there are between two and four. I do not know whether Ian knows.

[44] **Mr Skinner:** It is three.

[45] **Brian Gibbons:** So, it is of that order. That then brings us back to your final question about the people at the top of the pay scale. I do not know whether you have been able to come up with an answer.

[46] **Mr Skinner:** Only insofar as I talked to one finance director and it is an issue that, following the review, you can reach a position where some people may go up, most will perhaps stay the same and some people's salary should reduce. It is a handling issue for the local authorities. The last thing that they want to do is to take decisions that might end up putting jobs at risk, for example. That is definitely the last thing that they would want to do. So, it is a handling issue. When they come to discuss the pay package with their employees, they are trying to manage as well as they can. In one example, utilising the 4.5 per cent that has been put into the RSG, around 800 workers might, following the single status, have had some reduction in their salary. It did not want to do that, so it looked at ways of bringing in some kind of scheme to ensure that people were brought onto the correct scale, and that those at the top were protected in some way. Each local authority is at a different stage and, perhaps, some have more exposure than others. However, when it comes down to managing that position, it is for the local authorities to work through that as well as they can.

[47] **Brian Gibbons:** I do not know whether Ian might be able to speak about this, because some of this must have come up on the Agenda for Change as well.

[48] **Mr Stead:** Yes. Under Agenda for Change, from October 2004, the job evaluation process has been under way and is virtually complete now in Wales—we are about 97 per cent complete; there is just a little bit of mopping up in odd places. So, the system is in. A small minority of people were evaluated at below their current salary; in other words, they were paid

above the top of the scale to which they were applied. There were quite generous protection arrangements, which have been running since October 2004 and will continue until 2011. However, that has also become a subject of one of the legal issues that is currently under review. It has been argued that that continues a discriminatory position and so that just adds to the complication. That is one of the issues that is likely to be tested in the case that comes up in the autumn.

[49] **Ann Jones:** Has anybody else got anything to ask? I would like to return to what you said about 50 per cent of authorities looking to do it. Your figures in the paper clearly show—

[50] **Brian Gibbons:** No, sorry. I think that they are all looking at this as an issue, but perhaps 50 per cent, or maybe 40 to 50 per cent, are getting very close to a settlement.

[51] **Ann Jones:** So, for the 50 per cent that are not getting close to a settlement, at what point will the Welsh Assembly Government suddenly say, ‘Come on, folks, you have had long enough to play around with this one.’? Should we be directing local authorities, saying, ‘You have had almost 10 years of this’. We have entered negotiations, and a lot is happening. At what point will we say that to the last two or three who will drag their heels, kicking and screaming? I know that you have said that employees can go to an employment tribunal themselves, but at what point will the Welsh Assembly Government say that enough is enough in Wales, and that we will look for equal pay? It has an effect. If we cannot get it right in the public sector, and it is dragging all this length of time in the public sector, how on earth are we going to get the private sector to address the issues of equal pay, as part of the Close the Pay Gap campaign, if we allow the public sector to drag it out for years? What is the view on that one?

[52] **Brian Gibbons:** Perhaps Heulwen will be able to say a little more about the legal framework in which this could be approached. However, once again, I emphasise that even if we decided to bring in a law to introduce equal pay—which we could do, potentially, depending on the circumstances in terms of our competence and so on—it would add another statutory duty to a statutory duty that already exists. You could argue whether we have a bigger stick than the employees or their unions. It is certainly a point, and I am not dismissing the point, because, if there are some renegade local authorities out there that seem to be totally disengaged and not interested, then the question that you raised is entirely legitimate. I agree that, while we would not be able to do it at the moment, it is difficult to stand by and twiddle your fingers. As I said, quite possibly, they would be before a tribunal and paying big time at that stage. Heulwen might like to give a little bit of the background on the legal framework.

[53] **Ms Blackmore:** I could certainly pick it up in the context of the gender duty and the Single Equality Bill. You will remember that the committee was not satisfied that the gender duty as prescribed, which went forward in England, was strong enough and fitted to purpose. Although the context has slightly changed in that, although the dates are still rather loose, we are hoping that the Single Equality Bill will be coming through shortly. We are still committed to having a specific duty in Wales. Depending on negotiation, we are hoping for an opportunity to consult on what should go in that specific duty for Wales. When the discussion began, we were talking about perhaps having something stronger than is in the current gender duty, and going out on consultation or something around an action plan for public authorities. That is still an option. Ian and I were having a bit of a debate about that earlier this morning. We are leading work on the Single Equality Bill. It is still very much emerging at the moment. However, depending on what is on the face of the Bill and what we can negotiate, our plan is that it should very much fit the needs of Wales.

[54] **Eleanor Burnham:** With your lead, Chair, could the committee feed into this? With the best will in the world, it is not always easy for us to remember what is happening where, when, or wherefore. When is the Single Equality Bill being tabled or discussed, debated, or whatever?

[55] **Ms Blackmore:** The intention is that it will be introduced into Parliament in November.

[56] **Eleanor Burnham:** Will we have a chance, as a committee, to input at a crucially early stage? Presumably, that would be around now.

[57] **Brian Gibbons:** If you remember, in the last Assembly, there was an opportunity to put some sort of statutory provision in place, but I think it was led by the Equality of Opportunity Committee of the previous Assembly. It was not happy with the duties that were outlined at that particular juncture. Consequently, I think that the Assembly voted down that particular aspect of the legislation. We are in discussion with the UK Government to see whether it is possible for us to have a refined statutory duty in relation to gender equality and put the gender equality scheme on a statutory footing here in Wales. Those discussions are currently ongoing.

1.20 p.m.

[58] **Eleanor Burnham:** I would like to follow on from your very important point. Is it not time that we made ourselves felt, either as a committee, or jointly with the Minister? After all, the Equal Pay Act has been around since 1970 and, in many respects, in a democratic scenario, I believe that it can be linked to the lack of female chief executives in local authorities, female leaders, and female councillors. It is about time we shook everything up. If Wrexham can show the best practice—and it has not been easy; we have had discussions with Aled—there is a way forward. If people are dragging their feet, and if they seemingly get embroiled along the way—where obviously Wrexham has set the pace and possibly Gwynedd—it is time for them to get their act together, because, in the end, it will cost more. No-win, no-fee cases do not benefit anyone in the end, because it opens the way for more complications, more moneys, because you are talking compensation. You talk about how much you put into the scheme through the RSG; you can imagine that compensation for one person could amount to that in the worst case scenario.

[59] **Brian Gibbons:** I do not know about that.

[60] **Eleanor Burnham:** Maybe not; that may be a slight exaggeration, but I think that you understand what I am saying.

[61] **Ann Jones:** You would have to be the chief executive of a local authority who felt very hard done by to take that. I will mention no names.

[62] **Eleanor Burnham:** I think that you understand my train of thought. It is very easy in a court to get carried away and think, 'I can get this compensation out of this scenario, because it is a no-win, no-fee case.' We need to grasp the nettle and press on. There has been a considerable gap for so many years; for example, between dinner ladies and the wonderful people who take our refuse away. Those are the two ends of the scenario that local authorities have to grasp, because those have been the two difficulties to balance. I honestly believe that you, as Minister, should be leading the way.

[63] **Brian Gibbons:** That is why the Assembly Government has been taking the lead in the Close the Pay Gap campaign for a number of years. It is precisely because we are taking the lead

that we have put over £50 million into the RSG and why my officials and I raise this as a continuing issue while we are engaged with the UK Government in relation to the gender duty. I do not want the impression to be given that we are not trying to take the lead by any manner or means, but I understand the frustration that you feel. This is a long-standing injustice and I can understand people's impatience and frustration with it.

[64] **Bethan Jenkins:** You mentioned earlier the specific duties under gender equality that currently exist. Would that be something that would be coming through from a ministerial level to the Assembly? I just wanted clarification on that process.

[65] **Ms Blackmore:** We are seeking powers to have a specific duty. It will be at ministerial level, and we are dealing with the Wales Office and with Whitehall through that.

[66] **Bethan Jenkins:** Thank you.

[67] **Ann Jones:** In answer to Eleanor's point, the committee decided that we would not do anything; we would look at the consultation document that came out, both on the Welsh Assembly Government's single equality scheme and that of the Assembly, and then feed into that consultation process if we felt that it was necessary for us to do so. That was in answer to your point. Does anyone else have a question?

[68] **Bethan Jenkins:** This is really quite bland. After the local authority elections, what do you see as being your role in terms of talking to the newly elected representatives—especially at cabinet level—with regards to pushing this agenda forward? By this, I mean raising awareness rather than the nitty-gritty of getting people to initiate action on equal pay—the wider campaign aspect?

[69] **Brian Gibbons:** We have two fora through which we meet local government. The local government partnership forum is a much wider body, but we have fairly regular meetings, around two or three times a year, with the WLGA. You are right; the issue of equal pay needs to be on the agenda for both fora, so that local government takes corporate ownership of this. Those local authorities like Neath Port Talbot, Torfaen, Wrexham, or, perhaps, Gwynedd, which have settled, can be living examples to the others in a much more tangible way than might otherwise be the case. My officials and I will continue to raise this with local authorities and will gee them up. We have to do it, if only for financial reasons, with capitalisation and so forth. So, we are always trying to be clear on whether people are likely to look for capitalisation direction. It is an ongoing issue.

[70] **Ann Jones:** Mark, I think your question is the last one.

[71] **Mark Isherwood:** Yes. Perhaps the letter from the Equality of Opportunity Committee in the last Assembly on the Single Equality Bill, and the vote, could be shared with committee members, because there may understandably be a lack of awareness on the part of those who were not previously members of the committee.

[72] **Ann Jones:** We will look into that and reissue it. Thank you.

[73] Have we scrutinised the Minister now on equal pay sufficiently, in relation to the point that we have reached so far? The committee would obviously like to see this being moved on; not in order for us to tick a box, but for all of those families out there for whom equal pay is very important. The commitment is there, and we have demonstrated as a committee our concern about

this. I would like to thank you very much for coming. If we could have any updates, that would be handy. We will invite you back to scrutinise you on it within the next session, perhaps. I do not know.

[74] **Brian Gibbons:** Before the summer?

[75] **Ann Jones:** No, not before the summer. We will let you talk to all the newly elected council leaders, and then hopefully, through your powers of persuasion, we will have it sorted out. Thank you for coming today, and thank you to the officials.

[76] **Brian Gibbons:** Thank you for your time.

[77] **Ann Jones:** That is great; thank you very much.

[78] Our next meeting is scheduled for Thursday, 15 May. We will take further evidence on our inquiry into the issues affecting migrant workers. We will take evidence from a Minister-Counsellor from the Polish Embassy in London—I will not even attempt to pronounce his name; I am going to practise that one before next time—and from the Honorary Consul to Lithuania. The Gangmasters Licensing Authority is scheduled to attend as well. There will be a lunch prior to that for our guests from both the Polish Embassy and the Consulate of Lithuania; we will send you details about that.

[79] I remind you that the clerk e-mailed regarding the meeting with Scottish and Northern Irish equality of opportunities committees. Please respond if you have not done so already.

[80] **Eleanor Burnham:** I have not seen that.

[81] **Ann Jones:** We will resend it. It was sent on 9 April. Can you look at it fairly quickly, so that we can look at what we will do?

[82] **Eleanor Burnham:** Did you notice that the *Daily Express* had a horrendous front page about migrants causing more crime? This was the reverse of what I heard on the radio and saw on the television, which stated that there is no evidence to support this. In fact, the evidence is quite firm that migrants do not cause more crime. It is appalling that this is happening, particularly before the local government elections.

[83] **Ann Jones:** One reason for our wanting to do the inquiry is to try to stop anything like that happening, but I am sure that some of us will take up those issues anyway. We have to do so. There was quite a good event at the weekend in north-east Wales. That is around the local government elections. Perhaps, for our inquiry, we could ask about what people feel when they see headlines like that, when they know that it is not true.

1.30 p.m.

[84] **Mark Isherwood:** On the last committee, there were precedents for us to write to newspapers as a committee, where we felt that they had crossed the line.

[85] **Eleanor Burnham:** It is the *Daily Express*; I think that the most read paper in north Wales is the *Daily Mirror*.

[86] **Ann Jones:** *The Guardian* did a positive piece; it did the opposite spin on it.

[87] **Bethan Jenkins:** If there are actions from previous committees before this Assembly, is it worth having some sort of short table. I do not have time to look through them all, but if they are important actions, like Mark has said, in terms of writing to newspapers about it, it would be useful for us to know what we could follow up this term.

[88] **Ann Jones:** We will look back through the transcripts and see what we can do. The fact that you have raised it and that we have placed on record our disgust at the way in which newspapers sometimes report stories in such a way that, when you read the report, the headline often has no bearing on the piece. We ought to be wary of that, and we have to keep telling people that there are positive issues, which I think will come out of this inquiry—hopefully.

[89] **Ms Griffiths:** I maintain a table of the action points, which I am happy to send you on a monthly basis, if you like. I am conscious that you get so many things. I will send them out on a monthly basis.

[90] **Ann Jones:** That is great. That is a positive note on which to end the meeting. I thank you for your attendance today and, once more, thank you for attending and rearranging this at short notice. The meeting is closed. Thank you.

*Daeth y cyfarfod i ben am 1.32 p.m.
The meeting ended at 1.32 p.m.*