



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

**Y Pwyllgor Cyllid  
The Finance Committee**

**Dydd Iau, 17 June 2010  
Thursday, 17 June 2010**

**Cynnwys**  
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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi 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 pwyllgor yn bresennol**  
**Committee members in attendance**

Irene James	Llafur (yn dirprwyo ar ran Lorraine Barrett) Labour (substitute for Lorraine Barrett)
Angela Burns	Ceidwadwyr Cymreig (Cadeirydd y Pwyllgor) Welsh Conservatives (Committee Chair)
Chris Franks	Plaid Cymru The Party of Wales
Andrew Davies	Llafur Labour
Brian Gibbons	Llafur Labour
Ann Jones	Llafur Labour
Nick Ramsay	Ceidwadwyr Cymreig Welsh Conservatives
Janet Ryder	Plaid Cymru The Party of Wales
Kirsty Williams	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats

**Eraill yn bresennol**  
**Others in attendance**

Nerys Arch	Uwch Gyfreithiwr, Uned Gyfreithiol, Llywodraeth Cynulliad Cymru
Claire Fife	Senior Lawyer, Legal Services, Welsh Assembly Government Rheolwr Deddfwriaeth Iechyd Meddwl, Llywodraeth Cynulliad Cymru Mental Health Legislation Manager, Welsh Assembly Government
Edwina Hart	Aelod Cynulliad, Llafur (Y Gweinidog dros Iechyd a Gwasanaethau Cymdeithasol) Assembly Member, Labour (The Minister for Health and Social Services)
Chris Hurst	Cyfarwyddwr Adnoddau, Adran Iechyd a Gwasanaethau Cymdeithasol, Llywodraeth Cynulliad Cymru Director of Resources, Department for Health and Social Services, Welsh Assembly Government
Alun Ffred Jones	Aelod Cynulliad, Plaid Cymru (Y Gweinidog dros Dreftadaeth) Assembly Member, Labour (The Minister for Heritage)
Dr Huw Onllwyn Jones	Pennaeth Uned Bolisi'r Iaith Gymraeg a'r Cyfryngau, Llywodraeth Cynulliad Cymru Head of Welsh Language and Media Policy Unit, Welsh Assembly Government
Paul Williams	Cyfarwyddwr Cyffredinol, Adran Iechyd a Gwasanaethau Cymdeithasol, Llywodraeth Cynulliad Cymru Director General, Department for Health and Social Services, Welsh Assembly Government

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

John Grimes	Clerc
	Clerc
Catherine Hunt	Dirprwy Glerc
	Deputy Clerk

*Dechreuodd y cyfarfod am 9.27 a.m.  
The meeting began at 9.27 a.m.*

### **Ymddiheuriadau a Dirprwyon Apologies and Substitutions**

[1] **Angela Burns:** Good morning and welcome to the Finance Committee meeting on Thursday 17 June. Before we start, I will run through some housekeeping issues. I remind you that you are welcome to speak in Welsh or English and that headsets are available for translation. I also ask you to switch off all mobile phones. If the fire alarm goes off, please follow the directions of the ushers.

[2] We have had apologies this morning from Lorraine Barrett, who is unable to be here due to a clash with another committee. However, we would like to welcome Irene James, who will take her place here today.

### **Goblygiadau Ariannol y Mesur Arfaethedig y Gymraeg (Cymru)—Tystiolaeth gan y Gweinidog dros Dreftadaeth Financial Implications of the Proposed Welsh Language (Wales) Measure— Evidence from the Minister for Heritage**

[3] **Angela Burns:** I welcome Alun Ffred Jones, our Minister for Heritage. Minister, before we start on the questions, would you like to make a brief introduction and introduce your colleagues? I will also, with absolute respect, say to you what I have said to my committee: we only have one hour and a huge amount of evidence to get through, so I would appreciate it if your colleagues could be relatively precise in their replies to us.

[4] **The Minister for Heritage (Alun Ffred Jones):** I am glad to be here and pleased to be of service. Nerys Arch from the legal department is on my right, and Huw Onllwyn Jones, head of the Welsh language unit, is on my left.

[5] **Angela Burns:** I have the first question. Minister, thank you very much for the explanatory memorandum; we have also read all the papers. I will start by saying that a common theme has emerged from the evidence that has come forward to date: there appears to be a lack of commentary on the financial implications of the proposed Measure, due to a lack of detail. That is what the Law Society, British Telecom, the Welsh Language Board, the Federation of Small Businesses, Scottish Power and the Confederation of British Industry—to name just a few organisations—have said to Legislation Committee No. 2 and in evidence that we have looked at here. I wonder whether you could give us your view on how we might be able to comment on the financial implications, given this lack of detail and given that it is our task to look at the financial implications of the proposed Measure.

[6] **Alun Ffred Jones:** I do not agree that there is a lack of detail in the proposed Measure. As I have explained to Legislation Committee No. 2 and to the Constitutional Affairs Committee, the proposed Measure sets out a clear framework for the imposition of duties, known as standards, made by Welsh Ministers through subordinate legislation, which will be subject to further and more detailed impact assessments. In a proposed Measure of this nature, it would not be sensible to attempt to reflect detailed requirements in respect of a wide range of organisations on the face of the Measure.

9.30 a.m.

[7] **Angela Burns:** Thank you for that answer, and I accept that the devil is always in the detail, but the evidence that has come forward to date has been absolutely overwhelming in that none of these organisations feel able to make any assessment themselves of the costs that it might bring to them. Is there no way that you might be able to provide us with any further financial evidence of the types of standards that you might be bringing forward?

[8] **Alun Ffred Jones:** The types of standards?

[9] **Angela Burns:** The costs of the standards that you might be bringing forward.

[10] **Alun Ffred Jones:** We have provided evidence from the Welsh Language Board of the estimated costs of the Welsh language schemes, which would be relevant to most of the bodies to which the standards will apply in future. So that would provide some sort of guidance as to possible costs to be incurred.

[11] **Chris Franks:** Good morning, Minister. You say that the running costs of the commissioner's office will be broadly in line with the current costs of the language board. How can you satisfy us that that is the case? In the notes, there is reference to the transfer of some staff to the Welsh Government. What impact would that have on the allocation to the commissioner's office? In anticipation, my supplementary question is as follows. In the event of there being a dispute in the dim and distant future between the commissioner and the Government, one way of controlling the commissioner would be to restrict his or her budget, so what assurances can you give that that type of pressure would not be exerted?

[12] **Alun Ffred Jones:** To answer your first question, the reason why the estimated costs for running the commissioner's office are based on the running costs of the Welsh Language Board is that it is expected that a similar level of resource will be required to fulfil the regulatory and promotional functions under the new arrangements. I emphasise at this point—it is stated in the memorandum—that a decision still needs to be made about where the board's promotional functions should reside under the new arrangements, and whether that should be with the commissioner or with the Government. So, the £4 million figure is a combined figure for running costs based on the regulatory and promotional functions residing with the commissioner.

[13] **Andrew Davies:** Following on from Chris Franks's question, the general view, which the WLB has expressed, is that it cannot see the rationale for a new system, as it asks what is wrong with the present system. What is being proposed is not just a new commissioner, but a much more complex and bureaucratic system than currently exists. The reply that we normally get on financial implications is that this will all be met within the WLB's current budget of £13.8 million, except where some areas may be picked up by your department. Are you really confident that all the various powers, both regulatory and promotional, as you said, can be captured within that £13.8 million, bearing in mind that the proposed system is much more complex and bureaucratic than the current system?

[14] **Alun Ffred Jones:** I would disagree that the proposed new system is, in the end, more bureaucratic and more complex. Initially, there will be a lot of work to create the standards and to then impose them. However, once that system is in place, it is much simpler than the present system of ploughing through a Welsh language scheme for each individual body and then reviewing that scheme every three years. There are 500 bodies with schemes at the moment. By creating common standards throughout sectors, once those standards are in place, the system will be much easier to control, and I do not believe that there will be any added costs after that period.

[15] **Andrew Davies:** However, there are additional costs because legal support will be offered to those who want to complain. There is no estimate of the cost of that; well, there is an estimate, but I think that it is fairly conservative. There are many other costs that are not currently covered by the existing Welsh Language Board and the scheme. Some of the other costs, as you say in the explanatory memorandum, will be covered by your department. You will know as well as anyone else how difficult public budgets will be over the coming years. If those costs are to be taken on by your department, to what extent are you confident that the services will be provided, given competing costs in other parts of your department or the Assembly Government?

[16] **Alun Ffred Jones:** We do not envisage those added costs to be in any way extreme following the initial period of putting the new process in place. You talk about added legal costs. The estimates in our evidence reflect the fact that we do not envisage any huge costs being involved. The truth, from the experience of the Irish commissioner for example, is that very few cases end up in any sort of legal dispute.

[17] **Andrew Davies:** The experience of Ireland is very different from that of Wales. The amount of Irish spoken is very small compared to the amount of Welsh spoken in Wales, where 20 per cent of the population speak it. I do not think that the figures are comparable.

[18] **Alun Ffred Jones:** Well, I think that it is an interesting comparison, and I believe that the process set out of the commissioner dealing with any appeals to begin with, and then matters going to a tribunal if necessary, will mean that this will probably not be a burdensome process. I do not envisage that process being undertaken very often.

[19] **Andrew Davies:** My point, Chair, is that, if these turn out to be significant underestimates, this will represent quite a significant cost, either for the Minister's department and the Assembly Government or, indeed, the commission and the tribunal system.

[20] **Dr Jones:** The legal costs and legal assistance set out in sections 8 and 9 of the proposed Measure do not relate to the imposition of duties under standards and the enforcement of those standards. These would be costs for issues that go to court to do with the Welsh language that are not related to standards. It just gives the commissioner the power to give assistance in those cases. Historically, very few such cases to do with the Welsh language have ended up in court. There have been a few employment tribunal cases to do with the language, but our hope is that the provisions in the proposed Measure that deal with the freedom to speak Welsh will reduce the number of those cases as well.

[21] **Chris Franks:** I want to return to the issue of the independence of the commissioner and the pressure that a Minister in future might be able to exert by reducing the commissioner's budget. What reassurances can you give that that would be difficult to do?

[22] **Alun Ffred Jones:** I do not think that the Welsh language commissioner would be under any greater pressure than any other commissioner. The provisions in the proposed Measure make it quite clear that the commissioner must prepare an estimate of the income and expenses for the commissioner's office, submit the estimate to the Welsh Minister at least five months before the beginning of the financial year to which it relates, and, obviously, Ministers must examine the estimate submitted to them and then lay the estimate before the National Assembly for Wales with any modifications thought appropriate. So, there are many checks and balances already in the system.

[23] **Janet Ryder:** I want to go back to the issue of the tribunal that you were discussing with Andrew Davies. You are proposing to take on the secretariat function of the tribunal yourself. Have you made any estimate of the possible costs involved? Can you explain why

you are treating those costs differently?

[24] **Alun Ffred Jones:** As noted in the explanatory memorandum, the estimated total running costs of the tribunal—

[25] **Janet Ryder:** I am talking about the secretariat side of things. You seem to be saying that you are going to run the secretariat side to minimise costs.

9.40 a.m.

[26] **Alun Ffred Jones:** I am not sure whether I understand the question.

[27] **Janet Ryder:** You seem to be saying that you are going to run the secretariat side of the tribunal.

[28] **Alun Ffred Jones:** That is being done by the First Minister's office, as I understand it.

[29] **Dr Jones:** The proposal is to locate the secretariat within the Welsh Assembly Government, which is consistent with many other tribunals operating in Wales and intended to minimise costs. Other examples include the adjudication panel for Wales, the special educational needs tribunal for Wales and the valuation tribunal for Wales. The Minister felt that setting up an external body with its own staff and premises would lead to unnecessary additional costs. The running costs that we estimate for the tribunal being convened for 15 days reflect the running costs of other tribunals that currently exist and that are administered by the Welsh Assembly Government.

[30] **Angela Burns:** Janet's question was clear in asking what the anticipated costs would be to the Welsh Assembly Government for hosting that facility within the Government. So, you are saying that there would not be any costs, because it will be absorbed into the daily work of the secretariat element.

[31] **Alun Ffred Jones:** As I understand it, this provision is already within the Government's competence. The breakdown of the estimated running costs of the tribunal, includes an estimated £55,000 for the tribunal secretariat function, including departmental running, £55,000 for tribunal hearings, based on 15 days' hearing, and £5,000 for the president's fees, based on an equivalent of 10 days' work, which is a total of £115,000.

[32] **Janet Ryder:** That is fine. I now turn to the annual cost of referrals to the tribunal. Why is it that an appeal to the upper tier of the tribunal service does not seem to be encompassed in this, as in other devolved tribunals?

[33] **Alun Ffred Jones:** There will be a route of appeal from the Welsh language tribunal to the High Court on points of law, but, in our opinion, given that the commissioner will be making determinations in the first instance, a route of appeal to a specialist tribunal is the most appropriate model. However, I would be happy to consider the committee's views on this matter.

[34] **Nick Ramsay:** I want to question you specifically on the one-off implementation costs. Evidence to us has stated that the costs associated with managing the implementation project are estimated to be around £200,000 for salaries, which you say will be borne by the Welsh Government from existing budgets. There will also be set-up costs and training and induction costs. Will the £270,000 implementation costs reduce the amount of funding available for promoting and facilitating the use of Welsh in the first two years?

[35] **Alun Ffred Jones:** The estimated £200,000 in costs in the first year of managing the implementation project for the proposed Measure will not be funded from the £13.8 million that is presently handed over to the Welsh Language Board; it will be absorbed by existing Government running costs. Other costs associated with the implementation project, such as training and induction costs and information and communication technology, are expected to be approximately £270,000, spread over two years, which will be borne by the £9.6 million programme funding available to promote and facilitate the use of Welsh.

[36] **Nick Ramsay:** The Welsh Language Board has serious concerns about this transitional period, particularly in the first two years. It stated in evidence that even though there would be less work in approving Welsh language schemes, considerably more work would have to be undertaken on monitoring their implementation to ensure that public bodies would not be tempted to ‘rest on their laurels’, as it put it, as they perceived the old system coming to an end. Have you taken on board the concerns of the Welsh Language Board with regard to the transitional stage?

[37] **Alun Ffred Jones:** We are in discussion with the Welsh Language Board. For bodies that are currently operating schemes and which will be subject to the standards, their Welsh language schemes will cease to be in operation when they first become subject to the duty to comply with the standards. Although the commissioner will be responsible for two regulatory systems, once the standards system has commenced, I would expect the commissioner’s focus during this period to be on developing and imposing the new standards. The commissioner will not be able to require organisations to prepare new schemes or amend existing schemes once the standards system has commenced, so the commissioner’s staff will be available to develop standards. As such, I do not think that the commissioner’s running costs during this period will need to be higher than the running costs of the Welsh Language Board at present.

[38] **Nick Ramsay:** Our role is to consider the financial implications of all of this, so I will return to the point that the board made, namely that it is not convinced that the assessment made of those costs is watertight.

[39] **Alun Ffred Jones:** I accept that the commissioner will have a lot of work to do in the first two or three years to establish the new system. However, in the long term, I am confident that this system will ensure that resources are freed up to concentrate on improving Welsh-language services.

[40] **Nick Ramsay:** That is in the long term. In the short term, you are saying that—

[41] **Alun Ffred Jones:** Obviously there will be some tensions in the initial period, as with every change.

[42] **Nick Ramsay:** How would the Government ensure that organisations maintain or improve their commitments to provide services in the Welsh language during the transitional period while these standards and regulations are being implemented?

[43] **Alun Ffred Jones:** We have not seen any evidence that organisations will pay less attention to their language schemes and to the provision of Welsh-language services during the transitional period. What we may see is more attention being paid to this work as the organisations respond to the commissioner’s standards investigations and prepare themselves for the more robust enforcement regime available to the commissioner. Organisations will be aware that the new standards system will impose a range of specific duties on them that will lead to rights for their Welsh-speaking customers. The creation of those rights will also help to raise the profile of this work.

[44] **Nick Ramsay:** Finally—and I heard what you said in that regard, but moving away



from that—many witnesses called by Legislation Committee No. 2 to consider this have expressed concern that there is an undue amount of resource going into the bureaucratic side of this that, in that transitional period, will inevitably take money away from schemes and programmes to facilitate the use of the Welsh language, which in itself may not be the real problem. Do you think that that is a price worth paying in the medium to long term?

[45] **Alun Ffred Jones:** I do not think that that will be the case in the medium or long term. I am convinced that a new system will be more comprehensive, easier to understand and will bring more clarity to the users. Those are the important elements here.

[46] **Dr Jones:** It is fair to say that that proposed Measure is quite lengthy and complex, but the process that it will introduce, in a sense, is fairly simple in that the commissioner will consult with a range of organisations, for example, on a sectoral basis, looking back at what they have achieved and at what their current commitments are under their language schemes. There will be a consultation process on how to go from schemes to a set of standards and then the commissioner will make a report to the Minister. If the Minister thinks that they are appropriate, he will lay the standards before the Assembly. Once those standards are made, the commissioner will go back to the people involved and give them a compliance notice that these are the standards they must comply with. We then move away from the bureaucratic and repetitive process of negotiating and approving schemes so that the focus moves away from that to improving the delivery of services. So, the complex proposed Measure describes quite a simple process.

[47] **Angela Burns:** Interestingly enough, Andrew is going to talk about standards.

[48] **Andrew Davies:** I want to ask a philosophical question, but it is not an academic one: what do you consider to be the difference between a right and a freedom?

[49] **Alun Ffred Jones:** I am not quite sure where you are leading me. What do I think is the difference between a right and a freedom?

[50] **Andrew Davies:** Yes; it is an important distinction.

[51] **Alun Ffred Jones:** Are you asking in terms of how it relates to this proposed Measure?

[52] **Andrew Davies:** Yes, or in general.

9.50 a.m.

[53] **Alun Ffred Jones:** There has been a great deal of discussion about the rights of Welsh speakers and that we should be stating these rights on the face of the proposed Measure. What the proposed Measure does is create duties and obligations on various organisations to provide a service for Welsh speakers who wish to use those services through the medium of Welsh.

[54] **Andrew Davies:** This is not an academic point. All of us in this room have freedom to have children; we do not have a right to have children. If we did, that would place a duty on someone else to enable us to exercise that right. What this piece of legislation does is effectively confer rights. There is a right to challenge the commissioner to impose standards and a right of appeal from the commissioner to the tribunal. There is also an element of freedom to use the language. The way that it has been drafted almost makes it seem that there is a right to use Welsh, which is a very important principle if that is what is being established. I am not as sanguine as the Minister or his official when they are looking at the tribunals and saying 'The estimate of costs will be minimal because tribunals are like other areas such as

employment tribunals'. We know from experience in Wales that the issue of the Welsh language is intensely political, as we have seen more recently in some local government decisions. So, it could well be that the estimates for the costs of administering the proposed Measure, not least the cost of the tribunal, will be a heroic underestimate. The point that the Minister and his official were making was that all of this will be caught within the £13.8 million figure. It is a very important point and I do not think that we should gloss over that.

[55] **Alun Ffred Jones:** You paint a picture of appeals going to the tribunals incessantly, but experience since 1993 shows that Welsh language schemes that have been agreed between the Welsh Language Board and various organisations have not resulted, by and large, in a great deal of conflict. There is very little evidence of individuals or citizens resorting to the courts with regard to the Welsh language. By imposing duties that are developments from the Welsh language schemes, I envisage that there would be a great deal of compliance with those schemes without too much resort to appeals and the processes that exist to safeguard the rights of Welsh language users.

[56] **Dr Jones:** The duties will need to be reasonable and proportionate in the first place, and there will be consultation with each person before duties are imposed upon them. It is also the intention that standards will bring clarity so that the organisations involved will know exactly what is expected of them. So, that combination should make it easier to dispose of complaints of alleged non-compliance. The commissioner also has a range of enforcement options available to him or her to try to resolve disputes, from resolving them amicably through preparing a settlement agreement to the more robust enforcement processes. So, the whole thing is designed to keep matters from going to the tribunal as much as possible.

[57] **Andrew Davies:** I can understand the estimate of the cost, because if those organisations currently come within the Act, it is just a matter of transferring the new system to them. However, the proposed Measure will encompass a considerably increased number of organisations, including the private sector, which will be covered by the proposed Measure. We do not know how many organisations and companies will be caught by the proposed Measure, so the whole area has expanded significantly. However, on the question of standards, one of the things that came through in the submissions is that the problem that organisations have is that they do not know what the standards will look like and what their implications will be, as they are unclear. Do you know at this stage what the standards are likely to be?

[58] **Alun Ffred Jones:** We have provided a note on that to Legislation Committee No. 2. I am not sure whether that paper has been shared with this committee, but there are references in it to examples, but they are no more than examples of what the standards might look like and how they have developed from Welsh language schemes.

[59] **Andrew Davies:** Your official said that there will be consultation with the individual organisations.

[60] **Alun Ffred Jones:** That is not only implied; it is stated clearly in the proposed Measure, and the tests of reasonableness and proportionality must then be applied.

[61] **Andrew Davies:** By implication, does that mean that standards would vary from sector to sector, or within sectors? Would they vary according to geographical location, or according to an organisation's size? I am thinking of how the standards would apply to a small company as opposed to a large company, or a company that is operating in Gwynedd as opposed to Monmouthshire.

[62] **Alun Ffred Jones:** The intention is to provide greater clarity and consistency within sectors. There will certainly be differences between sectors, and they are laid out in the

proposed Measure. If you are talking about local authorities—which make up the most complex area, but then they are already used to having Welsh language schemes—there will be a certain consistency between them in some of the basic services, but there also has to be flexibility to reflect the different linguistic make-up of Wales. If you take the provision of answering correspondence, I would expect the same standards to apply in Monmouthshire as in Gwynedd. However, the standards would probably not be the same for provision in respect of daily oral contact.

[63] **Andrew Davies:** I am not quite sure that I understand.

[64] **Angela Burns:** Brian Gibbons has a supplementary question.

[65] **Brian Gibbons:** The standards are at the core of this, are they not? This will be a pretty hollow drum if the standards do not work out right. I must admit that I am attracted to the idea of standards. When I was Minister with responsibility for equality, I was not convinced that equality schemes were the best way forward, so I think that the idea of standards is an interesting innovation. However, if we do not get this right, it will blow up in our faces big time. What is your best estimate of the number of organisations likely to have standards imposed upon them, compared with the present number—the 550 schemes, or whatever?

[66] **Alun Ffred Jones:** All the organisations that are caught at present will be included, and there are other sectors that will be brought in under the powers of the proposed Measure, which will add to the dimensions. I do not know whether my officials have a figure that they can give you.

[67] **Brian Gibbons:** Is it likely to be in the thousands?

[68] **Dr Jones:** Since 1993, the Welsh Language Board has prioritised its approach, and it has agreed Welsh language schemes with those organisations that it sees as having the most influence and the greatest degree of contact with the public, and the 550 organisations currently captured by those schemes reflects that view. It would be a matter for the commissioner to decide how far he or she wants to extend the family of organisations that are to be subject to a duty. There are some new categories, such as telecommunications firms and bus and train companies, which the commissioner will probably want to pursue, but, ultimately, it is a matter for the commissioner to decide, depending on which organisations he or she feels would have the most impact.

[69] **Angela Burns:** The commissioner will draw on the organisations that already have schemes, but if this is to be rolled out to other organisations, such as utility companies, is there a line in the sand beyond which he or she will not go in bringing organisations in?

[70] **Alun Ffred Jones:** That is all laid out in the proposed Measure.

[71] **Ms Arch:** Schedules 5, 6, 7 and 8 set out the person or persons who can be subject to standards. Schedules 5 and 6 cover those bodies whose every activity is subject to standards, and Schedules 7 and 8 cover the bodies in respect of which particular parts of their service can be brought within the standards, and those parts are described in Schedule 8. Column 2 of Schedule 8, if you have it before you, describes the kinds of service in respect of which those types of bodies could be required to have solely service-delivery or record-keeping standards, and not the full range of standards.

10.00 a.m.

[72] **Angela Burns:** Thank you for clarifying that. Following your comment, I just had

this mental image of a ripple with costs spreading out, but you have clarified it.

[73] **Brian Gibbons:** You say that the costs depend on the number of organisations covered. The reason why I think that it could become thousands—multiples of what we have at the minute—is that community councils, post offices and the Royal Mail, for example, are specifically named. They are just three examples, and they provide thousands of services across the country. So, we will go from hundreds to multiples of thousands.

[74] **Alun Ffred Jones:** Most of those bodies are already caught by the Welsh Language Act 1993, and the Welsh Language Board—

[75] **Brian Gibbons:** There are around 800 community councils in Wales, and if I were to hazard a guess at the number that have a Welsh language scheme, I would say that it was certainly nothing like the majority. The point that I want to make is that we will go from hundreds to thousands. That is my first point.

[76] As you said, the commissioner will decide how far the duties will extend, which I think is a good, flexible principle. It is also in the proposed Measure that there will be discrimination by sector; in other words, there will not be uniform standards for every sector. However, to follow the point that Andrew is making, in principle—not the detail, but in principle—will these standards vary by geographical location and organisation size? Clearly, the size of an organisation and its geographical location will be big drivers of business cost.

[77] **Alun Ffred Jones:** It is certainly intended that the standards will provide flexibility in certain sectors. The commissioner will have to take account of the reasonable and proportional—

[78] **Brian Gibbons:** Will that be reflected in the standards?

[79] **Alun Ffred Jones:** It will have to be because it is a part of the proposed Measure. It is not a choice; it is a duty in the proposed Measure that any details proposed—

[80] **Brian Gibbons:** You said five minutes ago that you would expect the same standards to apply in Monmouth as in Gwynedd.

[81] **Alun Ffred Jones:** No, not at all. What I said was that, in certain sectors—and I referred to local authorities as a good example, because it is a complex area—there would be certain minimum standards in certain areas. I referred in that instance to answering correspondence, which is not a difficult concept to deal with wherever you are. In addition, there are other aspects in which you would expect differences between certain areas because of their linguistic make-up, so there would be flexibility within the—

[82] **Brian Gibbons:** So, an organisation in a given area would be given a standard, and that standard would be tailor-made for that particular part of Wales or the size of that organisation.

[83] **Alun Ffred Jones:** Certainly, the size of the organisation would have to be a part of the discussion with the commissioner.

[84] **Brian Gibbons:** This is about the principle of the cost. I fully appreciate that you cannot tell us the cost, because that will be in the regulations, and I do not think that it is reasonable to pursue you on the actual number of pounds, shillings and pence. However, given that standards are at the heart of this proposed Measure, what are the principles that will determine the proportionality of the standards? That is probably the best way to put it.

[85] **Alun Ffred Jones:** You are asking me to define ‘reasonable and proportional’, and—

[86] **Brian Gibbons:** Yes.

[87] **Alun Ffred Jones:** That is almost impossible, but it is a concept that is used in law and recognised as such. The commissioner, in conducting his or her investigations, will have to take account of all the relevant arguments. The effect of a standard given an organisation’s size would have to be one of those.

[88] **Brian Gibbons:** Okay, that is fine. So, the standard will be variable, depending on where it is. My final point it—

[89] **Alun Ffred Jones:** May I just qualify that, in case I am misunderstood? In certain sectors, I would expect the standards to be uniform so that there is a level playing field. In other sectors—and we have referred to local government as a particularly complex area—

[90] **Brian Gibbons:** What about community councils?

[91] **Alun Ffred Jones:** Community councils would also probably fall into the same category.

[92] **Brian Gibbons:** Which category?

[93] **Alun Ffred Jones:** As local authorities.

[94] **Brian Gibbons:** This would be extremely challenging for small community councils with a relatively small precept and a very low population. The idea of translating its correspondence into Welsh would be disproportionate by anybody’s definition.

[95] **Dr Jones:** It would all have to be tested against whether these duties are reasonable and proportionate, and if a community council did not think that they were, they could appeal the imposition of those duties in the first place. The test of reasonableness and proportionality echoes the tests in the 1993 Act where schemes have to be reasonably practicable and appropriate in the circumstances. So, the situation of an organisation would have to be taken into account. At present, for instance, the language board uses a standard template for community councils. There are three templates, depending on the linguistic nature of the area in which a community council operates. You can see an echo of that in the way that the standards would work. At present, a community council scheme will say, ‘When we receive a letter in Welsh, we will reply in Welsh’, and the standard might say, ‘When you receive a letter in Welsh, you reply in Welsh.’ There is a subtle switch there. The commitments that they make in the schemes now will be developed into standards. There will be an agreement about what they will need to do.

[96] **Kirsty Williams:** Minister, Standing Order No. 14.2(i) requires this committee to report on the financial information contained in explanatory memoranda accompanying proposed Assembly Measures. In relation to the cost that would fall on any organisation that would be required to comply with this law, how do you propose that this committee fulfils its obligations under Standing Orders, when your explanatory memorandum says that costs to organisations that currently fall outside the current law, but that may be included in the new law, cannot be predicted? It also says that it is not possible to predict the costs in relation to the right to challenge the imposition of standards, to which your official has just referred. Paragraph 8.38 of your explanatory memorandum states that it is not possible to predict the average costs in relation to investigating alleged breaches of the standards. Do you feel that you and your officials have given this committee sufficient information to fulfil our obligations under Standing Orders to comment on the financial information contained in your

explanatory memorandum? In reality, you have not submitted any financial information about the cost to the businesses and organisations that will have to comply.

[97] **Alun Ffred Jones:** It is a difficult area, admittedly, but we are not starting from scratch, are we? We have 35 years or more of experience of providing bilingual services in all sorts of organisations throughout Wales. You refer to private businesses. Some of those can refer to Welsh Water, BT or British Gas, which already provide a great deal of bilingual services to their customers. So, that provides a basis, I would suggest, for those sectors. They already have Welsh language schemes, although they are voluntary schemes at present. Those companies have already gone very far down the road. All that we are asking in certain sectors is for a level playing field, for the customer who receives those services. So, that is the starting point. If you are talking about local government, again, the same applies. They all have Welsh language schemes, and they have incorporated those costs into the everyday running of their services.

10.10 a.m.

[98] **Kirsty Williams:** With all due respect, I am not talking about the policy issues. This committee has a specific duty, as outlined in Standing Orders, to comment on the financial information in the explanatory memorandum. Therefore, if you are saying to us that you have 30 years of experience, and undoubtedly you do, why does the explanatory memorandum state that

[99] ‘it is not possible to predict the average cost of a challenge’

[100] in relation to the imposition of standards? You are saying that you have 35 years of experience and that that can lead you to determine what the costs will be. If that is the case, why are they not included in your explanatory memorandum? Given that the costs to people who will be caught up in the scheme are not in the explanatory memorandum, how can the committee fulfil its obligations under Standing Orders?

[101] **Alun Ffred Jones:** A regulatory impact assessment of any set of duties imposed on any person will have to be made at the time. We will have a clearer picture when we know what those duties are. Of course, those duties, as they apply to those persons, will have to be reasonable and proportionate.

[102] **Kirsty Williams:** So, would you agree that, to date, because the nature of the standards, which we have just been talking about, will provide the information that we really need, at this stage it is not possible for the committee to comment on the financial implications, because that information is simply not available at present?

[103] **Alun Ffred Jones:** I do not have that sort of detailed information because we do not know what the duties will be.

[104] **Kirsty Williams:** Exactly. That is my very point.

[105] **Alun Ffred Jones:** However, the RIA will have to be conducted when those duties are applied.

[106] **Ann Jones:** You mentioned rail services. Are you aware of how many complaints Arriva Trains Wales has had from people who think that the Welsh language is not treated as equal in the franchise?

[107] **Alun Ffred Jones:** I do not have that level of information, although I could provide you with it. Arriva Trains does provide a certain number of services bilingually, and therefore

it should be in a good position to react to any—

[108] **Ann Jones:** That was my point: it provides a bilingual service now. In its evidence to the legislation committee, it says that any additional costs that it will have to bear under the proposed Welsh language Measure will have to come out of the Welsh Government's franchise. So, it will pass on the cost to the Welsh Assembly Government. Will it do that, or will it reduce the number of services offered to the travelling public because it has to provide more services in Welsh?

[109] **Alun Ffred Jones:** I would come back to the point that it is about what is reasonable and proportionate. Arriva Trains Wales, as you have mentioned, already provides a Welsh-language service under current arrangements. Therefore, I do not expect that any standards that may be imposed on it in the future would lead to significant additional costs. As I have already mentioned, a process of consultation and of impact assessments will have to be followed first.

[110] **Ann Jones:** However, if it does so, will the Welsh Assembly Government pick up the tab from the franchise? Will it put in additional money to make sure that Arriva Trains Wales complies?

[111] **Alun Ffred Jones:** Again, a regulatory impact assessment will have to be done at the time, and that will come before the Assembly.

[112] **Angela Burns:** We shall go back to Andrew. I then want to briefly touch on the costs, because I am very aware of the time.

[113] **Andrew Davies:** I want to look at the impact on the private sector. If Arriva Trains Wales is complying—and, to the best of my knowledge, there have been no complaints about the system—it raises the question of why it is being brought under the scope of the proposed Measure.

[114] On the telecommunications industry, which is of huge importance, we all know that, because of market failure, it is very difficult to get broadband in many areas of Wales, and getting access to third-generation telecommunications will be increasingly difficult. Many questions have been put to you and to your colleagues, I am sure, about broadband coverage. It was interesting to see the evidence that was provided by the Confederation of British Industry, the Mobile Broadband Group, and some of the utilities companies, including Scottish Power, which said that this would impose significant costs on them, as global companies. We are already hearing, on this and other committees, that Wales is closed for business. Do you think that this is yet another signal of regulation that is going to be a disincentive to companies to invest in Wales?

[115] **Alun Ffred Jones:** No, I do not think so. Many private companies have already shown their commitment to the Welsh language in various ways, and I think that they will continue to do so. Policy development does not stop during an economic downturn. We need to take action now and to work together with partners in all sectors to safeguard the Welsh language for future generations. Action to protect, promote and facilitate use of the language remains an urgent priority. In terms of the significant costs referred to by Scottish Power, any cost estimates that have been provided should be treated with caution given that the standards have not yet been developed or imposed. We cannot therefore envisage what the costs will be. All we know is that impact assessments will run alongside the duties and that the requirements must be reasonable and proportionate. That should give everybody some succour.

[116] **Andrew Davies:** In its response, the Mobile Broadband Group stated that

[117] 'It is totally unrealistic and damaging to Wales to create an expectation that an organisation in the global telecommunications market has to be physically established in Wales in order to serve the Welsh market.'

[118] It was referring specifically to call centres there, but that is the nature of the industry. If, as you say, many companies are already responding to the demands of customers, why are they being brought within the jurisdiction of this legislation?

[119] **Alun Ffred Jones:** Not all of them are doing so and, therefore, there is not a level playing field. We are talking about services to customers who wish to access services through the medium of Welsh. With regard to the Mobile Broadband Group's comments, the explanatory memorandum simply states that with services such as helplines and call centres, it may be easier to locate Welsh-language provision in Wales. That is not quite the same thing as saying that companies must establish call centres in Wales in order to provide their general service.

[120] **Andrew Davies:** That is an additional cost to the company.

[121] **Alun Ffred Jones:** There are many companies that already do that. BT and British Gas are two examples.

[122] **Andrew Davies:** What sort of modelling has been done with organisations or companies, such as Arriva Trains Wales, that already provide services in Welsh to see what the demand is for those services?

[123] **Alun Ffred Jones:** We know that the Welsh Language Board has details of that and part of the rationale behind the proposed Measure is to increase that demand by providing a level playing field and ensuring that services are available easily and consistently.

[124] **Dr Jones:** We are not saying in the explanatory memorandum that helplines will have to be located in Wales. Again, it will all come down to a test of whether it would be reasonable and proportionate for, say, a telecoms company to, in the first instance, provide a Welsh-language service as part of its helpline, and, in looking at that, it may want to look at opportunities to establish that service in Wales, either directly or by subcontracting to one of the many call centre operators in Wales. It is not a must; it will all be tested against what is reasonable and proportionate and, if some organisations think that they can do it by establishing provision in Wales, that could bring more jobs to Wales. As I said, it is not a must.

[125] **Angela Burns:** I would like to move on. We have five minutes left to talk about general costs, although I know that Andrew has already touched on this issue. I think that Brian would like to ask a supplementary question.

[126] **Brian Gibbons:** With regard to the regulatory impact assessment of each standard, is it your intention to prepare an assessment by sector, geography and size? This is crucial.

[127] **Alun Ffred Jones:** It is just by sector, I think.

[128] **Brian Gibbons:** I think that we must have an assessment done by sector, geography and size. We must have those three at least.

[129] **Dr Jones:** The commissioner will decide—

[130] **Brian Gibbons:** No, we are talking about the regulations, not the commissioner.



[131] **Dr Jones:** Yes, but the commissioner will decide that he is going to conduct a standards investigation, say, into local authorities.

10.20 a.m.

[132] The commissioner will then provide a report to Welsh Ministers, following that consultation, including information that should assist the Welsh Ministers with the preparation of the regulatory impact assessment. Therefore, we would look at all of those issues to see what is appropriate and what is proportionate.

[133] **Brian Gibbons:** That is reassuring. Thank you.

[134] **Ms Arch:** You should be able to get that picked up in the compliance notice. The commissioner, having seen the standards that have been made by regulations, looks at the standards and decides, 'I've got this body. Which standards do I apply here?'. The commissioner has a choice then, in giving that compliance notice, to make geographical variations.

[135] **Brian Gibbons:** That process has to take place before the regulations are approved.

[136] **Ms Arch:** If there has been a standards investigation beforehand, it may have been a factor that he or she will have included in their standards investigation report, which will go to the Ministers to found the basis of their considerations as to what goes into the standards. You will not see actual geographical variations embedded in the standards regulations, but they will feed into—

[137] **Brian Gibbons:** You will not see that?

[138] **Ms Arch:** The standards are like a menu—

[139] **Brian Gibbons:** How will the regulatory impact assessment give us that information?

[140] **Dr Jones:** The commissioner, having consulted with local authorities in north-west Wales and south-east Wales, will have come to a view about what is reasonable and proportionate to impose as a duty on local authorities in south-east Wales, for example, and what variations there would be in north-west Wales, reflecting the linguistic diversity. That could then feed through into the information provided in the regulatory impact assessment.

[141] **Brian Gibbons:** Will that be before the regulations are approved?

[142] **Dr Jones:** Yes.

[143] **Ms Arch:** It will reflect the menu in the standards investigation report—

[144] **Brian Gibbons:** I do not think that it would be acceptable for a regulatory impact assessment to come here and for us to have the situation where you would be saying, 'We cannot tell you that because these sectors are unknown'. However, you have provided reassurance and I am happy with that.

[145] **Angela Burns:** I now call on Kirsty.

[146] **Kirsty Williams:** My question has pretty much been covered. The issue is that no financial information is available until the standards become available and the regulatory impact assessment that will be undertaken at that particular time. That is of concern to this

committee. It is obviously a concern to people who have been consulted by the legislation committee, in the private and public sectors, because the Wales Council for Voluntary Action is also very concerned. It is a matter of regret that the Government has not been able to come forward with more robust costings at this stage. The Minister obviously feels that the costs that have been quoted and these fears are unfounded. It is unfortunate that the Government is unable to give something more robust to allay those fears at this time.

[147] **Andrew Davies:** I think that there are general issues of principle coming across in this committee and others, in that, as members of committees, we are unable to scrutinise properly—in this case, it is the financial implications. It was the same when we had the Minister for Environment, Sustainability and Transport before us to discuss the proposed waste Measure and the single-use carrier bag levy. We were reassured that regulatory impact assessments and assessments of the financial implications would be provided at the time that the regulations were made. Therefore, it is really a matter of putting the cart before the horse, and that does not allow us to carry out our statutory function to scrutinise legislation.

[148] **Angela Burns:** Thank you for that. I think that that is a common thread that has been running through the information that comes before us. Do you have any concluding remarks that you would like to make, Minister?

[149] **Alun Ffred Jones:** No. Thank you for the questions and robust exchanges. If we can provide any further information that you think is pertinent, we will do so.

[150] **Angela Burns:** Thank you. I will write to you on just a couple of questions that we did not touch upon, which concern relatively minor and more technical issues.

[151] **Alun Ffred Jones:** By all means, please do so.

[152] **Angela Burns:** I am grateful for your time this morning. It is much appreciated. I would like us to take a short break before we see the Minister for Health and Social Services.

*Gohiriwyd y cyfarfod rhwng 10.24 a.m. a 10.30 a.m.  
The meeting adjourned between 10.24 a.m. and 10.30 a.m.*

*Nid oes recordiad ar gael o'r cyfarfod rhwng 10.30 a.m. a 10.31 a.m.  
No recording is available of the meeting between 10.30 a.m. a 10.31 a.m.*

[153] **The Minister for Health and Social Services (Edwina Hart):** [*Inaudible.*—this proposal. Unfortunately, my director of finance, Chris Hurst, is engaged elsewhere. He might join us later, but Claire and I hope to be able to answer the committee's questions without his assistance. We thank you for the opportunity to go through this, because the proposed Measure has support from across the National Assembly.

[154] **Angela Burns:** I will start off. If Legislation Committee No. 3 decides to recommend that you include children and young people in the proposed Measure, what would you do about assessing the potential financial implications of that? I think that that committee might be minded to make that recommendation.

[155] **Edwina Hart:** I am aware that the legislation committee has taken considerable evidence on this matter of including under-18s. I am awaiting with interest the committee's recommendations. We have been quite swayed by some of the evidence that has been heard by the committee, and I have already asked my officials to undertake some preliminary work to look at the financial implications of including those who are under 18.

[156] If the committee were to recommend expansion and I amended the proposed Measure

at a later stage, I would have to update the regulatory impact assessment. However, Claire will cover the AOF target issues, which will help to explain to the committee how we think we could manage things if the proposed Measure were to be extended to include under-18s.

[157] **Ms Fife:** AOF target 18 is directed at the child and adolescent mental health services, and it requires there to be two primary mental health workers per 100,000 of the population. Those workers perform similar functions to those of the practitioners within the services established under Part 1. So, we think that those existing practitioners could perform the functions under the scheme. We have taken professional advice on this from CAMHS professional advisers and adult mental health professional advisers, and they feel that that is an appropriate use of staff. So, the costs may be contained within existing services. The same is true of care planning. The committee has also taken evidence about the importance of expanding Part 2, and funding that is being made available in respect of the proposed Measure as currently drafted could also accommodate improvements in care planning for child and adolescent mental health services on the initial scoping exercise.

[158] **Ann Jones:** Could I just ask what AOF is?

[159] **Edwina Hart:** The annual operating framework of the NHS. I apologise. I am afraid that we use a lot of jargon in the NHS.

[160] **Ann Jones:** No, that is fine. I was just racking my brain trying to think what it was.

[161] **Angela Burns:** Thank you for those comments. I suspect that we will return to them later, because it is always interesting to know when people redeploy current moneys. I do not believe that those moneys are just swishing around, and something else will inevitably have to suffer or make changes. So, I will return to that later. I now want to turn to Janet.

[162] **Janet Ryder:** I want to pick that up, actually, because if services are extended to adolescents and young children, if I have understood what you have said correctly, the implication is that the existing post-holders will be expected to expand their work and the existing resources will pick up any extra work. If that is not the intention, where are the extra financial resources coming from to meet what could be a substantial need?

[163] **Ms Fife:** The ratio of existing primary mental health workers is two per 100,000, and there are about 49 whole-time equivalents currently in post, which is slightly higher than the equivalent in adult mental health services, so we clearly need to think about the impact on adult mental health services. That indicates that the schemes can be accommodated by the existing services without adverse impact.

[164] **Janet Ryder:** What assessment has been made of the potential demand on services?

[165] **Edwina Hart:** We think that there will be a little spike when the proposals first come in.

[166] **Janet Ryder:** How much is 'a little'?

[167] **Edwina Hart:** We think that there will be a spike, as there is always a spike, but then we think that it will even out. That is the advice that we are getting from the sector. On your other point, if and when Legislation Committee No. 3 recommends this in its report, I will ask my officials to look into the detailed issues arising from that. As I have indicated, you and I will have to undertake another regulatory impact assessment on this, so we would return to it. I need to wait to see what comes out of that report before I decide what further work needs to be done. However, we are fairly confident that what we have looked at will cover these areas if we did extend it, but we would have to review that in light of any recommendations from

the legislation committee.

[168] **Janet Ryder:** I accept what the Minister is saying, but the demand for services such as this could, potentially, be great. She is talking about an initial peak and then a levelling-off. That levelling-off could be at that peak level.

[169] **Edwina Hart:** I doubt it.

[170] **Janet Ryder:** If the Minister is saying that she doubts it, she is anticipating that, after an initial diagnosis and rush for services, that demand will decline.

[171] **Edwina Hart:** We think that it will even out. That is the indication that we have received from the sector. The NHS and the voluntary sector agree with the assumptions that we have made in this regard. We have had extensive consultation across the piece on this, involving the voluntary sector particularly, and it feels that we are right in our analysis of how this can be developed. I have to be frank, Chair, and say that I am guided by the expertise that exists outside the Assembly Government, in the NHS and the voluntary sector. I do not know whether you want to add anything, Claire, but that has been quite clear from the discussions that we have had.

[172] **Ms Fife:** That is absolutely the experience. Where primary mental health support services, such as those set out in the proposed Measure, have been established, there is a spike in initial demand—as so often with new services—and then it drops back to where you would expect the level to be. We also have to consider that this is coupled with the educational role of GPs, who will be supported to manage their primary care patients safely and to identify those who need a little more support, delivered through the local primary mental health support service. The other component of the scheme is referral on to secondary care. The experience from where these services exist already is that, after an initial peak, demand drops to the levels that we have anticipated in the proposed Measure.

[173] **Edwina Hart:** In addition, all the work that we are doing with GPs in the primary care sector will, in the long run, mean that less demand is placed on the secondary sector through referrals, and, hopefully, that will enable us to look at how the money flows work, as this develops and as policy becomes reality.

[174] **Brian Gibbons:** I must admit that, if I were you, I would be much less sanguine about this, to be honest. If what you say is true—and every area of clinical activity has its own peculiarities—mental health must be the only chronic disease for which that is the case. Virtually every chronic disease is bedevilled by underdiagnosis, then, once the diagnosis is made, by undermanagement and by people falling out of the system. It is a great strength that the proposed Measure recognises that, which is a positive step forward. However, as people are picked up earlier, the time for which they are in the system, to use that phrase, will be much longer.

10.40 a.m.

[175] So, if you are saying that the empirical work bears out the substance of that, then we have to be evidence-led. However, the caveat would be that that makes mental health, as a chronic illness, pretty unique. There is the old phrase about the rule of halves, which operates for virtually every chronic disease—half the people with the disease are known, half of those are treated, and half of those are treated properly, and so on. If the empirical evidence is there, then we have to accept that, but I would be surprised if mental health were so substantially different from every other chronic illness.

[176] **Edwina Hart:** Perhaps I can make the point that the discussions that we are having

today at this meeting of the Finance Committee are about the additional moneys being provided. We have to put that into the context of the budget that already exists for mental health, which is a ring-fenced budget. We already have £570 million for it in the health budget. This is actually about additional funding, and we should see it in that context. Also, we have to see it in the context of the current economic climate. I have had a good time reading through some of the evidence that has been presented to some of the committees on this—I also like to cherry pick evidence. It was a director from ADSS, I believe, who told the legislation committee:

[177] ‘None of us in the public sector now can simply argue for more resources; we first have to demonstrate that we are making the best use of what we have.’

[178] We have to see this in that context as well. There are also very serious issues about how this proposed Measure will allow us to do things differently, which might result in economies and efficiencies. That is also a key issue. However, I am not sanguine about these issues, because we have discussed them widely within the NHS and the voluntary sector. I will reflect on the comments that have been made to me today, and you will decide on what you will include in your report, and I will ask officials to go back to look at these particular issues that have been raised.

[179] **Kirsty Williams:** For once, we have a regulatory impact assessment that includes some figures. Do you stand by the figures in that regulatory impact assessment, or have they been revised since they were first worked on?

[180] **Edwina Hart:** We are revising and looking at this all the time, and if comments are made, or we get a response, then we look again at all these things. We are fairly satisfied that this is okay at the moment, but it is under constant review. There are no substantial changes yet. However, I recognise that I have an obligation as a Minister for the regulatory impact assessment, and although there will perhaps not be any major additions to it, it may be that resources have to be moulded in a different way. I might also have to look at a revision of this in the future, and I would be more than happy to do so. It is important that there is absolute honesty and transparency, and you need regulatory impact assessments so that people are quite clear about how you have got to where you are, and what the implications are. I thought that we had to do this.

[181] **Kirsty Williams:** Indeed. However, despite the fact that we have some figures here, in evidence to the legislation committee on 13 May, representatives of local health boards stated that, in their estimation, the costs that you have outlined are underestimates, and that their estimated costs were nearer to £8 million, although I acknowledge that there was no written evidence to back up that assertion. Could you comment on the figure of £8 million that was suggested by the LHBs? Also, in the impact assessment, you have not been explicit about which costs will be incurred in which year, but you clarified that in a statement to Plenary on 23 March, which provided a yearly breakdown. Could you explain to the committee how that yearly breakdown was arrived at?

[182] **Edwina Hart:** We looked at the issues and in this financial year we are making £1.5 million available to support capacity in preparation. That is obviously non-recurring additional funding. The £1.5 million is in addition—we need to remember this—to the £0.6 million that I have in the system already, dealing with the independent mental health advocacy service. Is that right, Claire?

[183] **Ms Fife:** Yes.

[184] **Edwina Hart:** In the next financial year we are increasing the recurring advocacy funding to £1.1 million for detained patients and others and an additional £0.75 million for

capacity development in primary care and inpatient advocacy. When the proposed Measure is fully operational, towards 2012-13, there will be £2.1 million for advocacy and £3 million for primary care. In total, we are making £4.5 million available for the implementation.

[185] I acknowledge the comments that LHBs have made, but I feel that they always make a case for additional resources. As far as we are concerned, we have put adequate resources in for this proposed Measure. The interesting thing is that they have given that evidence to committee, but they have never raised the matter with me as Minister. I find that quite fascinating. I therefore wonder whether it is part of this culture in which people try to get me on the hook by giving evidence elsewhere rather than coming to me to explain some of the issues.

[186] I do not know whether Claire wants to add to that, because we have had very constructive discussions with the directors of mental health in LHBs. They warmly welcome what we are doing.

[187] **Ms Fife:** They do. We have had meetings with directors of primary care, community and mental health services, and we have met some of the vice-chairs with special responsibilities for mental health. We have also met practitioners and professionals. Obviously, everybody wants more money, but they also recognise the current economic climate. They are fairly comfortable on the ground with the levels of funding that we are making available, because they recognise, as the Minister said, that it is in addition to a significant proportion of the health budget going into mental health services.

[188] Stewart Greenwell's evidence about making do with what we have and doing things better is definitely how this proposed Measure is being seen. The directors and the vice-chairs are seeing the potential opportunities for improved working that this proposed Measure can create. They are therefore quite comfortable, in the context that everybody would always ask for more.

[189] **Edwina Hart:** There is a suspicion out there, Chair, that money will be diverted from existing budgets, but that is clearly not the case because there is additional funding. That must be made clear to them. The LHBs are very fortunate, as these particular services are ring-fenced, which is a commitment that I intend to continue, even if we do go through tight times.

[190] **Andrew Davies:** On the question of resources, Minister, you will remember, I am sure, last year's budget process, when a certain trust finance director said that in his estimation that some 20 per cent of the NHS's budget could be used more effectively. Do you agree that there is quite a lot of slippage in the system and that the LHBs, in addition to the extra resources that you are allocating, have sufficient resource in the system to deal with this legislation?

[191] **Edwina Hart:** We were very interested at the time about the comments made by the LHB finance directors. We have said to them in our discussions about deficiencies, 'Given that you can make those statements in public, please can you deliver on them now in dealing with your budgets?' I take your point on board, but they do have to look for efficiencies and economies of scale in delivery, and the NHS is working hard to do that, and I am sure that the committee will return to this matter when my director of finance and the director general for the NHS next appear before it to discuss general issues of capital, as you will see what we are doing in this particular area.

[192] When something comes in, it is always about the handout rather than looking at existing resources and what additionality can provide.

[193] **Nick Ramsay:** Minister, some witnesses have suggested that the proposed Measure is

likely to increase the demand for mental health services. What assessment have you made of the likely increase in demand, and how have you factored that in to your assessment of the costs?

[194] **Edwina Hart:** As we indicated in response to some of the earlier questions, we have had detailed discussions across the piece with clinicians, the voluntary sector, and others on the issue of demand. We understand that there will be an initial spike in the number of referrals. The explanatory memorandum is quite good in terms of how we have explained the services. One in six adults will suffer from a mental health problem. Professional advisers have informed us that 90 per cent of mental health cases are dealt with in primary care. What I said earlier about the important role that the primary care services will now have to play will help us. I cannot be absolutely confident, Chair, because one never knows what might happen in the future, but if we get the provision for mental health correct in primary care, we will reduce the need for patients to enter secondary care and will therefore avoid all those unnecessary referrals.

[195] Of course, we shall review all of these issues within three years, as we have indicated, because this proposed Measure is the start of a process for the delivery of our mental health services rather than the end of it, and it will have implications for those services. There will have to be a review, therefore. At the end of year one, we will have seen the spike, hopefully, and what demand has gone back to. By year two, will we have seen a difference in secondary case referrals? What will it be like by year three? We can then review how we deal with the resource issues.

10.50 a.m.

[196] **Nick Ramsay:** That sort of development could be seen as the victim of its own success if this works out and generates further demand. I ask the question because the local health boards have stated in their evidence that there was a real possibility of an increase and that they were not convinced that your resource plans had factored that in fully.

[197] **Edwina Hart:** Do you want to cover any of that further, Claire?

[198] **Ms Fife:** No, other than to support what the Minister has said about the engagement that we have had. Part of that engagement has involved looking at the existing demand, where it is being met and how it might change. As the Minister said, we are as confident as we can be at the moment, but we need to keep it under review. That confidence arises from talking with all the local health boards across the piece, and also to local authorities, because they are part of this as well, to see how it can be managed. So, we are as confident as we can be at the moment.

[199] **Janet Ryder:** What kind of flexibility exists within the budget if you find that demand increases beyond your budgetary capacity? What provision is being made for any flexibility to meet that demand, or is it the intention that the budget will meet that demand? In other words, will the budget dictate the number of people who are treated?

[200] **Edwina Hart:** These measures are in the future, as it were—I only have the budget that I currently have. I will await the comprehensive spending review in terms of what future budget lines will be. The only guarantee that I can give is that I will continue to ring-fence funding for mental health. I see mental health as a priority even if the resources going into the NHS diminish, so I will have to work through that. It is exceptionally difficult for me to give an answer to your question at this stage; I would be less than honest if I were to try to give you an answer.

[201] **Irene James:** Minister, in relation to the delivery of local primary mental health

support services, the explanatory memorandum states that staffing and professional expertise required to deliver these services would be drawn from existing mental health services. If the delivery of local primary mental health support services will take staff from existing mental health services, where will staff be recruited to back-fill those posts and what financial implication would that have?

[202] **Edwina Hart:** We have looked at this point robustly, and we think that an element of back-filling may be necessary, but that it will be minimal when we look at the current staffing ratios. We also need to look at the lead-in time for the proposed Measure. Services have a lot of time to prepare for the proposed Measure, as it will not be implemented with immediate effect within a month, so they have plenty of time. These are decisions for the service to make in this regard. I am always accused of micromanaging when I am not micromanaging, as it is a matter for the LHBs to take forward. It will all be supported by a national guidance model.

[203] When you look at existing primary care services, LHBs have to consider that these have to be reconfigured in any case to deliver properly in relation to the proposed Measure. There will also be more strategic join-up between primary and secondary care; the new health board structures will allow us to have that. Moving staff from one part of the service to another does not necessarily create vacancies if the service is seen as a seamless service and as a whole. I hope that we can work with local partners to identify any back-filling with a minimum of disruption to the services. We are allowing two years for this and we are giving them around £1 million in pre-implementation funding to help them to deal with some of the issues that may arise with regard to this particular agenda. So, I have confidence that the service will develop. Mental health has been seen for so long by staff as a cinderella service within the NHS. They are delighted with the focus that has been adopted within the National Assembly on mental health, and they are very pleased about this proposed Measure. That will ensure that we get the correct delivery of services out of this. However, I am mindful of the point raised by the Member, and it is something that we will pick up.

[204] **Angela Burns:** Brian, did you want ask a quick supplementary?

[205] **Brian Gibbons:** I have a few questions on this area. The figures that you gave under this section were reasonably robust. We are trying to extrapolate them. What you are suggesting is that there are four to five extra staff for these teams per typical local authority area. That seems a little like sailing close to the wind to me, but I thought that it would add up, depending on the role that community mental health teams played. It seems implicit in this that community mental health teams, as a consequence of this proposed Measure, would be greatly enhanced and strengthened; if that was to take place, the figures that you are putting forward seem to be quite robust. If this was going to be additional to community mental health teams, I think that there would be question marks, but you are nodding, so that is encouraging.

[206] The other thing that is very good—I am just wondering, to follow Andrew's point, how you will be able to deliver the efficiencies—is that there are lot of opportunities in this proposed Measure for pooling of budgets between the NHS and local authorities and across regions. If I am right in reading this, even an organisation from outside the region can take the lead in delivering services if a region is underperforming. From the point of view of value for money, will you give us a feel as to how you will drive that forward to maximise quality and value for money through that model, which is very sound?

[207] Finally, there was one thing that slightly worried me. As I understood it, one of the great strengths of this proposed Measure was that it was going to guarantee treatment, but some of the content seemed to suggest that, following the assessment, there was not going to be a guarantee that the person would get the treatment required. That is fairly standard in social care—it is the way that social care works—but it is not generally the rule in the health



service. If the provision is there, people tend to get it. So, I am just wondering whether or not there may be risks in this particular proposal that healthcare may find itself subject to the eligibility criteria that are a source of concern in social care.

[208] **Edwina Hart:** Your initial analysis of the opportunities is absolutely correct, about how we could have a number of local authorities in one local health board area, but that another local authority might choose to join in partnership. It also allows for the pooling of budgets across the piece, which is important and will secure economies and efficiencies in scale. On the wider issue, we do not regard it as a problem, because there is a duty to treat, is there not?

[209] **Ms Fife:** There is.

[210] **Edwina Hart:** We have said that in evidence to Legislation Committee No. 3, where these areas were explored. I am not certain what Dr Gibbons is getting at, because that does not raise a concern with me. Do you want to say anything, Claire?

[211] **Ms Fife:** The evidence given by the Minister when she last appeared before the legislation committee set out that section 2 schemes must be delivered. The services that must be delivered are set out in section 5 and include the interventions. The assessment is the gateway into the service—that is the key point, which is why there are regulation-making powers around competencies of assessors, so that you have good quality assessments—and what flows from those assessments is the identification of either intervention, which will be delivered through the scheme, thus establishing the duty to deliver, or referrals. People will not be left with an assessment only. There is a duty to either provide an intervention or to refer on more appropriately. All that will be guided through the delivery mechanism and through that national service model, which the Minister mentioned earlier.

[212] **Brian Gibbons:** I cannot find it, because there is a lot of paper here, but somewhere in this, in response to the assessment, there is a requirement for organisations to decide how they respond to the assessment. You are saying that how organisations respond to the assessment will not include eligibility criteria like we see in social care.

11.00 a.m.

[213] **Ms Fife:** No. Issues related to eligibility criteria have come up, and the Minister has responded to them already. The national service model will set up the types of interventions, and some of that is touched upon in the explanatory memorandum. Details on the types of treatments and interventions will be in the scheme, and those schemes will be guided by the national service model. The Minister has pointed to the importance of flexibility on delivery, which you mentioned in respect of pooled budgets, but it is also about reducing and minimising variability. We do not want variability of service, but we do want flexibility in the way that those services are delivered.

[214] **Brian Gibbons:** What would those eligibility criteria look like? We know what they look like in social care. One thing that they mean in social care is that services are concentrated more intensively on those with greater need, and people who previously might have had somebody to do their shopping or laundry for them no longer get that. What would those criteria look like? Would they be clinical criteria? I do not understand how the criteria will apply. Maybe it would be helpful if—

[215] **Edwina Hart:** The guidance on service models addresses this issue. I gave evidence to the legislation committee, and I am looking now at the paper that I gave to that committee about the opportunities of the shared objective. We are developing guidance to support the operation of Part 1 of the proposed Measure in this regard. We have spoken to you about the

national service model, and these tools will address some of the concerns that you are dealing with. Stewart Greenwell was also very concerned about this. Reference was made to issues under the 'Fair Access to Care Services' guidance for local authorities. In those cases, words like 'critical' and 'substantial' are used to describe categories. There was a concern about how that would flow into this, and how the application of these criteria would be reconciled with how we deal with them in the NHS. That was also the evidence that came from the Welsh Local Government Association—Beverlea Frowen gave evidence on that particular issue—that some patients needing primary mental health care would fall below this, and that some authorities are not set up to respond to service need with some of those issues.

[216] We have picked up on those issues, which were raised with us in the legislation committee. We will be seeking to deal with them through the guidance and service model so we do not have the problems to which you allude. Most people in the sector are content that we can deal with it in that way. If the committee has further interest in this, when we have another meeting of the legislation committee, I will be able to respond. That might be useful to you as the Finance Committee. We are now into the area of looking at the guidance and various other issues. It is not quite as straightforward, perhaps, as we would want it to be, because of the differences between the NHS and local authorities.

[217] **Angela Burns:** Nick, do you still want to talk about the calculations in the regulatory impact assessment?

[218] **Nick Ramsay:** A lot of it has been covered, to be honest. I have one question related to staffing issues. What discussions have you had, Minister, with local authorities and LHBs to establish whether the costs of delivering local primary mental health support services are realistic, and also to assess the cost variation that will occur for each mental health partnership? I think that you have touched on this.

[219] **Edwina Hart:** Yes. We have had the appropriate discussions, and we are content that the direction of travel is correct, as we have outlined.

[220] **Angela Burns:** Irene, did you want to talk about delivery options?

[221] **Irene James:** Yes. Section 42 of the proposed Measure provides delegated powers to Ministers to modify the operation of Part 1 of the proposed Measure in relation to local authority areas.

[222] **Edwina Hart:** Yes.

[223] **Irene James:** Right. Under what circumstances, Minister, do you envisage using this option?

[224] **Edwina Hart:** This is one of the areas that many people are quite keen on, in terms of what we are doing. It allows us to establish the wider areas that I alluded to when I responded to Brian Gibbons. The important thing is that it allows LHBs and local authorities from outside that region to become partners as well, if that is necessary. Our best estimate is that this will not affect costings, but it may affect the way that things are distributed: distribution—as opposed to overall—costs. Of course, I will have to look at that, but, because I am doing this section as part of the affirmative process, I am content that there will be an opportunity for Assembly Members to discuss this if there are wider implications. I think that regulation will achieve the desired effect on this; it will encourage organisations to work together more on this. Therefore, this is a particularly good element in the proposed Measure.

[225] **Irene James:** If there are any changes to the funding mechanisms, would people be consulted and would it be open to scrutiny?

[226] **Edwina Hart:** Yes, there could well be changes in distribution mechanisms and it would be important for that to be discussed. When there are regional schemes, which could be established, we would encourage the partners to use the flexibilities described in section 38 (1)(b). That enables the maintenance of a pooled fund, which will be important. Working together should also reduce operational overheads for those organisations.

[227] **Andrew Davies:** Will that be made explicit?

[228] **Edwina Hart:** Yes, I think that it will be made explicit to organisations. It is important that they recognise that we want to get maximum benefit from the additional resources that will be put in by this proposed Measure. We want to get maximum benefit from our existing mental health resources and, if you can reduce the administrative burden by working together, that money is then available for those same front-line services and will not be pulled back to anywhere else.

[229] **Andrew Davies:** How do you expect that to be taken forward? Would you set targets to bodies? How would you measure their effectiveness?

[230] **Edwina Hart:** I could look at my annual operating framework targets with regard to this.

[231] **Kirsty Williams:** The explanatory memorandum makes great play—and you have mentioned this this morning—of the fact that improved services in the primary care area will lead to a decrease in demand for secondary services due to inappropriate admissions or diversion. What work have you done to estimate the potential of those savings as a result of the decreased demand in secondary and tertiary care?

[232] **Edwina Hart:** I made it clear to the Chair that new services will help to reduce inappropriate referrals to secondary care, because effective primary care will help us. I do not think that it is possible for me to quantify the potential financial impact at present, although there may be potential, as I indicated, for longer term savings. It is something that I will keep under review, and I will be asking my officials to constantly keep it under review. If I am frank, it is a bit difficult at the moment. We assume that that is going to be the pattern. In Part 5 of the explanatory memorandum, I indicate that we will undertake a full review of the effect of the proposed Measure within three years, and those points will certainly come out then. When I answered a previous question, I also said that we will be able to see a pattern of change emerging over the period when the proposed Measure comes in—in year 1, we will see a little rise, or spike, we can monitor what will happen in year 2 and whether we have made fewer referrals into secondary care and, by year 3, we will be able to do the same. This is an ongoing process and I am sorry that I cannot give you accurate figures. It is what we feel from looking at the pattern of how other services, when they have had more primary care provision, have taken the impact off secondary care. That has definitely happened.

[233] **Kirsty Williams:** So, do you envisage that any such savings would be accrued in the medium to long term, rather than in the short term?

[234] **Edwina Hart:** Yes, and if I was responsible then, I would want to keep those savings within the mental health agenda.

[235] **Ann Jones:** I want to look at costs in Parts 2, 3 and 4 of the proposed Measure. If I start with Part 2, what work has been done to determine that Part 2 of the proposed Measure will not incur any extra costs, beyond the initial work to refocus the emphasis of care planning? Will you also explain more about how the £0.75 million of non-recurring funding for the cost of the change management programme has been estimated? When is it envisaged

that that will be provided?

[236] **Edwina Hart:** The care programme approach has been part of adult mental health services since 2003. As I have indicated to other committees, I shall shortly be issuing revised interim guidance ahead of the proposed Measure in these areas. We have looked at the interim guidance and have indicated what support will be provided. No additional cost will arise as a result of that, because that has been implemented.

11.10 a.m.

[237] In relation to Ann's second point about the £0.57 million of non-recurring funding, services need to refocus emphasis on the care planning agenda, which is an issue. Change management will include value-based training, and detailed costs for that are developing. There are existing expectations on mental health services for adults and older people with respect to care co-ordination and care and treatment planning, and we need to support those services. We have, therefore, started conversations with officials in higher education about the delivery of suitable materials and programmes for trainers to ensure that the service is involved in helping us to deliver the training programmes, alongside the cash that we are providing for these programmes. To be frank with the committee, at this stage, the £0.75 million is a best estimate that aims to take into account the number of variables at this particular time.

[238] **Angela Burns:** Sorry, Brian, I was writing down the Minister's comments; we now move on to your question.

[239] **Brian Gibbons:** Like the community mental health teams, the idea behind the co-ordinator is excellent. However, I am surprised that the case has been made that there will not be any recurrent costs. I can see that in those areas where good practice operates—where there is a key worker or a lead worker for the patient—there should be no extra cost, or that the cost would be very marginal. However, in those areas where the provision does not exist, it seems that there has to be a recurrent cost for those organisations. I agree that you should not be providing incentives for poor practice, which is what happens under the status quo. Nevertheless, there has to be an opportunity cost, at least, if somebody in an area where there is no lead worker has to step up to provide co-ordination. Even that opportunity cost would be a recurring call on the resources of those organisations.

[240] **Edwina Hart:** The provision should be there already and it should have been since 2003.

[241] **Brian Gibbons:** That is the concern; all chronic diseases have an iceberg of demand. This proposed Measure will improve the quality of service, and that has to be welcomed, but the worry is that it will reveal the size of the iceberg below the surface. Responding to that demand will mean incurring a cost. I concede that some of the costs related to advocacy seem to be quite resilient, if you take the community mental health teams into account. However, this matter does not seem to have the same resilience, unless, as you say, in most parts of Wales a key worker or lead worker already exists; if that is the case, the cost will be minimal. However, the fact that there is a need for us to put a co-ordinator in place on a statutory basis suggests to me, by definition, that this is not happening. I believe that the reason that you are putting this in on a statutory basis is to fill a gap that has not been filled by other means.

[242] **Edwina Hart:** We have commissioned a report by the delivery and support unit and the National Leadership and Innovation Agency for Healthcare to look at some of the issues that you have raised on what is happening with the current provision in different areas; we do not see an iceberg of demand in that report. The proposed Measure is about improving care planning, and all services should already be included in the system. Claire, do you want to

respond to Dr Gibbons on work already undertaken?

[243] **Ms Fife:** The delivery and support unit's report indicated that everybody in secondary care should have a care co-ordinator and a care and treatment plan. In any case, professionals have their own obligations around care and treatment planning. The DSU report indicated that, in some cases, there is an unacceptable lag in the appointment of a care co-ordinator, but that a care co-ordinator is eventually put in place. Part of the proposed Measure's effect will be to ensure that as soon as a person is a relevant patient, there will be a duty to appoint a co-ordinator. The DSU report indicated that there were problems with the focus of care and treatment planning, so it is not that there are no care and treatment plans in place, but that the plans may be configured to the services that are available rather than the individual's needs or the outcomes that we would want to achieve for an individual, or that individuals are being encouraged to write parts of their own care plans. The current situation is that there are care co-ordinators and care and treatment plans for everybody in secondary care. The proposed Measure is saying that that provision must be timely and outcome-focused. We do not anticipate that this is only the tip of the iceberg. It is not the case that we are capturing only a few people with care co-ordinators and care and treatment plans. All patients in secondary care should have a care and treatment plan and a care co-ordinator. The proposed Measure will make that provision timely and is explicit about what the care and treatment plan should focus on. It is prescribing what the plan will look like, the matters that must be covered and the form of the document. The DSU report also said that the quality of those things is variable.

[244] **Brian Gibbons:** I am reasonably satisfied with that response. My only concern is that, as the quality of the service improves, people may not be referred to the secondary care service. Concerns have been expressed about that. That is one of the big question marks about this, but I am happy with the response.

[245] **Ann Jones:** Moving on to Part 3, what work have you done to determine that no significant costs will be incurred in respect of assessments of former users of secondary mental health services? What work has been done to assess whether the availability of the self-referral service will lead to an increase in genuine people using this service? Have you made any estimate of the impact that this will have?

[246] **Edwina Hart:** We would say that Part 3 provides an alternative to traditional methods of referral, such as through a GP, but that it does not significantly change the demand for services, and we do not anticipate any significant cost increases for this service. As I think I said in the explanatory memorandum, we will be reviewing the implementation of legislation in this regard. I expect this part of the proposed Measure to be effectively monitored as part of that review because you make a valid point. Also, looking at where services exist currently, we are advised that there is now appropriate take-up by individuals and that when people self-refer to secondary care, they are provided with that care, so we are fairly confident about this.

[247] **Ann Jones:** I will now move on to Part 4, which concerns advocacy services. Advocacy providers have raised concerns that extending independent mental health advocacy to out-of-hours and emergency cases will have a huge impact on the capacity of their organisations. Given those concerns, are we going to be able to do that and will there be sufficient capacity to meet the extra demand that the proposed Measure will introduce, for example, from patients on general wards and those with dementia who will now come into the equation?

[248] **Edwina Hart:** We are aware that a significant number of witnesses gave evidence to the committee expressing their concerns about this issue. I am aware that the legislation committee will cover this in its report. Let us be frank about this: the existing services are

configured for the delivery of the current system, and so the provision tends to be on the Monday-to-Friday-office-hours model, which is not satisfactory when we are talking about mental health issues. So, it is natural that the services have concerns because they are looking at the old model that exists to deliver current provision. I will be considering those concerns carefully in the context of what will come back to me from scrutiny of the proposed legislation, because capacity will have to be developed in those advocacy services to respond to the proposed Measure's requirements.

[249] New money is being put in for pre-implementation and ongoing delivery, because they need to look at the appointment of appropriate staff and the provision of appropriate training as well as office support—we tend to forget about the administrative support behind all of this. Meanwhile, I have the independent mental health advocate funding that exists already in this area. I am looking back to my notes for the legislation committee on this. We intend to add £1.5 million to help providers deliver support to patients in hospitals, whether detained or not. This will bring our total annual support for advocacy to £2.1 million. I think that Advocacy Wales commented to the legislation committee that it felt that this was adequate for the purpose.

[250] **Ann Jones:** You have mentioned the money that you are going to put in that will allow providers to prepare for a potential increase in demand. Would it not be better if that money were to go directly to the providers rather than into the local health boards?

[251] **Ms Fife:** The distribution of money is yet to be finalised, but we have had some really helpful conversations with the LHB leads for advocacy planning and the current IMHA providers. We have talked about the distribution and whether the money should go directly to providers or to the local health boards so that it can then be passed on.

11.20 a.m.

[252] There are some procurement issues that we will need to work through because it depends on who gets the tenders and whether that will necessitate a complete renegotiation of a contract or fresh tenders. However, there is some potential for that; therefore, we need to work that up and give the advice to the Minister. It is possible that there is some potential.

[253] **Ann Jones:** On the procurement and the tendering, are you confident that providers will be able to bid successfully for contracts at a time when they may not have the capacity to deliver enhanced services?

[254] **Edwina Hart:** Yes; we are confident. We have talked to the sector and it is fairly confident.

[255] **Angela Burns:** There are a number of questions on which I will probably write to you, if that is possible, because they are of a technical nature and just require answers on numbers and assumptions. Would you indicate to the committee what the post-implementation review will cover? Will it look at the effectiveness of the proposed Measure? Will it be looking at outcomes and value for money, and will you be reporting that back to the Assembly as a whole?

[256] **Edwina Hart:** Yes. I always dutifully report these matters back to the Assembly in real terms. I would be a very unwise Minister if I did not come back on some of these issues.

[257] We set out our intentions regarding the review quite clearly in the explanatory memorandum. It is important to ensure that, when legislation is made, we do not just learn the lessons in respect of that particular legislation, but that we learn some of the lessons more generally. I will expect my officials to review whether the expected benefits of the proposed

Measure have been achieved. That is in terms of individuals and the services that we provide.

[258] I will also require them to reflect on the development of legislation itself, about how we engaged with stakeholders, how those engagements influenced the tack that we took in terms of legislation, and how it has improved services. I will also look at the drafting of legislation to see whether I can learn any lessons in the future for drafting. Drafting is a very difficult area, in terms of legislation, to get clarity for people on what we are trying to do in terms of the legislative process. When we look at the implementation programme and the regulatory impact assessment, I need to see whether the information that was included was correct. Therefore, I also have to learn lessons from that.

[259] In terms of clarity, stakeholders have complimented us on the explanatory memorandum and the engagement process. I want to ensure that that continues because you must have good engagement and clarity in your papers. I appreciate that I have many questions to answer here today, but I think that, in the main, we have been quite clear in terms of what we have done on the paperwork on this. If there are any other points that committee members wish to raise that they feel have not been adequately covered today—not only the questions that you have described as being of a rather technical nature—we would be more than happy to oblige the committee by providing further responses before you prepare your final report.

[260] **Angela Burns:** Thank you very much. As we have finished with a couple of minutes in hand I propose to have a very brief break so that people can get another coffee. There is fresh coffee outside because I know that this is quite a long session. You are with us, Minister, for the next session; therefore, I am sure that we can arrange some coffee for you and your officials. Thank you very much, Claire.

*Gohiriwyd y cyfarfod rhwng 11.23 a.m. a 11.29 a.m.  
The meeting adjourned between 11.23 a.m. and 11.29 a.m.*

**Ymchwiliad i Ddyrannu Cronfeydd Cyfalaf: Tystiolaeth gan y Gweinidog dros  
Iechyd a Gwasanaethau Cymdeithasol  
Inquiry into the Allocation of Capital Funds: Evidence from the Minister for  
Health and Social Services**

[261] **Angela Burns:** I welcome the Minister for Health and Social Services back to the committee. Minister, would you like to introduce your officials for the record and make a brief statement before we go into questions?

[262] **Edwina Hart:** I introduce Paul Williams, director general of the Department for Health and Social Services, and Chris Hurst, who is my director responsible for finance. In view of the time constraint, Chair, perhaps we could move straight into the questions.

[263] **Angela Burns:** How is the overall capital allocation to your portfolio area decided?

[264] **Edwina Hart:** It is a central allocation by the Minister for Business and Budget.

[265] **Angela Burns:** Are you expecting to see reductions to that central allocation next year?

11.30 a.m.

[266] **Edwina Hart:** We are aware of issues with regard to our baseline figures. We have had our budget figures for 2010-11, if you are talking about this current year. Are you talking

about the budget for 2011-12?

[267] **Angela Burns:** Yes, for 2011-12.

[268] **Edwina Hart:** We know what our current baseline figures are and we will be in discussions on the budget. I do not know whether they have finalised those allocations yet in terms of capital for 2011-12.

[269] **Mr Hurst:** No, given the lack of clarity from Whitehall in terms of the Welsh Assembly Government's overall results position, the director generals have been modelling various scenarios about capital and revenue reductions, which I think that we can anticipate being an inevitable case. However, there is no clarity yet and I suspect that we will not have that until October, when the comprehensive spending review is finalised.

[270] **Angela Burns:** Janet Ryder has the next questions.

[271] **Janet Ryder:** In your paper, you state that the health and social services capital baseline is £319 million. However, the Minister for Business and Budget has informed the committee that this should read £297 million, in agreement with the budget figures for 2010-11. Which is the correct figure and how did that disparity happen?

[272] **Edwina Hart:** This is a timing issue. At the time that we prepared the notes that Jane Hutt utilised for her meeting, we were looking at the RA capital working assumptions—which I received in a letter from Jane in early May—that indicated a sum of £332 million. I also had money from the previous year that was allocated to social services, so that reduced the original figure to a round figure of £319 million. So that was a timing issue. The correct figure is now agreed at £297 million, but that was the working assumption.

[273] **Janet Ryder:** So, if you have been working on that figure, will that have an impact on what you were planning to do? Will things have to be reduced accordingly?

[274] **Edwina Hart:** No.

[275] **Mr Hurst:** No. Given the scale of the capital programme of over £300 million, it is not too difficult to fine tune things to that degree between years.

[276] **Janet Ryder:** In your paper, you state that the broad requirement in terms of prioritising capital is ensuring that the NHS estate and equipment remain operational and fit for purpose. You also state that that includes the historic 'backlog maintenance'. Could you indicate the size of this backlog and outline what measures are being taken to address it?

[277] **Edwina Hart:** The backlog is around £500 million, which reflects the nature of the estate. Around 50 per cent of our estate is over 35 years old—when you start to look at it like that—and some of it predates 1948. So, there will be backlog issues. The capital programme is focused on providing fit-for-purpose buildings. We have been driving down the backlog, because when buildings are not used and so on, it is decided that, as they are not utilised, there is no backlog maintenance on buildings and parts of the estate that are not being used.

[278] On backlog maintenance, there have been developments at Ysbyty Glan Clwyd, as Ann Jones will know, and modernisation work at Prince Charles Hospital. I visited Ystradgynlais Hospital with Kirsty Williams earlier this week where the backlog maintenance issues in Powys are being dealt with by placing a new roof on that hospital. So, we are dealing with these issues. Chris, did you want to add anything to that?

[279] **Mr Hurst:** To put it in context, that £0.5 billion is in relation to an asset base that is



around £2.3 billion. It is a significant amount, but as the Minister says, in many cases, our ambition is to change the shape of some of that estate and, therefore, we would not necessarily see it as a priority to pour a lot of money into it if it is not configured in a way that is conducive to modern healthcare. Around £100 million is coming off with two projects alone, so around 20 per cent comes off the backlog total.

[280] **Edwina Hart:** If we look at the new hospital build programme that has gone so well in Llwynypia, Aberdare and Mountain Ash and so on, we see that old facilities that would have required work are being replaced. When those old facilities go, the backlog maintenance issue goes with them. It is a very difficult area and I know that Members have been particularly concerned about it and that there have been a number of debates in the Chamber about maintenance issues.

[281] **Chris Franks:** Just so that I understand, the Cardiff Royal Infirmary site might have been included in the £0.5 billion, but now that we are spending £30 million on upgrading it, that comes out.

[282] **Edwina Hart:** Yes; it will eventually come out.

[283] **Chris Franks:** So you could say that if you had spent that money, it would have been wasted because we have a new hospital. Is that the case?

[284] **Edwina Hart:** We have to ensure that all NHS premises are fit for purpose if they are to be utilised properly. That is the important issue. That is a judgment that is made in the LHBs as to what work is absolutely necessary to do as part of backlog maintenance. New developments overtake that in what we do.

[285] **Mr Hurst:** It comes out of that figure when we take it out of use or when we spend the money to—

[286] **Mr Williams:** There are also judgments on the location of serving facilities. Strategically, Cardiff Royal Infirmary is well-placed for redevelopment, and on some analyses, we need to start again. So, as the Minister said, the investments that we are making in Cynon valley, and the Rhondda and Gwent areas are to replace significant old estate with new, strategic solutions. Those are the sorts of balances that are taking place and that is the sort of investment that is already in a facility. In Ysbyty Gwynedd, for instance, we are replacing electrical systems; that is an £18 million strategic approach to improving maintenance, because that facility needs reinvestment as opposed to being moved strategically. So, it is a balance between what is in the estate, where it is located, what needs to be done strategically and what is done in terms of day-to-day maintenance or significant regular maintenance.

[287] **Edwina Hart:** The key issue when new facilities come in is how they are managed and how they are maintained to be fit for purpose, so that we do not reach the position that we see in some areas where the standard of the estate has gone down so far that it is beyond repair or you have to consider new options. The LHBs must be far more strategic about the maintenance of any new properties and developments. Forward planning will be a key issue for us during the next few years, rather than taking out from budgets at difficult times money for essential maintenance work. This is like the argument that we have had elsewhere about the training agenda. Even in hard times, staff need to be trained. It is important that you do not rush to do what seems easy in a one-off budget situation that will have an impact for years to come. That has happened, to an extent, around maintenance in the NHS.

[288] **Janet Ryder:** Will you be monitoring budgets as they come forward from health boards to ensure that they have adequate sums in their maintenance budgets to maintain—

[289] **Edwina Hart:** The monitor general can answer.

[290] **Mr Hurst:** That is routine in Welsh Health Estates in conjunction with—

[291] **Janet Ryder:** If it has been routinely done, why are we are in our current state?

[292] **Mr Williams:** It is the scale of investment. From 1948, there has been a stop-go policy on capital investment.

[293] **Janet Ryder:** To move on, you state in your submission that £56 million of the capital budget is distributed to NHS boards and trusts for ‘discretionary purposes’. Can you clarify what ‘discretionary’ funds may be used for? Are they mainly intended for upkeep and maintenance or for improvement?

[294] **Edwina Hart:** That budget is to deal with outdated and obsolete equipment. They have statutory health and safety and environmental obligations and there are also important issues around the fire codes, which they should be meeting out of their discretionary budget, and essential backlog maintenance. That is what the £56 million is allocated for. Do you want to add anything, Chris?

[295] **Mr Hurst:** That is right. It is basically for keeping the assets that are in use fully functional, so that there are no interruptions to services, programme replacement or equipment. The other thing that it tends to be used for is that there is a margin at the edge that, in most years, local health boards make some environmental improvements, ward upgrades and so on. It is relatively modest, but that is an important part of it.

[296] **Angela Burns:** Are you happy with that? I see that you are. Chris, you were going to talk about the all-Wales capital programme.

[297] **Chris Franks:** We understand that you have a 10-year capital programme, yet you do not have 10 years of guaranteed funding. In fact, you have about six months of guaranteed funding at the moment. What is the value of having such a long-term strategy when there is no cost attached? I am afraid that I will raise the question of the Whitchurch mental health strategy, which was part of that long-term strategy but was then stopped—I am giving you advance notice of my supplementary question.

11.40 a.m.

[298] **Edwina Hart:** Nothing has stopped as regards Whitchurch Hospital; the project is just being developed in a different way on the basis of advice from clinicians. That is how they want to see the project develop. The world has moved on substantially in the field of mental health. When I drive into Swansea, I see Cefn Coed Hospital on the hill, and it makes me think that that is not the kind of institution that we want now. Our new, modern mental health facilities seem totally different. There is far more care being delivered in the community, so Whitchurch will be involved in the development of future needs, but that is being clinically led, and the board is making decisions. The clinicians have said, ‘Hang on a second—we think that we would like it done in this way’. So, your comment was unfair in that context.

[299] When you talk about new hospitals, you have to look 10 years hence, because you have to look at where the buildings will be sited, where the population base is moving, what the new facilities will look like, and all that. I appreciate that some capital schemes take far longer than three years to deliver, and this is all about horizon planning, and deciding where we might want to be in the future. It is far ahead and, sometimes, circumstances change, so

you have to be flexible with budgets or even with the clinical developments, as clinicians may want to change the model. If you asked people in the 1980s what they wanted in a hospital, their response would be totally different from the response of people now, even though the hospitals built in the 1980s are still quite modern. They still had quite large wards, for example, compared with the hospitals that we have now, which have single-person wards, and so on. The world moves on so quickly in health. It is nice to horizon-plan and think about where you want to be, where the best locations are, and to use forward thinking. That is all good, but it is no good people thinking in 2010 that it would be nice to have a new hospital at a given location in 2012. That is not long enough. If you looked at some of these schemes, and saw how long it takes me to purchase the land and get planning permission, you would see that 10 years is a fairly modest period of time to be looking at this.

[300] Chris will answer on anything more technical.

[301] **Mr Hurst:** I would just reiterate that. Although it is a responsible thing to have a strategic vision for public services, it is true that, as the Minister said, in financial terms, a number of the projects have to span several years, in relation to the logistics, affordability, and the capital programme. Unless we plan in that way, there is a greater propensity to plan in the shorter term and invest in smaller schemes. That is not bad in itself, but it is a barrier to unlocking some of the big improvements that we want to see for citizens.

[302] **Angela Burns:** Do you have more questions, Chris?

[303] **Chris Franks:** Yes. Could you explain how the all-Wales capital programme operates in practice? How are decisions taken about which project should be enacted and where? How can you balance the needs of Pembrokeshire with those of, say, Ystradgynlais?

[304] **Kirsty Williams:** [*Inaudible.*] [*Laughter.*]

[305] **Chris Franks:** Yes, I will have to remember that.

[306] **Mr Hurst:** Allow me to answer. There are two parts to this. In Wales, a few years ago, there was a strategic process by which each LHB and trust, but principally the trusts, was asked to put forward their longer-term aspirations, which led them to look at the choices. That formed the backdrop to the programme as it currently stands. As you are aware, we are going through a major piece of work with the new LHBs and trusts to reset their strategic thinking, and that is now informing the shape of that programme as we go forward. That is the first part. The second part is to ask where the gateways and the checks are to allow things to come forward. There are choices to be made by the Minister about the relative priority within that 10-year programme, but then each case comes forward with firm information about costs, timing, and so on, and it is subject to tests at about three different gateways before it proceeds. So, there are those two dimensions.

[307] **Chris Franks:** It must be a battle sometimes to decide where hospital developments should take place. What would tip the balance in favour of one or the other? How is it that Ystradgynlais always wins as opposed to somewhere else?

[308] **Edwina Hart:** No, that is not the case. The whole point is that the priorities are now set locally. Local health boards are clear about their priorities for new developments, whether in secondary or primary care. They are looking at what they require for the primary care agenda, and they are looking at location, at who will require the new premises, at whether there is a population shift anywhere, and at whether we will have to put general practices there. They do all that locally.

[309] In addition, because we are down to seven LHBs, we have only seven people in the

room, and that means that they can also look strategically at what is required on their borders. Somebody might be developing a project in the Hywel Dda Local Health Board, for instance, which could benefit the Abertawe Bro Morgannwg University Health Board. The service has now moved from something resembling—how shall I put it?—the narrow little mediaeval Italian or other European city states to something that functions corporately to meet the needs of the population. At the end of the day, if you are ill, it does not matter where you are, and you do not really care where the ambulance takes you; you just want it to take you to the best place. So, none of these artificial boundaries should exist. That is what we are doing now: trying to develop buildings and facilities.

[310] You will be aware of the concerns that there always are about the location of services. The colleges are putting quite a lot of pressure on services having to be safer. Some of them will have to be more centralised for them to be safe given the volume of operations that they will have to carry out. That will mean an awful lot of discussions about locations. Patients will not be able to go back to a 1960s-type scenario, where, allegedly, the local hospital did everything. Life is not like that. So, we have these strategic discussions in which we look at Wales as a whole and at the regions to see what is required. That is how you make the decisions. They are the result of consensus, and, even though they are sometimes difficult decisions, because the capital is being squeezed or the timing is off, it does not necessarily mean that they will not get made; it is just that the timing might be a little later because of the resources that are required. It is a difficult balancing act, but it is not a question of bartering or anything; a good commonsense approach has been taken in the service. The purpose of the service is not just to have nice, new, flash buildings; it is to deliver something for the people of Wales.

[311] **Andrew Davies:** I declare an interest as the former Minister for finance who established the strategic capital investment fund and incorporated the five-case business model, which was developed in Wales.

[312] Minister, following up Chris's line of questioning, as you said, you have to balance the local and the strategic, and that is to ensure that it is fit for purpose and to guarantee value for money. There is a related question about more detailed projects, but, in this case, we will stick to the capital programme. To what extent is there internal challenge, by which I mean within the Assembly Government, and/or external challenge and interrogation of the capital programme process?

[313] **Mr Hurst:** Both are built into the process, but, at the beginning of the process, the trusts and LHBs are working against a set of capital guidelines and rules that have been established over time, drawing on best practice, which you are aware of, such as the five-case business model and the like, and the old Treasury Blue Book. So, they start off with clarity about the case that they are expected to demonstrate, and those cases are then subject to review, typically at three different stages: the strategic outline case, the outline business case, and then the full business case. At the earliest stage, that involves people outside the health and social services team, from other directorates-general. Some from the central finance team have been involved in the past, for example. Policy leads are also drawn from other DGs. So, there is some challenge and cross-check there, to ensure that we do not lose partnership—

[314] **Edwina Hart:** Sorry to interject, but I would also add the identification of cross-cutting benefits that each scheme should have as part and parcel. In the past few years, that has been a high priority in the development of schemes.

[315] **Mr Hurst:** That characterises the beginning of that process. As you get further into it, the outline business case and the full business case, it becomes important to have more of a technical assurance. That is when colleagues in Welsh health estates and other areas are brought in, to ensure rigour in how the case has been prepared and costed, and to verify the

logistics and the procurement route that has been recommended. The challenge operates at a number of levels.

[316] **Edwina Hart:** The strategic capital investment board also reviews it to maximise the cross-cutting benefits. That has been quite helpful, because the fund is discussed and reviewed to see how project leads are taken through and how better value for money can be achieved. As part of the process, we also look at the requirements of the design costs and we consider what might be most cost-effective. The delivery standards in the design of district general hospitals are very high, but a build of the same level is not required for primary models of care, and we try to find a way of developing those models cost-effectively.

11.50 a.m.

[317] We have the SCIF, so we have outside involvement, but one thing that I think is lacking is that perhaps we do not talk enough to our other partners in the public sector. When we are having those initial discussions, perhaps we could do that a bit more, particularly when we are talking about cross-cutting issues. We tend to talk to the Government departments that are responsible for them, but perhaps we should be having further discussions with local government and others about what we could do. When we are developing sites, there is no reason why other Government departments cannot be on our sites. So, the process that was started by the previous Minister for finance could be improved on with closer partnerships with local government.

[318] **Mr Williams:** The NHS has good practice in its estate management, and we know exactly where we are in respect of maintenance works and facilities. Through the efficiency and innovation board chaired by Jane Hutt, we are now moving towards local partnerships and sharing all estates. For instance, Cardiff is looking at the whole of the public sector estate, and we have started some schemes already. Wrexham has a make-ready depot for the Welsh Ambulance Services NHS Trust, and the fire service and the police are looking to share that facility. In Bridgend, we have ARC, Assisting Recovery in the Community, which is a mental health project. The local authority provides the land and the NHS provides the capital for the building. We are also looking at a project in Builth at the moment, which will also involve a multi-agency approach. So, we are keen to promote this as much as we can, as it would be an excellent way to get maximum value for money, and it would also make life easier for citizens, as it is like having a one-stop shop.

[319] **Edwina Hart:** Carl Sargeant and I are discussing how we can co-locate ambulance and fire stations and the value of that. When I visited Ystradgynlais, I was particularly impressed with the links that the hospital had with the ambulance station next door. There was also a school across the road, and I started to think to myself, 'Who is providing all the food?' So, there are more cost-effective ways of dealing with such matters across the whole of the public sector.

[320] **Mr Williams:** Another approach is providing land for affordable housing.

[321] **Edwina Hart:** Yes.

[322] **Janet Ryder:** On that issue of sharing estates across different public sectors, in last week's meeting of the Public Accounts Committee, we questioned the Auditor General for Wales on the Wales Audit Office report on this issue, and they made the argument that, in some cases, it is the way in which the services are funded that causes the biggest barrier. That was one issue, and another was existing cultural practices. What barriers have you found that are stopping a more rapid movement ahead to sharing estates across all public sectors?

[323] **Mr Williams:** The barriers are more cultural than structural, although one does hear

about different planning cycles and different accounting regimes. We now have a work stream under the efficiency and innovation board that has been tasked with sweeping away all these barriers and to come up with proposals. I think that it comes down to knowing what the total estate is and to having a ‘can do’ mentality, and I think that we can have that in Wales in a way that some other countries cannot. We can be fleet of foot and take a very focused approach, saying that this is how we will do things. The whole public sector is moving very quickly on this approach, and NHS Wales is keen to be at the forefront of it.

[324] **Andrew Davies:** I thought that I had misheard—[*Inaudible.*]—planning systems, but maybe I did hear it right the first time. [*Laughter.*]

[325] I have a couple of questions to follow my earlier one. What have been the benefits of the SCIF process for capital allocation, business planning and so on? You also raised the issue of cross cutting, and the director general gave us some examples at a local level. It has been a long-standing aspiration of the Assembly Government’s to release more public land for affordable housing. What progress has been made on compiling an asset register of publicly owned land, whether it is owned by the Assembly Government, the NHS or local government?

[326] **Edwina Hart:** We have made some progress on that, and our relationship with the housing department is very good. As you will be aware, we have the site of the Caerphilly District Miners’ Hospital, which we propose to use fully, and we are also looking at other estates. I made it clear that when the NHS no longer requires the land or the building, the first point of call must be the rest of the public sector, which might require it. We are generally making good progress in those areas. In terms of the strategic capital investment fund process, it is useful to have somebody else to look at something, and for them to give you advice on it. Government can get quite incestuous; you talk to, and are given advice by, the same people, so it is very useful to have others looking in and saying, ‘Hang on a second, could you do it this way?’; that has been the main benefit from our point of view. However, we are not inward looking as a department in the Assembly, because most of our responsibilities are not inward looking, either. When people talk about what goes on here, I always say that we have a business to run out there in Wales; we do not only deal with the things that come to Ministers in terms of submissions and what they do with their budgets. The budget that I deal with as a Minister is very small compared to what I give out to the national health service; we have a whole operation to run out there, so we are quite outward looking in terms of our relationships. Do you want to add anything, Paul?

[327] **Mr Williams:** We are determined to make our capital work harder. I wrote to those responsible for SCIF about three or four weeks ago to ask them to come to talk to us about the issue of building standards that the Minister mentioned. Hospitals have, traditionally, been built to a 30-year or even a 60-year standard; new technology begs the question of whether we need to have something built for 30 to 60 years. When you get into primary care, those standards are certainly not needed, so I think that it takes somebody to shake us about a bit and say, ‘You can still provide a quality building, but you do not have to provide those sorts of standards, or you could look at different technologies and approaches’; we need to look at this issue quite radically.

[328] The second issue that we need to look at relates to whether there are alternative funding streams—I am not talking about private finance initiatives—that we could look at. Another area is the bundling of projects. We have touched on this matter already, but there are other ways in which we can bundle projects together to get maximum value; I think that the Builth project is a good example of that. A further area that we have to look at is supply chain management and framework contracts; we have done a lot of work on these, but we need to have another look to see whether we can get even better value from them. We are keen to get as much external advice as possible, to see whether there are any ways that we can

improve our approach to capital spend.

[329] **Andrew Davies:** I would just add—

[330] **Angela Burns:** Could you keep it brief, Andrew? We have, technically, run out of time, and we still have a few questions to ask. Minister, are you able to give us five or 10 minutes more of your time?

[331] **Edwina Hart:** Yes. It would be helpful to finish the session.

[332] **Andrew Davies:** The Minister is obviously not responsible for the overall capital programme, so could we ask the Minister for Business and Budget for progress on this central asset map register? We have not had a local example, but this has been a long-standing aspiration, and it is about a more strategic approach to the use of assets.

[333] **Mr Williams:** I could probably shed some light on the situation; the talk among local government at the board meeting earlier this year was that the rollout of the estate's electronic system was patchy. However, by the end of this process, there should be full compliance, and it will be much easier for us to share and pool our asset knowledge now that the electronic system is available.

[334] **Angela Burns:** Before we move on to Ann, I believe that Brian has some questions.

[335] **Brian Gibbons:** I am fine.

[336] **Ann Jones:** Minister, on the assessment of cases, you state that all investment proposals over £5 million must follow the five-case model. What approval and scrutiny processes are required for capital projects valued under £5 million?

[337] **Edwina Hart:** That is subject to the local scrutiny committees, is it not, Chris? They look through the proposals and look at anything under that value.

[338] **Mr Hurst:** I referred before to the Treasury's old Blue Book, which has, in essence, become the five-case model. A scaled-down version of that is used by organisations for smaller projects; it has the same vigour, but it is slightly lighter in terms of what you might regard as some of the bureaucracies associated with assurance processes.

[339] **Ann Jones:** For proposals over £5 million, you set out the three-stage process that is followed through the strategic outline to the business case. At what stage in this process is the decision to proceed taken, and at what point is the capital funding awarded?

[340] **Mr Hurst:** It is the final stage, but the other way of looking at it is that it is at every stage. At each stage, the Minister is required to agree, approve or proceed with stages 1 and 2, but then the final decision and final confirmation of capital is taken at the last stage.

12.00 p.m.

[341] **Ann Jones:** You have touched on a more strategic approach to procurement. How effective has this three-stage appraisal process been in allowing you to attempt to look at that?

[342] **Edwina Hart:** It has been effective in many ways. However, we think that it is time to look at some of the issues around procurement and contracts further.

[343] **Mr Hurst:** It was harder to achieve that with the former configuration. Building on Paul's point, there is now a real opportunity to look more creatively at the procurement routes

around capital projects. That was an unwieldy task in the former NHS.

[344] **Edwina Hart:** We talk a lot about involving local firms and supply chains in procurement. However, when you are looking at the bundling of fairly large-scale NHS projects, sometimes you will not necessarily be able to do that with local firms. So, we need to look about how we get that balance correct.

[345] **Kirsty Williams:** If the Minister has to sign off each stage of the process, on average, how long does it take for the Minister to do that?

[346] **Edwina Hart:** The Minister is not the problem, Kirsty. [*Laughter.*]

[347] **Kirsty Williams:** With all due respect, Minister, the LHBs are not here for me to ask them that question. I am asking you how long those business cases sit on your or your officials' desks.

[348] **Mr Hurst:** I cannot give a very helpful response, because I only have a six-month perspective on this. I do not know whether Paul can offer any further comment.

[349] **Mr Williams:** It is a myth that they sit on officials' desks for months, if not years. What I have seen is that, when a good business case comes in, it is scrutinised and turned around in a matter of weeks. Often, business cases are returned more than once because the job has not been done properly.

[350] **Edwina Hart:** It is normally turned around within 24 hours when it comes to my desk.

[351] **Andrew Davies:** It is usually—[*Inaudible.*]

[352] **Angela Burns:** Brian, did you have any further questions?

[353] **Brian Gibbons:** Yes. In view of the time, maybe we could submit them in writing. I would like to ask about framework agreements, however, which Paul mentioned in passing. A lot of the collateral benefit will come from framework agreements. I would like to know whether any lessons been learned about framework agreements as a mechanism of leveraging in capital for the future and for making best use of capital. As we heard at the beginning, capital is not going to be very plentiful in the short and medium term. Is there anything from framework agreements that might allow us to lever in capital?

[354] Also, as a way of procuring premises and maintenance of premises—I know that Paul has much experience of this—what would you say the lessons are from framework agreements compared to private finance initiatives, for example? They are not quite the same, I understand that. They are different in the sense that the capital funding stream going into the project is different, but in terms of delivering an outcome for the service and for people, how do they compare? Therefore, I want to know about leverage and, ultimately, whether they are a better way of delivering capital programmes.

[355] **Edwina Hart:** On capital programmes, we are doing this in the context of the emerging five-year service and financial frameworks. The LHBs are doing that because they have to demonstrate how they can deal with service transformation and reduce revenue expectations at the same time. That is proving useful. As part of this process, we will review the scheme costs of everything that is going on, and how new schemes could be included that could give us better revenue benefits. That will then drive the transformation of service delivery for us. There will have to be a tough look at the allocation of capital in the next few years in the context of these five-year plans so we have told LHBs to use their capital to



support service change and maximise revenue savings. That has to be their key thing, rather than thinking, 'That would be nice; we've got the land'. It must be outlined along strategic lines.

[356] Reducing the capital cost of individual schemes is also key. They have to look at how they can make savings in individual schemes. That might mean not running individual schemes but packaging schemes together so that we get the best value. They also need to look at the rationalisation of their estate and at land disposal issues, because there is an awful lot of land within the NHS that is not utilised for any purpose.

[357] I am not necessarily talking about making money for the NHS: the land could be put to good use in other parts of the public sector, for a new school or something else. I think that that is quite important. Further and higher education also comes into this equation. Those sectors might want new buildings, so we need to look at whether the NHS could help in that regard. The most important thing for us is to share with other public sector bodies, as part of all this, the opportunity to co-locate and bundle their projects with us. If I have a site for a hospital and I have some land on the side and someone wants a school, it is then a case of how the contract is delivered, whether we can do it all in one go, and whether we can bundle it for greater economies of scale. We are facing up to the realities of some of the issues. Paul, I do not know whether you want to come in on the practical aspects.

[358] **Brian Gibbons:** Just on that point, in that instance, is it possible to use an NHS framework agreement to deliver both the hospital and school, for example?

[359] **Mr Hurst:** It certainly should be. I was going to make the point that framework agreements are a start to something. The value for money initially comes with the procurement route: pre-qualifying several suppliers is a good and sensible thing to do, and then you have call-down contracts. If it is to work well for the private sector, as well as the public sector, clarity is needed on our view of what is ahead, and we need to be effective in co-ordinating our requirements, as the Minister was indicating, so that bundles of schemes can be put together. The value gain for the developers is, where they are hiring plant and labour, they can do it in a certain geographical area and keep it employed for a decent length of time. That requires us to be clear about our requirements, and then to use them as well. There is scope for that to work better across the public sector.

[360] **Mr Williams:** Just to add to that, our experience of framework contracts is that the schemes are coming in on time and on budget. We have a very professional approach to design and construction. The most effective way to build, in terms of funding, is not PFI, obviously. The Government can always borrow money more cheaply. Where we can learn from the PFI is how we include and lock in maintenance over the life of a building. The Minister alluded to that. There is always a temptation to cut maintenance investment when times are tough. So, one of the lessons for me, in using a PFI concept, but not PFI, is how we can lock in guaranteed maintenance and quality. Often, PFI schemes build quality in because it is a cheaper way of maintaining buildings. So, there are some lessons to be learned there. Obviously, all of the on-costs associated with PFI are expensive.

[361] **Brian Gibbons:** I accept fully that the capital streams, and even the revenue streams, for PFI and framework agreements are completely different. However, you have touched on the point that I was trying to get at: you are saying that one of the advantages of PFI has been the maintenance of buildings and so forth. However, you are saying that the experience of framework contracts, at the moment, shows that it may be possible to build that maintenance into the contract on a long-term basis.

[362] **Mr Williams:** Yes, and that is the point that I wanted to ask the strategic capital investment fund about, in terms of standards and quality. Also, there is an issue as to whether

we are to insist with new buildings that the owners of the buildings—the LHBs—have to make sure that they are paying regularly into a fund to maintain it. That might be part of the framework agreement, so the building is maintained throughout the period. It is just a thought.

[363] **Brian Gibbons:** Regarding the point of levering in outside capital through a framework agreement, which would not allow you to get tied up with all of the downside of PFI, do you think that that is possible?

[364] **Mr Williams:** Some of the framework managers have approached me on that subject. I said, 'Please come back and show me how you can do it'. They have not come back yet, but my door is open to them.

[365] **Brian Gibbons:** Excellent. Thank you.

[366] **Angela Burns:** Thank you very much. I am going to draw this session to a close, because we have run out of time. I will be writing to you with a number of questions. Before you go away Mr Williams, I would like to draw to your attention a very comprehensive report that the Finance Committee put together on public-private partnerships. It was accepted in full by the Welsh Assembly Government, and it does not have quite such negative connotations about all aspects of privately funded initiatives within the public sector. I would like you to bear that in mind.

[367] **Mr Williams:** For the record, I think that I probably managed the most effective PFI scheme in the NHS in Wales.

[368] **Angela Burns:** Indeed; I know that. So there are benefits at times.

12:10 p.m.

[369] Minister, thank you very much for your time, and I am very sorry that we have run out of opportunities to ask you further questions. Perhaps we could submit them to you in a letter, if you are happy with that.

[370] **Edwina Hart:** I would be more than happy if you want us to appear before the committee again to continue this discussion. I feel that Members wanted to ask a lot more questions.

[371] **Angela Burns:** That would be most appreciated. It would also be a refreshing change to be able to get someone here. Thank you very much indeed. I would like to draw us into private session for just a few minutes to ask the committee for its views on a particular topic.

### **Cynnig Trefniadol Procedural Motion**

[372] **Angela Burns:** I move that

*the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order No. 10.37(vi).*

[373] I see that the committee is in agreement.

*Derbyniwyd y cynnig.  
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 12.10 p.m.*  
*The public part of the meeting ended at 12.10 p.m.*