



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

**Y Pwyllgor Iechyd, Lles a Llywodraeth Leol
The Health, Wellbeing and Local Government Committee**

**Dydd Iau, 10 Mawrth 2011
Thursday, 10 March 2011**

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

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

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Lorraine Barrett	Llafur Labour
Irene James	Llafur Labour
Helen Mary Jones	Plaid Cymru The Party of Wales
Val Lloyd	Llafur Labour
Jonathan Morgan	Ceidwadwyr Cymreig (Cadeirydd y Pwyllgor) Welsh Conservatives (Committee Chair)
Nick Ramsay	Ceidwadwyr Cymreig Welsh Conservatives

Eraill yn bresennol
Others in attendance

Gillian Baranski	Prif Weithredwr, CAF/CASS Chief Executive, CAF/CASS
Dr Sharon Blackford	Cadeirydd, Pwyllgor Meddygon Ymgynghorol Cymru, Cymdeithas Feddygol Prydain Chair, Welsh Consultants Committee, British Medical Association
Mike Colley	Trefnydd Rhanbarthol a Phennaeth Uned Gyflog Cyfartal Cymru, UNSAIN Cymru Regional Organiser and Head of Cymru/Wales Equal Pay Unit, UNISON Wales
Anna Freeman	Cyfarwyddwr Cyflogaeth, Cymdeithas Llywodraeth Leol Cymru Director of Employment, Welsh Local Government Association
Stuart Geddes	Cyfarwyddwr Cenedlaethol Cymdeithas Ddeintyddol Prydain yng Nghymru British Dental Association Wales National Director
Dominic MacAskill	Rheolwr Rhanbarthol a Phennaeth Llywodraeth Leol, UNSAIN Cymru Regional Manager and Head of Local Government, UNISON Wales
Dr Mark Temple	Cadeirydd, Pwyllgor Meddygaeth Iechyd y Cyhoedd ac Iechyd Cymuned yng Nghymru, Cymdeithas Feddygol Prydain Chair, Welsh Committee of Public Health Medicine and Community Health, British Medical Association
Steve Thomas	Prif Weithredwr, Cymdeithas Llywodraeth Leol Cymru Chief Executive, Welsh Local Government Association
Catrin Williams	Cyfarwyddwr Gweithredol, CAF/CASS Executive Director, CAF/CASS

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

Steve Boyce	Gwasanaeth Ymchwil yr Aelodau Members' Research Service
Rhys Iorwerth	Gwasanaeth Ymchwil yr Aelodau Members' Research Service

Marc Wyn Jones	Clerc
	Clerc
Sarita Marshall	Dirprwy Glerc
	Deputy Clerk

Dechreuodd y cyfarfod am 9.01 a.m.
The meeting began at 9.01 a.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon **Introduction, Apologies and Substitutions**

[1] **Jonathan Morgan:** Good morning. I welcome Members to the National Assembly for Wales's Health, Wellbeing and Local Government Committee. This is the penultimate committee meeting of this Assembly term. In addition to this meeting, we will be meeting next week and both meetings are quite weighty in the number of issues that we need to get through before the end of term, so that we can consider those issues and write our legacy report.

[2] I remind Assembly Members and our guests to ensure that mobile phones, BlackBerrys and pagers are switched off because they will interfere with the electronic equipment. Headsets are available for translation; simultaneous translation is on channel 1 and channel 0 can be used to amplify proceedings in the language being spoken. I remind Members that, if there is a fire alarm, they should follow the advice of the ushers. I have not been informed of a training exercise, so please follow the advice of the officials if there is an emergency. We have received apologies this morning from Veronica German, Dai Lloyd and Ann Jones; there are no substitutions. We are sadly, therefore, missing three Members, but I am sure we will get the work done in an efficient and considered way, as we always do. I invite Members to make declarations under Standing Order No. 31. 6 if there are any to make. I see that there are none. Therefore, we will move on to item 2 on the agenda.

9.02 a.m.

Hynt Gweithredu Argymhellion y Pwyllgor ar Gyflog Cyfartal **Progress in Implementing Committee Recommendations on Equal Pay**

[3] **Jonathan Morgan:** The committee has decided to follow up the work that it did with regard to the implementation of equal pay in local government. I am pleased to welcome colleagues from Unison this morning—Dominic MacAskill, the regional manager and head of local government, and Mike Colley, the regional organiser and head of the Wales equal pay unit of Unison Wales. It is very nice to see you here this morning. Thank you very much for your paper, and if it is okay with you, we will proceed straight to questions.

[4] With regard to the implementation of the single status arrangements, will you explain the main reasons why, in your view, over half of the authorities in Wales have yet to complete the process?

[5] **Mr MacAskill:** It is difficult to say what motivates individual councils in terms of delay. The main reason that we see is that there has not been any clear direction or any sanctions if they do not proceed. Timescales were set by the national joint council, and equality-proofed pay and grading systems based on an analytical job evaluation system should have been in place from 2007. The Assembly Government very helpfully tried to assist that process by putting additional resources into local government to the tune of 4.5 per cent—1.5 per cent year on year, which was consolidated. That money, in the main, has sat in local authorities' accounts and is being used for other things, I would imagine. A few have

squirrelled it away and put it in to identified reserves for this purpose, but others have just used it to prevent difficult decisions along the way.

[6] I will give you an example of where that money has not been used. Recently, Rhondda Cynon Taf has, in a quite draconian way, forced through its new pay and grading structures, at the same time as cutting budgets this year. It has a pot every year of around £430 million, and it is looking to implement the new grading system for £8 million, which is less than half of what was provided by the Assembly Government for that purpose. So, the answer is that it has thought that it can get away with that, and, besides the ones that have progressed, the others have just delayed.

[7] **Helen Mary Jones:** You have said that there have been no sanctions, but the sanction is surely the force of the law. You cannot speak for other unions, but to what extent have you begun a legal process on your members' behalf? I fully take your point that there has not been a sufficient sanction from the Assembly Government, and, over the years, members of this committee have, as you know, made our views clear about that, especially our colleague, Ann Jones. The sanction, if they are breaking equal pay law—

[8] **Mr MacAskill:** I would qualify that by saying 'immediate sanctions'. My colleague can explain the extent to which we have tried to use the law to steer councils towards implementing equality-proofed pay and grading schemes, and to settle historical liabilities. We have lodged over 12,000 claims with the employment tribunal in Wales alone. Unfortunately, the tribunal system is being clogged up by the process, which can take years. To give you more detailed information, Mike can answer the question on the legal route that we have taken.

[9] **Mr Colley:** On legal pay claims, just to pick up on an earlier point, when you were talking about councils and the progress that they are making, we have found, from an equal pay point of view, that what prompts councils to start making offers is legal action. It is costly, not only to us, although that is what our money is there for, but to the councils and taxpayers—people like you and me. Currently, 11 of the 22 councils have made offers, and I can talk to you about the level of those offers if you would like me to.

[10] Probably the biggest thing that has moved councils along is the fact that we named Carmarthenshire in the tribunal in the autumn of last year. We made an application to the tribunal that it present its genuine material factor defence in the tribunal, so that a decision could be made on whether the bonus schemes that it was using were genuine productivity-based schemes. We know that that was not really the case. When we made that application in the autumn, it was only a matter of weeks before the council started to make offers to settle equal pay claims. So, the evidence is there. It is about that legal action, but unfortunately, as I have said, it is a very costly process to taxpayers.

[11] **Mr MacAskill:** We are only able to target one authority at a time, and then wait for the tribunal to slot us in. So, if we had to undertake this process as a form of guerrilla warfare, it would take us half a dozen years or more.

[12] **Mr Colley:** I forgot to say that the tribunal in February found in our favour. So, Carmarthenshire will now have to present that GMF defence in the tribunal, and I think that the hearing is scheduled for early autumn. The impact of that will be felt across the other councils, because they all operate similar bonus schemes, and they are all using exactly the same defence. So, that is likely to have a domino effect on the other councils. We are hopeful that that will move things along. However, the councils are very hostile towards the claims, and they know that they will lose them. Instead of getting around the negotiating table and trying to settle them in the proper way, they are using every opportunity either to stop or delay the claims.

[13] I will cite one example of that for you. There is a case called *Brett v Hampshire*, in which the council was arguing that, because the job title was not correct on the grievance, the council was unable to investigate it, and therefore the claim should fall; it had not been registered in the proper way. Another good example—there are quite a few—is the difference between being known as a ‘care assistant’ and a ‘care attendant’. Frankly, that is pathetic. That took up a lot of time in the tribunal, and over 2,000 challenges were presented by Geldards. That quickly dwindled to 800 challenges, but the tribunal not only ruled against it in every single one, but was very critical of the council’s behaviour in pursuing this line of argument, and has tried to make it very difficult for it to appeal the judgment.

[14] **Val Lloyd:** In your evidence, you state that councils have yet to implement single status, but aim to do so in 2011-12, although the timescale may not be entirely within their control. How confident are you that progress will be achieved soon, bearing in mind what you have just said?

[15] **Mr MacAskill:** Eventually, all councils will introduce new pay and grading schemes. The claims that Mike has just taken us through are the historical claims, and what he could explain is that some councils settled their historical claims, but because they had not implemented their single status structure and put their new pay and grading systems in place, there were then additional claims. So, they dealt with cases of past discrimination, but new claims were generated because they had not settled the pay situation. So, new claims are being lodged with some councils, because they have still not implemented their new equal pay salary structures.

[16] However, even in six or seven years’ time, when we get to the end of this process, we will still have a mess. We have 22 different authorities with 22 different pay and grading structures, and some of them are going completely out on a limb, so you will have 22 different rates of pay for social workers and 22 different rates of pay for teaching assistants. Merthyr, for example, has gone against the national guidance on having four grades for teaching assistants, and has amalgamated the first and the second grade, so that there are now only three grades for teaching assistants in Merthyr. So, those kinds of examples will exist.

[17] That brings me onto the recommendations. At the very start of this process, a number of years ago, we discussed whether it was feasible to try to pool all of the authorities and to decide on one scheme to do the evaluation—the majority of authorities use the Greater London Provincial Council job evaluation scheme—but that is not enough, because there are local rules in applying the scheme that can produce very different outcomes, even though the same scheme is being used. That is even before you put your points to prizes; that is, develop your new grading scheme. So, you could have exactly the same points for a social worker and a teaching assistant, but you choose a different grading system and so they end up on different pay grades. So, there is the issue for local authorities to protect themselves with regard to their equal pay terms, but then there is the wider vision of public service in Wales and how having 22 different varieties of social workers, for example, assists the Wales public service agenda.

[18] **Val Lloyd:** In your evidence, you talk about the current fragmented and chaotic situation, which, if left as it is, will lead to problems with recruitment and retention and resources. Is that what you have just explained?

[19] **Mr MacAskill:** That is part of it. One reason for doing job evaluation was to try to get away from the differences along the M4 corridor, for example. Social workers used not to stay in one authority for more than two years, because a neighbouring authority would offer a market supplement and so they could get better pay there. So, that beauty contest, as it were, was going on between authorities, and I think that what is currently proposed has the potential

for that. For example, in order to keep costs down, Rhondda Cynon Taf has decided, in its new scheme, to have no incremental progression within a grade. So, a student who has just finished a course in social work and is starting as a social worker in Rhondda Cynon Taf will be paid exactly the same as someone in the same grade who has been there for three, four or five years. There is a spot salary for every single job in Rhondda Cynon Taf. That situation is unique in Wales. The disjointedness of the application of these schemes is incredible.

9.15 a.m.

[20] **Val Lloyd:** Having set that out for us, how do you think it could or should be remedied?

[21] **Mr MacAskill:** With hindsight, although we predicted that this would be the case a few years ago, if you were to ask the WLGA—I know that you will speak to WLGA representatives later today—if it could go back four or five years in time and have again the conversations that we had at that time about all the authorities getting together, deciding on the same scheme and the same rules of the application of that scheme, discussing what the appropriate grading structures would be and at least having some parameters that would give some commonality between local authorities, it would jump at that now. You could say that it is too late and that we are too far into this process to do that. I know that the Assembly is talking about the restructuring of local authorities, although it is not talking about reorganisation at the moment, and that there is talk about shared services. All these things will create problems, because our members are being paid different rates for their jobs and have different terms and conditions in the various services that you are trying to get to work together. All of that will be an impediment and will cause delay and will have resource implications for bringing those services together. So, there will be real problems in the future for the agenda that the Welsh Assembly Government is pursuing. These proposals will create more of those problems. Even though we are so far into this, only half the authorities have completed and there is another half to go. There could be another six to seven years of this guerrilla warfare. There should be the political will to bang heads together and to bring authorities together to look again at the whole issue of job evaluation and the commonality of grades for particular core benchmarked jobs. In that way, you would get some similarity and ease in terms of going forward in pushing this agenda of working together.

[22] **Jonathan Morgan:** Given that the Garthwaite report, as we called it at the time, pointed all those years ago to the potential problems that would exist within the social care profession if grades, structures and descriptions were not equalised so that someone working in Rhondda Cynon Taf, say, would have the same job description, remuneration and support as someone working in Cardiff, this is quite astonishing.

[23] **Helen Mary Jones:** ‘Astonishing’ is the word, Chair.

[24] In your recommendations to us, which are very helpful, you suggest that the Welsh Government should use its powers to commit local authorities to sign up to the kind of unified process that you are talking about. When we have had these discussions with Ministers previously, they have suggested that they do not have those powers. [*Interruption.*] I have never believed them either. Can you tell us what powers you suggest they use, because that might assist us in making some recommendations, and how that could be done; that is, how they could make it happen? You have talked about the benefits, and I think that some of us are quite convinced by that, but what powers should they use and how should they go about it?

[25] **Mr MacAskill:** We are into new territory on powers after the ‘yes’ vote. I have not been able to scope that, but it would be worth the Assembly Government looking at that to see what new powers it potentially has in this regard through the legislative competence that

has been acquired through that ‘yes’ vote. The powers that we are talking about are not direct, but more coercive, in that the funding that is provided to authorities could be linked to outcomes. That is done in a lot of cases. I do not subscribe to too much hypothecation, but if there is a clear political imperative to match what is going on in a significant part of the public sector with the vision of the Assembly Government then it is legitimate if authorities are significantly off-message.

[26] So, there is the funding issue and then the issue is where we are going with shared services, and how we want to restructure local government provision. Again, if things are not working then the onus is on the local authority employers to get them working, or else. It needs to be as blunt as that. This is the third time that we have given evidence to this committee, and we have also given evidence to the Committee on Equality of Opportunity, and we have made very little progress on this.

[27] **Helen Mary Jones:** To play devil’s advocate slightly here, because I incline towards the view that you have just expressed, it has been said to us, for example by the Society of Local Authority Chief Executives, that if the Welsh Government imposed a unified job evaluation approach, then that would undermine the autonomy of local councils to determine how they employ their staff and would set a dangerous precedent. How would you respond to that? I think I remember how I responded to it at the time.

[28] **Mr MacAskill:** Having fairness in commonality of pay and grading in authorities does not take away their independence in appointments. You could have a scheme with clearly benchmarked roles that are commonly agreed. You should be able to agree what a social worker does, what a solicitor does, and so on. We are talking about key benchmarked roles. That does not stop you from designing a job that does not fit in to one of those benchmarked roles, but it would have to be relative to one of those benchmarked jobs. So it would not take away independence, it would just ensure some commonality across Wales.

[29] **Irene James:** Good morning, gentlemen. How would you respond to comments from SOLACE that even the 4.5 per cent increase given to local authorities over three years would not have covered the full costs of implementing new pay structures and the single-status arrangements?

[30] **Mr MacAskill:** If that were true, I would agree with it. Well, it is true: 4.5 per cent is probably not sufficient to do this properly. As identified in the report, you would need up to 7 per cent. However, the fact is that we are having problems in getting authorities to commit to 4.5 per cent. There have been some notable exceptions that have gone up to 4.5 per cent and even exceeded it slightly, but, unfortunately, the Rhondda Cynon Taf example is more common—it is not spending the 4.5 per cent that has been earmarked for this purpose and is looking to get away with it. In Rhondda Cynon Taf’s case, it is looking to get away with spending £8 million out of a £430 million budget, so that is less than 2 per cent. That is why Rhondda Cynon Taf has butchered the unsociable hours payments that relate to weekend working and so on, which means that the very low-paid workers who are supposed to be helped by this have been given an increase in their hourly rate on the one hand, but have found that their pay packet is reduced by 20 to 40 per cent on the other. That is because they work when we do not—in the evenings or on Saturdays or Sundays—and they used to get enhancements for that, which they do not get any longer. Although they had a lower hourly rate, their money was enhanced because of the unsociable hours. Now they have a higher hourly rate, but they are asked to work plain time in Rhondda Cynon Taf across all unsociable hours.

[31] **Irene James:** Do you agree with suggestions that the evaluation of jobs is a difficult and constant challenge for local authorities, especially in the light of decreased funding and the fact that there is a statutory duty on authorities to produce balanced budgets?

[32] **Mr MacAskill:** There is no question that evaluating jobs is complex, and that would be an argument for having a common approach to this, rather than having 22 different approaches to such a complex problem. That is really the crux of it. Think of the amount of resources that have gone into reinventing how you implement job evaluation, when we could have pooled those resources and looked at those very complex issues about how you evaluate jobs. It is not just an event, it is a process. Once you have implemented a new grading structure, you need to ensure that it is maintained. You have a process of review, so that, if an individual believes that their job has changed—the nature of working life means that jobs evolve—there is a way of requesting re-evaluations. So, it is a complex process, but that is an argument for trying to do things similarly rather than doing them completely differently.

[33] **Irene James:** So, are you saying that it is complex because we have made it complex, or that it has been made complex but that it could be simplified if somebody sat down and did it?

[34] **Mr MacAskill:** It is a complex process, no matter how you do it. The issue is whether you do it in 22 different ways and make it more complicated. It is a complex process that is being over-complicated because people are trying to devise their own ways of implementing it. There is also an element of subjectivity in any evaluation, because it is based on how the person doing the evaluating interprets the scheme that is in front of them. Training for that is being done in 22 different ways in 22 different authorities. The information that informs the evaluation using that scheme is probably presented in 22 different ways as well. It is being made much more confusing, but it is a difficult process, there is no question about that.

[35] **Irene James:** Thank you; that has helped me a lot.

[36] **Lorraine Barrett:** In his written evidence, the Minister for Social Justice and Local Government said that the Welsh Local Government Association pointed out two recent developments that have added to the complexity, namely second generation claims and a reluctance by trade unions at a national level to enter into collective agreements owing to concerns that they would be subject to claims for discrimination from members who consider themselves disadvantaged by the agreement. Can you respond to those statements?

[37] **Mr MacAskill:** I will let Mike pick up on the secondary claims element, but the most positive way forward of bringing in these new pay and grading structures is through collective agreements. They are binding on all employees in the organisation, but the legislation around equal pay is such that our members not only have potential claims against their employer, but, if we incorrectly or poorly advise them on their rights, or enter into agreements on their behalf that perpetuate discrimination in any way, we can be liable to claims against us from our members. That is why all potential agreements are scrutinised by our lawyers at head office. The last thing that we can afford is for our members to be making claims against us, en masse. An employer may have a problem of coping with mass claims, but our members have multiple employers, so it would be completely unsustainable. So, we have to be risk averse in terms of litigation.

[38] There are two reasons why we have not been able to ballot our members on agreements: we must ask whether it would get over the legal hurdle and industrial hurdles. Is it fair, and has the pay line been set at the right level or have we got equal pay but everybody is being paid a poverty wage? That is an industrial thing. The first hurdle we need to get over is that, even if we ballot on a proposal, and our members agree to accept it, we can still be liable. If we cannot get over that legal hurdle and our lawyers say that the way that the pay and grading system is being implemented perpetuates discrimination against women, we will not even ballot our members, because, by balloting our members, there is a risk that our

members would still accept it—some people would be doing well out of the ballot process and it is only a minority that the discrimination would apply to. We cannot run that risk; we cannot even ballot. That is the situation. There is a real issue there, but it is only an issue because the discrimination is being perpetuated in that new pay and grading system.

[39] **Mr Colley:** Second generation claims arise usually in one of three ways: the employer is applying protection to the bonuses that the men were being paid or they have made an offer to buy out the protection of the bonuses that the men were being paid, or they are assimilating men in the new grading structure and taking the bonuses into account. They tend to get assimilated at the higher end of the grade, whereas women coming into that grade will be at the bottom. Those are the three scenarios.

9.30 a.m.

[40] In each of those cases, the law requires that you have to treat everyone equally. So, in theory, women are entitled to a payment equivalent to the one that the men are getting, or an equivalent payment for the buy-out, and so on. The way in which councils are trying to get around that is by making offers to settle historical equal pay claims and then, at the same time, requiring them to sign a COT3 so that it compromises all future claims as well. One council in particular is pioneering an incentive, by saying that if you accept the new terms and conditions under single status and the equal pay back pay offer, and if you compromise all your claims, it will take into account all your earnings when it assimilates you onto those grades. So, you get these confusing situations, as councils are offering different things. Picking up on Dominic's point, Unison is committed to an all-Wales approach on these things and trying to agree a framework and principles that can be used by all councils, not only to deal with single status, but to deal with the settlement of equal pay claims.

[41] **Lorraine Barrett:** The Minister estimates that, in those authorities that have concluded their single status agreements, between 5 and 18 per cent of the workforce have not signed up to the arrangements. Do you have any evidence of that?

[42] **Mr MacAskill:** I think that it is only Merthyr Tydfil that has imposed its new pay and grading structures. All other authorities have been subject to a collective agreement. So, only in Merthyr Tydfil would there be a group of staff that has yet to be moved over to the new grading structure. The other ones would have applied across the board, because they were subject to a collective agreement.

[43] **Lorraine Barrett:** You have lodged 12,000 equal pay claims in the employment tribunal. Can you say something about how you would wish to see these cases being best resolved? How would hearing the arguments around genuine material factor improve the situation?

[44] **Mr Colley:** There are three ways in which claims can be settled. The first is by the pursuit of an equal pay claim through the tribunal. That process involves an independent expert being appointed to evaluate the job description of the claimant against the job description of the comparator. I have noted in the report that the tribunal has now appointed some additional judges to try to speed up the process, because going down that particular route is a long process. It can take years before we get a solution. The second route is by hearing the GMF defences, because once you have established that those are not genuine productivity based schemes, it is easily demonstrated that the claims are valid and should be paid. The third is the common-sense route as far as we are concerned, and that involves councils making offers to settle claims on a Wales-wide basis. Those offers are realistic, rather than the sort of settlements that we are seeing at the moment, which tend to be a maximum of around 10 to 15 per cent of the real value of the claim. The councils have the advantage at the moment; because of the economic climate, people are much more receptive

to those sorts of offers. It is storing up a considerable amount of ill will, because many people are not accepting the offers. When the claims come to fruition and the people who settled see their colleagues getting six, seven or eight times the amount, it is going to cause some real unrest.

[45] **Mr MacAskill:** For the benefit of the committee, we have a table that shows the type of disparity that the bonuses created in those grades—they are significant sums.

[46] **Mr Colley:** When you look at the chart, the figures in brackets are the amounts of bonuses that apply under different percentages. So, you can see the difference in salary.

[47] **Nick Ramsay:** I want to seek some clarification. You spoke about the different routes that local authorities can go down in defending their position on this. With regard to the genuine material factor, does that apply to bonuses specifically? What sort of things would be included as a genuine material factor as a possible defence?

[48] **Mr Colley:** It is bonuses primarily. That is the key issue. That is where the differences in pay arise. An equal pay claim arises where you have people of different genders at the same grade doing work deemed to be of equal value being paid different amounts. The extra money is usually through the payment of a bonus. It is probably fair to say that, back in the 1980s, when they were introduced, they probably were genuine productivity-based bonus schemes. However, over the years, they have lost all links to any sort of productivity. You have situations now where people are receiving those payments whether they are at work or not. So, it is difficult to see how they can be productivity-based, and the councils know that. However, such is the cost, they will use every opportunity to oppose them. That is what the GMF really relates to—the bonus schemes.

[49] **Mr MacAskill:** The other hurdle that we need to get over is that, even if they could demonstrate that they were genuine productivity-based bonuses, the question would be asked: why were women workers at the same grade not offered the same opportunity to have a productivity bonus? So, there is a double hurdle that employers need to get over. We do not believe that there are any genuine productivity bonuses left in Wales, and we certainly have no evidence that women workers in general were considered for those productivity bonuses when they were first introduced.

[50] **Nick Ramsay:** Thank you for that clarification. Putting that aside, you have painted a picture this morning of a pretty disjointed landscape of schemes across Wales. You used terms such as ‘guerilla warfare’ earlier, and I think that you said that the anticipated timeframe for sorting a deal was about six to seven years. I know that a number of councils have said that they are prepared to spend a large amount of money on opposing these equal pay claims because of the responsibility to the taxpayer. The fear is that, if they do not oppose them, there will be an even bigger bill. That is their argument. I am not saying that it is right in any way, but let us accept that that is what they are going to say. Do you have any truck with that view or do you think that it is completely erroneous that the job of protecting the taxpayer should be a factor in this when it comes to gender issues with regard to bonuses?

[51] **Mr MacAskill:** Unfortunately, I think that the main consideration is short-term political expediency, rather than the integrity of public sector finance and local government. We are quite clear on our side that, if all of these 12,000 cases reach their conclusion in a tribunal, we will win the vast majority of them. If we win the vast majority of them, the public purse will be hit tremendously. Not only will it be hit with the full amount of those claims, plus interest; the councils will also have paid multi-million pound sums to firms such as Geldards for a delaying tactic—a delaying of the inevitable. Looking forward 10 years, I think that there are very few authorities that can say that they are going to do that. This is going to avalanche on them, but perhaps they are thinking that they will not be in power by

that time. It may even be that the local authority—

[52] **Nick Ramsay:** Do not say it. [*Laughter.*]

[53] **Mr MacAskill:** The local authority may not be there by that time. [*Laughter.*]

[54] **Helen Mary Jones:** Just for clarification, is your belief that you will win the majority of these cases based on the fact that most of those that have been concluded have been won? It is not just a case of saying, ‘We think we’re right’, is it?

[55] **Mr MacAskill:** It is also the fact that we have members who have worked under these productivity schemes. We know that there is no evidence that these are genuine productivity schemes. The authorities know that there is no evidence for that. We know that women workers were not considered for these schemes. The examples that Mike has given of their attempts to delay have demonstrated erroneous arguments at best. We have won the vast majority of the challenges that they have put across, which is why I think there will be a falling of the bottles in terms of the backpay liabilities. The issue is whether that will also be followed with moving forward on the pay and grading structures for the future.

[56] In terms of public finances, Mike has said that, unfortunately, from our point of view and that of our members, settlements are offered at a fraction of the potential cost. It is certainly in the interests of the public purse to consider making offers at an early stage. Our members may well be tempted by a cheque in front of them, but if they know that, in 12 months’ time, the amount on that cheque could be quadrupled, or even more, it will not be so easy to get them to sign these agreements.

[57] **Nick Ramsay:** You have just mentioned the difficult financial climate. I will ask you about capitalisation directions. In evidence given to the Committee on Equality of Opportunity, the Welsh Local Government Association was sceptical about the capitalisation issue. It said that it is too easy to say that capitalisation is a great thing, and that, in some way or another, it has to be paid for. Forgive me if this is already mentioned in your evidence, but could you clarify the number of authorities that have not applied for capitalisation direction from the Assembly Government? Aside from the Welsh Local Government Association’s negativity towards it, what do you think are the reasons as to why more local authorities have not gone down that route to make this situation easier?

[58] **Mr MacAskill:** Capitalisation is there for those authorities that have not made provisions for their liabilities. This original single-status agreement goes back to 1998. From that date, the authorities could see that things would happen. Minds were concentrated and, to be fair, unions were pushed into this mass litigation move because of no-win, no-fee lawyers. We have all been pushed in terms of this agenda, but perhaps rightly so in terms of getting this dealt with. There has been plenty of time to put aside resources to address this. The capitalisation is really to say, ‘Even if you have not put resources away, you can still settle this’. As I have explained, by settling now, you are potentially reducing your liabilities considerably if the alternative is waiting for the employment tribunals to conclude. You would be saving money, albeit that capitalisation is a mortgage and you have to repay it. That is accepted, but it is a manageable process; it can be managed over time.

[59] **Nick Ramsay:** That is the WLGA’s view, is it not? It says that capitalisation has an impact on services and, as you say, it is a mortgage, in effect, which has to be repaid. As I said in defence of some of these councils’ positions—perhaps they should have had more foresight—its view is, ‘We are in a difficult financial situation, with elections at some point in time and with the taxpayers’ interests at the core of what we are doing’. I am not saying that it is right, but you can understand why the WLGA is saying that.

[60] **Mr MacAskill:** It is right only if you take the short-term view. If you are thinking only of this year and next year, that is the right decision. If the decision is about dealing appropriately with your long-term liabilities, and your main concern is the taxpayer over a lengthy period of time, then that is the wrong decision.

[61] **Mr Colley:** It is worth remembering that, with equal pay claims, as each year goes by, the value of the claim continues to increase. For each individual claim, you can be looking at between £6,000 and £8,000 for each year. Councils either take a short-term view and stick their heads in the sand, or they deal with what is in front of them now in order to avoid a massive impact on their finances in two or three years' time.

9.45 a.m.

[62] **Jonathan Morgan:** I know that the situation is fluid, but is it possible to put a value on the current number of running claims compared to a few years ago? Some of those claims will have been settled, so they will have fallen out of the system. I note that you said that, as the years go on, the value of the claim goes up.

[63] **Mr Colley:** I cannot give you a figure, because every claim is different; it depends on the salary that the person is earning, what their gross pay was, taking into account any enhancements, what their weekly hours were and when they lodged their claim, because the claim goes six years back from that point and then forward until the resolution, so it is very difficult to estimate. However, I can say that a typical value for a claim for someone who is working full time and qualifies for the maximum of six years' backpay can be anywhere between £55,000 and £75,000 each. We have 12,000 claims; not every claim will be worth that much, because many will be for part-time workers and so on, but the offers that the councils make to those individuals will reflect that fact. So those are the kinds of sums that we are talking about.

[64] **Val Lloyd:** The Minister told us that regulations imposed as a result of the Equality Act 2010 will ensure that local authorities' pay and grading arrangements will be lawful in future. Would you agree?

[65] **Mr MacAskill:** If local authorities adhere to the required evaluations and audits then that will be the case, but they need to get to the starting block first, which is to evaluate their jobs and put in place an equality-proof job and grading structure. We need to get to that point. Local authorities are required to do equality audits and so on. Our recommendation asks the Welsh Assembly Government to have an overview of those audits to ensure that they happen. The Equality Act 2010 was useful; it does not include all of the things that we would have liked, but it will have an impact in terms of the duties. However, as I said, we need to get local authorities to the starting block first.

[66] **Helen Mary Jones:** Well, they have not complied with the Equal Pay Act 1986, so I am not sanguine about this, to be honest.

[67] **Jonathan Morgan:** We will return to this subject a little later. I thank our colleagues from Unison for being with us; it has been an extremely helpful and enlightening session. I was looking at the expressions on Members' faces during the session, and I look forward to our conclusions on this item when we discuss the matter further. Thank you very much indeed for being with us; it really has been helpful.

9.48 a.m.

**Hynt Gweithredu Argymhellion Adroddiad y Pwyllgor ar Gynllunio'r Gweithlu
yn y Gwasanaeth Iechyd ac ym Maes Gofal Cymdeithasol**
**Progress in Implementing Recommendations of Committee Report on Workforce
Planning in the Health Service and in Social Care**

[68] **Jonathan Morgan:** I welcome to the table Stuart Geddes, Wales national director of the British Dental Association, Dr Sharon Blackford, chair of the Welsh Consultants Committee of the British Medical Association, and Dr Mark Temple, chair of the Welsh Committee of Public Health Medicine and Community Health, and of the British Medical Association. I thank the witnesses for the papers that we have received to help us with this follow-up inquiry. If you are content to do so, we will proceed directly to questions.

[69] Since the publication of the committee's report in 2008, the Welsh Government has made a number of changes to NHS workforce planning processes, including work to align planning for medical staff with that for non-medical and dental staff, and integration with service and financial planning. What benefits have resulted from these developments and what further improvements do you anticipate?

[70] **Mr Geddes:** In terms of improvements, we need to address the problem of dental care professionals, or professions complementary to dentistry. In view of the current levels of undergraduate dental training, I think that we are probably okay.

[71] **Dr Blackford:** The BMA recognises the work of the workforce modernisation board, and that is quite a positive step, but we do not think that it has realised its full potential. We would hope that it would receive a bit more commitment from the centre. It needs to be a bit less focused on local projects and take more of an all-Wales approach. If it had staff that are going to stay in post for a long time, that would help, because workforce planning is a difficult thing to get to grips with, and, if staff are to be able to take forward the work, they need time in post to be able to get to grips with the problems and work through them.

[72] On the formation of health boards, all those reforms are still bedding in. I think that they will lead to improvements in workforce planning eventually; I do not think that we have got there yet. It is good that each health board has a public health director in place; that is a positive step, but we need to involve public health doctors more in workforce planning, which is probably where Mark comes in with his public health background. The big problem with workforce planning and such things is the lack of accurate data in a lot of cases.

[73] **Jonathan Morgan:** Before I bring Dr Temple in, with the reconfiguration of the health boards into seven boards, each board was supposed to include a professional forum in order to feed in the views of various professions. Have those professional fora been established?

[74] **Dr Blackford:** It varies across Wales, I would say. They are about to be established in a lot of places. I work in Swansea, which is in the Abertawe Bro Morgannwg University Local Health Board area, and our local medical advisory group has met once. Recently this year, we have had our first meeting, so it has taken a while to establish those fora and our chief executive did not come to that first meeting. The doctors, consultants, GPs and the medical director were all there, but we need more engagement from management.

[75] **Jonathan Morgan:** We may need to pursue that with the Minister, because my understanding was that the new arrangements would try to bring in the professional

viewpoint, particularly around the planning of services, and would put the professions in the position of advising on the capacity of the profession to undertake the work, that is, to be part of that workforce planning, effectively.

[76] **Mr Geddes:** From the point of view of dentistry, I think that we might be slightly better off than our medical colleagues. Local fora seem to have been established in each of the health boards, and the one that seems to be working particularly well is that in north Wales.

[77] **Jonathan Morgan:** Dr Temple, do you want to say anything about progress since the publication of the committee's last report?

[78] **Dr Temple:** The main thing is that there is lots of potential there. Certainly, from the public health aspect, we have not yet seen any fruition from that. With regard to the issue of service planning and service review, when I was training to be a public health doctor, part of my training was about understanding the workforce implications of any service review. That was what we had to do, but that was 15 to 20 years ago. Since the abolition of health authorities, that aspect has been lost from the NHS. Service planning arrangements have become much more a financial occupation, but the objective of the health service generally is to cure sick people and improve public health. Regrettably, what I am seeing is that meeting financial targets is the be-all and end-all. Certainly, the economic situation is not helping that, but we are losing sight of the objective, which is to deliver a service to the public. It would be very beneficial if deciding the service was the prime objective, and all the rest followed from it. Clearly, you have to cut the cloth to suit what is available, but that is a separate issue. My colleagues would like to contribute, but at the moment the local health boards' public health departments are often one man or woman and someone else. That is not enough for this important task.

[79] **Val Lloyd:** You have answered the question that I was going to ask, but you may want to add more to it. In light of the restructuring of the NHS in Wales, what has been the impact on workforce planning for medical and dental staff? I take on board that you have answered that to some extent.

[80] **Dr Blackford:** We have a structure now that will be beneficial in the future. The trouble is that it has taken so long for all the changes to settle in and for people to be put in posts, and the last thing that we need is more reorganisation. We need time for the changes to bed in. We have only just set up our local medical advisory group in Swansea, and I know that the situation is the same in other places. Although those structures were identified a few years ago, it has taken a long time for those things to feed through. The structures are probably okay; we just need a little more impetus and commitment from the centre to drive the changes through, but they can work.

[81] **Mr Geddes:** From the dental point of view, we have not noticed much of a change; we are still dealing with 22 local commissioning units. While the budget for dentistry remains a fixed sum, and there is no possibility of expanding it, it is still difficult to recruit into dental practice. The scheme for vocational trainees is funded separately, so that is ongoing, but to move those into a junior partner position in the practice is difficult. The health boards do not have the money to commission new or additional services.

[82] **Val Lloyd:** Did you want to add anything, Dr Temple?

[83] **Dr Temple:** I do not have anything to add; we are short of staff.

[84] **Lorraine Barrett:** In the committee's report on workforce planning, we recommended that the funding arrangements for the different elements of training for medical and dental staff, which currently come from different budgets, should be simplified to

improve workforce planning. Is that still a problem? Are you aware of any progress in addressing it?

[85] **Mr Geddes:** The big problem that still exists, which has not yet been addressed, relates to the training of dental nurses. I believe that the budget for that is currently held in the education budget, but it really does need to move into the health budget, in order to make training more accessible to the people who need it. The budget for vocational training has gone up; additional funding has come from the Assembly over the past three years. We have expanded the number of vocational dental practitioners in Wales, which has been funded by the Assembly Government.

[86] **Lorraine Barrett:** Just to be clear, the Welsh Assembly Government needs to take the initiative and move the funding for the training of dental nurses from the education budget into the NHS budget.

[87] **Mr Geddes:** The Welsh Dental Committee, which is the advisory committee to the Assembly Government, is looking at the issues regarding the training of dental nurses. I suspect that that may well be one of its recommendations, which I am sure will be acted on.

[88] **Nick Ramsay:** I have a question for you all, and it is a very simple one. Do you think that there will be enough doctors and dentists in the future, given the current workforce planning arrangements? What is your punt? There are three of you; I do not know whether you will agree on that answer.

[89] **Dr Blackford:** If I knew the answer to that question, I would probably be winning the lottery as well. The trouble is that it takes such a long time to train a doctor: there is five years of medical school, and then at least five years of postgraduate training. All the planning tends to take place on a much shorter timescale. We need to think much more about the long term, and we need to look at the healthcare needs of the population and how we will deal with them in the future. There will be an increase in number of older people, for example.

10.00 a.m.

[90] **Nick Ramsay:** Is that being done now?

[91] **Dr Blackford:** I do not think that it is. That is my feeling.

[92] **Dr Temple:** It is difficult. I know that my colleagues in workforce planning in another organisation, which I do not work for, have lousy data. I do not know quite how you can do any long-term planning when you do not know where the hell you are now—excuse my language, but that is how it is. If you do not know where you are, how you can plan for where you want to be is lost on me. So, I am less optimistic than my colleague. I think that we will still be uncertain how many doctors and dentists we need in 10 years' time, because I do not think that we have grasped the nettle. The data we have about who we are employing and what they are doing are not good enough. It is a real issue. My guess—and it is only a guess—is that, when I retire in a few years' time, there will be one more vacancy that will not be filled in Wales. That is the way it is going to be.

[93] **Nick Ramsay:** So, unless we get the data issue sorted out, it is going to be virtually impossible to know that we have got a planning structure in place that will deliver.

[94] **Dr Temple:** It is not virtually impossible; it is impossible.

[95] **Jonathan Morgan:** I think we seem to have acquired a large can of worms and a tin opener. [*Laughter.*]

[96] **Helen Mary Jones:** If I may use the tin opener then, Chair, I absolutely agree with what you say about data. How can you possibly plan where you need to be if you do not know where you are now? This may not be a question that we need to put to you; it may be something that we need to ask the health boards or the Minister, but do you have any take on why there is such a problem in collating effective data? Wales is a small country. We now have only seven health boards. Presumably they have a payroll; they know who they are paying. Do you have a take on why it is proving so difficult? This is not the first time that this committee has discussed it, and I remember it being discussed in various committees in previous Assemblies. I can almost imagine that, in England, which is so much bigger, doing this sort of planning on a national level would be difficult. However, I am slightly at a loss as to why, in a country of fewer than 4 million people, we cannot work this out. There are not that many of you.

[97] **Mr Geddes:** In a salaried service, it is relatively easy. There is a payroll and you simply count the numbers. The difficulty that my group has is with the number of whole-time equivalents. Of course, general practice is mixed practice—it is not entirely NHS. We know how many dentists are working in Wales; we know how many dentists work only privately in Wales because of the enquiries that Healthcare Inspectorate Wales and the health boards make. However, someone may be an NHS dentist, but they may work only one session a week. We have no idea how much of their time they spend working. The other problem in Wales—and it is a UK problem—is that there is an increasing number of female dentists, and they have other commitments in many cases. That is particularly the case with the younger ones as they are bringing up families. Dentistry is an ideal profession for them because it is something that you can do part time. However, to say that we have 1,300 dentists does not mean that we have 1,300 dentists working five days a week for 46 weeks a year.

[98] **Dr Temple:** One of the difficulties we have with knowing what people are working for us is the electronic staff record. For example, if you look at public health consultants, the medical public health consultants are all listed as medical consultants, but all the non-medical public health consultants are listed as administrative and clerical officers. I wonder whether a cut at the administrative and clerical grade would actually get rid of many of the people who are making up the numbers that the Welsh Assembly Government is talking about. I know that when we looked at manpower and public health, one of my colleagues had to look at the three sets of data from the faculty, from the payroll and from what we knew, and all three of them were completely different. We are talking about a workforce of fewer than 30. To have three substantially different counts suggests that relying on the electronic staff record is not the way to do it. I think that it may be part of the problem.

[99] **Lorraine Barrett:** I have a question for you, Chair, or a point on which I want to put a marker. If my memory serves me right, a number of years ago, one of our committees—it may have been this one—had a presentation from a company regarding a computer software programme to manage workforce planning. I think that it was more than just health; I think that it was also across local government. I just want to mark that; could you look at what happened all those years ago? When we were shown this programme, we all thought, ‘This is amazing; this is how you manage workforce planning’. I do not know whether anything came of that or whether it is even appropriate within the health sector. It may have just been local government.

[100] **Jonathan Morgan:** We will look at that and come back to you. However, I recall the same evidence session when we held the inquiry. It was quite an impressive piece of work that indicated that improvements could be made by some very simple modifications.

[101] Do you have any further supplementary questions, Nick?

[102] **Nick Ramsay:** No.

[103] **Helen Mary Jones:** My questions are for Stuart. You state in your written evidence that the number of dentists in Wales increased from 1,186 to 1,310 between 2007 and 2010. Do you believe that that means that we now have sufficient numbers or, given what you said earlier, is it impossible to say because we have these dentists but we do not know whether they work full-time, and we do not know what percentage of that is NHS work?

[104] **Mr Geddes:** There is currently no evidence of underemployment of dentists. The dentists that we have appear to be fully occupied. We have noticed quite a diminution in the problems relating to access. We do not get the inquiries that we used to have about access. I am not sure whether that is solved or not. Sharon has referred to crystal balls, but unfortunately, they are always very cloudy when it comes to workforce planning. We have an ageing population in Wales; we have what we have termed 'the amalgam generation'—people who have many silver fillings, which need repair and replacement. I suspect that a number of us are probably in that league. We do not know how much work will be needed in the future, and the technology is changing, and so on. Therefore, in terms of the number of dentists, I think that we are probably okay at the moment, but I am afraid that the crystal ball has not cleared up yet for the rest.

[105] **Helen Mary Jones:** I think that someone needs to take some Windolene to the crystal ball.

[106] There has been an increase in the number of dentists in Wales who are not UK-trained, has there not? Do you have a view about why that has happened, and is there an issue for us in that respect?

[107] **Mr Geddes:** It is partly the freedom of movement within the European Union that is responsible for the fact that dentists are coming to Wales. Many of them are being recruited by the larger groups and, as you will be aware, there are now three or four major groups in Wales providing primary dental care in general practice. They have tended to recruit abroad. There are some issues around their training, and I believe that the postgraduate department is hoping to address those. They have a sort of NHS indoctrination course for these people to get them into the mindset of working in the system, which is completely unique in the European Union. Therefore, there have been issues. My hospital colleagues, who I saw last week at a conference, have noticed quite a remarkable increase in the number of referrals that they get from some of the dentists who are not UK-trained.

[108] **Helen Mary Jones:** That is interesting. Do you believe, Stuart, that there are now sufficient undergraduate training places in Wales; and do you think that there are enough applicants from Wales to fill those places?

[109] **Mr Geddes:** The university tells me that it has no difficulty filling the places. Dentistry still remains a very popular profession. It cannot discriminate against Welsh candidates. There is competition for the places, but there is certainly not a lack of competition. We will increase the number to be trained this year to 80, I think, which presents some problems for the dental school in terms of its facilities, I believe. As for whether we have enough, I am afraid that it comes back to the crystal ball again. However, it looks as though we do for the moment.

[110] **Helen Mary Jones:** It is very difficult to predict.

[111] **Mr Geddes:** Yes. Where we miss out is on training postgraduates. My view is that we do not invest as much money as we could in training for postgraduate skills. Keeping those skills there would mean a saving with regard to the secondary service, because some of

the services provided there could be moved into primary care if we had people trained to do the job.

[112] **Jonathan Morgan:** Before we move onto Irene's question, I have a point of clarification on something that you said at the start, Stuart, when you referred to 22 commissioning units. Can I assume that that is now seven commissioning units?

[113] **Mr Geddes:** No, we are still pretty much dealing with 22 local health boards. One or two have merged, and are dealing with things together. If we have inquiries from our members, it is because they are still dealing with the former Cardiff or Swansea LHBs. They are nominally together, but each of the former LHBs still seems to have a dental lead.

[114] **Jonathan Morgan:** So, if you were looking to have a dental practice in Cardiff, and I was looking to have a dental practice in the Vale of Glamorgan, the person whom I would deal with could potentially be different from the person whom you would deal with. Would they reflect the old health boards and not the new ones?

[115] **Mr Geddes:** Yes, potentially. Actually, that is one combination that has come together, but some of the ones further west have not.

[116] **Jonathan Morgan:** That rather defeats the object of having seven health boards, does it not?

[117] **Mr Geddes:** That is right. We have been quite disappointed with some of what has happened in that regard. One of the things with dentistry is that it is perhaps not seen to be as sexy, as it were, as some of the other parts of health service administration. We have one or two very good administrators across Wales, but only one or two. I am afraid that the really good ones tend to progress up the scale and into other jobs quite rapidly. So, there is always a loss of corporate knowledge, which is a great shame. If I call some health boards, I have no idea whom I will be speaking to.

[118] **Jonathan Morgan:** Thank you. We may have to return to that matter.

[119] **Irene James:** In your written evidence, you state the problems around training and recruiting dental nurses and specialists in oral surgery and orthodontics. What improvements are needed to workforce planning if we are going to address these issues?

[120] **Mr Geddes:** The issue of specialist dentists is a matter for postgraduate departments and hospital trusts to look at. The issue about dental nurses is different. Three years ago, it became a requirement for dental nurses to be registered with the General Dental Council, which meant that they had to be trained or to be in training to be able to work. At the same time, the people who ran two of the good training courses in Newport and Cardiff, which were run on a part-time basis—these were evening courses really, which offered basic education for dental nurses—got to the age when people decide that they have had enough of working and want to do other things in life, and gave up, and those courses have not been replaced. There is an NVQ scheme for training dental nurses, which is not as good as dentists would like it to be, and the associated fees are also quite expensive, which is another issue for practices. Prior to 2007, when dental nurses were not registered, you could take someone from school, train them up within the practice so that they could do the job, and they would, in most cases, be really good, if they were committed and wanted to stay. They now have to go through a formal training process, which is where the difference is and where the difficulty lies.

[121] **Irene James:** Are you saying that there are not enough training courses available?

[122] **Mr Geddes:** There are nowhere near enough, and it is a particular problem in rural areas.

[123] **Irene James:** In its report, the committee suggested that financial incentives could improve recruitment and retention of doctors in Wales. You state in your written evidence that BMA Cymru Wales has also proposed incentives. So, what progress has been made in this area in the three years since the publication of the report?

10.15 a.m.

[124] **Dr Blackford:** Unfortunately, very little. BMA Wales has suggested a junior doctor bond to partially pay off student debt for people going to work in difficult-to-fill jobs, perhaps in west or north Wales or in certain specialities that have had difficulties. We suggested this via the junior doctor review group, through which BMA Wales engages with the Assembly Government. Unfortunately, it has taken two years of talking about it and it has now been turned down, probably because of financial constraints. It is disappointing, because it could at least have run pilot schemes to see how it went.

[125] The other thing about financial incentives is that we are worried about student debt and the fear of student debt, particularly for people from disadvantaged areas where we need good doctors. People are not going to go to medical school, because they see that it takes five years and there is a big debt at the end of it. The Assembly Government has pegged student fees in Wales, which we are glad about and commend it on, but we are a little concerned about the future of the NHS Wales bursary. We would like a bit more commitment on that and more schemes for widening access to medical school, because if we can get more schoolchildren from disadvantaged areas into medical school, providing that they have the qualifications, we will perhaps be able to staff those more difficult-to-staff posts in the future.

[126] I do not think that it is just about financial incentives. We should also look at non-financial issues. We were talking about this this morning over breakfast—we are not together, I should say, it was in the BMA offices. [*Laughter.*] Outside Wales, there is still a perception that we may not have electricity, Marks and Spencer and all that kind of stuff. So, it is not just about training doctors in Wales to stay in Wales. We want to attract doctors from England and elsewhere into Wales. There is still a perception that hospitals in Wales may not have operating theatres or some such. We want to get out there and blow our own trumpet, because we have excellent training in Wales. Mark was saying that he came here to work almost as a last resort, but when he got here he liked it.

[127] **Dr Temple:** It was the best decision that I have ever been forced to make. It was wonderful. I have enjoyed working in medicine in Wales ever since I came here. I came to a Valleys practice, and I thoroughly enjoyed my time there. It was great fun; it was also hard work, but you do not go into medicine if you want an easy life. What you want is to be certain that you are appreciated and that you are doing good. One thing that has distressed me is that, while I have been in public health, and I have been a consultant for almost 11 years, I have noticed that doctors are only referred to derogatorily. No-one ever says publicly, 'Well done, thank you'. I noticed that when the 1000 Lives Campaign was doing its assessment of Welsh hospitals, the standardised mortality rate for Wales was below 100. That means that a patient who is admitted to a hospital in Wales is less likely to die than if they went into a hospital in England, but I have not heard the Minister saying anything about how wonderful the hospitals are in Wales. Perhaps we ought to be saying that the NHS in Wales is better than the NHS in England and if doctors want to find out how to practise medicine they should come to Wales. That is my personal view, but it is something that we should seriously think about doing. The NHS in Wales is very good, and I am proud to be a member of it. I just regret that it sometimes seems that those outside regard it as a bit of a shame—something that we should be sorry about, and should hide under a bushel. I do not think that we should. We should be

proud of it, and we should boast about how good it is.

[128] **Irene James:** Thank you for those comments. Dr Blackford said something similar earlier, and I think that it is true of lots of us in Wales that we are not good at blowing our own trumpets. That applies whether you are a doctor, a teacher, a social worker, or whatever.

[129] **Jonathan Morgan:** I think that politicians are quite good at blowing their own trumpets. On that note, Nick Ramsay is next.

[130] **Nick Ramsay:** If I may blow my own trumpet, I will move on to the next question. On the issue of medical vacancies—not including those in general practices—I have a figure here that says there are close to 400 medical vacancies across the NHS in Wales. There are constantly rumours about vacancies not being advertised, let alone filled, with staffing levels running dangerously low. On that basis—I suppose this ties in with my earlier question—to what extent is this the result of problems with workforce planning? Is it entirely to do with that? How far is it due to other factors, and how can we address them?

[131] **Dr Blackford:** There are definitely factors other than failures in workforce planning, and one of the big ones, which is completely outside the Assembly's control, was the change to UK immigration law. We always depended more heavily than other areas of the UK on international medical graduates, mainly from the Indian sub-continent. They were excellent: they had done their training in English, so they had good language skills, good medical skills, and they were a valuable part of the workforce in Wales, particularly at middle-grade level. Overnight, the UK immigration laws stopped many of them from coming here to work. That was not something that the Assembly had any control over.

[132] The problem with these vacancies is that you get gaps in rotas for junior doctors, and so although the rota is, on paper, compliant with the European working time directive, it makes that rota less attractive, because you have to fill in gaps for colleagues and that makes the job less attractive. You are doing more on-call work, you are getting less time for training, and it becomes a downward spiral—people will not apply for that job because they have heard that it is too busy, and you do not get time to go to teaching, so the next year there are more gaps on that rota and it becomes a self-perpetuating problem.

[133] **Nick Ramsay:** How would you quantify the impact of that change to UK immigration law? How much of a factor has it been?

[134] **Dr Blackford:** It has been a huge factor in certain specialities in particular—paediatrics is one, obstetrics and gynaecology is another, and acute general medicine; less so for other specialities. There are certain areas where we always had a large number of Indian and Pakistani doctors coming in and filling jobs historically, and they have gone.

[135] **Val Lloyd:** My first question is to Dr Blackford and Dr Templar rather than Mr Geddes. In your written evidence you tell us that data on the GP workforce in Wales are severely lacking and that urgent action is required to reverse the discrepancy. In our previous report on workforce planning, this committee suggested requiring GPs to provide workforce data, but the Welsh Government rejected compulsion. How should we now address the issue?

[136] **Dr Blackford:** Compelling GPs is not always the best way to get them to do something. Engaging them is probably more effective. It is in their interests for you to have good data and they will want to supply you with that. The BMA in Wales will certainly engage with that, as will the General Practitioners Committee in Wales, which I am sure would be happy to do so, along with the Royal College of General Practitioners in Wales. It is about engaging those groups with local medical committees at local health board level as well.

[137] **Val Lloyd:** The committee suggested making it mandatory, but the Government rejected compulsion; so, it did not send out a directive saying, 'You must do x, y and z'.

[138] **Dr Temple:** The risk with compulsion is that you do not always get what you are expecting. For example, vaccination for smallpox was compulsory in 1940. The highest level that we ever reached in Wales was 30 per cent. When the vaccination became voluntary, the figure went up to 80 per cent.

[139] **Val Lloyd:** That is what you always want.

[140] **Dr Temple:** Sometimes, making something voluntary and co-operative is more efficient than compelling people to do it. Another example is cycle helmets. In Victoria in Australia, they made wearing cycle helmets compulsory. The net result was that fewer people cycled, and those that cycled made it a point of honour not to wear a cycle helmet. So, compulsion sometimes creates the wrong effect. As we know, if you ask a hospital or any other public institution to provide data that meet a certain criterion, they will meet the criterion, but it does not mean that that is the truth. It is better to have a good idea of what is really happening.

[141] **Val Lloyd:** However, you need data to perceive what is happening. I take your point about compulsion, although we did not quite express it in those terms; we said that we would move towards it. My next question is across the piece. Are you aware of other issues of data quality in relation to the dental and medical workforce?

[142] **Dr Blackford:** It is rubbish in, rubbish out. I am afraid that the data are very suspect at the moment. We really need to work together on improving that.

[143] **Dr Temple:** I have already given you an example from my specialty about how we cannot do anything useful when there is disagreement between us and the department on how many of us there are. We think that we know how many of us there are because we can count them, but the department tells us that there are a lot more of us, but I have yet to see them. There we are. When we are at that level of discussion, planning the future becomes a little bit difficult. When you are dealing with a workforce of less than 30—

[144] **Helen Mary Jones:** You could just stand them all in a room and count them.

[145] **Dr Temple:** However, we are told we have 100 in our workforce, which is just laughable. There is clearly a definition issue here, and that is part of the difficulty, but we need to have a discussion about it. As I am a data handler, that is what my job entails—rigour in data handling is absolutely essential. I regret that that does not seem to be the way in which NHS data are handled, and I do not mean the professional data handlers when I say that, but there is—not necessarily in Wales, but elsewhere in the United Kingdom, not many miles from Whitehall—a view that the data should say what the Minister wants them to say, not what they actually say. That is a problem that I have experienced when I have been up to London for meetings on a UK basis: they say, 'Don't give us that information—the Minister does not want to hear it'.

[146] **Val Lloyd:** There is no point in having information unless it is correct. Did you want to contribute, Mr Geddes?

[147] **Mr Geddes:** With regard to many of Mark's comments, we in dentistry know pretty well how many dentists are working. What we do not know is what they are doing. Prior to 2006, dentists were paid a fee per item, so every fee meant that every item was recorded. Those data have not been collected since 2006, and we are only now starting to look at some

aspects of dental practice data and collecting them again. It is important to know what our contractors are doing so that we can plan for the future.

[148] **Jonathan Morgan:** I thank our colleagues Stuart Geddes, Dr Sharon Blackford and Dr Mark Temple for being with us this morning. It has been an extremely useful session, and it will give the committee a great deal to think about as we conclude our work in this area. I am conscious of the fact that we are sitting for quite a period of time this morning, so I propose that we adjourn for five minutes until 10.35 a.m., when we will return to the issue of implementing single status agreements in local government.

*Gohiriwyd y cyfarfod rhwng 10.30 a.m. a 10.37 a.m.
The meeting adjourned between 10.30 a.m. and 10.37 a.m.*

Hynt Gweithredu Argymhellion y Pwyllgor ar Gyflog Cyfartal ym Myd Llywodraeth Leol Progress in Implementing Committee Recommendations on Equal Pay in Local Government

[149] **Jonathan Morgan:** I welcome Steve Thomas, the chief executive of the WLGA, and Anna Freeman, the director of employment at the WLGA, to the meeting. Thank you for being with us this morning. We will proceed straight to the questions, if you are happy with that. In your written evidence, you state that 21 authorities have substantially finished their job evaluation processes, although over half have not actually implemented their single status arrangements as yet. What are the main barriers that are holding the remaining authorities back?

[150] **Ms Freeman:** One of the main difficulties in finishing the job evaluation exercises is all the restructuring that they have had to do as a result of the cuts and the difficulties with budgets. They have been making changes over the last three or four years, and a substantial amount of restructuring has gone on. You can finish a job evaluation exercise up to a point, but if you then go into a massive restructure, it means that you have got a whole range of new jobs that people will be applying for, and there will be slotting and matching and so forth to be done. So, there has always been a huge rump of job evaluation, and that is still going on. That has been the major difficulty.

[151] The other aspect has simply been the whole issue of the negotiations: it is not a matter of just finishing the job evaluation exercise, the pay modelling and the development new pay structures. You have a template for an empty pay structure, as it were. All through the process, there are negotiations on exactly what all the different allowances are going to be and at what level you draw your pay line, so there are a lot of very complex issues around this. Having said that, authorities have been making very good progress in this past year. Nine have finished, and four are in the pipeline; so, 13 have substantially finished. The ones that are just finishing off their negotiations are pretty much along the way. From where we were with five, we now have almost 13—it will not be long before we have those 13 in the bag.

[152] **Jonathan Morgan:** Of the half of the 22 that have not implemented their single status arrangements, are they all in a state of flux because of the restructuring of their authorities?

[153] **Mr Thomas:** One of the obvious ones not to have finished is Flintshire. It had come up with a deal, but it was a hugely controversial one. If you recall, suggested salary structures were being put forward what would have seen people losing considerable amounts of money had they been put in place. As a result of that, the authority revisited the exercise. So, there is that problem as well. When the outcomes are completed and then contested, you are going to

have problems.

[154] **Helen Mary Jones:** I am interested in some of the things that you have just said, Anna. Surely, some of those factors would equally apply to those local authorities that have sorted themselves out. So, in looking at the ones that have been successful in getting the process through—I am trying to be constructive here, and you know I do not tend to be constructive on this issue, because I have been bored of it since 1986—are there common factors that you can identify in those organisations that have been able to settle that could be transferred? I suppose what I am looking for is whether there is any transferrable learning. Everyone knows that job evaluation is complex and everyone has to deal with the same trade unions. Looking at the list of those that have settled, it is not as though representing particular communities makes it easier to settle, because they are very varied; so is there a common factor?

[155] **Ms Freeman:** There is a great deal of transferrable learning, which is where my role in particular comes in, because that is what we do. We facilitate the authorities' coming together and learning from each other. At one stage, we used to have a group of all the authorities' job evaluation leads come together and there was a great deal of transferrable learning. Those things that we could do together, we did. For example, we devised a generic framework for standby and call-out—which is one of the aspects of the allowances that need to be resolved—not to determine the amount of payment, but the criteria around it. There are things like that that we have done together. We have done things around training on the schemes; people have come together collaboratively on that. We have shared tips, hints and things that have worked, as well as advice such as, 'Don't do this under any circumstances, because it won't work'. We have a constant round of queries going around that we facilitate between the authorities, so there is a great deal of learning, and by and large, the authorities are taking advantage of that and ensuring that they are checking out anything they do.

[156] However, you must appreciate that there are hundreds and hundreds of jobs in local authorities, and they have developed all sorts of ranges of payments and different grades, so it is a very detailed and complex process. Yes, a query will go around asking, 'Well, what did you do with your nursery nurses in terms of the contracts, because they were on 52-week contracts, but only working 39 weeks a year?' That is one query that goes around, and everyone contributes and says what they did, but that is one tiny bit of the morass of local government jobs and conditions of service. It is a very complicated process.

[157] **Lorraine Barrett:** Unison has made some claims and I wonder how you might respond to them. There are three points, namely: that some local authorities are using high pressure tactics to implement single status; that other authorities that have finished the job evaluation process are delaying implementation in order to push through redundancies; and that, at this rate, it will take six to seven years to complete the single status process.

[158] **Mr Thomas:** One person's high pressure is another's urgency to sort the issue out. I am as bored as you, Helen, with this issue. I wish it was done and dusted so that we could get on with the rest of our lives, but we are in a position where this issue has been dragged out. We have been urging our members to keep the pressure on constantly in terms of this, particularly with regard to single status, because we are keen to ensure that authorities that have set aside money for some equal pay issues and single status issues can use that money and sort this out. I do not want to repeat the tedious history of this, but we all know that the problem is that the tribunal system and legal cases, which litter the history of this issue and led to the Commission for Equalities and Human Rights withdrawing its representation in terms of some of this, have held matters up. I hope that authorities are pushing it.

10.45 a.m.

[159] We have just signed a memorandum of understanding with the Wales TUC, which is about putting in place a framework to deal with public expenditure cutbacks. One of the things that we have included in the memorandum is the need to try to sort out single-status deals. So, pressure should continue to be applied with regard to that. I do not think that it is being used in a non-subtle way; it is about making sure that we move forward on it.

[160] **Lorraine Barrett:** So do you think that it will take six or seven years? Who has the crystal ball?

[161] **Ms Freeman:** Given that, in the last year, we have seen another six authorities either complete the process or almost complete what they need to do to reach that point, I do not think it will take six or seven years.

[162] **Mr Thomas:** I do not know whether the committee has ever seen the spreadsheet of the material and the data required to sort out a total job evaluation in a local authority, but it would be valuable for the committee to speak to someone from a local government human resources department and asking them to show it to the committee. It takes a huge amount of work, and it demonstrates the scale of the challenge. It is a big challenge for people to get it sorted.

[163] **Ms Freeman:** On the query about delaying implementation, I read that point and I did not really understand it. Local government HR departments are very hard-pressed. They have been trying to manage the current round of cuts, which has been unprecedented. They have been tied up with voluntary redundancy arrangements and trying to sort all of the issues relating to the workforce and the budget. A lot of that has involved negotiations around terms and conditions, so it makes complete sense that you would not try to introduce the outcome of a job-evaluation exercise at the same time, because that in itself is intensive. It involves having roadshows, going out and talking to every member of staff about what the new pay scales will look like, what the underlying thoughts were, what it will mean for them, what the timescales are, what protections they will get, and other similar issues. So, the fact that they are not trying to do the two things at once makes perfect sense.

[164] **Lorraine Barrett:** In your written evidence, you state that cuts to local authority budgets will mean that it is inevitable that savings on workforce costs must be part of the equation. Do you expect this to have an impact on implementing single status in the authorities that have not done so yet?

[165] **Ms Freeman:** Yes, it may. All authorities may not have to take that route, it just depends on their financial position. The part 3 terms and conditions need to be resolved in order to move forward to implementation. Where money is even further curtailed, the negotiations around that may be more difficult. The MOU may well help in that respect, because it gives the framework and the permissions to oil the wheels of negotiations at a local level. It mentions things like car allowances, for example, which was one of the things that was almost a die-in-the-ditch element before. So, there are two sides. The MOU may help, but the financial climate will not. We will just have to wait and see. We went through a phase a little while ago where the unions were not prepared to sign collective agreements at all. In those circumstances, a number of authorities simply moved forward to implementation. A few of those had 'yes' votes in a ballot and the others simply moved forward to implementation. It does not seem to have caused a great deal of difficulty. So, I think that we will have to see whether we will get collective agreements or whether we will just have to move forward to implementation.

[166] **Helen Mary Jones:** The Welsh Government has made a substantial investment in this over the years and we have had issues in this committee regarding whether or not that should have been ring-fenced. I have two questions. First, it has been put to us by Unison that

some local authorities have taken that money and used it for other purposes. Do you have a take on that? Unison was clear in making that allegation and I think that we should give you the opportunity to refute that, if it not so. Also, you had the resources, but have local authorities received any recent guidance from the Welsh Government about how they should meet the cost of implementing single status in light of the current financial climate, which you have just been talking about with Lorraine Barrett, and the recent local government settlement?

[167] **Mr Thomas:** There is a sniper-on-the-grassy-knoll theory going around Unison, which is that the money has been frittered away. The bottom line is that this was not a ring-fenced pot of money; rather it was in the local government settlement. Authorities have set aside sums of money, and the MOU includes the idea of there being more transparency when looking at local authority budgets. In many cases, authorities will have set aside more money than was put into the settlement. The Unison figures as set out are correct, but many authorities will have set aside a hell of a lot more than that; that is a key point to get across. The idea that this money has been spent as part of some sort of spending spree is incorrect; all local authorities have to be responsible about this, because there is a legal duty on them in this regard, and they will have set aside sums of money to deal with this matter. The issue is with getting the agreements in place and paying the money out.

[168] **Ms Freeman:** On that point, you have to be clear about what costs you are talking about, because there are the costs of equal pay compensation payments and then there are those of the implementation of single status, which has nothing to do with the costs of the compensation. The implementation of single status is purely what it costs to get the new pay and grading structures in place. At one time, that was running at 7 per cent; that is not the figure that the unions claimed, and they are wrong again that anybody said that it had to be 7 per cent. Nobody said that, but at one stage it was running at 7 per cent. However, by the time you get to the end of the incremental scales in a few years' time, it will be running at considerably more than that. The additional 1.5 per cent of money that was given in the pay bill was given in response to local government lobbying around the costs of single status, not the costs of equal pay compensation. Capitalisation is in place for the equal pay costs, so you would not be double funding that.

[169] I have conducted a survey of local authorities on the costs of single status; they have all responded, and I can read you some of their responses. One authority said that, since well before the allocation of moneys, it had set aside moneys annually towards the cost of the pay and grading package. It said that, initially, the sum was under 1 per cent of its pay bill, but that, latterly, the annual sum set aside has been significantly more than the notional 1.5 per cent allocated to the authority. Another authority said that it had shared the 4.5 per cent increase of an all-Wales settlement, which equated to £1.3 million. That particular authority has in excess of this amount in its reserves towards the implementation of new pay and grading structures. A third authority said that the uplift of 1.5 per cent provided to the authority between 2005-6 and 2007-8 had an approximate aggregate value of £2.4 million, and this has been set aside as a specific provision. The council has also set the additional funding aside in a specific reserve, and has also made some further provision from its resources.

[170] I could carry on this vein. We keep hearing this accusation from Unison, but it provided no evidence that that is the case, and I do not know why we keep having to answer that particular query. We have evidence that it is not the case; it has not provided a scrap of evidence to the contrary, but it keeps lobbying this accusation. I could carry on, but I presume that you do not want to hear all 22 responses.

[171] **Helen Mary Jones:** No. Of course, there are no figures attached to the responses. An authority might say that it has put in substantially more, but one person's interpretation of

what that means might be different to that of another. Given that circumstances have changed, has the Welsh Government given local authorities any further guidance about what its expectations are for moving towards resolving single status?

[172] **Ms Freeman:** Not as far as I am aware. I know that Carl Sargeant has visited authorities, so there may have been discussions on this issue. There was also a letter, but I do not think that it amounted to specific instructions being given.

[173] **Mr Thomas:** The last time that we appeared before the committee, we described the situation as a hard slog; we are still experiencing that, but progress is being made. Coming back to Lorraine's point, I hope that it does not take six or seven years to do this. Recent events show that there has been an acceleration of the process. If it was possible to clear some of the logjams in local authorities, things could move quickly. I hope that we will see progress in future. People are not going to take their feet off the gas on this if money is set aside to pay for it. I remember when Derek Vaughan was leader of the Welsh Local Government Association; he was the leader of the authority that was the first to settle, and there was a lot of caution at the time about settling early. However, those who settled early, in one sense, did the right thing. The problem was that the legal cases started to gather, there was a range of other, technical issues and people's attitude to risk changed, I suppose. Those who settled early probably did the right thing at the time, but it was a very risky strategy then.

[174] **Irene James:** Regarding collective agreements and second-generation claims, could you elaborate on the Minister for Social Justice and Local Government's statement that further delays in implementing single status are being caused by second-generation claims and by difficulties in obtaining collective agreements with the trade unions?

[175] **Ms Freeman:** As I said, the trade unions went through a phase relating to collective agreements. I am not sure whether that is over or not. Apparently, the national instructions have changed, but I have not seen a revised set of instructions from Unison. Denbighshire, Conwy and Merthyr all had to implement single status by imposition; it was not possible to obtain a collective agreement. However, Monmouthshire has recently obtained a collective agreement, and it is difficult to see how its circumstances were very different to some of the other authorities that could not obtain one. So, it remains to be seen whether collective agreements are going to be—

[176] **Nick Ramsay:** We in Monmouthshire are different in many ways, not all of them good. *[Laughter.]*

[177] **Ms Freeman:** In terms of the circumstances at the authority, there was a very low number of losers and it identified an amount for equal pay settlements. However, that is not very different from the circumstances at other authorities that had more difficulty. Merthyr, for example, had a 'yes' vote in a ballot and was about to have a collective agreement, which is the point at which the trade unions refused to sign it. So, it is difficult to know. As was explained before, if you cannot obtain a collective agreement, the only way to implement single status is to change individual contracts of employment, which is a very long process. If you can obtain a collective agreement and if you can get the trade unions to sign it, contracts under employment law are simply changed unilaterally because of the agreement. However, if you have to go down the route of asking each individual employee whether they agree or not—and in doing so, having to chase up those who have not replied a number of weeks later, trying to reason with those who say 'no' or even going down the road of dismissing and re-engaging those who say 'no' at the end of the day—it is a much longer process. You have to ask the unions whether they are going to be prepared to sign collective agreements or not. All that we can say is if they are not prepared to sign them, it is going to take longer.

[178] **Jonathan Morgan:** Irene, would you like to pursue this matter further?

[179] **Irene James:** Yes, I would. The Minister estimated that, for those authorities that have concluded single-status arrangements, between 5 and 18 per cent of the workforce have not signed up to the arrangements. Could you confirm those figures, and if so, could you explain the issues around them?

[180] **Ms Freeman:** To which arrangements are you referring?

[181] **Irene James:** The single-status arrangements.

[182] **Ms Freeman:** Are you referring to the authorities in which the agreements have been imposed?

[183] **Irene James:** I am referring to the authorities where this has happened.

[184] **Ms Freeman:** In cases where there is a collective agreement, they do not have to sign up.

[185] **Irene James:** However, is it not the case that between 5 per cent and 18 per cent of the workforce have not agreed?

[186] **Ms Freeman:** Well, they would not agree. If there is a collective agreement, you would not agree individually. There would simply be a collective agreement and that would be that. It would just be implemented on that basis. If this is being pursued via imposition, there may be some outliers where the position has not been settled. However, I do not know what those figures are.

[187] **Irene James:** However, regarding that figure of between 5 and 18 per cent—

[188] **Ms Freeman:** Are you perhaps referring to equal-pay settlements, rather than single-status implementation?

[189] **Irene James:** No. The Minister referred to single-status agreements. It is estimated that between 5 and 18 per cent of the eligible workforce have not signed up to these arrangements, and they have now lodged claims with the employment tribunal.

[190] **Mr Thomas:** Could we seek clarity on that?

[191] **Irene James:** I think that we all need clarity.

[192] **Ms Freeman:** It sounds like this relates to equal pay.

[193] **Jonathan Morgan:** I have to say that, when I read this, I thought that it did not seem to make much sense on the basis of arrangements. Anna Freeman is right: you would not be expressing individual views in such cases. So, I am not entirely sure where the 5 to 18 per cent figure came from. It is quite a wide variance as well, which is bizarre.

[194] **Ms Freeman:** It sounds like the equal-pay settlements. Authorities have gone out to the workforce and made them an offer. It is then up to individuals whether to accept or not. Some of those individuals will have had claims in already. In those cases, if they were to accept, they would withdraw the claim.

11.00 a.m.

[195] Some claims may have been made since. There are new claims all the time, because

second-generation claims relate to equal value, and where the job evaluation results are known, people then start comparing themselves with people of the opposite sex who might be earning more or less. There could therefore be a whole range of new claims.

[196] **Mr Thomas:** I would ask that you write to me on that, and I will also seek clarity from the Minister.

[197] **Jonathan Morgan:** Okay, we will do that.

[198] **Nick Ramsay:** I still have Steve Thomas's comment about the 'snipers in the grassy knoll' in my head—I am trying to think of a Welsh equivalent, but I have not thought of one yet.

[199] I want to ask about the unified approach to job evaluation in Wales, and Unison's comments in evidence to the committee that it is not too late for the Welsh Assembly Government to use its powers to get a commitment from local authorities to move towards a unified approach to job evaluation, which, it said, will ensure that, no matter where a local authority worker lives, they will be treated the same in relation to their pay and terms and conditions. How would you respond to that? Is it not too late? Will that be impossible? I can see that you want to come in on that, Steve.

[200] **Mr Thomas:** The ship has sailed, Nick, I am afraid. I recall that the then leader of Gwynedd Council, who is now the Assembly's Minister with responsibility for culture, Alun Ffred Jones, suggested at the outset of the process that we should probably see whether we could evaluate jobs at the national level, and, foolishly, we tried to do that at one time. I say 'foolishly' because it is a path paved with tears, I am afraid. First of all, the unions did not like it, and secondly, the complexities of doing it were mind-boggling. So, we have got ourselves into a situation where we have to see it through. There is legislation that underpins it, and there is a commitment on our part, as the Welsh Local Government Association, on behalf of local government, to sort this out, but we also have a responsibility to council tax payers to make sure that we do it properly, because otherwise the Wales Audit Office will have a view on that. I am hopeful that we will see the issue resolved, because, frankly, we do not want to be sitting here having the same debate all the time.

[201] **Ms Freeman:** Technically—I could get very geeky, but I will try to avoid it—job evaluation is about internal consistencies in an organisation, and local authorities are 22 separate employers. To take a simple example, one local authority might be very small, such as Monmouthshire County Council and have about 4,000 job titles, whereas another might be very big, such as Cardiff Council, and have around 18,000. So, to evaluate a job that has the same job title as one in another, much bigger authority and to say that it is the same as a job in that organisation is a difficult issue.

[202] **Nick Ramsay:** Do you think that that in itself could store up problems for the future?

[203] **Ms Freeman:** It could store up many problems. It would also effectively mean unhooking ourselves from the national agreement, because that is predicated on the individual employer having control over all the terms and conditions, apart from a core set, at a local level.

[204] **Mr Thomas:** We have talked in evidence to the committee in the past about the Garthwaite report, which looked at the salaries of social workers. We tried at one time to see whether we could get some common boundaries—not the same grade, but at least common boundaries. Again, that proved to be intensely difficult, not least because of shortages in the market and problems in relation to people going into what appeared to be some sort of beauty contest for the salaries of social workers. They are in such demand that authorities were

competing against each other. It is a stupid way of doing business, but that is the reality.

[205] **Ms Freeman:** The trade unions want that. They want to see national grades, with national salaries attached to them. We, as local government—in England and in Wales—prefer for the local authority to look at the particular labour market in which it works and to have the flexibility to set the terms and conditions that it needs.

[206] **Nick Ramsay:** Unison has identified that one way in which this could be done is by rolling out the shared services agenda. It said that, where local authorities are working together anyway, it would be easier to ensure commonality of pay grades and conditions. Is it obvious that that will happen in that area, or is that just pie in the sky?

[207] **Mr Thomas:** Unison has to make its mind up about what it thinks about shared services. An interesting debate is going on at the moment about social care in Powys and Ceredigion. Local Unison officials are complaining that, if those services came together, it would be about economies of scale and about losing jobs. Of course it is about economies of scale; it is bound to be. We are looking for that, and shared services are about economies of scale. In terms of where we have reached in the discussions on shared services with Unison, there is some reticence despite the public stance that it supports the concept of shared services. However, there is some reticence with regard to getting into the detail of what that would ultimately mean. I think that you are right; it would be a matter of looking for more common terms and conditions. It would be interesting to see what happens in terms of the emerging education consortia. There are four education consortia, which will emerge very shortly in terms of the school improvement service around Wales. It is a very different way to deliver education services. Who will employ those people? Will it be the consortia or the sovereign authorities; and will they be on the same terms and conditions? There are huge debates to be had.

[208] **Nick Ramsay:** I just have a quick question on your memorandum of understanding. You state in your evidence that you have been instrumental in negotiating the memorandum of understanding with the trade unions, which you hope will provide a framework for the necessary negotiations. Can you give us some more detail about how you envisage the memorandum of understanding with the trade unions on workforce savings assisting in the progress of single status?

[209] **Ms Freeman:** It was negotiated in the context of all of the budget cuts and their need to look at the rationalisation of some of the issues around terms and conditions. One of the difficulties that I have explained around the single status process is the need to negotiate around all aspects of terms and conditions. Given that the memorandum of understanding gives permission to local authorities, locally, to negotiate around those areas and to seek reductions in some of the areas, we hope that that will also help to oil the wheels of the negotiations for single status. Much of the logjam has been around authorities wishing to review those terms and conditions—the Part 3 terms—and reduce some of the payments, such as double time for working on Sunday, and time-and-a-half for working on Saturday, for example. If they find, when they are recruiting, that they have people who actively want to work on Saturdays and Sundays, it does not make sense for them to be paying double time for people to work on those days when other people are being paid single time to do the same work in the week. They are looking to rationalise those payments. Understandably, the unions have not wanted to let go of those terms. They have wanted to obtain as good terms as they can, which has led to an impasse.

[210] **Mr Thomas:** Part of the purpose of the memorandum of understanding is also to make sure that, on certain things, such as the plan that Anna mentioned earlier on car allowances, the same discussion is not held 22 times. Let us get a framework in place so that we can all sign up to it off at a national level and use that as a starting point. We are telling

unions and employers at a local level to use the memorandum of understanding as a starting point and exhaust the provisions within it. However, authorities will have to go beyond this due to the scale of the cuts in some areas. I think that there is an acceptance of that on our part and on the trade unions' part. We want people to take this as a template for the initial discussions that they will have and make sure that they do go through the memorandum of understanding and debate some of the issues included in it.

[211] **Helen Mary Jones:** I will turn to the issue of historic equal pay liabilities and I will be clear that I understand the difference between the historic and the current single status issues. You state in your evidence that some authorities have dealt with this, some are still contesting it, but the remaining authorities are keeping the position under review. With regard to those authorities that have not settled claims for past equal pay liabilities, can you give us an indication of whether you think that will change over the coming months? To my sure and certain knowledge, some of them have been keeping it under constant review for the best part of 20 years. We may be bored with discussing it, but those women are still being discriminated against. When you say that, do you expect that to lead to some more movement in the coming months? This brings us back to the issue of Unison telling us that, if it goes on at this rate, it will take six years, which you discussed with Lorraine earlier.

[212] **Mr Thomas:** I suppose that part of the problem is that many authorities—and I think that Pembrokeshire is a case in point—say that they want to sort out single status before they sort out equal pay claims. Therefore, a cart-before-the-horse type of debate has always taken place in terms of these issues. In one sense, I can readily see that, and I can see why they are doing it. I agree that there is a historic wrong to right here, and we have to ensure that we do that. The bottom line is that the field is not clear legally and some of the recent discussions that we have had have focused on the difficulties of securing collective agreements and on how slow Thompsons Solicitors can sometimes be at a local level in dealing with some of this—the word I am looking for is ‘torpor’. So, we want to ensure that we make headway on this. I would hope, to answer your question, that we make progress on this. I hope that we see this issue settled in the next five years; it is imperative that we sort it out.

[213] **Helen Mary Jones:** On some of the legal issues, there has been a question about local authorities and their genuine material factor defences. It has been put to us that the fact that they have not been prepared to disclose those has been a problem. So, how would you respond to the claims from Unison that a large amounts of local authority money is potentially being wasted on contesting some of the equal pay claims when, if the genuine material factors were made public, it would be self-evident that—well, the phrase about not having a leg to stand on comes to mind? I completely take the point that you have rightly made that you must take the public purse into account, but the longer these historic claims stand, the bigger they get. So, I am interested in exploring whether you think that it is best value for money to contest and whether, if genuine material factor defences were always disclosed, we could sort some of this out a lot more quickly, which we all acknowledge is in everyone's interests.

[214] **Ms Freeman:** We are not the lawyers. We are not qualified to say what the legal advice to clients would be as to the best way to do things. I know that the claims have been an absolute and total mess. It is not the case that a claim comes in and that it is clear-cut and that you can decide to pay it or not. There have been reams of claims in which names have been wrong, the people involved have long since left or are dead, or where there are no comparators, so it has almost been impossible to assess them. They are still going through the legal process of trying to get Thompsons to give lists of comparators for all the various claimants. So, it is not simply a case of ‘Here's a clear-cut claim, decide whether to pay it or not’. They are still going through the process of trying to sort out all of that at the same time as trying to decide in what order things will be heard, and that gets into legal considerations that I am not qualified to pontificate upon. That is probably as much as we can say on that. All the legal work around trying to sort out the complete mess that went under the name of

claims would still have had to be done.

[215] **Helen Mary Jones:** Not if they had settled.

[216] **Ms Freeman:** No, if they had settled, they would have been settling with people without knowing whether they had a valid claim or not. If they settled everything that came in, every time that someone said ‘Oh, I’ve got a claim’ and bung them a sum of money—

[217] **Mr Thomas:** It would be subject to statutory audit.

[218] **Ms Freeman:** They would not have known whether they were dead, whether they were from a voluntary-aided school that was not entitled to any money, or who the comparators were and so how much, in theory, they should be paying.

[219] **Helen Mary Jones:** I do not want to get into a discussion about the quality of Unison’s legal work, but some local authorities settled in full a long time ago through a collective process. I am trying to work out what common factors made those local authorities prepared to settle at a much lower cost than if all those cases had won at tribunal—you do not know, because each case becomes an individual case and there is the question of whether you have a valid comparator and so on. However, there are local authorities that have said ‘Okay, we’re not going to go through all of this, and we’ll settle these claims, but not at 100 per cent of what the woman would normally have received if she had had a successful case’. I am trying to explore whether there are common factors among those who have decided to go down that route. I have to put on record, Chair, that I am astonished that some local authorities are defending every single case, because I think that they are on a hiding to nothing, but that is a personal view.

11.15 a.m.

[220] **Mr Thomas:** There is a PhD in this for someone, is there not? The way that these are settled will depend on a variety of factors. It will depend on the capacity and skills of the HR department, on localised union relations, and on the current or previous condition of the legal process. As you will recall, the GMB went to a bitter tribunal and that slowed things down for at least two years. We also had to look at some of the things that came out of the 1996 reorganisation; we could not just ignore it. In a sense, it is like the stock transfer process in local government, it is still going on and it has been going on for over 10 years. Some people started early and got it out of the way, whereas others have come to it much later in the day. You need to go into the local complexities of what is happening in an authority, but capacity is an issue for many authorities, particularly the smaller authorities.

[221] **Helen Mary Jones:** That is interesting.

[222] **Ms Freeman:** The authorities that settled still have masses of claims that have come in since, so it is not a matter of settling it and it being done. The majority of those that have not settled yet are those that have not finished their single status exercise, so, as they go through that, they will genuinely be reviewing their position.

[223] **Val Lloyd:** Last month, the Minister told the committee that

[224] ‘the consideration of equal pay compensation is now more likely to be made as part of overall single status implementation than as a separate exercise in advance of single status completion as has previously been the case.’

[225] You touched on this in your reply before last to Helen Mary, but can you please elaborate on what this means and explain its implications?

[226] **Ms Freeman:** It means that, apart from anything else, in the current financial circumstances, it is a case of looking at single status and equal pay settlements, looking at how much money can be afforded and doing that as a single calculation. The equal pay settlements will be made separately, but it will be done as part of the single status exercise.

[227] **Irene James:** Can you clarify the latest position with regard to the availability of capitalisation directions from the Welsh Assembly Government to cover the costs of past equal pay liabilities?

[228] **Mr Thomas:** We have an annual discussion with the local government finance division on the capitalisation directions. Those directions are announced on an annual basis. The association has warmly welcomed that in our dealings with the Assembly Government, but there is no point drawing down that sort of facility unless the finishing line is in sight. Inevitably, as the public purse tightens, capitalisation may become tougher over the next period.

[229] **Ms Freeman:** We need to make the point again that capitalisation is not a panacea. It is still a debt, and a debt must be serviced.

[230] **Mr Thomas:** A number of authorities—to go back again to the money that is squirrelled away, to put it that way—will not undertake this on the basis of capitalisation, because of that point. They will deal with it from their balances and reserves.

[231] **Irene James:** So, how do you respond to criticism from Unison that authorities have not taken up the offer of assistance from the Welsh Assembly Government in the form of capitalisation directions?

[232] **Mr Thomas:** As I said, if you have money put aside in your reserves, you will not borrow money. It is like having £10,000 left on your mortgage. Do you decide to go out and borrow it or, if you have £10,000 in the bank, do you pay it off? I would pay it off.

[233] **Irene James:** I did.

[234] **Mr Thomas:** Well done. How I envy you. [*Laughter.*]

[235] **Jonathan Morgan:** The final question is from Val Lloyd.

[236] **Val Lloyd:** I quoted the Minister last time, but I will quote you this time, Steve. Two years ago, in January 2009, you told this committee that you hoped that the whole issue of equal pay in local government would have been settled by now. Can you give an indication of the timescales that you now envisage, two years further on, for bringing the issues of the single status and the equal pay claims to closure?

[237] **Mr Thomas:** Are you sure that I did not say 2015? [*Laughter.*] I would like to see it out of the way now. I agree with Helen Mary Jones; it should be put to bed. We must sort it out, because it has been going on for far too long. I think that I have given a revised deadline of five years today, but we are in a position in which the sooner that this is done, the better. The assurance by the association is that we are doing everything that we can to encourage that. We have constantly met with the 22 HR officers on this. I do not think that anyone is deliberately dragging their feet. They want it out of the way. You must also remember the effect of this on HR departments. There are other things that they have to do, and they have found themselves, in strategic HR terms, leaving parts of the key agendas that they have to deal with because they are constantly having to battle through this. In some authorities, it is the HR equivalent of wading through treacle, I am afraid.

[238] **Jonathan Morgan:** I thank Steve Thomas and Anna Freeman from the WLGA for being with us this morning. It has been extremely helpful. We will incorporate your evidence as we consider this item further as part of our legacy report. Many thanks.

11.20 a.m.

Hynt Gweithredu Argymhellion y Pwyllgor ynghylch CAFCASS Cymru Progress in Implementing Committee Recommendations on CAFCASS Cymru

[239] **Jonathan Morgan:** The final item that will be discussed in public this morning relates to a review that we undertook during the third Assembly. I am pleased to welcome colleagues from the Children and Family Court Advisory and Support Service Cymru this morning, Gillian Baranski, the chief executive, and Catrin Williams, the executive director—a very warm welcome to you. I apologise for the fact that we are running late; we have been having some lively discussions on a range of other topics. As a result of that, the Chair has not fulfilled his obligations in getting through the agenda quick sharp as per usual.

[240] **Helen Mary Jones:** I think Members can take the blame for that.

[241] **Jonathan Morgan:** I am more than happy to shift the blame.

[242] I welcome both witnesses to the committee this morning. If you are happy to do so, we will proceed directly to questions.

[243] The recent Care and Social Services Inspectorate Wales inspection assessed CAFCASS Cymru as being satisfactory in relation to overall effectiveness, but there were some important areas in which judgment was regarded as inadequate. What are your priorities for improving, and how confident are you that CAFCASS Cymru can deliver?

[244] **Ms Baranski:** As a new chief executive coming into the organisation, I was pleased that the CSSIW inspection found our organisation to be satisfactory. However, no-one wants to be chief executive of an organisation that continues to be satisfactory: we in CAFCASS Cymru are aiming to be an organisation that is rated as good to outstanding. With those recommendations, we have pulled together a very detailed action plan. There are eight recommendations in the report, and streams of work are now involved in each of them. We have not stopped with just those, however; we have looked beyond them, and so we have specific work programmes to deal with any criticisms of our work contained in the report that did not lead to a specific recommendation.

[245] One of the major recommendations was about the organisational structure. In January, we began a consultation process with our staff. That finished on 28 February, and we hope to have the new structure in place by mid to late summer. Alongside that, we are doing the work that will address the issues that the CSSIW raised. For example, there were issues to do with domestic violence. We have reviewed our domestic violence toolkit, we have set up a specific working group to tackle the issues, and we have been working closely with colleagues who have policy lead responsibilities elsewhere in the Welsh Assembly Government, because we think that we have a huge opportunity, given our knowledge of what is happening in the lives of the very vulnerable children we deal with, to inform practice and procedure across Wales. That is just one example; do you want me to go through each of the recommendations?

[246] **Jonathan Morgan:** No; I think that gives us a flavour of your ambition and where you perhaps see the improvements being made. Some of that will perhaps be teased out as we go through the questions.

[247] **Helen Mary Jones:** You will know that, in the committee's previous report, we were concerned that it was difficult for CAFCASS Cymru to be working to two different approaches; namely to the courts, which need a straightforward welfare approach, and working within the Assembly Government. Of course, we have seen recent legislation to strengthen that role on a children's rights basis.

[248] We heard evidence during the inquiry that the weight given to children's views in court reports is sometimes less than ideal. The committee also heard that some children felt that they had not been listened to. What steps have you taken to ensure that children can be better informed about the basis for recommendations, particularly when a recommendation is not what the child would choose? That is to acknowledge completely that what the child would choose is not always what is best for him or her. It is about their understanding why their choice cannot be met.

[249] **Ms Baranski:** One of the interesting facets of the CSSIW inspection report is that it looked at that specific issue. There is a comment in the report that I think helpfully answers some of that. The inspectors found that the voice of the child is sensitively and subtly presented to the court in most of our reports. It went on to say that there was evidence of very skilled and subtle work being undertaken to ensure that the courts have all the information that they need, and that the wishes and feelings of the child are expressed. Our family court advisers take care to protect the child from the adverse effects of having to take responsibility for their parents' feelings. They also work well to minimise the repercussions of parents and carers discovering that their children hold views that they do not agree with, and may find distressing.

[250] So, we were particularly encouraged that the inspectors found that the voice of the child and their wishes and feelings were very well portrayed in our reports, and that our officers were very clear that we do two things: we provide the courts with the information about what the child is saying, but we also have a role in advising the court of what we consider to be in the best interests of the child's welfare. Our officers are very skilled in working with the welfare and rights concepts, as evidenced by CSSIW's inspection report.

[251] **Lorraine Barrett:** In its 2009 report, the committee highlighted the importance of independent advocacy services to help the voice of children to be heard. However, evidence indicates that engagement with advocacy services depends very much on the individual court adviser and can, on occasion, be poor. What is your response to this?

[252] **Ms Baranski:** Following the very helpful recommendations when we were last before the committee, there has been some interesting progress in this area. Again, we regard ourselves as a major advocacy provider for children in the context of the family justice system. So, in a sense, we regard ourselves as being part of what the consultation document 'Delivering advocacy services for children and young people 0-25 in Wales' referred to as the jigsaw of advocacy in Wales. If you look at the Barnardo's definition contained in that report, it talks about making sure that children have their own voice and making sure that they are heard. Where they have difficulty speaking up, it means providing help. Where they have no voice—which applies to so many of the children with whom we are involved—it means speaking up for them. So, we regard ourselves as a major advocacy provider.

[253] We have involved advocacy providers in services for children who have complaints to make—three providers are involved there. We have been in discussion with our Welsh Assembly Government policy lead colleagues who work in the advocacy field, particularly in view of the consultation work that is going on to see what part we can play. Our service standards specifically refer to the fact that our family court advisers should be advising children about the advocacy services. I am meeting advocacy providers on 6 May to talk

about some of the embryonic work that went on before I arrived, to clarify what would be the best use of our time and the time of other advocacy providers to ensure that these children get the support that they require. So, that should be a further interesting development.

[254] **Lorraine Barrett:** You may feel that you have already answered my next question, but to what extent has CAFCASS Cymru resolved the conflict between the accountability of family court advisers to both CAFCASS Cymru and the courts?

[255] **Ms Baranski:** I am not going to pretend that that is something that has gone away. There is an interesting dichotomy in the organisation with regard to family court advisers, who are clearly officers of the court but are also part of a managed service. What unites it is the fact that we have a workforce that is enormously committed to the interests of the vulnerable children who we deal with. Last year, we dealt with 7,000 of the most vulnerable children in Wales at a very vulnerable period. Our officers are passionate about their work with the children who we serve.

[256] The other issue in terms of the managed service is part of the journey that we are on. I do not pretend that it is complete at this stage, but we are making good progress.

11.30 a.m.

[257] **Irene James:** During this committee's inquiry in 2009, we heard evidence that CAFCASS Cymru's contribution to the work of local safeguarding children's boards varied considerably across the country. Are you satisfied that safeguarding measures are fully embedded in the organisation and that CAFCASS Cymru contributes effectively to joint working with local authorities and other safeguarding agencies?

[258] **Ms Baranski:** We felt that it was important to note that, because, as an organisation, one of our primary functions is to safeguard the vulnerable people who come before us. So, it was pleasing that the Care and Social Services Inspectorate Wales found our safeguarding processes to be satisfactory. However, beyond that, we are now a member of each of the 22 local safeguarding children's boards. I sit on the all-Wales national forum, because I consider that this is an imperative part of our work. One thing that we are now exploring is how what we know can inform the system.

[259] Due to some of the new measures that we have adopted since October 2010, as part of the new private law protocol, we now have to carry out safeguarding checks with the police and local authority in all the private law applications that come before us. That is a significant additional amount of work, but it has shown us that our anecdotal perception that private law work was beginning to contain much more of the elements of public law is true. Indeed, 50 per cent of our private law work relates to disclosing safeguarding issues. The huge advantage of the new system is that we know about this at the beginning of the case. So, when necessary, we are able to provide early intervention, and if not, we are able to press parents to hopefully reach a solution that is in the best interests of their child at the earliest possible occasion, without having to fear that a safeguarding issue will present itself later on. So, we have invested a lot of time and energy into that area.

[260] **Irene James:** I will now move on to discuss the impact of domestic violence, given that inspectors found that the impact of domestic violence on children is not consistently assessed. What action have you taken to ensure that your policies and procedures in relation to domestic abuse are implemented across the organisation, and what arrangements do you have in place to review their effectiveness?

[261] **Ms Baranski:** The issues of domestic violence are of personal interest to me, as well as for the organisation. We are in the process of reviewing our domestic violence toolkit and

we have developed a specific working group that works across the organisation to ensure the consistent application of the very good tools that we have. In addition, we have developed a very innovative tool called CAWAC—the child and adolescent welfare assessment checklist. That tool has enabled us to evidence the impact on a child of inter-parental conflict. There is ongoing work with regard to that issue, so that once we identify conflict, we can notify the local authority and bring it to the attention of a court, and on identifying other pieces of support work that we, as an organisation, could provide. That is at a very early stage. So, the domestic violence working group is tasked with highlighting that this is an evil that exists in Wales that will not be tolerated in our services.

[262] **Jonathan Morgan:** Val, your question touches on this issue, but it has a slightly different angle to it, does it not?

[263] **Val Lloyd:** Yes, my question takes it further. You mentioned the child and adolescent welfare assessment checklist. Has that tool been adapted for disabled children and, if so, is it being implemented across the organisation?

[264] **Ms Baranski:** One of the sad concerns of the CSSIW report was that it felt that one of our weaknesses was our services for children with disabilities. We have met Professor Gordon Harold, who helped us to design the CAWAC tool, specifically to see how it can be adapted, in particular for use for children with disabilities. There is also a bespoke workgroup that is being led very ably by one of our area directors, which is engaging with experts in this field. I guess that one of the issues that we are wrestling with as an organisation is whether to train everyone or develop a cadre of specialists who can work together closely. It is one of the issues that we are presently considering, but we have moved that on, and CAWAC will become a tool that can be used by children with disabilities as well as in the general population.

[265] **Val Lloyd:** I would like to move on to discuss user engagement. You tell us in your written evidence that a one-off event run by Dynamix will help to develop the children's participation strategy. What systems or processes do you have in place for regularly receiving the views of all service users?

[266] **Ms Baranski:** The Dynamix event, which involved 98 children, was an excellent start. Since the committee last met, we have developed a three-year participation plan, and we are now in the process of implementing that. This is a challenging area for us because many of our children work with us at a time in their life that is particularly difficult and painful. Some children, quite understandably, want to move on from that, and do not want to be involved at a future stage with shaping the service. Our advisory committee has been very helpful on this, because representatives from Voices from Care sit on that advisory committee, and it is chaired by Catriona Williams from Children in Wales. One of the issues that we have been discussing with them is how to translate that plan into reality. I guess that the issue was whether we just do something quickly, so that we have something in place, or we do this in a measured, sustainable way that ensures that participation is integral to everything that we do as an organisation. We are a children's organisation, and it is important that the voices of children are heard in the way that we formulate our work. That is an ongoing piece of work—after the initial workshop came the three-year development plan, and now we are on to the implementation phase, which is being led, again, by one of our action workgroups.

[267] **Val Lloyd:** Will engagement be continuous?

[268] **Ms Baranski:** One-off engagement is pointless.

[269] **Nick Ramsay:** In its 2009 report, the committee highlighted the importance of child

contact centres in providing a safe place for children to see their non-resident parents or siblings. What work has been undertaken by CAFCASS Cymru to address the committee's concerns in relation to child contact centres since the publication of that report?

[270] **Ms Baranski:** As you know, we provide funding of just over £198,000 to 17 contact service providers across Wales, which perform a valuable service in enabling estranged parents to contact their children. We have been working with Welsh Assembly Government officials to explore what facilities exist across Wales that we could use to support the work that goes on with our families. In a sense, we are in interesting financial times, and while the function is important, how we deliver it is open to exploration. We have the 17 centres, and they do a really good job, but we need coverage across Wales on a uniform basis. The Welsh Assembly Government funds other provision such as integrated children's centres, and so we have just begun the conversation as to what exists, and whether it can be used for our children and families in addition to the other work that is currently being undertaken.

[271] **Nick Ramsay:** Recommendation 15 stated that there should be an immediate three-year funding arrangement at the level of the current funding and recommendation 16 stated that CAFCASS and Welsh Ministers should draw up a funding strategy for child contact centres, including those not currently funded. Can you tell us a little bit about what has happened with regard to those recommendations?

[272] **Ms Baranski:** A report was prepared. As regards where CAFCASS was last year—and this is not an excuse, it was the reality—the chief executive went, there was an interim chief executive and I took up the role in November. There were a lot of pressures on the service. The report was prepared and we are now moving forward, but there was a period when it was not moving forward as quickly as we would have liked.

[273] **Nick Ramsay:** What sort of timescale would you now envisage?

[274] **Ms Baranski:** The work is at an early stage, because we will continue to fund our 17 providers for the next financial year. The work has begun and, realistically, there is a six to nine-month window as regards what is available, what can be used and how we can provide better services. The family justice review is also in the mix. It is due to be published sometimes this month, and we have to take cognisance of what that says about future service provision.

[275] **Nick Ramsay:** It would be useful, Chair, to keep an eye on that progress and that window in order to see how things are progressing.

[276] **Ms Baranski:** I would be happy to do that.

[277] **Lorraine Barrett:** Things have moved on since the comment in the CSSIW inspection report when the leadership and management of CAFCASS Cymru was deemed to be inadequate and there was no chief executive in place then. What progress has been made to resolve concerns about the quality of leadership and its effectiveness in doing the job that you are there to do?

[278] **Ms Baranski:** I must pay a huge tribute to Catrin, the interim chief executive. She did a sterling job while I was being recruited. It would be fair to say that we have not let the grass grow under our feet since I arrived. We have proposed a new structure and we are very conscious that we exist to provide a front-line service for children. The premise of the reorganisation is to release as much resource into the front line as is compatible with good governance and accountability. The new structure is going to our senior management team in March, and, if it is approved, we will move to implement it. Our colleagues in the wider family of the Welsh Assembly Government have been very supportive of us as an

organisation, as regards the development of electronic systems and change management. As an organisation, we have realised that there are huge values to us being part of the Welsh Assembly Government, and we have perhaps not always maximised fully that potential in the past. Therefore, there is a reorganisation that will be in place in the mid to late summer that will address the inspectorate's concerns about leadership and governance.

[279] **Lorraine Barrett:** Hopefully things will progress in a positive way, but do you feel that there is sufficient management oversight of the quality of the work that is being done at the moment?

[280] **Ms Baranski:** We have a very able and skilled workforce. One of the first things that I did in the first two weeks in the role was to meet most of the staff personally. I was both relieved and impressed by the skills that we possess in the organisation. New arrangements have been put in place and we have already removed a tier of management that was part of the issue that caused concern. That went within a month of my arrival. I am confident that both the new structure and the current arrangements will address the CSSIW's concerns about leadership within the organisation.

[281] **Helen Mary Jones:** You have touched on the role of the advisory board. The committee recommended an enhanced role for your advisory board and recommended that the Welsh Government should clarify the board's relationship with Ministers—but that is a matter for the Minister, rather than for you.

11.45 a.m.

[282] In the 2009 report, the committee found that policy development in CAF/CASS at the time tended to be rather top-down and that policy implementation was not always monitored and evaluated. The committee recommended that that advisory committee could play a fuller role in examining strategies, policies and procedures, and it sounds from what you have said as if that is something that you would want to take on. However, as I understand it, there has been no actual change as yet to the board's terms of reference. So, it seems to me that there are two things going on there and that there is a change in practice going on that is not reflected in the formal structures. I am a great believer in having the formal structures in case the people developing the good practice go somewhere else. Can you say a bit about how the board's role has changed and whether there is a plan to clarify the terms of the reference so that they more accurately reflect what you are telling us the board is doing now?

[283] **Ms Baranski:** Following the recommendations, a review of the advisory committee was undertaken and the terms of reference remained the same, although the membership was extended. My view is that the terms of reference give us scope to work very productively. One of the criticisms of the past was that we used to take what was almost a finished product to the committee. However, in February, we in the senior management team began our strategic planning process, because the current plan ends in 2011, and we had our first workshop as a management team. We took to the advisory committee this week the very rough early thinking of our strategic priorities and our strategic objectives, and we asked whether such and such fitted and whether this or that worked. It was so helpful to have views from people who, while not part of the organisation, have an impact directly on the services, whether they are fathers' groups, Women's Aid, the Law Society, the Law Commission or Her Majesty's Courts Service. To get their priorities and top issues to feed in as we are evolving our thinking is just so valuable. The advisory committee is content with that role, and very appreciative of the early involvement. Similarly with our inspection action plan and our changes to the structure, those have all gone to the advisory committee, and the fresh discussion that that has generated, and the support that it has provided, has been invaluable because it is a support mechanism to myself and the team, and it feels that it does that very ably within the existing terms.

[284] **Helen Mary Jones:** You have already made reference to the family justice review and, in your written evidence, you state that both private and public law referrals are already increasing. The family justice review will also impact significantly on your service. To what extent do you believe this will put pressure on the delivery of CAFCASS's services, in particular relating to its statutory responsibilities?

[285] **Ms Baranski:** At the moment, there are too many unknowns as to what the family justice review will suggest. Clearly, public law is less than a quarter of our current workload, but because it involves decisions as to whether the state should remove a child from its home, it is probably the most significant intervention the state can take in the life of its citizens. So, you would not be surprised to hear that it may be just a quarter of our caseload, but it is the largest single area of our work.

[286] Without knowing what the family law review is going to say, it is difficult to quantify, other than the fact that the president of the family division has just issued a pre-application protocol, which brings in line private clients with publicly-funded clients. At the moment, if you are a publicly-funded client and you want a private law application, you have to go to a mediation appointment. As from early April, that will also apply to privately-funded clients. Now, it is difficult to quantify as yet whether that will reduce the need for our services in private law. One would hope that it might. In addition, the private law protocol, which was introduced last year, in which we do these safeguarding checks, is already having a really interesting impact. In a sense, if safeguarding is not an issue, then our very skilled officers can very firmly encourage resolution, because, the earlier decisions are made about a child's future, the better. Until after the family law review is published, and we know what its implications are, it is difficult to tell. This is an independent report, which will go back to the Deputy Minister for social services, the Minister for justice and the Minister for education. There will then be a six-month consultation period until sometime in the autumn, but until we know what the report says and what Governments in Wales and Whitehall are going to do with it, it is difficult to judge.

[287] **Nick Ramsay:** I want to ask about cuts in public finances, not so much in Wales, but to get the broader UK picture and the impact of that on CAFCASS. As we know, cuts have been proposed to the Ministry of Justice budget, taking it from around £9.5 billion to £7 billion. As part of that, there has been a proposal to cut funding for family private law cases. Given what you have said about your role in terms of public and private law cross-cutting on those areas, what do you think will be the knock-on effects of the Ministry of Justice's budget cuts for CAFCASS Cymru? Have you had any discussions with the Welsh Government about how you might be able to respond to that?

[288] **Ms Baranski:** I am hoping that one of the impacts will be a real opportunity to streamline what we do and how we do our business. At the moment, our process starts at the court with a usually hand-written, manual C100 application form. The court staff then spend time chasing information, because the forms are not always filled in as one would hope. It comes to us, and we similarly have to chase information. The Welsh Assembly Government has done some really interesting work in other parts around electronic forms and processes, so part of the discussion that we are having with our colleagues at the Ministry of Justice is around why we cannot use the technology that exists in Wales to provide a much more streamlined service for the citizens of Wales. The bigger tension will be around this: what we need in the new HM courts and tribunal service, which will exist from April, is freedom within the UK national service to come to arrangements with CAFACASS Cymru that fit within the Welsh context. That can be done with some imagination from the people involved in the system. We have been talking to people this week about the cuts—they are significant for the courts service, and I would not want to underplay or minimise them. However, it means that we have to think of ways of helping each other to do things in a much more

streamlined way. I think that Wales could lead the UK on this, provided that we are given the chance to do that when we operate with our non-devolved partners.

[289] **Nick Ramsay:** That sounds similar to many of the arguments that we made in the run-up to the referendum.

[290] **Jonathan Morgan:** Indeed. Do Members wish to ask any further questions? I see that you do not. I thank our colleagues from CAFCASS for being with us this morning, in particular Gillian Baranski as chief executive for answering the questions in such a thorough and open way. From our point of view as the committee that published the report into CAFCASS Cymru, it is pleasing to see these changes and this progress taking place. We wish you all the best and thank you for your time this morning.

11.53 a.m.

Cynnig Trefniadol Procedural Motion

[291] **Jonathan Morgan:** I move that

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

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

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 11.54 a.m.
The public part of the meeting ended at 11.54 a.m.*