



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

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

**Dydd Iau, 30 Ebrill 2009
Thursday, 30 April 2009**

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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal, cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg. Mae hon yn fersiwn ddrafft o'r cofnod. Cyhoeddir fersiwn derfynol ymhen pum diwrnod gwaith.

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. This is a draft version of the record. The final version will be published within five working days.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Lorraine Barrett	Llafur Labour
Peter Black	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Andrew R.T. Davies	Ceidwadwyr Cymreig Welsh Conservatives
Helen Mary Jones	Plaid Cymru The Party of Wales
David Lloyd	Plaid Cymru The Party of Wales
Val Lloyd	Llafur Labour
Jonathan Morgan	Ceidwadwyr Cymreig Welsh Conservatives

Eraill yn bresennol
Others in attendance

Steve Ashcroft	Archwilydd Auditor
Jeremy Colman	Archwilydd Cyffredinol Cymru Auditor General for Wales
Yr Anrhydeddus Feistr Ustus Syr/The Honourable Mr Justice Sir Roderic Wood Kt.	Barnwr Cyswllt dros Gymru yr Adran Deulu Family Division Liaison Judge for Wales

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

Steven Boyce	Gwasanaeth Ymchwil yr Aelodau Members' Research Service
Steve George	Clerc Clerk
Sarah Hatherley	Gwasanaeth Ymchwil yr Aelodau Members' Research Service
Catherine Hunt	Dirprwy Glerc Deputy Clerk
Helen Roberts	Cynghorydd Cyfreithiol Legal Adviser

Dechreuodd y cyfarfod am 2.59 p.m.
The meeting began at 2.59 p.m.

Ethol Cadeirydd Dros Dro
Election of a Temporary Chair

[1] **Mr George:** I declare this meeting of the Health, Wellbeing and Local Government Committee open. I invite nominations from committee members for the position of temporary committee Chair, to be elected under Standing Order No. 10.19.

[2] **Helen Mary Jones:** I nominate Andrew R.T. Davies.

[3] **Val Lloyd:** I second that nomination.

[4] **Mr George:** Are there any other nominations? I see that there are not. I therefore declare Andrew R.T. Davies elected and invite him to take the chair.

*Penodwyd Andrew R.T. Davies yn Gadeirydd dros dro.
Andrew R.T. Davies was appointed temporary Chair.*

3.00 p.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introduction, Apologies and Substitutions

[5] **Andrew R.T. Davies:** Good afternoon, everyone. Thank you for coming to our rescheduled meeting, which is being held a bit later in the day than normal. I have a few housekeeping rules to run through first of all. I welcome any members of the public who might be in the gallery, and inform them that a translation facility is available using the headsets. Should they wish to have any help, advice or assistance, the ushers will gladly facilitate that. I also want to ensure that everyone's BlackBerrys, mobiles and any other electrical devices that anyone might have are switched off, as they interfere with the microphones in this building. We do not anticipate a fire drill, but should there be a fire alarm, please make use of the available exits. Again, in the public gallery, the ushers will facilitate what would hopefully be a speedy exit from the building. The microphones are operated automatically, so you do not need to touch them. Looking at all the faces around this table, I see that everyone seems very familiar with the apparatus here, but I am only reading what it says on the script.

[6] We have received a few apologies for absence today from Darren Millar, Ann Jones and Irene James. Jonathan Morgan is deputising for Darren Millar, and Lorraine Barrett has informed us that she will be attending later. Do Members have any conflicts of interest that they wish to declare? I see that they do not.

3.01 p.m.

Ymchwiliad y Pwyllgor i Wasanaethau Iechyd Meddwl Cymunedol—Tystiolaeth gan Swyddfa Archwilio Cymru Committee Inquiry into Community Mental Health Services—Evidence from the Wales Audit Office

[7] **Andrew R.T. Davies:** I welcome to the committee this afternoon Jeremy Colman and Steve Ashcroft from the Wales Audit Office. Welcome, gentlemen, and thank you for coming along. Thank you very much also for your paper, which committee members have had for some time now and have been able to read and formulate their questions accordingly. We do not propose to afford an introduction as we want to get straight on to the questions, given the time constraints. I hope that everyone is happy with that.

[8] I will open the questioning. Mental health services in Wales have sometimes been characterised as being poorly developed, and I understand from the paper that you have delivered that numerous inquiries have been undertaken into the development of mental health services in Wales in comparison with other parts of the United Kingdom. Is it a fair assessment to say that they are poorly developed, and is the course of action that is currently being undertaken the correct course of action to correct this?

[9] **Mr Colman:** As for the first part of that question, Chair, I think that the work that we did in 2005 would support the assertion that services were poorly developed at that time. As our note says, we are currently in the process of undertaking two further pieces of work which are not complete, and therefore I cannot speak authoritatively about the current position. One of the reasons for doing the two further pieces of work is that we are aware of concern about the quality of mental health services in Wales and I think that, without being too premature, the work that is under way would certainly provide some evidence to justify continued concern.

[10] **Mr Ashcroft:** The follow-up work itself is very much focused on examining the extent to which the initial response, both nationally and at a local level, has led to the desired change, so we are focusing on whether targets have been delivered as planned, as well as on the delivery of local action plans.

[11] **Andrew R.T. Davies:** Thank you. Jonathan, you have a series of questions that you would like to ask.

[12] **Jonathan Morgan:** Looking at the baseline review that you undertook in 2005, from the perspective of primary care, what strengths and weaknesses, if any, were identified within primary care and, particularly, within the role of general practitioners?

[13] **Mr Ashcroft:** I think that we found a very variable picture back in 2005. Service user experiences were starkly different. We came across some service users who had very positive experiences of the support provided by their GPs for their mental and physical health needs. Equally, we found a good number of other service users who were very dissatisfied with the support from GPs. When we looked at issues such as the availability of counselling services within primary care we found great variation again. Overall, across the practices that we surveyed, about 63 per cent of practices had a counselling service in place, but that varied dramatically. In some local health board areas, all practices had some form of access to counselling; in others, virtually none of the practices had access. Similarly, waiting times for primary care counselling varied from just a week to over six months.

[14] **Jonathan Morgan:** There are a number of GPs throughout Wales who take quite a keen interest in mental health services and, of course, they have an organisation that represents the view of general practitioners in mental health services. Bearing in mind that certainly one in four, or maybe one in three, of the population will face a mental illness of one sort or another, do you think that there is an argument, looking at the baseline review, for improving general practitioners' understanding of mental health issues and the range of options available to them in supporting patients who experience a mental illness?

[15] **Mr Ashcroft:** That was certainly the position back in 2005, and it is one of the key things that we are looking at in the follow-up. Back in 2005, approximately two thirds of GP practices wanted more support and guidance from specialist services to help them manage patients in primary care, for example. Also, the training that was available to GPs or practice nurses was highly variable across Wales. We will be looking at both those issues, and also the impact of the GP network across Wales in stimulating that increased understanding.

[16] **Jonathan Morgan:** To what extent are community mental health services achieving a good balance between services for those with high levels of need and those with lesser needs?

[17] **Mr Ashcroft:** That was a significant issue back in 2005. We frequently came across areas in which GPs felt that they had no other option but to refer patients to specialist services, which really should have been dealing with the more serious end of patient need, because of the absence of services for people with less complex mental health needs. The policy, subsequently, has moved on around the provision of gateway workers and primary care liaison workers—which are one and the same thing—and part of their role can be to provide limited interventions to help support people in the primary care setting.

[18] **Andrew R.T. Davies:** Helen, you have some questions.

[19] **Helen Mary Jones:** Yes, thank you. The committee has heard evidence of variable, inadequate and sometimes inappropriate mental health provision for young people over the age of 16—we are talking about transition issues here. Is this a problem of local variation in services, or is it a fundamental weakness in the way in which mental health services are provided for this age group?

[20] **Mr Ashcroft:** We have looked at how well the policy has been implemented in that area, and the policy itself is not definitive as to exactly what should be happening around the 16 to 18-year-old split. Back in 2005, there was variation, but the policy itself allowed that variation in that there was no fixed date or point of transition, leaving services to move towards that age 18 cut-off as a point of transition. What we did back in 2005 was to look at what that variation was then, and we found a great deal of alternative ways of handling that transition with, overall, the general position being that if you were aged 16 and in employment you would move into adult services, although there was a whole host of caveats as to whether that would actually take place. Again, we have looked at that issue in great detail as part of the child and adolescent mental health services review, and I do not suppose that it will be a surprise for anybody to know that we will have some reasonably substantive findings in that area too.

[21] **Helen Mary Jones:** You may need to do that further work to be able to answer this question, but to flag up the issue for you, it has been put to us by some of our other witnesses that some of these issues around transition would be dealt with if a service specifically for young people between 16 and 25 years of age were to be developed. That group of young people should not be receiving children's services, but it is also not always appropriate for them to be receiving services in the adult mode. Are you in a position to have any views about whether that might be an appropriate response, or would that be something that will be thrown up, perhaps, by the further work that you will be doing?

3.10 p.m.

[22] **Mr Ashcroft:** I think that that would very much be part of the further work that we are doing around child and adolescent mental health services. It is certainly one of the options that the service is discussing as a way of resolving the problem. I think that Jeremy would jump on me if I were to start suggesting the way in which policy should move in the future, but the detail around the CAMHS review should help people with that debate.

[23] **Mr Colman:** Just in case there is any doubt, I think that it is highly unlikely that we would ever recommend a specific measure, but we might bring evidence to show that there is a specific need.

[24] **Andrew R.T. Davies:** Val, I think that you want to come in on this.

[25] **Val Lloyd:** Yes. The baseline review identified issues around the impact of community-based services on hospital admissions and delayed transfers of care. Could you flesh that out a little, please, and tell us which of those community mental health services has the greatest impact upon admissions and also on delayed transfers of care?

[26] **Mr Ashcroft:** The work that we did back in 2005 with in-patient managers identified a number of services that they felt would help to reduce the number of people admitted into in-patient settings and also help to speed discharge. Those services were based around crisis and home treatment services, assertive outreach services and crisis accommodation—those would be the key services that came up time and again. That, again, is what we are focusing on: the extent to which those types of services have been developed across Wales as part of the follow-up.

[27] **Val Lloyd:** You mentioned crisis accommodation. The baseline review also found a lack of supported housing in some areas, and we have heard this from people who have given us evidence previously. To what extent is the lack of supported housing hindering the discharge of people with mental health problems?

[28] **Mr Ashcroft:** It was certainly an issue back in 2005. Again, we are looking at that now to see how things have moved on. What I would say is that, back in 2005, housing and accommodation was a major issue for service users and carers. It was one of the key priorities that came out across Wales whenever we spoke to groups of service users and carers.

[29] **Peter Black:** May I come in with one supplementary question on that? When you did your work in 2005, I suspect that the supporting people revenue grant was still in its infancy, but did you find any issues around the provision of the supporting people revenue grant providing suitable accommodation for people coming out of community mental health services?

[30] **Mr Ashcroft:** Again, we found that the extent to which those funds had been used on people with mental health issues varied a great deal. The extent to which housing, generally, was tied in with mental health services mirrored that, so although that grant was available, the extent to which it had been used for that client group was quite variable.

[31] **Peter Black:** Is that within the scope of your new work?

[32] **Mr Ashcroft:** It is indeed. Because of how high a priority and issue it was with service users, we are spending a fair degree of our follow-up work focusing on accommodation and housing needs.

[33] **Andrew R.T. Davies:** Jonathan, I think that you wanted to come in.

[34] **Jonathan Morgan:** Yes, on this subject, if I could, Chair. When you did the review in 2005, did you examine the pattern of support for the different types of residential support that were available and who provided them? For example, I know that we have some crisis houses and some level of supported housing that is provided by the charitable and voluntary sector. We also have the more residential-type units, low and medium secure units, for those with a more severe mental illness, perhaps, which are provided principally by the private sector. The range of provision is quite mixed, and I suspect that the pattern of provision is quite mixed as well. I was wondering whether any comparative work has been done looking at the situation in Wales as it compares with other parts of the UK.

[35] **Mr Ashcroft:** We did not, back in 2005, make those kinds of comparisons with other parts of the UK, and we are not planning to do so as part of the follow-up work either. In

2005, there was such a poor level of provision that the key thing for us to try to track now is the progress that has been made in improving that provision. I hope that that answers your question.

[36] **Jonathan Morgan:** To follow up on that response, in 2005, was there an additional issue around the level of financial investment, or attention and priority, perhaps, given to this by the statutory sector? Things may have changed over the past four years but, looking back to 2005 and at what has happened over the past 10 years, I get the feeling that there has been a reliance on the non-statutory sector—the voluntary and charitable sector, perhaps—to be involved in this sort of provision alongside the private sector, in the hope that the private sector would invest in the low and medium secure units, which have been established in the past 15 to 20 years. I am just wondering whether any work was done around the level of investment from the public sector that was put into this. Clearly, supported housing in a variety of forms was regarded as important, particularly for those people who could fulfil more independent lives after being looked after in one setting or another.

[37] **Mr Ashcroft:** We did look at the totality of provision. Therefore, our starting point across the baseline review was around the service provision available, regardless of who was providing it, be it the statutory or voluntary sector. So we will have gathered information on the totality of supported housing, for example, without necessarily being able to give you an exact split today on the details of that. The role of the voluntary sector came out in a number of places in the baseline review, particularly the extent to which it was a partner in services, as opposed to a consultee of the statutory sector. That came out in a number of different areas, supported housing being one of them, and day service provision being classically another example of that. Again, one of the issues that we are looking at is the extent to which that partnership has been developed between the voluntary sector and statutory services across service provision.

[38] **Andrew R.T. Davies:** Are you happy with that, Jonathan?

[39] **Jonathan Morgan:** Yes.

[40] **Andrew R.T. Davies:** Dai has a few questions.

[41] **David Lloyd:** My questions follow on from that, actually. What are the barriers to effective joint working across health and social care in community and mental health teams?

[42] **Mr Ashcroft:** People working in the community and mental health teams will say that one of the biggest issues is IT systems: the ability to access records, whichever base and whichever profession you are from. That certainly comes to the fore particularly in those community mental health teams that have good integration between health and social care. Some of them may even be where joint management arrangements are in place. In other areas, I am less convinced that IT, necessarily, is the highest priority. If we look back to 2005, we will see that the number of teams that had shared manual files was quite variable. Again, I cannot remember the exact statistics, but if people are not sharing records manually, I would query whether we need to automatically leap to a huge IT system as the solution. A part of that is about the willingness to share records and about coming up with joint protocols.

[43] **David Lloyd:** Or whether it is advisable.

[44] **Mr Colman:** There is a general barrier to effective collaboration of that kind in many aspects of public service, which arises from a failure to recognise on the part of the bodies concerned that if you wish to collaborate with someone, it is a good idea to agree explicitly what your common purpose is. It may sound elementary but, generally speaking, it is not done. If you have not agreed what you are trying to achieve, it is not surprising that you do

not always achieve it.

[45] **David Lloyd:** Moving on from that, what mechanisms would further improve joint working across health and social care and other services, such as housing?

[46] **Mr Ashcroft:** Sorry, could you repeat the question?

[47] **David Lloyd:** What mechanisms would further improve joint working across health and social care and other services, such as housing—other than bringing housing under the ambit of health? [*Laughter.*] That has given you extra thinking time.

3.20 p.m.

[48] **Mr Ashcroft:** Indeed. It is interesting that you brought up housing. Back in 2005, we rarely came across housing departments that were integral to the planning of mental health services at a local level. For me, that is one of the places where that co-ordination starts, to link up to what Jeremy said about having a clear idea of your shared purpose. We are following that through in great detail as we speak. However, we have not necessarily made the kind of progress that we would have hoped for in getting housing involved in mental health services.

[49] **David Lloyd:** As part of this review, the committee has heard evidence of a lack of fit between the care programme approach and the unified assessment approach. Are you aware of any such concerns, and is there a case for a streamlined assessment and care planning process?

[50] **Mr Ashcroft:** The care programme approach was being introduced at the time that we were doing the baseline review, so we did not gather a great deal of evidence on that. We have excluded it from the detailed work that we are doing in the follow-up because of all the other work that has taken place across Wales, a great deal of which was done by the delivery and support unit. It has been doing, and continues to do, some work on the care programme approach, addressing the questions that you just put to me.

[51] **Helen Mary Jones:** From the evidence that you have taken, to what extent do you think the needs of people who have mental health problems and additional issues—whether physical impairments, learning disabilities, or substance misuse problems—are being addressed effectively by community mental health services?

[52] **Mr Ashcroft:** In 2005, it was a common issue. The demand placed on services, particularly by people with mental health problems and those with drug and alcohol dependency, came out as an issue from several of the different professionals to whom we spoke, from GPs to people working in specialist services. However, when we looked at which services were actually available and targeted at that group of people, we generally found them to be quite underdeveloped. Sometimes, there may be a liaison worker between the specialist services and services for people with drug and alcohol problems, but sometimes there is not. There was also an issue of which service the users should go to if they have a dual diagnosis—whether to mental health services or drug and alcohol services.

[53] **Val Lloyd:** How effective is service user involvement in service planning and delivery, and how well developed are advocacy services for people using community mental health services?

[54] **Mr Ashcroft:** Back in 2005, we came across some very good examples of service user involvement in some areas. Not only did they have user representatives on the planning groups, but they also extended that to a network of service users and carers with whom they

could engage and who could pass on comments on service developments and the like. However, we came across quite a few areas where there was very little going on and where service users would describe the approach to their involvement as a very light touch, with no more than a representative attending a planning group on a regular basis. We are looking at that in detail. In 2005, the main issue with advocacy was the services available in the community setting. More often than not, those services did not exist. Again, we are tracking progress on that issue.

[55] **Val Lloyd:** Do you have any indication of which direction that is going in?

[56] **Mr Ashcroft:** Not as yet, to be honest. Not even I have the mental capacity to review what has happened in the past few months, because we are right in the middle of gathering all that data and undertaking the field work. I apologise, but we do not have that at the moment.

[57] **Andrew R.T. Davies:** Helen, did you wish to ask a supplementary question on that?

[58] **Helen Mary Jones:** If I may, Chair. I do not know the extent to which the evidence that you took could demonstrate this, but—and I am clear in my own mind that the involvement of service users in service planning is a good thing in itself—were you able to see where that involvement, namely the good examples that you were talking about, was taking place? Was it, at that stage, driving through into an actual improvement in the delivery of services? To explain why I ask this question, one of my other roles is Chair of the Children and Young People Committee, and we met some young people the other day who told us very clearly that they were sick and tired of being asked what they wanted without anybody ever explaining to them what the constraints were, what the reality was, and whether all this consultation with them would make any difference, and that left me feeling slightly sceptical about some of these processes. So, in that context, were you able to track overall whether having service users involved in that way helped to make the services better, more appropriate, and more fit for purpose?

[59] **Mr Ashcroft:** It is interesting that you should make that point, because that was the point that many service users were making.

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

[61] **Mr Ashcroft:** We found back in 2005 that some of the most critical service users were in the areas that had a good infrastructure and a good network for gathering their views. They reflected exactly that point: the services were asking service users for their views but were not communicating to them how their views were then having an impact on changes on the ground.

[62] **Helen Mary Jones:** Will your new piece of work look at that and follow it through?

[63] **Mr Ashcroft:** Indeed. In the children's review, we also looked at what has changed as a result of the feedback received from service users and carers.

[64] **Helen Mary Jones:** That is very useful, thank you.

[65] **Andrew R.T. Davies:** Peter, do you have a question?

[66] **Peter Black:** Has the Wales Audit Office undertaken any work on the issues affecting adults and young people with mental health problems in the criminal justice system? If so, which issues did you encounter?

[67] **Mr Ashcroft:** We did cover it briefly in the 2005 baseline review. The issues at the

time were really around a dual mental health system: one was run in prisons and one was run in the community. We had several concerns at the time about the in-reach of support from psychiatrists, for example, into prisons, and also about the adequacy of psychiatric nurse support within those units. As we say, we did not look at it in great detail, because it was a very comprehensive and broad-brush piece of work.

[68] **Peter Black:** Is this part of your new work?

[69] **Mr Ashcroft:** We shall pick up on the arrangements that are in place between specialist services and the in-patient units, so we will be looking at liaison support and liaison in-reach. We will also look at the local health board approach to commissioning or planning the mental health input into the mental health units.

[70] **Peter Black:** You are not planning a specific area of work on this issue, are you?

[71] **Mr Ashcroft:** No. I think that it would be worthy of a short, sharp review in its own right, perhaps cutting right across the age groups.

[72] **Peter Black:** Yes, that would be interesting. The written evidence that you provide summarises the targets set by the Welsh Assembly Government for key elements of community mental health services. Do you think that it has identified the right service areas to which to apply performance targets? Are there other aspects of community mental health services that could be improved by such targets?

[73] **Mr Ashcroft:** I would not say that it is the role of the Wales Audit Office to criticise—or otherwise—policy. However, linking back to one of the earlier questions on what would have a significant impact on delayed transfers of care and getting people discharged from hospital earlier, the evidence points towards crisis and home treatment services, assertive outreach services, and so on. Those are the kinds of targets that the Assembly Government has put in place post 2005.

[74] **Mr Colman:** I do not think that we have a view as to whether a target-based approach is or is not the right approach in general for securing improved performance. I would not wish to endorse or criticise that approach.

[75] **Peter Black:** I understand that. Do you have a view on whether any particular service would benefit from having a target to improve in this area?

3.30 p.m.

[76] **Mr Colman:** The most that we would say would be along the lines of the performance of a particular service not being adequately managed. One way in which you could improve the management service might be to have targets, but there could be other ways that would be equally effective at generating improvements.

[77] **Helen Mary Jones:** I am always interested in this area of targets, and I would not expect the Wales Audit Office to hold a view one way or another on targets, although I am quite sure that you all have your private views about them. One thing that we have seen in evidence in other reviews is the potential for targets to have unintended consequences. One example was the target that a hospital had set for physical care, the strong target for the first out-patient appointment. We received evidence that that was actually stopping people from getting treated because they had to wait longer for their second and third out-patient appointment. In the work that you did in 2005, did you identify any of those unintended consequences of some of the Government's specific health service targets? Might you revisit that in the new work?

[78] **Mr Ashcroft:** From memory, I cannot recall our coming across any conflict in 2005, but my memory may not be serving me very well. On the follow-up work and the child and adolescent mental health services work, we are looking at the impact of targets locally. There appear to be some issues along the lines that you seem to be suggesting.

[79] **Helen Mary Jones:** That would be interesting to see.

[80] **Mr Colman:** That relates to my earlier remark about the need for bodies that are seeking to collaborate to agree on a common purpose. If they have not done that, there is a severe risk that targets that sound good will be introduced but they will actually undermine the common purpose that they should have agreed upon.

[81] **Mr Ashcroft:** To go back to 2005 again—and we are looking at this now—the extent to which targets are implemented and the commitment that there is to moving towards those targets was an issue with crisis services back then. There were relatively few crisis and home treatment teams in place, with only a few months to go before the target date, by which they should have been in place. Again, we are tracking all the targets and the extent to which they have been implemented across the different agencies.

[82] **Peter Black:** So, would you be looking at the work plans as they work towards those targets?

[83] **Mr Ashcroft:** Indeed.

[84] **Peter Black:** My last question is about the mental health national service framework currently being reviewed. Are the findings of your baseline review feeding into that review?

[85] **Mr Ashcroft:** Yes. In time, we will have the published report, but I am also having informal discussions with policy leads to share the findings as they emerge, so that we can support and influence any work relating to a revised national service framework.

[86] **Andrew R.T. Davies:** Jonathan, you had one last question, I believe.

[87] **Jonathan Morgan:** Yes, Chair. Auditor general, I know that you have been taking more than a passing interest in the restructuring of the NHS. From looking at the new model and at how the restructuring will place responsibility on the new integrated boards for community mental health services, have you managed to make any initial assessment yet of the possible impact on the delivery or planning of those services from within these new organisations? Are there prospects for improvement? Are there particular threats or issues that the committee should be aware of?

[88] **Mr Colman:** The answer to your question is ‘no’, but I will be a bit more helpful than that. As I understand it, the fundamental concept of the restructuring of the NHS—leaving aside the number of bodies or their names—is the move away from commissioning as a concept towards planning. That is a neat way of summarising the situation. From what I have seen so far—and you will understand that, although I take a great interest in this, I am not and should not be intimately involved in executive decisions—the thinking on the planning system is still under development, and I simply cannot comment on what it might turn out to be. However, planning major, complex services is a major and complex task, so everything depends on getting the planning system right. I think that the restructuring of the NHS presents wonderful opportunities to achieve greater integration than the current system provides, but it requires a particular skill in generating a planning system that will achieve that. So, as I say, there is a great opportunity, accompanied by very great risk.

[89] **Helen Mary Jones:** It is always difficult to ask auditors to comment on what might happen, although, of course, it is interesting to hear the answer. I am interested in what you did find. In one part of Wales, we had a designated mental health trust, or rather Pembrokeshire and Derwen NHS Trust was providing the mental health services in Carmarthenshire, so, for Carmarthenshire, that trust was focusing only on mental health. In the discussions that the predecessor committee to this one had on these issues, we received some evidence that it might be better for mental health planning to be completely separate from physical health planning, just because of the tendency for resources to get pulled into things in which there are more votes, such as cancer treatment and so on. When you were looking at the quality of services, was there any evidence that, where you had a designated mental health service that was not providing physical health services, it was any better or worse, or was it not possible to pick that up? Sorry that that was not a very clear question. I know that the Minister—

[90] **Andrew R.T. Davies:** I think that the auditor general got the point.

[91] **Mr Colman:** Yes, I did, but I do not know the answer to the question. Steve might know the answer.

[92] **Mr Ashcroft:** I do not think that any clear picture emerged, to be honest. I think that there is more to it than just the structure. I am just thinking back to the variation across Wales and I can think of areas where dedicated services did not necessarily deliver as much as you would have expected them to.

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

[94] **Andrew R.T. Davies:** I am looking around the table to see if anyone wants to ask anything else and I can see Members shaking their heads. So, thank you both for coming before us this afternoon—it is greatly appreciated. That was a very worthwhile contribution to our investigation into community mental health services. A Record of today's proceedings will be sent to you—I am sure that you know the format by now. I wish you a very pleasant bank holiday weekend. We will now have a break and I ask Members to reconvene at 3.55 p.m.. Thank you.

*Gohiriwyd y cyfarfod rhwng 3.37 p.m. a 3.51 p.m.
The meeting adjourned between 3.37 p.m. and 3.51 p.m.*

**Ymchwiliad y Pwyllgor i CAFCASS Cymru—Tystiolaeth gan yr Anrhydeddus
Feistr Ustus Syr Roderic Wood Mg
Committee Inquiry into CAFCASS Cymru—Evidence from the Honourable Mr
Justice Sir Roderic Wood Kt**

[95] **Andrew R.T. Davies:** Thank you, Sir Roderic, for coming along today to give evidence. It is much appreciated and a bit of a coup for our committee. We are very grateful to you for helping us with our inquiry into the services of the Children and Family Court Advisory Support Service Cymru.

[96] **Mr Justice (Sir Roderic) Wood:** I thank you for the invitation. I appreciate that this is not usually the time of day when you would sit, so I am grateful to you for rescheduling to suit my diary rather than your own. Thank you for that.

[97] **Andrew R.T. Davies:** Thank you, Sir Roderic. The members of the committee have a series of questions that they wish to ask.

[98] **Mr Justice Wood:** I thought that they might. *[Laughter.]*

[99] **Andrew R.T. Davies:** I will get proceedings under way, because we would like to go straight to the questions, if that is all right with you.

[100] **Mr Justice Wood:** Yes, of course.

[101] **Andrew R.T. Davies:** We have had your papers, and Members have had the chance to read them.

[102] How satisfied are you with the quality of CAF/CASS Cymru's service? Various witnesses have appeared before the committee and given differing opinions. The committee would be pleased to hear your opinion of the service that CAF/CASS Cymru is delivering for the courts.

[103] **Mr Justice Wood:** I will begin as I ended the paper: nobody can be complacent about the quality of service from any 'public organisation', be that CAF/CASS Cymru or the court service itself. We have to deliver to the litigants and, in children's work especially, to the children at the heart of the litigation even if they are not a party to it, a refined analysis of their interests. I would not dream of calling it a 'product'. What has always impressed me about CAF/CASS Cymru is the concentration and the expertise that it brings to its inquiries. In five years of coming here, the last two as liaison judge—a role in which I come here a great deal—I have not yet found anything other than an impeccable service to the children who are the subject of the litigation.

[104] That does not necessarily mean that I always agree with CAF/CASS Cymru, but I am confident, as are the designated family judges—by the way, if anybody does not know any of the terminology that I use, please do not hesitate to interrupt to ask me what it is. The designated family judges do not only keep in regular touch with their own district judges and other circuit judges, but also with the magistrates in the family proceedings courts. CAF/CASS Cymru has the highest reputation. I will not make invidious comparisons; I think that the organisations in England and in Wales are quite different. There are different logistical and financial problems in England.

[105] I would thank you as well for the high level of funding that you give to CAF/CASS Cymru. If I may respectfully say so, it is a very proper recognition of what they need to do, and it also allows them to do it. That does not mean that you will not have questions, because, as you will know from my paper, I have read some of the testimony that you have heard from other individuals involved, including Derek Griffin and the Minister.

[106] With that overlong response, perhaps I have answered your question.

[107] **Andrew R.T. Davies:** Can you elaborate on CAF/CASS's use of the welfare checklist? Are you sufficiently confident about the extent to which it uses the checklist as laid out in the Children Act 2004?

Mr Justice Wood: Inevitably, it uses it, as you will know from the Minister's paper where she took the trouble to spell it out in detail. It is at the core of any analysis by CAF/CASS Cymru. I do not think that it is any accident that Parliament began it with sub-paragraph (a), which mentions the wishes and feelings of the children. How one can make a decision relating to a child without taking those factors into account would baffle any family judge. There are a number of things to say about that. The first is that, inevitably, the weight you attach to wishes and feelings will depend on the age of the child, the capacity of the child to make evaluations of their interests, and their level of maturity and understanding of the issue. I was asked in the Court of Appeal when I was an advocate—and it was all lord justices in

those days, but now the balance is shifting a bit—whether the children were sufficiently competent, and whether they had Gillick competence, if that is a familiar term to you. I said that many of my adult clients did not have Gillick competence, almost by definition. So, you must monitor a variety of different features, including age, understanding and maturity, as well as the pressure from other family members, before you evaluate the wishes and feelings of children, and decide whether or not they can be determinative, partially determinative or have to be set to one side.

[108] Coming back to what interests you, rather than what I and other family judges do, namely what CAFCASS Cymru does, my experience of the organisation, which is widespread among my colleagues in Wales, is that it is punctilious in giving a very careful assessment of wishes and feelings. Even if, having taken account of all the other features in the welfare checklist, it cannot regard them as determining outcome, any more than I can.

[109] **Helen Mary Jones:** Thank you very much for being here, Sir Roderic, and for your very useful paper. My question leads on directly from that, and it regards the way in which children and young people's voices are heard. In some of the other evidence that we have received, notably from the children's commissioner for Wales, you will be aware that there are children and young people in Wales who do not feel that they are being listened to in court proceedings. Your paper says that that is not your experience. How would you respond to that suggestion, and are you confident that the CAFCASS officers are able to make sure that the children's wishes and feelings are heard, even if, as you rightly say, those cannot be allowed to determine the outcome of the case?

[110] **Mr Justice Wood:** One of the problems with a child who is disenchanted with the result is that they may regard their wishes and feelings as the trump card, and it may have been insufficiently explained to them by their parent, another interested party or a CAFCASS Cymru officer that it is not determinative.

[111] This may be an issue of perception and proportion. I was not clear from reading the children's commissioner's evidence how many children were disenchanted with the process. However, I made subsequent inquiries and my understanding is that the commissioner has received very few formal complaints. When you think of the number of cases which are going through the courts it is perhaps surprising that there are so few complaints, because I cannot imagine that the few who make it to the door of the commissioner are on their own. In addition, as a matter of proportion, one should not misunderstand this and regard it as a great groundswell of disenchantment.

4.00 p.m.

[112] As I touched upon a minute ago, another aspect is perception. The children who do not get the outcome that they think that they want or that they genuinely want may feel disadvantaged in the way that their wishes and feelings have been conveyed, and they may not find themselves, however small or large a group they are, in sympathy with the idea that someone comes along, interviews them—however carefully and sensitively—and then encapsulates their wishes and feelings in a number of paragraphs in a report is doing their strength of feeling justice. I frankly do not know what the practice is and I do not know whether CAFCASS Cymru officers would return to a child and offer them a summary or synthesis of what the child said regarding their wishes and feelings. That may be going on; I simply do not know. If it does not go on, that may be because of logistics and/or finance. However, that may be one way of meeting a child's disenchantment with what they perceive to be someone else's construct of their views.

[113] There are other ways of doing it and you touched upon them as a committee when you took evidence from the Minister and, particularly, the commissioner. The commissioner

talked about adjunctive methods of getting information to the charge, which would include letters, which we frequently receive. Do not assume that the CAF/CASS Cymru report is the only way that we receive information; there are quite often letters. Occasionally, you will receive requests from the child to come to see you. As you all know, that is generally not a desirable course partly because, in our view, and in most cases, the very fact that they are the subject of litigation is sufficiently appalling to them. The fact is that, in the bigger public law cases, they may be interviewed by a variety of different people, or even in a private law case, they might have to come and see a person of either sex and usually of middle age, which might not inspire them with a great deal of confidence. Over the last five years, I have met two children, one aged 15 and one 16, and, on paper, their views were very clear, both in the letters that they had written to me and in what their guardians said to me, but when it came to a meeting—it is undoubtedly my fault rather than theirs—I could not allow them to relax sufficiently for them to be able to voice the same strength of feeling that had leapt off the page. So, I do not think that face-to-face meetings are necessarily an ideal outcome, but I am interested in the commissioner's view about audiotapes and/or videotapes. You then have the problem of discriminating who is in the background, who is using the machinery and what has been said to them before, which is not always self-evident. It is not always just what the child wants to say.

[114] **Andrew R.T. Davies:** I will bring Jonathan in, if you are happy with the answer that you received, Helen. Are you happy with the answer?

[115] **Mr Justice Wood:** Not quite.

[116] **Andrew R.T. Davies:** She is a politician; she is never happy.

[117] **Helen Mary Jones:** It was in relation to the justifiable point about who else is present when the DVD is produced. Would that not also be true as to who else was present when a child was writing a letter or drawing, because I know that smaller children will use pictures, drawings and so on?

[118] **Mr Justice Wood:** Undoubtedly, but do not forget that these are supplements, not the sole source of information, any more than the CAF/CASS Cymru report is the sole source of information.

[119] As I say, in the public law sphere you have usually a number of experts who are there to help on welfare outcome. You will see, in a variety of different guises, what the trial says to a variety of different specialisms. Therefore, you have a wider range of material to synthesise. Did you want to bring someone else in?

[120] **Andrew R.T. Davies:** We have a series of questions and a timeframe to get through them.

[121] **Mr Justice Wood:** I do talk rather a lot. [*Laughter.*]

[122] **Andrew R.T. Davies:** I was putting it politely. It is your go, Jonathan.

[123] **Jonathan Morgan:** Good afternoon, Sir Roderic. The committee was told that, in some cases, CAF/CASS officers will spend just one session with a child. The NSPCC told us that this was not sufficient to build the relationship and to obtain the child's views. I think that the NSPCC representatives cited an instance, perhaps, where a child could be disabled and the subject of a contact dispute. What is your view on this? Does that paint an accurate picture of the constraints that CAF/CASS officers could face in merely having one session within which they could obtain the views of a child? Does the court's timetable affect the ability of CAF/CASS officers to take a more rounded view of the child's opinions?

[124] **Mr Justice Wood:** Quite often, one meeting is likely to be enough, because a CAF/CASS officer does not go in blind to the body of information that underpins a case. CAF/CASS officers are highly skilled and highly trained. I pay tribute in the paper to what I know about the training, the mentoring system, and the apprenticeship that your CAF/CASS officers have. There is also a great danger in extrapolating from a very difficult case. All of us would agree that a handicapped child, whether it is a physical or a mental handicap—or incapacity, as it is much better to call it these days—may need more than one visit. I would be surprised if a CAF/CASS officer did not think about that very carefully indeed, because you are talking about the opportunities that the officer has to build rapport. You have to rely, to some extent, upon an officer's own analysis and experience of cases to determine whether he or she should or should not revisit. I want to assure you that if a judge sees a report and picks up information that suggests to him or her that another visit is required, we do not hesitate; we will adjourn. I have only ever had to adjourn a case once—it was not in Wales—and direct a further report so that a further visit could take place to iron out some edges that I thought existed.

[125] **Jonathan Morgan:** We have heard that, in some cases, the courts are not always made aware that there is a conflict between the views of the CAF/CASS officer and the child concerned. Where there are differences of view, are you confident that these are always presented to the court?

[126] **Mr Justice Wood:** Oh yes. I am. That is not a glib, 'Oh yes'. In extreme cases, where that conflict is raging and all too evident, we will appoint a rule 9.5 guardian, who takes a rather more proactive forensic part in the case in the preparation of material. That is open to a court and we quite often do that of our motion, even if no party asks for it. The child will have its own representation, depending on maturity and level of understanding, so that you will get a caesura between the function of the 9.5 guardian and the guardian who is specifically allocated to present information for the trial. That is the extreme case. Inevitably, you are made aware of it. I have never not been made aware that there is a distinction between what the child wants and what the CAF/CASS officer reports, and I have never known a parent say, 'You are not aware because the CAF/CASS officer has chosen to ignore this'.

[127] I hope that you can be reasonably confident. It is certainly my experience that you are entitled to be confident that where there is a distinction between those two, it is fully canvassed before us.

[128] **Andrew R.T. Davies:** I think that Helen has a question.

[129] **Helen Mary Jones:** Sir Roderic has touched on some of the things that I wished to ask about. However, I would like to ask what amounts to a supplementary question, rather than a question that we have prepared.

[130] **Mr Justice Wood:** They are always the sneaky ones.

4.10 p.m.

[131] **Helen Mary Jones:** Of course. In your paper, you say that you would not see the necessity, beyond the provisions that you have just mentioned of rule 9.5, for a separate advocate for the child or young person. We have experienced some difficulties in previous meetings because there is a very specific legal definition of the term 'advocate', but there is the broader meaning of someone who works with a child or young person to enable him or her to express his or her views and wishes clearly. Are you confident, particularly in public law proceedings, where young people may have been offered that sort of general advocate because they are at risk of going into care, that CAF/CASS officers would be happy if the

children said that they would like their community-based advocate to come with them when the officers were interviewing the child about the case? It has been suggested to us that there is anecdotal evidence that CAFCASS officers have been a bit resistant to accepting that sort of input. Do you think that that would be likely or, taking on board what you said earlier about your impression that CAFCASS officers are very ready to take information from other parties, would it surprise you if a CAFCASS officer found that to be inappropriate?

[132] **Mr Justice Wood:** I think that there is a prior question, with respect, which is what the status is of this 'advocate'. The advocate would certainly not have party status; he or she has some, as yet, undefined relationship—be it family, through friendship, or a professional relationship with the child—

[133] **Helen Mary Jones:** I am thinking about the professional context, because a family member may be likely to have a vested interest in one outcome or another.

[134] **Mr Justice Wood:** Well, quite. I was just wondering why you felt that there might be a need for one.

[135] **Helen Mary Jones:** It has been put to us that children and young people do not always feel that they have been heard, either in the court proceedings or by the CAFCASS officer. I completely take the point that you made earlier that one should not extrapolate from the small number of young people who have taken that issue to the children's commissioner. Speaking of being sneaky, you should know that I have worked professionally in this field in the past. I have certainly also had one or two constituency cases—and it is one or two compared with the dozens heard every day—where young people have clearly said to me that they did not feel heard; these were older children. The purpose of the professional advocate would be to ensure that the young person was enabled to be heard.

[136] **Mr Justice Wood:** Do you mean heard by the CAFCASS officer in the preparation of the report or in some other way?

[137] **Helen Mary Jones:** In this case, by the officer in the preparation of the report. I am thinking particularly of public proceedings, where there is a risk of a child or young person going into care or of a temporary care placement becoming permanent.

[138] **Mr Justice Wood:** In a public law case, of course, the child will have a permanently dedicated guardian, who will act solely on behalf of that child, be a full party to the proceedings, and have a full role to play in persuading a court that you should engage with x, y and z forms of expertise to illicit information for the benefit of the court. Quite often, that person will be a psychologist and/or a psychiatrist who will inevitably, as part of his or her function, interview the child. However, I think that you are talking about something rather different. You are talking about someone with the luxury of building up, over a period of time—and I would query whether that would be an unspecified period—a relationship with the child in order to facilitate speaking to a CAFCASS Cymru officer or his or her guardian. I would have queries about what sort of relationship that would be and in what circumstances it would be formed. I am not suggesting anything improper; I am just wondering what the answers to those queries are. For my part, I do not yet find myself persuaded of the need. I cannot think of a single case where that would have been necessary, however trenchant the child's views might have been about the outcome. I think that there is one service that potentially offers something slightly different from CAFCASS Cymru when it is preparing a section 7 report. I am not sure whether you are clear what a section 7 report is: in a private law case, which is comparatively simple, the judge may ask for a section 7 Children Act 1989 report, and it deals with a variety of different forms of information. In the bigger, more complex cases, you have a dedicated guardian who will see a child on a significant number of occasions to elicit the relevant information.

[139] I was about to talk about NYAS, was I not? Do you know about NYAS? It is the National Youth Advocacy Service. Quite how long it will remain as a workable organisation, given funding cuts, I do not know. However, NYAS has a greater degree of luxury in the time that it can spend on a case, but it is usually only brought in as a guardian and/or as a secondary guardian where there is a division of interest between the child and the existing guardian. That is the very small category of cases where what you suggest might be useful. However, in the case where NYAS is not used, you already have provision for a dedicated guardian as well as the one who has parted company with the child.

[140] **Helen Mary Jones:** That is helpful, and I can see, in the context of some of your earlier remarks, with which I would absolutely concur, that the fact that children involved in some of these cases are interviewed by so many different people in so many different circumstances means that it is almost a burden on the child. You mentioned that in the context of whether it is sensible for the child to meet the judge face to face. However, what we have been trying to explore, as I think you will see, is the tension that exists between all of those people, including the guardian, who have to work on the basis of the child's welfare and of what is best for the child, and the child's right to have his or her voice heard. You mentioned an advocate having the luxury of building up a relationship over time. That kind of advocate would also have the luxury of having the sole responsibility of enabling the child's voice to be heard and of enabling the child to speak for himself or herself—I do not mean face to face. You have rightly pointed out to us that what is best for a child in court proceedings may very often not be what the child wants.

[141] **Mr Justice Wood:** I am assuming that you see no forensic role for such an advocate.

[142] **Helen Mary Jones:** No.

[143] **Mr Justice Wood:** The advocate would be a facilitator who enables the child to make himself or herself clear in print, video or to a CAFCASS Cymru officer.

[144] **Helen Mary Jones:** Yes.

[145] **Mr Justice Wood:** Again, the prior assumption is that that is not happening, and our overwhelming evidence is that it does happen, and that there is no real difficulty in the child's views being presented loud and clear.

[146] **Helen Mary Jones:** That is helpful. As you will be aware, that contrasts with some of the other evidence that we heard, so it is useful to have.

[147] **Andrew R.T. Davies:** If we have time, you may come back in to explore that further, but we have a certain amount of ground that we wish to cover. I therefore ask Lorraine to ask her questions.

[148] **Lorraine Barrett:** I apologise for not being here at the beginning, Sir Roderic; the traffic held me up.

[149] **Mr Justice Wood:** Please do not worry.

[150] **Lorraine Barrett:** In some ways, my question has just been dealt with. The Deputy Minister for Social Services told us that the decision to appoint a separate advocate is a matter for the judge. The feeling that I am getting is that you feel that there often no need for a separate advocate when there is a guardian there. Could you confirm that no-one but the judge has the right in law to appoint that separate advocate?

[151] **Mr Justice Wood:** That is true.

[152] **Lorraine Barrett:** How do you think that the views of children and young people should be represented to the court? In your view, if the child is of an age to be able to do so, do you think that he or she should be able to present his or her view directly to the court?

[153] **Mr Justice Wood:** I hope that you will forgive me, but I answered that in some length before you arrived, so, without being discourteous, I will invite you to look at the transcript rather than my repeating it.

[154] **Lorraine Barrett:** I apologise. I will do that. I was discourteous in getting here late.

[155] **Mr Justice Wood:** I think that you will find that is all there.

[156] **Andrew R.T. Davies:** Do you want to raise any other points, Lorraine?

[157] **Lorraine Barrett:** No. I may come in later. I was talking to a friend who is a colleague of yours, Sir Roderic, naming no names, and he also says that he has never come across a case where he has felt that the child has not had his or her voice heard, and he was questioning with me the issue of a separate advocate. I was hoping to get here in time to make that point. It is interesting that that is the case, because it is contrary to some of the evidence or suggestions that have been made to us.

[158] **Mr Justice Wood:** It is a good illustration—and I am not diminishing the feelings of the people who were involved in the anecdotal evidence that you have heard from other sources—of bad cases making poor law. There is a danger of extrapolating from the cases of one or two disenchanted individuals.

4.20 p.m.

[159] As I write these judgments, I quite often persuade myself to leave some material out because there are some things that a child simply may not want to know when aged 18 and/or older. For example, unless it is absolutely crucial to the case, I make a habit of leaving out the fact that a child was conceived of a rape, where that was determined. Personally, I could not imagine being that child as an adult and reading that material. However, I can see a case for providing that information, and I know that there are projects around England—and there is also one in Cardiff, as I understand it—where summarised judgments will be available for older children to read before or when they reach majority age. Quite often, I suspect that the really grossly disenchanted children whose wishes have not been met may find themselves reflecting with some pain and displeasure when they finally get around to reading what it is that made a judge go against their interests. However, you would not wish to burden them at too young an age, even with a summary.

[160] **Andrew R.T. Davies:** Lorraine, are you happy with that?

[161] **Lorraine Barrett:** Yes, thank you, Chair.

[162] **Val Lloyd:** I have questions relating to child contact centres and contact activities. Both you and the Deputy Minister—you in your paper, and the Deputy Minister in her evidence—emphasise the importance of child contact centres. Their provision is a devolved function. What legal duty is there on the Welsh Assembly Government to ensure that there is adequate provision across Wales?

[163] **Mr Justice Wood:** I hope that you will forgive me for bouncing that one straight back to you. That is a matter for you to make your own interpretation of your own

constitution and legislation. All that I can say is that there are not enough of them. In addition, I hope that paragraphs 22 and 23 of my evidence were not misleading. I am well aware that there is an allocation within the CAF/CASS Cymru budget for the purchasing of services, but that does not mean that there are enough of those centres. We find that—and not just in Wales, so I am not making a local point—they are absolutely vital. The queues to get into them go around the block, and many children, in the absence of them, will simply not see the other parent and/or the courts will be deprived of the relevant material for reaching a decision. So, whatever else you do—and it is impertinent of me to emphasise it, because it is a matter for you—I would invite you to explore that very carefully with your funding considerations.

[164] **Val Lloyd:** I rather expected that answer, but I thought that I would pose the question anyway, because we did take the opportunity to visit centres, individually or in pairs, and we had the same response that you outlined.

[165] **Mr Justice Wood:** I am grateful to you for spending that time; they are invaluable.

[166] **Val Lloyd:** We visited a range of them across the piece and reported back to each other. In previous evidence, we heard that child contact centres in Wales are heavily dependent on third sector funding. Given the importance of supported and supervised child contact centres to the court and to CAF/CASS officers in preparing reports, should the UK Government or the courts themselves be responsible for funding child contact centres in England and Wales?

[167] **Mr Justice Wood:** It will not surprise you to hear that I am going to pass on that, too.

[168] **Val Lloyd:** I have obviously drawn the short straw, here. [*Laughter.*]

[169] **Mr Justice Wood:** To put it in colloquial terms, I know my place, and it is not as a lobbyist or as a commentator on what Government policy should be, be that in England or at the Assembly. I fear that I shall disappoint you.

[170] **Andrew R.T. Davies:** Feel free. [*Laughter.*]

[171] **Val Lloyd:** We might have a hat trick with my next question.

[172] **Mr Justice Wood:** I do not think that my views are entirely delphic, are they?

[173] **Val Lloyd:** No. CAF/CASS Cymru has a statutory duty to implement contact activities in private law cases. Are you confident that contact activities are adequately funded by CAF/CASS?

[174] **Mr Justice Wood:** The short answer is that we do not know yet. I know that there is an allocation for the provision of such services and/or the funding of them if, as and when the courts start making those orders. However, at the moment, it is my experience—and my family division colleagues in England find the same—that courts are just beginning to feel their way forward in making these orders. It is far too early to give you any sort of analysis of their effect or their impact on funding, because, as I understand it, nothing like the financial allocations that have been made have yet been used. That is not inviting you to claw it back and use it elsewhere, because without the provisional allocation, the judges know that they cannot make the orders. So, I fear that the question is a little too early.

[175] **Val Lloyd:** At least that is better than its being inappropriate. [*Laughter.*]

[176] My final question relates to contact activities. Can you confirm who is responsible for ensuring compliance with contact activities? We understand that parents who fail to comply

can be given 'unpaid work', which will be supervised by the probation service. Is that a criminal offence? How are the best interests of the child considered in relation to contact activities?

[177] **Mr Justice Wood:** The short answer is that I do not know. I very much doubt whether it is a criminal offence. If there were a deliberate breach for no good reason, I imagine that it would be a matter of a civil contempt within the family proceedings or even as a freestanding issue. However, I cannot give you a specific answer, because I fear that I do not know.

[178] **Andrew R.T. Davies:** Peter, I believe that you have the next series of questions.

[179] **Peter Black:** Thank you, Sir Roderic, for your evidence so far. I want to refer to your paper and specifically to the section headed 'Private Law Proceedings'. At the end of that section, you refer to children whose cases are dealt with by the courts relying on the provision of services by experienced and dedicated teams of Welsh family proceedings officers. You go on to say that,

[180] 'we would not wish to see a diminution in the quality of service which is currently provided to the children and to the courts by virtue of added burdens on their time and resources'.

[181] Could you elaborate on that statement? Does it indicate that you have some concerns about the future in relation to time and resources?

[182] **Mr Justice Wood:** As you have gathered, I have no concerns about the present. In an age of financial stringency, in which Governments have a variety of different options as to how to distribute money, one is always worried as to the extent, if any, of cutbacks. As you will undoubtedly know from comparative studies on how the service is currently operating in England, they have much less happy funding arrangements there than you are prepared to make for CAF/CASS Cymru.

[183] One thing that we have all become conscious of in the past few months is the likely wash from the baby P case. There has been a great surge in public law applications across England and Wales, and we anticipate that there will be even more. Yet again, last week, there was another death, and you can guarantee that it will fuel a surge of issues of public law proceedings. They are enormously expensive as a category, and they take a significant part of the budget of CAF/CASS in England and CAF/CASS Cymru. I would not like to see a diminution of service in private law proceedings because of an inevitable and necessary concentration on the really very serious public law cases, which have, for the most part, more serious outcomes for children. That is not to undervalue the effect on the child who is the subject of private law proceedings either. So, it is really a subfusc way of saying, 'Thank you very much for what you have done so far; please keep an eye on the till and do not cut back', to put it colloquially. [*Laughter.*]

[184] **Peter Black:** I think that that message is very clear. Thank you.

[185] We have received evidence about the inspection arrangements for CAF/CASS Cymru. In Wales, there do not seem to be any clear arrangements as to who is responsible, in the sense that Her Majesty's Chief Inspector of Court Administration is involved as well as the Care and Social Services Inspectorate Wales. Would you be in favour of joint inspection arrangements between those two bodies, or do you feel that it should sit with either one or the other?

4.30 p.m.

[186] **Mr Justice Wood:** I must confess total ignorance of either system, because I have not dealt with them, so I think that it would be sensible of me to pass on that one, too. I am sorry that that is unhelpful, but I have nothing useful to add to that part of your discussion.

[187] **Peter Black:** We were just trying to get at whether you felt that CAF/CASS Cymru would benefit from having a court-focused inspection regime, which would deal with the interrelationships with the court, or whether the Care and Social Services Inspectorate Wales should look more to the rights-based agenda that Wales pursues on childcare. I understand what you said and I am sorry to press you on this point, but I am just interested to know whether you have a view on that.

[188] **Mr Justice Wood:** If you want an off-the-cuff view based, as I said, on shocking ignorance, my off-the-cuff response would be to go for the former and not the latter. I do not think that the former excludes an analysis of rights and responsibilities, and I think that that is a fallacy. Any analysis of what CAF/CASS Cymru can provide to the children whom it serves, as well as the courts, is bound to include an analysis of rights and responsibilities in relation to what it provides and how it goes about providing it.

[189] **Peter Black:** That is helpful, thank you.

[190] **Andrew R.T. Davies:** Dai, you have a couple of questions.

[191] **David Lloyd:** Turning finally—and I am sure that you will be pleased to recognise that fact—to some broader and concluding issues about CAF/CASS Cymru, the North Wales Family Justice Council recently commissioned research considering the impact of devolution on the development of family and child law in Wales, which suggested that the divergences that are beginning to emerge between Wales and England are likely to become far greater as time motors on. How is Wales represented on the national family justice board and judiciary council now? Is that sufficient to represent the unique Welsh context both now and as it develops, as time moves on?

[192] **Mr Justice Wood:** I cannot give you numbers, but I can tell you that, in any of these committees and/or councils, we are clear that there must be Welsh members. In a former guise, I used to chair, at the president's request, the CAF/CASS judicial liaison committee, and we had regular meetings with members of CAF/CASS and CAF/CASS Cymru. We insisted that there had to be at least two members from Wales, preferably with both turning up, but if not, at least one. Given that the president is very aware of this issue, the central council and any other cross-border agency automatically invites members of the Welsh judiciary to join. So, please do not feel as though you are being left out or beached. That is absolutely not the policy or the case. I, for one, would be sorry to see not only a perception of that happening, but also any such perception leading to a raising of the wall—on either side.

[193] **David Lloyd:** That is pleasing, but the idea of the question was to flesh out the issue of devolution in its broadest terms, to ensure that it is on the radar on both sides of Offa's Dyke.

[194] **Mr Justice Wood:** As a footnote, courtesy of my clerk who understands geography far better than I do, I fly the pennant wherever I can in Wales. I have been in place for only two years, but I have to visit many places and I do not just stick to the main centres of Swansea, Cardiff and, soon, Mold. We try to travel around. For example, we have been to Pontypridd, although I know that it is not far from Cardiff. We also went to Rhyl last year, and we will be going there again this year. So, we do visit some of your more exotic locations. We try to find out what is happening within Wales, so that I can keep in touch with it and make recommendations to the president. My designated family judges can also make

direct representation through me. So, we keep our antennae wiggling as we go around Wales, and we are open to regular meetings with whosoever wants to meet us.

[195] **David Lloyd:** Great. That is pleasing to hear, certainly as regards the antennae and their continued wiggling in our direction. [*Laughter.*]

[196] My final question is broadly about CAFCASS Cymru, both now and its future development. What actions do you think that CAFCASS Cymru should prioritise in its day-to-day work in the family court and what further action is needed to improve outcomes for children and young people in Wales?

[197] **Mr Justice Wood:** I think that the first part of that is much easier to answer than the second, because I am no seer. The first part is to continue with the level of excellence already achieved. That is not glib, because I really do want to pay tribute to what it offers the children whom it serves. On the second part, I am not clear that I can give you a sensible answer. I think that it needs to keep an eye on the level of activity that will be demanded of it. I think that recruiting is inevitably a difficulty in the current climate, perhaps perversely, because any recruiting drive might bring with it a great wash of wholly unsuitable candidates. I know, from my discussions with Derek Griffin, that CAFCASS is ever vigilant as to the quality of the staff that it has and needs. It will not surprise you to know that I fear that the English system has much greater difficulties. In part, that is to do with the costs of living and the great issues of living within and without the M25, for example. There are overwhelming problems of recruitment in England that you do not have at the moment. I would regard any relaxation on recruitment as retrograde.

[198] **Andrew R.T. Davies:** Thank you, Sir Roderic. The questions that Members have asked have obviously referred to previous evidence sessions. In the time afforded to us, is there anything that you would like to add to what you have been questioned on or do you feel content with the answers that you have given?

[199] **Mr Justice Wood:** I am not sure that I ever feel content, but my only comment would be to thank you for your grace in taking the evidence and to apologise for the rather eccentric punctuation of my document. I will try harder next time, should there be one.

[200] **Andrew R.T. Davies:** We are very grateful to you, Sir Roderic, for coming this afternoon. The Record of this afternoon's proceedings will be forwarded to you for your perusal and if you have any problems with it, please inform the clerk. Thank you for coming before us and for helping us with our inquiry into CAFCASS.

[201] **Mr Justice Wood:** Not at all. I look forward to reading the outcome of your considerations in due course. Thank you for having me.

[202] **Andrew R.T. Davies:** Thank you. I ask Members to note the papers that are referred to on the agenda. That concludes today's business. The next committee meeting will be held on Thursday, 7 May. We will be reverting to the normal summer term timings, so the meeting will start at 1 p.m.. I look forward to seeing you all next week. Thank you.

*Daeth y cyfarfod i ben am 4.38 p.m.
The meeting ended at 4.38 p.m.*