



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

**Pwyllgor Deddfwriaeth Rhif 1
Legislation Committee No. 1**

**Dydd Iau, 1 Hydref 2009
Thursday, 1 October 2009**

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

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

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Mohammad Asghar	Plaid Cymru The Party of Wales
Eleanor Burnham	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Rosemary Butler	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Ann Jones	Llafur Labour
Huw Lewis	Llafur Labour
Nick Ramsay	Ceidwadwyr Cymreig Welsh Conservatives

Eraill yn bresennol
Others in attendance

Nadia de Longhi	Rheolwr Strategaeth a Pholisi—Rheoliadau Gwastraff, Asiantaeth yr Amgylchedd Cymru Strategy and Policy Manager—Waste Regulations, Environment Agency Wales
Dr Cathy O'Brien	Rheolwr Strategaeth a Pholisi—Strategaeth Gwastraff, Asiantaeth yr Amgylchedd Cymru Strategy and Policy Manager—Waste Strategy, Environment Agency Wales
Mal Williams	Prif Swyddog Gweithredol, Cylch Chief Executive Officer, Cylch

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

Claire Griffiths	Dirprwy Glerc Deputy Clerk
Victoria Paris	Gwasanaeth Ymchwil yr Aelodau Members' Research Service
Bethan Roberts	Cynghorydd Cyfreithiol Legal Adviser
Liz Wilkinson	Clerc Clerk

Dechreuodd y cyfarfod am 9.29 a.m.
The meeting began at 9.29 a.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

[1] **Rosemary Butler:** Welcome to this meeting of Legislation Committee No. 1. We have not received any apologies. I remind you that this committee operates bilingually and that you can use the headsets to hear the translation of Welsh contributions or as an induction loop to hear the whole proceedings more clearly. Channel 0 provides the verbatim broadcast on channel 1 provides the translation.

[2] I remind everyone to turn off their mobile phones, pagers or electronic devices as

they interfere with the broadcasting and translation system. If any fire alarms should sound, ushers will escort everyone from the room. Please do not touch the microphones as they come on automatically and it disables the system if we keep pressing the buttons.

9.30 a.m.

Y Mesur Arfaethedig Cludo Gwastraff i'w Adfer (Ymgysylltiad Cymunedau â'r Trefniadau) (Cymru)—Cyfnod 1, Sesiwn Dystiolaeth 3: Asiantaeth yr Amgylchedd Cymru
The Proposed Shipment of Waste for Recovery (Community Involvement in Arrangements) (Wales) Measure—Stage 1, Evidence Session 3: Environment Agency Wales

[3] **Rosemary Butler:** This morning's meeting is to discuss the Proposed Shipment of Waste Recovery (Community Involvement in Arrangements) (Wales) Measure. This has been proposed by Nerys Evans. This morning, we will hear two sets of evidence, one from the Environment Agency and later on from Cylch.

[4] I welcome the representatives of the Environment Agency, Ms Nadia de Longhi, a strategy and policy manager on waste regulations, and Cathy O'Brien, the strategy and policy manager for the waste strategy. Welcome. We have a number of questions that we will be asking you, and if, when we have finished, you feel that there are any other points that you would like to put forward, please do so.

[5] It is clear from your evidence that you welcome the aim of the proposed Measure to improve transparency in relation to how local authorities deal with recyclate. Can you confirm for the record whether you support the general principles of the proposed Measure and whether you think that there is a need for this legislation?

[6] **Ms de Longhi:** We do support the principles of the proposed Measure in providing transparency and information to the public, and we also see that it could provide reliable data on recyclate exported beyond Europe, giving evidence on a level of certainty to the waste management industry that could stimulate growth in local infrastructure with the benefits of sustainability and the creation of green jobs. However, we have some practical concerns about the detail of the proposed Measure, about obtaining accurate information, and also we want to see waste handled in the most appropriate way for the environment to maximise its potential as a resource, focusing on the quality of recyclate rather than on the final destination. For some of the materials, export may still be the best environmental option currently available.

[7] As for whether there is a need for new legislation, the information required by the proposed Measure on final destination and on recovery and disposal rates is not provided through the current legislation regimes of duty of care for movements within the United Kingdom or within the transfrontier shipment regulations for export. Although the landfill allowance scheme partially provides that information, it is only insofar as it relates to the diversion of biodegradable waste from landfill. We believe that it would be possible to achieve similar aims without legislation by adapting some of the current systems and arrangements.

[8] **Rosemary Butler:** Thank you very much. In evidence to the committee, Nerys explained that some local authorities in Wales are unable to provide details of whether recycling takes place, while others could only partially provide such information. If local authorities are not required to collect and provide such information, can you explain how transparency can be achieved?

[9] **Dr O'Brien:** In our experience, most local authorities know where the majority of their recyclates are destined for, so they have reasonable levels of information available to them. Under the landfill allowance scheme, we have audited local authorities' data availability on recyclates, so where the materials then go to, and we find that the majority of them know where the majority of the waste goes. There are problems when local authorities use charitable organisations, as there is no contract in place, and so there are sometimes gaps in the information, but they tend to relate to quite small quantities of the municipal waste that authorities handle. So, overall, they do have the information available.

[10] **Rosemary Butler:** That is interesting, thank you. Again, in evidence to the committee, Nerys Evans explained that there is currently no requirement on local authorities to provide information to the public about the final destination of the waste, and so that provides sufficient justification for the new legislation. How do you respond to that?

[11] **Dr O'Brien:** It is interesting, because quite clearly local authorities could provide that information. Somerset authority, for example, provides comprehensive information on its website, but it does not go to the level of detail that the proposed Measure seeks. It does not state precisely which facility in China its waste paper was processed at, but it says that waste paper was exported to China for reprocessing.

[12] That level of information is reasonably easily achievable for most waste, so it could be done and it could help the public understand better what happens to their waste. However, focusing just on the small amount of waste that is exported might have a negative impact, because it suggests that all the material that is collected is exported when actually only a very small proportion of it ends up in facilities abroad. So, it would be better to contextualise the information across the range of materials that are handled for recycling by a local authority so that the public can see the proportion handled relatively locally and that handled further afield. It would give authorities an opportunity to explain why some of the materials are handled further afield, because they tend to prefer to recycle materials locally rather than abroad. That tends to be the general presumption. They would prefer to do that, but, for some materials, where they cannot find a market locally, they end up having to send it further afield. If we focus just on that, it might give the wrong impression.

[13] **Rosemary Butler:** Fine, thank you very much.

[14] **Nick Ramsay:** Good morning. When the Minister for Environment, Sustainability and Housing, Jane Davidson, gave evidence in written form to the committee, she said that although she is sympathetic to the reasons behind the proposed Measure, she thinks that it might be possible to use the WasteDataFlow system to find that information instead. Do you think that that would be just as effective as the proposed Measure, or do you think that the proposed Measure covers areas that the WasteDataFlow system would not?

[15] **Dr O'Brien:** The WasteDataFlow system could be adapted to hold the information that is needed to comply with this proposed Measure, and it is available to the public in theory. It is a publicly accessible database, but it is a complex database. Given that, it tends to be accessed only by waste professionals—your officials and we use it for the collection of municipal waste data. It would not provide the same transparency as putting this information in the public domain, but it would provide a framework so that local authorities could store information in a way that was visible to your officials and us, without going that step further by putting it in the public domain.

[16] Under the landfill allowance scheme, which also uses WasteDataFlow, we verify the information that local authorities input, but one thing that bothers us slightly is that verifying some of the information on reprocessing waste from Wales abroad, particularly the proportion of materials that is rejected out of a load that is accepted for reprocessing, for example, would

be very difficult for us or anybody.

9.40 a.m.

[17] In looking at it in terms of what we could do to check up on that, the only economic way of doing that is to develop some default values for typical rejection rates of different types of materials and grades of materials, but even that might be difficult to establish. There would have to be quite a lot of data gathering in order to do that, and data gathering abroad tends to be quite an expensive occupation.

[18] **Ms de Longhi:** May I just add that the WasteDataFlow system as it stands would require some technical enhancements to allow this information to be put in, as it is not currently there? There would be additional resource required to make sure that it could contain that information.

[19] **Nick Ramsay:** It seems to me that you have got the two elements of this argument. You have the data gathering on the one side and then the obligation to provide the information in an understandable form on the other. When Nerys Evans gave evidence to the committee she was quite clear that she did not think that if you left it to local authorities on a voluntary basis that that would be sufficient. She did not think that they would have the necessary framework to release that information. Do you agree with her on that?

[20] **Dr O'Brien:** Yes, there is a degree of that, but I do not necessarily think that the proposed Measure takes you very much further with that in that it makes it unclear as to whether there are any teeth behind it, because, if the local authorities do not comply, who is going to do anything about it? It comes under a section in the legislation that just provides powers to local authorities. It does not stipulate the monitoring authority or powers for Assembly officials, so it is a bit unclear. We are not sure as to what would happen.

[21] **Mohammad Asghar:** My question relates to the timing of the proposed Measure. It has been suggested that, if made, the proposed environmental protection and waste management legislative competence Order will provide an opportunity to bring forward legislation that deals more holistically with waste management issues. The Order would provide the Assembly with the power to compel private waste companies to provide information regarding the final destination of the waste. In view of this, do you think the proposed Measure could be seen to be premature?

[22] **Ms de Longhi:** If the LCO does come into force, we agree that there is an opportunity to look at this area more holistically and to encompass an approach that could consider a broader scope of waste streams beyond the municipal stream, and this could be better than the narrow scope within the proposed Measure. As Cathy has explained, the proposed Measure only covers a small proportion of the waste stream in that it only relates to municipal arisings and that small proportion of municipal waste that is then exported beyond Europe.

[23] As we stated, we would like to see an approach that provides a focus upstream on collection and recovery of recycle rather than focusing on end destination only, to improve its quality as a resource and ensure that it is fit for purpose. So, we think that there is an opportunity to tie into an LCO further down the line, although we are obviously unclear of what the timing of that could be.

[24] **Mohammad Asghar:** So, you do not think that it is premature?

[25] **Ms de Longhi:** It goes some way to providing some useful information to the public, and, in that way, it is beneficial. However, we think that it could be seen as premature in that

it could be encompassed in a much broader range of measures if it was covered under the environmental LCO.

[26] **Mohammad Asghar:** Nerys Evans suggested that, subject to the success of the proposed environmental protection and waste management LCO, a future Measure could be brought forward to extend the power of this proposed Measure. Should it be approved? What are your views on that?

[27] **Ms de Longhi:** I think that, for the reasons I have outlined, that is very true. If the LCO does come forward, we would like to see further Measures that could widen the scope of this proposed Measure. We would agree with that.

[28] **Ann Jones:** Good morning. You stated in your written evidence, and you have reiterated it this morning, that some local authorities already provide you with information on the final destination of materials. If that is the case, why is it not possible for all local authorities to do this now?

[29] **Dr O'Brien:** All local authorities could do most of it now, but not all local authorities have total knowledge of where the 100 per cent of their waste ends up. The majority of them could do it now. They obviously do not choose to do it now, but focusing on that small proportion that is exported beyond Europe seems to not provide the full picture to the public, which I think is important. If one is going to provide this information, you need to provide all of it rather than just a small part of it. It may give the public the impression that it is always exported to China. Without proper contextualisation, it could have a negative effect on public attitude to recycling.

[30] **Ann Jones:** The Welsh Local Government Association's written evidence, which I think everyone has seen, asserts that you, as the environment agency, have guidance to support the landfill allowance scheme, which ensures that local authorities are already providing as much information as possible now on the end destination and the recycle collected. So, what are your views on the WLGA's written evidence?

[31] **Dr O'Brien:** Under the landfill allowance scheme, we require local authorities to provide us with information on the last destination within the UK that exported waste goes to. That enables us to ensure that the quality of the material exported is of an acceptable standard to comply with green list requirements under the transfrontier shipment regulations, so we can focus regulatory efforts on the last port of call within the UK. We do not require them to provide information on further offshore movement of that material, which is a limitation, but we look at it from a point of view of verification. We would be unable to verify the details as to what happened to that material beyond the UK shores.

[32] **Ann Jones:** Thank you. Can you confirm that the proposed Measure would require local authorities to provide a greater level of detail than is currently provided to support the LAs?

[33] **Dr O'Brien:** Yes, it would be a greater level of detail.

[34] **Ann Jones:** Has the guidance that you have issued resulted in an increase in the provision of information by local authorities and the quality of that information? If it has, does it go some way towards satisfying the aims of the proposed Measure in improving transparency?

[35] **Dr O'Brien:** Yes, we do get more information from the local authorities. The landfill allowance scheme is a legislative provision that has only been in place a relatively short period of time. It was introduced through regulations in 2004, which, in environmental law

terms, is relatively recent.

[36] We have issued guidance to the local authorities on what they should be putting in terms of the final destination and, as a result of that guidance, we do get more information through the WasteDataFlow system. We are about to publish the reports on the audits that were done on all 22 local authorities in Wales in relation to the detail behind the information that they provide on WasteDataFlow, and that will be going in the public domain some time later this month. They are quite substantial reports on each local authority's municipal waste data, and that exercise showed us that most of the local authorities had most of the information that was required.

[37] We highlighted within those reports, and in our work with those authorities, where the shortcomings are and how they could improve their systems to provide more information to us as the monitoring authority for the landfill allowance scheme.

[38] That information is in the WasteDataFlow system, which, as I explained, is technically available to the public but not readily accessible by the public. It is quite a complicated system, so it does not provide the transparency that the proposed Measure seems to ask for.

9.50 a.m.

[39] **Ann Jones:** Section 1 of the proposed Measure seeks to introduce a new section 55A to the Environmental Protection Act 1990. Your written evidence raises concerns about the ability of local authorities to provide the information that would be required under section 55A(5). Can you expand on why you think it would be difficult for local authorities to secure accurate data to meet the requirements suggested in section 55A(5)?

[40] **Dr O'Brien:** It depends on who they use for their recycling services and on how complex those arrangements are. If an authority uses a materials recovery facility, after sorting the waste, a proportion of that waste might not get properly sorted and so it gets passed onto a further facility, which might take waste from a range of other local authorities as well, so you would start to lose the identity of the waste. Then if a small proportion is exported abroad, it would be quite difficult for the local authority to retain an understanding of where the material went.

[41] So, it is quite difficult to know about 100 per cent of waste, because small proportions tend to lose their identity in the processing sequence. However, there are some straightforward transactions by which waste from a local authority is exported directly, it knows where it has gone, it has the information and it can provide that to us and to the public, as required.

[42] For small parts of waste, it will be quite difficult. For other parts of municipal waste that is exported for reprocessing, it may be more straightforward. It really all depends on the local arrangements and through how many hands that material passes before it gets to its final destination.

[43] **Eleanor Burnham:** Yr ydych wedi honni y dylem gael newidiadau deddfwriaethol, gan gynnwys ar lefel Ewrop, i alluogi awdurdodau lleol i gael yr wybodaeth sy'n ofynnol o dan adran 55A(5). A allwch chi esbonio pa newidiadau sydd eu hangen arnom i sicrhau hynny?

Eleanor Burnham: You have claimed that legislative changes are required, including some at a European level, to enable local authorities to obtain the information required by section 55A(5). Can you explain which legislative changes would be necessary to ensure that?

[44] **Ms de Longhi:** Sorry, I shall answer in English, if that is okay.

[45] **Eleanor Burnham:** Absolutely.

[46] **Ms de Longhi:** I can take this headset off now, can I?

[47] **Eleanor Burnham:** If you would like to, yes.

[48] **Ms de Longhi:** You can hear yourself, which is very strange.

[49] Both the duty of care and the transfrontier shipment regulations as they relate specifically to green-list recyclable waste in this proposed Measure are largely self-policing systems, and we are conscious that any changes to any of these regimes will need to be considered in light of any additional burden placed on us, as the regulators, or the local authority or business. Having said that, it might be possible to consider some amendments to the duty of care to achieve a full cradle-to-grave audit of where waste has gone, as that would overcome some of the issues that Cathy just discussed with waste moving from one reprocessor to another and potentially losing its identity. That could help by providing the relevant information along the chain. However, a consultation document on a review of the duty of care was published earlier this year jointly by the Assembly and the Department for Environment, Food and Rural Affairs, and that did not include that, so the timing could be difficult.

[50] The transfrontier shipment of waste regulations are the UK's transposition of European regulations and they could be amended to require the return of annex VII forms, namely the documents that accompany recyclate and any green-list waste moved, either to the Environment Agency or to local authorities. That could provide information on the final destination of recyclate but not on recovery and disposal rates or reject rates, which the proposed Measure requires. It would work only if there is a presumption of either full recovery—that the material is of a suitable nature for recovery abroad—or on the agreement of a default value for a reject rate, as Cathy described earlier.

[51] Difficulties would arise if changes to the regulations applied only in Wales. If Welsh recyclate was moved to a reprocessor in England prior to export, that chain of custody would be lost in a return back to us or the local authority as a Welsh regulator. We would see these as new duties on a regulator and there is no charging scheme associated with that. So, there is potentially a resourcing issue, and we would look to the Government to fund that activity. In addition, the Assembly Government does not currently have the legislative competence to make amendments to the transfrontier shipment regulations.

[52] **Eleanor Burnham:** Mae Eleanor Burnham: The Welsh Local Cymdeithas Llywodraeth Leol Cymru yn honni y byddai hyn yn costio mwy o arian i lywodraeth leol hefyd oherwydd y cynnydd yn y gwaith y byddai'n gorfod ei wneud i gasglu'r wybodaeth. Beth yw eich barn am hynny? Government Association claims that it would cost local government more because of the increase in the work that it would have to undertake to get more information. What do you think about that?

[53] **Ms de Longhi:** I think that there would be costs associated for local government. I cannot really comment specifically on the numbers that it has quoted and whether they would be appropriate, but we agree that there is potential for a new duty to incur further costs.

[54] **Eleanor Burnham:** Pa wybodaeth y gellid disgwyl yn rhesymol i awdurdodau lleol ei chael ac, wedi hynny, ei chyhoeddi Eleanor Burnham: What information could local authorities be reasonably expected to obtain and subsequently publish without

heb wneud rhagor o newidiadau making further legislative changes?
deddfwriaethol?

[55] **Dr O'Brien:** Our view varies. Local authorities in Wales could voluntarily provide the level of information currently published by the Somerset Waste Partnership, perhaps with some persuasion. However, that does not quite go to the level of detail that the proposed Measure seeks, because it does not cover the precise facility abroad that the material goes to.

[56] **Eleanor Burnham:** Rhywbeth arall a ddywedwyd gan Gymdeithas Llywodraeth Leol Cymru oedd bod gan wastraff fel adnodd bris ar y farchnad agored. Honnwyd nad oedd yn bosibl rhoi mwy o wybodaeth oherwydd sensitifrwydd masnachol, ond y byddai pris yr adnodd yn lleihau fel bod colled ariannol i lywodraeth leol pe bai'n gorfod rhoi mwy o wybodaeth. Beth yw eich barn am hynny?

Eleanor Burnham: Another thing said by the Welsh Local Government Association was that waste as a resource has a price on the open market. It claimed that it is not possible to provide more information for reasons of commercial sensitivity, but that the price of this resource would reduce resulting in a financial loss to local government if it was obliged to provide more information. What is your view on that?

[57] **Dr O'Brien:** It certainly could happen. Contracts with commercial waste carriers and managers require change to get information in some cases. It could result in a contractor preferring not to take up a new contract being offered because it requires more difficult things. So, a contractor may choose not to do business with a Welsh authority, which would limit a local authority's choice of contractors. In turn, that would have an impact on the financial return that it gets for its recyclates, which helps financially to support its waste management services.

[58] It is also possible that local authorities have difficulties understanding apportionment, which is where the material goes to other facilities and gets mixed with waste from other authorities and other sources. They may have difficulty trying to tease out of that whether any of their waste was exported. Yes, that facility sent a load of material to China, but whose waste was it? That is a difficult question and that may cause a problem. So, yes, it will cause problems with the availability of services to local authorities.

10.00 a.m.

[59] It will cause some degree of financial impact on what moneys they get for their recyclates and it may also, in some circumstances and on occasion, cause material that could have been exported for reprocessing not being exported and, in the absence of a local market, being disposed of rather than recycled in the full sense of the word.

[60] That would be a fairly negative impact of this, and it is something that could happen, because the materials recovery market in the UK and Europe is less in volume than one might hope, largely because a lot of the manufacturing industry is located away from Europe. In the global market, it has become cheaper to make things in the far east and export them back to the UK. Consequently, a lot of the market for reprocessing materials is at a distance. If we accept that it is fine to import goods, we should accept that it is fine to export our secondary raw materials for those countries to use. It would be better to do that than to dispose of the material more locally in the absence of a local market.

[61] **Eleanor Burnham:** Mewn tystiolaeth i'r pwyllgor, awgrymodd Nerys Evans y dylai'r wybodaeth sy'n ofynnol dan y Mesur arfaethedig fod yn eithaf hawdd i awdurdodau lleol ei chasglu. Nododd mai

Eleanor Burnham: In evidence to the committee, Nerys Evans suggested that the information required under the proposed Measure should be relatively straightforward for local authorities to obtain. She stated that

dim ond casglu'r wybodaeth berthnasol a'i private waste companies would just need to throsglwyddo i awdurdodau lleol fyddai'n collect the relevant information and pass it on rhaid i gwmnïau gwastraff preifat ei wneud. to local authorities. How do you respond to this? Beth yw eich ymateb i hynny?

[62] **Dr O'Brien:** Yes, it is a simple matter, in that they could do it. They may not wish to do it, because they may consider that local authorities might, when they have the information, cut out the middle man and export it direct. There is some reluctance for that reason. Yes, we feel that, probably, many local authorities would need to change their contracts with the organisations that provide recycling services for them. Contracts in the recycling world tend to be reasonably short term, fortunately. The longest ones tend to be two or three years, rather than the longer term residual waste contracts, which tend to be for 20 or 25 years.

[63] There are difficulties in terms of the availability of the information, in that some exporters who do this professionally play the market. They will change from day to day where they send the materials, because they are looking for the best price. It could be quite difficult for them to obtain that documentary trail back to the local authorities, depending on how many other parties there are within the chain between the exporter and the local authority originators, of which there may be many, because of waste moving from facility to facility, being bulked up and mixed with wastes from other places in order to produce a containerload of a particular type of paper or plastic for export.

[64] **Eleanor Burnham:** So, if we take on this proposed Measure we need to make sure that the general public understands the commercial nature of this asset that is in the open market and that there will be fluctuation in prices? Could this proposed Measure impact negatively on the price that this commodity secures for the local authority?

[65] **Dr O'Brien:** Yes, to individual local authorities, because it may limit their market. They may choose to limit their market, because they may not wish to be seen to be exporting materials. Prices in the UK and Europe tend to be lower, because the market is somewhat more restricted, and it will impact on them financially, in the sense that, if you take that choice you will have less money available. The market operates as a commodity market, and is very similar to any other commodity market. How oil is supplied and how it reaches a refinery to produce the petrol that we buy at the pumps is a very complex system. Providing any raw materials to any industry is complex and involves market prices and, quite often, people who make their living out of trying to get the best out of that system.

[66] **Eleanor Burnham:** Thank you.

[67] **Nick Ramsay:** Following on from Eleanor's line of questioning, we have really got to know the potential problems with this proposed Measure, with regard to the issue of contracts. I was very interested in what you said about the impact on the price of the commodity but also about local authorities and the issues that arise. When I was a local authority member, before I became an Assembly Member, I saw that the issues that arise with contracts can be quite complex. Do you think that it is too easy to underestimate the problems that this renegotiation of contracts might actually create? There is also the issue of different authorities having different time lags with their contracts.

[68] **Dr O'Brien:** Yes, you can do it at the natural break in the contract: when the contract you have at the moment ends, you can ensure that you have the right conditions in the new contract. However, you may find that fewer contractors will be interested in it, because it limits them or requires them to do more work in terms of the paper trail. If you try to do it in the middle of the contract, the process can be quite expensive and can be quite litigious, so I really would not advise—

[69] **Nick Ramsay:** How expensive?

[70] **Dr O'Brien:** I cannot give you a figure on that, but I know of local authorities and waste contractors that have ended up at the High Court. I do not think that sort of process is cheap.

[71] **Nick Ramsay:** Looking at the flip side of trying to make the proposed Measure effective, will this impact negatively and delay the changing of the contract? Does that make what the proposed Measure is trying to achieve quite difficult?

[72] **Dr O'Brien:** I think that, if you were to introduce it with a timeframe, it might be achievable in the sense of giving the local authorities the opportunity, when their current contracts come to an end, to put a new contract in place that will provide them with that information. Where they do not have a contract at the moment—for example, that is quite often the case with textiles, because they are handled by charitable organisations—it gives them the opportunity to put a contract in place to ensure that they get that information. That could make it doable, but it is not something that is immediate.

[73] **Ms de Longhi:** That brings us back to the issue of timing that we mentioned earlier, and whether that time lag on contracts fits in better with waiting for a broader Measure under the LCO.

[74] **Nick Ramsay:** I think that the issue of contracts is important with regard to the proposed Measure. We all agree with certain things yhsy the proposed Measure is trying to achieve, but if councils were to get bogged down in costs and legal claims, the alarm bells would start ringing for me.

[75] I will leave that aside for one moment. When Nerys Evans gave evidence to the committee, she spoke about section 55A(5) of the Act, which is to do with the information that an authority might not actually hold, and the difficulties that that would pose in being transparent if they do not have that information. She said that her proposed Measure would require an authority to take reasonable steps to obtain that. Do you think that that helps address your concerns that local authorities will, in practice, find it very difficult to meet that requirement for reasonable steps to get information?

[76] **Dr O'Brien:** Yes, our view is that the difficulties exist for relatively small elements of waste that are recycled at the moment where contracts are not in place, where your local authority is providing the material to a charitable organisation and they have not deemed it fit to put a contract in place, or where there is a complex chain of people handling the material. That may or may not result in its export from a facility in England. I am aware of local authorities in Wales that use facilities in England, so even if the transfrontier shipment regulations were to change, with the annex VII documentation, it may be impossible to get hold of that sort of information for Wales.

10.10 a.m.

[77] **Nick Ramsay:** So, 'reasonable steps', which is an understandable thing to include in the proposed Measure, might not actually achieve very much at all?

[78] **Dr O'Brien:** I can see that some authorities that use facilities in England, where they can lose track of the waste, may say that they have taken reasonable steps but are unable to provide the information. As things currently stand, they may not be able to provide the information for some elements of the waste stream, but, as I said previously, most authorities—and that is across the board in England, Wales, Europe and beyond—should be in a position to provide information on where most of the material goes although not

necessarily in the level of detail required by the proposed Measure. Finding out which facility the material goes to is less easy. You may know the country but not precisely which factory it goes to, and it may be exported by one commodity broker to another who will then sell it on to a variety of facilities abroad. It is quite a complicated system.

[79] **Nick Ramsay:** And that makes it impossible to track it.

[80] **Dr O'Brien:** Yes.

[81] **Nick Ramsay:** Thank you for indulging me, Chair.

[82] **Rosemary Butler:** It is fine.

[83] **Huw Lewis:** I want to ask a question about the publication of statements that Nerys would require under section 1 of her proposed Measure, in the proposed section 55B that would be inserted into the Environmental Protection Act 1990 by it. She mentions that authorities should be required to publicise statements on their websites. First of all, do you think that that is a good, appropriate and effective way of doing things? I notice that, in your written evidence, you encourage the idea that we should publicise the statements by other mechanisms. Could you expand a little on that?

[84] **Ms de Longhi:** Yes. It could be effective but only as long as local authorities provide the context of a statement—such as how this small proportion of municipal waste is handled, or how all municipal waste is managed—and give examples and case studies of how and where Welsh recycle is used.

[85] Given the age range and backgrounds of the people who might be interested in this information, we feel that web communication may not be the only appropriate means of publicising it. Some people might not have access to the web or some people may not want to access it through that route, so other means of communication may be necessary. We have suggested using local authority newsletters or local media. After submitting our written evidence, we talked about whether it was worth considering publishing this information in the Assembly's annual municipal waste statement, as a means of sharing it on an all-Wales basis.

[86] **Huw Lewis:** The WLGA would say that that puts the costs up even more.

[87] **Ms de Longhi:** Yes.

[88] **Huw Lewis:** You cannot speak for them, obviously. That proposed section 55B goes on to talk about the proximity principle and about the public making representations in respect of it. That would require us to assume that the public has a certain level of knowledge about all this. Do you accept that?

[89] **Ms de Longhi:** Yes, we do accept that. The evidence base for this field is still emerging really, so it is hard to say whether anyone has full knowledge of it. Certain members of the public are very well informed; others, less so. However, it is quite complex, so I think that that is a fair point.

[90] **Huw Lewis:** We would be expecting people to have specific knowledge of the location of waste facilities and of any alternatives that might be available to fulfil the principle more closely, which is difficult to assume, is it not?

[91] **Ms de Longhi:** It is difficult to assume that. Several consultations have involved the public through the regional waste planning process, and it depends on the degree to which the public has involved itself in those processes. Some will be very informed of the facilities

available in their locality or region and others will not be, so it will be difficult to ensure a fully informed view, I think.

[92] **Huw Lewis:** Is the proximity principle worth all the fuss? Is Nerys not trying to deal with waste for recovery while the principle deals with waste for disposal? Are we not talking about two different things here?

[93] **Ms de Longhi:** Yes, there is an element of logic there. In general, the proximity principle is a guiding principle. It should not be applied rigidly or hard and fast. It really does need to be looked at, to work out the most appropriate environmental option for each individual material and circumstance. It may well be more sensible to export certain wastes long distances to China, for example, rather than saying that we will deal with it locally when we have no recovery market so it could only go for disposal. That argument seems to be fairly obvious. We would not want to see planning authorities strictly bound to apply the proximity principle if there is evidence that that is not the most appropriate thing to do with a material.

[94] **Huw Lewis:** The whole point of this—and Nerys goes on to say it—is that local authorities should have regard to any representations that they receive, not just on the basis of the proximity principle but the whole waste recovery and disposal process. Do you think that Nerys's wording, that local authorities should 'have regard to' public representation, is reasonable and effective? Is it really doing anything?

[95] **Ms de Longhi:** We feel that they should have regard to the public's opinion of these things as part of a broader and more strategic approach to waste planning. However, local authorities should be in a better position to consider regional and UK needs in their overall strategic decision. So, although it would be useful to have regard to these positions, we would not want to see local authorities slavishly bound to take public opinion to its nth degree when making their decisions.

[96] **Huw Lewis:** Nerys is at pains to point out that the final decision rests with the local authority, obviously. I have just one final question, Chair, if I may?

[97] **Rosemary Butler:** Yes, of course.

[98] **Huw Lewis:** One thing that some of us have been worried about as regards the proximity principle and how it impact on Nerys's proposal is the law of unintended consequences. I am sure that many members of the public would regard the proximity principle as a way of alerting people to just how close to their homes waste is being processed, when they would like it to be processed as far away from their homes as possible. Does that worry you?

[99] **Ms de Longhi:** May I come in first, as I know that Cathy will have plenty to say on this? As the regulator of waste facilities, we are at pains to assure the public that having a waste facility close to their home is no bad thing. They are well regulated and well managed in the main. We do not want to cause the public undue concern that that is not the case, but we can see that that could be an unintended consequence of alerting the public in this way.

[100] **Dr O'Brien:** We really do not feel that the public knows enough about what happens to waste, what the mechanisms are for the collection and management of materials, or the relative merits of different ways of dealing with it. The public consultations carried out in relation to regional waste plans have shown on two occasions that the public really does not fully understand this, and, as a result, is unable or unwilling to answer the consultation questions. That was actually a response option within the consultation process, because the local authorities involved were concerned about the level of knowledge. The resounding response from the public was, no, they did not really know enough.

[101] A small element of the public has strong opinions and will voice them at any opportunity, but the bulk of people do not really understand what happens to the material that they put out for the council to collect.

10.20 a.m.

[102] They can quite often draw incorrect conclusions from seeing what happens when the refuse collectors collect the recycle. I had a recent conversation with a BBC Wales journalist about recycling and what happens in Wales and what happens to the waste, and the channel is considering doing a programme on it. That particular journalist had drawn the wrong conclusions from seeing how her recycle was collected and the particular vehicle used by the council. The vehicle is called a kerbsider, which involves the operatives putting the waste into trays on the side of the vehicle that are then lifted up and over the top into the main body of the vehicle. She assumed that it was all going into the same compartment and that, therefore, all the sorting that the operatives had done in putting the different materials into different trays on the side of the vehicle was being negated by it being mixed in the vehicle. She did not know that there are separate compartments within that vehicle. Therefore, people can draw the wrong conclusions from just watching something without seeing the other end of it. If she had followed the vehicle to the council depot and watched it discharging the separate piles of different materials, she would have got a full impression, but most people are not aware of what happens.

[103] There is not enough information out there. We do not know what forms people's attitudes to having facilities in their communities, or what information might change that. More work is needed on this. It is something that we, as an organisation, have been working on with Waste Awareness Wales for a couple of years, trying to put together information in a way that people can understand and to provide that information to the local authorities for them to inform the public. However, more still needs to be done.

[104] **Rosemary Butler:** Are you happy, Huw?

[105] **Huw Lewis:** I am content, thanks.

[106] **Rosemary Butler:** Nick?

[107] **Eleanor Burnham:** Thank you, Chair.

[108] **Rosemary Butler:** No, Nick was next.

[109] **Eleanor Burnham:** I was just going to ask—

[110] **Rosemary Butler:** No, Nick indicated before you. Nick?

[111] **Eleanor Burnham:** I do apologise, Chair.

[112] **Nick Ramsay:** I have forgotten what I was going to ask now. Huw Lewis has hit on a very pertinent point. You say that a small minority of the public does know and understand these issues, but that a lot of people do not understand. I was just wondering whether they want to understand. I believe that if you were to ask people, very few would now say they do not believe in recycling but believe in landfill, but, aside from that belief in recycling, do people really want to know the ins and outs exactly of where their waste is going or do they just want to have general confidence that what is being done is right? That goes to the heart of what this proposed Measure is trying to do. I would imagine that quite a number of people, if you invited them to see what happens to their waste at the other end of the cycle, would say,

‘I do not want to go there; I have something else to do today.’

[113] **Ms de Longhi:** That is a fair point. I think that the majority of people want some level of reassurance that the right thing is happening to their materials and that they are not religiously sorting stuff out only for it to end up in landfill, which, I emphasise, is not the case. However, most people are happy with that level of reassurance. I am not sure that they do particularly want to get involved. It is difficult for us because we are kind of waste anoraks and we find it all fascinating and interesting, and we would say, ‘Of course we want to go and see everything’, but I am not sure that we are typical of the public on that point.

[114] **Dr O’Brien:** There are a lot of urban myths that need to be counteracted, and that is why I have certain concerns about the proposed Measure focusing on that little bit of waste that is exported over long distances. I can see certain elements of the media making fun as a result of that particular issue, should it be publicised on its own, without the contextualisation.

[115] **Eleanor Burnham:** Would you agree that, because we are opening up this interesting issue here, it is incumbent upon local authorities, whatever happens to this proposed Measure, to be able to succinctly and clearly in their publications, be they annual or otherwise, give a little résumé of what happens to their waste? I think that this has become a very contentious issue, and it was one of the first issues that I dealt with as an Assembly Member. There was a big issue related to leachate in a site above the village where I live. I was not directly involved, but it was a very contentious issue, and then, when the foot and mouth disease outbreak occurred, carcasses were being put in this particular spot. There was an enormous hue and cry. In a democracy, do you agree that whatever happens to this proposed Measure, we desperately need to explain to people what happens to their waste in a very clear manner, because the complexities of the dataflow system could send us all into the stratosphere?

[116] **Ms de Longhi:** Yes, we would agree with you on that score; it does need to be explained very succinctly, so that the messages are conveyed in the right language for the right people. There are some examples on the websites of local authorities in England and Wales that refer to their recycling and what happens to it and how it is used. I think that those kind of positive messages about waste reinforce good culture as to how individuals look to handle their own materials.

[117] **Eleanor Burnham:** I hope that the BBC, if it does produce this wonderful programme, tells it as it is, rather than having it portrayed by someone, as you say, who has come along without a modicum of the truth, but rather with the mythology.

[118] **Dr O’Brien:** I think that the debunking of the mythology actually may have made the BBC think, ‘Well, actually, this is not going to be the shock horror story that we wanted’ sadly. That is the nature of the media unfortunately.

[119] **Eleanor Burnham:** I am sure they are listening and watching.

[120] **Rosemary Butler:** I would like to recap a little of what you have said. We are moving on to general information and awareness of the public, but do you think that this proposed Measure will help that or that information should be outwith this piece of legislation? Even if this proposed Measure does not go through, you are saying that we need much more information and that it is not down to this legislation to get that information out.

[121] **Ms de Longhi:** In that this proposed Measure will make each local authority do something and present some information, it goes beyond where we are now with only some local authorities presenting certain bits of information. So, it will kind of produce a wider sharing of that information, which is useful. The proposed Measure does go some way to doing that, but we put it in the context of what we said earlier: we would like to see the focus

upstream on the quality of recyclate rather than the final destination, and, again, in terms of the timing, it might be appropriate to consider a broader Measure further down the line.

[122] **Mohammad Asghar:** In your evidence, your own words, you state that you want to see steps taken to

[123] 'ensure that local authorities do not stop sending material overseas as a result of the difficulties in obtaining the data required, as this is against the core principles of the waste strategy.'

[124] Those are your words. Do you anticipate a reduction in the amount of waste that is sent abroad for recycling as a result of the proposed Measure?

[125] **Dr O'Brien:** I certainly think that it is possible that local authorities may choose to cease using reprocessors abroad to avoid having to make a declaration as a result of the proposed Measure, in that they may be very concerned about public reaction to the fact that the waste that is collected in their locality is exported a long distance for recycling, although those same people would probably not have any problem with buying something made a long distance away. So, a lot of local authority officers have expressed to me that they worry about the public reaction, that they have had some experience of negative reaction and are concerned about it. I suspect that it may result in a reduction in the ability to recycle sometimes, because the size of the market for recyclate in the UK and Europe is limited for certain materials due to the fact that most of the industrial production happens a long way away. You need to have the industrial production in order to use the materials and in order to recycle them. So, it could result in less waste being recycled overall and it could result in waste not being sent from Wales to facilities further afield.

10.30 a.m.

[126] That material may have to be disposed of rather than recycled. That goes against the waste hierarchy, where we would prefer to see the materials being recycled, even if it is being recycled at distance. In overall carbon terms, it is better to recycle even at a distance than to dispose of the materials.

[127] **Mohammad Asghar:** Do you share the concern raised in the evidence that, if passed, the proposed Measure could lead to a decrease in recycling levels due to negative media coverage, which would ultimately lead to an increase in landfill sites? If so, do you think that this could be prevented and how?

[128] **Dr O'Brien:** It would be by making sure that the information published was properly contextualised and provided information on the whole range of materials and destinations that are used by that local authority, rather than just the specific spotlight on the small proportion that is exported. That will help to diffuse the potential negative effect. Without doing that I think that there is a very great danger that certain elements of the media will do a shock horror probe story, and that the public will start to get really worried that the materials that they are putting out for recycling are going a long way to be reprocessed. You can see the media story that would actually transpire as a result of that. That could have a negative impact on the public's willingness to recycle, which would have a knock-on effect on the recycling rates overall, which is not where we want to go. That is not the intention of the proposed Measure but it is one of the unintended consequences that could happen as a result of the way that it is raised.

[129] **Mohammad Asghar:** Thank you. You made a statement to my colleague that local authorities tend to lose track of their waste and you mentioned commodity brokers. I do not think that, if this proposed Measure is passed, they would keep track of where the waste is

going and classification of the commodity brokers.

[130] **Dr O'Brien:** They would probably not use the commodity brokers, but it would result in them not getting the best price for the materials that they have to offer.

[131] **Mohammad Asghar:** So is there a financial impact?

[132] **Dr O'Brien:** There is a financial impact.

[133] **Ms de Longhi:** May I just come in on that? You asked what we could do to prevent negative media impact, which I am not sure that we tackled. Certainly the waste community, if you like—I include us, local authorities, the waste management industry and Waste Awareness Wales—is very conscious of this and is trying very hard to work with the media to ensure that there are positive stories about waste to counteract some of the negative stories that can be put out there. We see that as a priority.

[134] **Rosemary Butler:** You suggest that the proposed Measure may encourage the public to accept recycling facilities within their own communities, saying that that:

[135] 'would have a positive outcome in terms of the development of UK recycling infrastructure'.

[136] Why do you think that that is the case?

[137] **Dr O'Brien:** When you look at recycling infrastructure you have to look at facilities to bulk the material that comes from the household into an economic lorry load of a particular material to go to its destination for reprocessing. So, you need to have that type of facility. The public sometimes think that waste facilities mean landfill sites and things like that. They do not necessarily equate waste facilities with providing raw materials for industry. I think that understanding that may help things move forward.

[138] However, the way in which the proposed Measure is being drawn, just focusing on the export business, may not help quite so much, because it is focusing on the long-distance transfer rather than providing the raw material for the paper mill that provides the jobs in a certain community. Seeing it in those terms could help people to understand the integrated role of waste management in industrial production where it occurs in the UK, and also in industrial production where it occurs elsewhere in the world, although they may feel less well disposed to it because it is not providing local jobs.

[139] **Rosemary Butler:** I do not think I am convinced on that one, and I am not sure where the local communities would be. I think that there needs to be a huge publicity campaign and a huge changing of mind, and if we are going to do that, we are talking about a huge amount of money being spent on trying to persuade people that they do not mind having this near to where they live. I know what you are saying, it is very laudable, but I just cannot see some constituents accepting that.

[140] **Dr O'Brien:** I think that it is quite difficult. People see the word 'waste' and they think—yes. They do not always, necessarily, see waste as a pile of paper or a pile of glass that might be going back to make your jam jar for next week or the newspaper for tomorrow. So they see a negative thing rather than a positive thing and, yes, it will take a lot of time to turn that around, but the proposed Measure could, if it is taken slightly more broadly than just the exported material, help with public understanding of what happens to the material that they put out for recycling and that it does not just go to landfill via a back door. There is a lot of urban mythology about, with people thinking 'Oh, it is all very well the councils collecting all this stuff, but it is not actually recycled; it just goes to landfill at the end of the day'. A lot of

people think that, and they do not have any evidence to show that it is not the case.

[141] **Eleanor Burnham:** Do you think that, beyond the proposed Measure, whatever happens, we have a long hike in getting the media onside to help us? For instance, we are very privileged that we can visit the Shotton paper mill, yet you just said that the BBC did not run a story because it did not appear quite negative enough for them. That is quite sad.

[142] **Dr O'Brien:** It is, yes.

[143] **Eleanor Burnham:** So we have got to get the BBC on side, whatever happens with the proposed Measure.

[144] **Dr O'Brien:** I do believe that a lot of work needs to be done with the media on these issues and it is a long hike uphill, I am afraid.

[145] **Rosemary Butler:** You have answered our questions; thank you. If there is anything that you wish to add, perhaps you could put it in writing. We are running out of time here this morning—we have given you more of a work over than we had intended, I think.

[146] You will have the opportunity of seeing a draft transcript before it is published, so that you can amend it as necessary. Thank you for coming this morning and for answering our questions so fully. I hope that we have not exhausted you too much.

10.38 a.m.

Cylch Cylch

[147] **Rosemary Butler:** I welcome Mal Williams from Cylch. Thank you for coming this morning. You have seen the process, as you have been watching for the last hour or so. Mr Williams, you are chief executive officer of Cylch.

[148] **Mr Williams:** Yes.

[149] **Rosemary Butler:** I did have a look at your website, to find the membership of Cylch, but your website seems to be being redesigned or something.

[150] **Mr Williams:** I am horrified to hear that, because yesterday it was working fine.

[151] **Rosemary Butler:** I think that it said that it is being rebuilt. So it would be very helpful if you could let us have a list of your members at some point.

[152] **Mr Williams.** I will do that; no problem.

[153] **Rosemary Butler:** Thank you.

[154] It would appear from your written evidence that you support the general principles of the proposed Measure. Can you confirm whether this is the case and, if so, can you explain what you think that the proposed Measure will provide that is not provided through existing legislation or by way of current practice?

[155] **Mr Williams:** Yes, Chair, I can confirm that we support the broad approach that is being taken in this proposed Measure, on the basis that I do not think that the information that is around, as I have heard in the evidence and discussions in the last hour or so, has actually reached a stage where we can be satisfied that details and information are getting to the

general public right across the board, it would seem. I would endorse Cathy's constant references to urban mythology, but I would have a slightly different view about what is a myth and what is not a myth.

10.40 a.m.

[156] We come from the position of having been in the business of recycling for 20 to 30 years. I want to make that distinction because, for the last hour and a half, I have heard everybody talking about this as a waste issue. If you actually think about the semantics and the language that is used in relation to the waste issue, people think of waste as being waste and do not want to talk about it, and they think, 'Let us not go and visit it', and all the rest of it.

[157] In the UK, there are 1,600 community organisations that are delivering what I would call reuse and recycling facilities in their communities, and they have been doing so for quite a long time, and I cannot think of an occasion when an application to put a facility into a community was refused or even commented on by the local community. That did not happen when Newport Wastesavers set up a collection depot in Newport just alongside the transporter bridge, or when we moved into the Ty Coch Industrial Estate in Torfaen to operate a recycling facility. There was no comment whatsoever. The only question mark was about whether we had the right industrial permits and suchlike.

[158] The mythology surrounds the fact that, at the moment, what we are actually doing is a significant management of change and it is probably, from my point of view, easier to try to explain all of this in the same way as I would explain the management of change from smoking to non-smoking. You cannot engage in that process without thinking right across the board about how you will affect people's habits, because it is the habit of wasting that we are attacking. Unfortunately, we all have a vested interest in wasting. This has been referred to this morning as the out-of-sight, out-of-mind, or put-it-in-a-bin-and-get-rid-of-it, way of dealing with things in the old days. People are now being asked to do things with what they erstwhile call waste and, quite naturally, they are interested in that.

[159] Rather than think of people's curiosity as being something negative, I think of it as being something positive. So, in the case of someone like the person Cathy mentioned who saw the materials going up and over into the kerbsider and not knowing there were compartments there, I would take that person's interest and complaint, if you like, as a matter of energy rather than disinterest. I want to know where it goes. I do want to know where it goes.

[160] The other thing I wanted to say before I started—

[161] **Rosemary Butler:** I am sorry, I think that you are going on to some of our questions, and I know that you are really enthusiastic about the subject, but we need to get specific answers to some of the questions. You can come back at the end if you think that we have not covered everything.

[162] **Mr Williams:** Sure.

[163] **Rosemary Butler:** We will move on to Huw.

[164] **Huw Lewis:** Good morning. When the Minister for the environment came to see us, she pretty much said, 'Look, you do not need this proposed Measure. All you need to do is improve the WasteDataFlow system and that would give you everything that Nerys Evans is proposing.' Is she right?

[165] **Mr Williams:** She is right to say that if you could improve the WasteDataFlow system, you would access the information. The snag is, as I am sitting here giving evidence, that the WasteDataFlow system has not produced the documentation I have been waiting for for two years following the RPS report published in 2006-07 on the 2006-07 municipal waste data.

[166] **Rosemary Butler:** What is the RPS report?

[167] **Mr Williams:** It was an independent report commissioned by the Welsh Assembly Government.

[168] **Rosemary Butler:** Can you explain what RPS is?

[169] **Mr Williams:** Surely. It is an independent consultancy, I hope. It was commissioned by the Assembly Government to produce a report that compared the costs of kerbside collection and other issues. It was a detailed report that was not available to the general public, and not available to me, because it contained commercially confidential information, but a summary report was published in August 2007 covering the 2006-07 data, and that showed a vast range of costs associated with the collection systems operated by local authorities in Wales. It highlighted a huge range of costs varying from £35 a tonne to an average of £250 a tonne.

[170] Obviously, we were interested in that data, so we asked questions about it, and we asked whether or not the data would be available for last year and this year, as two subsequent years. As I understand it, that work has been done, but the data has not been produced and is unavailable because it is not accurate. In answer to your question, even the waste nerds, as Cathy referred to us, cannot get hold of the information that we need to make sensible decisions about various things to do with recycling.

[171] **Huw Lewis:** We have talked about the non-nerds in society this morning and what kind of involvement they have as regards being engaged with what happens in terms of waste processing. Do you think that this proposed Measure is a good and effective way of promoting engagement and curiosity among people out there who are not generally waste nerds?

[172] **Mr Williams:** That is an interesting one for me, because, as well as being the chief executive officer of Cylch, representing community organisations in Wales, I chair the Campaign for Real Recycling. I mention that because that means I sit around the table with all the major UK reprocessors of paper, glass, plastics and suchlike on a monthly basis. They tell me two things, the first of which is the fact that they cannot get the quality of recyclate that they need in this country. Shotton and Aylesford paper mills, for example, are prepared to confess—quietly—that they have to import newsprint from overseas because they cannot get the kind of quality they need in this country. That hides the fact that there are two systems of collection, one of which produces waste, which causes problems. That problem is overcome because the material, due to its quality, has to go overseas for export. So, we have this business about the marketplace being an ideal place where prices adjust; prices do adjust, but they adjust according to the quality of the material that is available.

[173] It just happens that the three major paper mills in this country require a certain quality. It is specified, and you can find that specification by looking into the journals, and it is usually a couple of per cent of contrary materials in any load that arrives at the mills. Increasingly, as recycling has increased over the last three or four years, the contamination rates in the loads arriving at Shotton, at Aylesford and at Abitibi has increased to such an extent that they have had to do one of two things: they have had to either downgrade the price they give for the loads and send them off for secondary sorting before they can accept them,

or reject the loads completely. I am more familiar with Aylesford because Chris White from Aylesford sits on the committee, and he tells me that he has to reject a significant tonnage on a daily basis from local authorities all across the UK. So, it is happening not just in Wales, but right across the UK. That is a ridiculous situation, and one which then touches upon why people are interested in the fact that their paper reaches China and why they are a bit horrified to see that the Chinese and Philippine processes are, let us say, slightly less than environmentally friendly, and, even in the mainstream, it is less environmentally friendly, let alone what happens at the outskirts.

[174] **Huw Lewis:** Do you think that this proposed Measure—let us say that it is passed—is going to encourage the good citizens of Neath Port Talbot to go out and demand more and better recycling from their local authority?

[175] **Mr Williams:** That is a good question. I think that it would inform them as to what a good recycling facility is. That is the point. From my experience of talking to people across the board about recycling, as opposed to waste problems—let us make that distinction—and from the surveys done since 1990, I would say that everyone wants to recycle, as I think was mentioned earlier. Of those people who respond to the surveys, 90 per cent say, ‘Give us a good system and we will use it’. However, if they then have a good system and are using it, but they think it is being abused, be that through Chinese children being abused or through the waste going to landfill rather than where they thought it was going, it is only reasonable that they should have the information to be able to find that out.

[176] On the commodity issue, this market is distinct from other markets in that it is not a market as yet, given that it requires public funding to keep it going. The material is made available by public subsidy and, as council tax payers, we are entitled to slightly different treatment than would otherwise be the case.

10.50 a.m.

[177] **Mohammad Asghar:** Mal, several organisations have expressed disappointment that the proposed Measure applies only to municipal waste and does not extend to all waste sectors. Given that you emphasise in your evidence the importance of targeting all waste, do you wish to comment on that?

[178] **Mr Williams:** Sure. You have to start by realising that the change process that we are engaged in is really an educational process for each individual. Everybody lives in a house, so it is municipal waste that is targeted. I do not think that the information that you give people would change radically depending on whether you think of them as wearing a suit, or as an industrialist or a commercial person. You are just saying that you want them to put materials out separately so that we can keep them clean and sell them on, whether that is office paper, the paper that comes out of your household or your kitchen, or whatever. So, that is the first thing. We have to start somewhere with limited budgets, so starting with municipal waste seems like a good idea.

[179] Interestingly, the percentages of recyclable materials that occur in the municipal waste stream are fairly similar to those occurring in commercial and industrial waste streams. So, if the message is taken on board by a householder, that person would apply it in the office or factory, and it would have a greater effect. Having said that, up to date, we have applied public money to public areas of concern and legislated for areas of concern, which are limited to municipal waste. You need to modify the messages, although I think that the industrialists have spotted it. As far as they are concerned, waste is an inefficiency and so reducing it is a good idea. There is a middle area: offices, factories, universities and public buildings perhaps. Maybe they are not quite as concerned about the cost-benefit analysis as somebody sitting in an office, but they still need to ask their people, ‘Now that you have your home sorted, how

about the office?'. So, the message needs to change a little, but the information that you are talking about is the same. The detail should be there in the information.

[180] **Mohammad Asghar:** My second question is about the timing of this proposed Measure. You may be aware that, if made, the proposed legislative competence Order on environmental protection and waste management would provide an opportunity to bring forward a Measure that deals with the provision of information on recyclates across all waste sectors. In view of that, it has been suggested by the Welsh Local Government Association that the proposed Measure is premature. What are your comments on that?

[181] **Mr Williams:** When is that proposed Order likely to come into force? I think that it has disappeared into a void. I have been watching it with some interest, waiting for it to reappear, and so we must do everything that we can now. If we can do this, let us do it and not wait for that one. If that one arrives as well, that will be great—even more legislation. It is the role of legislators to legislate, and we need to legislate on these issues.

[182] **Mohammad Asghar:** Thank you. In evidence to the committee, the WLGA also asserted that local authorities are already providing as much information as possible on the end destination of their recyclates via the WasteDataFlow system. In view of that, why do you think the section 55A(5) requirement is necessary?

[183] **Mr Williams:** If it becomes necessary, there will be less room for wriggling. I know that some local authorities across the UK—and I am not specifying Welsh local authorities particularly, although they are included in this—are tacitly aware of the fact that they can make their recycle disappear into commercial voids to make their recycling figures look better. In other words, they can be sent to secondary material recovery facilities, or tertiary ones, in some cases. There is plenty of proof of that around the place. What is not generally known—and I know it because I sit around the table with reprocessors, as I mentioned earlier—is that even when the materials are accepted at the paper mill, at Shotton, for example, or at the glass factory, a percentage of the accepted material is waste. Now, I think that that should be discounted against the recycling rate. We are not in the business of creating recycling rates, and we are very proud of the fact that we have moved from 3 per cent to the announcement this week of 41 per cent, which is brilliant, frankly, and we can all take some pride in that. However, we do not want those figures to be in any sense cheating, do we? We want them to be real. I can tell you that there is probably a discount of 5 or 6 per cent that we could apply to that almost across the board in the UK, so you have to ask why we are allowing it by not making such an adjustment.

[184] The answer to that is quite complex and is to do with the marketplace that you were asking about earlier. I think that, for the reasons mentioned earlier, because there is public money involved in this marketplace, there is a way in which you can insist on that information being given. Another bit of mythology is that there are not that many contracts between local authorities and reprocessors. Typically, there is in the paper industry, and they do sign contracts. I know that the big paper reprocessors obtain 85 per cent or thereabouts of their tonnage every year on a contractual basis, but that is usually a lower and fixed price. Typically, it is £50 or £60 a tonne for paper at the moment, but today's price might well be £70, £80 or £90, or it could even go up to £110 or £120, as it did last October. That spot price can fall through the floor, which is what causes the problems. The contracts that we are talking about, and which you were talking about earlier, were the collection contracts, and they tend to be for between three and seven years.

[185] So, there are not many contracts between local authorities and reprocessors for the supply of material, paper being the slight exception, and maybe aluminium in some cases, and even those contracts are subject to a lot of variation.

[186] **Mohammad Asghar:** Thank you very much, Mal. I am asking you about a plant and you are giving me the brief of the garden. Do you consider that the aim of the proposed Measure could be achieved by improving the way in which the information that is currently collected is made available to the public? If not, why not?

[187] **Mr Williams:** Sorry, can you just give me the beginning of that question again?

[188] **Rosemary Butler:** I think that what Mr Asghar was referring to was that you are giving us a huge brief. We just want to try to trim it down a bit, if we can. Thank you very much.

[189] **Mr Williams:** Yes, I apologise. I will try to focus.

[190] **Mohammad Asghar:** Do you want me to repeat it again?

[191] **Rosemary Butler:** No, I think that he got the question; it was just the remark at the beginning.

[192] **Mohammad Asghar:** No, a specific answer, please, because there are a lot of other colleagues here, and you are answering their questions.

[193] **Mr Williams:** Okay, I am sorry.

[194] **Mohammad Asghar:** Thanks.

[195] **Mr Williams:** Sorry, could you ask the beginning of that question again?

[196] **Mohammad Asghar:** Do you consider that the aim of the proposed Measure could be achieved by improving the way in which the information that is currently collected is made available to the public? If not, why not?

[197] **Mr Williams:** I do agree that it could be, and the agency answered that question quite well by saying that there are various means of communicating such information that are not used at the moment but which could be. For example, the Assembly could publish the figures. We could be publishing the figures. They could be on every website of every member of ours as a routine matter. The general public does want to know in that kind of detail and regularly, and also how one year's figures compare with last year's, and how neighbouring authorities compare, and all that sort of thing. It is the hot 100, or *The X Factor* kind of thing that the public likes to get into. That kind of information does attract attention.

[198] **Mohammad Asghar:** Thank you.

[199] **Ann Jones:** The committee has received evidence from a number of sources, including the Environment Agency, as you heard earlier. Its representatives raised concerns about the ability of local authorities to obtain the information required under the proposed Measure. You seem to suggest that there is no reason why local authorities could not easily obtain it. Do you have evidence to back that up?

[200] **Mr Williams:** I have talked to the reprocessors about this and, if the materials are being collected and recycled in the UK, and most of the waste from Wales is, at the moment, there is no problem. The duty of care certification that was referred to is a paper trail that can go both ways. Let us be quite candid about it and say that there are cheques that come up this way and paper invoices that go down that way. So, it is not just a weighbridge ticket; it is also a financial arrangement that could be audited.

11.00 a.m.

[201] You could say that, because there is public money involved, we have a right to audit that, no matter who is doing it, and also the choice of the broker could be limited to licensed brokers who will give that information. I think that that ought to be the case.

[202] **Ann Jones:** Thank you. Your evidence refutes the suggestion that ‘commercially confidential’ will prevent local authorities from obtaining the required information from private waste companies, and then, contrary to that, you suggest that the proposed Measure will prevent private companies from withholding information on such grounds. Can you explain why you believe that to be the case?

[203] **Mr Williams:** The case at the moment is that ‘commercial confidentiality’ is used as a smokescreen for not being able to get the information. I would deny that; I think that you can get hold of the information if you insist on it when you supply the material. There might be a very small cost, but I do not think that the marketplace will develop as we want it to if we do not put some sort of control on that anyway. That is why we have the aforementioned insistence on, ‘I can only give you this material if you give me a duty of care certificate, plus I want to know where you are passing it on to’.

[204] **Ann Jones:** You state in your evidence that local authorities can use their procurement and supply chain powers to insist on accountability. Can you briefly tell me what you mean by that?

[205] **Mr Williams:** If the local authority is collecting the materials now, it is selling into the marketplace and collecting the money for that. That is a contract that is worth a lot to people who have recycling contracts or waste contracts or who are in waste contracting. That procurement power is absolute, because you can write clauses into those contracts that require the contractor to do whatever you want.

[206] **Ann Jones:** The Welsh Local Government Association has raised a concern that private waste companies may be reluctant to enter into contracts with local authorities if, as a condition of a contract, they are expected to provide the necessary information needed to meet the requirements of this proposed Measure. What is your view on that?

[207] **Mr Williams:** I would leave it to competition. There will be competitors that will do that.

[208] **Ann Jones:** All right. Section 55A(8) and 55A(9) cover instances where information required under the proposed Measure is not held by or available to an authority. In such instances, an authority must take reasonable steps to obtain that information and include details of it in any statement. What is your view on that provision?

[209] **Mr Williams:** That one does sound like a get-out clause, does it not? My view on it would be to eliminate it. The word ‘reasonable’, or anything like it, is open to interpretation and probably endless debate and, therefore, is probably not a good idea.

[210] **Ann Jones:** Do you believe that that is a danger to undermining the effectiveness of any proposed Measure?

[211] **Mr Williams:** Yes. If you are serious about getting the data, you should be serious about getting the data.

[212] **Ann Jones:** Thank you. Still on information to the public, how meaningful do you think the information required by section 55A(5) will be to the public?

[213] **Mr Williams:** That is an interesting one. It depends. Right across the board, there is a different level of interest, but I think that, overall, the greater the detail, the better. I do not think that there is any such thing as sufficient information on this score, as probably evidenced by the fact that we are sitting here talking about this, 20 years into trying to convert from waste to recycling. However, there is still a huge amount of doubt about all the little tiny things. So the more sophisticated the data, the better the communication of the information to the general public, the better we will move forward with this.

[214] **Ann Jones:** Do you think that the proposed Measure should be amended to take those two paragraphs out?

[215] **Mr Williams:** I would not put the word 'reasonable' in to provide any get-out clauses, and I cannot think what you are referring to in the second bit.

[216] **Ann Jones:** It is about the danger of reducing down, is it not, of weakening the proposed Measure?

[217] **Mr Williams:** Yes, I would not weaken it.

[218] **Ann Jones:** You would want to see it go a lot further.

[219] **Mr Williams:** Yes.

[220] **Ann Jones:** Thank you.

[221] **Rosemary Butler:** Before we move on to Eleanor, I would just remind you that we are talking about waste for export, which is slightly different to some of the evidence that you have been giving. Eleanor, I am sure that you want to come back on Shotton paper mill.

[222] **Eleanor Burnham:** Yes, thank you, Chair. You are very kind.

[223] **Rosemary Butler:** However, we are talking about waste for export.

[224] **Eleanor Burnham:** Yr wyf wedi ymweld â'r felin bapur sawl gwaith, ac yr wyf yn pryderu am y ffaith eich bod yn dal i honni ei bod yn methu â chael deunydd ailgylchu o'r ansawdd gorau. Beth yw'r rheswm am hynny, a sut mae gwella'r ansawdd?
Eleanor Burnham: I have visited the paper mill quite a few times, and I am still concerned about what you said about its being unable to get the best quality recycle. Why is that and how can the quality be improved?

[225] **Rosemary Butler:** I presume that you are talking about export here.

[226] **Eleanor Burnham:** Yes.

[227] **Rosemary Butler:** You might like to have a conversation with Mr Williams afterwards about that, because I am sure it is very interesting, but can we just stick to the—

[228] **Eleanor Burnham:** I just thought that that was a very important part of what we are discussing.

[229] **Symudaf ymlaen at fy nghwestiynau ffurfiol. Yr ydych wedi sôn am gyhoeddi datganiad a sylwadau gan y cyhoedd, ond a** I will move on to my formal questions. You have mentioned the publication of a statement and public representations, but is

yw gwneud hynny ar wefan awdurdodau yn ffordd briodol ac/neu effeithiol o gynnwys cymunedau yn y mater pwysig hwn? A oes systemau eraill y gellid eu defnyddio i roi cyhoeddusrwydd i'r datganiad, yn eich barn chi?

doing that on an authority's website an appropriate and/or effective way of engaging communities in this important issue? Are there any other mechanisms that could be used to publicise the statement, in your opinion?

[230] **Mr Williams:** Yes, along with other issues to do with websites, I think that there should be a standard formatting requirements for websites, so that when you go looking for information like the address, for example, of the organisation concerned, you find it on the front page.

[231] **Eleanor Burnham:** As well as a list of members.

[232] **Mr Williams:** A list of members, yes. When you go to look at the data, it would be interesting to make sure that there was a statement on exact destinations of materials.

[233] **Eleanor Burnham:** Mae'r pwyllgor wedi derbyn tystiolaeth sy'n awgrymu bod ffyrdd mwy effeithiol ac uniongyrchol o gael cymunedau i ymwneud ag ailgylchu na'r Mesur arfaethedig hwn, er enghraifft ymgynghori rhagweithiol, mynd i'r afael â newid gwasanaethau a chyfleusterau newydd. Beth yw eich barn chi ar hynny?

Eleanor Burnham: The committee has received evidence to suggest that there are more effective and direct ways of involving communities in recycling than the proposed Measure, such as proactive consultation, dealing with service changes and new facilities. What are your views on this?

[234] **Mr Williams:** Yes, for sure, there are other ways of engaging communities, and one thing that the community sector has been quite good at is engaging communities and representing those very local interests without any fuss and without any controversy. I do not think that there has been any particular kind of worry about what was happening. We have over 1,000 organisations, as I mentioned earlier, across the country that are operating in reuse, recycling, composting, waste reduction and all sorts of areas, and have been doing for the last 20 or 30 years without there being a single headline—okay, there have been one or two headlines, but they have been few and far between—and there has been nothing to worry about.

[235] One thing that we have said right from the very beginning of this conversion from waste to recycling is that a significant proportion of your efforts should be applied to making sure that the public are informed about what you are doing well in advance of you doing anything. One thing that has happened across the UK is that local authorities have failed to heed that advice, and have just simply given out the equipment and a leaflet and maybe put a few articles in the newspaper in the hope that all the residents will suddenly, through osmosis, pick up all the information that is needed. A lot of the problems that have occurred right across the board have occurred because that particular message did not get through.

[236] It is interesting to me to note now that Waste Awareness Wales—I know that there are lots of contracts out at the moment that involve door-knocking in various places to try to increase participation rates—is finally knocking on people's doors and talking to people, which is perhaps what should have been done in the first place, I would argue.

11.10 a.m.

[237] In answer to the question, you cannot do too much to communicate with people, and we should think about a 10-year plan or a five-year plan and make sure that we budget for that, because it will reap the dividend. It is an investment in change.

[238] **Eleanor Burnham:** Whose responsibility is it? We heard earlier from the Environment Agency that a BBC programme was being made about the worst excesses and the mythology, but how can this get to the nub of the communities and who should be doing that?

[239] **Mr Williams:** I think that that is part of this change. We are investing in completely new systems for the collection of materials. When those new systems are introduced, there should be a budget attached to them as part of the contract, if you like, to make sure that the communication gets out to the people who are going to use it.

[240] **Eleanor Burnham:** Pa mor resymol yw disgwyl i'r cyhoedd wneud sylwadau, o ystyried yr egwyddor agosatrydd? A ydych yn derbyn bod hyn yn tybio bod gan y cyhoedd lefel neilltuol o wybodaeth nid yn unig am reoli gwastraff yn gyffredinol, ond am leoliad cyfleusterau gwastraff yn fwy penodol?

Eleanor Burnham: Thank you very much. How reasonable is it to expect the public to make representations, bearing in mind the proximity principle? Do you accept that this assumes that the public has a certain level of knowledge not only about waste management generally, but about the location of waste facilities more specifically?

[241] **Mr Williams:** Here we come across this split between waste and resource recovery facilities again. As soon as you mention that there is a waste facility coming into an area, the alarms go off: 'It's an incinerator, my God. Make phone calls to Friends of the Earth. Get the community organised' and all the rest of it. If it is a recycling facility, for some reason no-one seems to take much notice. If it is a furniture project reusing furniture and bulky household waste, no-one seems to take much notice. If it is an industrial unit being converted to Torfaen recycling or Cardiff recycling or this, that and the other, no-one seems to take much notice—that is the case.

[242] I would ask you to think below that statement. What is it that does not cause alarm to the community when you are talking about improving facilities in order to improve their environment and bring benefit to the community? The key to that probably lies in the fact of what I have just said—the community benefit. If people perceive that there is no harm coming to them in their locality, then they will not react negatively. If they see it as a benefit, they will react fairly positively. That depends on the campaign that you have put on the table before you introduce a new facility. In our experience, when we say we are moving from a waste facility to a recycling facility, there has not been any problem.

[243] **Eleanor Burnham:** Y cwestiwn olaf gennyf fi yw: o gofio'r cymhlethdodau sydd ynghlwm â gwneud penderfyniadau ynghylch rheoli gwastraff, pa mor resymol ydyw i awdurdodau lleol ystyried unrhyw sylwadau a wneir gan y cyhoedd wrth wneud trefniadau ar gyfer y dyfodol mewn perthynas ag adfer gwastraff?

Eleanor Burnham: The final question from myself: given the complexities involved in making decisions on waste management, how reasonable is it for local authorities to have regard to any representations made by the public when making future arrangements in relation to the recovery of waste?

[244] **Mr Williams:** Is the general public a bunch of noddies or does it understand stuff? We have had endless arguments about this. It is amazing that Tesco expects people to come into its stores and choose between 20,000 different products and labelling that goes into endless degrees of detail about what to buy for their own satisfaction, and yet when it comes to deciding which of three bins I should put this piece of waste in, all of a sudden they are incapable—a bit like a man incapable of operating a washing machine or a golf cart. I find that amazing. I will answer the question in a second.

[245] **Rosemary Butler:** I would rather you answered it now than in a second. Can you be specific about the question Eleanor Burnham was asking?

[246] **Mr Williams:** Yes. Now I have forgotten what the question was. I was there a second ago.

[247] **Eleanor Burnham:** Given the complexities involved in making decisions on waste management, how reasonable is it for local authorities to have regard to any representations made by the public when making future arrangements in relation to the recovery of waste?

[248] **Mr Williams:** It is essential that local authorities take full regard of any representation made by any member of the general public, under any circumstances to do with any facility that is going to involve them as a participant. How can you expect individuals in Splott, Tremorfa, Cyncoed or Lisvane to know what they are doing unless someone explains that to them when they request an explanation? It is a simple democratic point.

[249] **Nick Ramsay:** Just a couple of questions about the consequences of the proposed Measure. The WLGA said that it was afraid that the proposed Measure could create a perception among the public that exporting recyclate for recovery is wrong and of no benefit, and that using local facilities is always the best option. I would like your comments on that. Do you think that there is a possibility of damaging public confidence in the whole process? Secondly, the Environment Agency—which has representatives here today—has suggested that the proposed Measure may encourage the public to accept recycling facilities within their own communities, which would have a positive outcome. I would be interested to know what you think about that as well.

[250] **Mr Williams:** The answer is along the same lines. If the general public has been informed that this is what is going to happen and these are the likely consequences it will understand. In other words, if people are told that the system will be changing to collect materials and that those materials are going to be kept clean and sold to the marketplace, which will keep the costs down for them as council tax payers, as well as reduce the environmental impact—because people calculate that; if they have been told that it will also bring social benefit through the creation of local jobs and so on, they will understand. If you tell them, ‘Whoops, we have had a bit of a downturn in the marketplace in India because of a tsunami or something or other, and we have had to sell stuff to China this month’, they will understand that that is perfectly okay. It depends what you say to them upfront.

[251] I would say that most of the materials that are gathered in this country could be recycled in this country at this moment. Even with projected tonnages, there is plenty of capacity. We are not short of capacity to recycle materials, and that is without building new facilities. The whole business of export—and this is why I keep going back to this one, Chair, and I apologise for that—is to do with the choice of collection system which ends up with local authorities collecting materials which have to be called waste, because they are mixed materials, and the only market that will touch them is the market overseas. That is the bit of mythology that I am concerned with, and the reprocessors likewise. Last year it got to the stage where the very existence of reprocessing in this country was under threat because of the lack of material available for those large reprocessors and the price that they were having to pay for the materials that they were collecting. We were in danger of losing our own reprocessing industry.

[252] **Nick Ramsay:** In your evidence, you suggest that the proposed Measure could potentially cause a backlash. What did you mean by that?

[253] **Mr Williams:** When I read that last night to remind myself what I said three months ago, I said, ‘Backlash? Where did that come from?’. If you end up with negativity, that would

be, as I have explained, because of poor information going out rather than inadequate information going out, or not enough information going out rather than too much, and people might get demotivated. They might simply feel dispirited because they are taking all this trouble to sort out the different materials and see it go into one compartment on a truck—and it does go into one compartment in some places in Wales—and therefore complaints are to be expected. If people have taken the trouble to sort out the waste and they see it going into one compartment, then they are naturally going to think, ‘Well, that is not going to be recycled now. They are undoing what I have just done’ because the authority is not explaining that it is changing its system or whatever. So yes, there is a danger of that backlash, and it would demotivate me, frankly. So that has to be taken into account, but I do not think that is general.

[254] **Rosemary Butler:** We have asked you a lot of questions and you have answered them very freely, thank you very much. As you heard earlier, we will let you have a copy of the report and you can make any comments on that before it goes public. Thank you very much for coming. Will you let us know who your members are?

[255] **Mr Williams:** I will.

[256] **Rosemary Butler:** Also you said that you chair the Independent Recycling something.

[257] **Mr Williams:** The Campaign for Real Recycling. It is like the Campaign for Real Ale, only it is for recycling. It has the same thrust.

[258] **Rosemary Butler:** Thank you very much for that, and thank you very much for giving evidence. It was most interesting.

[259] **Mr Williams:** Thank you, Chair.

[260] **Rosemary Butler:** I think that brings today’s business to a close. Just to remind people that we do have a meeting next week. We have a pre-meeting at 8.45 a.m. and the meeting will start at 9 a.m. where the Minister will give evidence. Thank you very much indeed.

*Daeth y cyfarfod i ben am 11.20 a.m.
The meeting ended at 11.20 a.m.*