



Cynulliad Cenedlaethol Cymru
The National Assembly for Wales

Pwyllgor Deddfwriaeth Rhif 1
Legislation Committee No. 1

Dydd Iau, 8 Hydref 2009
Thursday, 8 October 2009

Cynnwys
Contents

- 4 Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datgan Buddiannau
Introduction, Apologies, Substitutions and Declarations of Interest
- 4 Y Mesur Arfaethedig Cludo Gwastraff i'w Adfer (Ymgysylltiad Cymunedau â'r
Trefniadau) (Cymru) - Cyfnod 1, sesiwn dystiolaeth 4
The Proposed Shipment of Waste for Recovery (Community Involvement in
Arrangements) (Wales) Measure - Stage 1, evidence session

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 |
| Peter Black | Democratiaid Rhyddfrydol Cymru (yn dirprwyo ar ran Eleanor Burnham) Welsh Liberal Democrats (substitute for Eleanor Burnham) |
| Rosemary Butler | Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair) |
| Ann Jones | Llafur Labour |
| Nick Ramsay | Ceidwadwyr Cymreig Welsh Conservatives |

Eraill yn bresennol
Others in attendance

| | |
|----------------------|--|
| Rachael Clancy | Gwasanaethau Cyfreithiol, Llywodraeth Cynulliad Cymru Legal Services, Welsh Assembly Government |
| Jane Davidson | Aelod Cynulliad, Llafur, y Gweinidog dros yr Amgylchedd, Cynaliadwyedd a Thai Assembly Member, Labour, the Minister for Environment, Sustainability and Housing |
| Justin French-Brooks | Cynghorwr Polisi – Adennill Deunyddiau, Cymdeithas Gwasanaethau Amgylcheddol Policy Advisor – Materials Recovery, Environmental Services Association |
| Dirk Hazell | Prif Weithredwr, Cymdeithas Gwasanaethau Amgylcheddol Chief Executive, Environmental Services Association |
| Andy Rees | Pennaeth y Strategaeth Wastraff, Llywodraeth Cynulliad Cymru Head of Waste Strategy, Welsh Assembly Government |
| Beth Winkley | Rheolwr Rhaglen Cymru, Rhaglen Gweithredu'r Cynllun Gwasanaeth ac Adnoddau Programme Manager Wales, Waste and Resources Action Programme |

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 9.28 a.m.
The meeting began at 9.28 a.m.

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

[1] **Rosemary Butler:** Good morning, everyone, and welcome to the meeting of Legislation Committee No 1. I have received apologies from Huw Lewis, and Peter Black is substituting for Eleanor Burnham. I remind members of the committee that we operate bilingually, and you can use the headphones to listen to a translation of Welsh contributions, or as an induction loop to hear the whole proceedings more clearly. Channel 0 on the headphones will provide the verbatim broadcast and channel 1 provides translation. I remind you to turn off all mobile phones, pagers or any electronic device that will not threaten your life, as they interfere with the broadcast system and we cannot have that happening, because we will have no Record of Proceedings. If there is a fire alarm, ushers will escort everyone from the room. I remind you not to touch the microphones, as they come on automatically.

9.29 a.m.

**Y Mesur Arfaethedig Cludo Gwastraff i'w Adfer (Ymgysylltiad
Cymunedau â'r Trefniadau) (Cymru)—Cyfnod 1, Sesiwn Dystiolaeth 4
The Proposed Shipment of Waste for Recovery (Community Involvement
in Arrangements) (Wales) Measure—Stage 1, Evidence Session 4**

[2] **Rosemary Butler:** The purpose of the meeting is to take oral evidence from the Minister for Environment, Sustainability and Housing, the Welsh Environmental Services Association, known as WESA, and the Waste and Resources Action Programme, known as WRAP, in connection with the proposed shipment of waste for recovery Measure. We will first hear from the Minister for Environment, Sustainability and Housing, Jane Davidson; Andy Rees, head of waste strategy in the Welsh Assembly Government, and Rachael Clancy from the Welsh Assembly Government's legal services. Welcome to the meeting.

9.30 a.m.

[3] We have allocated questions, Minister, in the usual way to various Members. However, I will start with the first question. In your written evidence to the committee you state that you fully support the objectives of the proposed Measure. However, it would also appear that you are not convinced that the proposed Measure is necessary. Can you confirm for the record whether you support the general principles of the proposed Measure and whether you think there is a need for this legislation?

[4] **The Minister for Environment, Sustainability and Housing (Jane Davidson):** As a general point, and as I noted in the consultation response, I fully support the key aims of this proposed Measure, namely the development of greater transparency about what happens to recycle and the engagement of local communities in the work of their local authorities. Nevertheless, we can use existing mechanisms and, if necessary, existing powers through legislation to achieve these policy aims. Where it is practicable for local authorities to collect information from their contractors on where waste is shipped, this can be recorded on the WasteDataFlow system and the information captured by WasteDataFlow is publicly available.

[5] With regard to engaging people in the work of their local authorities, there are a myriad of ways in which this can be achieved, and local authorities know their communities better than we do. The publication of information should be the focus here. We have the tools to deliver that already.

[6] **Nick Ramsay:** 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 its waste and that this provides sufficient justification for new legislation in the form of the proposed Measure. How do you respond to this?

[7] **Jane Davidson:** The key point here is the objectives of the proposed Measure, which, as I said, I fully support but which can be achieved through other means. We have the relevant powers and, if we need to use those powers, we could require local authorities to collect the information and for that information to be published. So, the aims and objectives of the proposed Measure could be achieved through existing legislation.

[8] **Nick Ramsay:** In your evidence, you state that, where recyclate produced in Wales is sent abroad, it should be dealt with in a transparent manner. Do you consider that the current recycling process in Wales, in particular the shipment of waste, is sufficiently transparent?

[9] **Jane Davidson:** No, I agree that it is not sufficiently transparent, which is why I support the aims and objectives of the proposed Measure. Local authorities identify the final destination of recyclate within the UK through the WasteDataFlow system, but most members of the public will be completely unaware of the information reported through WasteDataFlow, unless it is extracted and presented in an accessible format. I understand that the approach of the Somerset Waste Partnership is to identify where each material recycled is sent for processing and then summarise it on its website in an easy-to-follow way. Such an approach could be introduced and that would give us those outcomes.

[10] **Nick Ramsay:** In her evidence to the committee, Nerys Evans pointed out that, at the moment, we have a patchy situation where some local authorities are collecting and providing more information than others. Nerys Evans's view is that, unless local authorities are required to collect and provide that information, then the situation will not get any better. Do you share that view?

[11] **Jane Davidson:** I certainly think that we need to look at ways of requiring local authorities to provide the information. However, that could be done by making regulations under section 30 of the Waste and Emissions Trading Act 2003, which would give Welsh Ministers the powers to collect the data. That is my point in saying that we do not need a separate Measure when we have other mechanisms of achieving the same outcomes.

[12] **Nick Ramsay:** So, you clearly agree with the aims of the proposed Measure without necessarily thinking that a requirement should be placed on local authorities.

[13] My next question follows on from what you have just said. If there were no proposed Measure and you therefore did not require local authorities to do this as a matter of course, in what other ways could local authorities engage with their communities to achieve these aims?

[14] **Jane Davidson:** There are three points on that. First, a range of voluntary arrangements have already been outlined. However, those do not give us consistency, and we would all be looking for greater consistency on arrangements. In a sense, the jury is still out as to whether that consistency can be achieved through a voluntary approach. If that approach did not work, we could use the opportunity offered by section 30 of the Waste and Emissions Trading Act 2003, under which the Assembly Government could propose regulations to the Assembly via the negative procedure. Those regulations could then be delivered quickly; they would clearly need to be consulted on, but it would be a quick mechanism—much quicker than putting in place a proposed Measure. We may decide to go ahead with that to require information from local authorities, but there is a broader issue behind Nerys's thinking on this proposed Measure, namely how we engage with communities on the benefits of recycling. We have to win that debate at any rate in the context of Wales. The Government and the Assembly both want to be able to win that debate. We might want to take the same approach

as the Somerset Waste Partnership, which I have outlined, to make information publicly available. That information can then be challenged by communities in terms of their relationship with their local authority.

[15] **Nick Ramsay:** Is there evidence that, in many respects, we have already started down this road and that local authorities, albeit later in the day than when you mentioned, realise that this is a good way in which to proceed and that the proposed Measure would not be necessary because at some point in the not too distant future, doing this will be a matter of course for them?

[16] **Jane Davidson:** I am not sure that that is right. Personally—and I have said this in Plenary—I am attracted to the idea of requiring local authorities to provide the information, but I suggest that there are other ways to take that forward than through the proposed Measure process. I have always been of the view that there are plenty of areas on which this Assembly might like to legislate and that we should not legislate on those areas that can be dealt with by other means because we need to preserve our proposed Measure time for those areas that cannot be dealt with by other means.

[17] The way in which local authorities engage with their communities plays an important role in this agenda. At the moment, there is stakeholder engagement with interested groups, perhaps through elected Members interacting with their constituents, but no plans or strategies are formally submitted to the Assembly Government, so we do not have an evidence base here. This Government would strongly support ways in which we could extend the relationship between local authorities and their communities on recycling issues in a consistent way across Wales.

[18] **Nick Ramsay:** The Minister has answered the last question that I was going to ask, Chair.

[19] **Rosemary Butler:** Fine. Ann, you are next.

[20] **Ann Jones:** In your scoping exercise on how the WasteDataFlow system could be improved to meet the objectives of the proposed Measure, could you give us an indication of whether that exercise will be completed and will you make improvements to the system so that we will not need the proposed Measure?

[21] **Jane Davidson:** We commissioned a report from Enviros Consulting on the potential use of the WasteDataFlow system, which is the system of recording data, to obtain better data on the destination of materials. The report suggests ways in which WasteDataFlow could be improved. Currently, local authorities only have to report the end destination of materials in the UK. It would be possible to adapt WasteDataFlow so that destinations abroad could be identified because the system is only as informative as the data entered into it and local authorities may have difficulties in completing all end-destination requirements. These matters are considered in the Enviros report and it may be that this committee would like to have a copy of that report—you may find it helpful in looking at how that could be taken forward.

9.40 a.m.

[22] **Ann Jones:** I think that it would be helpful to see that report, Chair. May I press you a little on the local authorities? You say that encouraging local authorities to voluntarily report destinations would be less onerous than requiring them to do it under a proposed Measure. Is Nerys not trying to stop all this business of ‘shall we, shan’t we; will we, won’t we’? She is trying to set it out, once and for all, so that everybody will do it. Is that not what we are after ultimately? Will the proposed Measure not actually provide that?

[23] **Jane Davidson:** As I said earlier, because there are other ways in which the Assembly Government could require local authorities to collect that information, there is concern that the proposed Measure would be an onerous way of delivering on it—onerous not only in terms of time, but also resources. People are very concerned about time and resources at the moment. Legislation absorbs time and resources that could be used for other purposes. The implementation costs will be the same, whether it is a voluntary or statutory approach, but the legislative element of the costs and responding to the legislative intent is not cost neutral.

[24] **Ann Jones:** Nerys is arguing, and I can see where she is coming from, that the only way that we could guarantee that the public would know where the end destination was would be by making local authorities do it through her proposed Measure. If we want to do that, is Nerys not right?

[25] **Jane Davidson:** We have been saying that one way of doing it is through the proposed Measure, but if the end game is making the information publicly available, using the legislative powers that are already there under section 30 of the Act would mean that we could get that information, and that information could then be published, which is very important in this context. So, in a sense, it is about whether or not there is only one way of delivering an outcome, and what we are saying, as Government, is that we believe that there is another way of doing this that could be delivered quickly and effectively through regulations by negative resolution in the Assembly.

[26] **Ann Jones:** In its evidence to the committee, the Welsh Local Government Association raised concerns that there is potential for the proposed Measure to undermine the Welsh Government's new waste policy towards zero waste. What is your view on the WLGA's concerns?

[27] **Jane Davidson:** I can understand where it is coming from, in the sense that we have all seen some scare stories in the press, which partly is what prompted Nerys to bring this issue forward. It is an important issue for all of us, in terms of recyclate going abroad and the concerns of individuals who thought that their recyclate was going somewhere a lot closer to home, which could therefore affect their commitment to recycling. That is the critical issue. We need everybody to be thinking in terms of the waste hierarchy so that they reduce the amount of waste that they produce, re-use whatever they can, recycle what is left over and then have only the smallest amount of waste possible going into a waste stream—everything else becomes a real resource. That is what our Towards Zero Waste strategy is all about. In one sense, we could say that it would be easy for people to walk away from the recycling agenda if they felt that their recycling was going abroad. I think that we have to take this on the chin and say, 'Some recyclate will go abroad and, actually, that's fine'. If you reduce, re-use and recycle, it is all far better than using virgin products. In a sense, we have to win that debate, irrespective of whether or not we start off in a rocky way over the kind of tabloid response to this agenda.

[28] **Nick Ramsay:** It has been suggested that, if made, the proposed environmental protection and waste management legislative competence Order would provide an opportunity to bring forward legislation that deals more holistically with the whole issue of the shipment of waste. In view of this, do you think that Nerys Evans's proposed Measure is premature, and that if we waited a little more time, we would have a far better, holistic approach to this?

[29] **Jane Davidson:** I do not think that it is premature. I am really glad that she has raised these issues at a very important time in the debate on waste. It is just a question, from the Government perspective, of whether there are other ways of doing it that we might deem to be

better. As I have already said, we have opportunities under section 30 to take forward the issues around requiring local authorities to provide information. It is certainly true to say that if we felt, after we did that, that there were other matters that needed to be addressed, taking a Measure forward under the environment legislative competence Order would allow a completely holistic Measure to be taken forward in the future. The critical issue is that we can get the outcomes by using existing mechanisms or current legislation.

[30] **Nick Ramsay:** It is also a question of timing, is it not, in relation to the LCO? I am sure that you have been asked about that many times before. When will that legislative competence Order come forward? Nerys Evans's view was that, in the meantime, her proposed Measure cannot do any harm. Can you give us any indication as to when the LCO might come forward?

[31] **Jane Davidson:** Yes. The issue was getting LCO through its early parliamentary processes, which took far longer than I think any of us would have liked to have seen. Now, of course, it has come out of that. The House of Lords Constitution Committee will be considering it on 14 October. As it was given a positive report by the Assembly and the Welsh Affairs Select Committee, we do not anticipate any problems. Therefore, we will have the draft Order this autumn and Royal Assent early next year. Now that it has come through the early part of the parliamentary process, it should proceed very quickly.

[32] **Nick Ramsay:** It has appeared from that cloud and we have some times noted, which I am pleased to hear, Chair. Thank you for that, Minister; it was very clear.

[33] I will now move on to the issue that you mentioned earlier, namely information collection of local authorities. In your evidence, you have raised concerns about the ability of local authorities to secure accurate data to meet the requirements provided for in section 55A(5). Which of the requirements in that section do you think local authorities would find particularly difficult to meet? Conversely, are there any requirements that local authorities could easily meet?

[34] **Jane Davidson:** It is certainly reasonable to expect local authorities to be able to report the first destination of their waste, which could be achieved as part of a contractual agreement between the local authorities and their materials brokers. It is more difficult for local authorities to accurately report the fate of materials if they are mixed with materials from other sources and sent to multiple brokers or reprocessors in response to the market conditions. I think that there are practical difficulties under section 55A(5) of the proposed Measure. If the materials come through kerbside sorting, and those are bulked for direct transfer to reprocessors, that is very easy because you have a direct route. The Assembly Government has been advocating kerbside sorting, not particularly for this reason, although it is also helpful in this context, but because there are better outcomes in terms of lifecycle analyses. There are those other ways where, if they are collected as co-mingled recyclables then sorted at a materials recycling facility used by different local authorities, or sorted at more than one materials recycling facility before they end up with the reprocessor, it becomes much more complicated in terms of delivery.

[35] **Nick Ramsay:** In evidence to the committee, Nerys Evans told us that the information required under the proposed Measure should be relatively straightforward for local authorities to obtain. She implied that private companies simply need to collect the relevant information and then pass it on to local authorities. In your opinion, does this reflect the experience of local authorities?

9.50 a.m.

[36] **Jane Davidson:** The points that I have just made would suggest that there are times

when the information is perfectly easy to collect. In Wales, we are rapidly expanding our local recycle markets. We have been doing it in the case of plastic bottles, for example, and the Assembly Government has put in funding to help that to happen and we will have a cutting-edge facility. So, where we are able to expand the recycle market, we are doing so positively. However, where these things become more complex and mixed, it does become harder. That is the point that we want to make in terms of getting a pragmatic outcome here. Andy, do you want to add anything else on this?

[37] **Dr Rees:** It is all down to the way in which the market works, as materials are bulked up and then separated out again. Things can change on a day-by-day basis; for example, the spot prices change, and so on. This is one of the big issues that local authorities will have as it is quite difficult for local authorities to get accurate information about exactly where each tonne goes around the world.

[38] **Nick Ramsay:** There are cross-border issues here, are there not? Waste does not stop at the border. I understand that for you to achieve the aims that you and Nerys Evans have outlined, you have to deal with the Westminster Government and the European Union. Have you made any progress in this regard? Can you update us on any discussions that you have had with Westminster and Brussels?

[39] **Jane Davidson:** We undertook to make contact with the Department for Environment, Food and Rural Affairs and the European Commission about these proposals. The DEFRA response indicates that it has no plans to take any action that will achieve the objectives of the proposed Measure. DEFRA acknowledges that it may be feasible for the Assembly Government to require the Environment Agency Wales to operate a similar regime to those in Northern Ireland and Scotland, where annex 7 forms are routinely collated for the purposes of monitoring and reporting green list exports. However, since Welsh recycle may be exported from English ports, the value of a Welsh-only regime may be questioned. The European Commission confirms that it has no plans to introduce any changes to reporting obligations that would promote the objectives of the proposed Measure.

[40] **Nick Ramsay:** Thank you, Minister. Finally, what effects do you believe the improvements that you have referred to regarding the management of the data relating to the shipment of waste will have on the collection of information required under section 55A(5)? In other words, will they help to facilitate the collection of information?

[41] **Jane Davidson:** The Enviro report, which we will make available to you, will be very helpful regarding the way in which we deal with the WasteDataFlow information. However, the opportunity of making the regulations under section 30 would consolidate that. That would give us the outcome that we all desire, not least because we would have to consult on those regulations and, therefore, Assembly Members and others would be able to input with regard to how the data was collected and for what purpose.

[42] **Peter Black:** In giving evidence to the committee, Nerys Evans accepted that local authorities may experience difficulties in providing the necessary information until a time when contracts with waste companies could be renegotiated. She asserted that the proposed Measure takes account of this by requiring local authorities to give only the information that it holds, having taken reasonable steps to obtain it. Is that your understanding of the legislation? Do you consider that to be a reasonable requirement?

[43] **Jane Davidson:** I was pleased to see that the proposed Measure was amended to ensure that local authorities take reasonable steps. However, it also exposes the difficulties, because the amendment that refers to reasonable steps is a pragmatic amendment. I do not know whether Rachael wants to venture into the territory of what might constitute 'reasonable steps', because, in a sense, that is what will have to be tested in law. Do you want to add

anything to that, Rachael?

[44] **Ms Clancy:** It is difficult to say, given the complexities that the Minister has outlined in relation to where waste begins, where it might end up and how it is amalgamated with everything else, it is difficult to say what might constitute reasonable steps. Clearly, some steps would have to be taken. I do not know whether it would be considered reasonable to amend contracts to require the other party to it to provide any information that it holds. There is a chance that that might be viewed as reasonable but, in the end, it all comes down to what a court would conclude was reasonable in the circumstances.

[45] There is then the question of whether it would be reasonable for a local authority to require some person with whom it contracts to contract with someone further down the chain to provide the information in turn, so that it could then be provided to the local authority, but I think that we are getting a bit further away from what may or may not be considered reasonable. I am afraid that I cannot give you any clear guidance at this point about what would or would not be reasonable, but some steps would actively have to be taken.

[46] **Peter Black:** We have touched on the negative impacts of imposing a duty on local authorities to produce the statements required by section 55A to the Environmental Protection Act 1990, as inserted by section 1 of the proposed Measure, particularly given people's reluctance to recycle if they thought that the waste was going abroad. Are there any other negative impacts that may arise from that requirement?

[47] **Jane Davidson:** As I said, I can see how people are concerned about that, but we must win a public debate about recycling. As we develop better recycling infrastructure locally, which we will continue to do, and as we support local markets better—and we will also continue to announce developments in that area—it will be helpful, because we can explain much more clearly to the public why different materials are recycled in different ways. However, there will be some areas of Wales where particular products cannot be recycled within the country, and they will need to go elsewhere. As Nerys's explanatory memorandum makes clear, there are similar areas in Scotland as well.

[48] **Peter Black:** You talked in your written evidence about encouraging local authorities to report this information voluntarily, and you referred to the idea that the Government could collect this information and publish it on their behalf. That is one way forward. Would you do that in the context of a wider public information campaign on the destination of recyclates and the recycling cycle?

[49] **Jane Davidson:** That is very much how we want our 'Towards Zero Waste' strategy to go, with the Assembly Government working closely with local authorities and others. Our strategy is not just for local authorities, but for all waste streams, so that we can work with all partners in conveying the big messages about recycling. The Assembly Government holding the ring, as regards requiring the information, but publishing the data and making them available seems to me to be a very effective way forward.

[50] **Peter Black:** How do you think that that should best be conveyed? Do you see publication on a local authority's website, or do you think that it should be done in the context of engaging the community in a wider debate? How would you promote that?

[51] **Jane Davidson:** We need to engage communities across Wales in that wider debate about the positive environmental impact of recycling, whether it is recycled in Wales, the UK, Europe or elsewhere. So, that communication is a huge societal issue. In fact, we have recently taken decisions about refocusing our communications in the context of this agenda to do exactly that and to work with all the providers and partners on conveying these messages. Andy, do you want to add anything else?

[52] **Dr Rees:** The priority now is to help local authorities to work more directly with their communities on getting information out there, raising awareness and educating people. Essentially, some of those tools will be provided by Waste Awareness Wales, which is based in the Welsh Local Government Association. Moving towards the target of recycling 70 per cent of all waste will require many more people to participate in a more comprehensive way, so that education and awareness raising is crucial. It is also important that people understand the benefits of recycling wherever in the world the material goes. It is a beneficial activity and they should be pleased to take part in it.

10.00 a.m.

[53] **Jane Davidson:** Think about where we were in 2000. Then, we were recycling around 7 per cent of our waste, so I am pleased to say that, today, some of our best local authorities are heading towards a figure of 50 per cent. Awareness now is huge, and we need to capitalise on that.

[54] **Peter Black:** How reasonable is it to expect the public to make representations having regard for the proximity principle, and will expectations be raised by that that may not be met?

[55] **Jane Davidson:** It is reasonable to expect the public and the business community to make representations on the proximity principle if it is explained appropriately. It is also important to say that the proximity principle as defined in article 16 of the revised waste framework directive applies to the disposal and recovery of mixed municipal waste and so, according to its strict definition, does not apply to material that is separated for recycling. However, the issue for me is how to ensure that the public becomes more aware of the value of the resources and of the opportunities for recycling, and how that can be picked up by local communities perhaps leading to local business opportunities. So, the proximity principle can offer major opportunities, where appropriate, to develop recycle markets. However, we must recognise that, in legislative terms, the proximity principle is not about that.

[56] **Mohammad Asghar:** To follow up Peter's question, the committee has received evidence to suggest that the proximity principle is not relevant in the context of the proposed Measure, which deals with waste for recovery, because the principle relates only to waste for disposal. What are your views on that?

[57] **Jane Davidson:** In a sense, I would give the same answer as I just gave to Peter. It is important in this debate, particularly when talking about legislation, not to confuse the terminology. So, the proximity principle as outlined in article 16 of the waste framework directive applies to the disposal and recovery of mixed municipal waste and is therefore not applicable to material separated for recycling. However, if we are talking about the wider agenda of trying to ensure that, wherever possible, the markets for recycle are as close as possible to the waste stream, I would say that we are very focused on that to make progress on our 'Towards Zero Waste' agenda.

[58] **Mohammad Asghar:** 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?

[59] **Jane Davidson:** It is important, but it is only one input, which is why I made the point earlier that our strategy, 'Towards Zero Waste', is not only about municipal waste. Many people think that municipal waste is the be-all and end-all, but it is not even the largest waste stream in Wales. Therefore, we have to consider the opportunities for the public and for businesses to have an input into that process. We are taking a regional approach to much of

this agenda, quite reasonably, to ensure that the right facilities are in the right places. That means that this agenda goes wider than local authority boundaries. So, we also have to relate all that to this agenda.

[60] **Mohammad Asghar:** My next question is on the consequences of the proposed Measure. In evidence to the committee, the representatives of Environment Agency Wales stated that the proposed Measure,

[61] ‘Will result in local authorities having a greater understanding of what is happening to their waste which will help prevent waste being illegally disposed of in other countries’.

[62] Do you accept that assertion?

[63] **Jane Davidson:** The proposed Measure would do that, but the measures that we can already take as a Government through regulations could also do that. The critical issue is to ensure that relevant information is out there in the public domain and so can be used by people. So, how that information is put into the public domain, how waste is dealt with in the Government’s and Nerys’s proposals, and how that information is published are all important steps. They are all about that bigger agenda of developing greater societal awareness of recycling issues.

[64] **Mohammad Asghar:** On the same track, Environment Agency Wales also suggested this.

[65] ‘Providing the means for more information to be collected and shared with the general public may encourage the population to accept recycling facilities within their neighbourhoods which would be a positive outcome in terms of the development of UK recycling infrastructure.’

[66] What are your views on that, Minister?

[67] **Jane Davidson:** It is certainly true to say that the creation of bring sites—and there are huge numbers of such sites across Wales now—is warmly welcomed by communities because of their convenience generally. If you are talking about larger facilities, to recycle different kinds of outcomes from the waste stream, we might find ourselves in the situation of people accepting it in principle but not necessarily wanting it on their doorstep. That is why it is critical that we have the debate about everything being recycled and re-used, if we cannot remove it from the waste stream altogether.

[68] **Mohammad Asghar:** Thank you for that concise answer. My final question is on the cost of the proposed Measure. According to the Welsh Local Government Association, the estimated cost for local authorities to meet the requirements of the proposed Measure is roughly £700,000. Do you think that that is a fair estimate? If so, on what basis?

[69] **Jane Davidson:** The costs are difficult to assess, and I am sure that you will have had an opportunity to talk to the WLGA about the basis on which it has estimated that figure. Our view is that the costs would vary between local authorities depending on the complexity of their arrangements. Clearly, if they had simple arrangement such as a kerbside re-sort followed by bulk dealing with processors, the costs would be negligible. However, if it has to disinter its waste stream to work out where it is all going, that could take a good deal of time. We suggest that the cost might be half that sum: £350,000 per annum. The agreement that we have with local authorities means that it would have to be funded by the Assembly Government and, in today’s climate, that funding would have to be taken away from some other aspect of delivery. So, I would be worried about its having an impact on other priorities in ‘Towards Zero Waste’. We estimate the cost of the proposal that I made earlier, of

amending the WasteDataFlow system to record the relevant data on the first destination of recyclates, to be about £20,000, which we could quite easily meet, as an Assembly Government.

[70] **Rosemary Butler:** Minister, taking on board what you said earlier that, in your opinion, there is no need for this proposed Measure, may we just follow up the point that has been made by Oscar? If there is a cost, whatever it may be, the pressure on local government budgets is great and therefore your department would have to cover it. Are you prepared to divert funds from other resources to pay for this, if the proposed Measure is agreed? Do you consider that the resources required to meet the cost of the proposed Measure would be a worthwhile investment if it were to lead to an increase in recycling?

[71] **Jane Davidson:** I will continue to argue, as I have done all the way through, that I am very pleased that Nerys has brought this proposed Measure forward for consideration, because the outcomes that she and I want to achieve are exactly the same. We want better information. We want greater engagement with our communities regarding recycling. We want to know the destinations of our recycle, and we want a handle on local authorities in the performance of their functions. However, because we can deliver that by other means and at low cost, we as an Assembly Government will continue to argue that that is a better way of taking this agenda forward.

10.10 a.m.

[72] **Rosemary Butler:** Fine, thank you. Does anyone want to ask any further questions of the Minister?

[73] **Mohammad Asghar:** I do.

[74] **Rosemary Butler:** Just a short one, please.

[75] **Mohammad Asghar:** Many thanks for your wonderful explanation of the waste data flow. I picked out a few words from your comments, such as the 'other ways' that this has to be dealt with, and 'educating communities'. The third one is 'power under section 30', which you say we need to explore properly to find a better way of achieving our aims than through this proposed Measure. What are these 'other ways' that you mentioned?

[76] **Jane Davidson:** It is because we can have an improved outcome from the waste data stream, and because we can use regulatory powers under section 30. In a sense, I have proffered to committee the fact that this Government would be happy to make regulations to ensure that we do collect the information and publish it. We could do that under section 30.

[77] By always looking at the outcomes of what any legislation is designed to achieve, for Nerys, part of the outcome is about ensuring that information is in the public domain so that it can be used to test local authorities against their actions. We can deliver on that without the need for this proposed Measure.

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

[79] **Rosemary Butler:** Thank you, Minister. A draft copy of the Record will be sent to you for you to check. Thank you for coming to give evidence this morning. If the committee is content, we will move straight on.

[80] I welcome Dirk Hazell, who is chief executive of the Environmental Services Association, Justin French-Brooks, also from the Environmental Services Association, and Beth Winkley, who is representing the waste and resources action programme. Thank you for

coming to give evidence. It would be helpful, Mr Hazell, if you could, at some point, let us have a list of your membership showing where they are based. I looked it up on the website, but I could not find that information. For Members' information, I asked the same thing last week of Mr Williams from Cylch, and we now have a list of its membership, which I think has been circulated around the table.

[81] You have seen the format for this morning's meeting. We will ask questions, either of each organisation or of both; Members will indicate who they are asking. With that, we will move straight to the questions. I will ask the first one.

[82] Can you confirm for the record whether you support the general principles of the proposed Measure and whether you think there is a need for this legislation? That question is to both organisations.

[83] **Ms Winkley:** I am going to use the acronym WRAP throughout, because that is what waste and resources action programme is normally called.

[84] WRAP supports the underlying principles of managing one's waste as close to its source of generation as possible and where practicable. We are also in favour of being proactive in encouraging people's efforts to increase recycling rates. However, we do not believe that the proposed Measure will achieve these aims.

[85] **Mr Hazell:** We support local authorities complying with their duty of care, and we also support local authorities knowing in broad terms where their waste goes for recycling. However, that is a very different matter to applying a specific Welsh law in the context of complex global markets. Our view is that local authorities should instead require a contractual term providing an aggregated statement every year—you have had written evidence from Veolia on this—saying, for example, that a MRF provided w per cent of output in Wales, x per cent in the rest of the UK, y per cent in the rest of the EU and z per cent in the rest of the world. We agree with the Welsh Local Government Association's evidence that the proposed Measure is a sledgehammer to crack a nut.

[86] To be specific, in two ways, section 55(A)(5) is better than it was—it is now limited to shipments outside of the European Union, but it is still very problematic. 'Shipment' is not a defined term in this law, but shipments start with the collection of waste. Typically, an item of waste will go through several shipments. So, if you leave your recyclates out for collection in a particular week, those various recyclates will go through several shipments and different shipments from the house to the MRF, from the MRF to somewhere else, and so on. A local authority will not be able to cope with a blow by blow account of what happens to every shipment. Waste is likely to be mixed and separated several times before it emerges as a material in a new manufactured good.

[87] **Rosemary Butler:** Can you explain what MRF is for the record?

[88] **Mr Hazell:** It means material recovery facility. So, on that point, we think that it is a more realistic ambition for British regulators to ensure that each chain complies with the law.

[89] However, there is a further fundamental technical problem with this law at the moment. One of the new features of the new waste framework directive, which the Minister briefly referred to, is that article 6 provides for European standards saying when specified material stop being waste. The benefit of article 6 is that it will provide a platform for a strong European market in recycled materials. The trouble is that, because the directive is new, none of those standards are currently in place, but some are being negotiated. It means that, as of today, we do not know exactly when, under European law, some of those materials will stop being waste—that is all that the proposed Measure is concerned with—and, therefore, the

extent to which those materials will come within the remit of the proposed law in Wales. On that basis, but on different grounds to those cited by the Minister, the proposed Measure is premature, because article 6 is not yet in place.

[90] **Ann Jones:** I have a question for WRAP. You state in your evidence that the basic premise underlying the proposed Measure is that exporting recyclate for recovery is somehow inherently inferior to recycling in the UK. Why do you consider that to be the case?

[91] **Ms Winkley:** In looking at the original proposal that Nerys Evans produced in August of last year, she focused a lot in the initial part on illegal exports, which she stated was true in a majority of cases. I am not able to comment on that. However, she goes on to talk about the intention that the local authorities would report on their recycling that goes to various places, whether it is in Wales, the UK, Europe or beyond. She said that, as a result, people would recycle more, but there is an assumption that if it goes overseas it is not as good as recycling at home. That is a dangerous assumption, because it is a valuable resource to which value could be added by sending it overseas. It is a dangerous assumption that the material is of value only if it is recycled in Wales.

10.20 a.m.

[92] **Ann Jones:** May I follow that up? In her evidence to the committee, Nerys Evans has made clear that her proposed Measure is not intended to stop the export of recyclate. She has emphasised that the aim of her proposed Measure is to ensure greater transparency and openness in the way that local authorities deal with recyclate. Does that help to address your concerns?

[93] **Ms Winkley:** It partly helps to address the concern, but there is still that assumption, which may have been fuelled by negative publicity in the past about some erroneous waste going overseas, that if it is going outside the country, that it is a bad thing.

[94] **Ann Jones:** I now have a question for both of you; I do not know who wants to answer first, you can decide. Do you consider that the recycling process in Wales, in particular the shipment of waste for recovery, is sufficiently open and transparent?

[95] **Ms Winkley:** It is difficult to answer whether it is sufficiently open, because it depends what we are comparing it with. That is a difficult statement for WRAP to comment upon.

[96] **Mr Hazell:** I think that you are getting evidence from a number of witnesses that the process could be more transparent, but I would say that the answer to that is: emphatically not the wrong law at the wrong time. We believe that legislation is unnecessary. For example, it would be much better to encourage every MRF in Wales to become a member of a quality assurance scheme, like the recycling registration service, which would, in practice, do much more.

[97] **Ann Jones:** May I follow that up? Nerys Evans has explained that some local authorities are unable to provide details of where their recycling took place, while others could partially offer information. So, if local authorities are not required to collect and provide such information, how will that transparency be achieved?

[98] **Mr Hazell:** That transparency can be achieved by a number of means. I suggested in my opening comment that the best was by contract with operators. Local authorities should know where recyclates go, but that does not need a new law. It can be dealt with by contract with the operators. It is, frankly, much more important that householders are given clear information about the quality of the material that they leave out for recycling.

[99] **Ann Jones:** This is for Mr Hazell. You have already touched on the materials recovery facility and you have mentioned that you think that they should adopt a quality assurance approach by registering with the recycling registration service. How would that alternative approach achieve the specific aim of the proposed Measure, which is to ensure greater transparency and openness in the way that local authorities deal with their recyclates? How will your alternative work?

[100] **Mr Hazell:** There is a complicated legal framework for the export of material—the European Union regulation on shipment of waste—which implements the Basel convention. As you can see here, it is a double-sided photocopy, because we are environmentally sustainable, and there is a lot of it. The gist is that you cannot export waste for disposal, but, in certain circumstances, it is a perfectly good thing to do to export waste for recycling.

[101] Our externally audited scheme looks at MRFs, and it ensures that they comply with that international legal framework. By doing that, it provides quite a lot of transparency. So, for example, an external auditor will ensure that the MRF is complying with all the local laws and that the shipment is complying with international law, and that, when it arrives in a third jurisdiction such as China, European standards of health and environmental protection are followed broadly, because that is required. As far as China is concerned—there are Chinese Government officials over here—it is about ensuring that the process is valid. It is a certificated scheme, it facilitates the sort of thing that you heard from the Minister on waste data flow, but it adds another check, which is that each consignment of material for recycling that leaves a certified facility has its own sticker and its movement is audited to whichever third country it is going.

[102] We find that the process of MRFs applying for this scheme, and then being registered, has significantly improved their standards of book-keeping—which means that they can report back to their authorities better—as well as their operation. That is being done without any law telling us to do it.

[103] **Mohammad Asghar:** My question is to Mr Hazell regarding the collection of information. In your written evidence you raise concern about the ability of local authorities to secure accurate data to meet the requirements provided for in section 55A(5). Which of the requirements provided for in section 55A(5) do you think local authorities would find particularly difficult to meet? Conversely, what information do you think local authorities could reasonably be expected to obtain and subsequently publish?

[104] **Mr Hazell:** I now see the purpose of your original comment.

[105] **Rosemary Butler:** We thought that you were you telepathic. [*Laughter.*]

[106] **Mr Hazell:** I will briefly reiterate. It is perfectly reasonable and practicable for local authorities to have and to require from operators on an annual basis—and again, you have had the written evidence—aggregated data showing that, over that period, a certain amount of material was recycled in Wales, a certain amount in the rest of UK, a certain amount in the rest of the European Union and EFTA, and a certain amount in third countries. That is feasible and it is interesting information at local authority and public level. However, Justin and I spent yesterday morning closeted with the Queen's counsel going through the nightmares that this law would represent and it is, frankly, not a viable law. As I said, when you leave materials out for recycling each week, each of those materials will probably go through several different shipments. This is true even with the same material and if you are talking about a particular metal. If you have two aluminium cans, those two cans of aluminium could well go to different places. This law is requiring that each shipment—and there are several shipments for each collection—will have to go through all of these steps.

[107] If you want to a job creation scheme for local authorities in Wales—and for lawyers—I strongly recommend that you adopt this law. If you want to improve public information about recycling, I would strongly urge you to listen to the strong strand of evidence that you have had from pretty much every witness who has appeared before you. We agree with the Welsh Local Government Association—although we do not always agree with it—that this is using a sledgehammer to crack a nut. We agree with the Minister, with whom we do not always agree, that WasteDataFlow is perfectly adequate, and I have offered this very specific advice: it is perfectly reasonable to expect contractors to give you aggregated information, which is what people in households will understand. You can send a letter saying, ‘Of all the waste that you put out for recycling last year, x per cent was recycled in Wales’. That is what people will understand. They do not want a telephone directory spreadsheet showing where every can went. That is my answer. I am not being rude; it is just to be clear.

[108] **Mohammad Asghar:** In evidence to the committee, Nerys Evans stated that the information on the onward destination of waste is held by the processors and that it is just a matter of getting the information to filter down to the local authorities and to become part of the contract agreement. What are your views on this?

[109] **Mr Hazell:** Again, at an aggregated level, it is perfectly reasonable for local authorities to say to contractors, ‘We want to know where, roughly, the waste is going, broken down into percentages’. It is not true that the waste management companies have this information. I do not think that it is possible to do it. Those who buy recyclables from Britain sell on the materials to other end users. Justin made the point in our meeting yesterday that even if the reprocessors in China have a surplus of a particular material at a particular time, they will sell that on to another reprocessor.

10.30 a.m.

[110] That is all perfectly lawful and it complies with good environmental practices, but it is not worth anyone’s time documenting it Coca-Cola can by Coca-Cola can, which is more or less what her proposal comes to. It is just not worth it, and we do not have the data.

[111] As I said, we have that European legal framework, which implements the United Nations legal framework. If there is any belief that this regulation is not being properly implemented, there is a right of complaint to the European Commission, which can then instigate proceedings through the European Court of Justice. If you think, as we sometimes do, that the Environment Agency is not doing everything that it might be doing, infraction proceedings can be brought against the regulator in this country. So, where there are problems, there is quite a robust legal framework, and where there is a need to communicate what matters are the headline figures.

[112] **Mohammad Asghar:** In giving evidence to the committee, Nerys Evans accepted that local authorities may experience difficulties in providing the necessary information, until a time when contracts with waste companies could be renegotiated. She asserted that the proposed Measure takes account of this by requiring local authorities to give only the information that it holds, having taken reasonable steps to obtain it. Do you consider this to be a reasonable requirement?

[113] **Mr Hazell:** Let me say what the Minister said, but more directly and, you may think, less politely: that clause on reasonable steps is a recipe for legal confusion. If you want to spend public money on lots and lots of lawyers and, given that we are in an economic downturn, if that is how you want to ensure economic recovery, that is great. If you want a legal framework and arrangements with operators that give the relevant information to the

public, do not adopt this law. I have made that clear.

[114] **Mohammad Asghar:** Do you believe that there is a danger that this provision may undermine the effectiveness of the proposed Measure?

[115] **Mr Hazell:** It adds to the legal confusion that the proposed Measure as a whole already represents.

[116] **Ann Jones:** We have heard evidence that, if this proposed Measure was to go ahead, contractors may not want to operate in Wales. Is that your view?

[117] **Mr Hazell:** These are challenging economic times and contractors are willing to look at things that they may not always be willing to look at. So, rather than answer your question directly, I would say that, at a price, contractors are always willing to do anything. There are people who say that they are going to do something, and there are people who actually do things, so let us look at the people who are going to do what they say they are going to do. At a price, you will always get someone to do it, but do you really want to have to force local authorities and Welsh local government to choose between genuine public services and providing this extremely bureaucratic information? That is my answer, which is, again, slightly ruder than that of the Minister.

[118] **Peter Black:** You have addressed this issue, but I just want to approach it from a different angle. In your written evidence, you state that there are a number of ambiguities in the drafting of the proposed Measure, and, in particular, you raise concern that an authority would be required to publish a statement about all recovery shipments if just one shipment takes place outside the EU or European Free Trade Association boundaries. Do you think that further clarification is required in respect of this issue, and how do you think the proposed Measure could be amended to make this more acceptable?

[119] **Mr Hazell:** That specific point has been dealt with by an amendment, so, in fact, that particular concern no longer applies—it has changed since we submitted our evidence. There has been a redrafting of this proposal, and section 55A(4) has a slightly different wording compared with when we submitted our response.

[120] **Peter Black:** Are you content with that wording?

[121] **Mr Hazell:** I am not going to go along with that. I can talk about other areas of ambiguity in the law if you would like.

[122] **Peter Black:** Does the wording, as amended, address that?

[123] **Mr Hazell:** Yes, that particular problem has been addressed.

[124] **Peter Black:** So, you are content that that particular problem has been addressed.

[125] **Mr Hazell:** It is clear. There has been the addition of the word ‘such’ somewhere.

[126] **Peter Black:** In your written evidence, you raise concern that the definition of the proximity principle provided for in section 55B(4) creates undesirable ambiguity between domestic and EU legal text. Are you content with the explanation provided by Nerys Evans that the definition has been adapted to make it more relevant to the proposed Measure and easier for the public to understand?

[127] **Mr Hazell:** No, I am not. I have been on the bins for 10 years, and I still consider myself quite ignorant about the law. The law on waste is incredibly complicated, and it is

quite clear from her oral evidence to your committee that Miss Evans does not understand it. That is not a criticism; it is just that there is so much law in this area.

[128] I would answer the question slightly differently to the Minister, but it is the same point. If this law comes into effect before the new waste framework directive in December 2010, then it must rely on the definitions in the current waste framework directive. In that current directive the legal concept of proximity relates only to disposal, while this proposed Welsh law relates to one aspect of recovery, namely recycling. Again, using a different proximity definition is a recipe for potentially very expensive litigation and the associated waste of taxpayers' money.

[129] The Minister referred to a slightly different definition of proximity in the new waste framework directive, but it does not really alter the point. There is a basic legal concept that disposal should be close, but the intention is to have a European and wider international market in materials for recycling, and that can only be a good thing. After all, most of the manufactured things that Welsh people buy in Wales are not made in Wales and of Welsh materials. Those materials have to go somewhere else.

[130] **Peter Black:** I will give Beth a chance now. In your written evidence you state that the proximity principle applies only to shipments of waste for disposal, and you go on to state that this principle is irrelevant for the purpose of the proposed Measure, which deals specifically with waste for recovery. Is there any reason why the proximity principle should not or could not be applied to waste for recovery?

[131] **Ms Winkley:** Following on from what the Minister said earlier, the EU waste directive framework, as legislation, deals only with the disposal of waste, and not the recovery of materials. If Wales wants to look at the close proximity principle in terms of end-market recycling, that is a different matter; it is a policy for Wales, and should not be mixed up with the legislation as it stands.

[132] **Peter Black:** How reasonable is it to expect the public to have regard to the proximity principle when making representations to a local authority?

[133] **Ms Winkley:** There is some confusion here. I do not think that the public will relate to the EU directive; however, in terms of the waste strategy's aspirations to reprocess as much waste as possible in Wales and build the infrastructure for waste in Wales, the public will be interested in its recycling going to a local destination. However, that is different from the legislation that we have here.

[134] **Peter Black:** Do you want to comment on that, Mr Hazell?

[135] **Mr Hazell:** I do not think that it is appropriate for me to say what the public should think, but we are entitled to say that Wales should comply with relevant European Union law. That is our position.

[136] **Peter Black:** My last question is to both of you: how meaningful is the information provided in the statements for the public?

[137] **Mr Hazell:** I think that I have made it clear that, as far as the industry is concerned, many pages of spreadsheet data looking at the collection of waste and several shipments per week would perhaps only have public value as a cheap cure on the NHS for insomnia.

[138] **Ms Winkley:** I do not think that it will be very meaningful unless it is accompanied by sufficient contextual information. If the public does not have the full story about why something was sent to China as opposed to being landfilled in Wales, it cannot make those

decisions. Therefore I do not think that it will be meaningful to the public as it stands.

[139] **Nick Ramsay:** I get the feeling that you have issues with this proposed Measure. *[Laughter.]*

[140] I am almost scared to ask this question, but following on from Peter's line of questioning, I will ask this to both Dirk and Beth: do you consider the publication of a statement on a local authority website to be the most effective way of involving communities in their recycling arrangements?

[141] **Ms Winkley:** I do not think that it is for WRAP to answer that; it is a matter for the local authority as to how it communicates with its residents.

10.40 a.m.

[142] **Mr Hazell:** I feel the same way. It is not for me to tell local authorities how to communicate with their residents. You have had some quite interesting oral evidence on the way in which different types of communication appeal to different age groups and sectors. What is important—and here I agree with the Minister—is that we need a consistent measure showing why recycling is good. Annual headline figures communicated by local authorities to the communities that they serve will be meaningful. This very detailed micro-information will be a case of local authorities creating a rod for their own back; it will create more problems than it solves.

[143] **Nick Ramsay:** From what you have just said and what you were saying earlier, aside from the issue of whether it is the best way to communicate with the public, you seem to be saying that the amount of information that the public wants is not as great as suggested by the proposed Measure. In other words, there are very few people who do not want recycle and people want to know that the recycle is dealt with effectively, but, beyond that, people do not desire that level of detail.

[144] **Mr Hazell:** I think that that is right. Obviously, people are interested in detail when things go wrong, but I have tried to point to the quite robust legal framework that exists for when things go wrong. We certainly think that the Environment Agency should be significantly tougher in some respects with some currently very lightly regulated entities. When you are talking about sensibly aggregated amounts of information that people can understand, we have absolutely no quarrel whatsoever. It is basically the national implementation of the Aarhus convention that requires local authorities to be very transparent about the environmental information they have. That can only be good for building a recycling society.

[145] **Nick Ramsay:** I have another question that you may well say is not an issue for you. However, I would be interested to have your view on it. Again, it relates to local authorities and concerns the word 'reasonable', as mentioned earlier, which causes so much concern and can cause confusion. How reasonable is the requirement for local authorities to 'have regard' to any representations made by the public when making future arrangements in relation to the recovery of waste?

[146] **Mr Hazell:** I would hope, as someone who votes, that any of my elected representatives would have regard to anything I said.

[147] **Nick Ramsay:** Thank you. That is quite clear.

[148] **Ms Winkley:** We would think it reasonable that a local authority would have appropriate regard to its residents' concerns and any representations made to it. To go back to

the point about detail and whether the public would be interested in that level of detail, we have heard how complex the process is. Collecting those data would not be a simple process. I think that it is more the general principles that the public is interested in, as well as being committed to improving the environment and working towards better sustainable communities in Wales. That is important. WRAP does a great deal of work helping on consumer campaigns. We provide a great deal of material to Waste Awareness Wales, which is used by local authorities in their consumer campaigns. It is very important to get those messages out about recycling and moving towards a more sustainable community. However, the detail is probably best left as an appendix, rather than being included in a huge public document.

[149] **Nick Ramsay:** In WRAP's written evidence, you raise a concern that the proposed Measure could lead to a reduction in recycling participation because of the negative media coverage that that sort of information might get. Can you explain a bit more about why you think that might be the case?

[150] **Ms Winkley:** Yes. There has been negative media coverage about, for example, shipments, perhaps illegal shipments—and this is anecdotal—going overseas and turning up on landfill sites somewhere. The difficulty when these stories arise is that you do not get a balanced picture. For example, where legitimate exports are going to, say, the far east, being processed and adding value to that economy, you do not get the full picture in the media. The alternative to it going to the far east might have been for it to go into landfill in Wales, but you will not get that story. Therefore, with regard to these negative stories that were in the press, we saw a blip. We track what we call our committed recyclers, and we saw a drop in their numbers over the time of the media coverage. There was this feeling of 'what is the point if it is just going to end up in landfill overseas?'. It is so important that there is a balanced view when these stories go out, so that people can make their decision on that basis.

[151] **Nick Ramsay:** Are you saying that the media is not being balanced? [*Laughter.*]

[152] You have both read Nerys's evidence to the committee. I asked earlier about whether the public wants this level of information and detail. Clearly, you think that it is not necessary. Do you think that we should trust the public a bit more? Do we underestimate its ability to cope with information? Do you think that having the level of detail suggested earlier will help develop people's view and that they can cope with it? Nerys Evans certainly believes that we underestimate the public's ability to deal with that level of detail.

[153] **Ms Winkley:** As the situation with the local authorities and where their recyclate goes is so fluid—it is very dependent on the markets—it is very difficult to get accurate information. That leads on from what Dirk was saying about how complex this is. Getting that message out would be extremely difficult.

[154] **Rosemary Butler:** Mr Hazell, do you have any comments to make?

[155] **Mr Hazell:** No, I do not have anything to add to that.

[156] **Peter Black:** You have both been fairly frank about your views on this proposed Measure. I will give you some statements that have been given in evidence to the committee and seek your views on them. The first is from Nerys Evans. She states that it is difficult for the Assembly Government to invest in the recycling industry because it is difficult to know what its capacity is. She says that if we knew how much waste was being recycled, it would be easier for Wales to invest in the recycling industry. Do you have views on that?

[157] **Mr Hazell:** WasteDataFlow discloses the tonnage of recyclables collected in Wales, but the decisions that are made on where to site significant and therefore generally cost-

effective reprocessing facilities, which would be big paper factories and big glass factories, are made on a global scale by multinational companies. I do not want to be rude about the proposer of this proposed Measure, but there is this saying about not seeing the woods for the trees.

[158] **Ms Winkley:** As Dirk said, a significant amount of information is available through WasteDataFlow and the Environment Agency, so there is potential to assess the potential capacity but Wales cannot operate on its own; there is a much larger infrastructure in place.

[159] **Peter Black:** The second statement is from the Environment Agency Wales, which states that the proposed Measure will result in local authorities having a greater understanding of what is happening to their waste, which will help prevent waste being illegally disposed of in other countries. Would you agree with that?

[160] **Mr Hazell:** No, and we will be having a word with Lord Chris Smith and Dr Leinster. The agency's evidence was not entirely consistent on this point. Perhaps people see what they want to see when they are reading other people's evidence, but I thought that the balance of the evidence tended to be consistent with what the Minister has said and with what we and others have said. Overall, the agency has not supported the provision of the level of data envisaged in the proposed Measure, and we do not believe that it is desirable or practicable to provide this data. If I were legal counsel to a local authority, I would be quite anxious not to have these data. Local authorities have a duty of care, which depends on whether they are the producer of waste or whether they are simply collecting other people's waste.

10.50 a.m.

[161] If they are doing the collection themselves, the local authorities' duty of care for recyclables ends when the material goes to a materials recycling facility. If they have contracted out the collection, the duty of care ends once the waste is collected by the operator. Although you can say in one sense that knowledge is power, you must also be careful about what you want to know in a context where you have a duty of care.

[162] **Ms Winkley:** WRAP supports helping local authorities to have a greater understanding of what happens to the waste as expected under the duty of care. At the moment, the local government association and the Environment Agency are in dialogue on how to make this happen.

[163] **Peter Black:** The last statement, again from the Environment Agency Wales, suggests that providing the means for more information to be collected and shared with the general public may encourage the population to accept recycling facilities within their neighbourhoods, which would have a positive outcome in terms of the development of the UK recycling infrastructure. Would you like to comment on that?

[164] **Mr Hazell:** Hope springs eternal. You heard from the Minister that people are not usually boundlessly enthusiastic to have waste management infrastructure next door to where they live. We are not talking about a little cottage industry with someone happily hammering out little bits of copper—these are massive scales of materials being recycled partly in Wales, the rest of the UK and Europe, but also in huge manufacturing warehouses in the far east. What we need—and the Minister said this—is greater national agreement on the need to change our behaviour to protect the environment and human health. The positive side I would highlight—and it is not really related to information because people will always feel the same about having, effectively, industrial activity near to where they live—is that when you are moving away from landfill towards this kind of activity, instead of being what we have historically been seen as, our industry becomes increasingly just like any other piece of kit on

the industrial estate. So, for local authorities, in that sense, when you are getting into the recycling industry, everything we want planning permission for should be less problematic than it has been in the past because it is not simply about shoving fumes and other things into the atmosphere. I do not know where the Environment Agency got that statement from, and I would be very surprised if it reflected its corporate policy.

[165] **Ms Winkley:** WRAP has been working with the Welsh Assembly Government on stakeholder community engagement in the roll-out of the anaerobic digestion plants that are being procured to educate the public and inform it about the reason for needing these facilities and the benefits to our environment and our economy of having them. However, the issue of the public's approach to planning decisions is a very complex and unpredictable one, and it is well outside WRAP's remit to comment on that.

[166] **Rosemary Butler:** If the proposed Measure was amended to require local authorities to collect and publish aggregated data, to which you referred earlier, would you be more inclined to support it?

[167] **Mr Hazell:** Yes. I think it is perfectly reasonable to expect operators to provide annual aggregated data, and I am not aware of any significant operator that will have a difficulty with that.

[168] **Rosemary Butler:** Thank you. I also have a question for WRAP. According to the Welsh Local Government Association, the estimated cost to local authorities in meeting the requirements of the proposed Measure is £700,000. Do you think that this is a fair estimate, and can you give your reasons if that is the case?

[169] **Ms Winkley:** WRAP has no information on which to base any assessment of the WLGA's figures, so I am afraid that we are not able to comment on that.

[170] **Rosemary Butler:** Okay. Fine, does anyone have any more questions? I see that no-one does. I thank you all very much for your interesting responses. You will have a draft copy of the Record to look at in the next week, and we would appreciate any alterations that you may have. Thank you very much indeed. That brings today's business to a close.

*Daeth y cyfarfod i ben am 10.54 a.m.
The meeting ended at 10.54 a.m.*