



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

**Y Pwyllgor ar y Mesur Arfaethedig ynghylch
Llywodraeth Leol
The Proposed Local Government Measure
Committee**

**Cyfnod 1
Stage 1**

**Dydd Mawrth, 11 Tachwedd 2008
Tuesday, 11 November 2008**

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

Alun Cairns	Ceidwadwyr Cymreig Welsh Conservatives
Janice Gregory	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
David Lloyd	Plaid Cymru The Party of Wales
Jenny Randerson	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Joyce Watson	Llafur Labour

Eraill yn bresennol
Others in attendance

Jeremy Colman	Archwilydd Cyffredinol Cymru Auditor General for Wales
Jane Holownia	Pennaeth y Swyddfa Breifat a Materion Corfforaethol, Swyddfa Archwilio Cymru Head of Private Office and Corporate Affairs, Wales Audit Office
Daniel Hurford	Pennaeth Gwelliant a Llywodraethu, Cymdeithas Llywodraeth Leol Cymru Head of Improvement and Governance, Welsh Local Government Association
Steve Thomas	Prif Weithredwr, Cymdeithas Llywodraeth Leol Cymru Chief Executive, Welsh Local Government Association
Steve Williams	Cynghorydd ar Berfformiad a Gwelliant, Cymdeithas Llywodraeth Leol Cymru Performance and Improvement Advisor, Welsh Local Government Association

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

Ruth Hatton	Dirprwy Glerc Deputy Clerk
Joanest Jackson	Cynghorydd Cyfreithiol Legal Adviser
Gareth Williams	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] **Janice Gregory:** Good morning, everyone, and welcome to this morning's meeting of the Proposed Local Government Measure Committee. I welcome Alun Cairns AM, who was elected last Tuesday, 4 November, to the committee, in place of Nick Ramsay AM. Welcome, Alun—it is nice to see you on this committee. I have received no apologies this

morning.

[2] I remind Members that we will have a two-minute silence at 11 a.m., in respect of Armistice Day. Therefore, the committee will finish promptly to allow us to participate in the act of remembrance.

[3] I will run through the usual housekeeping issues. There is no fire drill, as I understand it, this morning, so, if the fire alarm sounds, please be guided to the nearest exit by the ushers. If you have any mobile phones, pagers, BlackBerrys, or any other electronic device on your person, please switch it off completely. As I am sure you are all aware, the National Assembly for Wales operates through the media of the Welsh and English languages. Therefore, if you require simultaneous translation, you will need to set the headsets to channel 1; for amplification of sound, you need channel 0. Please do not touch any of the microphones—they will come on automatically.

9.30 a.m.

**Cyfnod 1 y Mesur Arfaethedig ynghylch Llywodraeth Leol (Cymru)—
Sesiwn Dystiolaeth 2
Proposed Local Government (Wales) Measure Stage 1—Evidence Session 2**

[4] **Janice Gregory:** I would like to welcome to committee, as always, Steve Thomas, the chief executive of the Welsh Local Government Association, Daniel Hurford, the head of improvement and governance with the WLGA, and Steve Williams, who is performance and improvement adviser to the WLGA. I thank the three of you for taking time to come to committee this morning. As I have explained, we are constrained by time this morning; therefore, if we are unable to reach any questions during this evidence-gathering session, we will write to you with those questions, and we would be grateful if you could return the answers to us. Thank you very much.

[5] I have the first question this morning. Why do you believe that the statutory basis for securing improvement needs reinforcing?

[6] **Mr Williams:** We recognise that, with the development and the evolution of the Wales programme for improvement, we have moved quite a long way from the core legislation that we have at the moment, namely the Local Government Act 1999. The WPI has interpreted that in quite a distinctive way, in terms of the comparison with England. Therefore, we recognise that it is legitimate and right to try to embed some of that in the core legislation.

[7] However, beyond that, the proposed Measure's main value is in terms of the powers that it grants, because it extends the scope for innovation in pursuit of improvement, and those are the powers that it allows local authorities and the Assembly Government. There are a couple of caveats on that, which we have covered in our response. It is in those powers, but also in the way that it formulates the duties in a way that connects much more closely across the community strategies. We have recognised for some time that there has been some weakness in the connections between community strategies and the improvement agenda; they have often looked like separate agendas within authorities, which has not been good. Therefore, we welcome the fact that the duties are getting secured in the basis of legislation—the connection between those duties is being pinned down rather more clearly.

[8] **Joyce Watson:** Does the proposed Measure provide the right framework to deliver continuous improvement and effective community planning?

[9] **Mr Thomas:** In broad terms, it is the right framework. However, there is an issue in that the proposed Measure—and I believe that we put this in our evidence—is inherently limited. The reason for that is that we are all operating within the orbit of the ‘Making the Connections’ agenda. You would think that such a Measure, which would apply to, if you like, one third of the public sector in Wales, should perhaps extend to the other two thirds, so that we get a coherent improvement framework across the sector. There is surely a chance to do that at the moment, when you are talking about the reform of the health service.

[10] **Joyce Watson:** In your view, how will the proposed Measure improve services to the public and improve the quality of life for local people and their communities?

[11] **Mr Thomas:** I do not believe that Measures improve people’s lives; it comes down to the quality of front-line services, so it is about whether this improves the quality of front-line services. The evidence is that the Wales programme for improvement does that. What we are looking to do is to align that more closely with community planning priorities, which are now pretty well embedded in local government.

[12] From our point of view, the key thing is to ensure that these living programmes are not just things that you sign off. I was just talking to the Auditor General for Wales; these are not just things that you sign off for the auditor. However, we must ensure that all of this joins up. There is an improvement in general across a range of services. We had a discussion the other day about social services. So, there is a range of issues there with regard to how all of these things measure those services. The only thing that slightly concerns me is that we keep talking about the citizen-centred focus, but I still do not see that in much of the stuff that is coming out from the proposed Measure.

[13] **Mr Hurford:** Bringing community planning and the improvement regime together provides almost the framework that Sir Jeremy Beecham looked at in ‘Delivering Beyond Boundaries: Transforming Public Services in Wales’ and relates to his concepts of social and technical efficiency. We have focused predominantly on technical efficiency—basically, how effectively we do things in terms of value for money—rather than on social efficiency in terms of whether we are doing the right things. So, now we bring those together. First, we look at whether we are doing the right things and then at whether we are doing them better, more efficiently and more effectively. So, it brings the legislative framework around improvement and community planning much more neatly together.

[14] **Jenny Randerson:** Does the proposed Measure have implications for the workload of local authorities and if so, what are they?

[15] **Mr Williams:** I think that you can turn the question around. So if I may do so, I think that it is more about the workload of local authorities having implications for how the proposed Measure gets applied. I say that because, as I have said before, the value of the proposed Measure, in large part, lies in the powers that it grants. On the difference that it will make, its value lies in the powers that it grants as much as, if not more than, the duties. I do not think that the duties have particular implications for workload. When we talk about powers, we are talking about enabling legislation and extending the scope of local authorities to innovate, and workload is a constraint on our ability to innovate and do new and different things. So, the current demands on local authorities and the current preoccupations that seem to be mounting all of the time will inevitably constrain the ability of local authorities to take advantage of all the powers that the proposed Measure offers. That is probably the best way of capturing that.

[16] **David Lloyd:** As you mentioned, things have moved on since the Local Government Act 1999. Are you content to see the removal of the old best value three ‘Es’—I am not talking diets now, but economy, efficiency and effectiveness—from legislation? How will the

new improvement objectives alter the way in which local authorities deliver improvement?

[17] **Mr Thomas:** I am sure that we have shed a tear over those. We have had the three 'Es', the four 'Cs' and a range of other performance frameworks. The three 'Es' were useful because of their simplicity, but they were intrinsically linked with the former Best Value regime. We were of course the first part of the UK to get rid of best value in its previous guise and put in place the Wales programme for improvement. This is about updating that and I think that it is right.

[18] **David Lloyd:** Can you clarify why a further improvement area should be added relating to the community leadership and community planning duties and how that would strengthen links between improvement and community planning?

[19] **Mr Hurford:** There is a list of the improvement objectives, as we have discussed, but there could be stronger references to the community planning framework and the strategic role of authorities and their wider partners. If we are looking to broaden the remit of improvement—and obviously the legislation is all about trying to improve the links between community planning and the improvement regime—there are probably clearer links to the community planning process. The community leadership process is a difficult concept to define in terms of legislation—and perhaps you could explore that in statutory guidance—but in exercising the community leadership role and in terms of this being an issue for authorities with regard to their democratic mandate, it is important to make a crossover link with community planning.

[20] **Alun Cairns:** It is probably best to ask Steve Thomas my next question. Why do you think that the definition of strategic effectiveness is too limited?

9.40 a.m.

[21] **Mr Thomas:** Going back to Steve's point about doing things the right way, one of the things that we want to do is to ensure that local authority performance is more clearly defined in terms of the new proposed Measure. In our evidence, we have provided some sort of critique of the effectiveness criteria. In broad terms, performance measurement in local government is really starting to become embedded now. We are starting to see the introduction of systems like Ffynnon in local government, which is the performance measurement framework. I think that that, in itself, leads us to a new level of effectiveness, and I do not necessarily think that the proposed Measure captures some of the subtleties that are emerging.

[22] What we also have in some other key areas, is the emergence of different performance frameworks. You will see the end of the joint reviews, for example, in terms of social services. What we are doing there is putting in place what we hope are very robust performance frameworks to ensure proper measurement. We have always been concerned about one-off, snapshot performance exercises, such as joint reviews, which basically see somebody coming in once every five years, taking a snapshot, walking away and monitoring over a period of time. That does not do the job. We want to see continual effective performance, and I think that that is where we are headed.

[23] **Mr Williams:** I see this as being very much about the connection between part 1 and part 2 of the proposed Measure. Strategic effectiveness is not just about delivering strategic objectives; it is about the way in which you establish those objectives in the first place and ensuring that you have the right objectives. As I see it, part 2 of the proposed Measure is all about that. It is about that aspect of strategic effectiveness. The very fact that it is going into a Measure suggests that it is an area for improvement; it is something that we want to bolster and build on. So, I see it as a legitimate and important area for improvement, and I suggest

that that really should be part of the list in part 1.

[24] **Alun Cairns:** Your evidence says that the definitions in section 4(2) should be amended to make reference to ‘exercise of functions’. Will you elaborate on what that would mean and what the practical effect would be?

[25] **Mr Williams:** That does not relate to section 4(2), does it? That is in relation to—

[26] **Alun Cairns:** It relates to definitions in section 4(2) of the Measure.

[27] **Janice Gregory:** We are looking at section 2(2)(a) now, are we not?

[28] **Mr Williams:** The issue in relation to functions—

[29] **Janice Gregory:** Exercise of functions—

[30] **Alun Cairns:** Exercise of functions—

[31] **Mr Williams:** The issue in relation to exercise of functions relates to a different section, does it not?

[32] **Alun Cairns:** I have noted section 4(2), but—

[33] **Janice Gregory:** You referred to six. Section 4(2) is areas for improvement—

[34] **Mr Williams:** That relates to section 4(2), but this question in terms of exercise of functions relates to our paragraph—

[35] **Mr Hurford:** Paragraph 32 of our paper refers to the fact that some of the list refers to the way in which the functions are exercised as well as to the way in which services are provided, while some omit the reference to the exercise of functions. I think that we were looking to have the continuity of having both references throughout the list of all seven improvement areas. It is just to improve the clarity. Rather than just focusing on services in some areas, it should also focus on the functions, as Steve was saying, in terms of community leadership, how effectively we generate community strategies and work in partnership and so on. That should be common throughout all of those improvement objectives.

[36] **Alun Cairns:** Let me turn this on its head. What would be the practical effect if that was not introduced?

[37] **Mr Williams:** It would limit the way in which you look at how local authorities’ activities have an impact on the areas in question. At the moment, you have the objective of innovation referring to the delivery of functions and services, so that is recognising the contribution to innovation of the way in which the broader functions are exercised. In relation to the improvements objectives of sustainability, efficiency and social wellbeing, as currently worded, the proposed Measure refers only to the impact of service delivery on those aspects. The broader functions, such as community leadership and community planning functions in particular, as well as issues such as procurement, financial management and human resource management within authorities, have a significant impact on social wellbeing, sustainability and efficiency. So, it would broaden out the scope of it in those terms.

[38] **Janice Gregory:** Okay. Let us move on to sections 9 to 12 on collaboration and improvement.

[39] **Joyce Watson:** The Assembly Government's explanatory note states that section 9 confers on Welsh improvement authorities broad powers to enable them to collaborate with each other and with other bodies. Do you agree with including the enabling power provided in the proposed Measure rather than a specific duty to collaborate? If so, why?

[40] **Mr Thomas:** From our point of view, failure to collaborate at the current time is a failure in community leadership. Under the 'Making the Connections' agenda, collaboration is precisely what we are trying to achieve. We only need a power to it; we do not need a duty to do it. One example of what we are doing is the shared services proposal in south-east Wales, which is a massively significant project that will save around £30 million over the next five years. That involves about 10 authorities as it stands coming together to look at jointly providing HR, payroll and training services. That has been done under existing legislation, and there is a power to do it. The only part that we find tricky is determining the governance structure that we put over the 10 authorities that are coming together. So, I think that the power is sufficient, and we do not need a duty to do it.

[41] **Joyce Watson:** In much the same vein, you express concerns about a duty being placed on local authorities to perform an activity that you already do as a matter of course. In the case of performance, if you are doing it anyway, why do you object to its being included in the proposed Measure?

[42] **Mr Thomas:** You have partly answered your own question. If we are doing it anyway, why do you need to make it a duty? That applies to many aspects of the collaboration agenda, such as the way in which we compare against other authorities. We are already doing it, so why place a duty on us? The view of local government is that you do not need to put legislative frameworks in place to enforce what is already happening. It is a simple point, but it is an effective one.

[43] We are seeing considerable collaboration. I think that we sent you all a document on the considerable amount of collaborative work that is going on, and the same applies to comparisons, given the amount of benchmarking clubs that exist. The amount of information that is used to compare performance frameworks is huge.

[44] **Janice Gregory:** We recognise what those 10 authorities are doing and the good work that is going on, but it is also true to say that not all authorities are so eager to engage, is it not? Would the inclusion of such a duty in the proposed Measure not give consistency across all 22 authorities?

[45] **Mr Thomas:** You can learn from successes and you can learn from failures. One project that did not come off is a project in north Wales that was looking at a shared service for revenues and benefits. There are lessons to draw from that. A study was done and an evaluation made, and the authorities in question thought that the savings put forward and the possibility of a better service did not shine clearly through. If you impose a duty, the danger is that you might end up with a situation in which you are told that you must run with that idea anyway because you have done a study. Sharing services has almost become a mantra, and it is key in the current environment, but it is not always the most effective way of delivering services. Many authorities come back to us about how the WLGA pushes the agenda and tell us that shared services are important but the real savings come from efficiencies in their own councils. That is about shared services internally within a council. As I have said so many times here, getting education and social services to work together is quite a feat, and we want to encourage shared services wherever we can on a good, sound evidence base. Forcing authorities down a route even though the facts do not stack up is not the way forward.

[46] **Jenny Randerson:** You say that superficial comparison is misleading, particularly if contextual information for improving an authority's performance is not available, and that,

consequently, you believe that the proposed Measure is too narrow. Can you give a practical example of that?

9.50 a.m.

[47] **Mr Thomas:** Yes: *Western Mail* league tables. I suppose that twenty-one authorities are always delighted that Cardiff finishes bottom of that league table, but is Cardiff really the worst authority in Wales? We do not know, because that league table is based on only five or six indices. What we have tried to do constantly is consider the totality of the performance measurement framework when making comparisons to see how that sits. There are 100 plus indicators that will give you a good indication of where authorities are. We have constantly said that we are not frightened of seeing authorities listed in comparative performance charts, more commonly known as 'league tables'. It does not bother us. What we want to do is make sure that we use the information that we currently have to provide comparative information. I do not think that the proposed Measure even needs to address that, because the information is there.

[48] **Jenny Randerson:** I agree with you about the *Western Mail* league table, because the problem with it is that it chooses five out of more than 100 indicators. You could have an authority that is bad at those five but wonderful at the other 95. Is that what you mean by 'contextual information', because, to be fair, the other indicators provide a rounded set of information?

[49] **Mr Hurford:** It is broader than just the performance indicators that we use within the performance management framework. Context is the key. The age-old issue in Wales is comparing like for like. If you were to compare Cardiff, as we have already mentioned, with Merthyr Tydfil, for instance, or even with Powys or Ceredigion, in view of the rural issues and rural deprivation there, by looking just at performance indicators, it is a blunt instrument. You need the full picture and the full detail of the communities that authorities are serving. There is always the issue of comparing local priorities, because we are talking about 22 local authorities, which are sovereign bodies, and which prioritise their own service investment. Even within that, you have a range of geographical, demographic and socioeconomic pressures. So, a comparison would need to be much broader than just comparing performance information; it needs to compare the wider context of the communities in which those authorities operate.

[50] **Jenny Randerson:** Do you think that the contextual information should be in the guidance, then, when it is issued?

[51] **Mr Thomas:** On the performance measurement framework, a lot of work has been done on the indicators to give much tighter definitions of what should be included in each indicator. I struggled for years to work out whether having more children in care or fewer children in care was a good indicator. I could not quite work it out. In the new performance measurement framework, we have much tighter definitions, but we are not using the information that we have got. There is a range of information that we need to make much greater use of. A piece of software is about to be introduced, called Ffynnon, and that will be able to do that. I would like to see, as would most chief executives of local authorities, a broader context brought into play by looking at a wider range of indicators. They could then see where they are. Our members constantly say that they want to know whether their authority is performing well or badly, and it is a simple ask, is it not?

[52] **Jenny Randerson:** What are the arrangements for sharing information between improvement authorities at the moment?

[53] **Mr Thomas:** We share quite a lot of information. We will hold discussions with the

Assembly and the Wales Audit Office if authorities or services are not performing as they should. Unsurprisingly, we have had discussions recently about Denbighshire and a range of other authorities. We try to ensure that we share as much information as we possibly can. The Wales Audit Office will tell you that it is an audit body that works for clients, and so there is only a certain amount of information that it can share because of client privilege. However, we get a rounded picture of authorities' performance, and we have a good understanding of those authorities within the local government family that are performing well and those that are performing not quite so well. So, there is a good understanding of the condition of local authorities in Wales.

[54] **Jenny Randerson:** Okay, thank you. The auditor general has suggested removing the date of 31 October for publishing material from the proposed Measure and to set it out in Orders or guidance instead. In your view, should that date be specified on the face of the proposed Measure? If so, why? If not, why not?

[55] **Mr Williams:** Our view is that it is probably better off put in the supporting guidance, which allows you the flexibility to use it or not, depending on the need.

[56] **Mr Hurford:** The auditor general's evidence recommends taking a number of elements out of the legislation and putting them in the guidance, which we would endorse, particularly on this, as it gives you that flexibility. If a fixed date is set in legislation and it does not work out for whatever reason, it takes an awful lot of effort to change it. If it is in statutory guidance, that gives you more flexibility to revise the guidance at a later date in the light of practice. So, we recommend that something as specific as a publication date is probably better placed in the statutory guidance that comes after the legislation.

[57] **Jenny Randerson:** On the basis of what you already know about how information is prepared, do you think that 31 October is a reasonable date, whether it included on the face of the proposed Measure or in the guidance?

[58] **Mr Thomas:** I do not think that it is a show-stopper.

[59] **Alun Cairns:** You finish paragraph 41 by saying,

[60] 'We question the level of detail and the degree of collaboration that is necessary to meet the accountability requirements involved'.

[61] Can you tell us about your concerns raised in that sentence?

[62] **Mr Hurford:** This relates again to the publication of information, and this particular paragraph is on the publication of collaboration activities. Our concern is that it looks fairly bare and blunt in the legislation, stating, as it does, that the details of collaboration should be published. How long is a piece of string? Does this cover the full breadth of collaborative activities, such as the south-east Wales collaboration on the shared services project that we have talked about, or is it smaller-scale collaborations between two authorities, such as on the joint appointment of an officer? Does it focus on services or on strategic activities, such as various meetings that you have had with neighbouring authorities to discuss common issues or common strategies? What is its breadth? It could potentially become too burdensome.

[63] In addition, in looking at the reasoning behind publishing that information, what is its value to the public? Does it matter to the public who its authority has been working with, and how it has been working, as long as the services are improving and the public's needs are being met? People may get swamped with all sorts of information saying, 'We have been working with X, Y and Z authorities on this, with the third sector on that, and with the police authority on the other'. Will that sort of information really be of value to the public, at the end

of the day?

[64] **Alun Cairns:** To take the question a bit further, how will citizens have a better understanding of how local authorities are improving as a result of the information requirements in the proposed Measure?

[65] **Mr Hurford:** That aspect aside, the way in which authorities engage with their local communities and the wider representatives, such as Assembly Members and the Assembly Government is the key. The use of performance information is an important element of that, but the contextual information is also important, as we have heard. So, it is not just a case of producing publications, such as an annual report, which say, 'We are doing this, that and the other against what we said we were doing'; it is about explaining more broadly than in publications, using more innovative means. That could be fora and focus groups, or working with citizens' juries to engage with members of the public. It means asking what people's improvement priorities are, but also accounting for them, and explaining, if you have not met your targets in a certain area, why that was. Was it because of a service failing in the authority or because of other, extenuating circumstances, such as finance? To use something of a cliché, it is around the conversation that you have with the public on the information that you have.

[66] **Mr Thomas:** In broad terms, Alun, I do not think that people are switched on by something called 'improvement'; they are interested in something called 'services'. That is the way to engage the public. When I worked for Caerphilly, I remember writing a Best Value performance plan. It was the most tedious document you could ever read; it was awful. I looked at it the other day, and I thought, 'Why would that engage anybody?'. It probably had something to do with my writing style, too.

[67] **David Lloyd:** Too hard, was it?

[68] **Mr Thomas:** It was. [*Laughter.*] It was to fit in with a range of guidance that we had put out, but, frankly, as a local government officer and as a member of the public, that would not engage me. The key thing is to talk about the standards of services for people. To use the same example, I remember the Caerphilly management team holding about 15 meetings around the county borough council on the improvement plan, and the average attendance was about 10 people. Had we held a meeting to discuss a school closure, I can guarantee that 500 people would have turned up. People engage with services, that is the key point. We must engage with people in a service-focused way. I thought that the survey that you undertook last year on Living in Wales is exactly the way in which you should engage with people regarding services.

10.00 a.m.

[69] **Alun Cairns:** My supplementary question has been answered.

[70] **David Lloyd:** I will move on to regulation and inspection. Your question in your written paper—which is excellent—whether an assessment by the Auditor General for Wales is necessary for all authorities on an annual basis. Less regulation has come in for a bit of bad press in the banking sector—I just note that in passing. How would this differ from existing practice and why have you come to this view?

[71] **Mr Thomas:** That is an interesting thing about the emergence of the comprehensive area assessment in England—it is about the idea of authorities that are deemed to be performing having a lighter touch. Those that do not perform get the proverbial kicking, do they not? What we would like to see is some sort of proportionate-to-risk-type approach to inspection, which is what the auditors currently do, I am sure, in determining inspection and

audit activity. However, I think that it needs to be more clearly understood.

[72] There is the possibility of doing some pilot work here. If we are happy with the way in which an authority is performing, does it need the same level of audit? For example, we know that Newport had an excellent Estyn inspection recently, its social services inspection was generally pretty good, and I understand that it is just about to undertake a peer review, which will tell you what condition the authority is in. Some authorities in the past, such as Blaenau Gwent, Bridgend and, more recently, Denbighshire, have had some problems, so you would expect them to have a much more focused and intensive inspection regime. Everyone is waiting to see what the auditor general will say about this—he is probably watching this now—because he will probably agree with that.

[73] **Janice Gregory:** We will move on to the sections on Welsh Ministers, which are sections 29 to 33. I call on Joyce Watson.

[74] **Joyce Watson:** In your evidence, while you welcome the powers for Welsh Ministers to support improvement authorities, you raise concerns regarding the breadth of their proposed power to do anything. Do you have concerns about how Welsh Ministers might exercise this power and, if so, what are they?

[75] **Mr Thomas:** That would frighten me to death; any powers to do anything would worry anyone. We know what ministerial intent lies behind sections 29 to 33, but we already have a voluntary collaboration system in place. When an authority finds itself facing problems, we have a system in place to sort them out. We do not necessarily see the need for this power to be enshrined in a Measure. When an authority goes wrong, we will have intensive discussions—we had one last week with Brian Gibbons—about the type of support packages that we will provide. I am not certain why that needs to be enshrined as a ministerial power.

[76] **Joyce Watson:** Would you agree that, as things currently stand, the Welsh Assembly Government does not really have any power to do anything about an authority that has problems, and that, all too often, failure is rewarded? I think that the underlying message here is that we should not carry on rewarding failure.

[77] **Mr Thomas:** In terms of the improvement journey, it is the authority itself that must recognise that it has a problem, so it makes no difference what powers you have. If the authority does not recognise the situation, we all have problems. That sort of self-realisation is the starting point, but this power does not help you with that. When authorities recognise that they have a problem, they beat a path to your door very quickly. When we have been involved in authority turnarounds, our great regret—we have said this many times—is that we are too often called in at the eleventh hour, when things have gone particularly badly wrong. If we could get authorities to realise in the first place that things are on the road to going badly wrong, it would be a starting point. I do not think that this power does anything for that. It is about local organisations realising, through self-assessments, that they have a problem. I am not certain what this adds in terms of value in that respect.

[78] **Mr Hurford:** I think that this is where the current intervention and support protocol, jointly agreed by the WLGA and the Assembly Government—it is still in draft form—comes in. It notes what happens when an authority is corporately struggling, or its service base is struggling, and examines the process of how we provide support or, in extreme instances, how we manage the current powers that the Assembly Government has to intervene. As Steve said, it is a case of authorities themselves first of all waking up and smelling the coffee, as it were, along with the relationship manager and the local auditors and regulators who have been providing support. They can come to the WLGA, as we can provide central improvement support, and they can use the wider government family. Where authorities struggle,

neighbouring authorities or other authorities around Wales and across the border can help. We can utilise the Improvement and Development Agency for local government, and we can mobilise resources; cabinet members for a particular portfolio or directors of social services and education, for example, go into other authorities to provide advice.

[79] So, that mutual support already exists, and the protocol actually clarifies the point at which you push the button—the point of no return. The Minister might have to take action by saying, ‘We have tried all that we can try and we are not getting anywhere; now I must make a decision as to whether I intervene’. The question is: how does the Minister intervene? It is likely that he will mobilise the resources that are already being offered, by way of the expertise and the peer support that is already out there in authorities.

[80] **Mr Thomas:** We have an interesting dilemma, in that we are the representative body of local government but we do not want to see poor local authorities providing appalling services; we have come close to that once. When we go into authorities that we do not think are willing to face up to some of their problems, we—as the improvement body for local government—must make a decision as to whether we walk away and have a discussion elsewhere. We continually—almost on a monthly basis—discuss the condition of individual local authorities with our colleagues in the Wales Audit Office and within the local government division of the Assembly Government. We will double check and cross check information from those agencies regarding their understanding of how authorities are performing. We will not just allow local authority representatives to say, ‘This is our local authority—right or wrong’. If we think that things are going badly wrong and that we cannot make an impact, there may come a time when we need to walk away.

[81] **Janice Gregory:** Thank you. I am going to bring this part of the session to a close. There are only a few remaining questions, but they are quite detailed, so I think that they would have taken us over the time. We will write to you with those questions, and we would be grateful for your responses. Thank you for taking the time to come to the meeting this morning.

[82] I welcome Jeremy Colman, the Auditor General for Wales, and Jane Holownia to the table; thank you both for attending the meeting. As I explained earlier, we will draw the session to a close at 10.45 a.m., which will allow us to participate in the act of remembrance that is being held in the Oriel at 11 a.m.. Thank you for your response to the consultation. Members have a series of questions—Jeremy is quite used to this, of course. I will ask the first question. Paragraph 3.4 of the Assembly Government’s explanatory memorandum asserts that the current improvement regime,

[83] ‘fosters a culture of pre-determined planning to meet pre-specified output targets, rather than responsiveness to complex local needs’.

[84] How do you think that the proposed Measure will effect a change to this culture?

10.10 a.m.

[85] **Mr Colman:** I think that the main change in culture will come from the guidance and the way in which the Measure is operated in practice. There is considerable scope for interpreting what the Measure means, and that will be a big influence. I think that the best part of the Measure, from that point of view, is the single question that I am required to answer for every authority, every year, as to whether the authority has arrangements in place to secure continuous improvements. That is a fantastically good question, which I intend to answer every year. I think that that will focus attention on what matters.

[86] **Joyce Watson:** On the theme of continuous improvement, you say that the Measure

presents a real opportunity to move away from the focus on risk, which has tended to be at the centre of the current framework for the continuous improvement of services and functions. Can you elaborate on that particular point and explain how, in your view, the proposed Measure will achieve that change?

[87] **Mr Colman:** The concept of risk-related audit and inspection is very appealing but, over the years, I have come to the conclusion that its appeals are illusory and are only on the surface. The reason for this is that everyone says that audit and inspection needs to be proportionate, but proportionate to what? In my view, in this context, it needs to be proportionate to the needs of the situation and the scope for improvement. That may or may not be correlated with risk. In some cases, improvement means increasing risks, and in some cases it means reducing risks. Furthermore, risk is an extremely sophisticated and rather slippery concept and it does not, in my view, give an objective basis for determining a programme of regulatory activity. So, for all those reasons, I welcome the fact that risk is not mentioned in the Measure and, as I said a moment ago to the Chair, I very much like the concept of a single question that you can identify with. I could explain that question to a man in the pub, and that is a very important part of the Measure.

[88] **Joyce Watson:** In paragraph 11 of your evidence, you state that it is essential that section 2 be amended to require authorities to put effective arrangements in place. Can you explain why that is so important and what benefits it will bring in terms of service improvements?

[89] **Mr Colman:** Yes, certainly. The word ‘arrangements’ is used elsewhere in local government legislation in relation to an opinion that auditors are required to give every year as to whether an authority has made proper arrangements for delivering value for money. In that context, the word ‘arrangements’ is construed narrowly, to refer to the existence of arrangements, and if that same interpretation were applied to the Measure, an authority could comply completely by writing reports and filling in forms in the right order on the right dates, without delivering any actual improvements. It would be open to the authority to argue that it had complied, because the word ‘effective’ is not included in section 2. Inserting the word in section 2 disposes of the problem, does no harm to anyone and makes the Measure much more effective.

[90] **Joyce Watson:** In paragraph 12 of your evidence, you express some concern about the categories against which authorities will set their improvement objectives, and you suggest that the terms ‘economy, efficiency and effectiveness’ should be used. Why is it important to include all these terms?

[91] **Mr Colman:** These three terms are of some considerable antiquity, and that is not bad in this context. They are used all over the world in the context of audit, inspection and regulation and they are very well understood—they are capable of being misunderstood, but then so is everything. If I had drafted the Measure, I would have included those terms, as they do it all. Given the potential for misinterpretations and associations with past regimes, the Assembly Government has chosen this new, complicated formulation, which is not obviously comprehensive. So, for example, economy, which is an important part of sound management, is not explicitly mentioned; that is very strange, because economy means buying well, and it is surely an important part of improvement that authorities should buy more effectively and economically in the future. So, I am not sure that the list is right. If these three terms, which I would prefer, cannot be included the list needs to be included in guidance so that we can change it more easily, as previous witnesses have said in another context. I am not sure that that list will turn out to be the right list.

[92] **Joyce Watson:** Following on nicely from that, are you opposed to the inclusion of any of the seven aspects of performance listed?

[93] **Mr Colman:** No. My only problem is that I am not convinced that the list is complete.

[94] **Joyce Watson:** Can you elaborate on why you think that an explicit reference to the Auditor General for Wales should be included in paragraph 8(3)(b)?

[95] **Mr Colman:** This is a requirement on the Assembly Government to consult on performance measures. I have a power to set performance standard measures—it is not one that I have chosen to use—so that is a formal reason why I think that if the Assembly Government wishes to do anything in this regard it should be required to consult me to avoid a clash of that kind. It is not a major point from my point of view; I daresay that the Assembly Government would consult me anyhow. However, it should be required to do so formally.

[96] **Jenny Randerson:** There are broad powers in section 9 of the proposed Measure to enable improvement authorities to collaborate with each other, as well as with other bodies. Do you have any views on this power and on whether a duty to collaborate would be more effective?

[97] **Mr Colman:** I question whether a duty would be more effective. I think that a power to collaborate overcomes the objection that you sometimes hear that an authority is legally not permitted to do so. A duty to collaborate, however, would have some odd consequences, because we are talking here about collaboration that is not just with other local authorities, so there would not be a mutual duty to collaborate. If you had a duty it would be a duty to collaborate with people who do not have a duty to collaborate, and it takes two to tango. So, I think that a duty probably would not work. The power, together with everything else in the Measure, should be sufficient in my view.

[98] **Jenny Randerson:** You generally support the duty placed on improvement authorities to compare performance but you state that the current performance measurement framework is not yet sufficiently mature to support effective comparative analysis. Do you believe that the proposed Measure provides a sound basis for the framework to develop, and does it strike the right balance between what it provides for and what is left to guidance?

[99] **Mr Colman:** I think that what is in the Measure is all right. The reservations that we have about the performance measurement framework are not to do with its legal basis but rather how it has been implemented in practice. In our view, there are a very large number of operational measures that do not enable anyone, and certainly not citizens, to deduce how well their authority is doing on issues that matters to them. So, those are the objections to the current arrangements.

[100] I welcome the fact that the Measure requires local authorities to have regard to comparisons. It is sometimes said that comparisons can be misleading, and it is sometimes said that every local authority is unique, which is always true, but that is not a reason for not thinking about comparisons. I would suggest that comparisons are a basis for questions rather than answers, and this Measure seems to support that.

[101] **Jenny Randerson:** In his evidence to us last week, the Minister placed great emphasis on increased flexibility. Do you think that will make comparisons more or less difficult?

[102] **Mr Colman:** I think that the effect will be neutral. However inflexible the arrangements were, there would still be local differences and so, as I have just said, the comparisons would be a basis for questions. The fact that there is flexibility in how authorities can go about things does not undermine the concept of comparisons. You might

have to be a bit ingenious to find things to compare, but that is a benefit in my view, because it makes people think about what is the true comparison.

10.20 a.m.

[103] **Jenny Randerson:** The WLGA has expressed some concerns that comparisons may be superficial. You have indicated your view on the validity of comparisons, but do you think that that should be addressed through the Measure or the guidance?

[104] **Mr Colman:** It should definitely be addressed through the guidance, if at all. The danger with comparisons, and not just in the field of local government in Wales, is that people have a faith in the veracity of numbers that is out of all proportion with reality. So, the numbers that you get from comparisons need to be interpreted with care. If they are interpreted with care, they are really useful, and it is a mistake to try to run a local authority without using that information. If they are not interpreted with care, you might as well not have them.

[105] **David Lloyd:** I wish to turn specifically to regulation and inspection. Your evidence suggests that specific deadlines for reporting should be removed from the proposed Measure. Can you explain why that should be and does that include the deadline of 31 October for local authorities to share information?

[106] **Mr Colman:** I have two points to make on this. First, I agree with the WLGA that no-one really knows whether these dates will work and you lose flexibility by putting it in legislation when it could be in the guidance, which would allow for future flexibility. Secondly, the timetable for my work in relation to the reports required on local authorities strikes me as being a bit odd. I have referred to a single question, which I must answer in two directions, namely whether authorities had effective arrangements in place last year and whether I think that they are likely to have effective arrangements in place in the coming year. Logically, you cannot answer the first question until the year has ended and until you have had some information from local authorities—they have six months in which to provide it, which, in my view, is quite a long time—and it would be ridiculous to answer the question on the forward look in relation to the current year in November. Surely, you want the forward look in advance of the year so that someone can do something about it. So, I am not sure that the timetable that is set out in the Measure actually works. No doubt, the people who wrote it think that it does, but it brings me back to my first argument, which is that it should be put in the guidance rather than in the Measure and then we can work out something that is practical.

[107] **David Lloyd:** To follow on from that, you obviously have some ideas about changes to the annual reporting cycle. Notwithstanding that, how would you see the system working as set out in the proposed Measure and how would you like to see that system changed?

[108] **Mr Colman:** In terms of how it is set out in the Measure, it looks as if November will be an incredibly busy month for me and my staff. I do not mind being busy, but it looks as if we will have 44 reports to write each year between 31 October and the end of November. That does not seem sensible. The only way around that would be for the local authorities to report earlier than their statutory deadline, and no doubt they would try to do their best, but all past experience teaches us that if there is a statutory deadline, that is probably the one that people will meet and they will probably drift towards that even if they do better to start with.

[109] **David Lloyd:** That is very useful. In more general terms, how do you see your role differing as a result of the proposed Measure and what do you see as the practical and financial implications for you and your office?

[110] **Mr Colman:** I see a very big advantage for the way in which my staff and I exercise

our current role from having the clarity provided by the question implied in subsection 2(a). The current basis upon which we determine our work, which is on risk assessment, is quite difficult to be objective about. With the new arrangements in the Measure of a single question we will have to, and will be very pleased to, develop an orderly methodology that enables us to say what we need to know in order to answer that question in relation to each authority. We compare that with what we already know about the authorities, which will show where the gaps in our knowledge and that of the local authorities are. So, the new arrangements will enable us to deliver a much more visibly focused regulatory programme than the current arrangements. I am sure that the programme is fine everywhere, but it is not visibly so.

[111] **Janice Gregory:** Do you think that there will be financial implications?

[112] **Mr Colman:** It is a bit early to say. It is not obvious that this Measure will lead to a very big reduction, or, indeed, to a very big increase, in the work overall. However, by requiring us to answer this question everywhere, it does not incorporate the concept of earned autonomy, I am pleased to say. So, we will be looking at authorities that have a reputation for being high-performing authorities. I do not think that that is bad. I have said that our approach will be to have questions that we will compare with what we already know. If what we already know is favourable, then the gaps will be small and not much work will be needed. However, in some authorities, there will be a bit more work than they currently receive; in others, there may be a bit less.

[113] **Alun Cairns:** Section 19 gives you the power to require relevant regulators to provide reports. How does this differ from existing practice?

[114] **Mr Colman:** Very simply, I have no such power, so that sounds like an advantage. The way that the Measure is supposed to impact upon achieving effective co-ordination among the relevant regulators is a bit of a puzzle to me. It is not, in my view, delivering what I understood the Assembly Government's consultation document to offer, which was expressed in terms of giving a statutory basis to the functions of the relationship managers, who are my staff in each authority, who currently have the duty of compiling a regulatory programme that makes sense, but no power to enforce that. This Measure changes the arrangements. It certainly makes them quite complicated. It seems to give me a power to set a timetable, but not to prescribe what the relevant regulators do in their slot in the timetable, which seems a bit strange. If you were to ask me what joined-up regulation would look like, I would use the medical analogy of a number of physicians gathering around viewing a patient and the patient's symptoms, agreeing a diagnosis, agreeing a course of treatment, and agreeing which of them is to administer it. That is quite a helpful way of looking at it. We can do all of that now, and, to some extent, we do. The Measure is pretty neutral in enshrining that model in legislation. So, it is complicated and strange and I do not fully understand it.

[115] **Alun Cairns:** That is useful for clarification.

[116] Sections 20, 23 and 25 require you to prepare audit and assessment reports in various areas. Are you satisfied that all of these reporting requirements are necessary and that each report serves a specific purpose and a benefit?

[117] **Mr Colman:** Yes. The three sets of reports are necessary. Some of them are summaries of other work, but expressing complicated things so that citizens can understand them requires summary reports to be produced. So, while it may sound wasteful to have summary reports, it is a real benefit, because the longer technical reports are needed but are not accessible to citizens, whereas shorter summaries will be. I therefore welcome the requirements.

[118] **Alun Cairns:** Finally, on this section, the Welsh Local Government Association

suggests that annual assessments are unnecessary where the initial assessment has found local authority arrangements to be sufficiently robust. What is your response to that?

[119] **Mr Colman:** I am not in favour of that. If you think of the financial accounts of a local authority, local authorities that are known to be sound managers of money are still required to have their accounts audited every year. The amount of work that the auditor has to do will vary depending on the abilities of the authority. I would apply exactly that analogy to improvement. For the high-performing authorities—as I have explained what our methodology will be in outline—there will clearly be much less work for us to do to reach a conclusion. However, for citizens, three years is a long time to wait, and a lot can go wrong in that time. Therefore, an annual assurance seems to be perfectly reasonable, provided that the work that is done to provide that assurance is proportionate to the situation—and it is my aim that it should be.

10.30 a.m.

[120] **Jenny Randerson:** Section 24 provides for the co-ordination of audit between the relevant regulators and you. What do you see as the intended benefits of this, and could you explain the concern that you will not be able to regulate the activities of relevant regulators?

[121] **Mr Colman:** The intended benefit is to achieve the sort of co-ordination that I described using the medical analogy. My concern is that the framework that it prescribes does not do that, in several ways. One issue is that it does not apply to all the physicians who might be engaged in dealing with that patient, because it only captures the relevant regulators, who are exercising specifically Welsh functions; other regulators exercising UK powers are not caught by this at all, but they have a big impact, potentially, on local authorities.

[122] Secondly, on paper, as far as the Measure is concerned, you could have several regulators deciding independently to use their time to look at the same thing. Many regulators conclude that, when there are problems, it is a problem of leadership and governance. Unless we are careful—and we try to be very careful—to avoid this situation, you could have Estyn, the WAO and CSSIW all deciding that governance is the issue, and all independently and inconsistently examining it in the same authority. That does not happen now—at least I hope that it does not—because we talk to each other. So, effective co-ordination, whatever is in the Measure, depends on effective working relationships between the regulators. I am happy to say that, in recent years, there have been enormous improvements in that respect; we meet often, and are of a common mind as to what our approach should be, which is excellent. However, the Measure does not particularly help.

[123] **Jenny Randerson:** That is interesting. The explanatory memorandum notes that the proposed Measure takes into account your comments on the consultation on the policy proposals, and that relationship manager functions are placed directly on you. Have all your concerns in this regard been met; do you have all the functions that you need?

[124] **Mr Colman:** I had a technical concern, namely that the consultation document proposed to put relationship management on a statutory footing in a way that would lead to the creation of the relationship manager as a statutory office in relation to local authorities. Since we also already have a situation in which local authorities have an auditor, who cannot be me—I appoint the auditor, so it is not me; it has an inspector, who is me—the last thing that we wanted was yet another person with a legally independent existence. Therefore, I wanted the powers to be my powers, and not in the name of the relationship manager. The Measure does that, but what it does not do is give anyone—certainly not me—the explicit power to co-ordinate regulation. That means, if necessary, telling another regulator, ‘No, you cannot go and do that piece of work in that authority, in that month, because someone else is doing that, in some other way’.

[125] I have never campaigned to have that power. As I explained a minute ago, effective co-ordination of the regulators depends primarily on having regulators who talk to each other, and are of a common mind, which we are. However, the back-up powers are nice to have, in the sense that good and effective personal relationships depend on persons, and persons can change. Through some accident of inattention, some things can slip through, whereas, if there is a legal power, people might say, 'Hang on, we had better not do that, because we do not want to be in a situation that the auditor general is telling us we cannot get into'. However, I am not campaigning to have that power.

[126] **Joyce Watson:** What views do you have, if any, on the powers of direction provided to Welsh Ministers, in particular those under sections 29 and 30, given that you can recommend that Welsh Ministers exercise these powers?

[127] **Mr Colman:** I do not have any particular views on the powers. It is right that there should be powers for Ministers to intervene. They are currently rarely used. I have no particular comments on the details of these. They seem to be broad, which is appropriate, given the circumstances—it would be difficult to legislate for the precise circumstances that might arise.

[128] **Joyce Watson:** How satisfied are you that community planning provision of the proposed Measure provides an effective link with the provisions on continuous improvement?

[129] **Mr Colman:** It seems to us that it is right to bring the two together in a single Measure. I agree with the WLGA that you need both. The WLGA referred to Jeremy Beecham's characterisation of it, but another way of looking at it is through what is called population accountability—what you tell citizens about services in their area. That is what community planning addresses. Performance accountability is about the performance of the individual local authorities in contributing to the agenda, but the fact that they are doing so with partners does not let them off the hook of doing their own work effectively. You need a link between the two and effectiveness is the link, measured through the term 'strategic effectiveness'. So, it is right for them to be together and for them to be linked and, conceptually, that framework works well.

[130] **Janice Gregory:** Thank you; that brings this part of the evidence gathering to a close. We will not write to you with additional questions, because we have covered all of the issues here. Thank you for answering the questions succinctly.

[131] I remind everyone that the next meeting will be held on Tuesday, 18 November. I now declare the meeting closed.

*Daeth y cyfarfod i ben am 10.37 a.m.
The meeting ended at 10.37 a.m.*