



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

**Y Pwyllgor Cynaliadwyedd  
The Sustainability Committee**

**Dydd Mercher, 4 Mehefin 2008  
Wednesday, 4 June 2008**

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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**

Lorraine Barrett	Llafur Labour
Alun Davies	Llafur Labour
Michael German	Democratiaid Rhyddfrydol Cymru (Cadeirydd y Pwyllgor Dros Dro) Welsh Liberal Democrats (Temporary Committee Chair)
Lesley Griffiths	Llafur Labour
Alun Ffred Jones	Plaid Cymru The Party of Wales
Brynle Williams	Ceidwadwyr Cymreig Welsh Conservatives
Leanne Wood	Plaid Cymru The Party of Wales

**Eraill yn bresennol**  
**Others in attendance**

Claire Bennett	Pennaeth yr Is-adran Newid yn yr Hinsawdd a Dŵr Head of Climate Change and Water Division
Jane Davidson	Aelod Cynulliad, Llafur (Y Gweinidog dros yr Amgylchedd, Cynaliadwyedd a Thai) Assembly Member, Labour (The Minister for Environment, Sustainability and Housing)
Julia Williams	Pennaeth yr Adran Effeithlonrwydd Ynni ac Adeiladau Cynaliadwy Head of Energy Efficiency and Sustainable Buildings
Kath Winnard	Y Gangen Morol Marine Branch

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

Joanne Clinton	Dirprwy Glerc Deputy Clerk
Dr Virginia Hawkins	Clerc Clerk

*Dechreuodd y cyfarfod am 9.02 a.m.*  
*The meeting began at 9.02 a.m.*

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

[1] **Michael German:** Good morning, colleagues, and welcome to this meeting of the Sustainability Committee. I will start with the usual health warnings: we are not expecting a fire alarm test, so if one sounds, it will be real and you will need to follow the rules and follow the ushers. Mobile phones, pagers and all other electronic technology should be switched off, except for laptops—I have not brought one with me today, but if anyone has and would like to keep it on, they can. For those who want to listen to the translation of any Welsh spoken, it is on channel 1, and for those who want the sound amplified, it is on channel 0 on

the headsets.

[2] We have received apologies for this meeting from Karen Sinclair and also from Darren Millar, and I have written to Karen as the committee requested at the last meeting. Today, I welcome Jane Davidson, the Minister for Environment, Sustainability and Housing. Thank you very much for coming to answer questions on the evidence that we have gathered on fuel poverty in Wales and also on the draft Marine Bill. I know that colleagues would have wanted to ask you questions about fisheries, but, thankfully as far as you are concerned, those questions have been answered by Elin Jones, so if we need to ask any further questions we can leave them for another day.

9.05 a.m.

### **Tlodi Tanwydd yng Nghymru: Sesiwn Dystiolaeth Fuel Poverty in Wales: Evidence Session**

[3] **Michael German:** We will make a start on the item on fuel poverty. We welcome your colleagues, Jane; perhaps you can introduce them to us and then your paper.

[4] **The Minister for Environment, Sustainability and Housing (Jane Davidson):** First, I wish to introduce Claire Bennett, who is the head of the climate change and water division, which is becoming an increasingly important and large portfolio in the department, and Julia Williams, who is responsible for fuel poverty and sustainable buildings. In introducing the paper, perhaps I can update Members, because you will be aware that, following the fuel summit that took place on 23 April, there was an announcement by colleagues in Westminster, which was a joint announcement from the Department for Work and Pensions, the Department for Business, Enterprise and Regulatory Reform and the Department for Environment, Food and Rural Affairs, in relation to the outcome of that fuel summit and a fuel poverty action programme.

[5] I will just take you briefly through the areas that were announced last Thursday. First, Government is to consider legislation so that customers' data can be shared more effectively to target help to the fuel poor. That is being considered by the Department for Work and Pensions, because it is extremely important that there is a data-sharing relationship so that the targeting can be as effective as possible. Secondly, energy suppliers should step up targeting of their social programmes. Thirdly, there will be a pilot scheme for 3,000 vulnerable customers to ensure that they are on the supplier's best tariff. That will be run by Eaga, in England through the warm front scheme, and in Wales through the home energy efficiency scheme. Fourthly, the Government is to fund a joint Citizens Advice/Ofgem campaign to help low-income customers to improve their energy choices, and that will also work in Wales. This is about supporting the four themes that all those at the table at the fuel summit agreed—I think there were seven Government Ministers from different administrations at the table, plus many people from the voluntary sector, as well as the energy suppliers and Energywatch.

[6] The four themes that people agreed were appropriate were as follows. First, it was agreed that we should improve the way in which we identify and target those in fuel poverty so that the available help is directed to those who most need it. Secondly, we must ramp up the level of help available from suppliers to those at risk of fuel poverty. Thirdly, we should provide support so that vulnerable customers are able to use the energy market more effectively to get the best deal, and, fourthly, we should ensure that tariff differentials for different payment methods are fair and justified. The fourth theme is particularly important. You will be aware from Energywatch's evidence that there is a real difference between customers who are on prepayment meters and customers who, for example, pay through direct debit schemes. Although the figures vary in different parts of the country, the Ofgem figures suggest that in 2005 there was an £80 difference, which is up to £125 in 2008. So, the poorest

customers are paying more, which is absolutely unacceptable.

[7] **Michael German:** I will make a start by looking at some baseline figures to see whether we agree on what the estimates are for fuel poverty in Wales. Energywatch gave us a paper that stated that the number of households in fuel poverty in Wales increased to 270,000 in 2008, which is about 22 per cent of the total number of households. What is your Government's best estimate of the current number of households in fuel poverty, and do you accept Energywatch's estimate of 270,000?

[8] **Ms Williams:** The 270,000 figure is an estimate. The latest figure that we have in terms of the actual data, from research that is done as part of the Living in Wales survey modelled up to 2006, was around 240,000. So 270,000 is a fair guesstimate, given the more recent price increases.

[9] **Michael German:** In your survey it was 240,000 for 2006, was it?

[10] **Ms Williams:** That was a modelling for 2006, with the price rises modelled up to 2006, but there have been others since.

[11] **Michael German:** So, would it be quite reasonable to think that we are talking about 22 per cent of total households?

[12] **Ms Williams:** I think 270,000 is a reasonable figure.

[13] **Michael German:** That is the baseline figure.

[14] **Alun Davies:** Thank you, Minister, for your briefing. One thing that I learned from this investigation was that there is a price differential across the United Kingdom. I was entirely unaware of that before we started this work and I think that it is one of the more shocking things that we have learned. I assume, Minister, that you would in principle agree that the basis for charging for customers should be equal across the United Kingdom.

9.10 a.m.

[15] **Jane Davidson:** The price differential is actually quite complex, as the evidence from Energywatch to the committee made clear. The Energywatch report demonstrated that there was an increased price in relation to living in Wales, but the fact that the increased price was lower in north Wales than in south Wales indicates that there are some quite dramatic regional variations. There are similar large variations across England and Scotland. Ofgem announced in February that it was doing a price review and both Paul Murphy and I have written to Sir John Mogg to ask him to specifically take Welsh prices into account in the context of that review.

[16] **Alun Davies:** During our investigation we have learned that higher operating costs or grid supply issues account for only part of the price differential. Have you, Minister, had any discussions with energy companies about this? Do you intend to discuss with energy companies the differential between Wales and other parts of the United Kingdom? You are right to say that there are differentials across the whole of the United Kingdom, but the issue is that prices in Wales are higher than in any other part of the United Kingdom, although I accept that the differential is different in north and south Wales.

[17] **Ms Williams:** The prices in Scotland are actually higher.

[18] **Alun Davies:** The evidence that we had was somewhat different to that. Have you had any discussions on this issue, Minister?

[19] **Jane Davidson:** We looked at this issue in the energy summit that was convened in Wales by the First Minister. I am meeting the energy retailers to discuss this and other issues that we will come on to, specifically focused on the role that they need to play in the context of fuel poverty. Of course, there is also the price review, which will look beneath the issue. Clearly, in market terms, there is an explanation for higher operating costs, but it is totally unacceptable for there to be additional costs that are not related, in any way, to operation. That is why we are very keen for Ofgem to look at the whole of the UK and, specifically in that context, at north and south Wales.

[20] **Leanne Wood:** I want to come back to this figure of 270,000 households in Wales being in fuel poverty, which represents about 22 per cent of the total households in Wales. Do you know what the percentage figure is for fuel poverty in England and Scotland?

[21] **Ms Williams:** The figures that were available around 2006 showed that we had the second highest figure after England. Then I think that it was Scotland and Northern Ireland. I cannot remember the exact percentages. That, again, was based on the available research, modelling to around 2005 and 2006.

[22] **Leanne Wood:** Are you saying therefore that there is a higher percentage of fuel poverty in England than in Wales?

[23] **Ms Williams:** No, sorry. England has got the lowest and we have the second lowest.

[24] **Leanne Wood:** Therefore, Scotland has the highest.

[25] **Ms Williams:** Northern Ireland, I believe, has the highest percentage, because of the number of off-grid properties. Northern Ireland has the highest percentage of properties that are not on the grid.

[26] **Lorraine Barrett:** Minister, in your paper you state that until fuel prices started to rise, steady progress was being made towards tackling fuel poverty in Wales. You talk about the home energy efficiency scheme as a key mechanism for supporting investment in energy efficiency measures, which is aimed at tackling fuel poverty. Given the estimated number of households in fuel poverty in Wales and the recent price rises, do you consider that the number of households being assisted by HEES each year is sufficient to achieve the 2012 and 2018 targets in Wales?

[27] **Jane Davidson:** No, but HEES is only one mechanism. It has been the primary mechanism, but, as I say in the paper, we will need to bring together a far wider range of Assembly Government initiatives to meet our statutory obligation to tackle fuel poverty. In paragraphs 24 to 27, we are talking about the way in which we want to strengthen the fuel poverty advisory group, which is why we have gone for an independent chair of that group. That is out there at the moment. We also refer to the development of a national energy efficiency and savings plan, so our fuel poverty strategy will be examined alongside the role that HEES plays in alleviating fuel poverty in Wales. In developing a national energy efficiency and savings plan, we must have policies and programmes aimed at delivering our twin objectives of reducing greenhouse gas emissions and fuel poverty. That means that we must review the full range of policies and programmes that can contribute to improving energy efficiency.

[28] The Welsh housing quality standard is an integral part of that. We need to pull together what we can do through our regeneration programmes, particularly Heads of the Valleys, and what we can do through Communities First, moving to Communities Next. HEES is an extremely targeted scheme, and it is also very specifically legislated for, which

makes it very difficult to change. We would have to go for new regulations in order to change HEES at any rate, but there are major issues with regard to how we target HEES as effectively as possible, which I have mentioned to the committee before. Therefore, we are looking at that, but we also need to look right across the Assembly Government at other programmes.

[29] **Lorraine Barrett:** You mentioned the Welsh housing quality standard. Do you have any figures on where all the local authorities are with regard to meeting those standards by 2012? If you do not have the figures now, perhaps you could provide a paper. That will be key to delivering your targets.

[30] **Jane Davidson:** We can provide the information, but, as it is information on housing, I think that it is important that that is copied to your sister committee, because housing does not come under this committee's remit.

[31] I think that Claire Bennett wanted to come in on the previous point.

[32] **Ms Bennett:** As the Minister said, it will be about maximising what Assembly Government programmes can do towards delivering on the commitments on fuel poverty, but that sits within the context of tariffs and all the activity at UK level. Income maximisation and looking at the benefit system will be equally as important, if not more important, in alleviating fuel poverty. Therefore, it will be a case of a combination of the most that Assembly Government policies can deliver and then how those are complemented by activity at UK level on tariffs, the energy market and the benefit system, which are reserved matters that are key factors in making progress on addressing fuel poverty.

[33] **Alun Davies:** I was interested in your earlier reply on HEES, which is such an important element of the strategy to tackle fuel poverty. My assumption is that you, as a Minister, would want as much flexibility and the legislative space, if you like, to take decisions and target that as you go along, without necessarily having to go back to make legislative changes to it. Do you have any plans to increase the legislative flexibility of HEES to give you the statutory space to make it more flexible?

[34] **Jane Davidson:** Yes, absolutely. What we have found already is that the scheme, as it currently stands, would not allow the aspirations of the Assembly Government or this committee to be realised. Therefore, we will need to make new regulations. However, that lies within our powers, so it will be part of the consultation on the national energy efficiency and savings plan that we will carry out in the autumn.

[35] **Alun Davies:** Do you anticipate being able to bring new regulations to the Assembly before Christmas?

9.20 a.m.

[36] **Jane Davidson:** It is more likely that the new regulations will come in during the early part of 2009, because we will be consulting on our proposals for new regulations in the context of a national energy efficiency and savings plan in the autumn.

[37] **Alun Ffred Jones:** You mentioned that there are other programmes across Government that could be important in tackling this. Could you list them?

[38] **Jane Davidson:** Those particular programmes feature in my report to the committee. We have our 3 per cent target for reducing greenhouse gas emissions, and the programme that I launched last week demonstrates that the residential sector accounts for 25 per cent of our ecological footprint. So, if we are to reduce the ecological footprint of the residential sector,

we need to bring down greenhouse gas emissions at the same time as improving efficiency. Tackling the ecological footprint right across the Assembly Government will be a component of the national energy efficiency and savings plan. There is also an important role for the Welsh housing quality standard, for the Heads of the Valleys programme, for our regeneration initiatives generally, including renewal areas, and for the transition from Communities First to Communities Next. There is an important role for the work of local government generally. You have asked questions about this before, but if you look at the Warm Wales programmes in Neath Port Talbot and Wrexham, supported by National Energy Action, you can see that, although there is not a direct correlation with bringing down fuel poverty, the increased targeting and the door-to-door nature of those programmes is really helping.

[39] I am delighted to announce to committee this morning that I have been liaising with the UK Minister of State for Energy, Malcolm Wicks, on how the Government's low-carbon buildings programme could be extended to promote microgeneration technologies in vulnerable, hard-to-heat households. We are doing some of that already, in the context of convergence funding supporting regeneration, and I have reported to committee before that we have a pilot scheme with the home energy efficiency scheme on renewable technologies. Wales will now be a part of a UK pilot project programme to install microgeneration heating units in low-income households. We are to get £1 million from the UK Government, which we will be match-funding, and we will build on the microgeneration installations underway as part of the Heads of the Valleys programme, along with others. This will run alongside £0.5 million of work in north-east England, another £0.5 million in Yorkshire and Humberside, and £1 million in East Anglia. Many of you will have heard of the low-carbon building programme in the context of householder grants, which have generally benefited those who are able to pay. However, this new workstream will extend the benefits of lower running costs to the fuel poor, and will particularly focus on air-source and ground-source heat pumps to be delivered to deprived communities in these four regions. So, it is an exciting new programme that I can announce to committee this morning.

[40] **Alun Ffred Jones:** Could I just go back to an earlier point?

[41] **Michael German:** I want to clarify a point on grant assistance. Are we talking about a 100 per cent grant here?

[42] **Jane Davidson:** Absolutely.

[43] **Alun Ffred Jones:** You mentioned several programmes there—there were pilot schemes, targeted at certain areas—and I am just trying to get a handle on the fundamental problem, or one of the fundamental problems, which is that much of Wales, especially rural Wales, is off-grid in terms of gas. Are we doing anything to tackle that particular issue? A high percentage of people who suffer from fuel poverty, as I understand it, are off-grid, and off the gas mains. Am I right?

[44] **Ms Williams:** In terms of hard-to-heat homes, yes, those are the ones that will be off-grid.

[45] **Alun Ffred Jones:** So, is anything happening on that front?

[46] **Ms Williams:** We have had talks with the utility companies about their plans. There have been changes in the legislation to make it easier for them to look again at extending the grid to communities that they have not really looked at previously, because of cost issues.

[47] We are continuing those discussions, but it is essentially a supplier/utilities issue. We could also look at supporting and endorsing that as part of the low-carbon building pilot programme. Although it is essentially about renewables and microgeneration, an existing pilot



programme in England brought in all the partners in a specific area to consider the best solution. That is ongoing. However, it is not within our power to say to the supplier, ‘You must extend the grid’.

[48] **Alun Ffred Jones:** Would you concede that that is a fundamental weakness?

[49] **Ms Williams:** It is, but, having said that, I guess that there is also an issue with energy security and whether, given the ever-increasing gas prices, renewables might offer better future proofing than extending the grid.

[50] **Jane Davidson:** I will just add a couple of points to that. I do not think it fair to say that what I have talked about is a set of pilot schemes. In fact, I have announced only one pilot scheme, and that is a very specific new scheme with new money coming to Wales—the £1 million from the UK Government, which I am announcing this morning. Malcolm Wicks is, at the same time, announcing the new money in England. I am looking more completely at how we, right across the Assembly Government, can look at what we would call ‘programme bending’ to make sure that all our programmes have an anti-poverty focus and tackle fuel poverty. Rather than have pilot schemes in certain areas—they are good at giving you information about how effective things are for the future—it is what goes on in the Heads of the Valleys programme and in Communities Next that will drive investment. It will also drive communication, because one of the big issues is that of people having the confidence to change supplier—that is a very important aspect. Similarly, changing how they heat their homes is another big issue. There is a statistic that you have looked at it in committee before, and I found it the most startling statistic that I have read. It is that 40 per cent of those who have electricity as their main fuel are fuel poor. In a sense, we have a big issue to deal with in ensuring that, as an Assembly Government, we do everything within our powers to assist that 40 per cent.

[51] **Alun Ffred Jones:** Energy prices are beyond our control. Household incomes, by and large, are beyond the control of most people, as far as I can make out, apart from benefits, which, obviously, are targeted. We are, therefore, talking about energy saving measures or heating homes by more efficient and less costly means. In the list of various programmes, you mentioned Communities First and Communities Next; what, specifically, is being done in those areas to target fuel poverty? Is there anything at the moment, or are you talking about future programmes?

[52] **Ms Williams:** I think that we are talking about the future, in terms of looking at it. There is a danger of looking at fuel poverty in isolation, because most of the stakeholder interest groups, such as National Energy Action, would say that this issue is one of poverty in the round. However, it is particularly exacerbated by rising fuel prices. We want to look, with social justice colleagues, at ways in which the Communities Next programme can be optimised in terms of this particular issue with regard to poverty.

9.30 a.m.

[53] **Alun Ffred Jones:** I raise this because, from the evidence that we have received, a high proportion of households that are reckoned to be in fuel poverty are in rural areas, where Communities First, for example, by and large, does not run. So, what are we doing Wales-wide? Is there a Wales-wide programme that will help to tackle fuel inefficiency and heating homes?

[54] **Jane Davidson:** HEES is a Wales-wide programme, because it is targeted at the individuals who qualify, and that has been used on many occasions by people who have oil-fired central heating, for example. The Welsh housing quality standard is also an all-Wales programme, because social housing is distributed throughout Wales. In terms of working

through regeneration programmes, a number also operate in rural areas and there are renewal areas in rural areas as well. In the national energy and efficiency savings plan, we are aiming to ensure that all the ways in which the Assembly Government can intervene are brought together, so that we can join up our delivery mechanisms and ensure that they are as effective as possible.

[55] We have not yet talked about the fact that the new carbon emission reduction target arrangements from the suppliers will bring an extra £225 million into delivery. Other Ministers and I were concerned, prior to the fuel poverty summit, that that would be pepper-potted and not linked to work going on through the statutory Government schemes. It is absolutely crucial that the funding from energy suppliers and from the Government is going in the same direction and that it is targeted at the fuel poor. That is why the measures that I announced at the beginning of the meeting, on Ofgen, and ministerial announcement last Thursday are hugely important in driving that agenda forward.

[56] **Brynle Williams:** Going back to Alun's comment about how a major proportion of fuel poor households in Wales are in rural areas, Julia's allusion to fuel security, and evidence taken by the committee previously, is any work being done on communal heating in certain rural areas, where there is an abundance of timber, wood and so on? We took evidence on this abroad, where it was working effectively. As you said about putting in a gas network in rural areas, we do not know how long gas will be available, but we could use a certain heating programme for two or three villages where there is an abundance of waste or trash wood; even hedgings were used in Austria. Is any work being done in this area?

[57] **Jane Davidson:** Yes. In our renewable energy route-map, we specifically promoted biomass as a way of generating district heating. We are keen to ensure that that happens. I think that Claire wants to add something further.

[58] **Ms Bennett:** The wood energy business scheme, which was funded under the previous structural funds programme, and run by the Forestry Commission, started to put in some of those installations. At the moment, we are working with quite a large number of partners to develop a strategic bid under the new convergence programme, which will be focused on community-scale energy generation. It would not just be biomass, but a whole range of technologies. The idea is to start to see more of these installations going in, bringing in fuel security and lower energy prices, and also creating business and employment opportunities. A lot of people are interested in doing it locally, so we are bringing together a wide-ranging partnership at the moment to try to deliver a big programme on that under the convergence programme.

[59] **Leanne Wood:** I wanted to follow up Alun Ffred's point earlier about the particular problem of fuel poverty in rural areas. You said that the home energy efficiency scheme is an all-Wales scheme. However, the Living in Wales survey results suggest that the HEES programme needs to be more targeted at mid and north Wales, as the majority of its spending is in south Wales. Will you tell us your views, Minister, about taking a targeted area-based approach with the HEES scheme?

[60] **Jane Davidson:** We are looking at all aspects of delivery in the context of developing the energy efficiency and savings plan. The HEES scheme at the moment is very much focused on the income and age of recipients. That is critical, because it is paying off in the sense of securing a reduction in excess winter deaths. However, it is not effective at targeting in that way. Whether HEES is the right vehicle for an area-based approach is a different question, but the Government fully recognises that we need to target the fuel poor in rural areas of Wales, which is why we will be exploring that in the context of the national energy efficiency and savings plan consultations.

[61] **Lesley Griffiths:** In your introduction, Minister, you mentioned your attendance at the UK fuel poverty summit, and you said that an action plan would be drawn up. What role did the Welsh Assembly Government have in drawing up that action plan?

[62] **Jane Davidson:** The action plan was drawn up by Ofgem on the back of the issues that came through in the ministerial summit. We all accepted which ones were the key themes, and we strongly supported those in moving forward. We have been working with our colleagues in Westminster on taking issues forward and ensuring that Wales is included in all those specific initiatives. For example, when the pilot scheme for the 3,000 vulnerable customers was announced, to ensure that they are on the suppliers' best tariff, we wanted to ensure, and we have done, that our HEES scheme in Wales was fully incorporated in that. On the joint Citizens Advice/Ofgem campaign to help low-income customers to improve their energy choices, once again, we ensured that Wales was in. I have also just made the announcement today about the very welcome additional £1 million, focused on renewable energy solutions in our most deprived communities.

[63] **Lesley Griffiths:** You also mentioned the fuel poverty action programme that was launched last week. To what extent does that apply to Wales? You spoke about the themes, but which specific initiatives in the action programme do you consider will help the fuel poor?

[64] **Jane Davidson:** The four key areas that I have outlined are the campaign with the Citizens Advice, the pilot scheme for vulnerable customers, the energy suppliers stepping up the targeting of their social programmes, which is a terribly important element—and that is why I will be meeting with the energy suppliers in Wales shortly to look specifically at that—and the legislation on customers' data. That legislation will work across England and Wales, and so we will be confident that there can be a better exchange of data so that we can target the fuel poor better.

[65] **Alun Davies:** I want to come back on the point that the Minister made about the pilot programme on microgeneration. All too often, the social and environmental aspects of this policy have been looked at in isolation, which has been a weakness in the past. It is great news that you are bringing these together and looking at opportunities to address fuel poverty through microgeneration. I want to put in a bid for Mid and West Wales when you consider this. [*Laughter.*] A key issue, which we have discussed in our review on carbon reduction, is the Treasury rules that have acted as a disincentive to make greater use of microgeneration to address fuel poverty issues. Would you be prepared to speak to your UK colleagues to address any issues with the Treasury to ensure that this pilot project can expand very quickly?

9.40 a.m.

[66] **Jane Davidson:** In paragraph 28 of the paper that I presented to committee, we talk about how we want to move HEES on from the worthy programme that it has been—and I think that some 93,000 households have benefited from the programme so far in Wales—to look at the issues around eligibility and social justice outlined in the first bullet point, and at investing in technologies that help to reduce emissions, which is the renewable energy agenda. We will also look at the energy efficiency measures available under the scheme and at how HEES and CERTS—that is the funding that comes in from the energy companies—will complement rather than compete with one another. We will also look at how we tackle the specific challenges of hard-to-heat homes—and you do not have to put in a special bid for Mid and West Wales for us to recognise that there is a preponderance of hard-to-heat homes in rural areas of Wales—and consider the pros and cons of supporting an area-based approach, which we will be looking at in the consultation.

[67] We will run that alongside our analysis of what has been done so far on our

microgeneration action plan and the renewable energy route-map, which has had a very positive response—and the closing date for that consultation has now passed. We will now consult on the national energy efficiency and savings plan, which will lead to an energy strategy as an overarching document for the Assembly Government. It will look at energy right across the role of the Assembly Government.

[68] We want to take both a strategic, high-level approach and specific actions that fall beneath that. As you know, I am particularly keen for us to go for renewables, because what we know about renewables is that, if Wales uses the opportunities available to us, through wind, water and the marine environment, we could become self sufficient in electricity within 20 years. That will, of course, help to sustain fuel prices in a way that will not be possible if we end up just having to rely on traditional fossil fuels.

[69] **Alun Davies:** I understand and accept those points, and I do not think that there is any disagreement from this committee, as we are all very supportive of your strategy and your approach. However, one thing that we learned, as a committee, on our visit to Germany during the Easter recess was the importance of the overall financial levers that can be used to drive this policy. I think that you are absolutely right about the overall strategy that you are putting in place and to bring together the energy and the social policy. I do not think that there is any disagreement with that. Our concern is that the overall financial structures that exist at present—and this is a UK issue—act as a disincentive to driving this policy forward. This is my question to you: are you able to speak to your counterparts in the UK Government, in both the Treasury and the Department for Environment, Food and Rural Affairs, possibly, to push this policy forward and to change Treasury policy so that microgeneration is used more positively? At the moment, there seems to be a real disincentive to pushing it forward.

[70] **Jane Davidson:** I have very robust discussions with my UK colleagues on these issues, not least because we have said, as an Assembly Government, that we very strongly support feed-in tariffs. That is what has been so successful in Germany, in getting people to move away from traditional energy mechanisms and on to microgeneration. We have to place major incentives in the system. It has been disappointing although I suppose not unexpected to see the low-carbon building programme grants being awarded to those householders who could afford to pay for the work without it, because they are also the people who understand the imperative of the renewable agenda. The funding that I am announcing this morning is terribly important because it will target the low-carbon building programme at the most deprived communities in Wales, offering 100 per cent grants. The sooner we can see that happening, the sooner, I hope, we can increase the appetite of the people of Wales to make the changes that will bring their fuel costs down for the future.

[71] **Alun Ffred Jones:** I wish to return to a point that was made earlier. You referred to the Welsh housing quality standard, which will drive up fuel efficiency in homes, but that is targeted exclusively at public sector housing, is it not? Such housing is concentrated mainly in urban areas. Even in rural counties, such as Gwynedd, most of the public sector housing will be in towns, particularly in larger towns. If you also target, quite rightly, the poorer areas of Wales, particularly if you use the Welsh multiple index of deprivation to do so, that will also focus on urban areas. The figures that we received on people in fuel poverty showed a disproportionate number of them living in rural areas. So, it seems to me that the Welsh housing quality standard and concentrating on what are defined as ‘deprived areas’ will miss out most of Wales, and all of rural Wales, unless some attempt is made to recognise that fuel poverty seems to affect rural areas disproportionately—more so than urban areas, and perhaps more even than poorer urban areas. Do you recognise that as a problem?

[72] **Jane Davidson:** I must say that I would not put it in those terms. I would not say that it would miss out most of Wales, because we are talking about individual householders. The job of the Assembly Government is to try to ensure that the schemes that we support gather

the largest number of householders across Wales, in energy efficiency terms and in any ways in which we can influence the choice of fuel for any particular household. At the same time, we must recognise that fuel poverty is about spending more than 10 per cent of income on fuel. There will be specific issues around a smaller number—in numerical terms—of householders in rural areas, because they will be in hard-to-heat properties as well as having the income issue. I am keen to find a way to respond to the issues of that group, because, hitherto, it has not been targeted effectively. That is one concern expressed by voluntary organisations in the context of the previous agreement of the Assembly on the current requirements of HEES. That is why I have indicated that I am happy to look at that again.

[73] **Alun Ffred Jones:** The only comment that I would make on that is that you talk about smaller numbers of people in numerical terms, but what struck me about the figures that we received on people suffering fuel poverty was that, in absolute terms, many of them were in rural Wales. The numbers concentrated in rural areas were striking.

[74] **Jane Davidson:** The point is that there are different reasons why people come into fuel poverty.

[75] **Alun Ffred Jones:** What we are trying to tackle is how we reach them.

[76] **Jane Davidson:** There are different reasons for people coming into fuel poverty. It may be because you have a hard-to-heat home because you are not on mains gas, which is likely to predispose you to fuel poverty. In that sense, those people are likely to be in rural areas, and the evidence for that already exists. However, in the situation in which we now find ourselves, with massive price rises for food and energy, many more people will move into fuel poverty. There is a fuel poverty indicator equation, which is why, when Energywatch gave you evidence, it suggested that, for every 10 per cent increase in fuel prices, 48,000 more people move into fuel poverty. That will be price-related rather than to do with having hard-to-heat homes. So, we must look at all these issues. You have a particular interest, which I fully understand, and I hope that I have already responded by saying that the Assembly Government will look properly at that, but we will also have to look at the other issues that bring people into fuel poverty. It is a bit of a moving target.

9.50 a.m.

[77] **Alun Ffred Jones:** That will affect those in low-income households. Looking at income levels in Wales, the committee has heard evidence that rural areas have almost the same sorts of problems as urban areas.

[78] **Jane Davidson:** That is why we are absolutely committed to looking at those issues in the context of the review of HEES, which does not give us the flexibility at the moment to pick that up. I have looked at the regulations to see whether I could make changes now without new regulations, but they do not give me that flexibility, so we must make new regulations alongside our consultation on the national energy efficiency and savings plan.

[79] There is one other point, on which Julia could perhaps help me. I think that we will receive detailed survey information in the summer, will we not?

[80] **Ms Williams:** Yes. We have commissioned research on a local area basis, which will give us much more detailed information. It will split local authority areas up into electoral ward areas, and will give us much more detailed information about specific areas that are in fuel poverty. That should come out in July or August.

[81] The other issue is that, as well as the low-carbon building programme pilot scheme, which looks at microgeneration and hard-to-heat homes, there is the carbon emissions

reduction target programme, which is not our programme but that of the energy suppliers. We want to have detailed talks with the suppliers about maximising what they can get credit for in terms of hard-to-heat homes because there will come a time within the CERT programme when they will run out of cavity wall insulation and loft insulation and they will need to look at external and internal cladding and microgeneration. We want to have those round-table discussions about that. That will have a particular resonance for hard-to-heat homes.

[82] **Michael German:** I wish to follow that up because, as you know, one of the committee's recommendations was that retrofitting should be an important part of any Government programme. Will the data that you will receive in July give you a much more accurate idea of the correlation between hard-to-heat homes and fuel poverty? Will you have a clearer map of how closely related those two variables are?

[83] **Ms Williams:** In terms of fuel poverty, yes, because the research is about that. It is not general research on hard-to-heat homes.

[84] **Michael German:** I am asking about the correlation between hard-to-heat homes and fuel poverty, because the evidence that we have received suggests that there is a very clear correlation—that a large number of people who are in fuel poverty have hard-to-heat homes. Do you have accurate data on that? We have talked about the total number of people in fuel poverty—22 per cent of households in Wales. Of that number, how many are likely to have hard-to-heat homes?

[85] **Ms Williams:** There is already the 'Living in Wales' fuel poverty data that looks at hard-to-heat homes.

[86] **Michael German:** Just to be absolutely clear, is there much of a correlation?

[87] **Ms Williams:** I think that the percentage of hard-to-heat homes in Wales is around 8 per cent, but that does not mean that all those homes are in fuel poverty because we must also consider the income equation.

[88] **Michael German:** I am trying to establish whether we know how many of the fuel-poor households in Wales have hard-to-heat homes. If we do not know that—

[89] **Ms Williams:** We should be able to see that from the data.

[90] **Jane Davidson:** I think that the point is that the work from 'Living in Wales' has been a set of guesstimates, and the work that is currently being done by the Centre for Sustainable Energy, which is commissioned survey work on an electoral ward basis, will give us the data that we need. So, the report back to us in the summer of detailed information will be critical in giving us a much stronger evidence base for what we bring forward in the proposed national energy efficiency and savings plan. That is why we are not doing that until the autumn—because we need those data to drive that forward.

[91] **Michael German:** That was the purpose of my question, because if your data will identify the correlation between those two important variables, namely the hard-to-heat homes and those that are fuel poor, the actions that you take on fuel poverty will be different because, if you will not be spending huge amounts of money on retrofitting, you will have to look at other ways of helping people with their heating and so on.

[92] On your low-carbon building programme pilot, is the £1 million for one year or three years? I did not quite pick that up. How do you intend to manage the programme of spending?

[93] **Jane Davidson:** You say 'if you will not be spending huge amounts of money on

retrofitting', but huge amounts of money are already being spent on it. The committee asked for all homes, irrespective of income, to be retrofitted, which would mean your home, my home and the homes of everyone around this committee table. We told the committee—and I am happy to repeat the point—that we did not accept that that should be done by the Assembly Government. We would have accepted the proposition had it focused on the fuel poor because we believe that the homes of those people in fuel poverty need to be retrofitted. I will now hand over to Claire to talk about the new programme.

[94] **Ms Bennett:** The exact detail of how the programme will operate is still to be worked out. We hope that renewables will be at the heart of it, but that it will also be a much larger programme that starts to look at how we can maximise CERT income, possibly by looking at grid extension and other kinds of programmes. So, it could end up being a considerably sized programme.

[95] The funding that the Department for Business, Enterprise and Regulatory Reform is £1 million over a two-year period. We can put in as much funding as we are able to. We are looking to immediately match what they provide, but we are looking at other opportunities to put in more investment because there are already some programmes that are doing work in this area. Therefore, over the next couple of weeks, we will be able to provide the committee with a much clearer picture of the scale of the programme. I hope that it will be quite a lot bigger than just the £1 million, but it will be a new departure for us to be able to target that. As it is microgeneration technology, we will look at putting the units into hard-to-heat houses, because that is where we will get the maximum benefit. So, it will start to address some of the points that the committee has raised about rural areas and hard-to-heat homes. This is exactly the kind of programme that will start to look at those opportunities.

[96] As a slight aside, we have talked about the different aspects of fuel poverty and how people end up in fuel poverty. There are some difficult questions to answer in terms of targeting any of our programmes. Each of them may need to look at a different aspect of fuel poverty, but we should not underestimate the challenges of making judgments about how best to target, which is why we want to take this forward as part of the development of the national energy efficiency and savings plan. By doing so, it can be subject to a full consultation with a wide range of interested parties so that we come up with something that will be considered as being of most benefit to most people but that will not exclude particular groups whose circumstances may mean that they would be left out of a blanket approach. So, it is important that this is done with a range of stakeholders. We will ensure that we do that with the fuel poverty advisory group, local authority HECA officers and a range of other networks over the course of the next couple of months.

[97] **Michael German:** Where is the other £1 million coming from?

[98] **Ms Bennett:** From within our department's budget.

[99] **Michael German:** Could you be a little more precise about that?

[100] **Ms Bennett:** It will be coming from within the departmental main expenditure group.

10.00 a.m.

[101] We are also looking at whether there are opportunities to bring Heads of the Valleys programme money in to contribute towards this and other departments' interests. So, that is some of the further detail to be worked out, but we can guarantee that we can find the match from within the main expenditure group.

[102] **Michael German:** When you have a picture of where the funding is going to come

from, it might be helpful to have that, given Alun Ffred's expression of interest about rural properties, for example. Heads of the Valleys money will not necessarily help them. If possible, Minister, could we have a note on the funding package behind this programme? That would be very helpful. Thank you very much for this first session.

10.01 a.m.

### **Mesur Morol Drafft y DU UK Draft Marine Bill**

[103] **Michael German:** Members have finished their questions now and we will turn our attentions to the complex draft marine Bill. I do not know whether you wish to alter your personnel, Minister, or whether Claire and Julia are prepared to tackle the Bill as well. I am grateful for your reply, Minister, about the committee's request for me to speak to you about where the LCO relating to environmental protection and waste management is and how far it has got. We have your reply before us, in which you refer to the fact that it has a link with the draft marine Bill. We will approach that issue towards the end of the set of questions Members have to ask, if you are happy to do that. We are grateful for your outlining of the paper, but do you wish to add anything? Also, perhaps you could introduce Kath to us so that everyone knows who she is.

[104] **Jane Davidson:** I am perfectly happy to move straight to questions except to say that, because we are talking about pre-legislative scrutiny in the context of the draft marine Bill, there is a very fluid discussion going on. That is why we gave you a set of questions, which you may wish to consider in the context of any advice that I further put to colleagues in Westminster. However, it is worth pointing out that we have had an extremely close and productive relationship with Hilary Benn, the relevant Secretary of State, and Jonathan Shaw, who is the Minister charged with the responsibility of taking the Bill through. That has led to our being broadly content with the way in which all the Welsh clauses are going.

[105] There are still areas, which you will see from the briefing, that are yet to be included, such as the coastal access element. We have our coastal path programme already in place and we are putting substantial investment into that. We aim to have an all-Wales coastal path by 2012, and we will therefore want to frame any statutory support for the coastal corridor approach in the context of Welsh legislation. We will be consulting on that issue separately very shortly, and the outcome of that consultation will feed in to the clauses that go into the Bill for Wales. That gives you an indication of the way in which we are working on the issues.

[106] **Alun Davies:** Thank you for that introduction, Minister. This Bill seems to have been in draft form for many years. With regard to how you take this forward, I am concerned particularly about the creation, if you like, of a system of marine planning. It is inevitable and correct that there should be this role, with Welsh Ministers taking the lead in the areas for which you are responsible in Welsh territorial waters. However, it is a very complex mix of devolved and non-devolved functions. How do you intend to ensure that there is coherence between the work that you are leading on, the work that the marine management organisation will lead on, and the different roles that you and UK Ministers will be taking?

[107] **Jane Davidson:** I will start, and then Kath Winnard, who looks after marine policy in the Assembly Government and is involved in daily discussions around these issues, will pick it up. The marine planning proposition is exciting, because it will be a strategic approach to how we tackle our marine environment, in a way that has not happened before. As you said, there has been a long history of calling for a marine Bill and a long, immediate history, which I have outlined, since 2002 to reach the point that we are at now. We must still ensure that the



Bill features in the Queen's Speech, if it is to move forward and become legislation.

[108] The proposition in England is for there to be a marine management organisation, and we looked at that, but we feel that since Ministers are accountable for policy in the context of the Assembly Government and we are doing what we can across the piece to bring policy and delivery closer together, in a small country, it makes far more sense for the Welsh Assembly Government to play that role in Wales, where the issues are devolved. Where the issues are not devolved, the marine management organisation will have that function. There will be occasions, and I have laid this out in the report, when we will choose to devolve functions to the MMO in terms of delivery while keeping the policy responsibility. There will also be occasions when the MMO is likely to choose to devolve functions to the Assembly Government for delivery, while keeping the policy approach. Our view is that it is an issue of standards, not structures; it is about ensuring that we all work together in partnership.

[109] Matters relating to the coastline do not stop with our relationship with England. Scotland will have a separate marine Bill, which is not coming through in this legislation, and you will see some comments in my paper about how, while Scotland absolutely supports the broad marine planning agenda, it will take through its own legislative mechanisms. I have also been in discussion, through the British-Irish Council, with Ireland and Northern Ireland, because we share the seas, and not just with them, but also the islands—the Channel Islands and the Isle of Man—because we need to ensure partnership on these issues. We are aiming to use the British-Irish Council mechanism to join up that thinking.

[110] We see this as a real opportunity to look at how we will deliver the most effective strategic agenda for Wales and how we will have the appropriate partnership arrangements. I do not know whether you want to add anything, Kath.

[111] **Mrs Winnard:** You will have to excuse my voice, I have laryngitis. It is important to remember that the MMO will be a delivery body in England, but, ultimately, sign-off on things such as marine plans and the adoption or abolition of marine plans still rests with the Secretary of State in England, so the final decision making in England and Wales will remain at ministerial level.

[112] **Alun Davies:** Thank you for that. In your paper, you say that marine planning in Wales should be an open and transparent process involving stakeholders. Do you have any initial thoughts on how that process will work?

[113] **Jane Davidson:** We have coastal maritime partnership arrangements in different parts of Wales at the moment, although they are differentially successful in terms of their input, and we are looking to beef up that approach, so that we have a coastal maritime partnership approach that works effectively across the whole of Wales, both area-based and also feeding into a national grouping. We also see that it is important to relate this to spatial plan areas, so that we can also look at the regional input in Wales. So, a set of people will be involved. All the specifically marine interests in the voluntary and statutory sectors will be involved, as will the local authorities with marine borders. The Welsh coastal and maritime partnership will be involved at local and national levels, and the Welsh Assembly Government will also be involved. I have already had several discussions with the Welsh coastal and maritime partnership about how we will take these relationships forward.

10.10 a.m.

[114] **Alun Davies:** Thank you for that, Minister. In some ways, you have pre-empted my next question. I assume that the planning issues that you have been discussing and the planning processes that you will be introducing as a consequence of this legislation, will have an interface with the existing strategies and policies of the Welsh Assembly Government,

such as the Welsh environment strategy and the coastal zone management strategy. How do you see the management of those interfaces and how do you see the linkages between the marine planning and the spatial planning that you have already embarked upon?

[115] **Jane Davidson:** From our perspective, what we will be looking at from here is that the high-level statement—the policy statement, as it were, would come through the opportunity provided by the marine Bill. That will take into account the work that we have previously done on integrated coastal zone management. We produced a document last year that was a very important tool for the management delivery of the integrated coastal zone across Wales, which was worked on in partnership with the voluntary sector. Therefore, the spatial plans would be able to input up to the national level, but also, in a sense, acquire a set of requirements in the same way that they do now with major Assembly Government policies in their delivery and in their area as well. That would also, where appropriate, feed down to the local authority level.

[116] **Alun Ffred Jones:** I will just start with the territorial waters and the 12-mile limit, and the statement made by Elin Jones about Wales taking control out to, presumably, the fishing limits between Wales and Ireland. Is the Government is actively pursuing that?

[117] **Mrs Winnard:** There is currently a consultation with fishermen's organisations from the other administrations to see what their opinions of the proposals are. We have been in discussions with DEFRA about this proposal during the course of the development of the marine Bill. We believe that it is important to try to manage the space that Welsh fishermen use in a more coherent fashion. The proposal sets out that it would not take it out all the way down to the proposed limit to the south west, but that it would be a sensible area that encompasses the area in which the Welsh fishing fleet operates. We have had discussions with DEFRA during the whole development process of the Bill. It is currently out for consultation with the industry because it is specifically an industry-related matter. We are considering whether the draft Bill is an appropriate vehicle to take that forward or not. The results of that consultation are expected shortly.

[118] **Alun Ffred Jones:** I will take that as a 'yes' then.

[119] **Mrs Winnard:** Sorry; yes, it is something that we are pursuing.

[120] **Alun Ffred Jones:** I suppose that one of the aims of the Bill is to simplify matters in terms of marine planning and so on. England is setting up a marine management organisation, but we are not doing so in Wales. Do you think that that will cause any difficulty? I presume that you are bringing all those matters in house, to Government. Why have you decided to do that?

[121] **Jane Davidson:** As I said, from our perspective, what would be the point of setting up a separate arm's-length organisation in a country the size of Wales? If we set up a separate marine management organisation, it would be accountable to two sets of Ministers, who may have different policies. In all of the areas where the policies are devolved, the accountability will lie with the Assembly Government, but we see absolutely no problem in terms of the strategic delivery with working with a range of organisations, as we do now. This, however, will give a far greater strategic intent. The creation of a system of marine planning is absolutely central to the draft Marine and Coastal Access Bill and the intention is to produce a marine policy statement that as many administrations as possible will sign up to, which will set the context for marine plans. That is also in the context of Ireland and Northern Ireland in relation to Wales as well. We are responsible for planning in Welsh territorial waters, but there is, as people are recognising, a complex mix of devolved and non-devolved responsibilities in the marine area, which need to be taken into account in developing a system of marine spatial planning. However, it is important for us to be clear about our policy

imperatives here in Wales, and to create a vehicle for the delivery of those policy imperatives, working alongside the marine management organisation on those areas that remain the responsibility of the UK Government.

[122] **Alun Ffred Jones:** What are the non-devolved activities for which the MMO will be responsible in the Welsh inshore regions?

[123] **Jane Davidson:** Do you want to set them out, Kath?

[124] **Mrs Winnard:** Again, it is not straightforward. For example, non-fishery harbours are not devolved, so they would be the responsibility of the MMO. So, the port of Cardiff would fall into that category. However, it might make more sense for us in Wales to assist the MMO in the delivery of those functions, rather than the MMO having to send specific officers to Haverfordwest or Milford Haven. We could carry out the functions for the MMO, and likewise the MMO could carry out functions that would require resources such as vessels, helicopters or planes on our behalf, in waters further offshore. So, there are plenty of opportunities for working together to enable more coherent, joined-up delivery, and part of that is the creation of a suite of enforcement functions that will be available to all enforcement officers, so that they will be able to use the same powers to stop and search, ask for documents, or require assistance. That is not currently the case.

[125] **Alun Ffred Jones:** Obviously, that may work out perfectly, but there seems to be complexity built into this, and we are not sure who will be doing what. Perhaps you do not agree.

[126] **Jane Davidson:** Managing complexity is the job of Government, in the sense that—

[127] **Alun Ffred Jones:** Stakeholders might not see it the same way.

[128] **Jane Davidson:** There would be more potential difficulties if the MMO were to operate in Wales, with all the functions accountable to UK Government Ministers, and saw that as its primary duty. It would only be accountable to Assembly Government Ministers for a small part of its functions, but many areas in this Bill are about devolving extra powers to the Assembly Government, so it is critical that the Assembly Government should take on the functions of the MMO, bring together policy and delivery, and have the right working relationship with the MMO. It will not be operating in the context of Scotland, but the sea does not stop at the boundary with England, either—we need the right relationships between Ireland, Northern Ireland, Scotland, England and Wales, which is why there is an overarching message about a marine policy statement that all administrations could potentially sign up to. At the moment, that does not include Scotland, but it will be looking at its own marine legislation, and has said that it is looking to ensure that there is good and clean management of the joint territory as it moves across the English border. We would want to do the same in the context of England and our relationship with Ireland and Northern Ireland.

[129] **Michael German:** I have a technical question about the comment that Mrs Winnard just made on non-fishery ports. Where there is fishery and non-fishery activity—Milford Haven, for example—would the MMO have responsibility? Who would have responsibility there?

[130] **Mrs Winnard:** The definition of a fishery port is set out in the fisheries legislation, so it does not necessarily relate to the activities that currently go on there. It is a kind of historical anomaly.

[131] **Michael German:** Could you talk about Milford Haven? Is that a historical anomaly?

[132] **Mrs Winnard:** That is a fishery port, but some of the activity there with oil, gas liquid petroleum gas is not devolved to us, so that is still down to the MMO.

[133] **Michael German:** So, the MMO would have responsibility for Milford Haven?

[134] **Mrs Winnard:** For some parts of Milford Haven, yes.

[135] **Michael German:** That was just a technical point. Sorry, Alun Ffred, I interrupted you.

[136] **Alun Ffred Jones:** One of the issues that this throws up is renewable energy developments off the coast. As I understand it from the notes that I have here, anything over 100 MW will be the responsibility of the infrastructure planning commission, and anything between 1 MW and 100 MW is for the MMO. Can you give me an example of anything under 1 MW?

10.20 a.m.

[137] **Mrs Winnard:** Sorry?

[138] **Alun Ffred Jones:** Anything under 1 MW will be the responsibility of the Welsh Assembly Government.

[139] **Mrs Winnard:** It maintains the current position. It adds an extra level, because of the creation of the IPC.

[140] **Alun Ffred Jones:** Right. What is the Welsh Assembly Government's position on this? Are you actively seeking powers over marine renewable energy developments up to 100 MW?

[141] **Jane Davidson:** We would like to have the powers for marine renewable developments up to 100 MW.

[142] **Alun Ffred Jones:** Is the Government actively pursuing that, so that it could be part of the Bill?

[143] **Jane Davidson:** That will be under consideration as part of the Bill.

[144] **Alun Ffred Jones:** Can you give me the Government's position on this?

[145] **Jane Davidson:** No.

[146] **Alun Ffred Jones:** Why?

[147] **Jane Davidson:** Because we are involved in early discussions in pre-legislative scrutiny of the Bill. We are seeking the powers for developments of up to 100 MW.

[148] **Alun Ffred Jones:** That is what I mean. So the Government is seeking the powers.

[149] **Jane Davidson:** The Government of Wales, yes, but I thought that you meant the UK Government. I cannot give you the UK Government's position.

[150] **Alun Ffred Jones:** When I talk about the Government, I talk about the Government of Wales.

[151] **Jane Davidson:** I can give you the Government of Wales's position, which is, as you know, that all energy decisions should come to Wales. That remains our position.

[152] **Alun Ffred Jones:** You have set up a marine consents unit: what will it be doing? What will its responsibilities be? Have you set it up already?

[153] **Mrs Winnard:** Yes; Tamsin is the head of the unit. Currently, the unit is to take over the management of all the consent matters for which Welsh Ministers have responsibility. It will involve the Food and Environment Protection Act 1985 consents, the marine minerals dredging regulations, marine European protected species, and then, once the marine Bill is enacted and the licensing aspect becomes central, there is the merger of the FEPA and the Coast Protection Act 1949 licences. That will be our responsibility as well.

[154] **Alun Ffred Jones:** Will the unit have any control over fishing consents?

[155] **Mrs Winnard:** No, fishing is a completely separate matter to do with the licensing of fishing vessels.

[156] **Alun Ffred Jones:** So, who will be responsible for those licences?

[157] **Mrs Winnard:** It is still the Welsh Assembly Government, but the fisheries department.

[158] **Alun Davies:** I found some of those replies interesting, Minister. You are absolutely right that part of the role of Government is the management of complexity and similar issues. I see this legislation and the Planning Bill running side by side in some ways in terms of policy approach, but I think that the Government sometimes creates unnecessary complexity. Are you confident that you have sufficient powers, in this regard and in relation to the Planning Bill, to fulfil all your policy objectives? It appears to me that we—when I say 'we', I mean the United Kingdom Government rather than the Welsh Assembly Government—are creating unnecessary structures. You said that, in Wales, you would be taking the role of the marine planning authority, and I think that you are absolutely right in that, as there is no need to create additional bodies to fulfil those functions. I think that we would all support that. However, do you have the breadth, range and depth of powers required to achieve your policy objectives? It appears to me that the MMO and the IPC represent creating unnecessary levels of bureaucracy.

[159] **Jane Davidson:** I want to endorse your point about avoiding the creation of unnecessary structures. That is why it is important to keep the policy and delivery mechanisms as close together as possible in a country the size of Wales.

[160] When I said that it is Government's role to manage complexity, where you are not in control of all the levers, it is very much Government's role to manage complexity. Certainly, the relationship between the infrastructure planning commission and the marine management organisation will be a complex one in the context of ports and energy decisions, in relation, for example, to offshore windfarms. The ports that come under the infrastructure planning commission, if my memory serves me well, are all larger than the ports that are in Wales. So, although ports are brought into the IPC, no Welsh port is large enough to be caught by its terms. As Kath Winnard has said, we have a situation where, for example, Cardiff port would come under the marine management organisation but only some of the functions of Milford Haven port would come under it. Therefore, assuming that this goes into the Queen's Speech, we would suggest that, rather than the MMO carry out those functions, they should be carried out by the Welsh Assembly Government on behalf of the MMO. It makes much more sense if the Welsh Assembly Government has the largest number of powers and delivery mechanisms available to it in the context of there being more transparency for stakeholders. However, it

will still be managing the complex relationship. The IPC will be responsible for decisions on projects over 100 MW and, as I said, we are keen to have powers over energy devolved. We have specifically asked that renewable energy decisions be devolved, and I will be looking to see whether or not responsibility for decisions on projects under 100 MW can be brought to Wales in this context, even if the overarching energy responsibilities remain undeveloped.

[161] **Michael German:** I have a supplementary question on the potential for Measure-making powers in the draft Bill. You have talked a lot about functions, and tools for the Welsh Assembly Government are mentioned in the Bill, but if you were to get those powers, essentially, you would have Measure-making powers over anything under 100 MW. Is there any other Measure-making power potential in the Bill that you foresee the Government wanting to ask for, or is there opportunity there for the Government to get powers to Wales?

[162] **Jane Davidson:** Kath, do you want to talk through the Measure-making powers in the Bill?

[163] **Mrs Winnard:** There are not really any strict Measure-making powers in the Bill. The Bill is very frameworky so, often, the powers that are being given directly to Ministers are very wide, for example in terms of marine planning and marine conservation. Welsh Ministers and the Secretary of State can use those powers as they see fit.

[164] In terms of adding stuff to Schedule 5, there is no—

[165] **Michael German:** I understand that it is not in the Bill, but is there any potential for the Welsh Assembly Government to ask for powers? On the back of Bills such as this, you can often add something that you would like to happen and which you might not otherwise get because the LCO process would take so long.

[166] **Mrs Winnard:** We are looking at the inclusion of marine environment in the environment LCO, so it would be a slightly different route to go through. With the marine Bill, we decided quite early on with the Department for Environment, Food and Rural Affairs that it was complicated enough without trying to put in Measure-making powers too. We agreed that, wherever new powers are created, they should be given to our Ministers as well as to the Secretary of State.

[167] **Jane Davidson:** That is the crucial issue. The powers that are created in this Bill are, in England, delivered by the Secretary of State and, in Wales, through the Welsh Assembly Government. So, the new powers created in this Bill are devolved to Wales.

[168] **Michael German:** We will return to this Measure when we come to the environmental protection and waste management LCO. The question that I was asking was whether there was potential, on the back of the Bill, to get things through. It might be a swifter method than going through the LCO route. We will perhaps come back to that when we talk about the letter that you sent to us.

[169] **Brynle Williams:** How will the marine consents ensure good working practices across the borders, for example with regard to the Dee in north Wales and the Severn estuary in the south, and with other licensing bodies, such as the Environment Agency?

10.30 a.m.

[170] **Jane Davidson:** The marine consents unit will liaise with the other licensing bodies to ensure that the licensing of relevant activities in Welsh water is as streamlined and simplified for the applicant as possible. That is the crucial issue. Bringing all the consents together is already a major piece of streamlining that has been undertaken in the context of

the potential of this legislation.

[171] **Brynle Williams:** What mechanisms would you put in place to ensure that it is clear who is responsible for issuing these licences in a given region, for example, in inter-tidal zones?

[172] **Mrs Winnard:** The marine consents unit acts as a one-stop-shop in Wales for all licensing applications relating to Welsh waters. So, in the first instance, we would like to see applicants coming to the unit to access coherent and sensible information on the various licences from one point. So, the aim of the unit is to be like a swan moving smoothly across the top of the water while paddling furiously beneath it.

[173] **Brynle Williams:** I like that description. A new appeals procedure is mentioned in the policy paper, yet there is no specific mention of procedure in the draft Bill. How will you ensure that an appeals mechanism is transparent and accountable if all aspects of marine consents are dealt with in-house?

[174] **Mrs Winnard:** The issue of appeals is tricky in terms of having the Welsh Minister as the ultimate decision maker. We are exploring with DEFRA how we can create an appeals mechanism. A similar issue has come up with the merging of other Assembly sponsored public bodies into the Assembly Government. So, we are aware that there is a need to add the potential for an appeals mechanism and we are actively pursuing that.

[175] **Lorraine Barrett:** On the marine nature conservation part of your paper, I note that the UK Government has had powers since 1981 to protect nationally important marine areas through the establishment of marine nature reserves. However, the UK only has three marine nature reserves—Skomer in Wales, Lundy in England and Strangford Lough in Northern Ireland. Do you think that the marine Bill will be more successful in terms of establishing more of these nature reserves, and how might that be?

[176] **Jane Davidson:** Paragraph 31 states that over 70 per cent of Wales's coastline and around 40 per cent of Welsh seas are already protected by some form of designation, such as special protection areas and special areas of conservation. So, we do not think that we need to designate a greater area of the sea around Wales, but we might look at new marine nature reserves within those areas. We will then move forward into the new marine conservation zones.

[177] The intention of the Bill is to automatically convert the existing marine nature reserves into marine conservation zones; our reserve, as you rightly say, is Skomer. The existing marine nature reserve bye-laws will remain in place until conservation orders are made, to ensure that there is no decline in the level of protection. In fact, the Countryside Council for Wales is looking at this issue at the moment, to see whether we would want new marine coastal zone designations in our currently protected territories.

[178] **Lorraine Barrett:** It seems that the designation of coastal areas as special areas of conservation has not halted the loss of biodiversity. Do you have any explanation for why that has happened, and how will the marine conservation zones differ from the special areas of conservation?

[179] **Jane Davidson:** I will just pick up on some overarching issues here. Our environment strategy, published in 2006, specifically looks at the issue of biodiversity. There is a separate biodiversity action plan and a separate national partnership is looking at biodiversity in Wales. The European Union monitors the status of our habitats very closely. I will shortly be meeting with local government representatives, because I am keen to introduce in Wales the concept of a cabinet member with responsibility for biodiversity in every local

authority, so that we can drive this agenda forward across the piece. The Countryside Council for Wales and others have a duty to look at how to bring any special designated areas into a favourable condition, and a huge amount of work is going on at the moment. The idea of the marine Bill is that, in the context of land and sea, we can take a similar strategic approach to driving this agenda forward.

[180] **Mrs Winnard:** The advice from CCW is that we must recognise that the conservation zones have not worked as well as we would have liked them to, and the creation of highly protected marine reserves, using the marine conservation's own mechanism, is one way forward to protect them better. Together with the Department for Environment, Food and Rural Affairs, we would also like to be able to use the conservation power that is included outside conservation zones as well, to help to protect them. It is particularly important in Wales that we are able to use a conservation Order-making power to help to protect the SACs. However, that has to be done outside this, for technical legislative reasons. Given that the SAC legislation is secondary legislation, the protocol is not to amend secondary legislation with primary legislation, but with secondary legislation. It is part of the wider process of updating the habitats regulations.

[181] **Jane Davidson:** However, these are our powers, and we will be responsible for designating marine conservation zones in Wales. We also have a separate responsibility for marine conservation Orders, so that advice from CCW will let us know what we should be doing on these issues.

[182] **Lorraine Barrett:** Thank you, and my question on fishing has been answered.

[183] **Michael German:** I turn to the issue of coastal access. The draft Bill states that the Welsh Assembly Government is seeking to improve public access and is interested in exploring how the legislative process or approach might complement and add value to the existing improvement programme in Wales. Following consultation with stakeholders on the possible options, you will then move forward. Will you describe to us some of the possible options that you see available to you in this process of enhancing, complementing and adding value to what we already have?

[184] **Jane Davidson:** We are already into the second year of funding our all-Wales coastal path. The sum of £1.5 million was invested last year and £2 million this year to take that agenda forward. That all-Wales coastal path is being delivered on a voluntary, not a statutory, basis. However, we know from the experience of different parts of Wales so far that the voluntary basis can take you a very long way; in fact, in some places, it can take you all the way, and so we are very keen to support that. However, if you end up with a situation in which you get one, or perhaps two, recalcitrant landowners who then frustrate the major public ambition and wish of the Assembly Government, there needs to be a statutory mechanism to ensure that the policy is delivered.

10.40 a.m.

[185] My strong view is that we should do everything possible through a voluntary approach, which has been very successful in parts of Wales, but that, in achieving our final outcome, we might need a statutory tool in our back pocket. So, we will be consulting on the nature of that statutory tool. I am waiting for advice from the CCW on how a statutory approach to coastal access might work in Wales in a way that adds value to and complements the existing coastal access improvement programme. I say that specifically, because I have made clear, and I am happy to make clear again to committee, that our approach is not to have a statutory tool that demands, but to have a statutory tool that can deal with specific situations that frustrate a major Government ambition and policy manifesto commitment.



[186] **Michael German:** In non-legal terms, you are looking for a legal mechanism by which you can deal with coastal ransom strips and have something in your toolbox. Presumably, you will put that in the Bill. If and when it appears in the Queen's Speech, it will contain such a measure in terms that make it clear from the outset of the Bill's passage, rather than being added later when it goes through Parliament.

[187] **Jane Davidson:** That is the point of holding the consultation, which we expect to publish shortly. Early on in the context of the marine Bill, I suggested that we use it as a legislative vehicle on coastal access, and that suggestion was promptly taken up by our colleagues in England, who then used it in the way that they have described in English legislative terms. It is important for us, since we are a long way ahead on our coastal access programme, because of the commitments and funding that we have already put in place. We already have a coastal path around Pembrokeshire, most of Ceredigion, Anglesey and good coastal links along the Llŷn peninsula and other places, as well as the heritage path in the Vale. A lot of Wales is already benefiting massively from this, because the economic benefit of coastal paths to tourism is huge, so we are determined to achieve this outcome by 2012. Having that statutory tool in our back pocket in the next year, if the marine Bill proceeds as quickly as we hope, will be extremely useful to achieve those ends.

[188] **Michael German:** On the marine Bill and the LCO on environmental protection and waste management going through Westminster, we will now return to the issue that I raised earlier in relation to Measure-making potential in the marine Bill and how the LCO fits in with all that. Alun will start off on this matter.

[189] **Alun Davies:** Thank you for your letter to the Chair of the committee, Minister, outlining and updating us on the progress of that LCO. I know and I understand that you and your officials have been working hard to progress this through Whitehall, and your letter outlined some of the issues that have been raised. Can you give us a timescale of when you expect this LCO to emerge from these processes? When do you expect us to start taking it through the relevant processes here?

[190] **Jane Davidson:** The stages of the LCO at the Assembly and for the Assembly Government have already been undertaken, in the sense that we discussed the LCO in the scrutiny committee and, on that basis, we put the LCO in the hands of our colleagues at Westminster. The Secretary of State for Wales and I are continually looking to ensure that, where there are issues that need to be dealt with, we respond quickly, as a Welsh Assembly Government. However, as my letter points out, this is a complex area, because all the other LCOs that the Assembly Government has taken or is in the process of taking forward are in narrow fields, while this one covers a wide set of fields.

[191] If you take the issues around marine waste and litter for example, you see that there are discussions as to whether they would be better dealt with in the context of the marine Bill as opposed to the LCO. As there are an awful lot of Bills going through Parliament at the moment that have a direct relationship to the powers that we have requested in this area and to a number of other policy announcements, officials are having to keep looking at the parameters for a final sign-off. I cannot give you a timescale. I can tell you that the Secretary of State for Wales and Hilary Benn, the Secretary of State for Environment, Food and Rural Affairs, are extremely supportive, so I can tell you that it will be achieved in the quickest timescale possible.

[192] **Michael German:** Do you want to pursue that, Alun?

[193] **Alun Davies:** You do not have a timescale; that is the key issue.

[194] **Alun Ffred Jones:** If everyone is so supportive, it will be achieved quite quickly, I

imagine. I am not sure whether I want to labour the point, but you mention the complex interactions between the three Bills that you named and the LCO. I just want to be specific. What is the interaction between the LCO and the marine Bill specifically? Is it around what you have said just now about the—

[195] **Mrs Winnard:** There is potential for including ‘marine’ within the scope of ‘environment’ under the LCO. It comes down to defining what is meant by the words in the LCO, and what is meant by the context of ‘Wales’? Does it include down to the English watermark or does it go out to the full 12 nautical miles? The definitions of some of the seemingly normal words in the LCO can make a huge difference to the scope of the competence of the LCO.

[196] **Alun Ffred Jones:** Am I to understand that you are still undecided whether that should be included within the marine Bill, the LCO or something else?

[197] **Mrs Winnard:** We are still discussing with DEFRA the inclusion of marine issues within the—

[198] **Alun Ffred Jones:** So, that is a specific issue with regard to the marine Bill that is holding the LCO back.

[199] **Mrs Winnard:** It is not holding it back, but there are a lot of issues that need to be discussed in relation to the interaction between the LCO and the marine Bill. If things are not included in the LCO—

[200] **Alun Ffred Jones:** So, there are other issues as well.

[201] **Mrs Winnard:** If, for example, the marine environment were not included in the LCO, there may be things that we wanted to do in the marine environment that we would then have to put in the marine Bill instead and we would have to define them rigidly to go in the marine Bill.

[202] **Jane Davidson:** That is the point, actually. That last point that Kath made is on the interrelationship between things and whether they are better put in the context of the LCO or on the face of other Bills. That has made this more complex because there is a raft of legislation going through that, in one way or another, impacts on the LCO—and the LCO impacts on those other pieces of legislation. The legislation also covers the remit of more than one department.

[203] **Michael German:** May I ask a technical question, Minister? If parts of the LCO are put into the marine Bill or even into other Bills, does that mean that you would have to resubmit an amended LCO here that would have to go through the whole process again?

[204] **Jane Davidson:** When we reach the final agreement on the nature of the LCO, it would be a matter for discussion with the Presiding Officer whether the LCO that was agreed upon was sufficiently similar to the initial proposition to go through, or whether it was qualitatively different and so would need to go back before Assembly Members. I think that it is very important for the Presiding Officer to take a view on that because he is the guardian of Assembly Members’ interests.

[205] **Michael German:** What is your current best estimate as to how different the LCO might look?

[206] **Jane Davidson:** At the moment, I think that the LCO is likely to be broadly similar to the LCO that we submitted, but it is still trudging its way through colleagues’ departments at

Westminster, so we will need to await the outcome of that, and then the Cabinet Committee write round, before it can proceed to the next stage of the legislative process.

10.50 a.m.

[207] **Alun Ffred Jones:** Is ‘trudging’ a technical term? [*Laughter.*]

[208] **Jane Davidson:** Only for a Minister in a hurry.

[209] **Michael German:** What advice you would give to the committee on dealing with a petition on banning plastic bags? I use the word ‘banning’ because that was the term in the petition. Obviously, the powers necessary to implement anything that that committee might recommend would lie within the scope of this LCO. Should we proceed on the basis that you are reasonably confident that we will get these powers within a year or so?

[210] **Jane Davidson:** It would be important for the committee to write to me as Minister to ensure that you have the most up-to-date position when you formally consider the issues. However, with regard to the broad waste agenda, with the exception of some of the issues that have arisen about the relationship with the draft marine Bill, we have had very strong indicative support in principle from the Secretary of State for Environment, Food and Rural Affairs with regard to the way that we want to take this agenda forward. However, the critical element is that we must have an LCO before the powers can be drawn down.

[211] **Michael German:** Alun, did you want to say something?

[212] **Alun Davies:** There is an important principle at stake here with regard to the process, and this is an example of that process at work. When an LCO is presented to Parliament by the Secretary of State for Wales, it is presented on the basis that the Assembly and the Assembly Government have agreed that LCO. The affordable housing LCO is another example; it has been presented to Parliament without the Assembly’s having had an opportunity to look at it, following amendments made in the process of inter-Governmental discussions. So, it does not have the endorsement of the Assembly at this point, because the LCO that we endorsed as an Assembly was different. There is an important principle at stake here, which is that any amendments that are made to an LCO during debates and discussions that will inevitably take place between the Welsh Assembly Government and the relevant department in Whitehall should then come back to the Assembly so that it can review and endorse the amended LCO before it is presented to Parliament.

[213] **Michael German:** That is a very important principle. You have not made a suggestion, but I wonder whether the committee is minded to write in general terms—although there may be some specifics falling out of this—to the Business Committee, to ask for its view on the matter. How we proceed is part of the business of this House, and this would obviously be something for a Plenary session, to start with. Do Members feel that that would be appropriate? I see that they do, and so we will do that.

[214] Finally, I thank the Minister—it has been a long session, and you have done extremely well in handling this complex Bill, and, previously, the item on fuel poverty. I must also thank Kath for struggling through and being so patient with us. We are grateful indeed for your putting yourself out and struggling through; I can see why we needed your wise counsel too. Thank you both.

[215] Our next meeting is on 18 June, when we will continue to take evidence on a petition calling for a ban on plastic bags, and we will also scrutinise the Deputy First Minister and the Minister for the Economy and Transport on evidence gathered during the industry and public bodies section of our carbon reduction inquiry. I also want to inform Members that we will be

in touch about travel arrangements as soon as the Business Committee has agreed—although I do not necessarily see why that committee has to give its agreement—to your request to visit Dublin. I am sure that Virginia will have some ideas about travel arrangements. There will now be a short break before the meeting of the Rural Development Sub-Committee.

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