



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

**Pwyllgor Deddfwriaeth Rhif 5
Legislation Committee No. 5**

**Dydd Mercher, 10 Mawrth 2010
Wednesday, 10 March 2010**

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

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

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Mark Isherwood	Ceidwadwyr Cymreig (Cadeirydd y Pwyllgor) Welsh Conservatives (Committee Chair)
Darren Millar	Ceidwadwyr Cymreig Welsh Conservatives
Leanne Wood	Plaid Cymru The Party of Wales

Eraill yn bresennol
Others in attendance

Beverlea Frowen	Cyfarwyddwr Gwasanaethau Cymdeithasol a Gwella Iechyd, Cymdeithas Llywodraeth Leol Cymru Director for Social Services and Health Improvement, Welsh Local Government Association
Tim Ruscoe	Swyddog Datblygu, Barnardo's Cymru Development Officer, Barnardo's Cymru
Menna Thomas	Swyddog Datblygu, Barnardo's Cymru Development Officer, Barnardo's Cymru

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

Stephen Boyce	Gwasanaeth Ymchwil yr Aelodau Members' Research Service
Bethan Davies	Clerc Clerk
Leanne Hatcher	Dirprwy Glerc Deputy Clerk
Bethan Roberts	Cynghorydd Cyfreithiol Legal Adviser

Dechreuodd y cyfarfod am 8.32 a.m.
The meeting began at 8.32 a.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

[1] **Mark Isherwood:** I call the meeting to order. We have received apologies for absence from Andrew Davies, Alun Davies and Eleanor Burnham.

[2] Bore da, a chroeso. Good morning, and welcome.

[3] I will go through the housekeeping notices first. In the event of a fire alarm sounding, Members should leave the room by the marked fire exits and follow instructions from the ushers and staff. No fire alarm test is forecast for today. Please switch off mobile phones, pagers and BlackBerrys because they interfere with the broadcasting equipment. The National Assembly for Wales operates through the media of Welsh and English. Headphones are provided, through which the simultaneous translation may be received. These may also be used to amplify the sound for any persons who may be hard of hearing. Please do not touch the buttons on the microphones as that could disable the system. However, please ensure that

the red light is showing before you speak. The interpretation is available on channel 1, and the verbatim feed is on channel 0.

8.33 a.m.

**Mesur Arfaethedig Ynghylch Strategaethau ar gyfer Gofalwyr (Cymru)—
Cyfnod 1: Sesiwn Dystiolaeth 4
The Proposed Carers Strategies (Wales) Measure—Stage 1: Evidence Session 4**

[4] **Mark Isherwood:** The purpose of this meeting is to take further oral evidence in connection with the Proposed Carers Strategies (Wales) Measure. This is our fourth evidence session to help to inform our work. We will take evidence this morning from the Welsh Local Government Association, followed by Barnardo's Cymru. I therefore welcome the representative from the Welsh Local Government Association. Could I please ask you to introduce yourself for the record?

[5] **Ms Frowen:** I am Beverlea Frowen and I am the director for social services and health improvement at the Welsh Local Government Association.

[6] **Mark Isherwood:** I will start with the first question. Do you believe that there is a need for this proposed Measure, and do you support its overall aims?

[7] **Ms Frowen:** We have believed from the beginning, in dialogue with our members, that there is a need for this proposed Measure.

[8] **Mark Isherwood:** Do you believe that its aims could otherwise be achieved using the existing legislative framework?

[9] **Ms Frowen:** We believe not, because the fundamental improvement that this proposed Measure seeks to achieve is the placing of a duty on all agencies, particularly the NHS, to recognise the importance of carers. As there is no statutory duty on the NHS to do so currently, we believe that the proposed Measure is an important step forward in strengthening accountability. I wish to put on record that there is a perception that supporting carers is a local authority duty, but I think that it is everybody's duty. Many people in Wales are providing significant caring roles, but they are not in contact with their social services. Therefore, we believe that to extend this and to place it really at the heart of the NHS and local authorities when they are providing care would be a good thing.

[10] **Mark Isherwood:** In your evidence, you refer to the 'new understanding' between national and local government,

[11] 'which recognises the primacy of the four statutory plans following plan rationalisation'.

[12] You also express disappointment that the proposed Measure would require another strategy when we already have that new understanding. Do you therefore agree that there is a need for separate carers' strategies? If so, how should they fit into the existing range of local strategies?

[13] **Ms Frowen:** In principle, we can understand what the proposed Measure is trying to achieve by saying that there is to be another strategy. However, I think that the word 'strategy' is unfortunate because it conjures up different concepts for different people. There is some confusion out there and, from looking at some of the evidence that you have received, I think that that is also the case with this. People may be seeing this strategy in the same

context as the existing strategies. I think that we need to focus this. What this proposed Measure is trying to do is improve the provision of information to carers; it is not to improve services and everything else. I do think that there is a misunderstanding in some people's minds about that.

[14] I am concentrating my answers on what the proposed Measure is trying to achieve. It is about providing information to carers and giving them a right to consistent information. On that basis, I think that there is a need to strengthen the proposed Measure. However, I recognise that there is a lot of concern—and, indeed, this is the Welsh Local Government Association's main policy line—that less is more. We have too many strategies and we need to maintain the primacy of the strategies that we have. We have children and young people's plans. We have health, social care and wellbeing plans. We have a community plan. We have new commissioning guidance for carers that is coming through under 'Fulfilled Lives, Supportive Communities'. There is a plethora of planning documents out there that, you could argue, you could use. We believe that there is a need for a strategy in that context for information, but we would not want to see it divorced from the main strategies or from local planning. I think that what is needed is the careful wording of the detail of the regulations that underpin this, and an acceptance that its main purpose is to improve information to carers. Then, we can take it from there.

[15] **Darren Millar:** Thank you for that answer. It confirms what we have heard from a lot of witnesses, namely that they do not want lots of papers that say the right things about the delivery of the right services but just stacking up on shelves. They want to see a change in the way in which carers can access information.

[16] However, it is about more than that, is it not—or so we have been told by the Deputy Minister? The Deputy Minister told us that there will be a requirement on local authorities and the NHS to draw up these joint strategies, and the strategies will be for providing information, advice and guidance to carers, and will also have within them information on how services will be provided. Is it not a big risk that there will be a lack of ambition in those strategies because there is no cash to fund any service innovation, so, actually, there will be a dumbing down of the vision? There may be good ideas about how to deliver new services that will support carers in their role, and local government may want to deliver those in conjunction with the NHS, but the reality is that there is no cash attached to this proposed Measure, apart from a piddling little bit to develop the paperwork. Therefore, the paperwork will simply provide that information and advice and nothing else, because there is no cash to deliver anything.

[17] **Ms Frowen:** To be honest, there is no cash to deliver many strategies at the moment, not least this one. The main social care strategy, 'Fulfilled Lives, Supportive Communities', has no designated cash for it. We are, as you know, beginning to experience severe financial pressures.

8.40 a.m.

[18] That risk of raising expectations is not just in relation to this proposed Measure, but a whole raft of measures—and, indeed, the existing strategies for which resources are being squeezed. The trick for all partners at the moment is to balance need with expectation, and they have to decide their priorities in their planning groups. However, you are absolutely right that there is not enough money in the system to do lots of things. I have a lovely quote from one of the authorities, which says that there is little point in having information strategies about front-line services when some of our front-line services may not exist. It is a real balancing act.

[19] However, to go back to my starting point, we know from many inquiries and from what

carers tell us that they still lack consistently good information. Across Wales, what they can access and how they access it varies considerably. If this proposed Measure addresses just that, it will be a considerable help. Leave the front-line staff and the other statutory agencies and mechanisms to develop their planning priorities, because they all involve carers anyway.

[20] **Darren Millar:** I want to reinforce this message and to get your response on the record, as it is important here. We understand the point that you are making about the information, but this is about the production of strategies as well. The Deputy Minister made it clear when she sat before this committee that she will outline the delivery of those strategies once they have been developed. In the current economic climate, and with budgetary pressures being faced by local authorities in the NHS, there will be a poverty of ambition for improving services when there is no cash available, will there not? Will that not have an impact on the sorts of strategies that will be developed?

[21] **Ms Frowen:** In the past, you may have been able to argue that some strategies were overambitious because there was no cash, and we might be moving towards a more realistic planning framework. At the end of the day, the overall resources that come down to them are not a matter for local statutory partnerships, but for central Government and the Welsh Assembly Government. So, we always have to work within the financial envelopes that we think that we have. What we are doing now is being explicit about the totality of resource that is available. I could argue that we are being more honest about our planning assumptions with our communities and that, in the past, some of our strategies, both at a national and a local level, have aspired to do all sorts of things, but the resources were insufficient to deliver them.

[22] **Mark Isherwood:** You said that it is about information rather than outcomes. Do you agree that, if the information did not lead to improved outcomes, there would be no purpose in sharing it?

[23] **Ms Frowen:** I refer you to my earlier quotation. Strategies for their own sake are pointless—we know that. We are trying to improve partnership working and the provision of information for carers. At the end of the day, if we are cutting services because there is not sufficient money in the system, you are raising people's expectations about services. There is a degree of honesty here now. We are in very difficult times.

[24] **Mark Isherwood:** Okay, thanks. Moving on to different subject area, your evidence suggests that you share the Deputy Minister's view that young carers need not be referred to specifically within the proposed Measure. Why do you hold that view, or have we interpreted that incorrectly? If so, what is your view?

[25] **Ms Frowen:** We have taken soundings on this and we understand that certain groups feel strongly that the needs of young carers require specific recognition. We have taken a consensus view, because others take the view that young carers do not want to be stigmatised and want to be treated as children first, and so their specific needs can be recognised in other strategies.

[26] Generally, we feel that the proposed Measure should confine itself to high-level principles in law and that regulations and other strategies are the best vehicles for making sure that the needs of particular cohorts of the population are met. Therefore, we took the consensus view that this was for all carers, and that the needs of specific routes could be picked up through other mechanisms.

[27] **Darren Millar:** As it stands, the proposed Measure places duties on local authorities and NHS bodies, as we have already mentioned. You have mentioned that local authorities take their role of supporting carers very seriously. Do you think that there is a need for this additional duty to be placed on local authorities? Secondary to that, do you think that there is

a need for this duty to be imposed upon the NHS?

[28] **Ms Frowen:** There is currently no duty on the NHS, and we have said consistently that we feel that there should be. Given that we are trying to promote partnership working in a tangible way in Wales, we feel that it is right that a duty should be placed on those organisations.

[29] **Darren Millar:** So, you do not think that there has been the buy-in in the past that there should have been from NHS bodies?

[30] **Ms Frowen:** There is a general perception that the responsibility to meet the needs of carers has been for local authorities. I repeat that I think that there is a misconception about how many people in our population are in touch with social services, how many people are in touch on a daily basis with the NHS, or with none of our services. Placing a duty on the NHS does not mean that you are taking away any responsibility for or the desire of local authorities to continue to do what they are doing. It is about recognising that many people who are carers do not come into contact with social services, but do come into contact with the NHS. Front-line NHS staff are also in a very good place to recognise someone in a caring role.

[31] **Darren Millar:** The Deputy Minister has told us that in her opinion—the legislation is framed in such a way—the NHS will very often be designated as the lead body for the production of these strategies. Do you think that that is the right approach, given that local authorities have pretty much taken the lead independently so far?

[32] **Ms Frowen:** We understand that there is a need to strengthen the NHS's engagement and responsibility in developing information in the proposed Measure. We do not have a fundamental problem with that, as long as that process does not undermine the engagement of local authorities and the existing processes that are going on through the local partnerships. We have concerns that the current configuration of the NHS means that it has to work harder and put new arrangements in place to ensure that it engages with local councils, because we have lost coterminosity with the 22 local authorities. There is work to be done to ensure that if you give the lead to the NHS, that does not mean that all the engagement at the local level is lost. In fact, we would argue the reverse, namely that you should build from the local level up to the NHS level. That is our main concern, rather than who has the lead: it is about ensuring that local partnerships and local planning are taken into account and are adequately reflected at whatever level the strategies are produced.

[33] **Darren Millar:** If the NHS takes the lead, there is a risk, is there not, that the NHS will be the body that gets the cash to develop the strategies and that there may be a resourcing issue for local authorities?

[34] **Ms Frowen:** We will no doubt come on to the resourcing issue later. We have very firm views about that.

[35] **Darren Millar:** Okay. Moving on, why are you critical of the requirement in section 6 of the proposed Measure, which talks about the draft strategies having to be submitted to Welsh Ministers for approval?

[36] **Ms Frowen:** We are critical of that as a general principle, in that we feel that it is delving into micromanagement. We also feel that the Assembly Government's role is to set the strategic context and then, through clear regulations and guidance, allow the lead statutory agencies to deliver on that. We also question it with regard to capacity, namely whether or not that is an appropriate use of the resource. At the end of the day, this should be part of our overall accountability regime for delivering our statutory duties. So, we think that this is being singled out. Other major strategies, for example, the health, social care and wellbeing

strategies, are not scrutinised in this way. Those are 22 locally defined strategies of huge importance, which do not come into the Assembly Government for scrutiny in this way, and we do not think that that is appropriate for these strategies either.

8.50 a.m.

[37] **Darren Millar:** The Deputy Minister would argue that she wants to see consistency across Wales in access to information, support and guidance for carers and that that is why she wants to see all these strategies before they are fully signed off. Do you think that the level of consistency that the Deputy Minister wants to see will be achieved if those strategies do not come back to the Assembly Government to be signed off?

[38] **Ms Frowen:** Yes, I do. There is a lot of evidence now of where authorities and agencies are using good practice and templates and are sharing information among themselves and collaborating in a way that produces consistency. There are also inspection regimes both in the NHS and in local government that will take that into account and they spend a vast amount of time reviewing documents and commenting on consistency or lack of it. The Deputy Minister would have all that available and that is why we said that if the Deputy Minister requires a certain level of scrutiny to satisfy itself that this has been achieved, there are other mechanisms that she can use.

[39] **Darren Millar:** On the consistency argument, how will we ensure that there is consistent access to information, advice and support for carers in Conwy and in Cardiff if there is no co-ordination and never the twain shall meet in terms of discussions about the development of those strategies? We have 22 local authorities in Wales, and 22 different strategies could potentially be developed. How do we get consistency?

[40] **Ms Frowen:** Regulations can play a role in defining what information should be included, as in the proposed Measure. Regulations are often drawn up in partnership, drawing on good practice, which is used as a guide. We increasingly have joint, collaborative planning and I do not accept that the 22 authorities and the NHS exist in splendid isolation. They increasingly work together on a daily basis and they come together. Overall, there is a strong argument that there are fundamental things that should be in all of them. We already have examples of good practice across Wales, so let us not reinvent the wheel. Let us use our advisory groups and our good partnership working to collate that and to come up with something that can be used as a template. I do not think that we are starting with a blank piece of paper and I also do not think that the agencies want to see this overcomplicated. I do not think that carers want to see it overcomplicated either. So, there is a lot that we can draw on. We can use regulations in part, and we can use planning and our collaborative networks. There is also feedback from carers' organisations and a range of dialogue with people to test out how these things are working in practice.

[41] We should not lose sight of the fundamental principle that this is about providing good information, but it is also about getting a balance. We need good services out there, otherwise all this feels a bit shallow.

[42] **Darren Millar:** Will the new NHS arrangements with the new boundaries for the health boards pose any challenges for the development of those localised strategies?

[43] **Ms Frowen:** They pose no greater challenges than the challenges that existed when the NHS reorganisation was agreed and implemented. All the strategies must now reflect those new arrangements. One could argue that, by the time that this comes into force, a lot of those adjustments in the planning frameworks will have been made. If you keep it at the local level, we still have 22 councils. Plans still exist at that level, so I do not think that it is insurmountable.

[44] **Darren Millar:** The Minister for Health and Social Services was before the Health, Wellbeing and Local Government Committee last week and she said, effectively, that she does not want to give too many extra responsibilities to these new health boards, because the reorganisation must bed in. Yet, here we are talking about placing extra duties on those new bodies and telling them to take the lead on carers, which they have never done before, because local authorities have picked up the ball and run with it. So, do you not see any difficulty with the NHS bodies being appointed as the lead bodies to take the lead on this issue, given that the health boards are relatively new organisations? I cannot believe that the WLGA does not see a threat in that.

[45] **Ms Frowen:** That is not what I have said. I said that we do not believe that this poses any additional challenges over and above the current challenges, which are considerable in some parts of Wales, posed by the configuration of the NHS. What I am saying is that agencies are working through those challenges, because this proposed Measure poses a challenge no different to how we aggregate 22 health, social care and wellbeing plans and 22 children and young people's plans. There is good evidence that the NHS is being sensitive to that and local planning is continuing. There is still further work to be done on that relationship in other areas, but I do not think that you can single this out from everything else. That is what I am saying. I do not want you to think that there are not any challenges, because there are. However, agencies are working on that and they understand that.

[46] I do not think that, by giving the lead to produce this strategy to the NHS, we are advocating that local authorities do not want to have a role with carers. That is not what we are saying. We are saying that, with regard to this proposed Measure, we do not have a fundamental opposition to the NHS being the lead body to produce the strategies. However, we are also saying that, within that and within the regulations, that must be built upon joint planning, and the needs and views of local authorities need to be taken into account, and it should not undermine existing arrangements for planning regarding carers. If you want the NHS to acknowledge and to be able to meet what is being asked for here of it, then it will need to have a greater engagement than it currently has.

[47] **Leanne Wood:** Do you think that there are any omissions from the list of relevant authorities detailed in the proposed Measure?

[48] **Ms Frowen:** No, we do not.

[49] **Leanne Wood:** The Deputy Minister stated in Plenary on 26 January that, of the range of local authority services, she has decided to cover, in the first instance, housing and social services. Other witnesses have questioned whether this is sufficient and whether more services should be covered. What is your view?

[50] **Ms Frowen:** We do not have a strong view on this. We have taken advice and, generally, our view is in line with what the Deputy Minister has proposed.

[51] **Leanne Wood:** Sections 2(1) and 4 of the proposed Measure give Welsh Ministers powers to make regulations to ensure that carers strategies set out how relevant authorities will consult with carers. Given the experience of local government in working with carers, are you satisfied that these sections, as currently worded, will ensure that carers can influence planning and service development effectively?

[52] **Ms Frowen:** Yes, we are.

[53] **Leanne Wood:** So there is nothing further, and you are happy with that. If the relevant authorities do not take into account or have regard to the views expressed by carers as part of

the consultation, is there any recourse for them?

[54] **Ms Frowen:** I think that that is picked up generally in good practice on assessment, care management and overall procedures within care planning. So, there are several areas, and we feel that sufficient arrangements are already in place.

[55] **Leanne Wood:** So, you are confident that health authorities, for example, could meet the consultation needs of the proposed Measure, fully taking into account the views of carers, and that the existing complaints procedures within the NHS and so on are enough to ensure that carers have recourse to ensure that their views are taken into account. You are confident about that, are you?

[56] **Ms Frowen:** I can speak only for local authorities, so I think that you would have to ask the NHS about that.

[57] **Leanne Wood:** Are you confident in relation to local authorities?

[58] **Ms Frowen:** We have not discussed our requiring anything further and have no reason to believe that we would require anything further, but you would need to consult the NHS on how it will meet those responsibilities.

[59] **Leanne Wood:** Okay, thank you for that. You expressed concerns that the proposed Measure would require the carer to be consulted on the services provided for the person for whom they care. What are your reasons for that, and how do you believe the proposed Measure could be amended to take account of that issue?

[60] **Ms Frowen:** In our previous evidence, we set out quite clearly the fact that there could be a conflict of interest between the carer and the person being cared for and that we must be sensitive to the confidentiality of the information on the individual receiving care. There is a balance to be struck here. Our suggestions include that the carer's assessment and the assessment for the person receiving care continue to be done independently and that there should be a process for marrying those subsequently. We feel that you need to have regard to the fact that there are two people involved and that they have rights individually, although they come together because they are joined by the caring role. Those are our concerns.

[61] **Leanne Wood:** How can you ensure that independence in that case? Would you suggest that the proposed Measure be amended to ensure that people's independence is protected or would you use some other mechanism?

[62] **Ms Frowen:** I refer back to our basic premise that the proposed Measure should set the high-level principles and that the detail of delivery should be left to regulations or even just to good practice through other mechanisms. Measures, which are fundamental legal frameworks, should deal with only the highest-level principles.

[63] **Leanne Wood:** You say in your written evidence that section 3 of the proposed Measure, which is on appropriate information and advice, is too vague and that greater clarity is necessary in the regulations. Can you outline your reasons for that position, please?

[64] **Ms Frowen:** Some of the wording requires explanation. For example, on what information a carer would find useful, I refer you to my previous evidence and say that we should build on good practice. If there is already a clear outline and a list of what information would be useful to carers, we should use that—

[65] **Leanne Wood:** But in regulations rather than in the proposed Measure?

[66] **Ms Frowen:** Yes, in regulations. Again, the proposed Measure should deal with the highest-level principles.

[67] **Leanne Wood:** Are there any sections of the proposed Measure that the WLGA thinks could be improved or clarified further?

[68] **Ms Frowen:** No.

[69] **Leanne Wood:** Thank you.

[70] **Mark Isherwood:** I have a supplementary question on consultation. Ms Frowen, you referred to building on good practice several times in your introduction and subsequently. Where there is good practice, there need be no concern about taking account of representations. However, do you not recognise the concern that that good practice may not be universal and that, without some additions or strengthening in this area, there is a risk that the consultation response will simply be placed into a file and left on a shelf, the box having been ticked, as it were, leaving concern among service users that people are not being adequately listened to?

[71] **Ms Frowen:** I refer to my earlier statements. I believe that there is increasing collaboration going on. There are mechanisms that exist already for raising these issues and dealing with them at a local level.

[72] **Darren Millar:** You have referred to the use of regulations quite a bit in your evidence this morning. You have said that many things can be left to regulations and that they do not need to be mentioned in the proposed Measure, but then, in your written evidence, you say that there is a growing tendency to use regulations, and you appear not to like that. You seem to suggest that having too many regulations interferes with delivery at a local level. How do you reconcile those two viewpoints that you have expressed, one in the written evidence, and one in the oral evidence?

[73] **Ms Frowen:** I reconcile them quite easily, and I can give you an example of that in practice. Yesterday, I met with Assembly Government officials and representatives of the agencies to start to flesh out regulations on non-residential charging under the Measure, when it is passed. At that level, you need appropriate laws, then regulations, and then custom and practice. The question is one of balance. Measures need to be underpinned by regulations, but our fundamental argument is that those regulations should be fit for purpose: they should not be onerous or too prescriptive, we should not have too many of them, and, wherever possible, they should just refer to current practice and guidelines. They do not need to be overly bureaucratic or complicated. However, we accept that we need regulations. Our comment is that they need to be worked up and produced via that consultation process. They need to be simple and fewer in number, but they need to do the job, and so they need to be worked up in partnership with the agencies that have the responsibility of delivering them. That is how I reconcile those viewpoints.

[74] **Darren Millar:** You mentioned a need for regulations to specify the framework, but local authorities and the NHS should be getting on with the delivery of services without interference in the form of overly specific regulations. Is that the sort of balance that you are talking about?

[75] **Ms Frowen:** That is the balance, yes. Generally, we achieve that in partnership with the Assembly Government. It is rare for regulations to be produced without consultation. Indeed, all regulations have to be consulted on fully. There are opportunities throughout the process to ensure that frameworks are in place, and increasingly we are basing them on good practice, so we are not starting with a blank piece of paper when we draw up regulations.

There is a wealth of good practice out there, and it is being used to inform very simple regulations. Then, local agencies that have the statutory duty to deliver services can be empowered to do so.

[76] **Darren Millar:** This particular proposed Measure is heavily reliant on regulations to deliver the outcomes that the Deputy Minister wants to see. Some witnesses have suggested, therefore, that the first set of regulations should be afforded a greater level of scrutiny than any future ones, and that they ought to come under the affirmative procedure, which means that the Assembly would have to approve them rather than the Deputy Minister just signing them off. Is that the right approach in the first instance?

[77] **Ms Frowen:** We do not have a consistent view on that. There is a view that this is not necessary, and that the proposed Measure has been fully consulted on and signed up to, and so this level of detail does not need to go through the affirmative process. However, we do not have a formal view on that.

[78] **Darren Millar:** Okay, thank you. Turning back to the financing issue, the regulatory impact assessment suggests that the cost of implementing the Measure, once passed, will be about £0.9 million in year 1, rising to £3.3 million in year 3. Is that a realistic assessment of the costs that will be associated with this?

[79] **Ms Frowen:** We have not seen the details of the assessment, so we will comment in principle only, and our comment is that, at a time when we are drastically cutting allocations to front-line services, we are surprised at the level of money being allocated to this. Other central grants are being cut, both within the NHS and local authorities. We strongly urge the Assembly Government to look again at the funding implications to see whether there is another way of delivering this that does not divert money away from front-line services.

[80] **Darren Millar:** The Deputy Minister suggested that these figures were based on the cost of implementing a similar measure in Scotland; that is where she got them from. However, she has also suggested that, if the strategies that are drawn up say that new services should be developed, she expects them to be implemented. You will not be able to implement those if all you have is cash to push paper around and develop a new glossy document, will you?

9.10 a.m.

[81] **Ms Frowen:** I repeat that I think that we will soon be in a situation of cutting services across the piece.

[82] **Darren Millar:** You have mentioned that you think that the Deputy Minister needs to look at this again. If an NHS body is appointed as the lead agency for the development of these strategies, which seems to be what the Deputy Minister wants to achieve, the cash will not go to local authorities at all, as NHS bodies will hold the purse strings. Do you think that that is the right way to do it?

[83] **Ms Frowen:** We do not think that this money should be allocated in this way. Irrespective of where it goes, whether to the NHS or to local authorities, we do not feel that this is a good use of public sector money. In the final deliberations, you should look again at the funding of this, when other services, as well as grants to the NHS and to local authorities, are being cut. We would like it to be taken into account in the round, because, at the end of the day, irrespective of who has the lead responsibility to produce the information, there may well be other ways and means of getting that information produced.

[84] **Darren Millar:** So, you are saying that there may be no financial cost whatsoever—

[85] **Ms Frowen:** I am sure that there will be some, but, at the end of the day, we have to make tough choices about tough priorities.

[86] **Darren Millar:** You are saying that you would like to see this cash being allocated to services that are already being delivered, but you are welcoming the fact that the proposed Measure has been produced, which puts a duty on local authorities and NHS bodies to produce the strategies. So, really, you are saying that you think that the strategies can be delivered with no money. Is that what you are saying?

[87] **Ms Frowen:** No, I am not saying that at all.

[88] **Darren Millar:** It does not make sense. Could you explain it again? Perhaps it is just that I am not picking up on it, as I had such an early start.

[89] **Ms Frowen:** The fundamental principle is that we are cutting allocations to services because we do not have sufficient funds. We want to produce better information for carers, and strategies and information are already produced. The proposed Measure wants to see a strategy and wants a document to be produced. You need to go back to look at whether there are ways of reducing the costs, and whether a significant case has been made that money needs to be diverted from front-line services in this way.

[90] **Darren Millar:** You are saying that the costs to produce the strategies could be less.

[91] **Ms Frowen:** We are saying that we are not convinced that this amount of money needs to be allocated to this, given that, for example, as of next year, we will lose £8 million for joint special working grants, which are delivering front-line services to keep people in the community. Agencies need to look at doing more for less. That is the regime and the world in which we now live.

[92] **Leanne Wood:** You have not seen the details of the assessment, but you are not convinced and you think that it should be looked at again to see whether those costs can be reduced. If we work on the basis that the costs that have been produced are realistic, or have maybe even been underestimated, and that implementing the proposed Measure could, in fact, cost more than this, would you go so far as to say that the money should not be spent and the proposed Measure should be scrapped?

[93] **Ms Frowen:** No, absolutely not.

[94] **Leanne Wood:** If this is the cost of implementing the proposed Measure, this is the cost of implementing it. You might be able to shave some pounds off, but it will not come down a lot. It sounds to me as though you are arguing that the cost that has been allocated for this should be allocated back to front-line services. I have a lot of sympathy with what you are saying, because I know that, in my own local authority, day-centre services, for example, have been cut back to 5 p.m., and the local Crossroads Care group has had its funding from the local authority cut. So, what you are saying is absolutely right; £6 million will be allocated to this over a three-year period if the costings are correct, yet there will be £8 million of service cuts in local authorities. So, is not the natural conclusion to that position to scrap the proposed Measure?

[95] **Ms Frowen:** I do not think that the natural conclusion is to scrap the proposed Measure. It may well be that you have to be less ambitious in the timescale for its implementation. We should not scrap the underlying principle that what we are about is trying to improve information for carers. I am saying that the Government needs to take another look at those figures to satisfy itself that that amount of money is needed. However, overall,

we are all having to look at other ways of achieving things with less money. So, I do not necessarily agree that, just because there is not enough money, you scrap the proposed Measure. That is not what we are saying. We have to look at ways of delivering these things. However, I am saying that local government is increasingly being asked to make tough priorities, so that same rationale also needs to be applied to the Assembly's policies.

[96] **Darren Millar:** You made reference to £8 million of joint working grants—

[97] **Ms Frowen:** It is joint working special grants. They actually amount to £10 million.

[98] **Darren Millar:** From when are they being cut?

[99] **Ms Frowen:** This is the last financial year and we have had discussions with the Assembly and have voiced our strong concerns about those grants. That is one example I use of grants that are going directly on front-line services. It is actually £10 million—£2 million is made up of supporting joint working with the NHS through strategies and predominantly funds health, social care and wellbeing activity, and £8 million funds direct services. That grant has been in operation for seven or eight years. It has been well documented; the Deputy Minister has announced in Plenary that that grant will come to an end and that funding will be used to recompense councillors for their loss of income as a result of introducing the proposed social care charges Measure. That is the rationale that the Deputy Minister has used for the cessation of that grant.

[100] **Darren Millar:** So, is she pinching that money to pay for the proposed social care charges Measure?

[101] **Ms Frowen:** The Minister has made several statements on that. Several grants are coming to an end, for example independent living funds. Many grants are coming to an end, as there are across all local authorities. I use it as an example to highlight how difficult it now is to keep front-line services going.

[102] **Mark Isherwood:** A separate committee scrutinised that particular proposed Measure. We took evidence and highlighted that point at that time, which is clearly on the record. I think that you have already answered my final question in your evidence, so I will not ask it, but do you have any closing comments to make or any issues that you wish to raise that we have not covered in our questions?

[103] **Ms Frowen:** No; I think that we have had an opportunity to debate these quite challenging issues in full. The WLGA is always happy to come to give evidence and to reflect, as well as we can, the views of our 22 individual councils.

[104] **Mark Isherwood:** A draft of today's proceedings will be sent to you by the clerk for correction, if necessary, before it is finalised. Thank you for attending and for answering our questions, and I wish you a safe journey back to work.

[105] **Mr Frowen:** Thank you. I will now depart to a committee on alcohol abuse.

9.20 a.m.

[106] **Mark Isherwood:** For our final session this morning we have representatives from Barnardo's Cymru. Our guests will note that we are a slightly shrunken committee today, but what we lack in quantity we make up for in quality. I welcome you to the meeting and I would be grateful if you could identify yourselves for the record.

[107] **Mr Ruscoe:** Good morning. Thank you, Chair. My name is Tim Ruscoe, and I am a

development officer for Assembly liaison and participation with Barnardo's Cymru.

[108] **Ms Thomas:** My name is Menna Thomas, and I am a development officer in emotional, wellbeing and mental health with Barnardo's Cymru.

[109] **Mark Isherwood:** For information, should questions be put to you in Welsh, headphones are available, which provide translation on channel 1. A verbatim feed is available on channel 0, which may be used to amplify sound. Your papers have been circulated to the Members.

[110] I will start with our first question. Do you believe that there is a need for the proposed Measure, and do you support its overall aims?

[111] **Mr Ruscoe:** The short answer is that we do believe that there is a need for the proposed Measure and its overall aims. There has been a plethora of carers legislation for England and Wales over the last 15 years, notably from 1995. We think that there is a great opportunity to clarify what the Welsh Assembly Government can do to provide good, appropriate services for carers around Wales. We welcome the initial point of information, advice and the development of a strategy.

[112] **Mark Isherwood:** Do you believe that the aims of the proposed Measure could be achieved using the existing legislative framework instead?

[113] **Mr Ruscoe:** History is no indication of what will happen in the future but it is the best indication that we possibly have. As I said, there is an awful lot of legislation to support young carers, parent carers and other carers. Quite frankly, people still have not had the service that they need or require. We do not think that it has met the need. Will it meet the need in the future? Probably not, because historically it has not.

[114] **Ms Thomas:** With regard to this particular Measure, we think that the potential benefit, in terms of implementing carer strategies, are that it has a health lead. Sooner or later, most patients will present at the health authority. Therefore, that would be a particularly good route into identifying carers, and young carers in particular, which is one of our key areas of interest. We also have, in Wales, a very progressive set of policies around children and families, which are rights-based and have a participative approach. We think that this proposed Measure fits very well within that context in that there is a growing understanding in terms of practice and policy around how we would like to see things evolve around Measures addressing the needs of families and children. I am sure that you are all aware that what we hope for, in terms of positive outcomes from a more participative approach, would be more meaningful and workable strategies and more focused and better use of resources. We think that this is a potential benefit of this proposed Measure in the Welsh context.

[115] **Mark Isherwood:** In your evidence, you referred to issues around accountability and scrutiny applying to the implementation of the legislation, and recommend that the proposed Measure should include specific requirements of implementation and local scrutiny. How do you believe that the proposed Measure should be amended to address these issues?

[116] **Mr Ruscoe:** The proposed Measure clearly calls for the responsible body to produce a strategy that then comes back to Welsh Ministers for assessment, clarification and clearance to operate. A strategy is great and the United Nations' Convention on the Rights of the Child emphasised that we have some great strategies in Wales, but there is a significant implementation gap between the strategies and the receipt of services at ground level. I have said before that, if a strategy and a Measure are the pragmatic application of principle, the implementation is crucial, and if you are going to implement, you need to scrutinise. There needs to be a clear route for Welsh Ministers and the National Assembly for Wales to

scrutinise the application of a Measure. We believe that the proposed Measure should call for the delivery of a strategy, an implementation plan and a scrutiny plan to Welsh Ministers. That scrutiny plan should tell Welsh Ministers how it is intended that the implementation and the strategy will be scrutinised, so that it is signed off as a package.

[117] **Mark Isherwood:** Our first witness this morning referred, among other things, to the fact that inspection regimes are already in place for the NHS and local authorities that will be looking at these areas. Why do you feel that that would not be sufficient?

[118] **Ms Thomas:** Referring back to the previous question, there is a considerable bank of legislation that has not delivered what it was intended to deliver and that is partly due to a failure in cross-sector working and partly due to not having sufficient scrutiny or a sufficient push forward for those things to be delivered and implemented on the ground. What is in place at the moment is not enough and we suggest that, to focus specifically on delivering this proposed Measure, having a process of scrutiny alongside it might be helpful. It might not be helpful, but it would certainly not be unhelpful.

[119] **Mr Ruscoe:** May I give you an example from our practice? As a young carers' worker, I was supporting a single-parent family where the mother had considerable physical needs and was also dependent on prescription drugs that increased anxiety, and particularly separation anxiety. Her carer was her son. We had incredible difficulty in getting an assessment and the implementation of any support, because we needed additional funding to provide the care for an adult to increase the outcomes for a child. So, adult services were saying, 'This is about outcomes for the child, so that needs to be children's services', but children's services were saying, 'This actually is about services for an adult'. We talked to the health providers and they were saying, 'Well, if they need that level of care, they need to be hospitalised'. It was very difficult to get any resolution to that. There was no course for scrutiny. Where did we go with that? People were quite rightly protecting their budgets and their responsibilities as they were laid out. There was no course for scrutiny relating to that individual's need and care. It is about the carer and the cared for, and we were not able to address that in any systematic way and the scrutiny did not exist to challenge that.

[120] **Mark Isherwood:** Thank you. I am now moving on to a different area. Why do you disagree with the Deputy Minister's intentions to address the needs of young carers through Measures resulting from the LCO on vulnerable children?

9.30 a.m.

[121] **Mr Ruscoe:** Lots of people will say that young carers are children first. They are children, but they are young carers. If you talk to children and young people who provide care and ask them, 'Are you young people? Are you young carers? Are you young people who are young carers?', they always say, 'I am a young person who is a young carer. I am a carer; it is part of me.' When you ask whether that makes them more vulnerable, they say that it does not. Although they see that it might, they believe that that in itself does not make them more vulnerable.

[122] What we do know is that the correct way of addressing a carer's situation is for a carer's assessment to be carried out, no matter what age that carer might be. There must be a clear, co-ordinated, responsible and accountable way of delivering services in a holistic way to all members of that family so that the person cared for has the proper care; that the level of need of the carers, no matter what age they are—and there is usually, or quite frequently, more than one carer in a family—is accounted for. Young carers are asking us not to take that caring role away because they want to choose when their caring stops and to choose the bits of care that they want to do and can do. They ask us not to tell them what is inappropriate, not to call them vulnerable just because they want to provide care for their family, demonstrate

the love they have for their family and feel the responsibility that they get from that role.

[123] If we go down the vulnerable child route, we do not say that there should not be an assessment of a child as part of that holistic package. If you take away the caring responsibilities of young carers, it does not mean that these young people are not just young people with all of the associated needs of being young people. They are as likely as anyone else to need other support. So, if they need to be assessed through a common assessment framework or are children in need, then that is there as part of the strategic approach. However, the care need should be addressed, the service should be delivered in a way that takes into account the holistic needs of the family, and we should not try to take away the care and say that it is inappropriate for young carers to demonstrate the love and the responsibility that they want to give to their family.

[124] **Mark Isherwood:** I think that I know the answer to this question, but does Barnardo's therefore believe that young carers should be specifically addressed on the face of the proposed Measure?

[125] **Mr Ruscoe:** It is difficult to say 'yes' to that, Mark, because if you put young carers on there, you will need to list all the other carers that might be seen as providing different levels of care or as having different needs. You understand that the risk with listing things is that you will miss someone off and they would therefore be excluded. We would probably like to see written on the face of the proposed Measure that it relates to a 'carer of any age', rather than 'carer', so that it specifies 'any age'. That is probably what we would want to see. I would not like to be responsible for not listing everyone.

[126] **Mark Isherwood:** Thank you for proposing one possible solution. We have heard various views relating to this matter.

[127] **Darren Millar:** I would like to look at the vulnerable children LCO and the reference that the Deputy Minister made to it. You seem to suggest that if the needs of young carers are addressed through that LCO rather than through this proposed Measure, then there could be an issue of discrimination under Article 5 of the UN Convention on the Rights of the Child and Article 23 of the UN Convention on the Rights of Persons with Disabilities. Can you tell us a little bit more about why you feel that that could be the case?

[128] **Mr Ruscoe:** I hope that the paper in which we included that did not suggest that we had reached a firm position on it. We had started to look at a rights-based approach to this, identified these articles as being significant, and we then started to question what this meant. The state has a responsibility, under both of those articles, to ensure that they provide appropriate support to enable a parent to parent. Article 23 also ensures that the state provides support to ensure that a person with impairment can found a family. I think that is the phrase that is used. If we go down the vulnerable children route and we label children as 'vulnerable' because of their care responsibility, or if they are vulnerable by nature of having a parent with an impairment, then we are saying that that parent is impaired as a parent. It is as though a parent would say, 'By virtue of having an impairment, I am making my child vulnerable'. Therefore, are we going to discriminate through the proposed Measure? If we are, then that becomes institutionalised.

[129] I have no clear position on this because we have just started debating it ourselves, but we thought that we should highlight this as an organisation, because we support parents with impairment, and we produce and deliver parenting programmes. It is a long-standing argument. I can remember having debates in the 1990s with disabled parents' fora about young carers, and they were very clear that it was a parenting issue. Their position was 'enable me to parent and you do not have a young carer'. We always said, 'We will enable you to parent as much as you can, but this person is still going to care, so we still need to

support this person’.

[130] **Mark Isherwood:** If Members are agreeable, we will write to the Deputy Minister to seek further clarification, because this is an interesting point. The information or view that we receive back might help to inform our further consideration.

[131] **Darren Millar:** That would be helpful. Thank you for that. You make some further recommendations in your evidence. For example, you suggest that the proposed Measure should recognise the need for the provision of advocacy, and that the development of a strategy should include the needs of carers after the care has ended. What are your reasons for the second point in particular, in that there needs to be some recognition of the needs of carers after the care has ended? How do you think the proposed Measure can be amended to make provision for that?

[132] **Ms Thomas:** With regard to the loss that carers experience when the caring role comes to an end, they lose the focus of their lives, because a huge amount of their time will have been taken up through caring. So, they experience the loss of the person that is cared for, but they also experience the loss of one of the main roles in their day-to-day lives. For some people, it is like losing a loved one and a job at the same time. The support that the family has received up to that point falls away as well, which would have been provided by people that the family and the carer would have got to know and come to rely on. So, it can be a major blow for people when the caring role comes to an end, particularly if you are a young carer and you do not have a bank of experience, or of relationships, behind you to draw on. It can be quite devastating. To look to the future is therefore more complicated, because you might not have had an opportunity to prepare for your future through fully taking advantage of education, or to really think about you, who you are and what you want. So, a number of important needs must be addressed at the end of the caring role.

[133] We know that young carers frequently go on to become cared for as adults. They frequently go into caring roles within the world of work, which suggests to us that there is material that has not been properly processed for them so they can separate it out and move on with their lives. We suggest at this point that counselling or an opportunity to reflect on their experience and think about the future would be useful, along with an opportunity to build up any education or skills that they have missed so that they have an opportunity to face forward. Although we do not think that this should be on the face of the proposed Measure, it should be stated clearly in the regulations that there needs to be an end piece to the strategy that supports carers as they come to the end of their role as carers.

9.40 a.m.

[134] **Darren Millar:** So, perhaps regulations rather than the face of the proposed Measure would be the most appropriate place to pick up on that issue, because we would be sympathetic towards wanting to ensure that those needs are addressed.

[135] **Ms Thomas:** A strategy would have many aspects to it, so it would be more detailed.

[136] **Darren Millar:** To turn to the issue of the duty that is being placed on the relevant authorities, namely local authorities and the NHS, to produce these strategies, do you think that it is right that the NHS should be the lead body for these purposes, given that, generally, it is local authorities that have contact with carers and currently provide information, advice and support to carers? Do you think that the Deputy Minister has the wrong end of the stick in trying to pass the lead responsibility on to the NHS?

[137] **Ms Thomas:** It makes a lot of sense to us that the NHS should be the lead authority, because patients turn up at the NHS, but they do not necessarily turn up at social services first

and foremost. They will go to their GP or they will go to a hospital, and that is the first point of contact. The patient is the route to identifying the carer. So, it makes sense to us that the health service should be the lead. Having said that, we do not know what is going on in all parts of Wales on the ground, and, if there are some areas where a strategy is working effectively and led by the local authority, we see no reason why that should be changed. In fact, that may be replicated in other areas where it is felt to be more appropriate.

[138] **Mr Ruscoe:** We thought that the reorganisation of health boards and how you may have a health board covering five or six local authority areas would be a good avenue for ensuring that practice that is already good is transferred, shared and developed. We think that there should be a central point in a local health board, possibly the deputy, as with child and adolescent mental health services, that is a named, responsible and accountable person. Again, that should probably be done through regulation, but there should be a named person responsible for ensuring that strategies are developed across those local authority partnerships and that they are the best that can be produced.

[139] **Darren Millar:** That would be a sort of carers' champion in the boards.

[140] **Mr Ruscoe:** That may be one way of referring to them and one way of looking at it. However, as Menna said, this should respect what has been proved to work. Not everything is working, but not everything is poor either. There are some good examples of work. What we do not usually have are great examples of health providers being part of the combined package that is currently offered to carers. There is great clinical care and focus on the cared for, or the patient, but the relationships in terms of delivering for carers do not tend to be great.

[141] **Darren Millar:** How will this legislation change that? All that it will do is place a duty on the relevant authorities—local authorities and the NHS—to produce these glossy strategies, which will be up on the shelf. There is no duty whatsoever on the face of the proposed Measure on those relevant authorities to implement the strategies. You said earlier that it might not lead to any change, but you sound upbeat about it. Why are you so confident that it will lead to significant improvements?

[142] **Mr Ruscoe:** It comes down to the point that you just made—we think that it could make a change, as long as the implementation plan and the scrutiny plan—

[143] **Darren Millar:** Do you think that a duty to implement needs to be on the face of the proposed Measure?

[144] **Mr Ruscoe:** Yes, there needs to be a duty to deliver the implementation plan and a duty to deliver the scrutiny plan, which means saying, 'This is our strategy, this is how we are going to do it and this is how we are going to check that we are going to do it'. That has to be clear.

[145] **Darren Millar:** Is there not a problem here, Tim, in that there is no cash or very little cash out there? Local authorities and the NHS will face huge financial pressures over the next few years. So, they will produce strategies that they have a duty to implement that will be unambitious and will not contain everything that they want them to contain. It will not be a Jersey-gold-top type of service, and it will not even be a bronze service, but a paper service—strategies written on paper—and not much else. Is that not the reality that we are facing? Even if a local authority wants to produce a fabulous strategy, with all sorts of wonderful services, based on best practice elsewhere in Wales, and even if there is a duty to implement it, they are not going to be able to do that. In which, case, what is the point in doing any of this at all?

[146] **Mr Ruscoe:** We discussed this, handily, before we came in. As we said in our paper,

we are talking about a situation where carers provide over £5 billion-worth of care per year, which is money that would otherwise have to be found. If we do not provide carers with the appropriate support, that care burden frequently becomes too much and that person will need a service—usually a health service and a social service. That is a survival need, rather than a support need. So, if you do not fund one bit, you will have to fund the other bit. It is not really about not finding the money; it is about spending the money before you need to spend it.

[147] **Darren Millar:** So, you are saying that this is a more effective use of those resources.

[148] **Mr Ruscoe:** Yes, a far more effective use of money is to spend it early, rather than a remedial, reactive spend. It is focused and it is enabling that debt to be paid, without increasing the burden later in life. At some point in the past—I cannot remember the year—61 per cent of carers went on to need care. I would figure that it is still about the same. That is a significant burden.

[149] **Leanne Wood:** I am interested in the issue of accountability and scrutiny that you raised. You state in your written evidence that you would welcome additional instruction as to named posts within the relevant authorities and also further detail on the content of the carers' strategy and on what the Government wants to see in the strategy. Should those requirements appear on the face of the proposed Measure or could they be covered in regulations?

[150] **Mr Ruscoe:** This is another issue that we were debating yesterday. It is about considering all opposing views and trying to argue what the outcome should be. The proposed Measure must be simple enough to be usable and understandable. The proposed Measure should state that designated leads should be in place. However, the statement of where those leads may be could be in regulation. So, the need for the lead should be on the face of the proposed measure, and who should form that lead should be in regulation. This may come up later, but we think that the list of authorities needs to be expanded by one. That is our opinion.

[151] **Ms Thomas:** We think that local education authorities should be on the face of the proposed Measure.

[152] **Leanne Wood:** I was coming to that. You say that LEAs are omitted from the relevant authorities list. The Deputy Minister stated in Plenary in January that housing and social services would be included, and that education could be included later. Is there anything else that you would like to say about that, or is that your simple point?

[153] **Ms Thomas:** The groups that we work with are all connected to families, so education is a key part of their lives and it is therefore central to the carers who we work with. We also think that the NHS is a good first place to identify who carers are via the patient. However, the young carers' role begins before an illness becomes chronic, for instance before a mental health problem gets to the point where the patient must go to see a doctor. So, if you are suggesting that the LEA should take more responsibility for picking up and identifying young carers, you are also creating an opportunity for delivering early intervention for the patient, which is an extra benefit.

[154] We have good examples of schools where parent and grandparent carers work together around disabled children to enhance the quality of those children's lives and to enable them to have opportunities. We are aware from research and from our own experience that young carers are not given that special attention that some other children's groups with very obvious special needs are given.

9.50 a.m.

[155] It is the LEA's responsibility to ensure that educational experience is accessible by all

school-aged children and young people. Due to the fact that they are frequently absent from school, young carers cannot access education in the same way. It is not a hugely difficult thing to tackle. It would be really useful to bring the education department fully on board with this. We think that it would be beneficial in a number of ways, as I have just explained.

[156] **Mr Ruscoe:** It would be particularly useful early in the development of the strategy, implementation plan and scrutiny so that they are part of the process.

[157] **Leanne Wood:** Thank you.

[158] **Mark Isherwood:** Are there any further questions?

[159] **Darren Millar:** I wish to ask about consultation. The proposed Measure makes it clear that there is a requirement to consult or that Welsh Ministers can draw up regulations on consultation. There is a duty to consult carers in the development of the strategies. Are you satisfied that there is sufficient emphasis on consultation on the face of the proposed Measure? Further to that, should there be a specific reference on the face of the proposed Measure to the fact that there must be regard to the outcomes of consultation? Too often, consultation can be a tick-box exercise or simply a process that people go through when they are going to be presented with a fait accompli anyway. Do you want to comment on that?

[160] **Ms Thomas:** We have suggested that the consultation should be an ongoing process throughout the strategy. There was only one thing that we thought it would be useful to add to the proposed Measure. The words 'at each point of review' should be added to the end of sections 2(1)(b) and 2(1)(c) of the proposed Measure. This would mean that it would not be a single stand-alone consultation and strategy, but a strategy that would need continual revisiting and reviewing, and carers would need to be involved in that process.

[161] **Mr Ruscoe:** We also thought that there might be an opportunity to introduce a reference to the national children and young people's participation standards as a means of measuring some of the minimum standards you require. Those are children and young people's participation standards, but the universal declaration of human rights refers to participation for all human beings. The standards on quality of information, respect, non-discrimination, a place in decision-making and so on are not bad things to have. Perhaps it would be possible to make reference to those as standards.

[162] **Darren Millar:** The Minister could do that through regulations could she not?

[163] **Mr Ruscoe:** She probably could, yes.

[164] **Darren Millar:** On the issue of the relevant authorities having to have regard to the outcome of the consultation, should that be mentioned in the proposed Measure itself? Such requirements to have regard to the outcome of consultations have appeared in other Measures that have come before the Assembly. Should that be on the face of this proposed Measure?

[165] **Mr Ruscoe:** We would welcome anything that ensured that consultation is credible.

[166] **Darren Millar:** Would you welcome that?

[167] **Mr Ruscoe:** Yes.

[168] **Darren Millar:** Excellent. That is what I wanted to know. Secondly, you mentioned the fact that, through regulation, the Minister could specify minimum standards of consultation, which supports what the Wales Neurological Alliance said in similar representations. We would welcome any further information from you that we could put to

the Minister on the sort of minimum standards that could be set out in regulations.

[169] On the issue of regulations, the success of the proposed Measure will rely heavily on the Minister's use of regulations. Many of those regulations, which will be drawn up in consultation, will be passed using the negative procedure, which means that they will not come back to the Assembly for approval. Some witnesses have suggested that the first set of regulations should come before the Assembly to provide the opportunity for further scrutiny and to allow us to be satisfied that all of the points that you have talked about, and some of the points that other witnesses have mentioned, are incorporated or have been considered in drafting those regulations. Is it wise to use the affirmative procedure, whereby it comes back before Assembly Members in the first instance, or are you satisfied with the current situation, whereby the negative procedure is used and the Minister can sign off regulations without having to come back to the Assembly as appropriate?

[170] **Mr Ruscoe:** It is our opinion that the affirmative process should be utilised here, and that the proposed Measure and subsequent regulations should be introducing sufficient change that the affirmative resolution must be used.

[171] **Mark Isherwood:** Coming to the close of questioning, I want to add a couple of supplementary questions of my own. Going back to the point about consultation on a long-term basis, I think of my previous employment, which was in a customer service environment. The whole ethos was on identifying customer need—obviously, in this case, it is not customers, but clients or service users—and agreeing that with the customer, and then endeavouring to meet it within the resource available to us. That became, we hoped, systematic; it was not something that was imposed, but central to the continuous communication with the customer or service user. That in turn was based on a continuous process of performance management, training and development in order to work smarter, not harder, that is, not saying 'We haven't got time to do it', but saying 'By doing it, we'll save time and resource further down the road'. Do you agree that that approach is beneficial? If so, how do you feel that that training and performance management could be incorporated for those having to deliver on these strategies and services?

[172] **Mr Ruscoe:** It is difficult to see where that might be included in the proposed Measure, which is about the authorities rather than the front-line staff, realistically. However, you are right, Mark, to highlight the need for people who are working directly with carers and cared-for people to have a great regard for the quality of what they are doing. If I am a health professional and I meet someone who needs care, I should immediately think: who else might be in the family? What might be the associated needs? Am I best equipped to deal with that? Who else do I need to go to? So, there is a training issue. I would say that, from my own experience, training on rights should be included in most professional training courses. In areas like youth and communities, social work, nursing and medicine there needs to be a clearer understanding of when people are qualified on rights, and we need to take a rights approach to individuals, no matter what age they are. There needs to be ongoing, post-qualification training around delivering on a rights-based approach, which fits in with the Welsh perspective. In Wales, we really are endeavouring to move towards a rights-based society. Current funding may impinge on that, but we are moving towards it, and training is critical.

[173] **Ms Thomas:** At the risk of sounding predictable, with regard to carers and young carers, there is a wealth of expertise in the voluntary sector that could be drawn on to support and enhance training in the statutory sector, where it is needed. Where training is already in place, that expertise could support the further development of training opportunities.

[174] **Mark Isherwood:** So, that reinforces the message that, when legislation changes our way of doing something, for it to be effective, that change must be managed; you cannot

simply impose change.

[175] **Leanne Wood:** Tim, you have just championed a rights-based approach to doing things, which the Welsh Government has rightly led on here in Wales, but this proposed Measure does not give carers any rights, does it? It places duties on authorities to provide information and consult with carers, but it does not give carers any right to access that information. Is that a problem with this proposed Measure?

[176] **Mr Ruscoe:** The right to access?

[177] **Leanne Wood:** Yes. There is a difference between a right and a duty, is there not?

[178] **Mr Ruscoe:** I suppose there may be a risk of assuming that the breadth of information that is provided and the way that that might be accessed are all part of the same strategy. That might be a naive assumption on my part, because producing information does not mean that it is usable.

10.00 a.m.

[179] **Leanne Wood:** True, but producing information does not give the person a right to it. So, if, as a carer, I feel that I have not been consulted adequately or that my views in the consultation process were not taken into account, if I had a right to that, then there would be a legal course of action that I could take to enforce my right, presumably. That right does not exist in the proposed Measure. Do you think that that is an omission?

[180] **Mr Ruscoe:** There is the duty to ensure that consultation happens—consultation being a way of ensuring that a voice is heard, to an extent. This is, partly, a right, but it does not necessarily mean that I am able to voice my opinion. So, the right element is that, to voice my opinion, I need to be enabled to do so. I need to be skilled enough to feel confident enough to develop and to deliver that voice. Having the information available does not necessarily, in itself, give me the right to that information.

[181] **Ms Thomas:** Having advocacy helps that and it helps with regard to the accessibility of the information, does it not? It helps you to identify your own needs in relation to the person that you are caring for. There is often quite a complicated relationship between the carer and the patient in a family. Advocacy is exactly where that sits.

[182] **Mr Ruscoe:** I am just debating the wording of the proposed Measure, and whether it says something about the need for the information to be made available by right. I am struggling with how you might do that, Leanne.

[183] **Leanne Wood:** Okay, thanks for that.

[184] **Mark Isherwood:** What is your view of the Wales Neurological Alliance's suggestion in its evidence to us that the proposed Measure could have provided an opportunity to consolidate and simplify existing legislation?

[185] **Ms Thomas:** We just thought about the need to include participative standards in the scrutiny process. That was our response to that.

[186] **Mr Ruscoe:** If we look at what there is, we will see that it has largely, or at least partly, failed to deliver appropriate support services for carers. So, we cannot depend on what already exists. We know that different local authority areas have different relationships with providers—some good, some bad—and that there are different levels. We need some level of consistency in that.

[187] The current legislation that has been produced in Westminster largely does not include NHS services in Wales. They have all been delivered through the local authority route. The Carers (Recognition and Services) Act 1995 gave rights to young carers for a carer's assessment in conjunction with a care assessment. That was a hard-fought gain. We felt that the Carers and Disabled Children Act 2000, which gave carers a right to an assessment of their own care need if they were 16 or over, was a good move, but it needed to recognise young carers as well. So, it discriminated against young carers and their right to an individual assessment of their care need. That was a devalued piece of legislation in our opinion.

[188] We know that they do not work, to a large extent. There is an opportunity here to simplify and to make something work in Wales for carers of any age. We have a focus on young carers. I do not see that there is a point in trying to fix what obviously has not worked. Let us make something that works.

[189] **Mark Isherwood:** I have one final question. How many young carers do you believe there are in Wales? How many young carers is Barnardo's Cymru working with at the moment, and what level of unmet need do you believe exists beyond that?

[190] **Mr Ruscoe:** Our five services in Wales are probably the same as other service providers. We figure that we know in Wales somewhere in the region of 10 per cent of young carers. We know, from our own research, that some young people had been providing four years of care without any support before being identified. Of that sample, five individuals had been providing 10 or more years of care in an unsupported fashion. If we talk about 10 per cent, when I was running a service up in north Wales—a service developed in 1996—I figured that, in future, we could have been looking at close to 3,000 people in one local authority area who had a care need to some extent. Not everyone would be providing substantial amounts of care, but they were providing significant care, even if it was at an emotional level.

[191] **Leanne Wood:** Out of those 3,000, presumably you would have known about 300 people.

[192] **Mr Ruscoe:** I was working directly with somewhere in the region of 300 people.

[193] **Ms Thomas:** We came across a recent estimate that there are 2,500 such people in that area.

[194] **Mark Isherwood:** I have been given those figures in Flintshire, but I wanted that on the record; thank you.

[195] We are coming to the closing part of our session. Are there any closing comments that you wish to make or issues that you wish to raise that we have not covered in our questions?

[196] **Mr Ruscoe:** With our written evidence, our oral evidence and your questions, we think that we have covered pretty well what we wanted to say. I wanted to emphasise, from our perspective, that we want a holistic service so that all the needs of the family are addressed on a holistic basis. If we do not do that for all carers of all ages, we will not be allowing people to choose the levels of care that they are best able to provide and best suited to provide, or they will not be part of that plan. If we do not think about everybody in the family, we are going to hurt someone and miss someone and we are going to possibly let somebody down, which I do not want to be party to. We welcome the proposed Measure, as we have said, because we think that it is an opportunity to make something work that clearly has not worked, to lesser or greater degrees. We welcome the NHS element because we do not think that it has been hugely engaged in carers' support services, and we think that it is a central

point across local authority areas. I think that we have pretty much covered all of that.

[197] **Mark Isherwood:** Thank you. A draft transcript of today's proceedings will be sent to you for correction, if necessary, before being finalised. It just falls to me to thank both of you for attending today and to hope that the rest of your day is a happy one.

[198] **Mr Ruscoe:** Thank you, Chair, Leanne and Darren.

10.07 a.m.

Dyddiad y Cyfarfod Nesaf
Date of Next Meeting

[199] **Mark Isherwood:** The date of the next meeting will be Wednesday, 17 March at 9 a.m.. That is both St Patrick's Day and one of my daughters' birthday. The committee will be taking evidence from the Commissioner for Older People in Wales, the Association of Directors of Social Services Cymru and young carers.

[200] Do Members have any further points that they wish to raise? I see that they do not. In that case, I declare the meeting closed.

Daeth y cyfarfod i ben am 10.08 a.m.
The meeting ended at 10.08 a.m.