



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

**Y Pwyllgor Iechyd, Lles a Llywodraeth Leol  
The Health, Wellbeing and Local Government  
Committee**

**Dydd Mercher, 10 Rhagfyr 2008  
Wednesday, 10 December 2008**

**Cynnwys**  
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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal, cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg. Mae hon yn fersiwn ddrafft o'r cofnod. Cyhoeddir fersiwn derfynol ymhen pum diwrnod gwaith.

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. This is a draft version of the record. The final version will be published within five working days.

**Aelodau'r pwyllgor yn bresennol**  
**Committee members in attendance**

Lorraine Barrett	Llafur Labour
William Graham	Ceidwadwyr Cymreig (yn dirprwyo ar ran Alun Cairns) Welsh Conservatives (substitute for Alun Cairns)
Irene James	Llafur Labour
Ann Jones	Llafur Labour
Helen Mary Jones	Plaid Cymru The Party of Wales
David Lloyd	Plaid Cymru The Party of Wales
Val Lloyd	Llafur Labour
Jonathan Morgan	Ceidwadwyr Cymreig (Cadeirydd y Pwyllgor) Welsh Conservatives (Committee Chair)
Jenny Randerson	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats

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

Frank Cuthbert	Is-adran Polisi Llywodraeth Leol, Llywodraeth Cynulliad Cymru Local Government Policy Division, Welsh Assembly Government
Brian Gibbons	Aelod Cynulliad, Llafur (Y Gweinidog dros Gyfiawnder Cymdeithasol a Llywodraeth Leol) Assembly Member, Labour (The Minister for Social Justice and Local Government)
Jo Jordan	Pennaeth yr Is-adran Diogelwch Cymunedol, Llywodraeth Cynulliad Cymru Head of Community Safety Division, Welsh Assembly Government
Reg Kilpatrick	Pennaeth yr Is-adran Polisi Llywodraeth Leol, Llywodraeth Cynulliad Cymru Head of Local Government Policy Division, Welsh Assembly Government
David Powell	Pennaeth yr Is-adran Cyllid Llywodraeth Leol, Llywodraeth Cynulliad Cymru Head of Local Government Finance Division, Welsh Assembly Government
Dr Emyr Roberts	Cyfarwyddwr yr Adran Cyfiawnder Cymdeithasol a Llywodraeth Leol, Llywodraeth Cynulliad Cymru Director of Department for Social Justice and Local Government, Welsh Assembly Government

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

Steve George	Clerc Clerk
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Catherine Hunt

Dirprwy Glerc  
Deputy Clerk

*Dechreuodd y cyfarfod am 9.01 a.m.  
The meeting began at 9.01 a.m.*

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

[1] **Jonathan Morgan:** I welcome Members of the Health, Wellbeing and Local Government Committee. I also welcome the Minister for Social Justice and Local Government, Dr Brian Gibbons, and members of the public. I remind everybody to switch off their mobile phones, pagers and BlackBerrys. Please do not leave them on silent because it does interfere with the electronic equipment. Members of the public may wish to know that we operate bilingually. There are headsets available, and channel 1 is the translation and channel 0 is the floor language. If it is necessary to evacuate the room, please follow the advice of the ushers.

[2] We have had one apology for absence this morning, which was from Alun Cairns. William Graham is substituting for Alun and it is a great pleasure to welcome William to the committee. There are no other apologies notified this morning.

[3] I invite Members to make any declarations that are necessary under Standing Order No. 31.6. I see that there are none.

9.02 a.m.

### **Sesiwn Craffu ar Waith Gweinidogion: Gweinidog dros Gyfiawnder Cymdeithasol a Llywodraeth Leol Ministerial Scrutiny Session: Minister for Social Justice and Local Government**

[4] We have two substantive items on the agenda this morning. The first is the ministerial scrutiny session. I am delighted that the Minister for Social Justice and Local Government has been able to make time in his diary to come to the committee meeting this morning. He is joined by Dr Emyr Roberts, director of the Department for Social Justice and Local Government; Reg Kilpatrick, head of the local government policy division; David Powell, head of the local government finance division; and Joanna Jordan, head of the community safety division. If there were any more of you, you would have outnumbered the committee membership. [*Laughter.*] It is a great pleasure to welcome all of our guests this morning.

[5] Minister, we have had your paper. Do you wish to make any introductory remarks before we proceed with some questions?

[6] **The Minister for Social Justice and Local Government (Brian Gibbons):** No, thank you.

[7] **Jonathan Morgan:** We will just go through it methodically. I know that Members have a number of questions that they want to raise on a number of different areas. Ann, I think that you wanted to start with non-domestic rate relief.

[8] **Ann Jones:** The news about non-domestic rate relief, the business rates and the rateable values, was especially welcome now that businesses are starting to struggle. However, I wish to ask about communication with local authorities. Many business people have rang their local authorities, including my own local authority, which I will not mention

by name so early in the meeting, and I take it they have also contacted others, and the local authorities are saying that they have no idea how to do the backdating. I wish to ask about your communication with local authorities because such a lot of what you do, and what we do, relies on the local authorities being able to administer what you have recommended. If the local authorities are not able to do that, the people, and especially small businesses, will be getting a very poor service and they will then think that the Assembly is not working, which is not the case.

[9] **Brian Gibbons:** I have to admit that that does surprise me. We get fairly regular correspondence from businesses in relation to business rate relief. I would have expected that if this had not been implemented on the ground, we would have received a good few letters from individuals and business organisations. We clearly have to take that information away with us. I was not aware of that, but David Powell may want to comment further.

[10] **Mr Powell:** This is a surprise to me. We have very close working relationships with local government. In terms of non-domestic rates, there is a local taxation working group with which we work very closely on council tax, technical issues and non-domestic rating issues. In terms of the backdating, we have acknowledged that it is backdating and we have provided local government with support and money to implement it, in terms of leafleting and paying postage and suchlike. So, I am unaware of any sort of postbag in which people are saying, 'We do not know what is going on'. We will take the information away, certainly, but that comes as a surprise to me.

[11] **Ann Jones:** If it would help, I would be happy to provide you with a list of the businesses in my area that have experienced problems. You might also be able to prepare a note for the committee about the general lines of communication.

[12] **Brian Gibbons:** There is a more recent announcement than that one that may have caused some uncertainty as well. Members may remember that we are ending the exemption for empty business properties, which means that businesses that are valued at more than £2,200, I think, will have to start paying business rates on empty properties after a certain period of time. It is an incentive for them to bring those properties back into use. As I understand it, we are going to change that situation because of the current economic difficulties and the threshold is going to be increased to £15,000. Something like 70 per cent of businesses in Wales will benefit from that, but it will not come into effect until next April. Businesses may be getting a bit mixed up between the scheme that we referred to and the news on rates for empty business properties.

[13] Equally, there is a further source of complication, on which we have had representations from Assembly Members. Particularly in port or dock areas, for historical reasons that I do not quite follow, the business rates for a number of businesses seem to be effectively wrapped up, or they thought that they were effectively wrapped up, in their rent. Now it has become apparent that they seem to have fallen outside the non-domestic rates, the business rates scheme. There is a retrospective clawback of those rates and that has been a source of concern to business, particularly in the current economic crisis.

[14] In the pre-budget report, the Chancellor announced that there would be an eight-year interest-free payback system for this purpose. Again, we have had a fair bit of correspondence on this from businesses that are located in ports. I think that William wrote to me on that. Again, that might be another source of confusion because clearly that will not kick in straight away.

[15] **Mr Powell:** We have 11 ports in Wales and they were part of the Valuation Office Agency review of the rateable values of ports. When the agency reached its conclusions, it actually backdated them three years as well. The pre-budget report concession is there to

provide eight years to pay it back. That had caused some concern until the pre-budget report was issued, but if there is general misunderstanding out there in terms of what is happening, it will be localised to particular authorities with ports, particularly Holyhead.

[16] **William Graham:** It obviously arose out of one assessment of a dock with only one owner. In Newport, Associated British Ports owns the docks and, therefore, there was one assessment. For the change in the law, the district valuer assessed each individual premises. The confusion has been compounded by the fact that local authorities have been slow to understand what the Chancellor said. It is very worrying for firms to have perhaps three or four years of rate arrears suddenly demanded by the local authority. The only advice that one could give, before the Chancellor's announcement, was that they should make an offer to the court. However, not all local authorities were understanding in this matter and some of the sums outstanding are very substantial.

[17] Minister, are you certain that local authorities now are aware of this provision by the Chancellor and when will it come into effect? Will local authorities be given some indulgence for those assessments that have already been issued?

[18] **Brian Gibbons:** There may have been some uncertainty out there, but I suspect that it suddenly became an issue because the day of reckoning was looming.

9.10 a.m.

[19] Whereas people put off the evil day, they suddenly realised that they were going to become liable for these back rates. They should not have been too surprised. My understanding is that this has been flagged up for some time, but as the day of reckoning got ever closer I think that people became more worried once they saw the full scale. As you say, it certainly ran into five and six figures for some of the bigger organisations, so it certainly was not something that you could easily accommodate if you had not been making provision for it. Dave could maybe say a little bit more on the implementation of the back payment.

[20] **Mr Powell:** Certainly, all local authorities should be aware of it and have been informed of it. If there are particular issues with an individual authority, we can take that away and see whether we can strengthen the message. Almost immediately after the pre-budget report, we did circulate to local authorities the details of both and the information on the rates changes for empty properties.

[21] **Jonathan Morgan:** We will now move on to the three-year settlement issue.

[22] **Ann Jones:** It will come as no surprise, Minister, that under the heading of the three-year settlement and resource distribution issues, I am going to bring up hypothecation again. I think that unless we can clearly track where local government money is being spent, we cannot address the issues around child poverty and deprived communities. It is very difficult and local authorities are very good at spending all their money and asking for more, without actually demonstrating that there has been a clear commitment in a policy area. So, I would ask you to reconsider hypothecation. I know what you are going to say, but I just think that we need to do that. That is my view.

[23] I also wanted to ask you about transient populations and the fact that, particularly in education, you are now looking at moves and whether both pupil numbers and population projections are now available. That may be an issue whereby if there are some changes to be made, the Welsh Local Government Association could agree them and then you could look at altering the distribution of the revenue support grant. How far have we got with transient populations? In particular, there are a couple of schools in my area that serve the most deprived communities and have an issue in terms of transient populations and pupils. The

pupil-level annual school census data is collected in January, but the schools may have already had those pupils for the September-to-Christmas term, which is this term now, and then they move around. What work has been done on that?

[24] **Brian Gibbons:** About 20 per cent of local authorities' money is hypothecated at the minute. I suppose that the advantage of hypothecation is that at least you know what areas the money is being spent on. I do not think that you can say with any certainty that that money has always been spent to the best effect or that the best value for money has always been achieved. So, if you want to track the money, hypothecation will give you a way of doing that; however, if you want to be assured that citizens are benefiting to the maximum, I do not think that hypothecation is going to deliver that.

[25] We also know—not from our own research, but from some work undertaken in Scotland—that hypothecation can cost anything from 5 to 10 per cent of the amount of money in question just to account for the hypothecated grants. A lot of the hypothecated grants that we have here are quite small and a fair amount of time and effort are spent on just administrating those grants. We feel that that time and money could be much more usefully spent, either in providing money to the frontline in the first instance or in ensuring that the money delivers the outcomes that we want to see. We do not want to know where the money has been spent necessarily; we want to see that people are benefiting from it. I think that that is our chosen direction of travel; we want to have an outcome-based approach and a shared understanding on accountability with our partners in local government. If we can move towards an outcome-based approach with our partners in local government and other public agencies, I think that that would be a preferable model to hypothecation. I understand where you are coming from in terms of if there is no performance, how can we hold organisations to account for their performance, and that is an entirely legitimate question that should be asked.

[26] David may be best placed to answer about the specifics of the projections. Once we are happy that the projections are robust, one of the variables in the three-year settlement, which is the annual adjustment for population, will be taken out of the equation. Local authorities will have greater certainty over two or possibly even three years into the future, rather than it still being a bit of a lottery in relation to that.

[27] **Jonathan Morgan:** On that point, are there examples where local authorities have, in a sense, lost out because there may have been a pretty quick depopulation in their area over that two or three-year period?

[28] **Brian Gibbons:** If you look at the current draft settlement, to me, it is concerning that the level of uplift that areas like Blaenau Gwent, Merthyr, Neath Port Talbot and Rhondda Cynon Taf will be getting—areas that we know have got the highest levels of social and economic need, and are the communities most vulnerable to the effects of the present recession—is relatively low. When you look at why, the uplift is driven by the uptake of free school meals in secondary schools.

[29] What does that mean? Does that mean that, in those disadvantaged local authority areas, there are relatively less children in secondary school in particular? I suppose that that is possible. Is it that those children do not need free school meals and that, in other words, the affluence is percolating through and consequently the number that require free school meals is going down? Is it that people are entitled to free school meals but they are not claiming them? Instinctively, that is probably what most people feel to be the case and that is even more worrying. So, there are concerns about the data and, as I say, in this particular instance there is no doubt that the number of children and free school meals is having a big effect and is one of the reasons why the current 'formula', if you like, gives a bad settlement to some areas.

[30] **Mr Powell:** I do not think that the evidence is just anecdotal. Denbighshire council

did write to parents, explaining the entitlement to free school meals and how to claim them, and that had a significant impact on uptake. Other authorities are going to follow suit in that respect.

[31] There is very little to add in terms of the population projections. We will track them to see how the statistical projections, which we would use to give certainty for the three years, will match up to the actual population shifts and take it from there.

[32] **Ann Jones:** Sorry, Chair, may I come back with a very short question?

[33] **Jonathan Morgan:** Yes, of course you can.

[34] **Ann Jones:** My question is on the issue about seaside towns. The Deputy Minister for Regeneration has announced a seaside regeneration package for Rhyl and Colwyn Bay that is much needed. However, if we cannot get the population figures right for seaside towns, and that is where the transient population tends to be, then it is like battling against the wind, is it not? It is like trying to walk with the wind pushing you back all the time. Unless we get the figures right, we will not have the right statistics to do everything that the Government wants to do. I think that the transient population is an issue that we need to pin down and be aware of how it can have an influence.

[35] I think I ought to place on record the fact that Denbighshire did a good job on its free school meals. That is just so that they know that they will get praise when praise is due, but a kicking when a kicking is due. [*Laughter.*]

[36] **Brian Gibbons:** Is this Rhyl Football Club that you are talking about?

[37] **Ann Jones:** I beg your pardon. [*Laughter.*]

[38] **Dr Roberts:** The only thing that I would like to add is that we recently had a presentation on the work that the Office for National Statistics is doing in terms of the census in 2011. I do not know whether Assembly Members have had a similar presentation. It is doing a lot of work on picking up the transient population because I think that there was a criticism that the last census was not sensitive enough. The ONS is doing a lot of work in terms of additional sampling and so on to try to get a better picture of what is happening through the census. Obviously, the census actually underpins a lot of the data that goes into the local government settlement.

[39] **Mr Powell:** I would like to just briefly add to that—[*Inaudible.*]—and they are going to pick it up in terms of a visitor and transient population aspect. They will be talking with officers in local authorities in preparation for the census, and we have encouraged local authorities to have a dialogue with them.

9.20 a.m.

[40] **Helen Mary Jones:** I want to come back to this business about money delivering outcomes. I take what you have said to Ann Jones about the operational costs of hypothecation. Let me give you a specific example, because what I am trying to put to you is, if you are not going to hypothecate the money, how will you know what they have spent the money on and what are the consequences if they do not spend the money in the ways that you would expect? I will give you the example that we have discussed many times in this room, and outside, about the resources that you, as a Government, have been putting into local authorities to help them to fund single-status agreements, which is the polite way of saying ‘to help them to meet their equal-pay requirements’.



[41] We know that all the local authorities have been getting a certain amount in accordance with the revenue support grant—it is not hypothecated, but it is there. We know that some of them have done what you expected them to do and have done it very well. We know that some of them are in blank denial, but I would not expect you to comment on those because they are subject to legal proceedings. The representatives of one particular authority—and they know who they are—know that I gave them advice that they were liable when I worked for the Equal Opportunities Commission in the mid-1990s, so they jolly well know that they are liable, but they are still denying it.

[42] Now, year on year, you are still giving money to those local authorities that have already sorted themselves out. Arguably, that is a good thing to do because it is rewarding good performance, but you are also still giving the money to those local authorities that are pretending that they do not have a problem. I am just using this as an example of where you are putting extra resources in, where local authorities are getting a better deal from this Government than from the Government in England. We hear a lot of complaints from local authorities that they do not do as well as authorities across the border, but this is an example of where they are doing well, and yet I cannot see, year on year, how that resource is delivering the outcome you want it to deliver. I do not particularly want to get into that issue today, but I am using it as an example of you putting in the money and the local authorities taking it, some of them arguably not needing it any more because they have dealt with the problem—although I would not tell you to penalise them for having dealt with the problem—and other authorities taking the money year on year and not doing anything with it. That is an example of the frustration that some of us feel. I take entirely the point that you made about hypothecation, that it is costly to administer, but how are you going to be sure that you can achieve the outcomes that you desire, if local authorities persist in not delivering, unless you hypothecate? I still have not heard an answer to that.

[43] **Brian Gibbons:** One thing about equal pay is that there is a legal duty here. Even though there is a legal duty that, as you say, has been outstanding since 1970, it still has not been implemented. So, I think that on the scale of draconian impositions—

[44] **Helen Mary Jones:** It is hardly a draconian imposition.

[45] **Brian Gibbons:** On the scale of impositions, a legal duty is probably more severe than hypothecation. I think that equal pay is a good example because there is such variability between the various equal pay liabilities of individual authorities. In some instances there have been settlements. Before discussions took place with the workforce, nobody knew the shape of those settlements. I do not know how you would be able to develop a hypothecated sum in advance, in anticipation of what the outcome of the liability or any agreement would be. You could say, ‘Okay, put x sum away’, but you could then bet your bottom dollar that people would negotiate up to exactly that sum. So, I think that that is an example of how difficult hypothecation could prove to be in practice.

[46] **Helen Mary Jones:** I think that it is difficult to hypothecate for that, Minister, and that is one of the reasons why I used that example. What I am still getting at is that you have not hypothecated the funding and we are not getting the desired outcomes, therefore, what is going to happen? Are they going to carry on getting the money whether they do it or not?

[47] **Brian Gibbons:** I think that there are two things on that. One is that I think that we are making progress. Okay, we have only seven or eight local authorities that have settled, but we hope that a few more will come in. I do not know whether David can give us an indication of how many more will come in, but we have certainly seven or eight that have settled the back pay issue and a number are beginning to get stuck into the single-status situation as well. So, I think that some progress is being made, but equally I think that the equality Bill that is before the House of Commons is going to place a new duty regarding the gender issue. I hope

that the local authorities will have sorted this out, but if they have not, I hope that the new gender duties that will follow from the equality Bill will ratchet up the expectation and maybe even the legal situation. For some unclear reason, the fact that there should have been equal pay since 1970 never seems to create the sense of urgency that should obviously exist. Maybe this new legislation, under the equality Bill, will change that.

[48] **Jonathan Morgan:** Minister, we are, of course, going to return to this issue in January. The Minister has already agreed to come and give evidence to the committee on the first Thursday after we return in January. It is a very interesting example, but are there other reporting or checking mechanisms that the Assembly Government can use? I will give you another brief example.

[49] I remember, back in the first Assembly term, getting copies of the section 51 or 52 statements from local education authorities that would demonstrate how additional money was put into local education authorities that had been allocated to councils by the Assembly Government. The Assembly Government rightly said, ‘We need to see how that money has been used by a local authority for education purposes’. I cannot think if the exact term was section 51 or section 52; it was something of that nature.

[50] **Ann Jones:** It was section 52.

[51] **Jonathan Morgan:** Are there other such reporting mechanisms that would allow you to test whether resources that you have allocated to local authorities have actually been used for that purpose? I have not heard of any.

[52] **Brian Gibbons:** I will just give Emyr and David a chance to think about that. One thing that we are developing—and I think that it is mentioned later on in the report—is improvement agreements. Improvement agreements, in return for the performance improvement grant, cover eight areas where we agree with local authorities that they are under-performing. In return for their improvement grant, they agree to tackle these areas of under-performance. As part of getting their money, they will have to develop a suite of indicators by which we can measure that genuine improvement has been delivered. That would be in eight areas of activity for every local authority that wants to get involved in this.

[53] **Jonathan Morgan:** We may come back to that a bit later because you have that specifically in your paper as an alternative.

[54] **Brian Gibbons:** Yes, that is an alternative mechanism. I do not know whether David or Emyr can remember what each area is specifically.

[55] **Jonathan Morgan:** I have just used that as an example. Are there other examples of where local authorities are, in effect, held to account by their reporting mechanisms to demonstrate how extra resources have been used?

[56] **Dr Roberts:** There are things like children and young people’s partnership plans, for instance, where we can see clearly what activities are happening. I think that I would bring it back to the issue that the Minister raised. What I think that we are all interested in is the actual outcome. We have the view that we are controlling a lot of the input to the process at the moment and not actually looking at the outcomes. That is why we are trying to shift the debate, through things like improvement agreements, to actually look at those outcomes so that we and, more importantly perhaps, the local people can see what is being achieved with the totality of the money that is going to local authorities at the moment.

[57] **Jenny Randerson:** Two points have come up. The issue of hypothecation is one on which I have a fundamental disagreement with everyone else. Andrew Davies has always said

that the issue is not how much you spend and that if you look across the public service in general, it is not an issue of how much you spend, but the outcomes. So, in relation to improvement agreements, are you content that they are sufficiently wide-ranging and focused? How will they fit in with the new legislation?

[58] My second question is going right the way back to the census and the ONS. In relation to transient populations, do you think that the way in which they are approaching it is sufficiently sensitive to cope with the particular issues of big cities? The three Cardiff Assembly Members who are here will all agree that the population figures for Cardiff in the last census were direly wrong.

9.30 a.m.

[59] That was because of the issue of not so much transient populations as you get in a seaside town, but people who are difficult to track because they live in the centre of a big city. There is also the issue that the student population is badly under-calculated, which I find quite amazing because the universities know how many students they have. Why not ask them as a sort of double check?

[60] So, are you convinced, Emyr, that those issues in relation to the big city are going to be properly addressed this time?

[61] **Dr Roberts:** I am going to slightly deflect those questions because although I think that they are really good questions, they are for the ONS in a way. I would suggest that if you have not had a briefing, you should take the opportunity to question the ONS on that. All that I can say is that it is acutely aware of issues like that. For all the reasons that you have said, it is acutely aware that the measurement last time around did not pick up sections of the population. I am sorry that I cannot really give you a view one way or another, but I know that it is addressing this issue.

[62] **Jonathan Morgan:** It is addressing it, is it?

[63] **Dr Roberts:** Absolutely.

[64] **Jonathan Morgan:** Have you raised those issues with the ONS?

[65] **Dr Roberts:** All the points that have been raised have been raised specifically with the ONS. As I say, it is putting in additional sampling for the way in which it actually enumerates for the census, so this is being taken into account. I am afraid that I cannot give you chapter and verse, but if the committee is interested in that, it would be worth you having a discussion around that with the ONS.

[66] **Jonathan Morgan:** It might be the case that we could ask the ONS to come to committee or provide a paper. Either way, we will find a way of teasing the information out.

We will now turn to the Icelandic banking crisis, for which I am sure that we do not hold the Minister personally responsible.

**David Lloyd:** Dim ond eisiau diweddariad yr ydwyf ar ddatblygiadau ers i'r argyfwng hwn dorri yn y lle cyntaf. Yn naturiol, mae pryder ar y strydoedd ynglŷn â'r ffaith fod £20 miliwn o arian Cyngor Bwrdeistref Sirol Castell-nedd Port Talbot, er enghraifft, wedi ei rewi mewn banciau yng Ngwlad yr Iâ.

**David Lloyd:** I only want an update on developments since this crisis first broke. Naturally, there is concern on the streets about the fact that £20 million of Neath Port Talbot County Borough Council's money, for example, has been frozen in Icelandic bank accounts. I hear what the council is saying,

Clywaf yr hyn y mae'r cyngor yn ei ddweud, nad oes problem a'i fod yn gallu delio â'r mater, ac nad ydyw £20 miliwn yn y cyddestun hwnnw yn golygu dim byd ac na fydd yn amharu ar wasanaethau cyhoeddus, ond yr wyf yn siŵr y buasai hen ddigon o swm pe bai'r cyngor wedi derbyn gostyngiad o £20 miliwn yn yr arian mae'n ei dderbyn gan y Cynulliad. Mae rhyw ddatl ddeublyg yn y fan honno. Wedi dweud hynny, yn naturiol, y Trysorlys yn Llundain sy'n arwain ar y trafodaethau. Bu swmian yn y cefndir os bydd arian ar gael i ddiogolledu awdurdodau yn Lloegr, bod angen gwneud yn glir y dylai'r un hawl i ddiogollediad fod ar gael i awdurdodau yng Nghymru. A ydyw hynny'n dal i fod yn wir? A ydym yn dal i gael trafodaethau i sicrhau os bydd cynghorau'n cael eu diogolledu y bydd ein cynghorau ni, yng Nghymru, hefyd yn rhan o'r cynlluniau hynny?

that there is not problem and that it can deal with it, and that £20 million in that context does not mean much and that it will not affect public services, but I am sure that there would be plenty of complaints if the council had received a £20-million reduction in the amount of money that it receives from the Assembly. There is some sort of dual argument there. Having said that, naturally, the Exchequer in London is leading on the discussions. There has been whining in the background that if money is made available to compensate authorities in England, we need to make it clear that the same right to compensation should be offered to authorities in Wales. Is that still true? Are we still partaking in discussions to ensure that if councils are compensated, our councils in Wales will also be part of those plans?

[67] **Brian Gibbons:** I do not think that we are in a situation where compensation is really on the agenda. The receivers for the English-based Icelandic banks have had preliminary meetings with their creditors. I do not quite know the technicalities of the ways in which the receivers or administrators operate, but the preliminary arrangements were certainly made at the end of November and the beginning of December. The ball has started rolling to seek recovery and to bring greater clarity as to what the various local authorities can expect to get from the Icelandic banks. The process is starting. As I say, previously we did not have a date as to when the administrators were going to start dealing with this. That process has started. I do not think that we have a clear view as to when the local authorities will know how much they are going to get. I do not know whether David has any update on that.

[68] **Mr Powell:** In terms of the two UK subsidiaries, there was a meeting on 1 December of Kaupthing. Both Kaupthing and Heritable, which are the two UK subsidiaries, have common administrators, namely Ernst and Young. Ernst and Young was cautiously optimistic that there would be money to distribute at the end of the process, but it was not prepared to give even a range of how much money would be available and it was not prepared to give a timescale, other than to say that it will probably be months rather than weeks.

[69] It also had a meeting with creditors of Heritable yesterday. I do not, at the moment, know what the outcome of that meeting was, but as soon as we get some information on the outcome we could certainly send a note to the committee, if that would help. I suspect that the message will be equally as cautious as it was with Kaupthing. The banks look as if they are in a better state than was previously thought, but there has been no real indication of what may come out at the end of it.

[70] **Brian Gibbons:** The other thing is that the Icelandic Government has secured money from the International Monetary Fund about a month or six weeks ago. One of the conditions of that money being eventually handed over was the insistence of the UK Government that the Icelandic bank would be aware of where its creditors were in relation to the money from the UK that was held in those Icelandic institutions. We still remain fairly optimistic that, if not all, a substantial element of those creditors will get their money back. It would be premature for us to take any view that might interfere with that process.

[71] **Jonathan Morgan:** Is there anything else on the banking situation? I see that there is not. We will move to police funding. William, did you want to ask a question on this?

[72] **William Graham:** Minister, how flexible can you be in responding to police authority requests? It is clearly regrettable that the floor provision is to end and more particularly so when the Home Office withdraws certain types of funding during the financial year. One example that I would quote is that, a few years ago, the Crown Prosecution Service withdrew from funding the storage of vehicles that had been engaged in accidents in which there were going to be proceeding—it is not a question of a few motor cars; it could be dozens of large lorries stored at quite substantial expense. It made a big difference to Gwent Police and, no doubt, to the other authorities as well.

[73] How can you respond when that sort of thing happens during in the year? It is something that has come from the Home Office, but we will know about it much later.

[74] **Brian Gibbons:** It certainly is a worry because three of the four police services in Wales are supported by the floor, and they get a minimum uplift of 2.5 or 2.6 per cent because of that floor. In fairness to the Home Office, it is taking the view that it is still determined to get rid of the floor and to have a more sensitive formula, but I think that, in making that declaration, it has included the proviso that it will make progress in a way that will not destabilise the operational activities of the police service. I think that that is as good as it gets at the minute. Again, I do not know whether David has anything further to add to that.

[75] **Mr Powell:** I only wish to add that they are in the process of reviewing the funding formula and that will affect all police authorities. I gather that the rural Welsh police authorities—Dyfed Powys, Gwent and north Wales—are plugged in, for want of a better expression, to their English counterparts in terms of this.

[76] The floor is increasing in its prevalence in police funding. It is not just a Welsh issue, although it is more predominant in Wales because you have three quarters of the force on the floor. Over half of English and Welsh police authorities are subject to floor funding, which suggests that something in the formula does not actually address the needs. So, we have a seat at that table. The Welsh police authorities also have a seat at that table, represented by Andrew Bevan of Dyfed-Powys police. We will take it from there, but the Home Office is fully aware of the kind of monster that the floor is, and the difficulties that could result from just pulling the rug away.

[77] **Brian Gibbons:** I think that the point that David is making is that seeing that so many police authorities are dependent on the floor, it would suggest that all is not well. Nonetheless, the impetus from the Home Office is to concentrate more resources where it perceives the crime levels to be greatest, namely in the metropolitan centres. So, that will actually tend to aggravate the financial pressures in the authorities that are on the floor at the moment.

9.40 a.m.

[78] So, even though there is clearly something not right with the funding mechanism, I do not think that the direction of travel of the Home Office is in the direction that is likely to ease the pressures on these predominantly less urban authorities.

[79] **Helen Mary Jones:** That is useful, Minister. My question follows on from that because with this tripartite agreement the question is how money follows policy or policy follows money. Clearly, the Home Office has a huge influence over policing policy for the money that it puts in. Certainly, talking to the police service in Dyfed Powys, which serves my area—and you could argue Llanelli is one of the very few nearly urban places in Dyfed

Powys, and it is not very urban—the former chief constable made such comments as, ‘The Home Office wants me to have a gun crime strategy, but the only gun crimes I really face, and they are not really crimes, are farmers shooting themselves in suicides’. Gun crime is just not an issue, whereas there are a whole load of other issues such as how you effectively police very isolated communities, and how you make people feel safer.

[80] So, the Home Office is pushing its funding in one direction. For the local authority part of the funding, there should be a policy input through police authorities. I think that we could have a debate about how effective they all are as authorities, because when you have local authority members co-operating over a very large geographical area, it can be difficult to get a sense of corporate responsibility. Nevertheless, it is there.

[81] My question, I suppose, is to what extent you as a Government are able to have an influence over the policies delivered by our police service for the money that you are putting in. I suppose possibly from what you have just said, Minister, you can envisage a situation where you as a Government might need to put some more money in over time to meet the policing needs of communities that are not met by the Home Office’s priorities, whether those are suburban areas, where you perhaps have a high fear of crime although little recorded crime, rural areas or whatever. If you have to put more money in, will you be able to have more of an influence over the policy direction?

[82] **Brian Gibbons:** I will ask Jo just to say a few words as well. As I understand it, most of the activity that goes on goes on through the community safety partnerships. I think that we probably put the majority of the money into community safety partnerships now, or pretty close to it. Many of the activities of the community safety partnerships are devolved responsibilities: drugs, alcohol, domestic abuse—

[83] **Helen Mary Jones:** Housing.

[84] **Brian Gibbons:** Some aspects of housing maybe, and community safety. So, we do have a fair level of input in terms of determining the type of priorities that are delivered through the community safety partnerships.

[85] I think also as an institution the police are very devolution friendly, and have a very constructive engagement with us, notwithstanding their formal responsibilities. We do work very well with the police and I think that is worth putting on record. I do not know whether Jo would like to add anything to that.

[86] **Ms Jordan:** I just have a brief comment, Minister. The police in Wales have for the first time developed a sort of Welsh national policing plan. In developing that, they very much had in mind what the priorities of the Assembly Government were as well as the direction that they have from the Home Office. So, I think that at the moment they balance their Whitehall guidance and priorities quite well against what they see as the local needs through the Welsh policing plan and the work that they do collaboratively in that regard. Also, as the Minister has said, they work more locally with community safety partnerships and other fora to deliver what is important to local communities. I think that they do that quite well.

[87] In terms of the Assembly Government putting in extra money where there are particular priorities or matters that we want to address in Wales, that was the reason why we agreed to help fund the Tarian initiative—the level 2 drug project across the three southern Wales forces. That was to address a particular need in Wales at the time. The Assembly Government continues to fund that, so there are precedents for that.

[88] **Lorraine Barrett:** Minister, I will just take this opportunity now to lobby you. I did a

little event with Crimestoppers this week. Representatives were in the Assembly on Monday and Tuesday, I think, of this week. It is funded in England by the Home Office, as I understand it, but in Wales the four police authorities fund it. It is quite a small amount of funding for what the organisation is able to do, but it provides that avenue, if you like, for people to report crimes anonymously.

[89] The organisation asked me whether there was an opportunity for some funding from the Assembly. Given the crossover with community safety partnerships, I hesitated a little bit because I thought it was really a police and Home Office matter, but could I leave that with you? I did tell the representatives that I would speak to you and so I am taking the opportunity now. Thank you.

[90] **Brian Gibbons:** So if they are looking at senedd.tv— [*Laughter.*]

[91] **Jonathan Morgan:** We will move on to the next issue, which is the relationship with local government. I have a couple of questions that I want to ask on that, Minister.

[92] Your paper states that it will be important to develop a clear understanding of the roles and responsibilities of the Assembly Government and local authorities. In what sense? Do local authorities not understand what their roles and responsibilities are?

[93] **Brian Gibbons:** No, but that there never has been, if you like, an attempt to systematise the relationship between local government and the Assembly Government. The nearest that we have got to it is what we call the Essex-Jones agreement, which you could easily read in 20 seconds because it is only about two sentences. Both we and local government feel that the present understanding works reasonably well, but a better understanding, which would clearly define roles and responsibilities and accountabilities, would have particular advantages. That also links back to the issue of outcomes for the 40 per cent of Assembly Government resource that goes into local government.

[94] We are, to a certain extent, out of step with the rest of the United Kingdom in this. Clearly, Scotland has developed a very formalised concordat with local government, which is, I would think, a partnership-based approach. In England, there is a different set of accountabilities, which I would think in terms of establishing the basis of the agreement is very much top-down, even though there is a fair amount of autonomy in local delivery.

[95] So, we will be looking more towards a Scottish-type model that would redefine our relationship with local government and that would reflect the maturing relationship that is out there between ourselves and local government.

[96] **Jonathan Morgan:** You said that the Essex-Jones agreement is essentially a couple of sentences. In what sense does that need to reflect the changing policy circumstances and changing political situation now? What is it that needs to alter?

[97] **Brian Gibbons:** For example, local government feels that the hand of central Government weighs too heavily upon it and that, consequently, it is not able to get on with its job of delivering local services. We are going back to the hypothecation debate, but it centres around hypothecation, around regulation and inspection, and around special grants and so forth. So, it feels that that is not allowing it to get on as 'local government'.

[98] However, we as an Assembly Government also feel that there needs to be greater accountability, particularly in performance terms, for the 40 per cent of the money that we spend. A number of the questions that have been asked this morning by colleagues reflect the slight fog of accountability that exists in relation to outcomes for the money that we invest in local government. So, I think that both parties are dissatisfied with the present basis of the

relationship. I think that it would be fair to say we are in preliminary discussions with our colleagues in local government to try to address those concerns.

[99] **Helen Mary Jones:** Presumably one reason why the Essex-Jones agreement needs to be renegotiated is that the Assembly and, therefore, the Assembly Government, has had different powers since 2006 in relationship to local government. That would need to be built in, presumably?

9.50 a.m.

[100] **Brian Gibbons:** Yes. There is a lot of change out there that clearly is not being captured by the Essex-Jones agreement. For those who do not know, basically what it says is that as much as possible of the money that goes to local government should be unhypothecated. If it is hypothecated, the hypothecation should last just three years and then the money should be put into the revenue support grant as soon as possible. That is, effectively, it.

[101] **Helen Mary Jones:** That is it. That is all it says, is it not?

[102] **Brian Gibbons:** So, it is hardly the basis for a clear understanding and a constructive working relationship.

[103] **Dr Roberts:** I will give you a practical example. For instance, we routinely consult with local authorities and other partners in terms of implementing any new policy. There is actually nothing written down on that. So, one of the things that they feel quite strongly about if we are introducing or developing new policy is that they want to be involved from the outset. We do not have a problem with that; the policy will be better as a result. As I say, it is to codify some of these issues that we understand informally but which have never been written down.

[104] **Jonathan Morgan:** Thank you. Is there anything else on this particular point? I see that there is not. We now move on to electoral arrangements. Ann Jones has the first question.

[105] **Ann Jones:** I just wanted to ask about the accessibility of polling stations. We have discussed this in other committees, but how far forward are we? How convinced are you that at the next set of elections, whichever elections they may be—probably the June election, the European elections—everybody will be able to get to a polling station despite their different needs?

[106] **Brian Gibbons:** I will be very disappointed if we were not up in the very high 90s. It is very difficult for me to be any more dogmatic than that on it. We know from the Electoral Commission's most recent report that its main concern was not that facilities were not there; it was just that sometimes the notices were not put up, or the necessary pieces of equipment were not plugged into the wall, and so forth. So it was not that the infrastructure was not in place, it just was that people were not making best use of the infrastructure.

[107] Again, I think that it highlighted that there was probably a need for some education; in other words, some of the staff were not perhaps as sensitive as they should be. However, I think that all of these criticisms were criticisms at the margin. The Electoral Commission's view was that real progress had been made, and we have said in another committee that we are willing to work with Scope again in future elections. There is no doubt that Scope and the committees in this Assembly, and the Committee on Equality of Opportunity in particular, have been major drivers of improvement. I think, again, that is a good example of constructive partnership working.



[108] So, we are certainly keen to get an accurate picture of what is going on out there, and we are willing to work with colleagues and partner organisations to ensure that things are as good as we can get them.

[109] **Jenny Randerson:** You mention in your paper the questions you have asked in your latest consultation and say that you are going to make an announcement next month. In what form will that announcement be? Will it be to Plenary? There are some fairly fundamental questions in here such as whether we take account of sparsity in rural areas. It always strikes me, going round the country, that rural wards are very much smaller in terms of population size than urban ones. If you were going to move from that it would be quite a key issue for the shape of local government, for example, but there are other key issues.

[110] **Jonathan Morgan:** Minister, before you answer the question, could I just ask for clarification on what your role is? Obviously, the Local Government Boundary Commission for Wales is an independent body that has a statutory obligation to make recommendations about, as Jenny said, size of wards, ratios, number of members of authorities, and so on. Is it your job to take a decision on what it recommends or is it your job merely to announce what it recommends? I am not quite sure what your role is in terms of this announcement, which you say will be made next month.

[111] **Brian Gibbons:** First of all, we give a broad steer to the boundary commission in terms of what we would like to see. In other words, to put it at its extreme, we could say that it would be our preferred option that every local government ward should be a single-seater. We could say that do not want any single-seaters. We could say that we wanted roughly a councillor for every 1,000 people in Wales, or 2,000 people in Wales. We could give broad headline messages such as that. So, we would send out that sort of general steer. This was written last month, but certainly sending out that steer to local government in terms of the direction in which we would like to travel is very imminent. I am quite happy to answer questions if you want to ask what sort of steer we are giving the boundary commission.

[112] They then report back to us and eventually I sign off the ultimate picture, but clearly there is local consultation and we get representations. I do not think any colleague here has had a recent redrawing of the boundaries in their local communities, but when that takes place sometimes we do get representations from Assembly Members and community councils and so forth on that before we formally sign that off.

[113] **Jonathan Morgan:** I know for a fact that I have a proposal that affects my constituency and Lorraine Barrett's, but it is only a small change.

[114] I would like to follow up Jenny Randerson's point about the nature of any announcement? Given the clear interest that Members will have, a written statement is all very well, but I think that an announcement in the Chamber, if possible, would be preferable from my perspective and, I suspect, that of Members around the table.

[115] You indicated earlier that you might be able to tell us what sort of steer you have given to the boundary commission. Are you able to tell us that?

[116] **Brian Gibbons:** Yes, I think that it is okay. Basically, it is the status quo. The only slight modification that we have put in is that where communities have a sufficiently large population that it makes sense for them to have an individual councillor that should be respected. So, we should not be amalgamating communities to make bigger wards to have three councillors where it really is, in essence, an amalgamation of smaller communities. I think that we want the link, where appropriate, between the individual councillor and their community to be more accountable and more explicit, but that is probably the only real difference. That is really fairly marginal in the overall scheme of things.

[117] **Jonathan Morgan:** When the Secretary of State issued guidance previously there was the reference to the ratio of 1:1,750. Are you going to be addressing that? If you think that the ratio should be as close to 2,000 people as possible, I have a ward in my own constituency, Whitchurch and Tongwynlais, which has an electorate of 12,000 people. There are four councillors there, because in my own area I have 1:3,000. So, on your basis, we would have at least six councillors for that ward, not four. I am curious about this ratio. I know that it is perhaps more relevant for rural areas.

[118] **Brian Gibbons:** I think that you have touched on an interesting point. The number of voters or constituents per councillor in Cardiff and Rhondda Cynon Taf is at one extreme in Wales, and then if you go to places such as Gwynedd it is at the other extreme. I may be wrong, but I think that there are almost as many councillors in Gwynedd as there are in Cardiff. I presume that that is a reflection of the geographical nature of Gwynedd. Given the diverse nature of Wales, it has been very difficult to fundamentally change the present set-up.

[119] By setting the criteria you could, effectively, undermine the governance of certain local authorities. In other words—

10.00 a.m.

[120] **Helen Mary Jones:** If you take Gwynedd as an example, if you did not have that high number of councillors you would have council wards that were more than 50 miles long in some cases. Obviously that would include three or four communities that had nothing to do with each other—well, it may not be that they not did not have anything to do with each other, but they would have very distinct identities and very different interests. So, you have to have some level of flexibility.

[121] **Jonathan Morgan:** Yes. Val has a question on this.

[122] **Val Lloyd:** I am not quite certain what it is that you are saying about this, Minister. To use an example from my own county council, we have some wards that have single members and, at the other extreme, the ward that I live in, as it happens, has five members and really qualifies for six, virtually. So, is that right or are you saying we should be looking to vary that?

[123] **Brian Gibbons:** Yes, within the limits of an upper cap of 75 members. That is, more or less, an absolute cap; you cannot have any more than that. Within that limit then the boundary commission would be looking at your ward and seeing if there is a fair match between the number of electors and the number of councillors.

[124] **Val Lloyd:** The match is there, it is just the size of the ward that is the issue.

[125] **Brian Gibbons:** Yes, absolutely.

[126] **Val Lloyd:** It qualifies for six, really.

[127] **Brian Gibbons:** The boundary commission might say it might be better to have two three-member wards if what you are saying is correct. It could take that view.

[128] **Jonathan Morgan:** Minister, before we move on to the next issue, there is one final question from me on this point. Looking at what you are suggesting to the boundary commission and looking at the wealth of the evidence that has come in, do you think that the recommendations—and obviously I do not want pre-empt the recommendations next month—might have an impact on the nature of parliamentary and Assembly constituencies?

[129] **Brian Gibbons:** No.

[130] **Jonathan Morgan:** Okay. Moving on, I do not know whether Members wanted to ask anything about the local government Measure. Obviously this has been dealt with by the Measure committee, so I was not sure whether Members wanted to raise anything on this. I have one question but I will write to the Minister about that.

[131] We now move on to charter agreements, community and town councils. I have a question, and I think that Helen Mary Jones expressed an interest in also asking about this. You said that community and town councils need to develop closer and more productive relationships with other areas of local government. I presume that by that you mean unitary authorities especially?

[132] **Brian Gibbons:** Yes.

[133] **Jonathan Morgan:** Is it not better to put the onus on the unitary authorities because they are bigger and have greater capacity?

[134] **Brian Gibbons:** I think that there has to be a sort of synergy, does there not? I accept the point that you make that if a unitary authority adopts a very distant attitude towards its town and community councils, it will be very difficult for town and community councils to make a lot of progress. Equally, there are situations in which some unitary authorities are fairly outward-looking towards their community and town councils and those unitary authorities might feel that the town and community councils do not want to know, despite their best efforts. So, I think that both sides have to be party to this new relationship.

[135] **Mr Kilpatrick:** We are aware of the need for unitary authorities to take a fairly active role in this. We will be following up over the next few months with individual authorities the progress that they are making in progressing these charters.

[136] **Jonathan Morgan:** Is there a duty on unitary authorities to consult with town and community councils when issues affect their areas? I would imagine that they do as a matter of course, but is there a duty on them to ensure that those bodies are consulted?

[137] **Brian Gibbons:** In planning, yes, and in almost all cases. In the new Measure, there will be a statutory duty. The community and town councils will be community plan partners, so they will have a formal role as part of the new community strategy development.

[138] **Jonathan Morgan:** Helen, do you want to raise anything on the charter agreements?

[139] **Helen Mary Jones:** I was thinking about the improvement agreements, Chair.

[140] **Jonathan Morgan:** All right. We will move on to that.

[141] **Helen Mary Jones:** This follows on from some of the discussions that we were having earlier, Minister. What I am interested in with the improvement agreements—because I think that they are potentially a very useful tool—is how voluntary they are. If they are voluntary, to what extent do we risk a situation that could, potentially, arise with the local service boards, which we will talk about in a minute, in that, terms of the improvement agreements, are the authorities that make an honest appraisal of their issues and that are prepared to take action on them, the ones who need the agreement with the Assembly Government? Each local authority is better at some things than others; that is natural. I do not want to be hypercritical. However, if you just let the local authorities opt into this, will it reach those local authorities—or perhaps it would be fairer to say those areas of performance

within individual authorities—that might be more of a concern to you as a Government?

[142] **Brian Gibbons:** This is the re-jigging of the old performance improvement grant, and there is £31 million plus in it. If a local authority is not interested in the improvement grant, it does not get the money. If a local authority says that it is not interested', that is fine. We would be very disappointed if they did, but then we will say, 'Clearly, you are not eligible for the improvement grant money and you lose that element of funding that would have come to you had you decided to partake in the improvement grant'.

[143] We work with the Wales Audit Office and use our own local knowledge as well as the integrity of local authorities themselves to identify areas where improvement is needed. This is a tripartite relationship between ourselves, WAO and local authorities and there is goodwill with regard to the improvement agreement, because a lot of work was done to ensure that everybody was happy with the nature of the improvement agreement.

[144] I think that people understand where we are coming from on this. We have had three or four improvement agreements in at the moment. I take this opportunity to congratulate Carmarthenshire on having the very first improvement agreement signed. Hopefully, we will have an opportunity to celebrate that.

[145] There will be a clear identification of the eight areas for improvement. There will be an indication in the improvement agreement as to how we will measure improvement. The payment of the improvement grant will be conditional on performance. So I think that this is a much more sensitive and much better system. What you say is theoretically true, but I do not think we have any reason to say that any local authority in Wales is not approaching this with a very positive attitude to focusing on areas of improvement and to drawing down the money in consequence of delivering against that.

[146] **Jonathan Morgan:** Helen Mary Jones is next, and then Jenny Randerson.

[147] **Helen Mary Jones:** In a sense the Minister has touched on what I was going to ask in his last few sentences, because I understood all the stuff about the money following the improvement agreements. I suppose that what I am concerned about is whether this becomes a resource to make good or rather good local authorities even better and does not get at the ones where you have really serious performance issues. If what you are saying, Minister, is that you have an expectation that all local authorities will participate, obviously if they do then it will work.

[148] **Brian Gibbons:** One interesting innovation in the improvement agreements is that if a local authority does not improve, it does not get the money, but that money in the first instance is then used to deliver improvement in that failing service area. Now, I do not think that we have actually done that in practice, so we do not know precisely how that will happen. What, effectively, will happen is that if improvement is not delivered against the improvement agreement, the first call on that money will be to try and deliver improvement in that identified weak service area.

[149] Local authorities will therefore probably lose control of the money, but the service users or citizens of that local authority will not be financially penalised because of the under-performance of the authority. It is that just somebody else will take some sort of responsibility to deliver the improvement that has been identified. In the improvement agreement, we want important areas to be picked out as areas for improvement. We do not want trivial areas that do not make any difference. So, hopefully, in this mechanism there will be greater accountability for areas of under-performance. There will be a clear financial reward for delivering, and there is a mechanism in place if there is failure to deliver improvement.

10.10 a.m.

[150] **Jenny Randerson:** I want to raise something, Chair, which is not in the report but this is the best place to raise it. Is that all right?

[151] **Jonathan Morgan:** That is fine.

[152] **Jenny Randerson:** Something was said to the Committee on Equality of Opportunity recently about a group set up to improve diversity in local authority representation.

[153] **Brian Gibbons:** Yes.

[154] **Jenny Randerson:** Can you tell us about it, please?

[155] **Brian Gibbons:** There was what was called a Councillors Commission established in England about three or four years ago, I suppose. It reported back to Westminster on improving the status of councillors, better valuing of public representatives, what we should be doing to get more people willing to step forward to be public representatives, and so on. Although that was not a Welsh study, we thought that the lessons were relevant to Wales. So, on the back of that we have set up an expert committee, which will, effectively, study that report to Westminster and try to apply it to the Welsh situation. I do not have the full list with me of the people who are on it, but there are probably about eight to 10 people on this expert group. They are coming to the end stages of their report and then they will present a report to us with a series of recommendations to improve the standing and valuing of councillors and to improve participation and so on. I presume that that is what you are talking about.

[156] **Jenny Randerson:** Yes. Minister, my party and I are deeply disappointed that no Liberal Democrat was asked to be a member of that group. There is an independent on it, a member of Plaid Cymru, there are lots of members of the Labour Party, there is a Conservative member, but there is no Liberal Democrat on that group. Not only do we control three of the largest conurbations in Wales, but we also have an excellent record, as a party, of having young councillors. We have a whole host of councillors in their 20s. We also have two of the Muslim councillors in Wales, so we are extremely good at attracting in a new range of councillors. I think that you could have done with our advice on that group.

[157] **Brian Gibbons:** I am surprised at that. We are aware of this issue, but we are surprised that the Welsh Liberal Democrats were not able to engage because we did actually contact, I think it was the chief executive of—

[158] **Jenny Randerson:** Yes, the chief executive before the one before last.

[159] **Brian Gibbons:** Okay, but we understood that the chief executive or the one before or the one before the last one was actually the current one.

[160] **Jenny Randerson:** That is not difficult to find out.

[161] **Brian Gibbons:** We did make an attempt. Certainly, the accusation that the Welsh Liberal Democrats were deliberately squeezed out is not true.

[162] Equally, there was considerable engagement with the Welsh Local Government Association on this. As you point out, the Welsh Liberal Democrats are big players in the WLGA and it does amaze me that as part of their participation in the WLGA they were not aware of this. It begs the question as to why the Welsh Liberal Democrats were not more informed about what was going on in the WLGA and did not pick this up earlier. However, I do not want to make a party political point.

[163] **Jonathan Morgan:** I think that this point has been actively pursued and an answer has been given.

[164] **Jenny Randerson:** I shall pursue it elsewhere.

[165] **Jonathan Morgan:** I am sure that the Liberal Democrats can find another way of raising the issue with the Minister outside of this committee's proceedings.

[166] Moving on to the substance misuse strategy, I am conscious of time but I know that there were some issues to raise over this. I will just kick off with two brief points, Minister. My interest in this is more in relation to the misuse of alcohol. I know that drugs are a huge issue, but in terms of alcohol consumption how do you define misuse?

[167] **Brian Gibbons:** That is a good question. In purely medical terms, there is a continuum from minimal adverse effects through to pretty catastrophic effects. I suppose that in that sense everybody is at greater or lesser risk, the only question is the degree of risk. Perhaps more relevant to this particular paper is the issue of people consuming alcohol in a way that puts themselves, their families or their communities at risk of harm.

[168] **Jonathan Morgan:** In 2006, the Office for National Statistics reported a 40 per cent increase in the number of 25 to 40-year-olds dying from liver disease. Clearly, there is an issue here and, sadly, there are various parts of Wales that are cited as being part of this 'binge Britain' drinking culture. Do you think that the Assembly Government ought to be able to reform the licensing laws so that local authorities can have a greater ability to say 'no' to new licensed premises, and to, in a way, better plan our town and city centres? The classic example in Cardiff is St Mary Street. The First Minister talks about the 'café culture' that should be imported into Britain, but given the way in which our local authorities are able to manage our town and city centres, they are not able to say 'no' to licensed premises in the way that perhaps can be done elsewhere. Are you looking at this as a way of perhaps addressing this issue?

[169] **Brian Gibbons:** There are two things there. The UK Government is, I think, in the final stages of putting forward a range of new proposals in relation to the management of alcohol outlets in Wales. Our understanding is that the regime is going to be toughened fairly considerably, and certainly some of the bad practice in almost forcing alcohol on people will be tackled in that. We await the final details, but I think that those details are imminent and will certainly represent a welcome tightening up of the regime. We await the details of that. Jo may know exactly when we will find out the details.

[170] For us as an Assembly Government, the legislation specifically excludes licensing from devolved administrations. That has been of concern to us and we have indicated that we would be interested in seeking powers over licensing in Wales. Again, this is something that we have been looking at in the last six months because we would agree with everything that you said about alcohol. It is a growing problem. It is causing tremendous problems to individuals, to communities, and to families. I think that there is the beginning of a growing awareness of the damage that alcohol is doing, but it is only in probably the last 12 or 18 months that we have been beginning to acknowledge that. That awareness is growing, and I think that we are probably at the start of a journey in which all government agencies and other organisations will have to review their attitude to alcohol.

[171] We have to be much more socially responsible. There is a place for alcohol in our society; we are not proposing prohibition or anything like that. There is responsible use of alcohol, and there are many social reasons why we would not want to be looking at prohibition or anything as drastic as that. Having said that, problems with alcohol are of major

concern to us. We are very determined to work with the UK Government to try to push forward on this so as to try to reverse the precise problems that you have enunciated yourself.

[172] **Jenny Randerson:** A couple of weeks ago I asked the First Minister a question in the Chamber about the crisis in addiction services in Cardiff. His answer was, 'The Home Office has withdrawn its funding and that I would not expect the Assembly to pick up that funding, would I?' I think that there is a major issue here about the interface between the Assembly's funding and the Home Office funding, but my question to you this morning is: is that a particular problem only in Cardiff or is it a problem elsewhere in Wales?

10.20 a.m.

[173] **Brian Gibbons:** I know that you have also raised this before with me. Certainly, there is a problem in Cardiff, in my view, and perhaps in one or two other areas, but the problem is not as extreme in other parts of Wales as it is in Cardiff. Given my awareness of the problem and, indeed, because of the fact that you have raised this previously with me, I have made further inquiries about it. It is probably better to ask Jo, who would provide me with advice on this, to give you a bit more information.

[174] **Ms Jordan:** There are couple of things in relation to Cardiff. We had discussions with the Cardiff community safety partnership over the allocation of funding this year. It wanted to take money that we had provided to provide extra substance misuse services in Cardiff to support a project that had previously been funded by the Home Office. That was one issue in Cardiff. It is certainly not the only one.

[175] There are a number of things happening in Cardiff. First of all, while there are some people who are waiting a very long time for treatment in Cardiff, the average waiting time to access treatment is 13 weeks. So, there are only a few individuals who wait much longer for treatment, and that is usually according to clinical need and priorities, and the trusts take the decisions on who gets access when.

[176] It is true to say that Cardiff has had significant additional funding over the last few years. Since 2004-05 we have practically doubled the funding that has gone to the Cardiff community safety partnership to tackle drug and alcohol abuse in the capital. A large amount of that money has been invested in Cardiff's addictions unit, CAU. I think that it is now receiving over £1 million a year.

[177] There is some other work that we are doing with Cardiff to look at the working practices in the CAU and how it can operate more efficiently and get best value for money. We have done some comparison work with similar operations in Plymouth and Bristol and the report is about to go to the Minister and to the partnership on that about how you manage people through the system and do not hold so many people in a highly specialised treatment setting for so long. As people become more stable and are coping better with their addiction, you can find other ways of treating them. So, that work is going on.

[178] One of the other things in Cardiff has been the constraints on the premises that the unit operates out of in Cardiff Royal Infirmary. We have been working with the partnership locally to find some additional premises. Yesterday I approved a capital project for £220,000 that will allow the conversion of a building within Cardiff to allow probably an extra 100 people to access treatment there. The unit has been operating out of the day care centre or the out-of-hours surgery. So, there are a number of things going on to help Cardiff.

[179] The issues over Home Office funding and displacement do arise occasionally elsewhere in Wales and we have similar discussions with the partnerships in those areas. They need to think very carefully about the prioritisation of their funding and how they are moving

money between different funding streams. So, we do challenge it wherever it happens.

[180] **Jonathan Morgan:** Thank you. Irene James is next.

[181] **Irene James:** The Minister has already answered my question in his response on the inappropriate availability of alcohol. However, I would just like to say that in the village where I live, which is nowhere near the size of Cardiff, we have seven premises that are licensed to sell alcohol, including the local chip shop and the chemist, which I find appalling.

[182] **Jonathan Morgan:** The local chemist? That might be an issue that we will want to return to at some future point, I suspect.

[183] **Brian Gibbons:** In fairness, it is not unusual in smaller communities that the chemist will have a little—

[184] **Jonathan Morgan:** Okay. Are there any other points that Members wish to raise on the Minister's paper? I am conscious that I have allowed this to run over time, but there were so many issues that people wanted to raise.

[185] **Ann Jones:** I will write to the Minister, thank you.

[186] **Jonathan Morgan:** Okay. My thanks to the Minister for the general scrutiny session.

10.24 a.m.

**Ymchwiliad y Pwyllgor i Graffu ar Lywodraeth Leol: Tystiolaeth gan y  
Gweinidog dros Gyfiawnder Cymdeithasol a Llywodraeth Leol  
Committee Inquiry into Local Government Scrutiny: Evidence from the  
Minister for Social Justice and Local Government**

[187] **Jonathan Morgan:** We will now move to the final item on the agenda, for which the Minister will remain with us. The Minister will be aware of our inquiry into the arrangements for scrutiny within local authorities in Wales, and of how local authority members of scrutiny committees and others are supported in scrutinising the executives of their authorities. We have had a very productive inquiry, visiting a number of authorities and also taking evidence here.

[188] We have had paperwork from you. I think that we will just proceed with the questions. I also welcome Frank Cuthbert, who came to the committee a few months ago to give evidence to this inquiry. It is a pleasure to see Frank with us this morning. Minister, I think we will just proceed.

[189] Looking at your paper, you refer to the proposed reforms that cannot be implemented in Wales until we acquire legislative competence. The Local Democracy, Economic Development and Construction Bill announced in the Queen's Speech contains framework powers. How soon does the Minister expect these powers to come into force, and has he given any thought to what an Assembly Measure might look like to implement what he wishes to achieve?

[190] **Brian Gibbons:** Tomorrow, I am going up to the House of Lords—

[191] **David Lloyd:** So soon? [*Laughter.*]

[192] **Jonathan Morgan:** I do not think that the Minister has been elevated—not yet, at



any rate. [*Laughter.*]

[193] **Brian Gibbons:** I am going to the House of Lords to be subject to scrutiny by their lordships on the Welsh dimensions of this piece of legislation. I think that that scrutiny by their lordships is the start of the legislative process. So, depending on the timetable in the House of Lords and the House of Commons, hopefully, the legislation will get through within about 12 months. Will it take that long? Will it be more like nine months?

[194] **Mr Cuthbert:** We would expect it to be made by the summer recess of next year.

[195] **Brian Gibbons:** Yes, so we would then hope to be able to put Measures in place at the following sessions. I think that we have a fair idea of what we want to achieve. It has been outlined in a shared responsibility, which was published even before the Assembly started. So, I think that the direction in which we want to travel has been pretty well flagged up and this is just an opportunity.

[196] It has been difficult because of the jagged interface between policing and devolved functions, and that has been at the heart of why it has taken us so long to get to where we are, to be honest.

[197] **David Lloyd:** I just want to focus back on our local government scrutiny inquiry here, particularly as regards the evidence that we have taken on Cardiff Local Service Board's scrutiny arrangements. In October, we had a paper from officials, which said,

[198] 'The Assembly Government applauds this model and has financially supported its development'.

[199] Now, the Minister's paper before us today on the same point says,

[200] 'The Assembly Government commends this model as an example of how local government scrutiny could be adapted to the LSB scenario and has financially supported its development'.

[201] Other than in grammar terms, is there any significance to the change of wording between 'applauds' and 'commends', or have you had any second thoughts about it?

[202] **Brian Gibbons:** Which is the good—?

[203] **David Lloyd:** Yes, exactly, that is the question. Is there any significance to the change of wording, or is it merely a reflection of your bardic personality?

[204] **Brian Gibbons:** No. I think that, in many respects, Cardiff is developing a very interesting form of governance arrangements for joint working. I do not know whether you have details of it, but it is interesting that, for example, Neath Port Talbot, which also has an excellent record on partnership working, is interested in trying to transpose the lessons from Cardiff to Neath Port Talbot. So, no, the Government is fairly positively disposed towards what is being done in Cardiff.

[205] **Val Lloyd:** Minister, my question is on the scrutiny development fund. [*Inaudible.*—indicated that a £100,000 scrutiny development fund had been launched and you had attracted 10 successful bids. It also told us that projects must start in this financial year, and will take up to five months to deliver, and that you would be thinking about operating a further fund next year.

[206] However, in your paper, on paragraph 10, you indicate that some of the projects are

under way and will be evaluated next year, but you have already decided to invite a second round of bids in the spring. So, could you let us know, please, why have some of the approved projects not yet started? Are they still on schedule to be completed in this financial year?

[207] **Brian Gibbons:** Yes, I think that they are all on schedule. We hope to have another round of bids next year, but they are all on schedule at the moment, are they not?

10.30 a.m.

[208] **Mr Cuthbert:** Our approval process was a little slower than we expected it to be at first, with the result that local authorities did not know until September whether they would attract some funding. We said to them that we were thinking of five-month projects, and we were content as long as they started during this financial year. We would not expect to continue funding an existing project, if it were considered necessary for it to last a longer period, without having seen the results of the first round.

[209] **Val Lloyd:** In the paper, you say that ‘some’ are under way rather than all of them, as anticipated.

[210] **Brian Gibbons:** Yes. The paper was written—

[211] **Mr Cuthbert:** They will all be under way by the end of the financial year. I would think that it is probably about 50/50 at the moment.

[212] **Brian Gibbons:** I think that the paper was written four or five weeks ago.

[213] **Val Lloyd:** You have not done the evaluation yet, and I hear what you say about existing projects progressing—or, rather, not progressing. What factors led you to invite the second round of bids, and what funding will be available for the second round?

[214] **Mr Cuthbert:** I do not think that the budget is entirely finalised for the second round, but we hope to have a similar-sized fund, about £100,000, for 2009-10. We have a small group that reviewed the bids in the first place, and the Centre for Public Scrutiny and the Welsh Local Government Association are on that, along with us. We are meeting again in January to talk about the evaluation process and the second round of bids. So, after that, I will be able to tell you a bit more about precisely the sort of timetable that we will work to.

[215] **Irene James:** A key finding of the Local Government and Public Services Committee’s report of 2004 was that there was a problem for some local authorities in adjusting to a culture of scrutiny. To what extent do you believe that the culture of local authorities has changed since 2004 to allow for more effective scrutiny? Would you agree that, while there has been an improvement, it has been very mixed across Wales, with some local authorities finding it more difficult to change than others, and even a minority of individuals within some authorities being quite hostile towards the process?

[216] **Brian Gibbons:** That is a fairly accurate summary of the situation. It is probably too early to say what the consequences of the intake of new members following May’s local government election will be, but a tremendous number of councillors came into local government and were brought up in local government on the old committee structure. A significant number—certainly a significant minority, anyway—found the transition to executive-style cabinets at local government pretty difficult and some were, as you say, hostile to it.

[217] My own view from going around talking to councillors is that people are more aware of the importance of scrutiny and of holding the executive to account. I think that that change

is taking place, but there has been a fairly significant change in the make-up of and the control in local authorities since May.

[218] It is still a bit early for me to give a definitive view as to what that means in attitudes to scrutiny and so forth, but I would anticipate that, as new people come in, the only world of local government that they know will be the executive arrangements. They would find it less difficult to accommodate the new arrangements, while there will be fewer people who served on the old committee set-up round and so less hankering after the past, if you like. I do not know whether Frank has anything to add to that.

[219] **Mr Cuthbert:** I think that you have covered it, Minister. I would just say that, in general, confident local authority leaders allow scrutiny to flower, and, where they are less confident, they are not so happy about it. I cannot imagine anyone being worried about scrutiny, personally.

[220] There is also a problem that, in some of the smaller local authorities, the resources that are available to staff and support scrutiny leave something to be desired. We would like to see that improved, if at all possible.

[221] **Jonathan Morgan:** Looking at the previous Local Government and Public Services Committee's report, there was a very clear recommendation that we should see dedicated officer teams, effectively, separate from the executive, who could provide that support to members of scrutiny committees, and not just supporting the chair and vice-chair of the committees, who tend to get a lot of support, but also other members. What progress has been made by local authorities in achieving that particular recommendation of the committee that Ann Jones chaired?

[222] **Brian Gibbons:** The guidance is there, but, if we are honest, we would have to say that progress has not been very dramatic. There has been gradual, incremental change all right, and we would hope that the new legislation that will come in over the next 18 months to two years will allow local authorities to revisit this. Clearly, the debate that will take place around governance, scrutiny and accountability as the Measure goes through its legislative process will sharpen minds about the importance of this.

[223] Looking at a number of the Wales Audit Office reports to local authorities, we see that they do flag up—as Frank said—how important scrutiny is for quality assurance. It would be fair to say that when Cardiff had a difficult time with its social services department, there was a genuine acceptance that the scrutiny process had contributed to the improvement that has since taken place. There is also no doubt that the scrutiny process contributed significantly to the improvement in Blaenau Gwent. I do not know the situation in Swansea at the moment, but as a catalyst to holding the authority to account, not just for service failure but also for holding the executive to account on service improvements, it has been useful in several of the local authorities that have succeeded in making a fairly impressive transition from very poor performance to acceptable levels.

[224] **Jonathan Morgan:** I can understand why you want to pursue a legislative route to ensure that the scrutiny arrangements are improved, but do you think that there was a failure of planning by Government when local authorities moved away from the old committee style towards this split between—for want of a better term—executive and legislative? Understanding that substantive move should have necessitated a degree of planning, to ensure that support for scrutiny was put in place at the earliest opportunity given the way in which the model altered. Why did that not take place? It seems like the most incredible failure on the part of Government not to ensure that that plan was put into action.

[225] **Brian Gibbons:** It was an evolving model and you may remember that we had

certain models back in 1999, when the Assembly was established, and, over a couple of years, we gradually moved away from the initial expectations. One thing that Irene, I think, touched on was the interesting study done about three or four years ago by Cardiff University, on councillors, and the role and attitudes of councillors. From asking councillors their view of what they should be doing, the thing that came out quite strongly was that, remarkably, the scrutiny role was at the bottom of the list. A lot of councillors did not see it as part of their responsibilities to be involved in scrutiny, first, but, secondly, a lot of them felt ill equipped to do it, and were just not interested.

10.40 a.m.

[226] The point that you make about the structures and the support is fair, but whether those sorts of changes would have had the fair wind of political support at a local level at that particular time is debatable. Councillors might be asking, ‘Why are we bothering to spend money on this sort of thing, which a lot of us are not convinced about, when we should be spending money on education, or roads, or whatever?’, so, in retrospect, maybe what you say is true, but, at the time, you could only go so far so fast.

[227] **Helen Mary Jones:** In the interests of brevity, I can probably roll both my questions into one, because the Minister has answered the first one.

[228] Minister, you said something about councillors themselves not understanding their roles, but, putting that to one side for a minute, where there is evidence of resistance to independent support for scrutiny, is that coming from the political executives of councils or from senior officers? Is it a bit of both, or does it vary?

[229] **Brian Gibbons:** It exists at all levels. As Frank said, I am sure that there are some local authorities that are—and I am trying to find the right words—very politicised, and where there is a clear view of what the local authority wants to achieve, which is driven by a political agenda. In that case, the officials in that authority are more accountable to the political sense of direction. Where that political leadership, in a defined sense—maybe at a party level—is not as strong, I would have thought that the balance of power would be more towards the officers than the elected members. That is the nature of the beast.

[230] So, there may be circumstances in which the full-time officers of a local authority are more used to informing the policy-making process, let us say, than others. In other places, where there is a strong political drive to deliver certain changes, some of the political leaders take the view that they have a mandate from the electorate to do it and so they do it. They do not want scrutiny officers or anybody else telling them what to do or double guessing that electoral mandate. That would be manifested in some local authorities by councillors saying, ‘No, we will not give the chairs of scrutiny committees to anybody but members of our own party, because we have a political mandate from the people to deliver a certain set of policies, and we do not want opposition parties trying to undermine that electoral mandate by using the scrutiny process to drive us off track’, and so on.

[231] Equally, some opposition parties in local authorities take the mirror-image opposite view. They think that, if that party won the election, let them sink or swim and we will not help them. If they cannot deliver, that will be a reflection of their bad policies, or their political incompetence, so why should we help them out of a sticky spot when they are not capable of delivering government? Let the electorate judge rather than our trying to help them out through the scrutiny process.

[232] So, it is a very complex picture, and I do not think that there is a single answer that deals with the full complexity of the situation across Wales.

[233] **David Lloyd:** We have had evidence that the Assembly Government should consider how to build up a cadre of officers to support scrutiny across Wales, perhaps by establishing a school of scrutiny or by developing a clear career path for scrutiny support officers and committee clerks. How would you view such a suggestion?

[234] **Brian Gibbons:** I think that that has merit. A lot of this work goes on through the WLGA. As a corporate body, the WLGA recognises the importance of scrutiny and expertise, and so that is the view that we would take. I do not know whether Frank has anything to add. On the officer level, I do not know whether any work is going on outside the political arena to enhance the career path of scrutiny support officers.

[235] **Mr Cuthbert:** There is certainly a lot of work going on to try to educate and develop a cadre of scrutiny officers across Wales. I go as often as I can to meetings of the scrutiny champions networks, which the WLGA brings together. There are three of them across Wales. You see an excellent transfer of knowledge at those meetings.

[236] On career opportunities, over the past year or so, I have witnessed more scrutiny officers from one authority moving to a different local authority and staying as scrutiny officers where it has involved a promotion or where there has been some salary increase for them. I think that that is a healthy development.

[237] On the career opportunities within local authorities, the problem is that, until and unless you get a situation in which scrutiny departments are very large, like in Cardiff council—and that is unlikely in most authorities—or where there is some sort of arrangement such as that is in the Assembly, where Members' services are separate from those that support the Executive, career paths will almost always involve going from a scrutiny role into some other council department.

[238] **David Lloyd:** I will just move on to the next question on funding for scrutiny, which Frank touched on earlier. Do some authorities need more help to fund dedicated and independent support for scrutiny? If so, should funding for the scrutiny function be ring-fenced within the councils' own budgets, or should funding be top-sliced from the local government settlement to provide a central independent resource for scrutiny?

[239] **Brian Gibbons:** There is a mindset on this, and scrutiny is about delivering better services. If scrutiny is just about people passing the time of day because they cannot think of anything better to do, it is clearly not good value for money. The presupposition behind all this is that effective scrutiny will lead to greater democratic accountability, to better service delivery, and to service improvement. So, scrutiny should be looked at as an investment in the improvement agenda.

[240] Like everything else in public services, the best performance certainly is not correlated to the amount of money that is made available to local authorities on a global level. I do not think that an argument could be made that we need to be setting up special funding streams for this. Any local authority that is committed to the improvement agenda really should be looking to have effective scrutiny in place, because that is part of the improvement agenda. It is an investment in quality and it is an investment in its own future. That would certainly be the view that I would take of it, anyway.

[241] **David Lloyd:** So, you do not hold with the view that there should be any dedicated funding, or is the joy of scrutiny, as Frank said, enough? [*Laughter.*]

[242] **Brian Gibbons:** The joy of scrutiny is probably worth it for its own intrinsic, aesthetic beauty. [*Laughter.*] We know that good, progressive local authorities are putting scrutiny processes in place in many instances because they recognise that it is an investment

in improvement. Really, we should not have to be continually incentivising people to improve. Improvement has to be a core function of every public service organisation.

[243] **Jenny Randerson:** If you do not want separate funding, do you think that the Government needs to revise or strengthen the 2006 guidance to ensure that all scrutiny committees have dedicated support?

[244] **Brian Gibbons:** Yes. I think that it will follow from the legislation. Hopefully, one of the effects of the legislation will be that people realise that scrutiny will enhance the democratic process and performance, and that its status and standing in local authorities will improve.

10.50 a.m.

[245] If we get the powers, one proposal in any Measure would be to broaden the scrutiny base so that community councils can partake in scrutiny in the unitary authority. Maybe even third sector organisations or business representatives could be part of the scrutiny. Hopefully, not only will there be an internal awareness of the importance of scrutiny as part of the quality agenda, but the democratic demand for more effective scrutiny will build up outside in civic society as well, so, by the time a Measure is enacted here, the importance of the scrutiny process will not be just something internal in an organisation; local authorities will feel the need to do it, because they will feel as though their key stakeholders are asking for it as well.

[246] **Jenny Randerson:** So, for absolute clarity, Minister, do you think that the role of scrutiny officers should be dedicated and independent of the rest of the council, and that they should not be doing two jobs?

[247] **Brian Gibbons:** Ideally, yes. The only proviso I would give to that, which Frank touched on, is that there are probably some very small local authorities in Wales that might raise an eyebrow at that. Maybe the answer to that is that you share an officer with two functions, so that two small local authorities could share the expertise of an independent scrutiny officer. That might be preferable. With just the caveat that maybe one or two local authorities could not afford the full luxury of that, largely, I share your view.

[248] **Jenny Randerson:** Moving on to whipping, do you believe that the current arrangements on whipping in scrutiny committees are working, and why do you intend to legislate to prohibit whipping?

[249] **Brian Gibbons:** I said that in response to an earlier question, in the sense that different political groupings in different local authorities have fairly clear views as to what their mandate is from the election result. Is it to form an administration and to drive the administration's manifesto commitments forward, or is it to oppose the executive because that is the result of the election? So, it certainly is arguable and I can understand the argument that whipping is a logical continuation of that perspective.

[250] Our view is that that is certainly an arguable and defensible position, but there is a case for corporate improvement in local government, and that is probably hindered by whipping. While there is a political division arising from the electoral result, it would probably be preferable to have a dynamic or creative tension between the executive and backbenchers. Whipping is not conducive to that corporate challenge and corporate scrutiny. I am sure that we will return to this with some vigour as the Measure proposals come forward. I am sure that there will be a debate on the various points of view as to where the balance should be on this in the future.

[251] **Jenny Randerson:** Do you need to legislate or would strengthening the guidance do

that? How widespread is the problem?

[252] **Brian Gibbons:** We have the guidance at the minute, and we do not have definitive proof, because there is no way in which we can find out what is going on in individual groups or how groups operate internally. There is certainly some anecdotal evidence to suggest that, when push comes to shove, groups have at least informal whipping, let us say. Whether three-line whips are used in scrutiny committees, I do not know, but there is some anecdotal evidence to suggest that, in certain key areas, parties rally around the standard. When it comes to holding the executive to account, party loyalty and supporting or opposing the party in control probably requires greater loyalty than holding the executive to account. We can understand where that comes from, and so, anecdotally, whipping probably does go on to a greater or a lesser extent, some of it informally, through peer pressure and so on.

[253] **Jonathan Morgan:** Before I bring Helen Mary Jones in, I want to reflect on the point that you made about scrutiny getting better when new councillors are elected who want to make their mark. I often find that loyalty to a political party gets weaker if people have been members for quite a long time. They get to a point at which they are really not too fussed about their political loyalties anyway and are quite happy to make a nuisance of themselves through scrutiny. I can say that with some confidence, having looked at some of my colleagues in Cardiff.

[254] **Helen Mary Jones:** To play devil's advocate here, you are proposing to legislate to prohibit something that we are not even sure exists to any great extent. I am not sure that you can do that. If you have people elected on a political programme—and I invite you to consider what happens here—I can see how you could legislate, for example, to say that committee chairs should always be from political groupings not represented in the executive, although that might be difficult to do where you have all-party boards, or you could say that the chairs should come from a proportional representation of parties, which could have a very good effect. However, I am not quite sure why whipping is disreputable in local government and perfectly acceptable and normal in national Government. For example, those of us who are backbencher Members of the two parties in the coalition Government will hold Ministers to account in scrutiny committees such as this. We will arguably give you a hard time on occasion, but, when it comes to key votes, as Ministers in the Government, you expect our support.

[255] What I am trying to argue is that you cannot legislate against whipping, because if you do you will just drive it underground, effectively. One reason why we do not know whether there is whipping is because most whipping systems in local authorities are pretty informal anyway. Sometimes, you get very formal group meetings where this is the line, and that is that. I am just not sure. It comes back to the simple question of why whipping is okay in national democracies where it is seen as allowing effective scrutiny to take place from backbench Members of the same party as the Executive, but it is considered somehow disreputable at local government level. I am playing devil's advocate here.

[256] **Brian Gibbons:** Yes, but I think that the whipping is entirely legitimate in the council chamber, for example, and nobody is saying that, if the executive has a democratic mandate, people who take a critical attitude towards it as part of their scrutiny role would not then vote for the executive in the council chamber. We do that here. The assumption is that people would always be trying to undermine the executive in one direction, but I do not think so. Let us suppose that a party was elected on a particular manifesto. There is no reason why the scrutiny should not be to ensure that the party adheres to its manifesto. The assumption very often is that the scrutiny is about the party drifting away from its manifesto commitment, so it would be entirely legitimate for a backbench Member of a party to be scrutinising the executive as to why it is not adhering to the manifestos or commitments that it gave to the people.

[257] I think that the scrutiny process is not necessarily about creating some oppositional consensus in the scrutiny committee; the scrutiny committee could have legitimate differences of view. Somebody on the opposition benches could be scrutinising it from the point of view of something being a bad policy, while a backbencher from the dominant party would scrutinise legislation from the point of view of believing that it is a good policy and question how it could be implemented more effectively and more quickly. So, I think that more thought needs to be given to the detail of this, but maybe the criticism is that, at national level, however you define it, whipping is a bad thing. We should not be saying that they are right and we are wrong.

[258] **Helen Mary Jones:** I will hold you to that. [*Laughter.*]

11.00 a.m.

[259] **Jonathan Morgan:** We need to make some progress, as I am conscious of the time. Irene James has two questions to ask.

[260] **Irene James:** We have heard mixed messages about training opportunities. There has been praise for some provision, but there has also been criticism that perhaps those who most need the training are least likely to get it. Are you satisfied that sufficient training opportunities are available for members of scrutiny committees?

[261] **Brian Gibbons:** Whether there are enough training opportunities, I do not know, but is the situation improving? I think that the answer is clearly ‘yes’, given individual local authorities new members’ induction training, the work that the WLGA is doing, and the new culture that is, hopefully, emerging in local government. This is regarded as part of the core duties of local government. We are very much on a journey, and we have certainly not arrived. I think that that would be a fair comment. As always, the picture is uneven with very little being done in some local authorities and others making a relatively big investment.

[262] **Irene James:** Are you aware of any resistance to training?

[263] **Brian Gibbons:** No, I am not. The question would be how much we put into it, and some put in a minimum amount and others are quite enthusiastic.

[264] **Irene James:** Do you have any evidence on the quality of training?

[265] **Mr Cuthbert:** No. [*Laughter.*] We have an idea of some of what takes place. It is an issue and the WLGA is far better placed than we are on this. At least two of the scrutiny development fund projects are aimed entirely at the training and development of scrutiny members in the authorities concerned. So, we think that it needs doing and that it needs improving. It is going on, but do we have concrete evidence about it? No, I am sorry.

[266] **Irene James:** Do you intend to look for concrete evidence? Unless you know the quality of it, how can you judge whether it is worth doing?

[267] **Mr Cuthbert:** Well, part of the funding that the WLGA receives from us is aimed at member development, so it should feed back to us on the outcomes of that and the success of that, and we would follow it through that way.

[268] **Ann Jones:** On call-in procedures, Minister, the Wales Audit Office tells us that there is a variation in the practice and use of call-in procedures, which it attributes to the way in which the Act and the guidance are interpreted. The auditor general reckons that there is a strong case for putting it right and that some sort of guidance would be useful. Will you



consider strengthening or clarifying the guidance on the use of call-in procedures?

[269] **Brian Gibbons:** Yes, the use of the call-in procedure is very much a factor of the local political culture in individual local authorities. As part of the Measure, hopefully, when we get the powers in that regard, the whole guidance will have to be revisited. Certainly, the role of the call-in procedures will have to be looked at. Indeed, part of what is proposed in the Measure is new measures such as petitions, and community calls to action, which will bring new dimensions to all of this. So, the guidance will have to involve a fairly root-and-branch revision.

[270] **Ann Jones:** Okay, thank you.

[271] **Jenny Randerson:** In relation to the Measure, do you propose to use it to place a requirement for a scrutiny function on local authorities in Wales, similar to the way in which the English district councils have had such a requirement put on them—or are at least in the process of having it?

[272] **Brian Gibbons:** There is not a direct analogy. We are unitary. I suppose that we have some pretty small unitary authorities, but some of the districts in England are pretty small as well, with a limited range of functions. I do not think that there is an easy read-across but, in any event, it is our expectation that the executive should be held to account more effectively. From what you have said, the proposal in England that the executives should be held to account more effectively is at district level. So, it would seem as though the districts are going in the direction that we have already arrived at.

[273] **Val Lloyd:** My question is on the scrutiny of external bodies. We heard in evidence a week or two ago that some such scrutiny had been going on but not a great deal of it. The concern of those who did not participate in it was that it would interfere with the good working relationship, which was why they did not want to do it. So, what do you think about that? Would you encourage the scrutiny of external bodies?

[274] **Brian Gibbons:** What we hope will emerge from any Measure is that local democratically elected councillors could have a scrutiny role on all the devolved public services in their area. I think that that would enhance the role and relevance of local authorities, because there is a certain centralisation taking place—in the health service, for example. Whatever the pros and cons of local health boards, one of their big strengths was that their local stakeholder board would be a means of tapping into local concerns. Clearly, it will not be possible to do that in the same way in the new NHS bodies, but there would be no reason why that sort of accountability could not be exercised through the local authority, if there was support in the Measure, maybe even with the local authority co-opting some key stakeholders onto the scrutiny boards of the other public services in their area.

[275] **Val Lloyd:** Thank you for that comprehensive reply, Minister. Could I just move on to collaborative scrutiny working between local authorities? We have heard in evidence given to us that there are some good examples, but such practice certainly is not widespread. It is all very minimal. Do you think that there should be more of that and, if so, how could you promote it?

[276] **Brian Gibbons:** The work that is going on in Cardiff, promoting collaborative scrutiny, is very good. As I think I mentioned earlier, that is going on and is, hopefully, being transferred to Neath Port Talbot. Equally, Carmarthenshire is developing fairly good collaborative scrutiny between the health service and local authorities, through the community health council working with the local authority. So, there are some starts, but the three examples that I can give you are probably at the limit of what is going on. We are going in the right direction and I commend, even applaud, those local authorities.

[277] **Val Lloyd:** You touched on this a bit when you answered Jenny's last question, but do you think that voluntary organisations should be involved?

[278] **Brian Gibbons:** In developing scrutiny, I am sure that it will be a matter of debate to decide where the balance is to be drawn between democratically elected representatives who have a mandate from the people and stakeholder groups who have a role in the scrutiny process. In principle, we think that there is certainly a role for stakeholder groups in the scrutiny process, but we will have that debate in greater detail later.

[279] **Jonathan Morgan:** Thank you, Minister. Are there any other questions to ask the Minister? I see not. Thank you, Minister, for attending this morning. We are very grateful to you and to your officials.

[280] Before we conclude our proceedings this morning, I just want to place on record my thanks to Steve George, Catherine Hunt and Ryan Bishop for all the help that they have given the committee in the past 12 months, as well as to the Members' research service for their excellent briefing papers and assistance. We have had a very productive 2008, and I thank all committee members for their effort and hard work. As Chair of this committee, I believe that you represent excellent value for money, regardless of what some other people might have said to the media in the past seven days.

[281] Finally, I wish you all a very happy Christmas. This committee will next meet on 15 January 2009. Thank you very much indeed.

*Daeth y cyfarfod i ben am 11.09 a.m.  
The meeting ended at 11.09 a.m.*