



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

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

**Dydd Iau, 8 Gorffennaf 2010
Thursday, 8 July 2010**

Cynnwys
Contents

- 4 Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions
- 4 Y Wybodaeth Ddiweddaraf gan y Gweinidog dros Gyfiawnder Cymdeithasol a
Llywodraeth Leol am Roi Argymhellion Adroddiadau ar Waith
Update from the Minister for Social Justice and Local Government on Implementation
of Report Recommendations
- 13 Y Wybodaeth Ddiweddaraf gan y Prif Weinidog am Roi Argymhellion Adroddiadau ar
Waith
Update from the First Minister on Implementation of Report Recommendations
- 26 Y Wybodaeth Ddiweddaraf gan y Gweinidog dros Iechyd a Gwasanaethau
Cymdeithasol am Roi Argymhellion Adroddiadau ar Waith
Update from the Minister for Health and Social Services on Implementation of Report
Recommendations
- | 37 Cynnig Trefniadol
Procedural Motion

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

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

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Lorraine Barrett	Llafur Labour
Veronica German	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Andrew R.T. Davies	Ceidwadwyr Cymreig Welsh Conservatives
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
Darren Millar	Ceidwadwyr Cymreig (Cadeirydd y Pwyllgor) Welsh Conservatives (Committee Chair)

Eraill yn bresennol
Others in attendance

Barbara Bale	Pennaeth Rheoleiddio Gweithlu, Llywodraeth Cynulliad Cymru Head of Workforce Regulation, Welsh Assembly Government
Chris Brereton	Dirprwy Brif Gynghorydd Iechyd yr Amgylchedd Deputy Chief Environmental Health Adviser
Frank Cuthbert	Pennaeth Y Tîm Democratiaeth Llywodraeth Leol Head of Local Government Democracy Team
Edwina Hart AC/AM	Aelod Cynulliad, Llafur (Y Gweinidog dros Iechyd a Gwasanaethau Cymdeithasol) Assembly Member, Labour (The Minister for Health and Social Services)
Tony Jewell	Prif Swyddog Meddygol Chief Medical Officer
Carwyn Jones AC/AM	Y Prif Weinidog The First Minister
Dr Chris Jones	Dirprwy Brif Swyddog Meddygol Deputy Chief Medical Officer
David Vardy	Pennaeth Y Tîm Ymateb Llywodraeth Cymru i'r Ymchwiliad E. coli Head of E. coli Inquiry Assembly Government Response Team
Carl Sargeant AC/AM	Aelod Cynulliad, Llafur (Y Gweinidog dros Gyfiawnder Cymdeithasol a Llywodraeth Leol) Assembly Member, Labour (The Minister for Social Justice and Local Government)

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

Marc Wyn Jones	Clerc Clerc
Rebekah James	Gwasanaeth Ymchwil yr Aelodau Members' Research Service
Sarita Marshall	Dirprwy Glerc Deputy Clerk
Alys Thomas	Gwasanaeth Ymchwil yr Aelodau Members' Research Service

*Dechreuodd y cyfarfod am 12.47 p.m.
The meeting began at 12.47 p.m.*

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introduction, Apologies and Substitutions

[1] **Darren Millar:** Good afternoon, everyone. Welcome to this meeting of the Health, Wellbeing and Local Government Committee. I particularly welcome the Minister for Social Justice and Local Government, Carl Sargeant, and Frank Cuthbert, who will be giving us feedback on our questions and work during this Assembly term. Frank Cuthbert is the head of the local government and democracy team.

[2] There are a few housekeeping announcements. Headsets are available, both in the public gallery and in the committee room, for simultaneous translation and sound amplification. If anyone has any problems using them, they should indicate to the ushers, who will be able to provide some assistance. Committee members and members of the public may wish to note that the simultaneous translation feed is available on channel 1, while channel 0 is the language that is being spoken. I would be grateful if everyone—Members, members of the public and witnesses—could ensure that they switch off their mobile phones, BlackBerrys and pagers, so that they do not interfere with the broadcasting and other equipment. If it is necessary to evacuate the room or public gallery, in the event of an emergency, everyone should follow the instructions of the ushers, who will be able to guide people to the appropriate exits. Finally, I remind everyone that the microphones are operated remotely.

[3] We have not been informed of any apologies for today's meeting, so I invite Members to make any declarations of interest under Standing Order No. 31.6. I can see that there are none. Before we move to item 2, I welcome Lady Veronica German to our committee. We look forward to working with you, Veronica. Welcome to the Senedd. We should also place on record our thanks to Peter Black, who provided this committee with sterling service during the years that he was a member of it.

12.49 p.m.

Y Wybodaeth Ddiweddaraf gan y Gweinidog dros Gyfiawnder Cymdeithasol a Llywodraeth Leol am Roi Argymhellion Adroddiadau ar Waith Update from the Minister for Social Justice and Local Government on Implementation of Report Recommendations

[4] **Darren Millar:** You kindly gave us a paper and we have looked at local government scrutiny in the past, Minister, which will be the topic of our discussion today. If you are content, Minister, I will kick off with a question. Can you give us a further indication of how the provisions in the forthcoming proposed Measure on local government, which you expect to lay before the Assembly next week, will embed a positive approach to scrutiny and overview in Welsh local authorities?

12.50 p.m.

[5] **The Minister for Social Justice and Local Government (Carl Sargeant):** Good afternoon, Chair and committee. First of all, thank you for the opportunity to have this discussion with you today. I am not sure if it is good or bad timing. You are quite right that we intend to lay the proposed Measure next week, and therefore we are sort of tied into not being able to release much detail about what it will encompass. I would suggest that you will have to wait until next week for the bulk of the detail of the proposed Measure, unfortunately. However, I can say that I intend to make the scrutiny process stronger, more democratic and more open to the public, in terms of what the public can access and the scrutiny it can observe in local government.

[6] **Darren Millar:** To what extent have you engaged with the Welsh Local Government Association and local authorities directly in the production of the proposed Measure?

[7] **Carl Sargeant:** Prior to my appointment as Minister, an awful lot of work went on with officials and the WLGA. In some cases, this has been going on for many years. What has been problematic is the legislative competence, and now we are at the point where we will be laying the proposed Measure next week, which will give us an opportunity to move forward on some of these concepts and ideas that have been well-discussed, particularly with the Welsh Local Government Association.

[8] **Lorraine Barrett:** Given that the consultation responses received by the Welsh Government on this issue of support for and development of scrutiny were inconclusive, to what extent are you confident that your proposals will be supported by local government? I appreciate that you cannot say what is in the proposed Measure, but the Welsh Government did say in a consultation that it proposed to place a requirement on local authorities to provide adequate and independent officer support for scrutiny. I wonder what your views are on that.

[9] **Carl Sargeant:** Most of the responses that we received were supportive of the proposals. However, in the case of laying the proposed Measure next week, some things will be popular, and some things will not—that is the nature of legislation. We will be providing new powers and entitlements for local government, but in some cases we will also be imposing duties upon them, so it will be a mixed bag whereby some things will be popular and some things will not, but we will have to see what evidence is submitted to the legislation committee.

[10] This is certainly a large proposed Measure—the largest that the Assembly will have dealt with—and there will be a lot of work around that as regards scrutiny. I am certainly looking forward to that process, which I think will shape local democracy in a very different way.

[11] **Veronica German:** You agreed that we need adequate resources for the scrutiny function, and yet you do not think that it is appropriate to ring-fence funding for that purpose. Could you explain in more detail the reasoning behind that?

[12] **Carl Sargeant:** It is the same reason that we do not hypothecate or ring-fence administration in local government. I know that there are different views in this committee about whether it should be ring-fenced, but it has not been in the past, and I see scrutiny as a similar function to administration within councils. What I do not want to be doing as an Assembly Government Minister is micro-managing local authorities. We should be allowing them flexibility in their budgets, and I think that they can manage the administration and scrutiny processes quite well.

[13] **Helen Mary Jones:** As you said, there are different views about what should and

should not be ring-fenced, and I take the point that you make about giving local authorities flexibility. However, what we found as a committee was that the levels of capacity for scrutiny were very low in some local authorities, with the budgets being set predominantly by the executive boards of local authorities. The truth is that the poachers are never going to pay for the gamekeepers. There will be these new scrutiny duties that we will find out more about next week. However, once the duties are implemented, if you feel that executive boards and cabinets in some parts of Wales are starving the scrutiny role of resources, on your watch—although we might not be able to tell until after the Assembly election—perhaps by setting up one junior-grade officer who is supposed to support all scrutiny across the board, would you look again at ring-fencing? This is very different from the ordinary administration of a local authority; this is saying to the cabinet members that we expect them to pay for, potentially, being given a hard time. I am not sure that the Assembly Government Cabinet would do that, and I am not quite sure that it is reasonable of us to expect local authority cabinets to do that.

[14] **Carl Sargeant:** It is a valid question. We find ourselves in very different economic times, and so I have not closed the door on any concepts or ideas. We have to learn what will suit us best for the future and how local government embarks on that. The Measure, when passed, will place a duty on local authorities in a different way in respect of scrutiny and scrutiny powers. Without giving too much detail, we have strengthened that part of the proposed Measure, which I hope will gain support across the Assembly, as it sets out what we expect of local government and its members. Things are changing, but I would not say that I will not look at it again in future, as I would be open to doing that.

[15] **Irene James:** If the evaluation finds that the horizons of scrutiny practitioners have been successfully raised, how do you envisage the maintenance of good practice and further improvement being driven?

[16] **Carl Sargeant:** What we are trying to achieve goes wider than local government, to the efficiency and innovation board. It is about spreading good practice and, across the public sector, we have some really good examples of operation, and we are trying to move those out across the 22 local authorities, or health boards, or whatever. There will be provision in the proposed Measure to give some direction on our expectations. There is also our work with the WLGA in this regard, with scrutiny officers and the chairs of scrutiny committees, as well as the scrutiny champions network that was established. Our officials attend its meetings. It is about who does what well and how we can pass that on to all the authorities. That is the key, and I would like to think that I am championing that, because we do not currently have a great way of spreading best practice across the public sector.

[17] **Darren Millar:** Minister, the scrutiny development fund has been critical to raising standards of scrutiny in local government. Have you evaluated the effectiveness of that fund, and, if and when the proposed Measure has successfully passed through Assembly, would you continue with those resources to roll out best practice?

[18] **Carl Sargeant:** I would say that all this is a moveable feast. We are in a phase of transition, going from where we were to where we are going, and the proposed Measure will be significant. Our established toolkit will probably change, and I hope that Members will keep an open mind, as must I, about the transition period and how we move forward. It is about engagement. I would like to consider myself a Minister who listens to people's thoughts on how we can move this process forward, and engagement with local authorities is at the front end of that. So, I am looking forward to a better scrutiny process through the proposed Measure, and being able to measure that in the future.

1.00 p.m.

[19] **Darren Millar:** Have you been able to measure effectiveness directly? What has the

Assembly Government done to ensure that the £200,000 already invested in scrutiny has been well spent?

[20] **Mr Cuthbert:** The scrutiny development fund has projects that are still operating. Although it was initially intended to be only a two-year project, we have just entered the third and final year. We kept a small amount available for a final year, as we knew that one or two authorities had not been able to get their act together in the earlier period through a lack of resources but that they wished to develop a project, which they would not be able to run until this year. So, we have 2009-10 projects still going, because the rules were that they had to start before the end of the financial year, and we have probably one 2010-11 project that has not started yet. We intend to conduct an evaluation project, but we will do that as the scrutiny development fund is coming to an end. Each project has to evaluate itself, and we receive final reports on those, which we could happily share with you.

[21] **Carl Sargeant:** You say that there has been little or no evaluation, but we have evidence of the fund making some groundbreaking changes. Some areas, such as Cardiff, have decided to continue with scrutiny panels on the local service board, and there are examples in Gwynedd of engagement in scrutiny with the voluntary sector. So, there are good examples, and it might be helpful if we shared the information that we do have.

[22] **Darren Millar:** That would be helpful.

[23] **Ann Jones:** Coming back to projects self-evaluating, if I had evaluated my time at school, I would have said that I was excellent, that I listened well, behaved extremely well and was a model pupil. That would have been my self-assessment. Should someone else not be evaluating whether scrutiny is being delivered effectively? Do we understand what we mean by 'effective scrutiny'? As someone who has been at the wrong end of scrutiny here at the Assembly, I think that I have sometimes been misunderstood. People do not understand what scrutiny is.

[24] **Carl Sargeant:** It is a fair question, Ann. Self-evaluation is not new; it is used for job assessments in industry and across the public sector. There are clear guidelines on how we measure success or failure. The WLGA is involved in assessing or measuring how authorities are performing in the area of scrutiny, and I have no reason to doubt that the WLGA is capable of that.

[25] **Ann Jones:** Given that we know that councils were not scrutinising decisions correctly in the first place, why are we giving them that money to assist them? Going back to my self-evaluation, I would have said that I was excellent and that I should have an A* for my performance. That was not necessarily the case. In fact, I ended up with Cs and Ds—that tells you something, does it not? It is about how we know that councils are performing. If they did not think that there was a problem with their scrutiny—which they obviously did not—they would evaluate themselves as being successful, but that is not the case.

[26] **Carl Sargeant:** It is about how we benchmark this. Going back to an earlier question, if you measure success in isolation, what are you measuring it against? In the past, across the 22 local authorities, perhaps there was a focus on localised measurements. I am hopeful that the proposed Measure will place a much bigger expectation on local authorities in relation to public awareness about what is going on, and how screening takes place and the role of measuring as part of the broader principle of sharing best practice. So, it will not be the case that one authority is measuring its own performance when it comes to scrutiny, because this is about the broader principle of where it sits. There will not be a chart, or a table—

[27] **Darren Millar:** It depends on the assessment. That is what we will be looking for.

[28] **Carl Sargeant:** The WLGA has a role to play in ensuring that its membership, wholesale, understands the expectation on it as well. We cannot afford to have local authorities working in isolation any longer. They have to be a part of the family of local government.

[29] **Ann Jones:** Chair, could I ask the Minister about the project in Gwynedd that he mentioned?

[30] **Darren Millar:** Yes, please do. I will then bring Andrew in.

[31] **Ann Jones:** Minister, could you give us a little more information about that project, which involved the third sector in scrutiny, and how that worked?

[32] **Carl Sargeant:** There are examples where there has been a link between the voluntary sector and Gwynedd Council, where representatives of the voluntary sector have been brought onto the scrutiny board. What is the voluntary sector organisation called again?

[33] **Mr Cuthbert:** It is called Mantell Gwynedd.

[34] **Carl Sargeant:** That is the voluntary organisation. The proposed Measure will make reference to other organisations that will take part in scrutiny, which I hope will be welcomed. You posed the question earlier, Ann, of what is good scrutiny. Sometimes, if we are honest, there are elements of all organisations that would like to think that they know best when it comes to scrutiny, but sometimes we need specialists in that process. That is what is happening in Gwynedd. There are people in the third sector who understand and know what is going on, who scrutinise that body and provide general scrutiny in areas that they understand and know about. I hope that that will feature in the proposed Measure.

[35] **Ann Jones:** So, is the Gwynedd project likely to be featured as a blueprint?

[36] **Carl Sargeant:** I could not say that now.

[37] **Andrew R.T. Davies:** To touch briefly on the self-assessment—although I may have missed this earlier—are you confident that the self-assessment model for assessing the effectiveness of scrutiny will be robust enough to provide confidence? Ann gave a graphic example of her view of self-assessment, and you touched on the strength, as you saw it, of the WLGA in fulfilling that role. So, you are confident that that is a sufficient safeguard.

[38] **Carl Sargeant:** I have no reason to believe that it should not be.

[39] **Mr Cuthbert:** For the information of the committee, when applications are made to the scrutiny development fund, they go before a panel, which we establish, and, as well as having Assembly Government officials on it, it has a WLGA official and a representative of the Centre for Public Scrutiny on it. Before a project can run, the panel has to approve its objectives. Similarly, that panel sees the final report that is produced, which includes the self-evaluation. The panel will probably have a final meeting some time later this year, when we will put forward proposals for how we think a whole-scale evaluation of the SDF project should be carried out. We do not see that being done as a self-evaluation exercise.

[40] **Val Lloyd:** Minister, in response to the committee's recommendations on adjustments to the current training programme, you said

[41] 'It is my intention that the forthcoming Measure will include provisions relating to councillor training and development and be supported by guidance.'

[42] Could you expand on how the provisions in the forthcoming legislation will help to improve the training and development for councillors who sit on scrutiny committees?

[43] **Carl Sargeant:** I cannot expand on the detail of the proposed Measure. However, I can say that I support the recommendations of the panel. We have to raise our game in all aspects of this. I know that it is a professional job that requires a professional approach. We have to provide good-quality training and support for our councillors, because they make big decisions. In fact, they will be making bigger and more difficult decisions in the future.

1.10 p.m.

[44] **Helen Mary Jones:** I appreciate that you may not be able to, but can you tell us any more about how the provisions in the forthcoming legislation are likely to strengthen the opportunities for collaborative and joint scrutiny between local authorities? You say that you believe that this is long overdue. Can you tell us a bit more about why you have come to that view?

[45] **Carl Sargeant:** On this being overdue, there has been a long process with regard to legislative competence for the Welsh Assembly Government. This goes back a long way. We were talking about this in 2007, but trying to get the powers through a Bill was difficult enough. We managed to get those powers through the Local Democracy, Economic Development and Construction Act 2009. The collaboration agenda is not a new concept—this was in the Beecham report in 2006—so we are not reinventing the wheel; it has just been a case of going through a process to get here. The message is certainly getting across now about our expectations, as a Government, with regard to collaboration and the joint working agenda. The scrutiny collaboration agenda will also feature in the proposed Measure—I expect. [*Laughter.*]

[46] **Helen Mary Jones:** In your response to us, you told us that you would be writing to the Secretary of State for Communities and Local Government to see whether we can enable cross-border scrutiny, where that might benefit reviews of public services that are shared across the England-Wales border. Have you been able to do that yet and, if so, have you had any kind of response? Can you say a bit more about what sort of joint scrutiny you envisage taking place on that sort of England-Wales border basis? Let us say that two Welsh local authorities share a director of social services. I can quite see how you get the two scrutiny committees in those authorities to scrutinise that director of social services. I do not think that that is complicated at all. However, when you are talking about cross-border services where, increasingly, local authorities might be delivering on different agendas and under different legislative frameworks, how do you see that going forward?

[47] **Carl Sargeant:** Again, the detail is a matter for the local authorities, depending on how they operate. As you say, some of the examples you give from within Wales are not unique, and joint scrutiny already happens in north-east Wales, Monmouthshire and so on. In areas such as education, healthcare and economic development, there is always an overlap across borders. My view is that the ability to carry out joint scrutiny will enhance service delivery. I have not had a response yet, but I would hope that that would be a feature in the proposed Measure that will be introduced next week.

[48] **Mr Cuthbert:** I just want to say that, as always, there is a technicality to mention here. If the local government legislation in England had been worded slightly differently, there would not have been a problem. If it had enabled local authorities in England to form joint committees with other local authorities and left it at that, it would have been okay. However, the legislation specified that they can form joint scrutiny committees with other local authorities in England. So, the only way that you could have, for example, a joint education scrutiny committee in Monmouthshire, with regular flows of information between

Monmouth and the Forest of Dean, Abergavenny and Hereford and so on, would be through a fresh legislative move that would probably have to be done by Mr Pickles.

[49] **Darren Millar:** It does not necessarily require legislation because they could set up joint scrutiny arrangements on a voluntary basis could they not?

[50] **Mr Cuthbert:** They could, yes, but there would be no powers to call witnesses, for example—although, again, that could happen voluntarily—and no-one would have to take any notice of their report.

[51] **Darren Millar:** Okay. So, Minister, you are making representations to put the view that the legislation ought to be amended to allow for joint scrutiny across the England-Wales border.

[52] **Carl Sargeant:** That has happened. We have done that.

[53] **Darren Millar:** Okay. Thank you for that.

[54] **Andrew R.T. Davies:** I am just thinking of an issue that I have dealt with on the Petitions Committee. I think that the Minister might well be aware that the north-east economic plan obviously involves quite a lot of collaborative working between local authorities in England and those in Wales, does it not? In the context of what you have described, would the relationship, as constituted, now change quite dramatically because there would not be that legal footing that people could be on to have the scrutiny process for such a plan in future?

[55] **Carl Sargeant:** Again, it is a matter for the local authorities involved in terms of reference and whether they want to do that or otherwise. The spatial plan already operates on a regional basis across borders. This could potentially offer a legal position in terms of joint scrutiny between two local authorities, which could be, for example, Cheshire, Merseyside, Flintshire and Wrexham in that aspect. There will be a legal position where that could happen.

[56] **Andrew R.T. Davies:** The example given to us was that the Westminster Bill states that it allows for that to happen only between English authorities. It does not state an authority, does it? Unless they agree to your change, in future, that type of working could be allowed on a voluntary basis, but not allowed on a statutory basis. It would not happen.

[57] **Carl Sargeant:** Unless it is agreed; yes.

[58] **David Lloyd:** As someone who has been immersed in this process of scrutiny since the original local government committee—whatever it was called then—did this excellent piece of work, I recall some excellent input from officials, like young Frank there. You do not look a day older, Frank. It is always a pleasure to see you.

[59] In terms of scrutiny, we are also here to scrutinise your paper, Minister. I appreciate that you have covered some of this now, but you state in your paper that, in terms of the scrutiny of external organisations,

[60] ‘the forthcoming Measure will provide further impetus in this area’.

[61] In terms of our scrutiny of your proposed scrutiny of this area, can you tell us something that you have not told us already perhaps about the proposed Measure?

[62] **Carl Sargeant:** I probably could not offer much more to you, to be perfectly honest in the guise of transparency. However, scrutiny is a really important part of a function of a

local authority. Some do it very well and some do not do it as well as others. [*Interruption.*]

[63] **Darren Millar:** Let the Minister answer.

[64] **Carl Sargeant:** I was being very generous, as I think that I should be. We expect that the proposed Measure will give it more direction in terms of where we would like scrutiny to be, but there will be much more detail next week.

[65] **Andrew R.T. Davies:** I wish to touch on the whipping proposal. When you were the Chief Whip, I am sure that many Members felt your comforting embrace in the Chamber. [*Laughter.*]

[66] **Ann Jones:** I will talk to you after.

[67] **Irene James:** Do you want the true story?

[68] **Andrew R.T. Davies:** I was just putting it very politely. Obviously, it is an important element of scrutiny that the whipping procedure does not play a part in that scrutiny and that members feel free to exercise their judgment in the scrutiny, even though we live in a political environment. In your recommendation, you state,

[69] ‘The Assembly Government proposes that political groups should be prevented from imposing voting instructions on members of a scrutiny committee’.

[70] The Welsh Local Government Association responds by almost saying, ‘How will you do this? In the real world what sanction will you put to try to enable that free thought?’. Therefore, Minister, how do you back up the sentiment that you have put on paper and make it happen in the real world?

[71] **Darren Millar:** Could I also ask you, Minister, just to touch on the other issue of contention or disagreement, shall we say, which was this issue of having a balance in terms of committee chairs in local authorities? I think that that is sort of tied to the same issue, so you might as well have both of those questions at the same time.

[72] **Carl Sargeant:** I will take Andrew’s point first in terms of whipping. It is quite a difficult one for me as a former Chief Whip. [*Laughter.*] I am not quite sure whether I have seen the light, Chair.

1.20 p.m.

[73] The whipping structure is very important in all democracies. It is a process that we are all familiar with. What I will say about the scrutiny element and the whipping advice, which is what this is about, is that confident leadership should not use the whipping system in an attempt to control scrutiny. If there is a confident leadership with regard to programmes of work, there should not be any worry about what questions they receive within that process. So, the issue of having a forced whip should be relaxed with regard to scrutiny.

[74] With regard to the detail of how we handle this, you may be interested in the proposed Measure that is to be introduced next week [*Laughter.*]

[75] **Andrew R.T. Davies:** Can I therefore infer from your answer that there will be substantive proposals within the proposed Measure that will flesh out that word that you have put on paper, which is ‘prevented? You have clearly put on paper your thoughts about how you will prevent it, so will we see specifics in the proposed Measure that will implement that recommendation, or is this just a bit of writing on paper that could not be enforced?

[76] **Carl Sargeant:** The proposed Measure is a tool in the process of legislating, where the evidence provided to the legislation committee will form some of the detail around it. I will leave the issue of the detail. The proposed Measure will be interesting reading for you with regard to the process. It is unfortunate that I have been unable to expand on some of the questions because it would not be right for me to discuss the proposed Measure here.

[77] I turn to your point, Chair, about committee chairs. Only two or three local authorities do not use political balance with regard to their scrutiny chairs. I do not believe that that is right; we must put something in place that equates to political balance and good scrutiny. That may also appear in the proposed Measure.

[78] **Andrew R.T. Davies:** I look forward to it.

[79] **Veronica German:** The political balance of scrutiny chairs has always been considered with regard to ruling groups or parties not being allowed to take it. However, there are also situations where parties refuse to take the political balance when they are offered it. So, will your proposed Measure address that issue?

[80] **Carl Sargeant:** I am not familiar with the argument that you present with regards to scrutiny chairs—

[81] **Veronica German:** I am aware of it.

[82] **Carl Sargeant:** I understand it with regard to cabinet structure and leadership, which is different. I would welcome information on that. We must have fairness in scrutiny, and, as I said earlier, confident leaders should not be afraid of good scrutiny. Scrutiny should not be controlled from within the structure; that is bad practice. We do not do that here, particularly in major committees, such as audit committees; it should always be done by opposition members. That is just good practice. We would like to legislate to give us an opportunity to tighten the rules to limit the opportunism of some authorities with regard to the way that they operate.

[83] **Darren Millar:** That brings us to the end of this item on our agenda. Minister, I thank you and Mr Cuthbert for your attendance at the committee today.

[84] **Ann Jones:** Chair, given that the Minister is unable to give us the detail of the proposed Measure, and given that it will be introduced next week, could this committee take a look at it? I know that a legalisation committee will be considering it, but should we be looking at it from the policy point of view?

[85] **Darren Millar:** That is a fair point, Ann. As a committee, we can contribute to the consultation process on the proposed Measure, given that we produced a report, the recommendations of which the Minister is seeking to implement. We did have a role in this, so I will be happy to make recommendations to the legislation committee on that.

[86] **Carl Sargeant:** Briefly, it is a useful process in terms of the relevant legislation committee. If the committee has any thoughts on this following our meeting only two or three weeks ago, it would be useful to feed those into the legislation committee.

[87] **Darren Millar:** Thank you very much.

1.25 p.m.

**Y Wybodaeth Ddiweddaraf gan y Prif Weinidog am Roi Argymhellion
Adroddiadau ar Waith
Update from the First Minister on Implementation of Report Recommendations**

[88] **Darren Millar:** This is an update session with the First Minister on the Government's implementation of the recommendations of two reports, namely the committee's report on local service boards, which was originally published in December 2008 and the Pennington report on E. coli, which was published in March 2009. As Members will know, September 2005 saw the largest ever outbreak of E. coli O157 in Wales and the second largest in the UK. The outbreak had a devastating impact. There were more than 150 cases of E. coli in Wales, most of which involved children. Tragically, one of those children, five-year-old Mason Jones, died from the infection. Mason Jones's mother, Sharon Mills, is in the public gallery today along with Julie Price, whose son also became seriously ill as a result of the E. coli infection. I thank them both again for assisting the committee in undertaking this important scrutiny work.

[89] At the last meeting, we took evidence from Professor Pennington, the author of the report, and from Consumer Focus Wales, who have done a follow-up report on those recommendations and where they are at in terms of implementation. Today, we seek an update from the First Minister on the progress made to protect the public from such an outbreak happening again.

[90] I am pleased to welcome the First Minister to the committee. I also welcome David Vardy, the head of the E. coli inquiry Assembly Government response team, Dr Tony Jewell, the chief medical officer, and Chris Brereton, the deputy chief environmental health adviser. I welcome you all to the committee.

[91] Thank you, First Minister, for the information that you have provided to the committee. We will move straight to questions. In the oral evidence that we received a fortnight ago, Consumer Focus Wales stated:

[92] 'It is an issue that there has not been any dialogue with Professor Pennington since the inquiry finished, and he has useful insights on how to implement the recommendations, but nobody has consulted him.'

[93] We all felt that that was quite remarkable, given the seriousness of the outbreak. Do you want to comment on the fact that there had been no communication between the Assembly Government and Professor Pennington? Is that a correct statement? That certainly seems to be what Professor Pennington suggests.

[94] **The First Minister (Carwyn Jones):** We accept fully the recommendations that were made in the Pennington report. It is now for us to ensure that the agencies responsible for implementing those recommendations continue to do so. The door is always open to Professor Pennington and there is a meeting planned between him and officials next week in order to see whether he is content with how the recommendations have been taken forward.

[95] **Darren Millar:** It is a shame that it has taken scrutiny by this committee and a report from Consumer Focus Wales to trigger that discussion with Professor Pennington. Do you regret that there has not been discussion with him already?

[96] **The First Minister:** No, because Professor Pennington's role was to provide recommendations to the Government. It is for the Government then to take on board those

recommendations and to look to ensure that the agencies responsible for implementing them do so. If there were to be an issue or a problem, then, of course, Professor Pennington would perhaps be part of those discussions. However, given that we fully accept what Professor Pennington has said, we have looked to take his recommendations forward.

[97] **Darren Millar:** Can you outline what action has been taken to implement those recommendations thus far?

[98] **The First Minister:** Only one of the recommendations was aimed at us directly, and that is recommendation 20. That asked the National Assembly—that is how it was put then—to monitor and report progress on implementation. A number of areas have been taken forward since then. For example, the chief medical officer has been involved as a point of contact for information on implementation, and the rest of the recommendations in the report are being taken forward.

[99] **Helen Mary Jones:** In your written evidence, you state that the Assembly Government is of the view that the responsibility for the actions required by the recommendations in the report, other than the one aimed specifically at our Government, should lie with those organisations or with the officers to which they are addressed and should be incorporated into their routine business—in other words, they should be mainstreamed. Is it your view that all organisations are meeting their obligations in terms of implementing the recommendations and that they are giving sufficient priority to that?

1.30 p.m.

[100] **The First Minister:** I would hope that that is the case, but in order to satisfy myself that that is the case, I will meet the Food Standards Agency next week. According to the recommendations made in the Pennington report, now is the time to look at reviewing the way that food standards are applied in Wales. I intend to ask the Food Standards Agency first to take forward a critical appraisal of the adequacy of service planning at the local authority level, with particular reference to financial allocation, staffing allocation and training. Secondly, I intend to ask the FSA to take forward a critical appraisal of current local authority food safety performance in Wales and, thirdly, to seek confirmation that the FSA is evaluating actions at local authorities where low levels of compliance have been identified. Fourthly, I want to pursue a statement from the FSA as to its opinion on the minimum staffing ratios required to ensure food safety in Wales. Fifthly, I want to get a position statement from it on its auditing of local authority food safety activities, especially in respect of resource allocation and business compliance. Finally, I want to get a view as to whether current local authority resources are adequate to achieve the Pennington recommendations without compromising wider food safety through the switching of resources and reprioritisation of workloads. As I said, it is now five years since the E. coli outbreak, and the Pennington report identified that as the time by which a full review of food safety in Wales should be undertaken, and that is what I intend to do.

[101] **Andrew R.T. Davies:** First Minister, you touched on resources and, in particular, you said that you were going to ask the FSA to look at the potential for resources for local authorities. Am I right? Is that what you just said?

[102] **The First Minister:** Yes.

[103] **Andrew R.T. Davies:** I thought that Pennington gave an indication based on his experience of the volume of resource that would be required to implement the report, and the Welsh Local Government Association has been vocal about the need for resources to follow the report so that the recommendations can be implemented. I am led to believe that £180,000 has been made available to improve food hygiene standards, but that is in relation to EU

directives that local authorities must comply with. Is the information not already available to us so that we can understand how much resource is required to implement the Pennington report?

[104] **The First Minister:** It is not, unfortunately. Professor Pennington did not identify the volume of resources that should be made available. The first communication that we had from the WLGA regarding the need for extra resources was on 24 June. There was no discussion regarding that at the last revenue support grant round. We received a letter on 24 June that included an estimate that some £2.75 million would be needed to implement the Pennington report. It is unclear how that figure was arrived at. Nevertheless, it is important that we identify how robust that figure is and whether it includes money that will be allocated to work that should already be being done or whether it is for new work. I am aware that Bridgend council, where the source of the original outbreak was located, has allocated some £160,000 to improve the situation from its own resources. So, we have now received a letter from the WLGA, and we will give it our full attention.

[105] **Andrew R.T. Davies:** So, until 24 June, no official assessment had been made as to the cost of implementing the Pennington report and the recommendations that flowed from it. Therefore, it was impossible for you to make allocations available to implement the recommendations, if you felt obliged to make such allocations.

[106] **The First Minister:** That is correct.

[107] **Darren Millar:** Do you not think that the Assembly Government, working with the other partners engaged in the process of trying to protect the public from a further outbreak, should have made the identification of the resources that would be needed a matter of priority on day one of the Pennington report's being published?

[108] **The First Minister:** You should bear in mind that that is already done via the revenue support grant. Money is made available for environmental health and public health work via the revenue support grant. There was a 2.1 per cent increase in the last financial year, which was described as 'fair but challenging' by local authorities. We must remember that money is already allocated for public health via the RSG. If local authorities had felt that they had insufficient resources to take forward the Pennington report, then we would have expected them to make their case and to illustrate how they had arrived at their figures. As I say, they have now done so. That said, as I mentioned earlier, I also need to ensure that the Food Standards Agency is playing its full role, which is why the review will take place. We also have to look carefully at whether the current structure of environmental health enforcement in Wales is adequate for the future.

[109] **Andrew R.T. Davies:** The point that I would like to make, if I can build on that, is that Professor Pennington and Consumer Focus agreed that there needs to be ownership of the report. The Welsh Assembly Government commissioned the report and has accepted its recommendations, but there is a sense that ownership has drifted somewhat, and that there is a need for it to be reclaimed by the Assembly Government and for it to ensure that everyone moves forward together to implement the recommendations. Do you accept that there has been drift, and that there is perhaps a need to have a tighter rein on this so that people can have confidence that the work will be done? That is irrespective of the financial consequences, because I appreciate what you have said about assessment work needing to be done on that, but there has been some corporate drift with regard to the ownership of the report. Do you accept that?

[110] **The First Minister:** I do not. The majority of the recommendations have already been taken forward. From our point of view, this was a report to Government and we take ownership of it and responsibility for it. That said, it must be understood that the bodies that

can ensure that there is practical change on the ground are bodies such as the Food Standards Agency and local authorities. That is not expertise that we have in-house, and we would expect those with expertise to take those matters forward. One indication that I want to give this afternoon of our continuing ownership of the report, and our determination to take it further forward, is the review that will take place with the assistance of the Food Standards Agency.

[111] **Andrew R.T. Davies:** So, in taking this forward, the Welsh Assembly Government will always be the strategic lead, even though it devolves the responsibility down to others, such as the Food Standards Agency, local authorities, and a host of other organisations. Can we therefore take it that WAG accepts its role of being the strategic lead at every juncture for this report, and for monitoring progress on implementing the recommendations?

[112] **The First Minister:** It is our responsibility to ensure that the agencies that are responsible for delivering the recommendations do so, and as part of that process it is important for me to ensure that the Food Standards Agency in particular takes forward the recommendations that were made. That is why I have outlined several areas that I wish the Food Standards Agency to take forward as part of the review.

[113] **Darren Millar:** What precisely has been done by the Assembly Government since the report was published in March 2009 to ensure that those bodies with a responsibility to implement the recommendations have been doing so? What audit procedures are in place, and what discussions have been had with those bodies? There was little evidence in our previous session that any real impetus was coming from the Assembly Government to implement those recommendations.

[114] **The First Minister:** The recommendations have been taken forward, as I have mentioned. The chief environmental health adviser has chaired a meeting at which all the interested parties were present, and we have always sought to ensure that officials meet regularly with those organisations responsible for delivering on the recommendations to ensure that they do so. I feel that it is part of my role to ensure that, as we reach this juncture, five years after the outbreak, we look carefully at the effectiveness of what has been done, and consider whether there are ways to improve in the future. That means examining resources and the way in which local authorities are audited, particularly, and it involves us being able to reassure the public that those agencies that are directly responsible on the ground for ensuring that the recommendations are taken forward have done so, and continue to do so.

[115] **David Lloyd:** To follow the general theme of ministerial responsibility here, we had suggestions in the previous evidence session that there are no clear ministerial responsibilities here. As you are aware, environmental health resides in local government, so one would expect the Minister for Social Justice and Local Government to have ministerial responsibility.

1.40 p.m.

[116] However, the major effect of this E. coli outbreak was on the health service. We have had some suggestions that perhaps the Minister for Health and Social Services should have ministerial responsibility for environmental health in these sorts of overlapping situations, or perhaps ministerial responsibility should be directly yours, as First Minister, in a potential overlap situation. Is it the Minister for health, or is it the Minister for Social Justice and Local Government? The Minister for local government seemed to suggest last week that it perhaps ought to be the Minister for health. We are looking for some guidance on who has clear ministerial responsibility for environmental health in this sort of situation.

[117] **The First Minister:** With regard to the Pennington inquiry, the previous First

Minister took responsibility personally for its implementation. I retain that role, which is why I am here answering questions on it.

[118] **David Lloyd:** On a wider point, the issue of how we as an Assembly accomplish our scrutiny of the Food Standards Agency is wider than Welsh Assembly Government participation or interface with the agency. There is always this potential issue with the scrutiny of non-devolved bodies by the Assembly as a whole—we could mention the Environment Agency, for instance. In this situation, what sort of interface do you have with the Food Standards Agency in scrutinising its efforts on everybody's behalf? Do you communicate regularly with the Food Standards Agency, and how can that level of interface be communicated to the rest of the Assembly and its scrutiny role, because the function of the Food Standards Agency often appears to me to be remote from those of us here who should have a scrutiny role over its daily workings?

[119] **The First Minister:** The day-to-day workings of the FSA are a matter for the Minister for health, as the day-to-day workings of the Environment Agency are a matter for the Minister for Environment, Sustainability and Housing. With regard to the inquiry's recommendations—and only in that regard—that is a role that I have taken on board personally.

[120] **Lorraine Barrett:** The chief medical officer now has responsibility for collating progress reports from the organisations that have responsibility for the various recommendations, and those progress reports are to be included in an annual ministerial update from you, I guess, First Minister. What action would you or could you take if the progress reports demonstrate that the recommendations are not being fully implemented and that further work needs to be undertaken?

[121] **The First Minister:** It depends on where the weaknesses are. If they are in the FSA, then that is something that I would take up directly with the FSA. If the FSA were in the position—and I am not saying that it is—of not implementing the recommendations, it is something that I would enforce myself.

[122] With regard to local authorities, that is ultimately a matter for them. I am not trying to say that we have no role, because it is clear that we do. I come back to the point that I made earlier: as part of the review of food safety in Wales, it is important that we look carefully at the structure of food safety enforcement to see whether it is now adequate

[123] **Lorraine Barrett:** Okay. Do you feel that you would use your ultimate power? We all feel very strongly about this issue, and we are glad that you are continuing to take the lead responsibility in this role. Do you feel that you have enough power to do whatever is necessary to ensure that all the recommendations are followed through by these organisations? I am not sure what veto you have over these organisations to be able to tell them that they will do this or that.

[124] **The First Minister:** Ultimately, we do. We have powers of direction, for example, with regard to local authorities. They are powers that should, rightly, be used sparingly. Preference has to be for working with local authorities, primarily, rather than directing them. However, should a situation arise in which there is difficulty with the implementation of a particular recommendation, or if there were a difficulty when improving food safety, it is clear that we would have to take steps to ensure that that difficulty was overcome.

[125] **Lorraine Barrett:** I have one last question. Do you have an approximate date for the next progress report?

[126] **The First Minister:** I intend to produce a written statement, rather than make an oral

statement, after recess.

[127] **Andrew R.T. Davies:** Lorraine makes an important point about the progress report. We have heard in response to other questions how various responsibilities sit in different ministerial departments. However, your predecessor took control of the Pennington inquiry and report, for understandable reasons, and you have taken it on in your office as First Minister. How many specific meetings have you held regarding the Pennington report and its implementation to satisfy yourself that there is cross-governmental work with sponsored bodies to implement the recommendations?

[128] **The First Minister:** I have been kept informed of the progress of the Pennington recommendations during my time as First Minister. Most of the recommendations have been implemented, as I would expect. However, in order to satisfy myself that that is still the case, I have met with Consumer Focus Wales and I will be meeting with the Food Standards Agency next week to explore the issues that I have already mentioned.

[129] **Andrew R.T. Davies:** Would it be fair to say that you, as the lead Minister, have not had any specific ministerial meetings that you have chaired that have dealt specifically with Pennington? As Dai pointed out, from the Minister for local government's correspondence on environmental health, and as he indicated orally, neither he nor his officials have had any such meetings, as it is not in his brief—it sits with the Minister for health. Have you chaired any structured formal meetings as the lead Minister on Pennington?

[130] **The First Minister:** No, but then I would not expect to do so unless officials were to flag up a particular problem with the implementation of the recommendations. In order to take things forward, I have said that I want to meet with the Food Standards Agency, and I have already met with Consumer Focus Wales, as I said. Officials are carrying on with the work. For example, we as a Government work with families through the Consumer Focus Wales food safety group. The input of families to that group is very worthwhile in terms of taking forward the recommendations. So, there have been meetings; there is contact between—

[131] **Andrew R.T. Davies:** Have you called any such meetings in your capacity as the lead for the Welsh Assembly Government on the Pennington report? Are you satisfied that it is being implemented to a satisfactory standard?

[132] **The First Minister:** I have no reason to believe that the recommendations are not being taken forward, but I want to satisfy myself that that is the case through discussion with the FSA and through looking at a review of food safety in Wales.

[133] **Darren Millar:** Is it fair to say, First Minister, that these recently scheduled meetings have been as a direct result of the publication of the Consumer Focus Wales report, and the fact that it highlighted some areas that need to be improved to ensure that the recommendations are fully implemented to protect the public from a further outbreak?

[134] **The First Minister:** Following the publication of the Consumer Focus Wales report, I was keen to meet with the organisation, and I did so. One area that it highlighted was its concern to ensure that the Food Standards Agency was taking forward the work that it felt was important; that is exactly why I am meeting with the Food Standards Agency. However, I want to take it further than that, which is why that I have already mentioned that I want the Food Standards Agency to look at several areas so that we can assure the public that the recommendations have been taken forward properly and that that will continue. One thing that we must avoid at all costs is for good work to be done to improve food safety in Wales and for that work to slow down in years to come. That is why it is important to ensure that we continue to thoroughly review the procedures that are in place.

[135] **Darren Millar:** Thank you for that. We are going to look at funding in a little more detail now.

[136] **Veronica German:** Your written evidence states that, from 2007-08, you provided the 22 local authorities with a share of an extra £180,000, specifically to be used for the enforcement of European food hygiene legislation. What procedures have you put in place to ensure that they have been doing that? How do you intend to monitor that that money is being spent in the way that it should be?

1.50 p.m.

[137] **The First Minister:** The Food Standards Agency has the responsibility to ensure that sufficient resources are put in place for the implementation of food safety legislation in Wales. With regard to money that is made available to local authorities, you will be aware that local authorities asked for that money not to be hypothecated, and we look to ensure that there are sufficient resources available for environmental health through the revenue support grant. It is a matter for local authorities if they decide not to spend the money that they should spend. Whether that situation should continue is a matter for the review, because it is clear that, in order for us to be satisfied that sufficient resources are being allocated to environmental health, the first thing that has to be done is to investigate whether that is the case. I will be asking the Food Standards Agency to do that. Secondly, if that is not happening, we will have to consider how we can deliver resources more effectively to the front line.

[138] **Veronica German:** However, you have not thought until now about checking that the extra money that they have is being used in that way. You are relying on the FSA to do that.

[139] **The First Minister:** That is its job. The FSA is the monitor in this respect, and it is the expert. It is its job to audit the work of local authorities.

[140] **Veronica German:** What about the particular aspect of the money that was to be used for the European hazard analysis critical control point approach?

[141] **The First Minister:** As I say, that is the job of the Food Standards Agency. It is the expert, and it is its role as an agency to ensure that local authorities are audited on the way in which they implement food safety legislation. If the Food Standards Agency were to identify a difficulty with that, we would expect it to tell us.

[142] **Ann Jones:** Moving on from that, you have mentioned the 2.1 per cent increase, which equates to about £81 million, in unhypothecated money—how I wish that you had hypothecated it—to enable local authorities to carry out their functions, which include inspecting and monitoring food premises. Are you satisfied that local authorities are sufficiently committed to prioritising food hygiene in their budgets? How have you monitored that they spend that £81 million purely on food hygiene? What was the baseline in each authority for food hygiene before you put in the additional 2.1 per cent?

[143] **Darren Millar:** The £81 million was not just in respect of food safety; that is just the increase in the revenue support grant, just to clarify that point.

[144] **The First Minister:** Yes, that is right. We will supply, or attempt to supply, figures from local authorities on what they spend on environmental health. If we accept that local authority funding should be unhypothecated—I am not saying that that view is held by everyone around the table—it is for local authorities to justify their spending to the electorate. One area that will have to be looked at carefully as part of the review is whether that is the

most effective way of targeting resources on public health, and particularly whether having 22 departments as part of the structure is an effective way of delivering on what is a very important area.

[145] **Ann Jones:** Do we know what every local authority was spending on food hygiene before they asked for this increase? I read the increase to mean the amount that was spent purely on food hygiene, but I have re-read it and I think that you have put all their duties in there. Do we know how much they were spending before we put in the increase, and are we sure that we are getting the value from the increase that we are supposed to be getting? There are still instances where premises are closed down, but it is only after a public outcry that premises are investigated. What was the baseline before the increase? What increase have the local authorities had? How confident are you that that amount of money has been spent on food hygiene in each authority?

[146] **The First Minister:** I will strive to provide the figures for each local authority—we will have to get the figures from them, obviously. As I have said, as part of the review process, I want to make sure that, first of all, the FSA is satisfied about the amount of resource that is put in. To my mind, the FSA has the expertise to judge whether sufficient money is going into environmental health. It is the expert, and it knows what needs to be done. Secondly, it is important that the FSA can provide us with information on whether local authorities have staffed their environmental health departments adequately. That is further information that we need. Thirdly, as I have said, we need the FSA's considered view on the amount of extra resource that might be needed to take forward the inquiry. To get that information, it is important to engage experts who can see what needs to be done on the ground.

[147] **Irene James:** In your written evidence, you state that the chief executive of the WLGA wrote to you on 24 June concerning the funding required by local authorities to support the implementation of the recommendations of the Pennington inquiry. Do you have anything further to provide on that? What possible actions will be taken as a result?

[148] **The First Minister:** We are giving full consideration to the letter. As I said, it does not provide a full breakdown of how the figure of £2.7 million was arrived at, nor is it clear whether that money is for extra work or whether it includes work that local authorities should already be doing. Nevertheless, we will seek to clarify the situation with the WLGA, with a view to taking a considered view on that.

[149] **Darren Millar:** The big concern expressed by Consumer Focus Wales and Professor Pennington was the variability in the approaches taken by local authorities to the implementation of the report. Some took their responsibilities seriously and moved very quickly to implement the recommendations; others were perhaps less anxious to deliver on the report's recommendations. That is where the whole discussion with Professor Pennington about ensuring delivery was going. Irene, do you want to come back in on this?

[150] **Irene James:** Yes. The word used to describe the response was 'patchy'. We are all concerned about that. There must be consistency right across local authorities.

[151] **The First Minister:** Yes, I accept that. Where there are 22 authorities, there is bound to be some variation, and I am concerned to establish with the FSA whether it audits local authorities on the basis of targets that local authorities themselves have set or of targets set independently from local authorities. That is not clear. I want to ensure that we move to a situation in which local authorities are not audited on targets that they have set themselves. In future, that will be a way of ensuring that all authorities come up to the mark.

[152] **Darren Millar:** The current arrangement with outcome agreements being established

between local authorities and the Assembly Government will give you an opportunity to agree on specific outcomes for local authorities to deliver relating to the implementation of this report, will it not?

[153] **The First Minister:** The outcome agreements are broader in scope, as a rule. This is an important inquiry that raises important issues, and I would prefer it if we were able to audit local authority actions specifically on the recommendations of this inquiry rather than including actions in a broad outcome agreement. This issue deserves specific emphasis.

[154] **Darren Millar:** Okay. Thank you for that.

[155] **David Lloyd:** I wish to drill down a bit further on the issue of funding for food hygiene services, particularly the idea that has come through in evidence of the potential to introduce protected funding for food hygiene. I know that hackles appeared to rise at the mere suggestion of it, but there is evidence in some of the statistics that Consumer Focus Wales has collected that 17 of the 22 local authorities in Wales spent less than they should have on their indicator-based assessments for food hygiene, and many of those 17 local authorities also have below-average levels of compliance with food law. Spending also seemed to peak. In 2006-07, there was a 5 per cent rise on the previous year, which seemed to be a direct result of the E. coli outbreak the year before, but, since then, spending has gone down. Eight local authorities in Wales were spending less on food hygiene in 2008-09 than they were in 2005-06. Bearing all those statistics in mind, there is certainly powerful evidence to suggest that we should be considering introducing protected funding for food hygiene. How do you respond to that analysis and those statistics? In the absence of offering protected funding for food hygiene, how can we ensure equitable funding so that we do not have patchy provision across Wales?

2.00 p.m.

[156] **The First Minister:** The difficulty with hypothecated funding is that, although a hypothecated sum may be given to a local authority, an equivalent sum is often taken out of the revenue support grant from the particular department that had the hypothecated funding, so it does not always resolve the problem. I think that the issue goes further than the one that you have identified, Dai. Given that we have so many departments in Wales dealing with public health, there are questions that need to be addressed, such as whether it is an appropriate number, and whether there is scope for collaboration. This is one area in Wales that seems to be particularly ripe for the picking in that regard.

[157] Secondly, as there are so many departments, is there sufficient scope for environmental health officers to specialise? If we have officers who are spending all their time simply trying to keep up with their workload without being able to specialise in particular areas—and, as a doctor, Dai, you will know how important specialisation is—we will never get to where we want to be. We want specialist advisers out there providing the extra service that the public wants. It is not simply a question of money and it is not simply a question of hypothecation; it is also a question of whether the structure that we have in place is right for the delivery of public health services in Wales.

[158] **Val Lloyd:** In our meeting two weeks ago, on 24 June, Professor Pennington told us that two of his recommendations that relate to HACCPs, hazard analysis and critical control points, are not currently being implemented. From memory, one of those was that food safety management systems are not being embedded in overall working cultures and practices. At that meeting, Consumer Focus Wales also told the committee that it was hoping to facilitate a meeting with the relevant organisations, including Welsh Assembly Government officials and the Food Standards Agency, to look at how these recommendations can be implemented and at who is responsible for issuing the relevant guidance, which it understood to be the FSA. I

heard you say, First Minister, that you already have a meeting arranged for next week with the FSA, but would I be right in saying that there seems to have been a delay in implementing Professor Pennington's recommendations and in publishing the relevant guidance? Could you confirm that the Food Standards Agency will take responsibility for publishing the guidance as soon as possible?

[159] **The First Minister:** I will ask Chris Brereton to come in on this point.

[160] **Mr Brereton:** This is one of those areas in which we have to rely on the expertise of the Food Standards Agency. After all, as the First Minister has said, it monitors local authority performance in these areas. If local authorities are failing to ensure that HACCPs are embedded in food business organisations, and if there is a particular reluctance among smaller organisations, we will need advice from the FSA on how to improve the level of performance. Large organisations in the food business often employ their own environmental health officers. It is the small to medium-sized businesses that will struggle with embedding HACCPs at that level. We would need guidance from the FSA on that, and it is an issue that could be taken up with it at the meeting with the First Minister.

[161] **Darren Millar:** Why has there not been more progress from the FSA? Why has the Assembly Government or you, First Minister, or your predecessor, not been on the back of the FSA? Professor Pennington stressed that the delivery of the HACCP requirements was an urgent and critical part of his recommendations. Why have you not been on the back of the FSA to make sure that this guidance is delivered?

[162] **The First Minister:** I will ask Tony Jewell to come back on that.

[163] **Dr Jewell:** The committee mentioned earlier its concern about this whole inquiry and the recommendations, and I want to assure you that, as the lead official in this, I share your commitment to making sure that the recommendations are implemented. The point has been made about the First Minister's lead role, but other Ministers share the same commitment. I just wanted to take the opportunity to say that.

[164] I think that you had a report from the FSA at your 24 June meeting, which I personally found to be a very useful resource. When the Pennington recommendations first came out, we convened a meeting with interested parties, such as the WLGA, and the FSA in particular. We went through all the recommendations and allocated lead responsibilities. The FSA and the WLGA, as you know, have taken the weight of those recommendations. We are also reassured—and that report from the FSA to you highlights this—that the FSA is taking this seriously, as the organisation and agency with lead responsibility for food hygiene. It has created its own programme board, which it documented with you. The two commitments of that board are to improve awareness and control of food safety hazards and to give reliable assurance that there has been compliance with legal requirements.

[165] We have been reassured because we meet regularly with FSA Wales. Although the FSA covers Wales, there is also an FSA Wales with its own director, with whom we have regular communications. We have been reassured, and have had sight of business minutes and so on, that this FSA-led programme board is functioning and is following up and monitoring its agreed responsibilities. So, there was no question and it did not say that it was not its responsibility; it took on these responsibilities because it is the lead statutory agency. We are satisfied that it has established a programme board, with regular reports to the board. The next one, I notice, is on 20 July. That is when it is due to report back.

[166] I want to assure you that we have heard from the FSA and that it has accepted its responsibility. We are satisfied that it has created the organisational mechanism to get this done properly, and that it is regularly coming back and feeding back to us on progress. A lot

of that information is covered in the report that it submitted to you.

[167] **Darren Millar:** Yes, but did you, as the lead official for the Welsh Government, establish a timetable for the implementation of those critical recommendations?

[168] **Dr Jewell:** Yes. Two things have happened since the report. The first was our allocating the lead responsibility organisationally. The second was the creation of Consumer Focus Wales and its particular role in this, which we welcomed. We have attended its meetings with the FSA and the WLGA, and we have therefore used Consumer Focus Wales as an independent voice and another mechanism for driving this. So, there is a statutory organisational responsibility through the Welsh Assembly Government, the WLGA, and the FSA, for example, and Consumer Focus Wales is the voice of the consumer, with us participating in that event.

[169] Reference was made earlier to a telephone meeting with Professor Pennington. Our officials will be there, as will FSA Wales, WLGA and Consumer Focus Wales officials. So, some of the activity, monitoring and the follow-up is being done through the mechanism of working closely with Consumer Focus Wales. I am committed to doing a report for the First Minister, which will be the substance of his statement after the recess. The report will try to bring all this together for you to see where we are at this point in time. That will be after the FSA's board meeting in July. So, we will pull all this together and provide you and others with an updated situation as of summer 2010.

[170] **Darren Millar:** That would be very much appreciated. You seemed to suggest that a timetable for the delivery of this was agreed at previous meetings and discussions with the FSA and other partners. First Minister, can you ensure that a copy of that is sent to the committee, so that we can hold you and those organisations to account to ensure that they have been delivering in accordance with the agreed timetable?

[171] **The First Minister:** Yes.

[172] **Andrew R.T. Davies:** On that point, throughout all the evidence this afternoon, we have heard of the importance of the FSA and its advice to Government. We have also heard that the First Minister is taking the corporate lead on this in the Welsh Assembly Government, but that there have not yet been any formal ministerial meetings chaired by him on the Pennington report. Given the importance of the FSA and its advice provided to Government, since assuming the office of First Minister, have you had a meeting with the Food Standards Agency to discuss the responsibility for the implementation of the report's recommendations, or is the meeting that you alluded to that will be taking place next week the first one that you will have as First Minister with the FSA?

[173] **The First Minister:** It is the first meeting, but I would expect the chief medical officer, as the lead official, to take forward the recommendations. Next week's meeting is not in response to my giving evidence to this committee; it has been arranged for some time. Despite the work that has been done thus far to take forward the recommendations, I want to be satisfied that, as we look at the question of more resources, the structure is correct and a robust auditing system for local authorities is in place.

2.10 p.m.

[174] **Andrew R.T. Davies:** If you had commissioned a Minister to be responsible for an important piece of work and, seven months into the job, that Minister had not held any meetings with the relevant body, namely the FSA, or with ministerial colleagues, do you think that would be a satisfactory execution of the role that that Minister had been given?

[175] **The First Minister:** We have the chief medical officer, of course, who—

[176] **Andrew R.T. Davies:** That is not what I asked.

[177] **The First Minister:** The chief medical officer's role is to act as an expert in the field, advising the First Minister, and the chief medical officer has already given evidence on what he has done over the past few months and beyond to implement the Pennington report. The chief medical officer would be in a position to inform me if there were a difficulty with the implementation of those recommendations. That is why, of course, we have a chief medical officer, as someone who can play that role.

[178] **Andrew R.T. Davies:** So, given what you have told us today, can you, hand on heart, say that you have done all that you could as the ministerial lead on the Pennington report, given that there have been no ministerial meetings or meetings with the various sponsored bodies that are accountable for the delivery of the Pennington report? You believe that that is a satisfactory way to conduct the implementation of Professor Pennington's recommendations, do you?

[179] **The First Minister:** It is highly misleading to suggest that because there have been no meetings with me, nothing is happening.

[180] **Andrew R.T. Davies:** No, it is not.

[181] **The First Minister:** Yes it is, because, as has already been suggested, the chief medical officer has been taking this forward; officials have met the various organisations and have engaged with Consumer Focus Wales in order to ensure that the recommendations are taken forward. So, it is simply not the case that nothing has happened over the past seven months. The chief medical officer has given clear evidence on what has been happening and evidence has been given on the useful work done in terms of working with Consumer Focus Wales.

[182] **Andrew R.T. Davies:** I put it to you, First Minister, that you have not executed your role as a corporate lead on this in an efficient and effective manner. I hear what you say, but people outside this committee room will read the Record and will form the opinion that I have formed.

[183] **The First Minister:** If you want to be a barrister, train as one. I object strongly to Andrew R.T. Davies's statement, Chair.

[184] **Darren Millar:** You have responded to that question, First Minister. Let us move on.

[185] **The First Minister:** I have not responded to it, Chair.

[186] **Darren Millar:** Pardon me, but I thought that you had answered Andrew earlier with regard to the work that has already been undertaken. If you want to expand on that, please do.

[187] **The First Minister:** A direct allegation was made, which was, to my mind, a political allegation, Chair, suggesting that—[*Interruption.*]

[188] **Darren Millar:** Let the First Minister respond, Andrew.

[189] **The First Minister:** I did not interrupt him when he spoke. He suggested that somehow nothing had been done to take forward the Pennington recommendations. I reject that out of hand. As I said, the chief medical officer has been taking forward the recommendations and I have ensured that steps are taken to ensure that I am satisfied with

regard to the future work of the FSA and that the work is taken forward. A number of us in this room have children and certainly share the agony that parents will have gone through over the E. coli inquiry. I can guarantee this committee that under no circumstances would I simply sit back or want to see parents go through such an experience again.

[190] **Darren Millar:** Thank you, First Minister. Would you like to ask your next question, Andrew R.T. Davies?

[191] **Andrew R.T. Davies:** I think that the Record will stand and people will form a judgment on it.

[192] **The First Minister:** Was that a question or a comment?

[193] **Darren Millar:** I wanted you to ask a question on the scores on the doors scheme, please, Andrew.

[194] **Andrew R.T. Davies:** Would you like to touch on the scores on the doors scheme, First Minister? Consumer Focus Wales has highlighted that as an important piece of work that could be effected via legislation in the Assembly. As you have had a meeting with Consumer Focus Wales, it will have informed you of the possibility of making a legislative request to Westminster for this Assembly to gain the powers to place a legal duty on establishments to place scores on their doors. What is your view on the ability for a proposed LCO to be laid so that we could gain that legislative competence here in Wales?

[195] **The First Minister:** It is an interesting idea and one that I intend to pursue with the Food Standards Agency. I know that the FSA takes the view that this is not the way forward. I am unconvinced that I agree, but I want to hear its views to see whether we could take forward legislation—not a proposed LCO, hopefully, because we hope that we will have the powers ourselves. We will take forward what needs to be done in order to see whether we need the powers to implement such a regime.

[196] **Darren Millar:** I think that the consensus in the committee is that this should be moved forward.

[197] **David Lloyd:** I want to further build a case to help to inform your next meeting with the FSA as regards scores on the doors, if that would be helpful. Basically, the 22 local authorities in Wales all agree that having mandatory scores on the doors is the way forward. There is not universal agreement on that among local authorities elsewhere in these islands, which is presumably why the FSA is reluctant. However, in Wales, all 22 local authorities think that a visual display of hygiene appraisals on doors, windows or wherever is the way forward. All our local authorities agree on that. International research—because this happens in other countries—shows that, where you have a mandatory display of scores on the doors or whatever you want to call it, there is a greater reduction in food-borne illness than where you have voluntary display of hygiene appraisals. International research has also found that having mandatory scores on the doors created greater business revenue for those businesses. So, it is not the case that you are putting businesses at risk—

[198] **Darren Millar:** In addition, you protect the public.

[199] **David Lloyd:** Exactly, that was my next point. When you just have a voluntary code, only 26 per cent of businesses display the scores on the doors, whereas over 95 per cent of businesses would love to.

[200] **The First Minister:** There is a case to be made for that. It is right to say that businesses being able to display what would be seen as a mark of confidence would help

those businesses, but, as I have said, I want to explore this matter with the FSA in my meeting with it and examine why it appears to hold the view that such a system should be voluntary.

[201] **Lorraine Barrett:** Thank you for your comments. I do not want to prolong that discussion, but this is a concern not just for those of us who have children, but all of us with grandchildren, nieces and nephews. They have been running through all our minds during the whole of this inquiry, and not least this meeting today. I was grateful for your comments on that, First Minister.

[202] I want to ask you about environmental health officers. We all sometimes get frustrated when environmental health officers tell us that they do not have the power to do this, that or the other, particularly in relation to noise nuisance, which is another area of their responsibility. Do you consider that there needs to be a change in the powers available to environmental health officers with regard to their enforcement activities in this area? Do you intend to be involved in the review by the Food Standards Agency, which has already raised concerns about the powers available to environmental health officers?

[203] **The First Minister:** On food safety, I would look to discuss that issue with the Minister for health, given that, normally, the FSA would report to her. It is not something that I have heard, although the issue of noise nuisance will, no doubt, be familiar to all Members through their constituency work. I can certainly discuss that with the Minister for health.

[204] **Darren Millar:** Thank you for that. That just about brings us to the end of this particular part of our meeting. We have run over time, but do you want to ask the final question, Veronica?

[205] **Veronica German:** It is about the involvement and engagement of the Welsh Assembly Government with the families affected by the E. coli outbreak, some of which are watching this committee today, and the role of those families. Are you confident that sufficient action has been taken to restore public confidence in food safety in Wales? How do you engage or how have you engaged with the families as a Government? We know that Professor Pennington says that they played an important role, and they have been to Scotland and done other things, but this is about the extent of the engagement of the Welsh Assembly Government with the families.

[206] **The First Minister:** Our officials engage with the families through the Consumer Focus Wales food safety group. We are grateful for the input of the families to that group and for the advice that they have given us and the views that they have expressed to us. That work has been taken forward by Consumer Focus Wales, and it is important that families feel that they have a way of putting across their views when they have gone through the trauma that some have had experienced. We have been talking and, importantly, listening to these families through that group, and we will continue to do so.

2.20 p.m.

[207] **Darren Millar:** We were to scrutinise the First Minister on our report on local service boards today, but I allowed an extended discussion on the E. coli report as I thought that was appropriate. I therefore suggest to committee members that we postpone the discussion on local service boards. I thank the First Minister and his officials for attending committee today. It has been very much appreciated.

2.21 p.m.

**Y Wybodaeth Ddiweddaraf gan y Gweinidog dros Iechyd a Gwasanaethau
Cymdeithasol am Roi Argymhellion Adroddiadau ar Waith**

Update from the Minister for Health and Social Services on Implementation of Report Recommendations

[208] **Darren Millar:** By way of background, we have produced reports on presumed consent and workforce planning in health and social care. I am delighted to welcome the Minister for Health and Social Services, Edwina Hart, and the Deputy Chief Medical Officer for Wales, Dr Chris Jones, as well as Barbara Bale, the head of workforce regulation in the Assembly Government. Thank you for your attendance.

[209] You have kindly provided us with a paper, Minister, and I will go straight into questions, because time is short. You state in your March 2010 update that you have submitted a bid for an LCO in the trawl for the legislative programme for 2010-11. What is the case for seeking competence to introduce an Assembly Measure on presumed consent?

[210] **The Minister for Health and Social Services (Edwina Hart):** It is clear from the responses that we had during a lengthy consultation process that there is an appetite among the public for doing this. It is important that we look at some of the issues around organ donation. I was discussing with the deputy chief medical officer the success that we have had recently in terms of the numbers of people who are donating organs now, and he has some statistics that he will add to our discussion.

[211] I am very pleased that we have seen a reverse in the decline in donation, and that is important for what we are doing. On the case for the LCO bid, neither the committee, nor the UK organ donation taskforce that looked at the Spanish system, recommended a change to the current organ donation system. In fact, when we had a good discussion of the report in Plenary, I remember hearing a mixture of views on this. However, as the committee is aware, I personally felt—as do the current and former First Ministers—that this was an area we needed to look at. I have looked with Cabinet colleagues at items that I could put forward, and it is my intention to pursue legislative competence for soft opt-out. We have to be clear, as there is a lot of mischief-making about what that means—not, of course, from the committee, as it fully understands the issues. If the Assembly gets more powers following a referendum, then we can just get on with it. However, I do not take the Welsh electorate for granted in a referendum, so this is about a belt-and-braces approach to try to get competence in this area.

[212] I realise that whatever we do in Wales will not sort this system out across the UK, but it is important that we take a lead in Wales, and I also believe that, in order to get on with the UK organ donation taskforce recommendations, this is an option that I have to take. There is a lot of support out there from organisations that are involved with people who benefit from donation and from clinicians in particular. That is why I have made this bid, and I look forward to the First Minister's statement next week on the legislative programme.

[213] **Darren Millar:** Are you confident that it will be in the First Minister's legislative programme?

[214] **Edwina Hart:** I am not privy to the First Minister's statement.

[215] **Darren Millar:** Dai, you wanted to come in here.

[216] **David Lloyd:** I congratulate the Minister on her thinking here. She may not be privy to the First Minister's thinking, but certainly we are now aware of hers, and I congratulate her on adopting this approach to an LCO for soft presumed consent, which many of us have agreed with for many years. What sold it to me was the Spanish experience. This committee went out to Madrid and we saw the experience there of soft presumed consent, which is the settled will of that nation. That system makes it a lot easier for the doctors and transplant co-

ordinators, when they are having that very distressing conversation with the family whose loved one is on a life-support machine, because the expectation is that organs will be transplanted. There is only a 15 per cent refusal rate from families where the family can step in and refuse. In the UK, we do not have that system. Medics have to have that conversation, and it can appear quite cold blooded, because we do not have that context, or backcloth, of a settled will that is in favour of organ donation, although, if you shove a microphone under the nose of anybody on the high street, they seem to be in favour of it. We have a 40 per cent refusal rate in the United Kingdom, and that is what sells it for me, because, in Wales, we have around 500 people on a waiting list for a kidney, with one person dying every 11 days. This is a change that could fundamentally alter so many people's lives. We talk a lot in this place about wanting to make a difference, and this simple change would fundamentally deliver for an awful lot of people. I therefore wholeheartedly congratulate the Minister on her proposed way forward here.

[217] **Darren Millar:** That was not quite a question, Minister, but I am sure that you—

[218] **David Lloyd:** In that case, would the Minister agree with me? [*Laughter.*]

[219] **Darren Millar:** I am sure that you are very grateful for Dai's support. Let us move on.

[220] **Val Lloyd:** Staying with the issue of that soft-option system, Minister, I know that you held public meetings and listened to the views of the public. Could you tell us little more about the views that they expressed at those public meetings?

[221] **Edwina Hart:** I think that we have had a very good consultation process on this, because we had public debates at the end of 2008 going into 2009, and when the issues were explained at these public meetings, people came down in favour of the system. We even took it a stage further by having another consultation paper in May 2009, and I specifically got them to discuss even more some of the issues around it. The majority did respond in terms of the soft opt-out system. What has persuaded me is that, when we first started to talk about this issue, I had in my mind, 'Oh, gosh; you can't do that', but then people explained what it meant and the reality of how it works in Spain, in that families still have a choice and that some do say 'no'. What really horrified me when I was out and about was when individuals had made a distinctive choice and families still said 'no'.

[222] When you see the work that some of these transplant co-ordinators do in dealing with the families, you realise what a hard thing it is to do, and we should do anything that we can in the form of legislation to help in this area.

[223] I had a very good debate with the churches during this period. We convened a group with the churches to get their views. They were not necessarily all in agreement, but by the end of the process, they did feel that they had sufficient say about some of the ethical and moral issues, which I feel is important.

[224] **Darren Millar:** As chair of the cross-party group on faith, I congratulate you on that, Minister. I will ask Irene to ask the next question.

[225] **Irene James:** Minister, what is the timescale for implementing the organ donation taskforce recommendations, and are you satisfied that sufficient progress is being made at the moment?

[226] **Edwina Hart:** It is quite a hard task to implement the taskforce recommendations. I think that we are looking for a date somewhere at the beginning of 2013, in the early part of the year, to complete them. We are delighted to see the decline reversed in the number of

deceased organ donors, and we can see real progress in that area. There has also been an increase in the number of live organ donors. We have established organ donation committees in every local health board, which is important. We have established the donation ethics committee, which I also think is important. Of course, we have had the publication of guidance on the legal aspects of increasing non-heart-beating donation rates and on organ donations for coroners. I am confident that we are moving forward. Perhaps Dr Jones would like to say something about the enormously helpful figures that have appeared in recent information.

[227] **Dr Jones:** I will say two things. Though it is not my way, I am actually in my third job in a year. I came to this post from being medical director at Cardiff and Vale University Local Health Board, and prior to that, I was a senior clinician at Abertawe Bro Morgannwg University Local Health Board. The reason I mention that is because, in both of those NHS organisations, I could see that organ donation was being elevated on the agenda.

2.30 p.m.

[228] We have met regularly over the past few months as medical directors, and organ donations have been very much on our agenda. So, I have felt the impact of organ donation committees, the presence of transplant co-ordinators and a will to make this work very quickly. The figures suggest that we are well ahead of the UK organ donor taskforce's expectations. Its aspiration was for a 50 per cent increase in the number of donors over a five-year period, but I understand from George Findlay—who has led this implementation group very dynamically and effectively—that during the first six months of last year, there were 14 donors in Wales. In the first six months of this year, there were 38 donors, which equates to around 170 per cent increase in one year. That is also mirrored by the number of referrals to the transplant co-ordinators throughout Wales, which have also increased in number over the same period of time by about 180 per cent. That is really encouraging, and a sign of real effective clinical engagement.

[229] **Darren Millar:** Thank you for that; that does sound encouraging.

[230] **Andrew R.T. Davies:** I wish to touch on operational issues. Recommendation 2 of the committee's report sought the Assembly Government's view on working with UK Transplant on how Welsh issues could be addressed and the awareness around Welsh issues. The Minister accepted that recommendation in principle. However, the Minister's update paper states that there is ongoing dialogue about how NHS Blood and Transplant operates in Wales.

[231] How has the awareness level been increased so that Welsh issues come to the fore regarding operational issues, because the UK aspect is of vital importance when we are talking about organ donation?

[232] **Edwina Hart:** I could not agree with you more about looking at the UK aspect on organ donation; that is very important. There are mixed views among the people who are involved about how relationships are developing with UK Transplant. I confirmed in my paper that I have always required NHS Blood and Transplant, through its organ donation and transplantation directorate, which is to be called the Wales Organ Donation Implementation Group, to ensure that there is an ongoing dialogue about how it operates in Wales. One of the purposes was to look at the communications strategy to try to improve communication and co-operation between the stakeholders, because the stakeholders do not just include the NHS—there are other groups, parties and stakeholders. We have regular meetings with NHS Blood and Transplant so that we can reflect on issues, and we also monitor its performance through a number of routes. However, I have been very happy with the direction of travel as George Findlay chairs WODIG for us, but there are outstanding issues with regard to our

relationship, which I hope that my new medical director will be taking up. I want to make sure that we have absolute transparency in what it is doing. We do not want any surprises if it decides to run campaigns, because we sometimes do very successful complementary campaigns with organisations such as the campaign that we undertook with Kidney Wales. We want to make sure that we get the best value for money with regard to the way in which we use all our resources in this area.

[233] **Andrew R.T. Davies:** Are you confident that such issues are being addressed on an operational basis and that there is far better inclusion of the Welsh viewpoint when such issues are being discussed?

[234] **Edwina Hart:** I think that it is better than it was, but there is always room for improvement in this area, if I am being absolutely honest.

[235] **Helen Mary Jones:** The committee identified a very specific issue in relation to UK Transplant, namely its complete inability to communicate through the medium of Welsh; it was not producing literature in Welsh. It was not able to tell us confidently whether it had people to meet the demand. If you are dealing with a family at their most vulnerable, you should be able to communicate with them in their language of choice. Is this an issue that you have addressed directly, Minister? If not, I would be grateful if you could take that up, because it is completely unacceptable for a public body to produce literature in Wales and not do it in both languages. UK Transplant was not even clear whether it had a Welsh language scheme. Given that even the Home Office has a Welsh language scheme, we could expect UK Transplant to sort itself out.

[236] **Edwina Hart:** Even the Home Office has one; I found your comments quite interesting on that. We have raised the issue of a Welsh language scheme, and we will be pursuing it.

[237] **Veronica German:** One of the committee's recommendations was about an increase in the number of ICU beds, which you thought was not the whole answer. You went on to talk about reviewing the capacity of the three critical care networks and future needs. Could you give us more information about the recommendations of that review and what is likely to be happening? How has the review informed you?

[238] **Edwina Hart:** We did that as a result of the review of the three critical care networks, which we looked at. There was then a paper, which I accepted, on moving forward on critical care. That looked at delayed transfers of critical care, maximising existing resources, and it mandated a closed model of critical care admission, which I think will help in this regard. Paul wrote to the service at the end of last year, and again in June, to look at how it is tackling the issue of the delayed transfer of care from critical care, and we are awaiting a response on that. We are looking at the increased capacity of critical care in Wales as part of the ongoing work on critical care and organ donation.

[239] **Dr Jones:** We also need to bear in mind the impact of the rapidly increasing donor rate. If we want to use those for transplants, we need to rapidly increase the rate of transplants, and that has implications for the capacity of critical care. In critical care, an awful lot of capacity can be released by improving the flow of patients through these services. There is a particular issue in Cardiff at the moment, because neurosurgery is moving over. As a result, there is much more demand for critical care beds. In the case of many neurosurgical patients, who may well be donors, if it is clear that they are going to die, they may not go to critical care. We have to be careful that we do not lose our initiative in some ways. I know that George is very engaged with this, and I find him to be a very effective clinical leader. He and I work very closely together, and this is an important focus for us all. There are various issues that come into play.

[240] **Darren Millar:** Are you able to share a copy of the report on the critical care networks with the committee, Minister?

[241] **Edwina Hart:** I will have to look at that report, but I am more than happy to share a note with the committee on the issues relating to it.

[242] **Darren Millar:** We appreciate that.

[243] **Lorraine Barrett:** Could you say something about any work that you are doing with the minority ethnic communities to raise awareness of organ donation?

[244] **Edwina Hart:** That is a big issue. The group is looking at its communication strategy and other issues in that respect. We will have to look at any future decisions in relation to the funding of organ donation campaigns. Whether you want to carry out specific campaigns for certain groups is an issue that it needs to look at. NHS Blood and Transplant has done some specific campaigns, and I have asked it to look at that in particular, how effective it has been and whether we need to add to that in any way. It is up to the communications group that is working on it to advise me. I hope that I will have further advice this summer so that we can consider further campaigns. There are concerns in this respect. This links into issues to do with language, who the communities deal with, and a whole range of issues relating to how the system deals with issues in this area.

[245] **Helen Mary Jones:** I am glad to hear you say that the group will address those issues. Will you also ensure that there is a dialogue with the non-Christian faiths about this? One thing that we have found is that there is a perception in some parts of those communities that there are prohibitions to do with transplants, which do not in fact exist—in Islam and Hinduism, for example. It would be valuable to have that dialogue to see how we could also use the temples and mosques as a forum to encourage this. The evidence that we received about the attitude of Islam, for example, is that there is a big tradition of there being a religious duty to give, and that this would be seen as being part of that. The evidence that we heard is that most of mainstream Islam would be perfectly happy to see that gift being given at the end of your life, as part of that tradition, but there are people in the community who do not understand that. I am pleased that you have been talking to the churches about this, but it would also be useful to involve the non-Christian faiths.

[246] **Edwina Hart:** There was a multi-faith discussion, involving representatives of all faiths. One point that was made related to how the Muslim faith, Buddhists and other religious groups—all the religious groups were there—felt about giving. What was important was that they felt that they were giving a gift. The discussion on the soft option related to the fact that it is proper for everyone to decide whether they want to give and for their families to make decisions, but the issue was whether we would step outside the gift issue by putting this in legislation. That was the focus of the discussion with the religious communities, and not the principle of giving.

2.40 p.m.

[247] **Darren Millar:** I think that that concludes our questions on organ donation issues, Minister. We will now move on to the issue of workforce planning in health and social care. I ask Members and witnesses to be brief with their questions and answers, given the time that we have left.

[248] **Ann Jones:** Our committee report on workforce planning in 2008 expressed concern about the limited capacity for workforce planning of local health boards and the National Leadership and Innovation Agency for Healthcare's workforce development unit. Can you

give us some background on whether this situation has moved on? Has this issue been addressed? What will be the impact of the restructuring of the NHS on workforce planning capacity?

[249] **Edwina Hart:** I think that we need to start with something that I spoke about when I was last here giving evidence, namely the five-year service workforce and financial strategic framework, which supported many of the recommendations in the committee's report on the integration of workforce planning and service and financial planning. So, Chair, the work that the committee did was fully reflected in the framework. We also have the workforce modernisation programme board, an enabling programme board, to support the remaining 10 national programmes. Importantly, as part of this, we have the social care workforce task group, which will help to address some of the outstanding issues and social care workforce planning. I know that that has been of interest to Members and that there has been concern about planning in those areas.

[250] The LHBs obviously have to do the work for the strategic planning framework, and local authorities have to be involved as LHBs develop their programmes. We are also doing work on future service models—the integrated health and social services joint planning. This joint working between health and social services is a key part of this agenda, because we have to envisage a world where someone, one day, can work as a carer in the local authority two days a week and in the health service the other three days of the week. We need to look at commonality of skills and qualifications and at all the issues that we need in order to develop an integrated workforce. That is going ahead.

[251] NLIAH now has a whole host of workforce planners being trained with bespoke training for the NHS to deal with some of these issues. This is a constant issue. Workforce planning has taken shape over the past few years. We have become more expert at it. We know where we are going in numbers terms, and we know what we want, so it is developing very well. I believe that they are also looking at e-learning packages to further increase capacity. There is also some other work going on across the health economies, supporting development capability and capacity within the seven LHBs. It is an area where you are constantly learning, understanding and developing more.

[252] **Helen Mary Jones:** Your paper outlines progress towards a greater integration of medical and dental education, planning and commissioning with non-medical professional processes. Can you tell us a bit more, summarise the current position and say what you anticipate will be the final outcome of this work?

[253] **Edwina Hart:** We have made some progress in that area since 2008. The Wales medical and dental workforce group was established to consider what changes are required in the medical and dental workforce over the next one to five years. So, there is positive stuff going on there. There is a link between workforce planning and the process that we are looking at with regard to medical and dental intake levels, which are also quite important. As far as is practicable, we are dealing with training in the workforce as a whole, including GPs, academics, researchers and clinical managers, so a sort of synergy should be developing between medical and dental training. I would not say that it is perfect, but progress is being made. Barbara, do you want to add anything on that?

[254] **Dr Bale:** One of the concerns that the committee probably heard was that NLIAH had responsibility for total workforce planning across the medical and non-medical workforces, but that the commissioning arrangements for education thereafter were separate. Those are the issues that we have been trying to address. So, on the detail that comes in on the workforce plans, the processes are still separate, because the funding streams are separate, but medical and dental and non-medical sides have access to the same figures. So, changes being made in the workforce plans between medical and dental workforces can have an impact on

how we make decisions about the non-medical side of things. We did not have a problem collecting the data, but regarding what we did with the data thereafter. However, we have tried to make those join up without actually joining the organisations. To be fair, it is an ongoing process. We are definitely heading in the right direction on making sure that we service-plan and look together at what we need in relation to medical and specialist and non-medical practitioners.

[255] **Edwina Hart:** The NHS workforce has to be far more aligned to service planning in a much more integrated way as we go into the future. What we are doing in terms of five-year plans within local health boards, and what we are doing centrally to tackle this agenda, will lead to the outcome that I ultimately anticipate.

[256] **David Lloyd:** To develop that point, it is probably a true assessment to say that we were fairly okay at workforce planning in the NHS back in my youth, as a junior hospital doctor. However, we then had the internal market and competing trusts, so we could not have any national workforce planning because everyone was competing with one another and not sharing staff figures and so on. We are only just regaining that lost ground. My question is about the dental workforce. Our committee recommended quite a substantial increase in undergraduate intake, so do you think that 12 more places will secure the increased number of dentists needed?

[257] **Edwina Hart:** Vocational training places for dentists, which we funded, have increased—in fact, it is rising to 74 in 2010-11, so that is good news. We also have some good innovation. If the committee ever felt like taking a trip, it should go to Mountain Ash to look at some undergraduate training issues there. The unit will be opening in July 2011 and a new director is being interviewed. We are looking at the intake increase at the dental school, which is very positive. The unit itself will provide between 15 and 17 in addition, so that allows us to make progress. Also, importantly, it gives a good training environment in the community in terms of what these dental students will do. We are also looking at extending issues around NVQ qualifications for dental nurses, which will be particularly important. I would not underestimate the training numbers. Our difficulty is attracting these dentists to the right places within Wales, as members of the committee will know, and retaining them there within the NHS. We must recognise that they are contractors to the NHS, which leads to some of the problems that we have had recently in north-west Wales and in west Wales. We can train forever, but I cannot guarantee that they will all necessarily end up in the NHS providing the services that we want.

[258] We have also had good news on the Baglan postgraduate training, which is going very well. It will be home to the new dental foundation training in that area. I do not know whether you have anything to add on dentistry, Barbara.

[259] **Dr Bale:** We have to also look at the capacity of the clinical placements and trainers in practices. In the past, we have had a capacity issue in relation to trainers. However, that has also improved. We cannot just expand it beyond what is an acceptable number in terms of need; we must also consider what is acceptable for the university, and in relation to the services from which they can get their clinical expertise. Hopefully, we are expanding in the right direction.

[260] **Val Lloyd:** I have a few questions on nursing and allied health professions. You tell us in your paper that additional education modules have been developed to allow nurses to train for work in the community. Could you tell us how many extra community nurses have been trained as a result of that initiative and to what extent that is meeting the demand for community nurses over all in Wales?

[261] **Dr Bale:** As you know, we have changed the way in which we commission. If I talk

about traditional district nursing, that is not ignoring the fact that there are community nurses who are trained for learning disabilities, mental health and paediatrics. On district nurses, we are not commissioning people to do a one-year course in totality; some are commissioned to do it in one year and the remainder of the places are split for nurses to undertake modules. That is something that we introduced in 2008. The number of modules is increasing for 2010-11, for those who will be coming in September. There are 258 modules, which does not mean that there are 258 district nurses. Of those 258 modules, a proportion will be core modules; therefore, people who have been working in the acute sectors perhaps can work out in the community and they will be able to access a module. They may be very expert where they are, but they just need some support for the differences of working in the community environment and accessing the right services out there.

2.50 p.m.

[262] Then there will be the specialist modules. Experienced staff from the hospital can move into the community and work through that programme of core plus specialist and still qualify as a district nurse. We do not currently have numbers on how many have undertaken the complete number of modules to get the full qualification.

[263] Therefore, to answer the question, we have continued to commission in the region of around 26 to 28 full-time, one-year district nurses each year. In addition to that, we have been increasing the number of modules. So, we have a much bigger number. If it is 258 this year, it was slightly less last year, but it was still in that region of 200. That is how many nurses have accessed education relevant to their role in the community, but that is not the answer to your question of how many more district nurses there are.

[264] **Val Lloyd:** That has given me the answer plus.

[265] The committee expressed concern in its report about the lack of posts for some newly qualified allied health professionals, and the introduction of a guaranteed employment or internship scheme for newly qualified staff was suggested. Have there been any developments on this issue since 2008, and is such a scheme under consideration?

[266] **Edwina Hart:** A graduate employment working group has looked at the issue of the employment of graduates when they complete their training. I supported a pilot project with physiotherapists, which is yet to be evaluated. I have met with physiotherapists to talk about how the pilot project, which helped them identify courses and so forth, has proved useful. Unfortunately, I cannot guarantee the employment of all students, but I did launch the post-registration career framework for nurses in Wales, which supports new graduates in a very similar way to the Scottish toolkit. I am also asking local health boards to look at their future needs so that we can get this right. We have the most appropriate people. Health boards now have a dedicated officer who has responsibility for therapists in the health service, which I think will help some of the allied professionals.

[267] The appointment of someone to the board on therapists and so on has proved to be very popular among the professions. They feel that their voice, whether in what they contribute or what they can contribute in future, is being heard for the first time—dare I say it, over and above the voice of medics. [*Laughter.*]

[268] **David Lloyd:** That is the shy voice of the medics. My question is about the shortage of staff in some specialities. Could you elaborate on that? What is being done to counteract those shortages?

[269] **Edwina Hart:** There is no doubt that we have had recruitment difficulties across Wales, but we are not the only part of the UK that has had recruitment difficulties. The

difficulties are mainly in the west and are about trying to attract people. We have the deanery doing work on that and attempts have been made to try to recruit from elsewhere in the world, but that is not the ultimate answer to this. The answer is to make Wales attractive for employment opportunities and workforce development. There is a lot more to be done. We have worked quite closely with the British Medical Association; there is a video that we could use to try to encourage people to come to Wales. However, we need to do a lot more with medical academics and those whom we attract for research and other things. If you are going to be a GP in west Wales, you might want to keep up your ability to publish papers. Your research and so on is also part of your role and function. Therefore, there are strands of work going on in that area. I do not know whether the medical director wishes to say anything on that.

[270] **Dr Jones:** An aspiration to excellence in everything that we do is ultimately the long-term answer to attracting people to undertake training, to do research and so on. If we offer sustainable, high-quality services with leading-edge clinical care, people will want to come to train with us. If we have universities performing at the highest level, where people can get really good research experience that gives them a career advantage, they will want to come to Wales. That is why I came to Wales 20 years ago. I think that it is a matter of excellence across the piece.

[271] As medical director of NHS Wales, I now chair the junior doctor review group, which engages all the stakeholders here, including the Welsh Assembly Government, consultants and junior doctors, the British Medical Association, the deanery and the General Medical Council. There is a range of items on our agenda to try to improve our attractiveness, our working conditions, and our recruitment and retention rates. So, a lot of energy has been going on this because it is an important area.

[272] We are reassured to some extent by the position that we are in this year, as, overall, the August intake is better than it was last year. It is not perfect, but we are pleased about it. The one area that is still of concern is anaesthetics. We have only just heard from the national appointments process for anaesthetic specialist doctors that we have filled only 50 per cent of our posts, so we still have 22 vacancies. I have to take that to my meeting with the medical directors tomorrow and we will have to discuss how we cope with that. However, overall, the picture is better than it was last year, but we still have to do better to provide an environment of excellence in which to attract people.

[273] **Lorraine Barrett:** The committee previously identified a problem with workforce data collection from GP practices and recommended making it a requirement to provide those data in the revised general medical services contract. You stated in your paper, Minister, that

[274] ‘Submission of data for mutual benefit would be preferable to compulsion.’

[275] How has the situation improved since 2008, and are you satisfied that the current arrangements will address the problem?

[276] **Edwina Hart:** Thank you, Lorraine; that is a nice question. Data collection has improved, we think, on staff groups for commissioning arrangements, such as practice nurses, so we are definitely getting better information on that. Returns from employees could be much better, however, and I have asked LHBs to address the issue individually with the groups in their areas. I also have assurance that they are looking at chronic conditions management, because we will need better information on that if we are to develop that policy. I have asked officials to look at our data requirements for multiple purposes, which was your point, to see whether we need a national minimum dataset, which could be valuable for everybody. I am keen to see what data we and social services and others need to use, to join things up so that we are not all asking for the same things. There are issues with who has what

and how we can deal with it, especially relating to care for the elderly.

[277] I was privileged last week to visit Ann's constituency to see an initiative between the local authority, the voluntary sector and the health board where, instead of worrying about what data were being kept and so on, they were all co-located. So, they could pop from one to the other to ask for information if a name cropped up, and they dealt with things in that way. It seems old-fashioned, but it worked. With such best practice in working arrangements emerging, we might also get clarity in the long run on what type of data we want to keep about individuals to help them along their care pathways.

[278] **Helen Mary Jones:** Another related issue that we identified was a difficulty that some nursing and other staff employed directly by GPs were experiencing with accessing ongoing professional development opportunities. If we do not know that a nurse, for example, is being employed in a GP practice, how on earth can he or she be kept in the loop? Has there been any progress on that, Minister?

[279] **Edwina Hart:** That is a problem, is it not, Barbara?

[280] **Dr Bale:** I think that it is, except that where we have tried hard to get details on practice nurses for commissioning arrangements, those links have been established and the professional link is then established for the ongoing communication and education of that group of staff. However, there is still an issue with their release rather than their access to modules. That is an area over which we cannot really have a great deal of control.

[281] **Edwina Hart:** That is a particular concern that is occasionally raised with me by the Royal College of Nursing, because it has practice nurses who are happily working in their practices, but who are not being given the release time for further education and training, which they would if they were an employee of the LHB.

[282] **Andrew R.T. Davies:** Minister, you have touched on the fact that having the right people in place is important in a workforce and how developing skills in the workforce is vital, but—and I have asked you this several times—the Government has issued a directive to LHBs to secure a 3 per cent reduction for posts at grade 5 and above for the next couple of years under 'Agenda for Change', so how does that create the right skills mix? What evidence did you take to facilitate LHBs meeting that target and to give them confidence that that would help their workforce modelling?

3.00 p.m.

[283] **Edwina Hart:** I thought that I had already answered that somewhere down the line. Do you want to try, Barbara?

[284] **Dr Bale:** We are not just trying to get the skills mix of 3 per cent of band 5 and above; we are looking at the whole workforce and trying to ensure that it is balanced, and that the best use is made of the expertise of the people in the higher level bandings. We are not saying that we want a 3 per cent reduction in band 5 staff nurses, which is where the miscommunication is coming in; we are saying that, across the whole workforce, we have to look at the needs of the patient, the competencies to meet those needs, and whether we have the right people with those competencies. That means that, if we are to use the support staff fully, we must ensure that they have the competencies, training and skills needed to do that. We are also saying that we may have professionals who will need some upskilling to do more advanced practitioner work and specialist work. So, we are not just looking at band 5 staff, but at the whole of the 'Agenda for Change' banding. We are also looking at the medical workforce. It is about getting the balance right to meet the needs of the patient and getting the right staff in the right place. As I said, it is about using the specialist knowledge that

professionals have at graduate level, so that they are not doing things that do not require that expertise. Things can be delegated, if they are delegated appropriately. We are developing guidance. We have a consultation event tomorrow, and guidance will come out later in the year to support qualified staff to delegate appropriately and to ensure that the staff to whom they delegate have the necessary skills and training to enable them to take that delegated work on.

[285] **Andrew R.T. Davies:** So, you are saying that this directive should enhance workforce modelling and should not be an obstacle to people moving up the band once they complete their training.

[286] **Dr Bale:** Absolutely.

[287] **Andrew R.T. Davies:** However, at two RCN events held here, at least, there has been universal agreement that this would act as an obstacle to staff. I did not pick up on your message, but those in the profession did not either. So, in your opinion, what you have instructed the LHBs to do is innovative and will create greater opportunity for career development by downgrading the number of positions at band 5 and above by 3 per cent.

[288] **Dr Bale:** We are all getting hung up on the 3 per cent, but what we want to see—

[289] **Andrew R.T. Davies:** It is in the document.

[290] **Dr Bale:** I know that it is in the document, but we want to see a direction of travel. We have set a target so that there is some direction of travel. It may be that 3 per cent in all specialties is too much or too little, but we are trying to get across to the service that it must look at the service that it is providing, the needs of the patients, and have a workforce that fits those needs and competencies. In some areas, that will mean a 3 per cent shift or it may mean a 1 per cent shift, but it is not just for band 5 staff and above. It means looking at the totality of the workforce and enabling more specialist work and more support, where appropriate.

[291] **Edwina Hart:** The groups in the NHS, including the Royal College of Nursing and Unison, are all aware of what this means in reality. We can put out the documentation and give an explanation, but, at the end of the day, if people choose not to listen to what it is about, that is not a matter that I can deal with.

[292] **Darren Millar:** You have helped to clarify the situation in today's committee meeting. We had a number of other questions that we wanted to ask you, Minister, but I know that your diary is full, that time is tight and that you need to go. So, with Members' permission, we will write to you with the remaining questions so that you can respond to them, Minister. Thank you for your attendance and I also thank Barbara Bale and Dr Chris Jones.

3.04 p.m.

Cynnig Trefniadol Procedural Motion

[293] **Darren Millar:** I move that

the committee resolves, in accordance with Standing Order No. 10.37, to exclude the public from the remainder of the meeting to allow the committee to discuss key issues in the forthcoming report on local safeguarding children boards and future committee inquiries.

[294] Are Members content to do so? I see that there are no objections.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 3.04 p.m.
The public part of the meeting ended at 3.04 p.m.*