



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

## **Y Pwyllgor Deisebau** **The Petitions Committee**

**Dydd Mawrth, 14 Mai 2013**  
**Tuesday, 14 May 2013**

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The proceedings are reported in the language in which they were spoken in the committee. In addition, a transcription of the simultaneous interpretation is included.

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

Russell George	Ceidwadwyr Cymreig Welsh Conservatives
Elin Jones	Plaid Cymru The Party of Wales
William Powell	Democratiaid Rhyddfrydol Cymru (Cadeirydd y Pwyllgor) Welsh Liberal Democrats (Committee Chair)
Joyce Watson	Llafur Labour

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

Dr John Cox	Deisebydd Petitioner
Lynne Neagle	Aelod Cynulliad, Llafur Assembly Member, Labour
Ian Thomas	Cyfarwyddwr Cymru, Scope Director in Wales, Scope

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

Siân Giddins	Dirprwy Glerc Deputy Clerk
Matthew Richards	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Naomi Stocks	Clerc Clerk

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

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

[1] **William Powell:** Bore da a chroeso **William Powell:** Good morning and a warm  
cynnes. welcome.

[2] Welcome to this morning's Petitions Committee meeting. The normal housekeeping  
arrangements apply. We have received no apologies this morning. I hope that we will be  
joined by our colleague Elin Jones shortly. In fact, I believe that she is just about to join us.

9.02 a.m.

**Deisebau Newydd**  
**New Petitions**

[3] **William Powell:** The first petition before us today is P-04-478, A simple info pack  
for all the people of Wales explaining how they can stand as candidates. This petition was  
submitted by Sovereign Wales and collected 11 signatures. The text reads as follows:

[4] 'We call on the National Assembly for Wales to urge the Welsh Government to send out a clear understandable leaflet to all people of voting age in Wales, explaining how they can stand in local, national or Britain wide elections if they so wish.'

[5] This is our first consideration of this petition and I would welcome Members' thoughts on it. I thought that it would be wise to write, in the first instance, to the Minister for Local Government and Government Business to seek her views. Are Members agreed? I see that you are.

[6] We now move on to P-04-479, Tywyn Memorial Hospital X-ray & Minor Injuries Unit Petition. This petition was submitted by the Tywyn and district health care action group and has collected 4,486 signatures. It reads as follows:

[7] 'We call upon the National Assembly for Wales to urge the Welsh Government to stop the withdrawal of X-ray facilities & the reduction in provision of services by the Minor Injuries Unit as a matter of urgency.'

[8] Again, this is our first consideration of the petition. Do colleagues have any thoughts as to how we could proceed?

[9] **Joyce Watson:** We have a procedure that we have been following, as we have a lot of healthcare petitions along these lines.

[10] **William Powell:** Indeed. We have been doing that for consistency.

[11] **Joyce Watson:** In order to be consistent, I think that we should write to Betsi Cadwaladr University Local Health Board to ask for its views on the petition. We should also copy the Minister for Health and Social Services in on that letter and notify the Health and Social Care Committee that we are doing that.

[12] **William Powell:** I think that that is a good set of actions that is consistent with what we have done in recent months. Are colleagues happy with that approach? I see that you are. Good.

[13] We now move on to P-04-480, Address Private Sector Student Housing Standards. This petition was submitted by Aberystwyth University Students' Union and has collected 188 signatures. It reads as follows:

[14] 'We call upon the National Assembly for Wales to urge the Welsh Government to investigate the problems raised in the recent Aberystwyth Housing Survey Report 2012 which has raised concerns about the poor standard of student accommodation and the correspondingly poor treatment of students in the private rented sector. Furthermore, we call on the Welsh Government to engage in a full and frank consultation with the affected communities on this neglected issue while ensuring that current housing legislation and new measures by the relevant authorities are properly observed to help raise standards in the private rental sector.'

[15] On this petition, I should declare that I had a meeting with representatives of the students' union to discuss this issue and we had a copy of the draft report on the table. I suspect that others around the table who represent the area may have had similar contact. I just want to put that on the record. Others have the opportunity to do so if they wish. Russell?

[16] **Russell George:** I have also met with representatives of the students' union. I was pleased to do so because it was helpful to understand this petition. In fact, I encouraged them to follow this process. There are a few people to whom we could write on this issue. To start

with, we should write to the relevant Minister, the Minister for Housing and Regeneration. Let us start by doing that and, when we have a reply, I suggest that we write to other parties on this issue.

[17] **William Powell:** I am sure that there are a number of relevant authorities that would suggest themselves to us. So, we will start with Carl Sargeant. Is that a good approach?

[18] **Elin Jones:** Yes.

[19] **Joyce Watson:** I would like to make one further suggestion. I read this with interest and as it refers to Elin's constituency, I know that she is well aware of the issues and would have dealt with them for many years. There is a new housing Bill going through that will cover some of these areas. They need covering from everything that we have read. I do not know whether we would want to do a short piece of work to see whether that Bill will cover and meet the requests put to us by the students. I know that the Communities, Equality and Local Government Committee—on which I used to sit—has several pieces of legislation to consider, so it probably does not have the time to do this small piece of work. It would just be to cross-reference and to see whether the piece of legislation that is coming through will cover these areas so that we can get an understanding of the fit between the two. I think that it would be a worthy exercise. I do not know whether my colleagues agree.

[20] **William Powell:** That approach would have merit. I know that we have to be regardful of capacity, as we discussed in a previous meeting, but this certainly would merit some work.

[21] **Russell George:** If we write to the Minister first, he may write back to us in a positive way and offer some suggestions. I think that Joyce's avenue is a good one, but perhaps we should wait to hear from the Minister first and then possibly explore Joyce's avenue.

[22] **William Powell:** It would also be useful to know, in terms of timetabling, when this legislation is going to be coming through.

[23] **Elin Jones:** We should specifically ask the Minister whether the issues that are addressed in this petition are likely to be addressed in the housing legislation.

[24] **William Powell:** Exactly, and that is relevant to Joyce's suggestion as well.

[25] **Russell George:** Let us do that.

[26] **Elin Jones:** So, if he says, 'No, they are not issues to be covered', then this committee could possibly look at undertaking a short piece of work within which amendments to that legislation could be identified.

[27] **William Powell:** Excellent, thank you for that. I think that that is a good way forward and it will frame the letter that we send to Carl Sargeant in relation to this petition.

[28] The next petition is P-04-481, Close the Gap for deaf pupils in Wales. This petition was submitted by the National Deaf Children's Society and we had a lively and memorable presentation event. I know that there was an opportunity as well to see the excellent video petition on that same occasion and we have access to it via the link supplied. The petition reads as follows:

[29] 'We call upon the National Assembly for Wales to urge the Welsh Government to develop a national strategy to Close the Gap in educational attainment between deaf pupils

and their peers. The National Deaf Children's Society (NDCS) Cymru presents this petition today as it is both Deaf Awareness Week and two years since 55 AMs pledged to take action to Close the Gap for deaf pupils. Still, Welsh Government statistics demonstrate significant attainment gaps between deaf pupils and their peers. In 2012, deaf pupils were 26% less likely to achieve 5 GCSEs at A\*-C, and 41% less likely to achieve A\*-C passes in core subjects English/Welsh, Maths and Science.'

[30] They reference the video petition in a number of different respects and go on to say that

[31] 'Too many deaf pupils are facing barriers in these areas. A national strategy is needed to address the barriers and Close the Gap!'

[32] It was positive to see the level of Member turnout last week, beyond committee members, of all parties, and from different parts of Wales, including representatives of the cross-party group, chaired by Ann Jones. This was really helpful.

[33] To take this forward, I suggest that we write to Leighton Andrews, Minister for Education and Skills, seeking his views on it and stressing some of the points that are flagged up in the petition. Is that the best starting point?

[34] **Joyce Watson:** Yes, I think that it is.

[35] **Russell George:** I watched a very good video last week, just before the presentation was handed in. It was an excellent video. I met the group, as we all did.

[36] **William Powell:** It was a powerful piece of work, and it got the message across.

[37] We now move to petition P-04-482, Public noticeboards across Wales notifying the public of who all their political representatives are. This was submitted by Sovereign Wales and collected 11 signatures. The wording is as follows:

[38] 'We call on the National Assembly for Wales to urge the Welsh Government to develop a national system of placing large public notice boards (of 5x4 foot or so as an example) across all the local authorities and electoral wards of Wales, clearly notifying everyone who their local Councillor/s and AM's are, together with clear information on how, where and when all of these can all be contacted and met and with regular and updated information on when and where all local council meetings are held.'

[39] There is no reference to MPs, but that is the phrasing of the petition.

[40] That would entail a rigorous approach to engaging with the electorate. In our first consideration of this one, I welcome your thoughts.

[41] **Russell George:** The petition is quite specific on the size of the board, which is helpful, I suppose, but they have not been specific about how many signs would be required. If you have a sign in each council ward, that is a lot of signs. However, it sends us a message, as politicians, that members of the public do not know who we are and how to contact us. However, my initial feeling is that it is our job as elected representatives to make our constituents aware that we are there for them and to provide our contact details.

[42] **William Powell:** Sovereign Wales is obviously looking for a standardised approach. That seems to be its philosophy.

[43] **Russell George:** We usually write to the relevant Minister in these instances and ask

for his or her view, so we should do that in this case.

[44] **William Powell:** Yes, I think that we should write to the Minister for Local Government and Government Business, Lesley Griffiths, to see what her view is on this. Obviously, it would involve quite a substantial capital investment and it would need to be refreshed after each set of elections and any other by-elections. So, we need to be aware of that. However, it would be useful to have her view on it. Do any other colleagues have any thoughts at this stage? I am sure that we will come back to the issue.

[45] We move to petition P-04-483, A plain English /Cymraeg clir policy for all Welsh Assembly and Government communications. This is a further submission by Sovereign Wales, with 11 signatures backing the proposal. The text reads as follows:

[46] ‘We call on the National Assembly for Wales to develop a plain English/Cymraeg Clir policy for all their communications, and separately call on the National Assembly for Wales to urge the Welsh Government to develop such a policy so that the language used is clear and understandable at all times.’

[47] Given the prescription, it seems to me that we should write to the Permanent Secretary on this one, seeking his views, because it relates to the Welsh Government.

[48] **Elin Jones:** It also goes on to say that it calls on all contributions, verbally in the Siambr in the Senedd, to be clear, with avoidance of acronyms and jargon. So, it is equally relevant to us as individuals.

[49] **William Powell:** Yes. We will seek the views of the Permanent Secretary and the Chief Executive and Clerk of the Assembly.

[50] **Joyce Watson:** I agree.

[51] **William Powell:** Clearly, there could be a major training need for us here as individuals to adopt this practice. It is an aspiration, is it not?

[52] **Joyce Watson:** I am sure that it is.

[53] **William Powell:** Thank you, Joyce. Are colleagues happy with that twin-track approach?

[54] **Russell George:** Yes; that is clear enough.

[55] **William Powell:** Sorry. Is that jargon? It probably is jargon for doing both of those things. Okay. Da iawn.

9.15 a.m.

### **Y Wybodaeth Ddiweddaraf am Ddeisebau Blaenorol Updates to Previous Petitions**

[56] **William Powell:** First, we have the emotive petition, P-04-462, Ban the flying of Union flags from official Welsh buildings. This petition was submitted by Plaid Glyndwr in March of this year, with the support of 200 signatures. We considered this petition earlier in the spring and we wrote to the First Minister. We have his pretty clear response in the papers that have come back, explaining what our flag-flying policy is in a pretty comprehensive way. I have a view on this, but Joyce indicated initially that she would like to comment.

[57] **Joyce Watson:** I also have a view on it. We are part of the union and therefore we fly the union flag. The First Minister has clearly said as much in his letter. That is our policy and that was the only place that we could go with this. We have had our reply, and I think that we should close the petition because there is nothing further that we can do.

[58] **William Powell:** Indeed. The First Minister refers to our membership of the union within Great Britain. He also refers to our membership of the European Union—and whatever threat that might be under at the moment is another issue—and clearly states the policy. I share that view.

[59] **Russell George:** I also share that view. We have written to the First Minister on this issue and he has given us his reply, which is clear. Therefore, I would suggest that we close the petition.

[60] **William Powell:** Do we have unanimity on that?

[61] **Elin Jones:** I am happy to close the petition. However, I do not share the view about the flying of the flag. I think that only the Welsh flag should be flown. When we last discussed this, I asked that we also ask the First Minister what the policy was on days when another flag is flown, where the European flag is drawn down on that day and only the Welsh flag and the UK flag is flown. Did we ask for that, and did he avoid answering?

[62] **William Powell:** I will have to read the letter.

[63] **Ms Stocks:** I would need to check the letter. I can check it to see whether the First Minister has not responded fully.

[64] **William Powell:** If we need to write again, does that mean technically that we need to keep this open until that issue, which Elin quite rightly raised, is resolved? I think that the direction of travel is to close the petition. However, we need to resolve that issue, possibly with the re-issuing of a—

[65] **Elin Jones:** It was slightly different to what the petitioners had asked for.

[66] **William Powell:** It is an interesting consideration.

[67] We now move to agenda item 3.2 to look at petition P-04-319, Newtown traffic petition, which was submitted by Paul Pavia in June 2011, with the support of 10 signatures. An associated petition had the support of over 5,000 signatures. We last considered this petition in March and we wrote to the Minister for Economy, Science and Transport, who has now acquired this as part of her consolidated portfolio. We have her response here. Russell, I will ask for your view on this particular petition.

[68] **Russell George:** I will just declare an interest as I am involved in this petition and know the petitioner. I note that the Minister's response states that the bypass will start in 2015. However, there were numerous items of correspondence last year and, indeed, it was discussed at a public meeting last year, where the timescale was set out as late 2014 to early 2015. So, I suggest that we write to the Minister and ask why there has been slippage on that date, just to explain to the committee what has happened and what circumstances have changed for the timetable to be pushed back slightly. Further to that, as we have a new Minister in place, and in terms of the first point of the petition, where it discusses the issues of the traffic congestion currently in the town, I think that we should ask the Minister what she intends to do in regard to that in the interim.

[69] **William Powell:** I think that it would be useful if we were able to keep this live and to await further updates from the Welsh Government. Do colleagues have any further contributions to make on this issue?

[70] **Joyce Watson:** No. I suggest that we await the update.

[71] **William Powell:** Okay. We therefore agree to do that and to take on board the actions that you have proposed.

[72] **Russell George:** So, we are going to write to the Minister.

[73] **William Powell:** Yes, proactively, as well as leaving this open for the immediate time to come.

[74] Agenda item 3.3 is P-04-426, Introduce a mandatory 40 mph speed limit on the A487 at Blaenporth Ceredigion. This was submitted Aberporth Community Council in October of last year. We last considered it in February, and wrote to the then Minister for Local Government and Communities, but, because of the crossover after the reshuffle, we have received a reply from Mrs Edwina Hart. Again, we have, as is stated, a speed limit review under way. It is only logical to keep this open and await the outcome of that review.

[75] **Elin Jones:** Yes, she has committed to responding to us in July on the outcome of that review, so I think that we should keep the petition open until that point to ascertain the conclusions of the review.

[76] **William Powell:** Indeed. Would it be sensible for us to write to Aberporth Community Council as well to keep it in the loop on that very issue? We should note that our colleague, Rebecca Evans, has taken a lively interest in this one, and we can keep her posted as requested.

[77] **Joyce Watson:** I also have a keen interest in reducing speed limits where appropriate, and what the council says in the letter is absolutely right. I cover, as you do, all of this area, and drive this road often, and I will be driving it in June, as you know, because I am going to meet some petitioners on bus provision in north Wales. I am quite happy on that journey—because I will be passing Blaenporth twice, up and down—to meet these people. I know exactly what they are talking about. I have often wondered about the signs that are up there, and why it is not mandatory, so I am quite happy to meet with them during that journey just to bring back their views. I know those views anyway, but it would just apprise those people who might not know—and I know that Elin knows well—of those views. I feel it as strongly as they do: this speed limit should be reduced. I cannot see any reason as to why it is the only village. They are right in saying that.

[78] **William Powell:** People also resent the fact that there needs to be this particular history of incidents and injury; people do not quite get that when it is so obviously a danger.

[79] **Joyce Watson:** There is a very fast road either side of it, which makes it even more urgent, in my book.

[80] **William Powell:** That is a very kind offer, Joyce, to take it together with your other outreach visit when you are heading north. If we stay in touch on that and you feed back after the visit, that would be really helpful to us, and a good use of everybody's time. Thank you for that.

[81] Agenda item 3.4 is P-04-459, A direct rail connection from Cardiff Airport to Cardiff central and west Wales. This was submitted by Sovereign Wales in March and collected 39



signatures. We considered this back in March and wrote at that time to the Minister for Economy, Science and Transport, and to the Enterprise and Business Committee. Responses to both our approaches are in the public papers. It seems to me that we ought to go back to the Sovereign Wales organisation and seek its views on the responses that we have to guide our further consideration. Are colleagues happy with that way of dealing with things? I see that you are.

[82] Moving to agenda item 3.5, P-04-468, Road Safety Concerns A48 Chepstow, this petition was submitted by Chepstow Town Council in March, and an associated petition had over 1,000 signatures. We had a very lively presentation on that occasion. We wrote to the Minister for Economy, Science and Transport, and Edwina Hart's response is in our papers today. We had the opportunity to engage quite a lot with the petitioners and the young people at that time. The issue has since been raised in Plenary by Nick Ramsay, Chair of the Enterprise and Business Committee, as well. We have a speed limit review under way, and we have to await the outcome of that, to be consistent in our approach. It would probably be sensible to write to the Chepstow Town Council clerk to alert them to where we are with the petition, to make sure that they are aware that it is getting full and due consideration. I do not know whether we have a separate contact for the school. I suppose that the clerk of the council will disseminate the information as appropriate. Are colleagues happy with that way of going forward?

[83] **Joyce Watson:** Yes, Chair. I am sorry, but I am not going to go via Chepstow up to north Wales.

[84] **William Powell:** No, that would be a convoluted route. We will have to share the work.

[85] **Joyce Watson:** Do we also let the local constituency Member know? Is that in our protocol?

[86] **Ms Stocks:** We do not as a matter of course. It is something that has been discussed previously, and it is about trying to find a balance between making sure that Members are updated when they want to be and not inundating Members. If Members indicate an interest to us, we will keep them updated.

[87] **William Powell:** In that particular case, the local Member has evidently expressed his interest by engaging with the petitioners and subsequently raising it in Plenary. So, we will make sure that he is in the loop.

[88] The next update is on P-04-398, Campaign for a Welsh Animal Offenders Register. This petition was submitted by Mari and Sara Roberts in June of last year and had the support of 69 signatures. We last considered this petition in February, and we wrote to a number of different organisations. We have received a spread of responses from the Secretary of the State for Environment, Food and Rural Affairs, from the respective Scottish, Irish and Northern Irish administrations, the Welsh Local Government Association, the Federation of Small Businesses, the Dogs Trust and Cats Protection. We have a suite of letters in our public papers today.

[89] A number of practical, legal and ethical concerns have been raised that we can see running through the correspondence. I would appreciate a steer from Members. Elin, you have indicated.

[90] **Elin Jones:** Is it within the competence of the National Assembly to set up an offenders' register of this nature, which is linked to the criminal justice system?

[91] **Ms Stocks:** We will have checked that. I would need to go back to check the legal guidance that we received at the time that the petition was ruled as admissible. That is a standard action that we take before a petition comes before us. I suspect that, because the register is not necessarily directly linked to the criminal justice system, that might be why it would be ruled as admissible. However, I would need to go back to check the legal guidance that we had at the time.

[92] **William Powell:** I call on legal advice, as we have it available. That might help to illuminate things.

[93] **Mr Richards:** I do not know exactly what advice was given about the petition's admissibility, but, as a general principle, having a register is not necessarily related to criminal justice, in the sense that it is not about creating offences or penalties or the processing of those crimes. However, I would be happy to revisit that and provide a note for the committee if it would be helpful.

[94] **William Powell:** That would be really helpful. Thank you for offering to do that, because that could guide things. We could then come back to reviewing the likelihood of the petition's closure, depending on the outcome—we do not want to prejudge that. Are colleagues happy with that approach? I see that you are.

[95] The next update is on petition P-04-433, CCTV in Slaughterhouses. This petition was submitted by— I am sorry, but I have jumped ahead of myself. The next update is on P-04-399, Slaughter Practices. This petition was submitted by Royce Clifford in June 2012 and collected 400 signatures. We last considered it in March, and we wrote to the Minister for Natural Resources and Food. We can see his response in our papers today. In the context of what he says, we should probably await further updates, as this is obviously an issue that is receiving attention. Are colleagues happy with that way of going forward? I see that you are.

9.30 a.m.

[96] To revert to what I started discussing earlier, the next update is on P-04-433, CCTV in Slaughterhouses. This petition was submitted by Animal Aid in November 2012 and collected 1,066 signatures. We last considered this in March also and we wrote to the Minister for Natural Resources and Food, as he has been restyled after the reshuffle. For consistency's sake, we should await further updates from him, as we just agreed to do for the previous petition. Are you happy with that, colleagues?

[97] **Elin Jones:** I would like to understand what he means when he says of both these issues—he has used the same phrase in both letters—that they 'will be given further consideration' after the regulation has been implemented by the Welsh Government. So, it is not during that process of creating the legislation; he will create legislation to enact the regulation—

[98] **William Powell:** There will be some sort of technical advice layer that sits underneath that, do you think?

[99] **Joyce Watson:** Maybe.

[100] **William Powell:** Having occupied a similar seat recently, perhaps you could take us through that.

[101] **Elin Jones:** I was not sure whether that was a clever way of delaying it until after the legislation is in place, but not including it in the legislation.

[102] **William Powell:** Do you think that it would be helpful for us to seek clarification on that, in terms of timetabling?

[103] **Elin Jones:** Only if people—

[104] **William Powell:** No, but it is good to do that.

[105] **Elin Jones:** It is not clear to me whether he will actively pursue legislation on this issue—

[106] **William Powell:** Or carry on regardless, and then come back to it afterwards. On reflection, there is something of a lack of clarity in terms of timescale, which you rightly pointed out. Are colleagues happy to—

[107] **Elin Jones:** That is for both issues.

[108] **William Powell:** Yes, indeed, because the same phrase is used in response to P-04-399 and P-04-433. So, we will do that and, in the second case, we will make sure that Rebecca Evans, who has been associated with that particular petition, is kept in that loop.

[109] P-04-402, Council Prayers, was submitted by Rev Alan Hewitt in July of last year at the time of the national furor around prayers in town councils and so on. Rev Hewitt collected 155 signatures. We last considered this in February, and we wrote to One Voice Wales and to Carl Sargeant who, at that stage, was the Minister for Local Government and Communities. We have their responses. Russell, you indicated that you wanted to speak.

[110] **Russell George:** I declare that I know the petitioner. I can see that we had a reply from the Minister on 9 April, but we also had a reply from One Voice Wales, highlighting that it supports the need for some kind of legal guidance. So, it would probably be appropriate for us to send the Minister a copy of that letter.

[111] **William Powell:** Yes, it would be helpful for us to make the new Minister aware of this, and to make sure that this has been fully taken account of in the handover between Ministers following the reshuffle.

[112] **Russell George:** When the Minister wrote to us on 9 April, she said that she would forward a response in due course; she is obviously considering this. So, it is appropriate that we send the letter as soon as we can and await the Minister's reply.

[113] **William Powell:** That is a good suggestion. The fact that One Voice Wales has stressed that it thinks that there is a case for there being clearer legal guidance probably relates to queries that it has had from its members, who have been concerned not to fall foul of the law. I see that that is agreed.

[114] The next petition, P-04-400, NICE Quality Standard in Mental Health, was submitted by Action for Mental Health in June 2012 and collected approximately 200 signatures. We last looked at this in March this year, and we wrote to the Minister for Health and Social Services. Mark Drakeford's response is among the public papers. As it has been stated in earlier correspondence that the quality standards are being adopted, and in the light of what the Minister reiterates here, it is probably time for us to close this petition. I do not know whether colleagues share that view. Are you happy with that approach? I see that you are.

[115] We will consider the following five petitions together—because we have adopted that practice in previous meetings—as they are all under the umbrella of health and relate to issues

coming out of reconfiguration and associated matters: P-04-367, Save our Hospital Services; P-04-394, Save our Services—Prince Philip Hospital; P-04-430, Proposed closure of Tenby Minor Injuries Unit; P-04-431, Against Health Cuts from the Residents of Pembrokeshire; P-04-455 Save Prince Phillip Hospital A&E. These were submitted in the period between February 2012 and last autumn. We have had a group of responses. The important issue here, once again, is consistency of approach. If we could also agree to group P-04-455 in with these petitions, it would be helpful, because it also relates to Hywel Dda Local Health Board issues. Would it be sensible, at this time, for us to write to Hywel Dda Local Health Board specifically about the issue of the Tenby minor injuries unit, because things seem to have moved on in that regard, and also to ask whether it will be in a position to meet the conditions laid out by the community health council in terms of the alternative provision for minor injuries? Joyce, may I ask you to comment on that, because I know that you have been keeping a close eye on that particular issue?

[116] **Joyce Watson:** Yes, I have—well, on all of them, as it happens. There are concerns out there and it has been unsettling for people. The real issue for me, apart from everything that has been stated, is when the decision will be made. At the moment, my understanding from the representations that have been made to me is that people are in a position of change and they do not know when the change is going to happen or what that change will be.

[117] **William Powell:** That uncertainty is corrosive, is it not?

[118] **Joyce Watson:** The uncertainty is causing a lot of stress to those who work to try to deliver the services and those who are trying to access the services. At the very least, those individuals need some answers now. It has been going on for a very long time. I would not want to give precedence to any of the petitions, because they are all important to those people. The first thing that we have to do is to agree to group them—and I agree to that, and our colleagues will tell us whether they agree—because they are all under the same local health board, namely Hywel Dda. The second thing that is important here is to ask the local health board whether it will be able to deliver the changes that the CHC has proposed for the Tenby minor injuries unit. We should also write to the new Minister for Health and Social Services, Mark Drakeford. We should be quite clear that, on behalf of all of these people, we want some answers, some solutions and an idea of the time frame in which that might be delivered. That is the very least that we should request, while it takes note of everything that has been expressed within these petitions and the strength of feeling behind those petitions.

[119] **William Powell:** Indeed. I certainly think that we need to write in detail to Mark Drakeford, given that he is approaching all of these issues afresh. Although we are post the main consultation, he may well have differences in emphasis or approach that he may wish to bring to bear, and it is important that the strength of feeling behind this whole group of petitions is brought to his attention, if he was not separately aware of it. Also, we have to recognise the extraordinary efforts that the CHC has delivered in the Hywel Dda area and the referral within a short time frame. It has committed enormous resource here, and it has been under considerable strain in doing that, but it has serviced that extremely well and that is worth recognising. Do any colleagues wish to add to the comments that Joyce has made on these matters? I see that no-one does and that you are happy with that approach.

[120] We move on to P-04-417, Save Morfa Beach and Prevent the Closure of Public Footpaths 92 and 93. This was submitted by the Save Morfa Beach group in October 2012 and had the support of 1,191 signatures. We last considered this back in March and we wrote to Councillor Ali Thomas from Neath Port Talbot County Borough Council. The response is in our public papers. We probably need to write to the Planning Inspectorate to ask for a time frame on this as to whether the inquiry has been programmed and what the expected completion date is scheduled to be. We will then be better placed to take forward our consideration. Is that a sensible approach?

[121] **Russell George:** Yes.

[122] **William Powell:** We move on to P-04-461, Save Ponty Paddling Pool. This petition was submitted by Karen Roberts in March of this year and collected 1,212 signatures. I should declare that Karen Roberts is a member of our group support staff within my own party here in the National Assembly. I say that for clarity's sake, as other colleagues have done in similar circumstances. We first considered this petition in March and we wrote to Rhondda Cynon Taf County Borough Council and the response is in the public papers. We also, at that time, requested a legal brief, which we also have, with regard to issues around responsibility for listing buildings of heritage, value and note. We have that brief and that can inform our consideration of this.

[123] I would like us to write to the Minister for Culture and Sport on this issue to get a steer from him on his views, but I would very much welcome colleagues' views as to how we should best take this consideration forward. Do you have any thoughts on it?

[124] **Elin Jones:** Have we previously written to the Minister?

[125] **William Powell:** I do not believe that we have because we sought the legal brief, which we now have.

[126] **Ms Stocks:** You also wanted to write to the council first.

[127] **Elin Jones:** We can write to the Minister because the Welsh Government is funding the change of use for this lido. So, we can write to him with the content of the petition and ask him—

[128] **William Powell:** We could do it for consistency as well and it would make a lot of sense. Also, we should write to Ms Roberts with a request for any feedback on the correspondence already received. That is probably the best combination of action at this time. I see that we are all agreed on that course of action.

[129] **Joyce Watson:** Agreed.

[130] **William Powell:** I move that

*the committee resolves to adjourn the meeting to await the arrival of witnesses in accordance with Standing Order No. 17.47.*

[131] I see that the committee is in agreement. Diolch yn fawr.

*Derbyniwyd y cynnig.  
Motion agreed.*

*Gohiriwyd y cyfarfod rhwng 9.44 a.m. a 9.55 a.m.  
The meeting adjourned between 9.44 a.m. and 9.55 a.m.*

**P-04-442: Sierhau Cymorth Da i Blant Anabl a'u Teuluoedd sy'n Agos i'w Cartrefi—Sesiwn Dystiolaeth**

**P-04-442: Guarantee Good Support Close to Home for Disabled Children and their Families—Evidence Session**

[132] **William Powell.** Bore da. I wish to welcome Ian Thomas, the director of Scope

Cymru, to the committee. We have some issues that we would like to take up with you, Mr Thomas, but you may wish to introduce yourself first, to check the microphone levels, and, if you wish to make any initial remarks, you are welcome to do so.

[133] **Mr Thomas:** Thank you. Good morning, everyone. I am Ian Thomas, the director for Scope here in Wales. Scope is a disability charity that deals with both young people and adults. This morning, I have come to talk specifically about the education (Wales) Bill, and I thank Members for meeting me.

[134] **William Powell:** Excellent. Thank you very much indeed. Mr Thomas, in your evidence you highlight some research that you undertook in 2012 in Wales. Can you tell us a little more about the difficulties that families with disabled children have in accessing local services, as was reflected in that research?

[135] **Mr Thomas:** Scope undertook research in 2012. We spoke to a lot of parents and we spoke to young disabled people who currently use our services. We also petitioned and spoke to a lot of the disability organisations in Wales, such as Disability Wales, to look at the kinds of barriers that have been put in the way of young people in particular when accessing certain facilities across the country. I know that you have received a briefing on this from my policy team, but I am happy to go through that briefing, if that is appropriate.

[136] **William Powell:** Maybe you could highlight some of the key points, as you see them.

[137] **Mr Thomas:** Yes, of course. First, it is fair to say that what we want the Welsh Government to do is to be able to ensure inclusive and accessible services in local areas. We are asking for a duty to be put on local agencies to introduce new, inclusive and accessible services, if they do not exist. We wish that that could be done through better planning, partnership and local parents. We have defined our key principle, which we call the ‘provide local’ principle. I am sure that those of you sitting around the table today will have heard this many times, given some of the geographical issues that the country faces, including the split between the urban and the rural. This is particularly pertinent in Wales at present.

[138] However, it is important to stress that, as an organisation, Scope fully—and I mean fully—supports the Welsh Government’s aspiration to produce a system that is simpler and less adversarial, and is more reassuring for parents and carers. We welcome the proposals to strengthen effective multi-agency working, by tackling those barriers to inclusion and participation. However, we do not believe that the Government will go far enough to improve the lives of disabled children and families. First, the current proposals do not contain any requirements to promote inclusive and accessible services. As I have already said, we welcome the focus on multi-agency working, and we think that that will give us some opportunity, but it will need better strategic planning and service provision to cover and to join up those areas.

[139] Secondly, we think that the current proposals will not help children who do not have an individual development plan. This is key for us as an organisation that works in the disability field. It is something that we are also currently petitioning for in the Social Services and Well-being (Wales) Bill. However, in relation to this particular piece of legislation, the Welsh Government has an aspiration to produce a framework. It states that,

[140] ‘The aim of the multi-agency system for severe and/or complex needs will be to ensure that children and young people are provided with a seamless approach to meeting their individual needs, relating to all aspects of their lives, throughout the year and, wherever possible within their local community.’

[141] We fully support that aim, and we think that that is a key aim. However, many young

people and children with less complex needs will not reach the threshold for a statutory individual development plan. We feel very strongly that that will exclude a lot of disabled children, particularly, who are not up to that threshold. We would argue that that will be a significant number of young people across Wales. Then, I think—

10.00 a.m.

[142] **William Powell:** Mr Thomas, I know that a number of colleagues have got specific areas that they would like to pursue with you. I would like to ask you one more opening question just to kick off. What would you identify as the key impacts of the lack of locally provided services on families and their children?

[143] **Mr Thomas:** The key impact would be families having to look a long way outside their localities to access services. We, in Scope in Wales, provide education provision through, for example, Craig y Parc School in Pentyrch, which is an independent school that we run. What we find—I talk to parents and young people there all the time—is that those young people who come to the school often come in from other boroughs, such as Bridgend. The school is quite easily accessible from Bridgend, but for other services that they would require outside school provision—for things such as some of the community education that they would seek to access, for example—they have to go much further away from the locality. So, there is a key impact on the lives of those families and young people and their quality of life in having to travel so far away for those services.

[144] **William Powell:** Joyce, I think that you want to pursue some issues around Scope's recent research.

[145] **Joyce Watson:** Good morning, Mr Thomas. Thank you for arriving so early. Your survey covered 61 parents and carers of disabled children. With that in mind, do you feel confident with such a small sample that the views that you are expressing are a fair reflection?

[146] **Mr Thomas:** Without wanting to delve into the detailed methodology of the survey, we do feel that it was a representative sample. Due to the kinds of conversations that we had within that sample group, where we tried to draw out the key impacts on people's lives, we do think that it gives an accurate representation. They were very detailed interviews. Some of the interviews were done with focus groups; so, in small clusters. We were trying to get a feeling for the impact on the family as a whole.

[147] **Joyce Watson:** You have talked about the difference between rural and urban areas and the geographical make-up of Wales, so I will not ask you to repeat that, but did you find any specific problems with access to services through the medium of Welsh?

[148] **Mr Thomas:** Absolutely. Across the country we are seeing difficulties in accessing Welsh-language services. Within our own provision, which is based mainly in south-east Wales, we have some ability to do that. However, when we talked to parents about the wider provision for those children who want services through the medium of Welsh, we found that they were not available, by and large, across the south-east of the country in particular. Those included children's care services and information services. At Scope, we are endeavouring to ensure that we provide a bilingual service. After this, I have a meeting about our website that deals with just that. As far as the survey was concerned, yes, there was a problem with access Welsh-language services.

[149] **William Powell:** Elin, you have indicated that you wished to come in.

[150] **Elin Jones:** Good morning. I wanted to ask you about the areas that you have highlighted in your evidence as being the most important services for families. You have

decided on these as your priorities: childcare, short breaks and the right educational setting. Could you explain to us why you have decided on those three areas in particular, and whether there are any other services that you think would also benefit from becoming part of a local guarantee?

[151] **Mr Thomas:** The reason that we chose to highlight those services in particular was, as I stated earlier, because we were keen to promote the family within this and to ensure that the lives of young people and their families were not disrupted because of the lack of provision. The parents and the young people whom we spoke to highlighted those three as being of particular importance.

[152] Short breaks, for example, can mean anything from going into respite provision, which we at Scope provide up to a point, right through to whole-family holidays. We find that there is a specific lack of that kind of provision, yet families increasingly tell us that it is those kinds of breaks that take the pressure off the family, because of the particular needs of the child.

[153] As far as other services are concerned, a significant proportion of people were concerned about transition services, when a young person leaves a school, such as Craig y Parc, and makes that transition into adulthood. In the south of the country, we provide one such service, based here in Cardiff. However, across the rest of Wales, we are finding those services particularly lacking at the moment.

[154] **Elin Jones:** How would you want legislation to define 'local'? Your answer could be that you would like 'local' to be defined as a local authority area. If so, say there was a reorganisation of local authorities into seven rather than 22, how would you see that developing?

[155] **Mr Thomas:** As far as the definition of 'local' is concerned, while we still have the 22 local authorities, I guess that there are some natural boundaries that we can draw up. If we were to go to seven local authorities in Wales, maybe we would have to have some sub-categories, particularly for the particular kinds of services that we are asking for. Within the services that we provide, we tend to look at the radius around, say, a child's home. However, we also try to take into account factors such as transport systems and road links. Many parents in rural areas in particular find it difficult to access services because of the lack of those services, particularly in places such as Powys and Ceredigion. However, the answer to the question should be found within the 22 authorities as they currently sit, and there should be a version of that if we go into the seven authorities.

[156] **Elin Jones:** On the local principle and the guarantee, if that is enshrined in legislation, would you foresee a situation in which a local authority, if it is failing to meet that principle or guarantee, will be fined or penalised in some way for failing to meet that duty?

[157] **Mr Thomas:** I did not want to come here this morning to ask for what are, effectively, punitive measures against local authorities. What Scope is asking for is quite clear: our ambition is to support the family, and getting into adversarial relationships with local authorities will not be a good thing for us to do. However, we are asking for an enhanced duty, which is, I guess, the key ask. We would like supporting guidance to be produced by the Welsh Government. If the Welsh Government chose to do that, as an organisation, we would like to be able to offer you a commitment to work alongside the Welsh Government to define what that would look like and what those measures would look like if a local authority, for example, was not providing those services. However, I do not want to sit here this morning and come up with a host of punitive measures against local authorities.



[158] **Russell George:** Good morning and thank you for taking the time to come to our committee. On the education (Wales) Bill, in your written evidence you say that you welcome measures contained within the Welsh Government's pre-legislative consultation. Can you expand on how far you think that that goes towards meeting your concerns?

[159] **Mr Thomas:** I have probably addressed that in some of my opening remarks. We broadly welcome it. We think that it goes a lot of the way to meeting the needs, and we feel strongly that the principles in here will be of benefit to disabled children and their families. We are concerned about four areas, and we have already covered three of those. We want more on the individual development plans. We are concerned that a lot of young people will drop out of provision, because the individual development plans will not actually meet their requirements. So, there is a key issue for us in taking that one stage further.

[160] We are missing another key aspect and I guess to everybody sitting in the room, it is an obvious one—the accessibility of existing services. I think that a lot can be done in Wales to make existing services accessible and we would like to see the Government push that further forward. I have already started to pick apart the other issue, which is the fact that there is no requirement on agencies to consider the impact of the geographical location of services. Bearing in mind my previous remarks about the geographical spread of services and other issues in Wales, there is a need for something stronger to go in there, too.

[161] **Russell George:** What discussions have you had directly with the Welsh Government on those issues?

[162] **Mr Thomas:** We have not had any, I do not think. We have identified these concerns from the survey and from parents. We work as closely as we can with disabled people's organisations, such as Disability Wales, so I think that we are coming from a fairly grounded base in that sense.

[163] **Russell George:** So, you would welcome a meeting with the Welsh Government to voice your concerns?

[164] **Mr Thomas:** I would welcome a meeting with the Welsh Government to discuss that. As I said, I would like our organisation, Scope, to work alongside the Welsh Government in any way that it can to strengthen the Bill and the provision within it.

[165] **Russell George:** Okay. Thank you very much.

[166] **Joyce Watson:** We have talked about the Minister for Education and Skills's response to the petition, but I want to look at other Welsh Government initiatives, such as Families First, and funding to develop projects between further education and special schools. What are your views on those aspects?

[167] **Mr Thomas:** I think that the Families First programme is quite innovative. It meets the needs of a range of families across Wales. My organisation had a lot of involvement last year with Cardiff Council and we came close to becoming a provider service within Families First. So, the programme is very important, particularly in terms of reaching families about the information services, and as an organisation, we would want to see that programme continue. I can talk from my organisation's perspective about special schools. We would like to see a lot more collaboration between the specialist provision that we provide in schools, such as Craig y Parc School in Pentyrch in Cardiff, and local authority provision; those need to be closely joined up. We are also starting to develop a partnership with further education, but that is through our provision of transition services for those young people as they leave school. However, we would welcome stronger working links with local authority provision and further education provision.

[168] **Joyce Watson:** So, to that end, have you had discussions with the Welsh Local Government Association and individual local authorities?

[169] **Mr Thomas:** We have had discussions with local authorities. For example, in Cardiff we have some joint provision that we run with Cardiff Council for Tŷ Gwyn Special School. We provide out-of-hours services for the young people who attend that school, and an after-school club at Craig y Parc School. As a 24-hour residential school with residential nursing and education status, our building and our environment is very active there. We have started to have those discussions further afield and we are in some demand at the moment, particularly by some authorities in west Wales, notably Carmarthenshire, to do outreach provision from our school. My organisation will look carefully at that to see whether there is any latitude there. We need to talk to more local authorities. We would also welcome conversations with the Welsh Government.

10.15 a.m.

[170] **Joyce Watson:** We have talked a lot, and we always like to end, perhaps, on a good note. Do you have examples of good practice in local authorities? You highlighted Ceredigion and Powys as having poor provision. I presume that you meant that in relation to the geographical challenges within those areas—I am not sure, so perhaps you would like to explain that. If you have examples of good practice with local authorities, we would like to know about them.

[171] **Mr Thomas:** My best examples of good practice, certainly in terms of collaborative working, exist in Cardiff and within Rhondda Cynon Taf; both authorities have engaged with us, as a third sector organisation, to look at the needs of the families of the children who come to our school and at what after-school provision looks like. The discussions with the west Wales authorities, in particular, are in their infancy. If we were to be able to collaborate more widely further west, we would need to be able to establish more effectively educational outreach hubs within those authorities so that we can actually build the resource locally in order to provide the resource locally to the young people. Again, that is mapped out in Scope's own business planning. However, we would obviously need the buy-in of local authorities to be able to do that.

[172] **Joyce Watson:** I have come across a few cases of transition. The real big issue that I have come across within that is the question of who pays. Is that your experience?

[173] **Mr Thomas:** I think that payment is a key subject, not just within education but also within social care and health. We always come up against that. Often, families of disabled children become families of disabled adults. I think that that issue of payment goes right across the age ranges.

[174] **William Powell:** Mr Thomas, what is your perspective, and that of Scope, on whether the provisions in the Equality Act 2010 are actually currently meeting the needs of families to access public services in this area?

[175] **Mr Thomas:** Again, in terms of the principles of the Equality Act 2010, we accept that there is a lot of provision that gives opportunities for disabled families. Without adding my notes in terms of the Act itself, I recall that there were some issues around access to services, with some people feeling that the Act did not go far enough. When we did the sampling for this particular survey, a number of parents raised issues in respect of the Equality Act. Some parents expressed—particularly in one of the focus groups that I attended—that the Equality Act had not really met its aims. However, without going back into those data, I am not able to give you any more detail.

[176] **William Powell:** Thank you very much for that and for all of your earlier full answers, and also for your flexibility this morning in slotting into this session. If there are any final remarks that you would briefly like to make, just to leave us with for our consideration of the petition, you are welcome to do so.

[177] **Mr Thomas:** I would just like to thank you again for inviting me, and to allow me to give this evidence. I will leave you with some of my earlier thoughts around us working together. Scope is willing to work alongside the Welsh Government, the National Assembly and, obviously, the local authorities in Wales, so that we can make the lives of disabled children and disabled families better. Thank you.

[178] **William Powell:** Diolch yn fawr. We will be providing you with a full transcript of this session so that you can check it for accuracy. Also, I reassure you that we will be considering the outcomes of this session at our next meeting, which is on 4 June, because of time constraints this morning. Diolch yn fawr.

[179] **Mr Thomas:** Thank you very much.

10.19 a.m.

**P-04-472: Gwnewch y Nodyn Cyngor Technegol Mwynau yn Ddeddf—Sesiwn Dystiolaeth**

**P-04-472: Make the Minerals Technical Advice Note Law—Evidence Session**

[180] **William Powell:** Bore da a chroeso cynnes. I extend an especially warm welcome to Dr John Cox, who I think has had a fairly difficult morning transport-wise. I am grateful that you were able to make it this morning, and to our colleague Lynne Neagle the Assembly Member for Torfaen. Perhaps you would like to briefly introduce yourselves to check the microphones levels and so on. We will then move straight to the session. I also welcome colleagues in the public gallery who are interested in the deliberations this morning.

[181] **Dr Cox:** Yes, and who also had a horrific journey, as everyone has from Torfaen today. Diolch yn fawr. You have got the microphone levels now.

[182] **Lynne Neagle:** I am Lynne Neagle, Assembly Member for Torfaen.

[183] **William Powell:** Welcome, and thank you very much. Let us kick off straight away with some focused questions here, particularly as to why, in a nutshell, the petitioners backing the MTAN petition, P-04-472, feel that the MTAN needs to be made mandatory.

[184] **Dr Cox:** Essentially, it is about the experience of those of us living near Varteg and what we understand to be the inspector's report in relation to Varteg Hill. The petition is not about Varteg Hill—that is a matter for the Minister to decide—but we will refer to it because it is highly relevant. Our concern is with the provisions of the MTAN, particularly that there should be a 500m buffer between settlements and any work for open casting, unless there are very exceptional circumstances. We cannot see how it is possible for such a decision to have been made by the inspector with full regard to the MTAN. We were aware during the appeal hearings that the inspector said specifically that he did not feel bound by the MTAN, in contradiction to the local authority, which had been told that it must follow that guidance. However the inspector did not feel, and clearly has not felt, that he had to abide by the MTAN.

[185] **William Powell:** Lynne, did you want to come in on this specific point?

[186] **Lynne Neagle:** Prior to the minded-to-approve letter being issued by the Minister, certainly I had felt very confident that the MTAN would protect the community in Varteg from the kind of development that is proposed. It came as a huge shock to me and local residents when it seemed that it was likely not to be the case.

[187] **William Powell:** Okay, that is helpful. In the spirit of broadening things out, in terms of this being not purely about Varteg—although Varteg is obviously the elephant in the room, so to speak—what other concrete examples do you have elsewhere in Wales of MTAN guidelines not being fully taken into account by planners, local authorities, possibly national park authorities, or indeed the inspectorate? It would be helpful if we could broaden it out just a little.

[188] **Dr Cox:** Varteg Hill is the first case that is for a new application. There have been other applications, and I believe that there are Assembly Members who are concerned about other instances, but I have to say that my knowledge is confined to the Varteg Hill case, and so I would not want to broaden it.

[189] **Lynne Neagle:** It was widely believed in the run-up to the Varteg Hill case that this would be the big test case of the minerals planning guidance, so I think that it is fair to say that it will have wider implications for similar applications throughout Wales.

[190] **William Powell:** Absolutely, and we look forward, after determination, to the Minister's evidence session, which will take place later in the summer, to give some further airing and context to that.

[191] **Russell George:** Thanks for being with us. What do you consider to be the main health and environmental issues within the 500m buffer zone?

[192] **Dr Cox:** First of all, the health and environmental issues go beyond 500m. That is not the point at which there are no problems. It is simply, as was said by a previous inspector, about a balance between the need for coal and health and the environment. In fact, if you look at the Torfaen County Borough Council report relating to Varteg Hill, you will see that it draws attention to the fact that Stephen Roscoe, a previous inspector looking at the Margam extension, gave examples of where there was staining on houses that were 700m and 800m away. There are other studies in relation to dust and such like that suggest there are health hazards up to 3 miles away. There is no question at all of everything being safe at 500m. It is simply that the MTAN, and the 10 years of public discussion, decided that this was the balance between the need for coal and health. So, all of these things are relevant, and noise is a further factor. Interestingly, in relation to noise and Varteg Hill, it is admitted that the level of noise experienced by those who are within 100m of this proposed site will exceed that which is legitimate for any development in a residential area. The counsel for the company making the application did not attempt to argue against that; they argued that because these houses are terraced houses without a front garden, they were not entitled to be treated as residential properties, but had to be treated as being at the side of an urban road, and it was therefore acceptable, because they should have been prepared to accept noise levels as if they were on an urban road, when, in fact, from our point of view, it is a residential area.

[193] **Russell George:** What if I ask this, then? If the MTAN were to be made planning law in Wales, what changes do you think would be required?

[194] **Dr Cox:** I think that it is a question of how you would administer it. For instance, if it was to be made law that the planning inspectors had to obey the guidelines as they are, I would be perfectly happy with that. We are in an extraordinary situation, in that the planning inspectors do not have to abide by the MTAN guidelines. How it would be done in legal

terms is not a matter of concern for me, because I am not a lawyer. What I do know is that we have guidelines that are not enforceable.

[195] **Lynne Neagle:** I do not think that it is a question of changing the distance or anything like that. I think that there is a general acceptance that that has been placed in guidance. The issue here is that it does not appear that the guidance, even at this early stage, is being followed. The other thing to point out is that the Welsh Government adopted the 500m buffer zone in the MTAN. Presumably, all sorts of research went into that, but it also followed a number of years of debate in the Assembly and cross-party support for the principle of the 500m. So, it is not about questioning the 500m; it is about ensuring that that is adhered to.

[196] **William Powell:** Thanks, that is helpful.

[197] **Joyce Watson:** Good morning to you both. I am sorry that you had such an arduous journey here this morning.

[198] I want to discuss the possibility of a variable buffer zone that is tailored to local circumstances, as has happened in Scotland. What are your views on that? Do you have any knowledge of that?

[199] **Lynne Neagle:** I am aware that there have been these variable buffer zones in Scotland. My position would be similar to my previous answer, really. This is not about tinkering with the buffer zone; this is about ensuring that stated Welsh Government policy actually delivers on the ground the protection that we promised to communities affected by opencast mining.

[200] **Dr Cox:** The guidelines actually allow for some variability anyway, but you have to have reasons for varying the distance. For instance, specifically, 200m gets a mention in the MTAN guidelines, where it is stated that you have to have special extra reasons—and it goes into that. However, none of that appears to be adhered to at the moment. I would not argue that 495m is out and that 505m is in. You know, it is not that sort of discussion. There is a whole number of things besides the buffer zone in the MTAN guidelines not being adhered to. For instance, it asks for community involvement. Now, I chair a committee, and, at a site about a mile or so away that was being developed, we had regular monthly or two-monthly meetings with the developers to discuss the plans. This particular developer put forward proposals without any consultation at all and said, ‘This is our thing’. Consultation is not, ‘This is what we’re going to do’; it involves a bit of to and fro. So, that part of the MTAN also was not adhered to, you see. To our minds, it is incomprehensible. I do not even know why it was thought by someone that this was worthy of being allowed to go to appeal. When you have a guideline of 500m and there are properties within 100m, it is not five times worse—it is 25 times or more worse. My calculation was that it was more than 1,000 times worse than the criteria that led to the 500m being the balance. So, it is inconceivable to me that it was even worthy of going to the public expense of having an appeal with Queen’s Counsels on this side, QCs on that side and all this debate.

10.30 a.m.

[201] **William Powell:** You commented earlier, Dr Cox, about the fact that the 500m buffer represents a trade-off, or some sort of pragmatic approach—

[202] **Dr Cox:** Compromise.

[203] **William Powell:** A compromise between the need for coal, on the one hand, and, on the other, health concerns. To what extent do you feel that it is legitimate that there should be

such a compromise in an area of this kind?

[204] **Dr Cox:** I am pragmatic about this; I think that compromises are a fact of life. It is only one or two things, such as Britain having nuclear weapons, where I do not compromise and say that the answer is 100% ‘no’. There are reasons why you might say that it is okay if there were major health hazards, and we had a fatality on the other site, although not this one. There might be huge planning gains, as there were on the other site, in terms of, potentially, £3 million-worth of leisure lakes and leisure facilities. However, in this particular case, there was no compromise or pragmatism at all. It was just, ‘We want to make money’, and that was good enough.

[205] **William Powell:** It appears to have been a dialogue with the deaf from what you have described this morning, and from what we have read in your submission.

[206] **Dr Cox:** A monologue.

[207] **William Powell:** Okay, thank you. Elin Jones, you have indicated.

[208] **Elin Jones:** I am not sure whether the question that I am about to ask was exactly the question that you asked, Chair, but I will try to ask it in a specific way. If the MTAN became legislation—you have already said that there is not much that you would want to change—because there is the acceptable justification list within the MTAN for what could happen within the 500m buffer zone, are you content that that type of justification could be placed in a mandatory scheme? Do you think that the list, as it exists, and the justifications on mitigation effects and other parts of the list, is clear enough for authorities throughout Wales to offer the same understanding of that list? You speak of your experience with Torfaen council and its understanding of justifications within that list. Do you have a concern that another authority operating under the MTAN could offer a different explanation of what the list justifies?

[209] **Lynne Neagle:** I certainly think, as far as Torfaen council goes, the council felt that the MTAN was sufficiently clear to enable it to initially reject the Varteg Hill application, and we were quite content with the way that it had been handled. Where things came unstuck was where it appeared that the planning inspector did not think that the MTAN had full legal weight. I am not a planning expert, but, as far as my experience in Torfaen goes, I think that it was sufficiently clear. Indeed, I was expecting, as lots of residents were, that the appeal would fail quickly because it was so clearly in breach of the MTAN. So, I do not think that it is about the guidance not being clear—it is about giving full weight to that guidance when these things are tested through appeals.

[210] **Elin Jones:** As this is seen as guidance at this point, when it offers acceptable justification for working within the 500m, certain criteria could be offered as guidance for that purpose. That is something that could work with guidance, but could it work with legislation or a mandatory MTAN? Would that not require, for the sake of clarity, just 500m, and nothing else?

[211] **Lynne Neagle:** I cannot see why that would be the case. I believe that there could still be provision for there to be exceptional circumstances, where things such as regeneration and health and safety outweighed the considerations of the buffer zone. I cannot see why that would be insurmountable. What do you think, John?

[212] **Dr Cox:** I was comfortable with the wording of the MTAN. Just by coming to it new, I looked at it, and I thought, ‘Gosh, they’ve done a good job here; this is absolutely clear’. I believe that it was also clear—dare I say it—to the planning inspector, because, when he was challenged at the appeal on this point, he said, ‘Ah, but that is just policy.’ I remember his

holding out his hand when he said that. There was an argument from the two sides—one was arguing that it was not yet in law, and the other was arguing that it was guidance. The inspector has come down against the guidance, and for what is there in law, which is case law and which is determined by other planning inspectors. However, even that is rather tricky. When Stephen Roscoe ruled on the Margam issue, he reiterated the points about the balance—the 500m. Although at that particular moment when he was ruling on something, the MTAN was not approved, and he said, ‘I am going to judge this on the assumption that it will be’. He then said all the things that should have made it case law, and, effectively, it had become law.

[213] **Elin Jones:** So, it is not so much the content of the guidance that is open to any kind of debate or discussion between planners or inspectors, but rather the fact that it is seen as guidance rather than legislation. Therefore, the content is okay, it is just the nature of the beast.

[214] **Dr Cox:** Yes. There is also the fact that local authorities, when they hear Carwyn Jones saying, in answer to a question, that guidance is there to be obeyed, they then operate it, and you then expect that any planning inspector will also consider that he has to obey it. Otherwise, we are going to have council after council refusing applications, and planning inspector after planning inspector rejecting them, at an enormous public expense and heartache to the communities involved.

[215] **William Powell:** Dr Cox, some organisations, such as Friends of the Earth Cymru, have advocated a third-party right of appeal within planning in circumstances such as this. With the planning Bill coming up the track—looking at this in a slightly broader way—have you given any thought to that matter, namely whether you feel that that would be of benefit and relevance, particularly given the exorbitant cost associated with a judicial review, and the associated difficulties of accessing justice for communities? Do you have any thoughts on that issue?

[216] **Dr Cox:** I have thought that every appeal is an admission of failure in the process that preceded it; one should be trying to get it right at the beginning, rather than clearing up the mess later on. However, it would be a good thing, if some perverse decision is taken, that there is third-party right of appeal. In fact, the only rights that we appear to have involve individuals taking action, because the council cannot afford to appeal against decisions, in the way that companies can.

[217] **William Powell:** Particularly when you are dealing with companies that have substantial war chests for legal, and other, costs.

[218] **Dr Cox:** In this case, it is not only their own chest, but the chests of all the other companies in the industry that are supportive, because this is a test case.

[219] **William Powell:** That is interesting. Do you have any views on that matter, Lynne?

[220] **Lynne Neagle:** If we were all singing from the same hymn sheet, the third-party right of appeal would not be necessary in this instance. That is what the petition is about—it is about ensuring that, where Government has stated policy, it is delivered on the ground. It is looking increasingly likely that that is not the case in this instance.

[221] **William Powell:** Do you feel that there is a broader issue here about the status of technical advice notes more generally in planning? I heard of a recent example in a local development plan inquiry, which took place in a neighbouring authority to Torfaen, where an inspector said, ‘Well, that’s as may be, but that’s just guidance’. That was with regard to a different TAN—it had nothing to do with minerals. I was thinking in terms of the evidence

session that we have coming up the track with Carl Sargeant in the next few weeks, whether there is a broader issue that may be addressed by your specific petition that we should look to opening up with him.

[222] **Lynne Neagle:** That is a fair point, definitely.

[223] **Dr Cox:** There may well be.

[224] **William Powell:** Excellent. We have exhausted our different lines of questioning at the moment, but I am extremely grateful to you both for the efforts that you have made to be here this morning, against the odds. It has been a really useful session from our perspective. If there are any issues that you feel that have not been addressed, I invite you to briefly make a concluding statement now. I will ensure that you are provided with a transcript of the session so that you can check it for accuracy and completeness shortly after the meeting.

[225] **Lynne Neagle:** The only thing that I would add is that in reference to Varteg Hill, which is my particular experience really, no justification was put forward at all by the company for open-casting so far within the buffer zone. If we had a situation where there were exceptional circumstances, it would be vital that developers provide evidence of those circumstances fully and that we were all clear on precisely what those exceptional circumstances were. That would then provide a safeguard for communities and developers.

[226] **Dr Cox:** I would like to reiterate that the crucial thing is that there is consistency. If you have a process, everyone who is part of the process should be abiding by the same rules. You cannot have one set for the councils and another for the inspectors.

[227] **William Powell:** Thank you very much for your contribution. As I said in reference to the earlier session, we will be considering the transcript and the wider implications of the evidence that you have brought at our next meeting on 4 June. I remind Members that we have a petition presentation on 21 May, which is on the subject of addressing private sector student housing.

[228] I would like to take this opportunity to thank Elin Jones for her contribution to the committee's work over recent months.

[229] Diolch o galon

A heartfelt thanks

[230] for all that you have done. Congratulations on your new appointment within your group, which gives you a role that takes you away from petitions but gives you a broader role across the piece as the representative on the Business Committee. Thank you very much indeed.

*Daeth y cyfarfod i ben am 10.42 a.m.  
The meeting ended at 10.42 a.m.*