



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

## **Y Pwyllgor Cyfrifon Cyhoeddus** **The Public Accounts Committee**

**Dydd Mawrth, 25 Mehefin 2013**  
**Tuesday, 25 June 2013**

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Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynnddi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

The proceedings are recorded 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**

Mohammad Asghar	Ceidwadwyr Cymreig Welsh Conservatives
Jocelyn Davies	Plaid Cymru The Party of Wales
Mike Hedges	Llafur Labour
Sandy Mewies	Llafur Labour
Darren Millar	Ceidwadwyr Cymreig (Cadeirydd y Pwyllgor) Welsh Conservatives (Committee Chair)
Julie Morgan	Llafur Labour
Jenny Rathbone	Llafur Labour
Aled Roberts	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats

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

Steve Ashcroft	Swyddfa Archwilio Cymru Wales Audit Office
Paul Dimblebee	Swyddfa Archwilio Cymru Wales Audit Office
Lisa Dobbins	Safonau Ansawdd Tai, Llywodraeth Cymru Housing Quality Standards Team, Welsh Government
Gareth Jones	Cyfarwyddwr Cyffredinol, Dyfodol Cynaliadwy, Llywodraeth Cymru Director General, Sustainable Futures, Welsh Government
Matthew Mortlock	Swyddfa Archwilio Cymru Wales Audit Office
Kath Palmer	Dirprwy Gyfarwyddwr Cartrefi a Lleoedd, Llywodraeth Cymru Deputy Director of Homes and Places, Welsh Government
Huw Vaughan Thomas	Archwilydd Cyffredinol Cymru, Swyddfa Archwilio Cymru Auditor General for Wales, Wales Audit Office

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

Dan Collier	Dirprwy Glerc Deputy Clerk
Tom Jackson	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] **Darren Millar:** Good morning, everybody, and welcome to today's meeting of the Public Accounts Committee. I encourage Members and witnesses to follow the advice of the ushers in the event of an emergency. I also encourage everybody to turn off mobile phones, BlackBerrys or pagers, because they can interfere with the broadcasting and other equipment. The National Assembly for Wales is a bilingual institution and Members and witnesses should feel free to contribute to this meeting in either Welsh or English as they see fit, using the translation equipment if needed. We have not received any apologies for today's meeting, but we have had a declaration of interest from Jocelyn Davies in respect of the next item on our agenda and item 7, which will be when we discuss the evidence that we receive, because she was a Government Deputy Minister responsible for housing for a period in the last Assembly.

9.02 a.m.

### **Cynnydd o ran Cyrraedd Safon Ansawdd Tai Cymru—Y Wybodaeth Ddiweddaraf gan Lywodraeth Cymru Progress in Delivering the Welsh Housing Quality Standard—Update from the Welsh Government**

[2] **Darren Millar:** I am very pleased to welcome Gareth Jones, director general of sustainable futures.

[3] **Mr Jones:** Thank you, Chair.

[4] **Darren Millar:** He is here along with Kath Palmer—hi, Kath—deputy director of homes and places for the Welsh Government.

[5] **Ms Palmer:** Hello.

[6] **Darren Millar:** We also have Lisa Dobbins from the housing quality standards team. I am very grateful for your attendance and for the paper that you kindly sent, giving us an update. That has been circulated to Members, so, with your permission, we will go straight into questions, if that is okay.

[7] **Mr Jones:** Of course.

[8] **Darren Millar:** Feel free, in your response to the first question, to give us a slightly broader answer, if you want to, on the picture and where things are currently at.

[9] In our previous report, one of the things that we were very keen to resolve was independent validation of the Welsh housing quality standard across Wales. I know that the Welsh Government has now commissioned a piece of work by Altair Ltd consultants to have a stab at identifying where things are at and to look at the acceptable fails criteria, on which we wanted some more clarity as a committee. Could you tell us how you developed the scope of that piece of work and what you intend to do with its findings when it reports back? To me, it does not look as though there will be any random sampling of properties across Wales,

which, I think, is potentially a significant weakness. Gareth, perhaps you could give us an overview of that piece of work and how it might reassure members of the committee.

[10] **Mr Jones:** Thank you very much, Chair. As the Wales Audit Office report made clear, and as our discussion in this meeting about a year ago now also made clear, independent evaluation was something that we have not done enough of and something on which we and members of the committee were very keen for us to make progress. I will put it in a slightly broader context, as you invited, Chair. The timing for this validation exercise is now particularly good, I think. Since our last discussion, we have arrived at a situation where two local authorities have fully met the Welsh housing quality standard. We have around 11 large-scale voluntary transfer associations and registered social landlords that have also met the standard in full since our last meeting. So, there is a very good mix now of landlords that have met the standard and those that are still progressing towards it. Some, of course, are not far off from achieving it. Achieving the standard, of course, is only a small part of the picture because, in many instances, landlords achieve part of the standard before they achieve full compliance. We have quite a rich amount of information on that, which I am happy to share with the committee if it wishes.

[11] The validation exercise will cover a whole range of issues that we are interested in. You have mentioned acceptable fails, Chair; it will also look at broader considerations such as environmental standards and how those are being factored into individual landlords' works. It will assess to what extent landlords themselves have made or are making achievements against the WHQS subject to independent verification. So, in other words, how much they are looking at independent validation of the work that they are doing, which, I recall, was something that the committee was interested in last year. It will also collect details about how landlords survey properties, whom they use to undertake the survey work and that sort of thing. Again, I recall, Chair, committee members being quite interested last year in whether the Government should be doing some of that individual sampling, if you like, or individual survey work. However, we have stuck to the line that we think that that is principally for landlords themselves to do. After all, they are the ones that are spending the money on ensuring that the standards are achieved.

[12] We have mentioned acceptable fails already, Chair. So, it is a very broad range of independent evaluation work that is being undertaken. As you say, we appointed the researcher very recently, on 7 June. That work is now due to be completed by November this year. I am sure, subject to whatever the Minister's view is on this, that sharing that information will be something that he will wish to do.

[13] **Darren Millar:** You just indicated that you are sticking to the line that landlords themselves should take responsibility for validating the work that they have done in order to reach the Welsh housing quality standard, but, in your original response to this committee's report, you made it clear that there would be some random sampling. So, you are not sticking to the line at all, are you? You have a very different approach now than that you had originally reassured this committee with.

[14] **Mr Jones:** I do not think that we have a different approach, Chair.

[15] **Darren Millar:** You are not doing any random sampling, are you?

[16] **Mr Jones:** We are not.

[17] **Ms Palmer:** Not yet.

[18] **Darren Millar:** Ah.

[19] **Ms Palmer:** We are certainly looking at this as being a two-stage process. We will have the findings coming in in the autumn. That will then give us a good picture across Wales and across the landlords as to how they are meeting the WHQS and what level of external verification they have. Following on from that will then be the next steps. That could mean some random sampling after that, if we feel that there are some weaknesses in certain landlords in certain areas.

[20] **Darren Millar:** However, it is a question of ‘could lead to some random sampling’. At the end of the day, the specific concern that this committee had was that, if you leave it for landlords, effectively, to self-certify their meeting of the Welsh housing quality standard, potentially they can pat themselves on the back, have a very low bar to reach in terms of acceptable fails et cetera, and that could undermine the whole process of raising the quality of the housing stock across Wales.

[21] **Mr Jones:** That is, clearly, not something that we could condone. The purpose of the validation exercise is to assess what individual landlords are doing, and to assess, to a degree, how much independent validation they are doing and what the quality of that independent validation is. As Kath said, if, as a result of this exercise, we determine that some further work is necessary, which may extend into the realms of our doing some random sampling, that is what we will advise Ministers that we will do.

[22] **Darren Millar:** However, that is not what you told the committee that you were going to do in the original response to our report. You indicated that some random sampling would take place, not possible random sampling if you are not reassured by an initial report. So, that is quite a different response to the one that we had originally received. Mike, I know that you wanted to come in.

[23] **Mike Hedges:** What I do not understand is how houses do not drop out of the quality standard. Take a house that, 10 years ago, had a kitchen that was 18 years old and a bathroom that was 18 years old. Now, 10 years on, it has a kitchen that is 28 years old and a bathroom that is 28 years old. It met the quality standard 10 years ago, but it does not meet it now. Perhaps you could explain why we do not—. You say that it did meet it, but surely it only met it for one year; in the next year, some of the houses would drop out and have to meet it again. Otherwise, all you will do is modernise houses in one 10-year period and wait 30 years until the next person in your position comes along to the next people sitting here like us to say, ‘We’re going to start it all over again.’

[24] **Mr Jones:** You are absolutely right. Ongoing monitoring and evaluation of the standards of the stock in individual landlords’ care is part of the whole process.

[25] **Mike Hedges:** I am sorry, Chair, but we have yet to have anybody in any of these discussions to come in and say, ‘Of the 2,000 properties we had, 1,800 met it last year. We’ve improved the 200, but now 1,900 meet it because 100 dropped out’. Everybody seems to come along and give us cumulative answers. Is that correct, Chair?

[26] **Darren Millar:** Yes.

[27] **Ms Palmer:** May I come in?

[28] **Darren Millar:** Of course.

[29] **Ms Palmer:** We asked the landlords to produce 30-year business plans, and they are about reaching the standard and maintaining it. So, they will build into their business plans putting in new kitchens every so many years et cetera. They have to meet and maintain the standard. Maintaining the standard is probably being lost in translation somewhere, because it

is a very important point.

[30] **Mike Hedges:** It is certainly not being translated to me. The other problem—I do not know whether now is the right time to raise it, but I will do so as you brought it up—is that a number of the social landlords, especially those who have got housing stock transfer, have borrowed at market rates. They are not on fixed rates; a number of them are on market rates. I can name some of them, if you wish me to. With the benefit changes, in terms of the lack of direct payments, that will put an upward pressure on interest rates, which will have an effect on the ability to spend if their borrowing costs go up. Have you given any thought to that?

[31] **Ms Palmer:** We assess the business plans every year, and part of what the landlords have to do is to look at their borrowing for the future, so they forecast. As you said, interest rates can be variable and that is part of their assessment and part of our assessment of their business plans to make sure that they have a viable plan, moving into the future. It is something that they have to monitor and that we have to monitor as well, to ensure that they have a viable business plan, which includes the costs of borrowing.

[32] **Mike Hedges:** I am sorry; I am not making myself clear. Have you given any thought to the fact that direct payments may well cause interest rates to move north and then have an effect on the capacity of those who borrowed at variable rates to engage in further borrowing to do further updating?

[33] **Ms Palmer:** We are monitoring the welfare or benefit changes as a whole in terms of the business plans for the sector. We are concerned about a number of different areas. The bedroom tax is one of them, as is the impact on interest rates. We have not had any evidence that interest rates have gone up, but, obviously, direct payments have not come in yet with the universal credit. However, we have systems in place to monitor that, and we are watching it closely.

[34] **Darren Millar:** Sandy, you wanted to come in.

[35] **Sandy Mewies:** Thank you for that answer. Given that you accept that there could be an impact on interest rates, if there is, is there anything that you can do about it?

9.15 a.m.

[36] **Mr Jones:** There is nothing that we can do about interest rates, broadly. As you know, they are a macro-economic issue. What landlords effectively have to do is take account of the cost of capital in their business planning. I guess that what they would have to do, in the same way as they would have to do if there are impacts with regard to things like rent arrears as a result of welfare reform, is to prioritise their work accordingly.

[37] **Sandy Mewies:** Are you seeing this as a way of managing their business, as any business would have to?

[38] **Mr Jones:** They have to manage their businesses within certain constraints, and one of the constraints is the cost of capital and servicing the debts, effectively, that they have taken on in the first place. What we are seeing in business planning is that landlords are very clear about the Cabinet's objective for them to meet WHQS by 2020. That is clearly the top priority for them in terms of the standards of housing, and what we are seeing in their business planning is that they recognise that, and they may have to deprioritise some other spend as a result of adverse movements in the cost of capital, debt servicing or whatever. However, we are not seeing any evidence from their business planning that they are proposing to compromise in any way in terms of the quality standards.

[39] **Mohammad Asghar:** Why do landlords need three months from early July to early October to supply the information that is being sought as a part of the 2013 monitoring exercise? What does this say about the overall quality of their information systems?

[40] **Mr Jones:** We need to give landlords a reasonable amount of time to collect information. They probably do not need three months to collect that information. To be frank, it is probably us in the Welsh Government, and our knowledge and analytical services people, who need the time to be able to use the two-stage approach that they adopt, which is to secure information about stock numbers first of all, and then to secure information about the Welsh housing quality standards, and apply the second to the first. So, it is probably more our internal systems that need time to get that information, process it and make it available. Having said that, these are very busy people and they have lots of things to do as well as collecting information. One of the things we discussed last time was about several different sources of information and different requests that were made to landlords, which is clearly not ideal. So, in deregulation terms, it is fair to give them sufficient time to put that information together for us to process it.

[41] **Mohammad Asghar:** How have the enhancements to the 2013 data collection process, to collect further information on so-called acceptable fails, been communicated to landlords in advance, to ensure that they are in a position to respond?

[42] **Mr Jones:** I will ask Lisa or Kath to provide that information, but my understanding is that we are asking, as part of both the data collection exercise this time and our validation exercise, for information on acceptable fails. Lisa, do you want to add to that?

[43] **Ms Dobbins:** Essentially, because the committee had concerns last time, we have made sure that there has been clarity about what they have to produce in terms of how they categorise the acceptable fails. There are four categories of acceptable fails, and the committee had concerns that maybe they would be using that as a mask to come up with excuses. This time around we have said, 'Okay, there are four categories within which acceptable fails will fall outside of WHQS, but you have to be very clear now about what those are', and then, as a result of the evaluation exercise, we will be able to go back and look at what they are doing. As Kath said up front, we do not necessarily see the evaluation as a one-off piece of work. We see this as phase 1 and we are trying to uncover what they are actually doing, what the practice is and, as a result of that, we will then go back in and have a look at that. As Gareth said, that links in. You mentioned the issue of the time frame for business planning; what we try to do every year is to make the system of data collection better and more rigorous, and that is part of the reason we give them some time to adjust, because you cannot just drop new data requirements on people and expect them to respond. So, there is a much greater tightening of the process and of the information that we ask for, and we then test it out and will be looking at some of the issues around acceptable fails through the evaluation exercise.

[44] **Mr Jones:** Chair, I cannot remember whether I said this in my letter to you, but I can tell you now if I did not: enhanced guidance, which the committee was concerned about, on what is an acceptable fail, and the categories that Lisa has mentioned, will go out in the guidance that will go out to landlords in July for their returns over the next three months.

[45] **Darren Millar:** Thank you for that. Jenny is next.

[46] **Jenny Rathbone:** I think that the committee is concerned about the delay in tightening up the system and giving us accurate data. I am unclear as to what Altair is going to add to the picture. You did a pilot project in 2010, and then you had your knowledge and analytical services division look at it and tighten up the system in 2012. What is Altair going to do now, that it is going to deliver on in November, that is going to make this clearer about

which landlords are and which are not compliant?

[47] **Mr Jones:** Altair's work, in many ways, is about identifying how landlords themselves judge that their properties have met WHQS. It is also about assessing, as I said earlier, how they determine that—that is, what sort of independent validation they themselves factor in to that particular assessment. As far as our determining progress against WHQS goes, yes, in many ways, at the moment, we rely, to a degree, on what landlords tell us in their returns every year. That is borne out, by and large, I have to say, by reports that we receive from tenants associations and tenants services. So, I do not think that we have any reason to believe that landlords are in any way trying to pull the wool over our eyes with regard to the WHQS. Tenants are telling their representative bodies that they are, by and large, satisfied. I have visited a number of areas that are being improved against the standard, and I have spoken to tenants and to local people, and I have never got the feeling that there is a mismatch, if you like, between what we are being told by the landlords and what we see on the ground. Nevertheless, I think that this element of independent evaluation is absolutely essential to validate that. As Kath said earlier, we need to look at the first stage of that evaluation and just think about, and give Ministers advice on, whether some further work is necessary to further validate it.

[48] **Jenny Rathbone:** How many landlords are there that receive WHQS?

[49] **Mr Jones:** How many landlords are—?

[50] **Jenny Rathbone:** Are there. You know, who?

[51] **Mr Jones:** Well, there are—

[52] **Jenny Rathbone:** Is Altair going to talk to all of them?

[53] **Mr Jones:** I do not know whether Altair is going to talk to all of them; I would think that it probably is. Is it?

[54] **Ms Dobbins:** Yes. The survey, to start with, will look at all the landlords, and then, as a result of that—actually, we are about to initiate the meeting with Altair to discuss this very issue. So, its staff will be looking at and surveying all the landlords, and, as a result of that, they will be going in and talking to them about the detail. I suspect that what we will probably do is that we will look at the landlords who say that they have already achieved, and we will be looking at the landlords who say that they have not yet achieved. I think that the critical wording in all of this, actually, is about external, independent validation. This is not just about the landlords telling us. Our perspective is that the Welsh Government puts a huge amount of money into WHQS, but, actually, that is dwarfed by the amount of money that the landlords themselves spend on WHQS. Gareth's point was about it being their responsibility, you know. They have governance and financial responsibility to their tenants and to their boards for how they spend it, and, for us, what we are trying to uncover to start with is what they are doing, is it effective, how good is it, and where is the best practice. As a result of that, we might need to come back to look at that in more depth. As Gareth says, that might also need to include the testing, if we think that there is something there.

[55] **Jenny Rathbone:** So, you are going to do a paper survey of all landlords, and then you are going to investigate those where you have question marks.

[56] **Ms Dobbins:** Yes. It will probably be a bit more than phone calls.

[57] **Mr Jones:** That is quite a significant task, of course.

[58] **Jenny Rathbone:** Yes, I appreciate that.

[59] **Mr Jones:** There are 11 local authorities, 11 large-scale voluntary transfers, and 20-plus registered social landlords that they will need to make contact with.

[60] **Jenny Rathbone:** So, by November, we should have a much more accurate picture. Can you tell us what support the Government is giving to Tenant Participation Advisory Service Cymru, to enable tenants to know what is supposed to be in the guidance and, therefore, whether their home is compliant?

[61] **Mr Jones:** There are two tenant organisations, both of which are core funded by the Welsh Government, to the tune of around £0.5 million a year, namely Welsh Tenants and TPAS Cymru. We not only provide core funding to them, but we also work with them and we get information from them. They have produced existing guidance, as you know, which will be updated. The support that we will give is that, once that guidance is updated this autumn, it is our intention to write to all landlords in Wales, emphasising the importance of the guidance that they have provided.

[62] **Jenny Rathbone:** So that will come in at roughly the same time as the Altair study.

[63] **Mr Jones:** Yes.

[64] **Darren Millar:** Sandy Mewies has the next questions.

[65] **Sandy Mewies:** I wish to turn to the vexed question of the housing revenue account subsidy, and the link to that of the possible introduction of a new rent policy. We have been told by a former Minister for housing that negotiations have dragged on for some time—the lever is, quite clearly, held by the Treasury. I think that the initial reform was to be in April 2013, and that will now be at the end of the financial year—it will be 2013-14, hopefully. Can you explain the tortuous and complex reasons for this? Why has there been a delay? I get quite a lot of complaints from people who have been involved in the stock transfer process, asking me why it has been delayed, so it is the sooner the better, as far as I am concerned. What will be the impact of delaying the planned rent policy reforms? What are the future implications of any changes for tenants, combined with the impact of welfare reform, because the position now is much worse than it was when this process started? Could you also give us details of the latest proposal on HRAS reform, which is referred to in the Welsh Government's most recent paper?

[66] **Mr Jones:** I will pass your question fairly swiftly on to Kath, who is my expert on HRAS. However, I will just say a few things at the outset, if I may, Chair. Why has it taken so long? It is because it is a very complex issue, and there have been long, protracted, detailed, but productive, discussions with the Treasury about it. In total, I believe that we have put three main propositions, and two revisions to those propositions, to the Treasury, and negotiations between the Minister for Finance and the Minister for Housing and Regeneration and their counterparts in Westminster have been very long and protracted. I can say that I am very hopeful for an imminent decision and announcement about this, Chair, although I am not able this morning to give you a date for that announcement. However, I am hopeful, given the way that the negotiations have gone, that there will be something positive to say soon.

9.30 a.m.

[67] Kath, I will pass on the rent policy issues to you. Of course, getting out of the HRAS and rent policy for local authorities are inextricably linked together. So, if we manage to extricate ourselves from the housing revenue accounts subsidy scheme, it will follow that rent policy revision will be required for those local authorities. Kath, would you like to say

something about RSLs?

[68] **Ms Palmer:** Yes. I have been working for the last three years on it, trying to exit the housing revenue accounts subsidy system, as some of you will know. It is complex and difficult. It is up to the Treasury whether it will accept us exiting the housing revenue accounts subsidy system. As Gareth said, we have put forward a number of different propositions over the years to the Treasury, and it has taken a significant amount of time to be able to address those, because the Treasury has said, 'No, we do not agree with this; we want you to follow what happened in England; we want to be fair to the English local authorities et cetera'. So, it has been a long process. As Gareth said, we are hopeful that we are making significant progress.

[69] In terms of how that links with the rent policy, that policy is aimed at housing associations, RSLs and local authorities. Once local authorities are able to exit the housing revenue accounts subsidy system, we will need to put in place their rent policy for them. Obviously, until we have the timings of that exit, we are not able to guarantee progress on the rent policy. However, as we said, we are hopeful that, in the very near future, we will have an answer to exit the housing revenue accounts subsidy system.

[70] The welfare benefit challenges and issues are a real concern for us. My team and I are looking at the impact of those on the rent policy, and we will be giving advice to Carl Sargeant around whether we should be, in our view, taking forward the rent policy from 2014 in the way that it was originally envisaged. So, we are looking at that closely, and assessing the welfare benefit changes is work in progress. The last thing that we want to do is to make tenants worse off. The problem is that the welfare benefit changes are quite fluid; we are trying to pin down exactly what the changes are, and landlords are trying to assess with their tenants what the changes will be. We are still not certain about the universal credit. There are still some uncertainties around that. So, it is a fluid situation and it is still very much about looking at the options and the advantages and disadvantages.

[71] I am not able to give you detail around exiting the housing revenue accounts subsidy system at this stage, other than to say that we have agreed with the Treasury that we would exit in a similar fashion to England. However, there are differences with the Welsh system, as we have talked about previously. So, it is about taking into account the differences in the Welsh system, but local authorities will be buying themselves out. There will be a settlement figure, and we will distribute that between the 11 local authorities, and then local authorities will take on debt instead of paying the annual payment. We think that the Treasury will ask for a borrowing cap, and we are looking very closely at that, because the last thing that we would want is for local authorities to be penalised, in terms of meeting Welsh housing quality standards as a result of a borrowing cap. So, we are looking at that very closely to ensure that we are still able to meet our commitments; that is the royal 'we', in terms of local authorities. That is about as much detail as I can give you at this stage, I am afraid. We have guaranteed that every local authority needs to be better off; they cannot be worse off. So, exiting from the housing revenue account subsidy would mean that they would be self-financing and would be better off.

[72] **Sandy Mewies:** That was very helpful; thank you.

[73] **Darren Millar:** Aled, do you want to come in, and I will then bring in Julie?

[74] **Aled Roberts:** Gofynnaf fy **Aled Roberts:** I will ask my question in  
nghwestiwn yn Gymraeg. Welsh.

[75] Os oes cytundeb gyda'r Trysorlys, If there is an agreement with the Treasury,  
beth yw maint y ddyled hanesyddol ar hyn o what is the amount of the historic debt at

bryd? Rydych yn sôn bod yn rhaid i'r 11 cyngor dderbyn cyfrifoldeb am ran o'r ddyled; a oes cytundeb rhwng y Llywodraeth a'r 11 cyngor ynghylch y ffordd ymlaen? Beth fyddai'n digwydd pe bai un neu ddau o'r cynghorau yn gwrthod yr awgrymiadau rydych yn eu gwneud?

present? You mentioned that the 11 councils would have to accept responsibility for part of that debt; is there an agreement between the Government and the 11 councils regarding the way forward? What would happen should one or two councils refuse the suggestions that you have made?

[76] **Mr Jones:** Once again, Kath will give you the detail here, but I know that Kath and her team have been working very closely, on a confidential basis, with a number of local authorities to assess the detailed implications of the various propositions that we have been putting to the Treasury. So, we have not been doing this work in isolation; it has been done with the practical and financial implications for local authorities in mind. Kath, do you want to add to that?

[77] **Ms Palmer:** Historic debt will be taken into account in terms of the formula for the debt settlement. In terms of the 11 councils, once we get the Treasury's agreement, we will be going out to consultation in terms of how we allocate that debt. I have had a workshop with all of the 11 local authorities, with the housing policy and the finance staff, to go through some different options in terms of how we could allocate it. The preference appears to be to allocate it via the HRAS that local authorities currently pay. That seems to be the fairest way, but obviously, I do not want to pre-empt a consultation. However, that is what I had very strongly fed back to me from the local authorities involved, in terms of how we would allocate that debt. We have met the treasurers as well, separately and in strictest confidence, to talk to them about how we allocate the debt and the amounts of debt that they would be taking on et cetera.

[78] **Aled Roberts:** I fod yn glir, mae trefniadau o fewn llywodraeth leol lle mae unrhyw bolisi newydd yn dibynnu ar y cynghorau'n cytuno ar y ffordd ymlaen. Beth sy'n digwydd os ydych yn cael cytundeb gyda'r Trysorlys ond bod un neu ddau o'r cynghorau yn anfodlon gyda'r hyn sy'n cael ei awgrymu ac yn gwrthod cytuno i'r pecyn?

**Aled Roberts:** To be clear, there are arrangements in local government that any new policy depends on the councils agreeing on the way forward. What happens if you reach an agreement with the Treasury but one or two councils are not satisfied with what has been suggested and refuse to agree to the package?

[79] **Ms Palmer:** The timing is going to be quite difficult. What we are looking at, in order to enable us to exit from the housing revenue account subsidy as quickly as possible, is a voluntary agreement with the 11 local authorities. That would depend upon all of the local authorities signing up, based on the premise that they will all be in an advantageous position by exiting from the subsidy system. However, we are also working on the housing Bill, because we would need to put into the housing Bill the fact that we are exiting from the housing revenue account subsidy system. So, if you like, the housing Bill will be the ultimate enforcement.

[80] **Darren Millar:** Julie, you wanted to come in on this point.

[81] **Julie Morgan:** Yes, very swiftly. You have talked about uncertainties and universal credit; could you expand on that?

[82] **Ms Palmer:** I do not have the detail in my mind, so only to say that it is quite fluid in terms of understanding how universal credit will operate in terms of IT systems, for example, what will be included in the universal credit and what will not. We have a broad understanding of that, but how it absolutely impacts upon tenants is something that we are still working through with the landlords. I do not know whether you want to expand on that,

Gareth.

[83] **Mr Jones:** Landlords, as part of their planning for this year, are very cognisant of welfare reform in all its guises. One might argue that universal credit will have the most significant effect on some of the tenants of the landlords that we are describing. They have taken into account, as much as they can, the implications of a whole range of welfare reforms. I guess that there are risks here to landlords. One might think, Chair, that there are greater risks to local authorities and large-scale stock transfer associations, which do not have new build programmes and therefore do not have the flexibility built into their business models and the way in which they plan for the year ahead to cope with some of the implications of the rent arrears that we might see. We have seen a range of estimates ranging from current levels, which are about 2.5% up to around 4% of potential rent arrears as a result of that.

[84] As I said earlier, all landlords have contingency plans on that basis. All tell us that they are still prioritising the Welsh housing quality standard as their utmost priority. So, there will inevitably be implications here, and the current Minister, and perhaps more vociferously the previous Minister, were very clear about their views on that.

[85] **Julie Morgan:** So, you are still uncertain about how this is going to play out.

[86] **Mr Jones:** I think that we are uncertain, because this is an uncertain world in terms of whether or not—to put it plainly—reductions in the amount of money in people’s pockets will feed through into higher levels of rent arrears. We just do not know at the moment. However, as I said, landlords are trying to plan on a contingency basis for a range of outcomes.

[87] **Aled Roberts:** Rwyf eisiau symud ymlaen at y tasglu gweinidogol. Nid yw’n glir o’ch papurau pwy yn union sy’n aelodau o’r tasglu. A yw hi’n bosibl i chi gadarnhau pwy yw’r aelodau?  
**Aled Roberts:** I want to move on to the ministerial taskforce. It is not clear from your papers who exactly are the members of the taskforce. Could you confirm who its members are?

[88] **Mr Jones:** The taskforce is made up of housing specialists, professionals from registered social landlords, local authorities, research specialists and academics, all of whom were brought together for their broad range of experience and knowledge of the sector, to consider and challenge potential governance models and financial planning models for the future. I can provide the committee with a list of names, if you wish, Chair, and where they come from. I am very happy to do that in writing.

[89] **Aled Roberts:** Mae tri chyngor mewn sefyllfa ar hyn o bryd lle nad ydynt yn gallu fforddio cyrraedd y safon, a lle mae eu tenantiaid wedi pleidleisio yn erbyn. Pa waith sydd wedi cael ei wneud gan y tasglu ynglŷn ag ystyried yr holl opsiynau sydd ar gael i’r tri chyngor hyn? A oes trafodaethau wedi cymryd lle efo’r pedwar cyngor arall sy’n dweud eu bod yn eithaf cyfforddus ynghylch y ffordd ymlaen, ond lle y gall cwestiynau godi os yw lefelau dyled rhent yn codi neu os yw’r llog ar unrhyw fenthyca yn codi?  
**Aled Roberts:** Three councils are currently in a position where they cannot afford to reach the standard, and where their tenants have voted against. What work has been undertaken by the taskforce to consider all of the options available to these three councils? Have any discussions taken place with the other four councils that say that they are quite comfortable regarding the way ahead, but where questions may arise if debt arrears levels or borrowing interest rise?

[90] **Mr Jones:** You are quite right; the ministerial taskforce has prioritised its work on the three local authorities that do not yet have acceptable business plans for meeting the standard. I understand that that work has been very productive. A report is due to the Minister in the next month, so I am very hopeful that those discussions will have resulted in some very

positive outcomes. One LSVT association was in the same boat, as it were, but, for different reasons, the ministerial taskforce also prioritised that in its work. That will be part of the report that goes to the Minister in the next month. We are hopeful that there will be very positive outcomes. Obviously, Chair, I cannot pre-empt anything before that.

9.45 a.m.

[91] **Darren Millar:** Thank you very much. We shall await some news with interest. Mike?

[92] **Mike Hedges:** Could you tell us why the auditor general's recommendation 3b to examine the progress of landlords in delivering against previous commitments to achieving the Welsh housing quality standard could not have already been discharged as part of the business planning process in 2012-13?

[93] **Mr Jones:** Recommendation 3b, as I recall, was related to RSLs in particular—why they could not report on their previous progress in the way that local authorities and LSVTs do. I think that there are two answers here. First, there is a different regulatory regime for RSLs and other landlords, and, in many ways, it is not as stringent a regulatory regime. Secondly, there is always a balance between regulation and getting sufficient information. We have agreed that it is important that we get these reports on previous commitments from RSLs. Committee members may know that there is a current review of the regulatory framework for RSLs by the regulatory board in Wales. That review is due—

[94] **Ms Dobbins:** It came out last week.

[95] **Mr Jones:** We have had those recommendations. You can tell that I have not read them, Chair. *[Laughter.]*

[96] **Ms Palmer:** We do have the summaries here if you want them.

[97] **Mr Jones:** We have been waiting for those recommendations, in case they make substantial recommendations about data collection. What we did not want to do was to change the regulatory regime for RSLs on reporting on previous commitments, and then have this report from the regulatory board and have to change tack again. We will be considering this very urgently now and making progress.

[98] **Ms Dobbins:** I have the first meeting next week.

[99] **Darren Millar:** Will you send a copy of that to us?

[100] **Ms Palmer:** We will send it to the NTF members as well, shall we?

[101] **Darren Millar:** Yes. There could be changes to the committee's recommendations. Julie?

[102] **Julie Morgan:** Has the community benefits task and finish group established by the Minister for Finance in 2012 now completed its work?

[103] **Mr Jones:** No, that is still work in progress. This is a broader group, of course, which was established by the Minister for Finance to look at community benefits wrung from a whole range of Government policies. Housing is an important element of that. We will be ensuring that the work that we do, both in terms of the validation exercise and in getting information from landlords and providing guidance for landlords, continues to emphasise the importance of community benefits. I have seen recently a whole range of community benefits

that can be secured from work that landlords do on the Welsh housing quality standards. There are some fairly obvious ones, such as procurement. So, services and goods can be bought from local providers; there are clear benefits there. I have seen some fantastic examples of landlords almost developing spin-off enterprises or companies from the work that they do to undertake some of the work associated with the Welsh housing quality standards, which has been able to provide apprenticeships, employment.

[104] **Julie Morgan:** Can you give us an example?

[105] **Mr Jones:** Yes. I was in RCT Homes recently and it has a number of spin-off enterprises there. One of them operates in the same building as RCT Homes, and it recycles windows, doors, plastic extrusions and all such things. This enterprise has been developed because, as part of the Welsh housing quality standard, quite a lot of potentially waste material is produced, and a little recycling business has grown out of it. Perhaps even further down the scale of using social enterprises to help with what WHQS does, RCT Homes is doing a lot of work with local schools, for example, to improve literacy levels for kids. When I questioned how on earth that has anything to do with the housing association, its response was very clear: ‘These children are our tenants of the future, and in order to invest in our relationship with our future tenants, we need to make sure that our children have as good a start as possible, so that they then become responsible tenants in the future.’

[106] I am thinking about your request, Chair, for some examples. There are some wonderful examples, and we could send you some little case studies, if you are interested, because there are a lot of very good examples around. I mentioned RCT Homes, but it is by no means the only one; it is just the most recent one that I have visited. I am very happy to send some case studies to you, as examples of what is going on.

[107] **Julie Morgan:** It would be very useful if we could have those. There has obviously been a reduction in Welsh Government staff. How has that affected work in housing?

[108] **Mr Jones:** There has been a reduction. We have lost around 1,000 staff members, not from housing, but from the Welsh Government overall, over the last two years, probably. Inevitably, in times when you downsize by so many staff, you might end up with the right number of staff, but they are probably not in the right place, because the criteria that were set for staff who could leave on voluntary early retirement and severance were not based on individual departments or divisions. So, you end up with a bit of a mismatch. When the new Permanent Secretary arrived last autumn, he was clear that he did not think that we had all of our staff in the right places, and that having to prioritise work as much as we were having to do was putting at risk some of the objectives within the programme for government. So, he set about an initiative that is designed to reduce the size of what you might euphemistically call ‘the centre’ of the Welsh Government—central support services, effectively—and make those resources available to policy departments, including housing, which is one of my largest departments.

[109] As a start, the board has agreed this year that the centre of the Welsh Government will reduce by 20% in 2013-14, and policy departments, including housing, will have access to additional resources, over and above those that they had planned to have in place in 2014, to the tune of 5%. So, all of my directors, including my director of housing and regeneration, have been given an additional budget of 5% this year for staffing resource, and they are busy prioritising that. Most of it is already spent on additional resource; much of it for the housing department itself. This whole process of trying to ensure that we direct our resources where they are most needed to address Ministers’ priorities and objectives is, in my view, working very well. In a big organisation, one will always have to prioritise. There is always more work than one has days in the week to do it. However, we are setting about reprioritising and putting in those extra resources, and that is working well.

[110] **Darren Millar:** I am conscious of the time. The clock has almost beaten us. We have sort of answered questions in the next two areas that we were going to look at. Perhaps I could just turn the attention of the meeting now to the Houses into Homes scheme. This has been a flagship scheme in many ways, and it appears to have been very successful so far in bringing what have been dilapidated properties back into the housing market. Can you tell us a little bit more about this scheme and whether you anticipate expanding it in the future? It has a £10 million budget per annum at present, has it not, aimed at getting around 6,000 properties into use over the next few years? Do you think that that is achievable with that sort of level of resource at the moment, or do you anticipate that it will need to go up in the future? Perhaps Kath can tell us a little bit more. You take the lead on this issue, do you not?

[111] **Ms Palmer:** I do not, actually.

[112] **Mr Jones:** Sadly, she does not. The particular head of division on this issue is not here, Chair, but I do know a bit about it. You will know, Chair, that we distributed the first £10 million, which was allocated in 2012-13, by the end of March 2013. Ministers have allocated a further £10 million this financial year. You said £10 million per year; I am not sure that that is a commitment that has been made by Ministers yet. I think that a lot will depend on the success of the scheme. This committee gave me quite a hard time last year in terms of the proper evaluation of schemes, ensuring that they were properly planned and properly evaluated, and that decisions were taken on the basis of those evaluations. That is exactly what we have done in terms of the Houses into Homes scheme. So far, so good, I think, is the answer, Chair. It has proved to be a very popular scheme. I know that some loans have indeed already been repaid, which is very encouraging, because not only does that show that the scheme is working but it means that we potentially have some additional cash to recycle. So, it is a very popular scheme. We have always envisaged that we would reach a stage whereby local authorities would have to wait for moneys to be repaid before offering fresh loans. This sort of cyclical process could work well, I think. As I say, it is a case of so far, so good.

[113] **Darren Millar:** In terms of the distribution of the beneficiaries of the scheme, as it were, are they in particular parts of Wales or is it a pretty even distribution across the country in terms of where the housing needs are the greatest?

[114] **Mr Jones:** I do not have that information—

[115] **Ms Palmer:** It was distributed across the six regions across Wales via the amount of private-sector housing stock that each area held. So, we split the grant up between the six different regions and we have a lead authority in each of the areas that acts as a sort banker for the funds. So, we have had a really good join-up between local authorities in the six different areas in terms of administrating this scheme and taking it forward. We are looking to see how we could increase it, if we could.

[116] **Darren Millar:** Are you planning to make the model more sophisticated in terms of the distribution in the future, based, perhaps, on where housing need is the greatest or where the greatest number of empty homes has been identified?

[117] **Ms Palmer:** There is a number of different options that we are looking at. I am also looking at it in terms of how it links with the 'Vibrant and Viable Places' framework, for which we are now out for bids for the 22 local authorities.

[118] **Mr Jones:** The Minister is very keen to link 'Vibrant and Viable Places' as a regeneration initiative with housing needs in those areas and, potentially, looking at the link with other initiatives as well, such as Communities First areas. So, one can imagine the three

policies coming together and our taking three problems and creating a single solution.

10.00 a.m.

[119] **Darren Millar:** However, this £10 million will, hopefully, become a funding loop that is reinvested into other properties as it becomes repaid.

[120] **Ms Palmer:** That is right, absolutely.

[121] **Darren Millar:** That is great.

[122] **Mike Hedges:** To follow up on that, surely within a two-year period, you would expect all the money to be recycled anyway, would you not?

[123] **Ms Palmer:** The average payback was 18 months in Kent, which is where it is operating; we have looked at that and how it has worked there.

[124] **Mike Hedges:** So, once it has had the £10 million for two years, it should then be recycling continually.

[125] **Ms Palmer:** That is the aim.

[126] **Mr Jones:** That is the aim. The plan was that this interest refinance would be up to two years if the property is sold and three years if it is to be rented, so there is a lag between the two.

[127] **Aled Roberts:** Has the evaluation been published?

[128] **Mr Jones:** An evaluation of—

[129] **Aled Roberts:** Of this particular scheme. You said that it had been evaluated.

[130] **Mr Jones:** Do you mean Houses into Homes? No, we have not done a full-scale evaluation yet. It has been going for only a year. After the first year, we did a desk exercise to assess how useful it had been and whether or not we could advise Ministers to put more money into it, which, as you know, they decided to do. We will do a proper evaluation of the scheme. I am afraid that I do not have a timescale for that, but, again, we can let you have that.

[131] **Ms Palmer:** Yes, we have three-year evaluations, and our interim report—

[132] **Mr Jones:** All our schemes are subject to three-year evaluations, so one would envisage that it would be the year after next.

[133] **Ms Dobbins:** In addition, it is already running, so, in line with what the accounts committee wanted, the evaluation was put in upfront when the scheme started.

[134] **Darren Millar:** Okay. That brings us to the end of this session. I am very grateful to you for coming in, Gareth, Lisa and Kath. We appreciate the evidence that you have given to us. To recap, you said that you would send us some information on the work of the ministerial taskforce, a copy of the new regulatory framework and some more data in terms of the spin-off enterprises and other community benefits. That is really useful; thank you ever so much.

10.03 a.m.

**Sesiwn Frifffio gydag Archwilydd Cyffredinol Cymru am Adroddiad Swyddfa  
Archwilio Cymru ‘Gweithredu’r Fframwaith Cenedlaethol ar gyfer Gofal  
Iechyd Parhaus y GIG’**

**Briefing from the Auditor General for Wales on the Wales Audit Office  
Report ‘Implementation of the Framework for Continuing NHS Healthcare’**

[135] **Darren Millar:** We will make a start on item 3. I am pleased that the auditor general is here, along with Paul Dimblebee, group director in the Wales Audit Office. I also welcome Steve Ashcroft, the performance audit manager in respect of this particular report. Huw, do you want to take two minutes to give us an overview of the report, and then we will go into some questions?

[136] **Mr Thomas:** Yes, we will adopt the practice that we have gone for recently, in which I make a brief presentation and give you maximum scope. Basically, this is a report that looks at whether the framework for continuing national health service healthcare, and the way that it is being implemented are effective in ensuring that individuals are dealt with fairly and consistently. The framework was introduced in August 2010 and sets out eligibility criteria for adults and the duties of health boards and local authorities. It is important that there is fairness and consistency because, for some people, a decision that they are ineligible for continuing healthcare can have a significant financial impact, depending on income, savings, capital assets and so on. They can be charged for any care provided by social services, particularly personal care and accommodation in a care home.

[137] The conclusion from our work is that the implementation of the framework has delivered some improvements, but more needs to be done to ensure consistency and fairness, with improvements in several areas. What we have found is that the eligibility could be improved and the impact monitored more closely once. The extent to which the framework has been implemented, or the way that it has been implemented, and contributed to reductions of expenditure, is not clear. This is because at least part of the fall in expenditure is likely to reflect other developments, including the £37.5 million of Welsh Government funding for modernising complex care services.

[138] We also found—and there are a few instances in the report—that local arrangements for implementing the framework vary within and between health boards, which is concerning. They do not always meet the requirements set out in the framework in a number of important areas. I would like to draw attention to the fact that NHS Wales is struggling to deal with a large number of retrospective claims that challenge whether someone should have received continuing healthcare in the past. The claims have been processed either by the national project based in Powys or by individual health boards, depending on the date of submission. The national project in particular has made only limited progress and, despite additional funding, it is my view that there remains a significant risk that a deadline of clearing all claims by June 2014 will not be met. I have to say that the Welsh Government disagrees with that, but my view is that the current rate of progress in clearing the claims makes the estimate that it will clear them by June next year very optimistic.

[139] By September 2012, for example, only 13% of 1,264 retrospective claims and disputes had been settled. It is not only unfair on the individuals concerned, but many of the retrospective claims that are still being dealt with date back to 1996. Indeed, more than four in every five cases are being pursued by family members on behalf of a relative who has died in that time. I make a number of recommendations for the Welsh Government in the report: to improve its guidance in working with health boards; to develop national protocols and guidance in particular; to strengthen leadership for continuing healthcare at a national level and within health boards; and to introduce peer reviews between health boards to help ensure consistent interpretation and application of the framework. Indeed, it should have sufficient

priority that it should be an executive group, chaired by a health board chief executive, to ensure that all retrospective claims are being processed efficiently and in a timely and consistent fashion.

[140] We have also developed, as part of our general approach to good practice from audit work, a self-assessment and improvement checklist. That is attached. I would recommend that the Welsh Government make its use mandatory.

[141] I will conclude at this stage by drawing the committee's attention to three key issues. The Welsh Government has committed to a review of the framework, and a work programme is being developed to facilitate this. I understand that it will draw upon the findings of my report. Despite assurances provided by the chief executive of NHS Wales that the June 2014 deadline for the clearance of retrospective claims would be achieved, I come back to the point that I do not believe that this can be done. I think that this is a very significant risk.

[142] The other point I should mention is that the National Assembly's Petitions Committee is considering a petition relating to continuing healthcare, specifically in relation to the differences between Wales and England in the assessment of dementia cases and claims of incorrect application of eligibility criteria as a result of budgetary constraints. I have provided a copy of my report to the Chair of the Petitions Committee, and I draw particular attention to the fact that we took evidence from the Alzheimer's Society and others as part of our work. We hope that this report will be of value to the Petitions Committee as well.

[143] **Darren Millar:** Thank you for those opening remarks. Obviously, we were aware as individual Assembly Members of some of the concerns about the delays in settling continuing healthcare claims, and, indeed, the concerns of some of the organisations out there, like the Alzheimer's Society, about the way that dementia issues are treated, for example.

[144] One of the things that the report points out is the delay between 2008 and 2010 in the implementation of a revised framework. What was the explanation for that significant delay, and, most importantly, how did it impact on those people whose claims were being determined at that time?

[145] **Mr Ashcroft:** On the first part of the question, really, the explanation has been that it took a while to go through a consultation process. At the end of that consultation process, there was then a further piece of case law that needed to be reflected upon and the guidance amended. That then led to a further period of consultation. Also, there was, at that time, an issue around the capacity within the Welsh Government to actually move forward with developing the guidance, getting it issued and then responding to the consultation responses that came in. So, for me, the explanation has been a combination of those things.

[146] **Darren Millar:** And in terms of the impact on—

[147] **Mr Ashcroft:** In terms of the impact, the bulk of the retrospective cases arose up to 2009—so, they pre-date, in effect, the new framework. The impact is, therefore, not likely to have been that great, as they really were running side by side.

[148] **Mr Dimblebee:** Except to say that a number of those retrospective cases would have been a consequence of delaying the completion of the framework, because part of the reason for revising the framework was a key court judgment in 2006, known as the Grogan judgment. So, there will be a number of retrospective claims that will have been a consequence of the framework not being revised in a more timely manner.

[149] **Darren Millar:** Yes. Sandy is next.

[150] **Sandy Mewies:** Thank you, Chair. You may want to stop me, because I am not sure whether this will come out later or not. Nevertheless, I would like to make sure that it comes out.

[151] The retrospective claims guidance was altered by the new case law that came in. Can you tell me—this is a general question for the auditor general, really—whether you think, as I do, that there is a huge trough of people who are entitled to have claimed and have not done so because they are still not aware that they are able to do so? I put this in the context of the many people who have had relatives, who probably have died by now, going through the care process, going from residential to nursing care, and maybe into hospital care. I will not impinge on Alzheimer's or dementia, because I will ask about that later. For them, the trauma of the experience impacts for many years, in some cases. We keep talking about this deadline of 'when' cases are going to be completed. In my view, that is not as important as enabling, not everyone, as you will never get to everyone, but as many people as possible who would be entitled to claim to do so. I do not think that there are any steps—there is no-one looking back in time and trying to help people who may not be aware of this. I am thinking of, perhaps, the 88-year-old widower, or people such as that, who may not be able, or may not feel able, to go through this process.

[152] Sorry, Chair, but I just have this feeling that there is a big trough of people who have not been drawn into the process. I hope that I am wrong.

10.15 a.m.

[153] **Mr Thomas:** Could I, in a sense, look at that in two halves? First of all, there is clearly a retrospective pool of applications as a result of the way in which the Welsh Government said, 'Look, applications have to be in by 2010 to go back for a certain length of time'. Clearly, there are people in that, and there are relatives in that, to whom the delay is causing considerable distress, I would have thought. However, more importantly, how do we prevent such cases from developing? We prevent such cases from developing by making sure that there is consistent application of advice across the piece. The people who you say are not aware of it should not be in that position. However, what is concerning for me—I refer to you to page 51 of the report, for example—is the significant variation in terms of current practice, both between health boards, which are slightly different, but, more concerningly, in terms of the way in which practices exist within health boards. The relationships between health boards and social services must be part of the underlying basis on which people understand where they are placed in terms of getting continuing healthcare. When you get variation, or difficulties, in agreeing common approaches, it is not surprising that other problems develop.

[154] **Sandy Mewies:** Okay, thank you.

[155] **Darren Millar:** Julie Morgan has the next questions.

[156] **Julie Morgan:** As we are discussing retrospective claims, I wish to mention that I have several constituents who are waiting for something to be done, and I cannot emphasise too much how stressful it is for them. Many of them have solicitors involved as well, and it is a very difficult situation. I am therefore very concerned about the fact that the auditor general says that the 2014 deadline will, in your view, not be achieved. Can you make any stab at when you think these things will be sorted out?

[157] **Mr Thomas:** I think that more resources will be needed within the Welsh Government to enable it to achieve the kind of clearance rate that it will need to achieve. If we look at the Government's historical clearance rates, it will not be achieved by June 2014. As to when it will be achieved, you could straight-line it, and say, 'Well, perhaps it will continue on that basis'. However, the concern must be, particularly when you get cases that

are so old, that you need to put extra resources in. The Government has put extra resources in—let me be clear about that; it is not that nothing has been done—but the clearance rates are such that it is causing concern.

[158] **Mr Ashcroft:** The key issue that the Government faces is one of retaining the people that it recruits. Throughout the process, at different points in time, the project team has calculated how many people need to be in the team to clear the cases by June 2014; it has never managed to get up to that complement of staff, and, as time goes by, we need more and more staff. Running against that, we have the deadline of June 2014, which will make it increasingly difficult for people to be recruited in for what are going to be very short, temporary contracts. Therefore, that is the problem that the Government is facing, and that it has faced, in terms of trying to get on top of the retrospective claims.

[159] **Julie Morgan:** My constituents certainly expect it to be 2014. They have been told that it will all be sorted by then. Therefore, the distress that is already being experienced will be compounded if this goes on any longer. I wonder whether some statement should be issued about this. What do you think?

[160] **Mr Thomas:** I think that one of the key issues that you should address when you take evidence from the chief executive of the NHS is the extent of extra resources that are going to be put in to this. It could be met, if quite a bit of extra resource was put in, but we are having to look and say, ‘Based on current clearance rates, and current resources, it is a very optimistic deadline.’

[161] **Julie Morgan:** It is going to be more difficult for certain health boards in particular, because of the lack of information that some of them, such as Betsi Cadwaladr University Local Health Board, were able to give.

[162] **Mr Thomas:** These are cut-off dates; anything that pre-dates 2010, in the main, is being dealt with by Powys Teaching Local Health Board under central resources. However, it is, clearly, going to need information from individual health boards.

[163] **Mr Ashcroft:** One problem that the project team has faced is getting information back from health boards, because that information could be stored in any number of different places within a health board. To address that problem, it has set a deadline of six months. That means six months between the request for information coming from the project board to the health board and information coming back from the health board to the project team. If it does not arrive by that deadline, then the case proceeds, and it will then more than likely favour the claimant.

[164] **Julie Morgan:** Right.

[165] **Darren Millar:** In respect of this, did you say that four out of five of the people for whom a retrospective claim is being made have passed away?

[166] **Mr Thomas:** Those would be prior to 2010.

[167] **Darren Millar:** Prior to 2010, yes, in that big cohort. With regard to those people—those families, perhaps—that are pursuing claims in respect of a loved one who has passed away, a reasonable proportion of them, presumably, will be elderly, vulnerable people perhaps trying to pursue a claim on their own. There is the potential that they are facing extraordinary hardship as a result of the financial impact of these claims not being settled. Do we know to what extent the hardship being faced is by people who are themselves vulnerable, and who could, if they are elderly and frail, die while waiting for the claim to be settled in respect of somebody else who has passed away?

[168] **Mr Ashcroft:** There are no qualified data—

[169] **Darren Millar:** So, there is no prioritisation in terms of the claims that are being dealt with. That is the question I am asking, essentially.

[170] **Mr Ashcroft:** The claims are dealt with, as I understand it, on the basis of the date at which the claim was made.

[171] **Darren Millar:** Rather than the hardship that it is causing, or the age profile of the people extending the claim?

[172] **Mr Ashcroft:** It is chronological.

[173] **Darren Millar:** That is a poor state of affairs, is it not, if prioritisation is not given according to the circumstances in which individual families or people might find themselves? I know that a few people want to come in here, so Aled is first, then Jenny. I will come back to you, Julie, on this particular issue.

[174] **Aled Roberts:** I want to pick up on the Betsi point. It seems somewhat fundamental that you did not know how many cases you were dealing with at either the end of 2009 or 2010. The report states that it did not have the data available due to the manner in which its predecessor organisations held the information. So, how does the Government set up a clearance system when there is a health board that does not know how many cases it is dealing with? Was that scenario just with regard to Betsi, or are we talking about more than one health board, where its data, in effect, seems to be unbelievably poor, which appears to be a consistent theme regarding NHS data?

[175] **Mr Ashcroft:** On the issue around data, if we deal firstly with the retrospective claims, the national project, based in Powys LHB, has good data records that cover many of the retrospective claims that were made up until August 2010. Any claim made after August 2010 is the responsibility of individual health boards. There, the records generally, in terms of being able to confirm the number of those retrospective cases, are fine, with the one exception being Betsi. Betsi LHB cannot differentiate easily the number of retrospective cases and claims against any decisions that have been made post August 2010 under the new framework. So, there are two different challenges that a health board can have. It can have the retrospective claims received after August 2010, but relating to decisions made prior to August 2010, and challenges to decisions that it has made after the new framework.

[176] **Aled Roberts:** Is that still unresolved?

[177] **Mr Ashcroft:** It is still unresolved. The vast majority of the cases would be retrospective cases as evidenced by all the other health boards. The actual number of challenges post August 2010 is relatively small.

[178] **Mr Thomas:** If I can just come in here, we are talking about experience and retrospective claims. The framework, going forward, really does require there to be very good relations between the health board and social services, so that, in a sense, disputes do not arise; there is an agreement about how people should be cared for. It is unfortunate that there are still some cases—and they are detailed in the report—where we do not have that smooth relationship, which means that the individuals at the heart of it must be under stress.

[179] **Jenny Rathbone:** I just want to look at the strategic role played by the Government in this. Clearly, there was a delay in issuing the framework as a result of the case law that amended how the framework needed to be interpreted. I am looking at the fact that England

had a much more prescriptive regulation of how continuing healthcare should be interpreted, whereas in Wales, it seems to have been a field day for lawyers, because each health board has been interpreting it differently. We have Betsi using two different forms, or duplicating forms, and we have a ruling in the framework in Wales that each professional involved has to seek consent to conduct individual assessments, which just duplicates the effort involved so that everybody has to be trained in how to implement the framework—you would have to lay on two training days a month in Cardiff and the Vale. The whole thing seems to be overly prescriptive in some aspects and not sufficiently rigorous in others. I wonder whether the English framework has produced as many challenges in England, proportionately of course.

[180] **Mr Ashcroft:** To begin with, we did not do a comparative study between the Welsh and the English frameworks. They are pretty similar. The reference in the report to being more prescriptive in England is in reference to what policies and protocols should be in place in NHS bodies.

[181] **Jenny Rathbone:** It is essential to have a prescriptive framework, is it not, so that there is consistency and so that everybody knows the rules?

[182] **Mr Ashcroft:** We have picked up on a number of differences between England and Wales in terms of the prescription, as you say. We have pulled those together as part of the report and have recommended that the Welsh Government reconsiders its decisions on, for example, the screening tool that is used in England, which helps professionals across different parts of the NHS and social care to screen individuals to see whether they should be subject to a detailed assessment for continuing healthcare. There are a lot of arguments for and against a screening tool. England would certainly say that it works and that it is fit for purpose. We have drawn attention to that, among other things. We have also drawn attention to where we in Wales are more prescriptive in terms of the frequency of reviews that take place of an individual, which are more frequent and onerous than in England. We are not saying that either one is right or wrong; we are just saying that the Welsh Government should reflect and make sure that it is comfortable that we have got it right in Wales.

[183] **Jenny Rathbone:** Okay.

[184] **Darren Millar:** Did you have a question on retrospective claims, Sandy?

[185] **Sandy Mewies:** Yes, I did. The auditor general has made the point that we need to look at what is put in place for the future to ensure that variability is not there and that consistency is. Referring to Aled Roberts's question on Betsi, you have identified that one of its difficulties is dealing with six local authorities, and with two in particular, namely Conwy and Denbighshire. You mentioned that their relationships are difficult. Can you tell me what you mean by 'difficult'? Are the difficulties the same? Given that we are saying that this has to be improved in the future, in what way can an outside or top-down organisation influence that? You cannot just say, 'Hey, get your act together'. Well, perhaps you can, but it may not work. You have to have systems in place. How can that be changed for the future? What are these difficulties? Why can four authorities seem to get it right and two authorities not? Or, why can Betsi agree with four, and not the others? What is happening there? What is the problem?

[186] **Mr Ashcroft:** To give you a flavour of what we found in the field work, we were being told that as part of the multi-agency meetings to assess somebody, more senior people from social services would turn up, sometimes with legal advice, escalating the process at a very early stage and becoming quite—

[187] **Sandy Mewies:** Was that legal advice not to say anything?

[188] **Mr Ashcroft:** No, legal advice on the interpretation of the case and whether it should be eligible for continuing healthcare. That reflected how the level of trust between the two sets of practitioners had broken down. An inevitable tension is created by continuing healthcare because of the question of who picks up the tab. As to the solutions for that, for me, it would be for the senior leadership of those two organisations to intervene and to look at how that can be changed, going forward.

10.30 a.m.

[189] **Mr Thomas:** In a sense, where you get a breakdown, there seems to have been a loss of focus on the fact that we are dealing with individuals and their care, and there seems to be a move towards safeguarding budgets.

[190] **Julie Morgan:** Very briefly, to go back to what the Chair was saying, one of my constituents who is very vulnerable had asked me to highlight the hardship that she was undergoing while she waited for this to be done. She was absolutely convinced that, because of the hardship, I could draw attention to it and expedite the claim. However, from what you have said, the only response that I can give is that it is going to be done by the date. Could you confirm that?

[191] **Mr Thomas:** If we are talking about people who are in the retrospective category—I just want to check that that is what you are referring to—then the Government's intention is that it will try to clear everything by June 2014, and I think that I have to say, given my estimates, 'or as soon after that date as it possibly can'. However, it needs more resources to try to clear the backlog that is sitting there. It is disturbing that there are some claims outstanding from 1996.

[192] **Darren Millar:** The oldest claims are being settled first; that is the point, is it not?

[193] **Mr Thomas:** Yes.

[194] **Darren Millar:** The oldest claims are being settled first, and there is no flexibility in that rule.

[195] **Mr Thomas:** No, not as I understand it.

[196] **Mr Dimblebee:** I would just like to add that a lot of the pressure that resulted in the setting of this target date for clearing all claims came from the ombudsman, who had been receiving lots of information on individual cases. That caused a lot of the pressure on the Welsh Government to set what was originally a three-year timetable for this, which led up to June 2014.

[197] **Mr Ashcroft:** I would also like to point out that the health boards are also processing—or have to process—nearly as many cases as the Powys national project in terms of retrospective cases. So, I would suggest that your focus needs to be as much on what health boards are doing with retrospective cases as on the national project itself, because the figures are getting pretty close to one another.

[198] **Mr Thomas:** These are retrospective cases; post-2010.

[199] **Mr Ashcroft:** It is about the date of receipt of the claim. All of them relate to claims pre-August 2010.

[200] **Darren Millar:** So, there is an ever-increasing bank of claims coming in, which are not being settled in a timely fashion.

[201] **Mr Ashcroft:** Yes. There is no deadline for those being processed by the health boards.

[202] **Darren Millar:** So, the Welsh Government is not policing them doing their bit.

[203] **Mr Ashcroft:** It is beginning to, I think.

[204] **Darren Millar:** Okay. I will bring you in in a second, Aled, but I want to make progress, so you can ask whatever you want to ask further along. Sandy is next.

[205] **Sandy Mewies:** One of the things you talked about is the fair and consistent application of the framework. In the report, you make a point on how specific guidance should be applied for people with a learning disability or a mental health problem, and that is lacking. What troubles me about this is that I worked in this area in about 1993 and asked social services and health then how they defined 'continuing healthcare', and they could not give me an answer. When I came to this place, I asked the Minister for health how close we were to defining 'continuing healthcare', and I could not get an answer. I have had the experience of a relative going through this process and I asked how we were defining 'continuing healthcare', but I could not get a clear answer. What troubles me about this—and Steve, you made the point very clearly—is that, at the real heart of this issue, the NHS and social services pay the bill in the end, and there has to be some sort of clear definition in their minds as to what is what and who pays for it, otherwise people will go on suffering in this way. So, I want to ask you whether the Welsh Government has indicated to you whether it will provide further guidance on the continuing healthcare framework for people with a learning disability or a mental health problem, on joint funding arrangements, on people who self-fund their care, and on how health boards should monitor their contracts with care homes. It was National Care Home Open Day on Friday, and I was in several of them. There are still issues surrounding what is going on there. Has the Welsh Government indicated that it will give further guidance? Will this guidance be robust enough in future to deal with this situation? Do you feel that it is going to be robust enough or will people still be sitting here in 10 years' time discussing the same issues?

[206] **Mr Thomas:** As I said earlier, the Welsh Government has committed to doing a review of the framework and is developing a work programme about that. I do not know if Steve has more detail on the learning point.

[207] **Mr Ashcroft:** The draft programme for the Welsh Government's review that I have seen includes groups to look at developing more specific targeted guidance on the areas that we highlighted in the report. There is a balance to be struck in that work programme in terms of the timescale, which is, as I have seen it to date, about a 12-month process of a Welsh Government review. There is a balance to be struck there between engaging people, getting the guidance correct and making good progress on some issues that may be a bit more straightforward and probably need more urgent action, such as the retrospective cases.

[208] **Jocelyn Davies:** You mentioned the differences between Wales and England regarding the decision support tool, and your report says that there is potential there for legal challenges. Why do you say that in your report?

[209] **Mr Thomas:** Where is that?

[210] **Jocelyn Davies:** I think that it is in paragraph 17.

[211] **Mr Ashcroft:** We certainly point out the difference between the way in which cognition can be scored in England and Wales. In England, it can be scored higher.

[212] **Jocelyn Davies:** So, you have noted that families in Wales are more likely to be footing the bill for a relative with dementia than they would be in England—it is in point 1.27—because you say that there are more stringent criteria. Is there a likelihood that there could be challenges because there are differences?

[213] **Mr Ashcroft:** I am not sure that they could challenge on a legal point. I would also say that it is not necessarily automatically the case that because there is a difference in scoring that that would lead to people in Wales being disadvantaged. It is not automatic. The decision support tool is designed to assist people making a decision on eligibility. However, the guidance makes it absolutely clear that clinical judgement should be used in all cases. Having said that, one of the issues that we have come up with in a number of health boards is how prescriptively the tool is being used by clinicians.

[214] So, on the face of it, you are absolutely right—it would appear that people in Wales are being disadvantaged. We have raised that issue in the report, and recommended that the Welsh Government reconsiders the basis on which that scoring is different. Originally, it was clinical advice in Wales that led to that change in scoring.

[215] **Jocelyn Davies:** So, could the inconsistency between cases in Wales, and the inconsistency across and between boards, as you said, lead to an increase in the possibility of a legal challenge? For example, your assessment in Pentre Mawr could be different from your assessment in Barry.

[216] **Mr Thomas:** It comes down then to clinical judgements, which could also, I suppose, be open to legal challenge at some stage. We simply looked at the fact that there are variances, and that we recommend greater consistency, particularly when it comes to issues of cognition, that Wales checks that its tool is exactly the same or that there is at least justification for varying from that in use in England. There are differences in practice. As I said right at the beginning, I think that we need greater consistency.

[217] **Darren Millar:** In terms of the decision toolkit, if that is an important guide as to whether someone ought to be able to access continuing healthcare funding, the fact that cognition in terms of dementia receives less of a score under the Welsh system, even if you are a worst case scenario, undoubtedly disadvantages patients with dementia-related cognition, does it not?

[218] **Mr Ashcroft:** In the absence of clinical leadership—

[219] **Darren Millar:** In the absence of clinical leadership, yes.

[220] **Mr Dimblebee:** I believe that it was clinical judgment in Wales that led to us having that lower score, because of the judgment that it was less pertinent to the overall assessment than an equivalent judgment made in England.

[221] **Mohammad Asghar:** Before I ask my question, I would like to ask something else. How much does the NHS in Wales suffer due to legal challenges every year?

[222] **Mr Thomas:** I can lay my hands on that figure, but I do not have it immediately, Chair. Certainly, a set sum is put aside in the accounts of all health boards for potential legal claims and so on.

[223] **Mohammad Asghar:** Your report sets out a number of the potential benefits of introducing a screening tool to determine whether someone requires a continuing healthcare assessment. What would the cost of such a tool be?

[224] **Mr Ashcroft:** The experience in England, as I understand it, has been that the tool itself is relatively straightforward to complete. It does not take a great deal of time, whether from a GP, a district nurse or a nurse within a hospital setting. The ongoing cost of that should be negligible. One of the arguments, or concerns, is around more paperwork and more bureaucracy, but I think that the screening tool has many benefits. It would certainly allow a health board to go back to source, to look at what decisions were made on individual cases, as to whether that person should be assessed or not. Currently, the scrutiny is very much around decisions that are made positively, in favour of somebody. When somebody is deemed eligible, health boards scrutinise that decision. There is no oversight of cases where no assessment has taken place, or where assessment has taken place and that person has been deemed ineligible. The screening tool provides a hook by which health boards can go back through their records and start a process of audit.

[225] **Mohammad Asghar:** What, if any, are the obstacles to introducing peer review arrangements between health boards in relation to continuing healthcare eligibility decisions?

[226] **Mr Ashcroft:** There are two big challenges with peer review. The first is a difference of opinion between the peer review team and the health board over a particular case. If there is a difference, it is about who is right and who is wrong. That would need to be thought through, in terms of having a consistent set of peer reviewers, well supported and working in line with the Welsh Government. The other issue is that peer review would be very easy to pick up on cases that have had an eligibility decision made in favour of the individual; where somebody is deemed to be eligible, it is very easy to access those records. The problem that we had is that it is very difficult to track down cases that have been considered and rejected, or not considered in the first place. I would go back then to say that that is the importance of the screening tool: it would help peer reviewers to go back in to look at individual case files.

[227] **Jenny Rathbone:** That seems like a no-brainer. What is stopping it?

[228] **Mr Ashcroft:** I think that the original decision was that many people within the service were uncomfortable that there would be another checklist, another form to be completed. They thought that the existing assessment processes would be able to do the job.

10.45 a.m.

[229] **Jenny Rathbone:** Now we have this huge backlog of places.

[230] **Mr Thomas:** Yes, and a lack of consistency.

[231] **Mike Hedges:** Has the self-assessment improvement checklist developed by the Wales Audit Office been produced in consultation with health boards and social services departments?

[232] **Mr Ashcroft:** We developed the tool in conjunction with the national continuing healthcare advisory group, which has representatives from each of the health boards in Wales on it. We have developed it and shared it with it, and modified it in a number of ways following the feedback that we have had. It is content and has confirmed that to me in writing and that it sees it as a useful tool that it is keen to support.

[233] **Aled Roberts:** Sandy made the point that what we have here is an argument, in terms of responsibility, between health and social care. At the end of the day, that is what it comes down to. Arrangements are very different in children's services; they are much more informal. Was there any consideration of the fact that, as we are setting up these huge structures, assessments and toolkits and everything, it is mind-boggling that people who were

in need of the service in 1996 are still awaiting a decision as to who assumes responsibility? At the end of the day, yes, we can argue about who is responsible, but it is the state that is paying and it is just a split.

[234] **Mr Thomas:** We reflect back to the origins of this in terms of the case law that was established and the way in which that has been applied. At the end of the day, if the decision is taken one way, it is not just that the state pays, it is about the individual not having to pay. I think that it is assumed that that is of far greater importance. However, as we touched on, the origins of this lie in certain legal decisions.

[235] **Aled Roberts:** As far as the involvement of families and carers are concerned, the report also makes it clear that there is a difference between interpretation and assessment on mental capacity between different boards. There is evidence from families that their experiences are very different. Some families that have clearly been involved throughout the process feel that they have been consulted and that they know what is going on. There are others who, it would appear, are totally excluded and have no idea. Will this review question why we have created a situation whereby, dependent on where you live in Wales, not only can your financial contribution be very different, but your involvement as a family in the whole process can be very different?

[236] **Mr Ashcroft:** We raise that issue of variability in the report. The point that I would make is that that variation of how well involved and communicated with individuals are is not about one health board being good and another less good; there is great variation within health boards. That reflects one of the fundamental challenges that health boards have. There are a number of different professionals that need expertise and need to follow the guidance around continuing healthcare. So, I would absolutely agree that there is great variation and that is not acceptable. That variation takes place within health boards.

[237] **Aled Roberts:** You would think that the involvement of the family and carer would be fundamental to the whole process, regardless of a professional's interpretation.

[238] **Mr Ashcroft:** You would, yes.

[239] **Mr Dimblebee:** The framework is quite clear that that should be the case, but practice is variable.

[240] **Darren Millar:** That brings us to the end of our questions. Thank you very much for the briefing.

10.49 a.m.

### **Papurau i'w Nodi Papers to Note**

[241] **Darren Millar:** We now move on to note some papers, the minutes of our previous meeting and our work programme—

[242] **Mike Hedges:** On the work programme, could I ask whether—

[243] **Darren Millar:** We will discuss that in private session, if that is okay.

[244] **Mike Hedges:** Okay, yes.

10.49 a.m.

**Cynnig o dan Reol Sefydlog Rhif 17.42 i Benderfynu Gwahardd y Cyhoedd o  
Weddill y Cyfarfod**  
**Motion under Standing Order No. 17.42 to Resolve to Exclude the Public  
from the Remainder of the Meeting**

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

*the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order No. 17.42.*

[246] There are no objections.

*Derbyniwyd y cynnig.  
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 10.49 a.m.  
The public part of the meeting ended at 10.49 a.m.*