



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

Y Pwyllgor Cyllid **The Finance Committee**

Dydd Mercher, 15 Gorffennaf 2015
Wednesday, 15 July 2015

Cynnwys
Contents

[Cyflwyniad, Ymddiheuriadau a Dirprwyon](#)
[Introductions, Apologies and Substitutions](#)

[Papurau i'w Nodi](#)
[Papers to Note](#)

[Bil Iechyd y Cyhoedd \(Cymru\): Sesiwn Dystiolaeth 1](#)
[Public Health \(Wales\) Bill: Evidence Session 1](#)

[Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd o'r Cyfarfod](#)
[Motion under Standing Order 17.42 to Resolve to Exclude the Public from the Meeting](#)

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

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

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

Peter Black	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Christine Chapman	Llafur

	Labour
Jocelyn Davies	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)
Mike Hedges	Llafur Labour
Alun Ffred Jones	Plaid Cymru The Party of Wales
Ann Jones	Llafur Labour
Julie Morgan	Llafur Labour
Nick Ramsay	Ceidwadwyr Cymreig Welsh Conservatives

**Eraill yn bresennol
Others in attendance**

Sue Bowker	Pennaeth Cangen Polisi Tybaco, Llywodraeth Cymru Head of Tobacco Policy Branch, Welsh Government
Mark Drakeford	Aelod Cynulliad, Llafur (Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol) Assembly Member, Labour (The Minister for Health and Social Services)
Chris Tudor-Smith	Uwch-swyddog Cyfrifol Bil Iechyd y Cyhoedd (Cymru), Llywodraeth Cymru Public Health (Wales) Bill Senior Responsible Officer, Welsh Government

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

Leanne Hatcher	Ail Glerc Second Clerk
Tanwen Summers	Dirprwy Glerc Deputy Clerk
Gareth Thomas	Gwasanaeth Ymchwil Research Service
Joanest Varney-Jackson	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser

*Dechreuodd y cyfarfod am 09:01.
The meeting began at 09:01.*

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

[1] **Jocelyn Davies:** Welcome everybody to a meeting of the Assembly's Finance Committee. Can I just remind you that, if you have a mobile device, if you'd switch it to 'silent' I'd be very grateful? You needn't switch them off, but 'silent' would be good. I've no apologies from anyone this morning.

9:01

Papurau i'w Nodi
Papers to Note

[2] **Jocelyn Davies:** Before we move to our first substantive item on the agenda, we've got a paper to note—the minutes of the last meeting. Is everybody content with those? Okay.

9:02

Bil Iechyd y Cyhoedd (Cymru): Sesiwn Dystiolaeth 1
Public Health (Wales) Bill: Evidence Session 1

[3] **Jocelyn Davies:** We'll move then to our first substantive item, which is the evidence session on the Public Health (Wales) Bill. We're delighted to have the Minister with us this morning. Minister, would you like to introduce yourself and your officials for the record, and then we'll go straight to questions, if that's okay?

[4] **The Minister for Health and Social Services (Mark Drakeford):** Thank you very much, Chair. So, I'm Mark Drakeford, the Minister for health and the Minister in charge of the public health Bill. I have with me this morning Sue Bowker, who is head of tobacco policy at the Welsh Government, and Chris Tudor-Smith, who is the official in overall charge of the Bill at the health department.

[5] **Jocelyn Davies:** Lovely; thank you. Just for the record, would you mind just briefly setting out the main aims of the Bill?

[6] **Mark Drakeford:** The main of the Bill is to protect and promote the health of the people of Wales, and to do that via public health mechanisms. The Bill identifies seven separate areas in which we believe there is ground to be gained by legislative means, and the Bill is constructed around those seven discrete areas. In each one, we believe that legislative action can add materially to the tools available to the Welsh Government and others in order to protect people from harms that are present today and from harms we can anticipate in the future, and to promote the ability of people to do more to take care of their own health.

[7] **Jocelyn Davies:** Lovely; thank you. Do you consider that the costs and the benefits in the impact assessment represent an accurate reflection of the actual financial impact of the Bill?

[8] **Mark Drakeford:** Chair, I do; I think they represent the best current estimates that we're able to make of costs and benefits. The Bill, as you see it today, has been long in the making because it began with a Green Paper; it went through that procedure, it's been through a full White Paper consultation and costs and benefits have been a very regular part of that whole discussion. So, we've had a good long run at working them out. We follow the standard Treasury Green Book methodology in deriving the RIA costs and benefits. We've been able to draw on a variety of data sources to give greater confidence in the figures that we provide, and I think there are six main data sources that we have used. We have data from the national health service, we have data from local government and we use data from the Office of National Statistics. We have used an analysis of academic research in the different parts of the Bill. We have Welsh Government-commissioned research, and, sixthly, and maybe most significantly for the costs and benefits, we've had engagement with stakeholders direct, so we've had information directly from people providing these services on the ground to inform the way in which the costs and benefits set out in the regulatory impact assessment have been derived.

[9] **Jocelyn Davies:** Lovely. In the assessment, you say that there is a potential for

further savings to be made if aspects of implementation are combined across the Bill. So, what work is being done to ensure that there is joined-up implementation of the Bill across the department to achieve those savings?

[10] **Mark Drakeford:** Well, Chair, I'll probably say several times during the morning that I think that there are very significant opportunities for the costs that we identify to be reduced and the benefits that we identify to be maximised. One of the ways in which we think costs can be reduced is by sharing effort amongst those who will be responsible for implementation of the Bill. So, there are training needs that are identified in different strands of the Bill; I think it's possible to combine those training needs and to deliver them in a way that would reduce costs. There are publicity and communication costs involved in the seven different strands. Again, I think it is possible to combine those in a way that will drive down costs. Officials across my department have worked together closely in developing the Bill, and that will continue during the scrutiny process to make sure we have that joined up way of doing things.

[11] As the Bill proceeds, if the Bill proceeds through the Assembly, then we will move to set up an implementation programme board, and that will be an opportunity to harness the efforts, not just of Welsh Government officials, but those outside the Assembly who will be responsible for implementation, and I think that will be another place where we will see that there will be economies of scale to be derived from working together, and that will have an impact on costs.

[12] **Jocelyn Davies:** Lovely; thank you. I've noticed that you've used the mid point of a wide range of potential costs to estimate the costs that might fall on businesses and public sector organisations. So, how confident can those organisations be that the additional costs that you have indicated are robust?

[13] **Mark Drakeford:** I think those organisations can be confident, because, as I say, I believe what they can be confident of is that, where we have estimated costs for this Bill, we have pitched them at the higher end of what those costs will be, and, where we have identified benefits, we have pitched them at the lower end of where those benefits will be derived. So, I think they can take confidence from that. You'll have seen in the RIA that we do it in the standard way. We look at options for each of the seven policy areas. We cost the status quo. We look at options that would go a bit further than we do in our policy. We look at options that go less far than we would go. We come to our preferred option. We standardise costs wherever possible, so we take a standardised cost, for example, for translation costs across the whole Bill. We take a standardised cost approach to the costs that will fall on people for familiarising themselves with a change in the law that the Bill will create, and I think that, as a range, although the range is sometimes quite wide, we pitch the preferred option at the end where we think people can have the most confidence.

[14] **Jocelyn Davies:** Thank you. Something that we explored with another Minister last week was the auditor general's comment about it being potentially misleading if you display monetised benefits alongside cash costs in the same table. Can you tell us why you've decided to do that?

[15] **Mark Drakeford:** I remember having the same discussion with you, Chair, and the committee, back in May, I think, when we discussed the Regulation and Inspection of Social Care (Wales) Bill. I said then, and would want to say again, that, as a Government, we take very seriously the advice that we get from the auditor general. But I've thought about it quite a bit since we had the discussion that we had here, and, every time I go through it in my mind, I come back to the same belief that, actually, in this area, I think I don't agree with the auditor general's point of view. I think it is both standard practice, and, actually, helpful practice to people who are trying to understand the Bill to monetise both the costs and the benefits and to

set them out in a way that allows people to make a more direct comparison than they otherwise would be able to do. It's not in any sense intended to mislead. I think it is intended to try and translate into terms that an interested layperson would be able to understand: how the cost that the Bill creates and the benefits that it drives out can be compared with one another and monetising them for that purpose is the way to create clarity.

[16] **Jocelyn Davies:** I don't think there's a suggestion that it's deliberately misleading. Ffred, did you want to come in on this point?

[17] **Alun Ffred Jones:** Ar y pwynt yma, mae'n amheus gen i a ydy'r person cyffredin yn y stryd yn mynd i ddeall cydbwysu'r costau gwirioneddol sydd yn syrthio, dywedwch, ar gorff cyhoeddus a'r enillion ym myd iechyd a fydd efallai yn deillio o'r Bil. Rwy'n credu y buasent yn ffeindio'r syniad yn un anodd iawn i'w ddeall, ond mater arall ydy hynny.

Alun Ffred Jones: On this point, I have doubts whether the man on the street understands the balance between the genuine costs that fall, let's say, on a public body and the benefits in the field of health, which perhaps stem from the Bill. I think that they would find that concept a very difficult one to understand, but that's a different issue.

[18] Mae yna gostau yn mynd i syrthio ar lywodraeth leol—go iawn. Fel rŷch chi'n gwybod, nid ydyn nhw'n gostau aruthrol, ond maen nhw'n gostau ar adeg pan mae pob cyngor sir, wrth gwrs, yn torri yn ôl ar eu cyllidebau'n ffyrnig iawn. Yn fy achos i, maen nhw'n chwilio am arbedion o £34 miliwn. Felly, mae'r rheini'n gostau gwirioneddol sydd yn syrthio ar lywodraeth leol. Nid ydy'r enillion sydd yn deillio, dywedwch, o'r ddarpariaeth gwasanaethau fferyllol yn mynd i helpu'r cynghorau sir hynny o gwbl, nac ydynt, o ran talu am y gwasanaeth? Felly, sut y mae'r cydbwysu yma yn gwneud synnwyr?

There are costs that are going to fall on local government—genuinely. As you know, these are not major costs, but they are costs at a time when every council is ferociously cutting back on their budgets. In my case, they are looking for savings of £34 million. So, those are genuine costs that are falling on local government. The benefits that derive, let's say, from the provision of pharmaceutical services, are not going to help the councils at all, are they, in terms of paying for the service? So, how does this balancing make sense?

[19] **Mark Drakeford:** I think they make sense, Chair, because the purpose of the information provided is not to suggest that costs that fall in one part of the system can be balanced directly by benefits that fall to that part of the system. The information is to allow people to see how, in the round, the Bill balances where benefits are derived across the public realm. Of course, the Member is absolutely right that there will be parts of the Bill where costs fall to one arm of the public realm and the benefits will be derived elsewhere, but from the point of view of the Bill as a whole, those costs are real, but the benefits are real as well, and I think presenting them in a way that allows people to see those things relatively clearly is more of a benefit.

[20] **Jocelyn Davies:** Peter, did you want to come in on this point?

[21] **Peter Black:** Yes, just in terms of this issue of displaying the monetised benefits alongside the actual costs. Do you think there's a danger that you're giving the impression that those monetised benefits are actually cashable and can be offset against the real physical costs that are involved in the Bill?

[22] **Mark Drakeford:** The costs of the Bill are not all cash costs at all. The costs in that table are very often the cash attached to the time that people will take.

[23] **Peter Black:** You pay people for that time, don't you?

[24] **Mark Drakeford:** You pay people for their time, but it doesn't require new cash in order to do it. These are opportunity costs; these are people who are already employed. There are no new costs involved; it's just how you deploy the time of those people. So, I don't accept that there is a purity of cash around the costs and an ambiguity of cash around the benefits. Both of them involve equivalence in terms of cash.

[25] **Peter Black:** But, of course, the monetised benefits themselves, if you were able to cash them, wouldn't necessarily go to the same place where the costs had been incurred. And that's the problem—that is where it seems to me to mislead.

[26] **Mark Drakeford:** I said in my answer to Alun Ffred that I entirely accept that costs may incur in one part of the public system and benefits might be driven out somewhere else. But they are still, in terms of public expenditure in the round, costs and benefits. So, I don't think there's a claim in here that the costs and the benefits fall exactly in the same place each time. But from the Bill in the round, I think it's a fair assessment of them.

09:15

[27] **Peter Black:** You can't even have the argument that the benefits will always fall to public expenditure incurred by the Welsh Government, because often it would be public expenditure incurred by the UK Government, particularly in the criminal justice system.

[28] **Mark Drakeford:** In this Bill, Chair, almost all the costs, and almost all the benefits, other than the very marginal, I think, fall within the ambit of Welsh devolved services.

[29] **Peter Black:** Okay.

[30] **Jocelyn Davies:** Of course, what we need is to develop a good understanding, so I think that debate is very helpful in that regard. Chris, shall we come to your questions?

[31] **Christine Chapman:** Minister, picking up Alun Ffred's point about the cost to local authorities, I wonder how you'd respond to the concerns of local authorities—we've heard evidence—and also the Chartered Institute of Environmental Health that it's essential that sufficient resources are available, or the provisions in the Bill risk not being implemented appropriately, or at all.

[32] **Mark Drakeford:** Well, my starting point, Chair, is to take seriously the position that local government finds itself in. The pressures are genuine and real, and I think we have done our best to construct this Bill in a way that recognises those difficulties. I myself have had direct discussions with local government in Wales about the Bill. I've met the political lead for the Welsh Local Government Association on this matter and I've been to a meeting of the full council of the WLGA specifically to discuss the public health Bill. In the White Paper consultation, my view was that the WLGA's response to the consultation was one of the best of the 700-odd responses that we had. It was detailed, it was constructive and it was very helpful to us in constructing the Bill. Now, I think we've taken about four or five different steps to try and make sure that the cost burden on local authorities is as contained as it can be. First of all, I think we've taken a proportionate approach. So, you will have seen that, in the section of the Bill that deals with toilets for use by the public, our proposal is to place a duty on local authorities to develop a strategy, but not to place a duty on local authorities to implement that strategy. That is because I believe that there are democratic accountabilities that local authorities have that they need to exercise in relation to their local populations. But it does mean that, in the cost sense, I was very reluctant to place a duty on local authorities that I was not able to fund. So, we've been proportionate.

[33] We've talked already about collaborative cost reduction, and I think there are further opportunities for local authorities to work together on the Bill, which will reduce costs to them. Wherever possible, we have aligned the new duties that we create in the Bill with duties that local authorities already have. So, in the smoking field, we create a new duty, which local authorities will have to police, in relation to e-cigarettes. But we do it very simply; we say that anywhere a conventional cigarette cannot be used—that's being enforced by local authorities now—an e-cigarette cannot be used. So, the new duty goes right on top of an existing duty, and I think that reduces costs of implementation.

[34] We allow cost recovery in the Bill, and we do that in two ways. In the tobacco retailers register, we will charge a fee, which local authorities will collect to allow them to cover the costs of the register. In this Bill we allow local authorities to retain the income from fixed penalty notices in different parts of the Bill to assist them with the costs of enforcement. Finally, I think there are places in the Bill that will lead to a reduction in some existing enforcement costs for local authorities. That's why, at the end of all of this, our regulatory impact assessment shows that, over a five-year period, the cost to any one local authority from this Bill are £16,500 a year, and I think that's pretty modest.

[35] **Jocelyn Davies:** Chris, before we come back to you—Nick, did you have a supplementary on this specific point?

[36] **Nick Ramsay:** It was more on the broader issue of the monetising of the benefits as well as the costs. Are you intending, in the future, to do this with subsequent Bills, and is this Welsh Government policy now, or is this just a one off?

[37] **Mark Drakeford:** No. We are following the standard policy of Welsh Government in all the Bills that have been produced during this Assembly term. However, as I said, Welsh Government will always take what the auditor general says seriously, and at a Welsh Government level, we will reflect on what the auditor general has said about monetisation of benefits.

[38] **Nick Ramsay:** You seem to be putting an increasing emphasis now on the monetary benefit side of it rather than on the cost side of it.

[39] **Mark Drakeford:** No, I don't think I'm doing that at all, Chair. All I have done is to explain why we do things the way we do them in this Bill, why we have done it in exactly the same way in every Bill that we have presented, and why that is entirely consistent with the Treasury green book approach to the production of RIAs. But I am happy to say that, as the auditor general has raised the issue, we will reflect on it and see whether we will be able to do things differently and better in the future.

[40] **Suzy Davies:** And for this particular Bill, this is an important aspect.

[41] **Mark Drakeford:** Yes.

[42] **Jocelyn Davies:** Chris.

[43] **Christine Chapman:** I just want to follow up on that point, Minister. On Nick's point about the formula you're using to put a monetised aspect on this, you said it's used across Welsh Government. Is this a sort of recognised model across other Governments?

[44] **Mark Drakeford:** We follow the Treasury green book way for setting out how the costs and benefits of legislation are to be calculated, and the method we have used in the Welsh Government I believe is consistent with that.

[45] **Christine Chapman:** Right. Okay. I just want to follow up on the point you made about the local authorities there. You talk about new duties. Is it the case that you're adding on new workloads for people, or is it a question of having to do things differently, so you're actually replacing activities, possibly? Because obviously there are only so many hours in a day. What I'm trying to get at is: are you simply putting more duties on, or is it a question of actually taking some away and doing things differently?

[46] **Mark Drakeford:** It's a combination of both. There are some new duties, but there certainly are ways in the Bill where local authorities will be able to do things differently as a result of the Bill. To give one example, if I could, Chair—the creation of a tobacco retailers register. That is new. Local authorities have not had to create a register in the past, but I believe that having a register where local authorities will know every outlet in their area where tobacco is being sold will make it easier for them to carry out the enforcement duties they already have in the tobacco field. Now, they spend their time not knowing whether a particular outlet actually sells tobacco or not, and that makes it more difficult for them to discharge the duties they already have. So, this is a new duty to create a register, but I think that will make it easier for them to discharge other duties they already have.

[47] **Jocelyn Davies:** Is it on this point, Mike?

[48] **Mike Hedges:** I can come in at the end of Chris's questions. It's a general point about the finance of local government.

[49] **Jocelyn Davies:** Okay, come in at the end of Chris's—

[50] **Christine Chapman:** I wanted to pick up on this: you did talk about the public toilet provision, but I wanted to ask, regarding the mergers, whether that would be an issue as far as finance—whether there will be extra cost as far as mergers—

[51] **Mark Drakeford:** I believe that mergers will reduce the costs involved in this Bill rather than add to them. We have 22 local authorities. On the public toilets part of the Bill, every one of the 22 of them would have to create a separate strategy. If there are fewer local authorities—I don't say if you halve the number of local authorities you will halve the costs of producing these strategies, but I do believe that the overall costs will be lower with, say, nine authorities than they would be with 22.

[52] **Christine Chapman:** And what about in the short term, because obviously there will be changes? We're in that period where there will be lots of change, and whether there will be additional cost or—. How do you envisage that taking shape?

[53] **Mark Drakeford:** I think that's a very important point, which I'm alert to. I will work closely with the Minister for Public Services on timing issues. It will be for the Government to decide at which point the different duties the Bill establishes become operational, and if it were to make sense to delay, for example, the production of a toilet strategy because there are other changes going on, then I think any sensible Government would be pragmatic about that.

[54] **Christine Chapman:** Okay. If I can move on now then to another aspect, what assessment have you made of the cumulative financial impact of this Bill and other legislation, such as the Food Hygiene Rating (Wales) Act 2013, on local authority environmental health services?

[55] **Mark Drakeford:** Well, Chair, I've quoted the cumulative cost of the Bill to local authorities on a year-by-year basis, but I am very aware of the fact that, while the duties fall

on local authorities as a whole, specifically they rely on the environmental health departments to discharge them, and in a period of real local government constraint, environmental health departments have felt the impact of that. One of the ways in which I think the Bill will help will be in the way that we allow local authorities, and therefore the environmental health departments themselves, I believe, to retain the proceeds from any fixed-penalty notice regime. As a slight side issue, Chair, but it is in the environmental health field, I'm open-minded about some suggestions that we have heard from environmental health departments that we should use the opportunity of this Bill to amend the food hygiene rating Act to allow them to retain the proceeds of fixed-penalty notices in that field as well. That Act didn't allow them to retain those proceeds, and there's an argument that we should allow them to do that in order to bolster the capacity of those departments to carry on their duties.

[56] **Christine Chapman:** Okay, thanks.

[57] **Jocelyn Davies:** Mike—your point.

[58] **Mike Hedges:** Two questions. The first one is: although you're talking about relatively small sums to local government in this Bill, do you agree with the general principle that, if health puts a duty on local authorities to do something that causes a cost, health should actually be paying for it rather than local government?

[59] **Mark Drakeford:** No, I don't accept that principle, Chair.

[60] **Mike Hedges:** Okay, that's fine. The other one is: can I ask you why you think merging local authorities will reduce the cost of toilets? I'm not quite sure whether a toilet in Cwmafan would actually benefit people in Morriston, and it's not the strategy that is going to cost very much money. I could probably write a toilet strategy for Neath Port Talbot and Swansea in the next 20 minutes. The cost of toilets is the cost of maintenance and the cost to repair—those costs. Why do you think merger will reduce those costs?

[61] **Mark Drakeford:** Well, I never made such a claim.

[62] **Jocelyn Davies:** No, you didn't.

[63] **Mike Hedges:** You did say that you thought the merger would reduce the costs.

[64] **Jocelyn Davies:** Of the strategies.

[65] **Mark Drakeford:** I said simply of the strategies. I made no claim about it reducing the cost of toilets.

[66] **Mike Hedges:** How much do you think the strategy would cost, then?

[67] **Mark Drakeford:** The figures are in the regulatory impact assessment of what we assume it will cost to create a strategy. We expect a strategy to be created once in any local authority term. We will align the production of the strategy with other duties that local authorities have to produce, for example, population needs assessments and assessments under the future generations Act. The cost in the Bill that we identify of creating a strategy for any one local authority is £17,200 in the year that that strategy would need to be created.

[68] **Jocelyn Davies:** Okay. Thank you. Ann, shall we come to your questions?

[69] **Ann Jones:** Thanks, Chair. E-cigarettes: the additional costs of this part of the Bill are probably the largest of all the Bill's elements. I think it's been documented there quite clearly, but will you be undertaking any work with businesses to minimise any additional

costs they may face as a result of updating smoke-free policies?

[70] **Mark Drakeford:** Yes. Thank you, Ann. We will do, certainly. The costs that the RIA set out for e-cigarettes look substantial, but they are an example of what we talked about a moment ago of actually being costs to do with opportunity costs rather than cash costs, because what we're talking about, at £2.4 million, is the cost of businesses familiarising themselves with and implementing the new law to bring e-cigarettes in line with conventional cigarettes. So, it's the cost of updating their policy. We work out that this will cost £15 for any public sector organisation, £26 for any large employer, and £10 for any SME in Wales, and that's the cash equivalent of the time it would take to update the policy.

09:30

[71] We are assuming here that policies are not updated for any other purpose. So, whereas you would expect that policies, very often, would be being updated in any case, we've taken the precautionary position that every organisation would have to update its policy as a result of the Act and that's what costs fall out of that.

[72] There's a second strand of costs that you will have seen, which is the potential costs to employers if people who are users of e-cigarettes now have to take a break from work in order to be able to do so. Again, I think the costs that we identified in the RIA are at the top end of what those costs would be, but we include them there for the purpose of illustrating what the impact of the Act might be.

[73] **Ann Jones:** It's all ifs and buts and it can be quite subjective rather than objective, but did you base any of these costs on what the actual costs were when we introduced smoke-free and banned the use of cigarettes?

[74] **Mark Drakeford:** Yes.

[75] **Ann Jones:** So, how do you correlate that with what is being proposed now for e-cigarettes?

[76] **Mark Drakeford:** I accept that there are parts of the costing of the Bill where you are inevitably relying on best estimates and research that tells you, 'what if', but in this part of the Bill, as Ann has said, we have very direct evidence of what the costs are likely to be, because we've been through this already in relation to conventional tobacco. I might ask Sue whether she can explain how we used that experience and the costs that we know were incurred there to inform the costs that we set out in this part of the Bill.

[77] **Ms Bowker:** Certainly, we were able to look at the costs of the development of signage, the development of guidance, the training that was necessary, and the likely drop in the number of users in order to look at industry costs. So, we were able to take all of those into account in developing these.

[78] **Ann Jones:** So, even though, I suppose, you've estimated the costs, it's based on a firmer footing than just deciding that it's x over whatever on a good day and over y on a bad day.

[79] **Ms Bowker:** Yes.

[80] **Ann Jones:** Okay. The additional cost to the Welsh Government of £200,000 for communicating the change in the law relating to e-cigarettes, to businesses and the public, is that a best guesstimate or is that based, again, on some solid work that you undertook?

[81] **Mark Drakeford:** Again, it is based on our experience of implementing the tobacco regulations. We think that this will be a relatively simple thing to communicate, because the change is very straightforward and simple. It's not a part of the Bill that has lacked publicity, in itself, so there aren't that many people out there who haven't heard a bit about what we intend to do here. We will rely on the existing ways in which changes in policy are communicated, through Welsh Government, local government, and social media and so on. We include, within the costs, providing a poster to publicise the change, to be displayed in those places where the change will happen, in advance of the change. On top of the £200,000, we also have a budget line of £100,000, because we will provide, as we did when the law changed in relation to tobacco, signage free to all employers and in all public places where the new law will apply.

[82] **Jocelyn Davies:** Nick, did you have a supplementary on this?

[83] **Nick Ramsay:** Yes. I was just wondering, there are a number of people who vape because they can do so internally at the moment, and who, if the law changes, may well go back to smoking conventional cigarettes. Have you made an estimate of the extra costs to the health service and other services of that increase in smoking because of the vaping ban?

[84] **Mark Drakeford:** Yes, we have, and the RIA does set that out. Now, here is an area where we really are in a position of competing claims and different guesses as to what such an impact might be. But, because there are claims of that sort, we make an estimate of them, and we set them out in the RIA. They are relatively complex, Chair, in the way that they are calculated. I'm very happy to write, to set out the work that we have carried out, the assumptions we make, and the costs that we derive as a result. I have to say that, personally, I don't believe that that will be an outcome of the Bill, but there are different points of view on that, and, therefore, we cost the point of view of those people who say that that could be an outcome of it.

[85] **Nick Ramsay:** But it will certainly happen, even if it's to a limited extent. You say you don't believe that will happen, but it will happen to a certain extent, even if it's not a huge impact; you must accept that.

[86] **Mark Drakeford:** Actually, I do think that is very contestable.

[87] **Nick Ramsay:** What: not a single person will go back to conventional smoking?

[88] **Jocelyn Davies:** Or, not switch from tobacco.

[89] **Mark Drakeford:** In the Bill, you'd have to balance those costs against the costs that would be saved to the health service from the adverse effects of e-cigarettes leading people who don't smoke at all now to smoke in the future. So, if you're asking me about what the final balance of costs will be, it is my firm belief that if we don't act in the way that the Bill suggests—to limit the potential harm from allowing e-cigarettes to be used where conventional cigarettes cannot be used—those costs will be far higher to the health service in the future than from the example that you have suggested.

[90] **Jocelyn Davies:** Peter, did you have a supplementary on this, and then Julie?

[91] **Peter Black:** I had a supplementary on something slightly different, but I think the claim that you make about e-cigarettes being a gateway to smoking is outside our remit as Finance Committee, but I think it is contestable. The question I had was—

[92] **Mark Drakeford:** I agree. I agree it's contestable.

[93] **Peter Black:** The question I had is with regard to the cost to the e-cigarette industry, which you estimate at £269,600 a year consistently throughout the period you've costed for. On what basis is that estimate made?

[94] **Mark Drakeford:** The costs to the e-cigarette industry are calculated on this basis—I'll ask Sue to direct me if I'm not remembering this correctly. We take a figure of 15 per cent—15 per cent of e-cigarette users said in the best available survey, which was an ASH survey, that they smoke an e-cigarette in order to avoid the smoking ban—and we assume that if a ban is introduced, the whole of that 15 per cent of people won't use an e-cigarette, because it won't be a way of getting around the ban, and then we calculate what the potential impact on the sales of e-cigarettes might be in those circumstances, and that's the figure that we use in the RIA.

[95] **Peter Black:** But it's feasible that 15 per cent may just stick with cigarettes, in which case the point that Nick has made about the cost to the health service, et cetera, would apply.

[96] **Mark Drakeford:** You could argue that, Chair. You can simply argue that, like everybody else, they would adapt their habit to cope with the ban, rather than change their habit.

[97] **Jocelyn Davies:** Julie wants to come in. Nick, did you want to come back in then, after Julie? I'll come back to you.

[98] **Julie Morgan:** Mine was more general.

[99] **Nick Ramsay:** I just wanted to ask the Minister: do you not think that this is all highly subjective and, dare I say, a little bit woolly?

[100] **Mark Drakeford:** No, I don't; I certainly don't, Chair. The position is this—. This is a slightly different topic, isn't it? The position is this: there is very good scientific evidence that tells us that e-cigarettes, unless you control them in the way that this Bill suggests, lead to harm. That is the position of the British Medical Association. That is the position of the World Health Organization. That is the position of any number of eminent medical societies. It is the position that 60 countries across the globe now take, and increasingly take—

[101] **Jocelyn Davies:** I don't want us to stray into policy; we have to stick to the financial aspects.

[102] **Mark Drakeford:** So, it's not a matter of, you know, conjecture; it's a matter of contestable scientific advice, I absolutely accept that, but the advice is real and hard-edged.

[103] **Peter Black:** Can we just clarify that, Chair: harm to who?

[104] **Mark Drakeford:** Harm to people who would find themselves drawn into smoking by the renormalisation of smoking, who would use e-cigarettes as a gateway to conventional smoking, and harm in the erosion of our ability to police the ban that we currently have in place.

[105] **Jocelyn Davies:** And, we'll stick to the financial aspects, if we can. I mean, obviously, there is a link there. Julie.

[106] **Julie Morgan:** Actually, the Minister has already raised the point I was going to make: the fact that there has been quite a lot—well, a huge amount—of publicity about the Government's plans to legislate for e-cigarettes. Of course, with the original smoking legislation, there was also a huge amount of publicity then. So, I suppose what I would say,

really, is that you're probably being quite generous in terms of the amount of money you're putting in for publicity from the Government, in terms of letting everybody know.

[107] **Mark Drakeford:** I think that the £300,000 that you get from the two different streams is certainly a proportionate amount of money to the need for publicity here.

[108] **Jocelyn Davies:** Okay. Ffred, shall we come to yours? Have we finished yours now, Ann? You didn't have any others.

[109] **Ann Jones:** No.

[110] **Jocelyn Davies:** Right, Ffred

[111] **Alun Ffred Jones:** Rydym ni wedi sôn am gyflwyno'r gofrestr genedlaethol o fanwerthwyr, a fydd yn cael ei wneud gan lywodraeth leol. A ydych chi'n amcangyfrif y bydd y ffioedd a'r taliadau cosb yn talu am y gwasanaeth hwn maes o law?

Alun Ffred Jones: We've mentioned introducing a national register of retailers, which would be done by local government. Do you estimate that the fees and the penalty payments would pay for this service, eventually?

[112] **Mark Drakeford:** The position in the Bill, Chair, is that the fee that we will charge for the creation of the tobacco retailers register is sufficient to administer and maintain the register.

[113] **Alun Ffred Jones:** Iawn. Mater ychydig bach yn wahanol, ond eto gyda chostau i lywodraeth leol: a ydych chi wedi ystyried nid yn unig y costau sy'n dod i lywodraeth leol o'r Bil yma ond y Biliau eraill sydd wedi mynd heibio? Gallaf feddwl am ddau lle bydd yna gostau ychwanegol, sydd yn berthnasol, a dweud y gwir, i'r adrannau iechyd cyhoeddus, yn arbennig. Felly, a ydych chi wedi gwneud unrhyw waith ar y cyd gyda Gweinidogion eraill i amcangyfrif effaith hynny ar lywodraeth leol?

Alun Ffred Jones: Okay. A slightly different issue, but one that again relates to local government costs: have you considered the costs to be borne by local government not only in terms of this Bill but the other Bills that have been passed? I can think of two where additional costs are incurred, which are relevant, actually, to the public health departments, in particular. So, have you done any joint working with other Ministers to estimate the impact of that on local government?

[114] **Mark Drakeford:** I'll ask Chris if he's got anything to add, but I'm not aware of work that's gone on to look at it in the way that the Member has suggested.

[115] **Mr Tudor-Smith:** I think we have had discussions with, for example, a wide range of people from local government in assessing the costs that are generated by the Bill. We've talked to local government officials within the Welsh Government as well about the proposals that we've put forward and the way that we've costed the regulatory impact assessment.

[116] **Alun Ffred Jones:** Wel, nid dyna'r oeddwn i'n gofyn, mewn gwirionedd. Rwy'n derbyn eich bod chi wedi gwneud yr ymholiadau hynny, ond sôn oeddwn i am yr effaith gronol y mae nifer o Filiau yn ei chael ar lywodraeth leol. Jest gofyn oeddwn i a oeddech chi wedi gwneud gwaith, ond mae'n ymddangos nad oes yna ddim. Diolch yn fawr.

Alun Ffred Jones: Well, that wasn't what I was asking, to tell the truth. I accept that you have made those enquiries, but what I was talking about was the cumulative effect that a number of Bills could have on local government. I was just asking whether you had undertaken any work on that, but it appears that you haven't. Thank you.

[117] **Jocelyn Davies:** Okay, Ffred?

[118] **Alun Ffred Jones:** Iawn. **Alun Ffred Jones:** Yes.

[119] **Jocelyn Davies:** Julie, shall we come to your questions?

[120] **Julie Morgan:** Some local authorities have expressed a concern and said that they won't be able to meet the policy objectives of the Bill if the fee income doesn't cover the cost of administration and enforcement, or any other external routes. How are you responding to them?

[121] **Mark Drakeford:** Well, this is an area, Chair, where we will create an income stream for local authorities to allow them to offset, we believe, in full the costs of creating, administering and maintaining the register. This is an area in which we depart from what has happened in Scotland. This part of the Bill has been influenced quite a lot by the fact that Scotland already have such a register and have run it now for some time. But, in Scotland, it is free to register, so local authorities have no income stream as a result of registration; whereas we believe it is fair to spread those costs. So, the fee we propose is £30 for any one business to register, plus £10 for any other business that the same owner may have. So, I don't think it's a great burden on business, but, cumulatively, it will allow local authorities to discharge those responsibilities. They can't use that money for enforcement; it's for maintaining the register. They will be able to use fixed-penalty notice income to help with enforcement, but, as I explained earlier, I think the fact of having a register will reduce enforcement costs in duties that local authorities already have in this area.

[122] **Julie Morgan:** Right. I think you've said that you think the fees are reasonable for businesses, but obviously some retailers have said that small businesses will be disproportionately affected. I don't know whether you've got any views on that, in terms of introducing the register.

09:45

[123] **Mark Drakeford:** Well, we've done our best to listen to what business has said to us in this area. The White Paper proposed that there would be a re-registration requirement on businesses every three years, and a further fee would be charged on re-registration. In response to concerns that the sector have about costs, we've removed that requirement. There will now be a requirement on any business to update the register when their circumstances change, and that will be a duty on them, but there'll be no cost to them in doing that. So, I think the £30 fee that we have set is not something that is going to be an undue burden on the sector.

[124] **Julie Morgan:** And you have taken into consideration—

[125] **Mark Drakeford:** And we've listened to what they've said to us and changed the way that we will implement this part of the Bill.

[126] **Julie Morgan:** And you've explained why you've gone a different way from the Scottish model.

[127] **Mark Drakeford:** Yes, because we think local government do have to find a way of covering the costs that the Bill will incur for them.

[128] **Julie Morgan:** Thank you.

[129] **Jocelyn Davies:** Okay?

[130] **Julie Morgan:** Yes.

[131] **Jocelyn Davies:** Peter, shall we come to your questions?

[132] **Peter Black:** Yes, sure. Do you anticipate that local authorities will be able to afford to carry out the necessary test purchases to implement the elements of the Bill relating to handing over tobacco and nicotine products to under-18s, given the financial constraints they currently have?

[133] **Mark Drakeford:** Well, Chair, in the RIA, we assume that local authorities would carry out a test purchase around tobacco entirely separately from the test purchases they already carry out for the purchase of alcohol. Even so, the costs are relatively modest. Using the advice from our stakeholders, we've costed what they say will be the maximum that they will be likely to incur, which is 198 test purchases across Wales in a year, and that comes out at £93,000 for the whole of Wales, shared between all 22 local authorities. My view is that what will happen in practice will be that, when a local authority sets up a test purchase experiment in relation to alcohol, which they do now, then they will just add this part of the Bill to what they are already doing, and the costs of test purchase for this part of the Bill will actually be very marginal indeed.

[134] **Peter Black:** Do you have any intelligence on the number of test purchases currently going on around Wales?

[135] **Mark Drakeford:** I'm sure we do. I don't have them in my head, I must say, Peter, but I've seen—

[136] **Jocelyn Davies:** We'd be amazed if you did. [*Laughter.*] You could send us a note on that.

[137] **Mark Drakeford:** We'll do that. Alcohol Concern Cymru are involved in it. They will know. Sue may be writing the answer down for me now, but we'll provide it in a note.

[138] **Peter Black:** I'm just interested whether you think that that would increase once this Bill goes through, or would it be roughly the same sort of level?

[139] **Mark Drakeford:** Well, it's important to say, Chair, that we're talking here about the large supermarkets, essentially, and they all say to us that they have policies in place already that mean that they don't hand over tobacco to people below the age at which tobacco can be purchased. So, we're not anticipating that this will be a problem that will generate a huge industry of test purchasing around it. But it will make the law unambiguous, and it futureproofs the Bill a bit, I think, against a rise in internet purchase of this sort in the future.

[140] **Peter Black:** My experience is that most complaints are around small corner shops and off-licences, and I would think that test purchasing would focus on those as well. Just moving on to the licensing system for special procedures and to prohibit intimate piercings for under-16s, how would you respond to the concerns expressed in responses to the public health White Paper that the resources required to enforce the special procedures register may divert local authority funding away from other priority services?

[141] **Mark Drakeford:** Well, Chair, this is one of the places where we will need to update the information provided in the EM because—and this is all very detailed—when we were producing the original explanatory memorandum, the case of *Hemming v. Westminster City Council*, which is the test case in this field—

[142] **Peter Black:** I know it well. [*Laughter.*] Actually, I do.

[143] **Mark Drakeford:** —had gone to the appeal court, and the appeal court had concluded that it was not legal for a local authority to recover, in the fee that the registrant was required to pay, the cost of enforcing those people who did not register. So, the costs that we set out here are assumed on that basis: that local authorities would not be able to charge fees that would cover the cost of enforcement. That case has now gone to the Supreme Court, and the Supreme Court has overturned the position set out in the Court of Appeal, and the position, which is now the final position, is that local authorities can include in the cost of registering an element to cover their costs of enforcing the register—

[144] **Jocelyn Davies:** Against those not registered.

[145] **Mark Drakeford:** Yes, including against those not registered.

[146] **Peter Black:** I seem to recall from reading about that that there are some limitations on that, but I think—

[147] **Jocelyn Davies:** You can see, Minister, we talk of nothing else. [*Laughter.*]

[148] **Peter Black:** We came across this in the Housing (Wales) Bill.

[149] In a sense, that leads in to my next question, which was around the concerns that the special procedures registration scheme could meet unnecessary bureaucracy, disproportionately impacting upon small businesses and passing on the cost of registration to customers. If you're also going to pass on the cost of enforcement to those businesses, doesn't that make it a bit starker in terms of the impact on those small businesses?

[150] **Mark Drakeford:** Well, Chair, I think that this part of the Bill has been welcomed by the industry. I think it will actually be an asset to businesses, particularly those businesses that operate in a way that protects the health of the people on whom such procedures are carried out. I think it will give people more confidence in using those services. I think it's likely to increase their use rather than to diminish it. There may be some marginal costs that will be passed on to the user but, as there are literally hundreds of thousands of these procedures carried out in Wales in any one year, I think that the amount that the consumer will find themselves facing will be very small indeed. I think that's not an unfair cost for that person to bear, in knowing that the service that they will now be getting will be one that will not be injurious to their health.

[151] **Peter Black:** I don't dispute any of that. In fact, I very much support this part of the Bill. I'm just interested in how you can ensure that these costs will not drive legitimate businesses out of business, and what sort of margins they're working on.

[152] **Mark Drakeford:** Well, we will work with the industry around that. It will be for local authorities to set the fee themselves, and that's quite important because the nature of the industry varies a great deal between one part of Wales and another. It won't be in local authorities' interests to set fees at a level that turns off the income stream that they will be generating otherwise, but we will work with both local authorities and the sector to address the point that the Member has made. Of course, there are new powers in here to control rogue traders, which will mean that more business will come the way of legitimate providers as well.

[153] **Peter Black:** I think the last thing we need in this area is rogue traders.

[154] **Jocelyn Davies:** Okay, Peter? Mike, shall we come to your questions?

[155] **Mike Hedges:** Can we turn to pharmaceutical services? How do you respond to the comments in the White Paper consultation response by the Welsh Pharmaceutical Committee that the current funding arrangements for NHS community pharmacy services will need to be reviewed?

[156] **Mark Drakeford:** Well, I understand the point that is being made by the committee, but I think the evidence is at least ambiguous on this. They are arguing, as, believe me, any particular strand in the health service will always argue, for their particular bit to be ring-fenced, and therefore to be protected against any other use that could be made of it. In practice, without a ring fence, we see that there are health boards in Wales that have already gone much further in securing local discretionary services that health boards can choose to finance or not. So, in Betsi Cadwaladr, for example, we have the best smoking cessation services provided by pharmacies anywhere in Wales, and they will argue that they have done that by moving money to promote smoking cessation in pharmacies, because it is the most effective way that we have of persuading people to give up smoking. So, they've moved resource around in order to fund services in pharmacies, and have done so successfully. I think that that is a better model to use rather than ring-fencing small amounts of money, with all the bureaucratic costs that go with policing that.

[157] **Mike Hedges:** I agree with you; I think the tendency is 'What's mine is mine and what's yours I'm going to bid for'. [*Laughter.*] Another organisation taking part in this said almost exactly the same thing, which is Public Health Wales, who also think they're going to have additional costs or might have additional costs. You've decided they're not going to. How do you come to that conclusion?

[158] **Mark Drakeford:** I come to that conclusion, Chair, in this way: Public Health Wales is a wholly-owned subsidiary of the Welsh Government. My priorities are its priorities, and, if this is my priority, it's their priority as well. I was not impressed by their suggestion that I would have to find extra funding for them. They don't carry out pharmaceutical needs assessments for a start; it's local health boards that do that. I understand that they advise in the process. We provide them with more than £85 million a year to discharge their obligations. They will have to find this very marginal amount of money from that rather large sum.

[159] **Jocelyn Davies:** I think I would have liked to have been a fly on the wall when you had a private conversation with them about that comment.

[160] **Mark Drakeford:** I have discussed it with them.

[161] **Jocelyn Davies:** Mike, have you got any—. Because I know Ffred wants to come in on—

[162] **Mike Hedges:** No, I'm fine.

[163] **Jocelyn Davies:** Ffred, did you want a supplementary on this point?

[164] **Alun Ffred Jones:** Ie. Mae hon yn enghraifft arall lle mae yna gostau gwirioneddol, mae'n ymddangos, i fyrddau ieched, ond mae'r manteision yn mynd i gronni i unigolion, yn ôl eich dadansoddiad chi. Ond, gan ein bod wedi mynd drwy hynny unwaith, wnaif i ddim gofyn cwestiwn arall **Alun Ffred Jones:** Yes. This is another example of where there are real costs, it seems, for health boards, but the benefits are going to accumulate for individuals, according to your analysis. But, given that we've gone through that once, I won't ask another question on that. If I understand the

arno fo. Os wyf yn deall y Bil yn iawn, y Bill correctly, the intention is that there will be more pharmacies opening across Wales. Is that your intention in this Bill?

[165] **Mark Drakeford:** Not quite, Chair. We already have a very extensive network of community pharmacies across Wales—over 700 of them. What this Bill is designed to do is to try to make sure that the extra public health services that are provided by the best of them are provided by more of them in the future. So, it's not necessarily that there would be more pharmacies, although there may well be more pharmacies in some places, but it is trying to make sure that the things that pharmacies already can provide—smoking cessation services, flu vaccination, the morning after pill, some substance misuse services—. If there are gaps in those services in any area, what the Bill says is, first of all, you go to the pharmacy that's already there and you try and persuade them to provide these additional services that they're not providing at the moment. If they're not able or not willing to do that, then the health board would be able to secure new entrants into the system to provide services that a pharmaceutical needs assessment would have established are needed for that community. So, maybe I'll amend slightly my first answer. It could lead to there being more pharmacies, but the real ambition is to get the existing system to do more.

[166] **Alun Ffred Jones:** Rwy'n deall mai Alun Ffred Jones: I understand that that's a policy issue. So, how do you estimate that there will be financial benefits in terms of people travelling less?

[167] **Mark Drakeford:** Because if more—. There are only two places where we say there are cashable benefits in this part of the system, and I think we could have argued that there are more. But, if more pharmacies are providing more services locally, then people will have to travel shorter distances in order to access those services. So, say you wanted a flu vaccination. Your local pharmacy doesn't provide it. You have to travel to a pharmacy further away that does provide flu vaccination. If a pharmaceutical needs assessment means that the pharmacy closer to your home will be providing that service in the future, you won't have to travel as far to obtain that service. We only calculate that in relation to smoking cessation services, but we believe that if more pharmacies were able to provide a smoking cessation service—and we think they do them very successfully—then people looking for smoking cessation services would be able to gain access to them closer to their home than they're able to do currently. And there is an advantage in a cost sense to that.

[168] **Jocelyn Davies:** Nick, shall we come to your questions?

[169] **Nick Ramsay:** Thanks. Public toilets, Minister; we always end up discussing public toilets, don't we? Do you think that your requirement on local authorities to provide a strategy on public toilets is a disproportionate financial burden on them, as they seem to think, and would that money that's going to go into those strategies not be better spent in the first instance on simply improving toilets locally, public toilets?

10:00

[170] **Mark Drakeford:** If I take them in reverse order, I think the cost of producing the strategy, which, I think I said earlier, was £17,200 to any one local authority in the year in which the strategy is to be created, that would not go very far in terms of creating more public toilet provision, and, the following year, they wouldn't be spending £17,200 at all. It would be another five years before that cost would incur again. So, I don't think that the one would be better spent on the other. I think the creation of a strategy is an important part of the Bill for two reasons: one, I think it will lead to local authorities making more use of facilities that

are already provided by the public purse. The strategy is not a public toilets strategy; it is a 'toilets for use by the public' strategy. And that's because, when the health committee took evidence on this, what we heard, because I was a member of the committee at the time, was that local authorities already pay through the public purse for toilets in many different places, but they're not advertised as being available for use by the public. So, I tend to use a very parochial example here, Chair, of Canton, just down the road in my own constituency, where you stand in the middle of the shopping area and you are in any one direction no more than two minutes' walk from a local leisure centre, which is paid for by the public, and where there are toilets, but older people tell you that they wouldn't be willing to go in here to use the toilet because they're afraid they'll be challenged by the staff asking where their squash racket is. Two minutes in the opposite direction is Chapter Arts Centre, heavily subsidised by the public purse. There are toilets there, but, again, people feel that they couldn't go in there for that reason because people would ask them what they were doing. Two minutes in the other direction, there is the library. Again, there are toilet facilities in the library.

[171] Now, what the strategy is about, in very tough times, is saying to local authorities: 'Think of all the things that you provide already; think of all the money that is going in from the public purse, and what can you do to make those facilities more obviously and readily available to the public?' So, I think the strategy by itself will identify a wider range of possibilities in this field. And the second thing that I think the strategy will do is that it will provide an opportunity for the political salience of this issue to become more apparent. The single liveliest event that I have attended in the time that I've been an Assembly Member was an event held here in the Senedd by the Welsh Senate for Older People, where busloads of older people turned up to lobby us on exactly this issue. It's a really important issue from a public health perspective. The strategy will give people something to cohere around. It will then be for the local authority to be answerable to its local population as to how far it prioritises taking action to translate the strategy into reality.

[172] **Nick Ramsay:** The Canton convenience; the Canton example.

[173] **Mark Drakeford:** Very good; thank you. [*Laughter.*]

[174] **Nick Ramsay:** Very briefly, Chair, what about local authorities paying businesses, private businesses, to make available their conveniences, where—

[175] **Mark Drakeford:** Well, you'll remember that Dr Brian Gibbons took a scheme through the Assembly to provide money to local authorities to do exactly that. That money is now in the revenue support grant. Chair, I said to you earlier that we think—

[176] **Nick Ramsay:** That was the end of that then. [*Laughter.*]

[177] **Mark Drakeford:** I said to you earlier that we work out that an annual cost to any local authority is £16,500 for everything in this Bill. That scheme alone allowed local authorities to draw down a maximum of £17,500 a year just for that one very narrow purpose. I think it will remind people that that money is there for local authorities already to do that. I think that local authorities will want to discuss with their local populations the extent to which people are willing to pay for the use of facilities, where people know that those facilities would be safe and properly maintained and would be somewhere you would be happy to use. So, I think the strategy itself will drive out a series of possibilities, including the one that Nick has just mentioned.

[178] **Nick Ramsay:** Okay. Is there time for the last question?

[179] **Jocelyn Davies:** Yes, go on.

[180] **Nick Ramsay:** Finally, moving on to the costs associated with subordinate legislation, do you think the provisions in the Bill to make subordinate legislation are likely to give rise to significant costs and/or benefits—going back to our previous conversation—not detailed in the Regulation and Inspection of Social Care (Wales) Bill? The RIA for that, I should say.

[181] **Mark Drakeford:** Chair, the way that the Bill is constructed is that, where we believe that subordinate legislation powers might result in costs and benefits, we attach the affirmative procedure to those parts of the Bill where subordinate legislation might do that. That will mean that the Government will have to produce a sort of mini RIA against every one of those things, and they will have to be consulted upon. We will learn things, we believe, during Stage 1 scrutiny of the Bill, which will assist us in that. I've already committed to the health committee that the one place where I think this might be significant—. We're going to use subordinate legislation to extend places that will be tobacco and e-cigarette free in the future—hospital grounds and children's school grounds being the two that we will bring forward first. We will produce the draft regulations before the end of Stage 1, so Members will be able to see how we intend to do that. Where those costs become more apparent as a result of Stage 1 proceedings, we will amend the explanatory memorandum after Stage 2 and we will take account of subordinate legislation costs more fully at that stage.

[182] **Nick Ramsay:** Just going back to my previous question, Minister, from some minutes ago, you're balancing a lot of different balls in the air here, aren't you, with a lot of different costs and benefits. I wasn't actually talking about the legislation—I was talking about the financial aspect when I said about the danger of it being called 'woolly'. Are you absolutely confident that, at the end of all of this, that balance between the cost and benefit is going to be viable and that we won't actually see a lot of unintended consequences and costs coming in at the very last stage, which people will look back at and say, 'Was this really worth it?'

[183] **Mark Drakeford:** I think that's a very proper question. I think Stage 1 scrutiny is about exposing that argument and seeing whether there are places where people, looking at the information we've provided, might think that that is a risk. I don't think that will happen. I go back to the position I started an hour ago with, Chair, which is that I think what we have done is, where there is ambiguity, we have pitched the costs at the top end of the range and we have pitched the benefits at the lower end of the range. As a result, even if there are some shifts in the Bill overall, I think that the cost-benefit analysis will still hold up and the Bill will derive more benefits than the costs that it incurs.

[184] **Jocelyn Davies:** Thank you, Minister. I think you're going to send us one note on one figure, I think on—. I can't remember—.

[185] **Mark Drakeford:** Two.

[186] **Jocelyn Davies:** Two. Okay. We'll send you a transcript as usual. If you check that, then we'll be able to publish it.

10:08

**Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd o'r
Cyfarfod**

**Motion under Standing Order 17.42 to Resolve to Exclude the Public from the
Meeting**

Cynnig:

Motion:

bod y pwyllgor yn penderfynu gwahardd y cyhoedd o weddill y cyfarfod yn unol â Rheol Sefydlog 17.42(vi). *that the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order 17.42(vi).*

Cynigiwyd y cynnig.
Motion moved.

[187] **Jocelyn Davies:** I now propose we go into private session under 17.42. Okay. Thank you.

Derbyniwyd y cynnig.
Motion agreed.

Daeth rhan gyhoeddus y cyfarfod i ben am 10:08.
The public part of the meeting ended at 10:08.