



Cynulliad Cenedlaethol Cymru
The National Assembly for Wales

Y Pwyllgor Iechyd a Gofal Cymdeithasol
The Health and Social Care Committee

Dydd Mercher, 6 Hydref 2011
Wednesday, 6 October 2011

Cynnwys
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cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

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

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

Mick Antoni	Llafur Labour
Mark Drakeford	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Rebecca Evans	Llafur Labour
Vaughan Gething	Llafur Labour
William Graham	Ceidwadwyr Cymreig Welsh Conservatives
Elin Jones	Plaid Cymru The Party of Wales
Lynne Neagle	Llafur Labour
Lindsay Whittle	Plaid Cymru The Party of Wales
Kirsty Williams	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats

Eraill yn bresennol**Others in attendance**

Ruth Marks	Comisiynydd Pobl Hŷn Cymru The Commissioner for Older People in Wales
Sarah Stone	Dirprwy Gomisiynydd Pobl Hŷn Cymru The Deputy Commissioner for Older People in Wales
Alun Thomas	Pennaeth Adolygu, Archwilio a Pholisi, Swyddfa Comisiynydd Pobl Hŷn Cymru Head of Review, Examination and Policy, Office of the Commissioner for Older People in Wales

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

Stephen Boyce	Y Gwasanaeth Ymchwil Research Service
Llinos Dafydd	Clerc Clerk
Catherine Hunt	Dirprwy Glerc Deputy Clerk

*Dechreuodd y cyfarfod am 2.00 p.m.
The meeting began at 2.00 p.m.*

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

[1] **Mark Drakeford:** Croeso yn ôl i'r **Mark Drakeford:** Welcome back to the Pwyllgor Iechyd a Gofal Cymdeithasol, i Health and Social Care Committee, to the sesiwn y prynhawn. Byddwn yn craffu ar afternoon session. We will be scrutinising the adroddiad blynyddol Comisiynydd Pobl Hŷn Commissioner for Older People in Wales's

Cymru yn ystod y sesiwn hon. Yr wyf am groesawu Ruth Marks, Comisiynydd Pobl Hŷn Cymru, Sarah Stone, Dirprwy Gomisiynydd Pobl Hŷn Cymru, ac Alun Thomas, pennaeth adolygu, archwilio a pholisi yn swyddfa'r comisiynydd. Gofynnaf i chi, Ruth, wneud eich datganiad agoriadol, ac, ar ôl hynny, bydd cyfle i aelodau'r pwyllgor holi cwestiynau.

annual report in this session. I welcome Ruth Marks, the Commissioner for Older People in Wales, Sarah Stone, the Deputy Commissioner for Older People in Wales, and Alun Thomas, head of review, examination and policy at the commissioner's office. I ask you, Ruth, to make your opening statement, and, following that, there will be an opportunity for committee members to ask questions.

[2] It is over to you, Ruth.

[3] **Ms Marks:** Diolch yn fawr. I thank the Chair and committee members for inviting my colleagues and me to provide further information about my report, detailing the wide range of work that I undertook during 2010-11 and the key issues facing older people in Wales. Looking back over the past year, I am proud of what the commission has achieved. This year, the commission has seen an increase in activity; it has made a difference across many key areas, supported older people's rights and worked towards lasting change for older people in Wales.

[4] An ageing population is all too often seen as a problem, but, in fact, older people make a huge contribution, providing a tremendous amount of unpaid care and volunteering work in every community across Wales. As an independent commissioner, it is my role to promote the interests of all older people, particularly those who might be in vulnerable situations. I would like to highlight a few aspects of my report and welcome the committee's questions and views.

[5] I promised to develop the use of my legal powers to make an effective and unique contribution to achieving change. This year, I conducted my first review, which looked at whether older people in hospitals are treated with dignity and respect. As widely reported, the review found that the treatment of some older people in Welsh hospitals is shamefully inadequate and I was concerned that many people have low expectations of their care. I have used my powers to make recommendations that will support practical changes to ensure that dignity and respect are cornerstones of high-quality care.

[6] Over the past year, I have become increasingly concerned about the support that older people receive when they are living in care homes. Some older people in care homes have regular visits from family and friends, but others require more support. Advocates are there to help people make their voices heard and support them if they have a concern or a complaint. That is why I have decided to use my legal power of review to look into the advocacy arrangements in care homes across Wales. The aim is to find the most effective way of delivering that service for some of the most vulnerable in our society.

[7] Health and social care are two of the top issues about which older people contact the commission. I would like to repeat that: health and social care. The close and effective liaison across health and social services can pay real dividends for older people, preventing avoidable hospital admission, planning for effective discharge from hospital and focusing on reablement to promote independent living.

[8] The other main issues raised include transport, housing and money. I have heard from many older people about the difficulties of coping financially on a fixed income while facing rising living costs. Through a partnership with Citizens Advice Cymru, research has shown that there has been an increase in the number of queries about the management of debt from those over the age of 60, as well as growing concerns about pensions and benefits. It is

important to monitor the UK Government's plans for welfare reform and paying for care. There is a need for effective joint working and information sharing to monitor existing and emerging problems and how they might be solved, something that has been and always will be a core element of the commission's work.

[9] Reflecting on what has been achieved in the past year through my commissioner's report also highlighted the need to look forward, considering how we plan to make a real difference and to effect lasting change for older people in Wales. I will continue to develop and to use my legal powers to scrutinise, challenge, review and examine relevant issues. I will ensure that older people's voices are heard by policy makers and decision makers throughout Wales. I will assist older people to access information and services and provide support to them to resolve problems, holding bodies to account when they fail to deliver. We will engage with older people throughout Wales through our review work, in meetings with representatives of pensioner organisations, and with planned visits to groups, projects and meetings. We will maintain contact with individual older people and respond to their enquiries, which will inform our work and identify areas where we need to act.

[10] The main areas of work for 2011-12 will include: monitoring the implementation of the recommendations in 'Dignified Care?', my review of the treatment of older people in hospital settings with regard to dignity and respect; arrangements for advocacy, as I have mentioned, as well as whistleblowing; social care in domiciliary and residential settings; age discrimination, including the implementation of the Equality Act 2010; and information and advice services, with a focus on pensioner poverty. Throughout all of our work in the coming year, we will be mindful of the impact of the financial situation with regard to public services, seeking to understand the real impact on older people and to ensure that they are not disproportionately affected. Listening to older people's voices and experience is essential. How can we ensure that services are fit for purpose if we do not ask and engage with the people who use them? Older people are a key part of the community spirit that defines Wales, and I urge you, the Health and Social Care Committee of the National Assembly for Wales, to recognise the contribution that older people make, to tackle the challenges that many older people face, and to help make Wales a great place to grow older. Thank you. Diolch yn fawr.

[11] **Mark Drakeford:** Diolch, Ruth, am eich datganiad diddorol a defnyddiol. Yr wyf am droi yn awr at aelodau'r pwyllgor am gwestiynau, gan ddechrau gyda Lynne Neagle.
Mark Drakeford: Thank you, Ruth, for that very interesting and useful statement. I will now turn to committee members for questions, beginning with Lynne Neagle.

[12] **Lynne Neagle:** Thanks for your report. My questions are all about the aspect of your work dealt with in the 'Dignified Care?' report. I want to place on record how pleased I was that you chose to undertake that review. Having dealt with some horrific complaints at a constituency level, although it makes disturbing reading, I think that the report is a really useful piece of work. I want to ask about the process that you are going through now with the review. I know that you have had to go back to the Welsh Government and the Aneurin Bevan Local Health Board three times. Can you explain the process? What if you are not happy with the next set of responses? Are there any other sanctions open to you? Are you satisfied that, given the seriousness of some of the issues raised in the report, the process open to you is going to deliver the changes in a sufficiently timely fashion?

[13] I noticed that in the Aneurin Bevan Local Health Board's second response to you, it said that it regarded inappropriate continence practices as a safeguarding issue that were to start off the processes for the protection of vulnerable adults. I was surprised to read that, because I had not known of it happening in Gwent. Is it your experience that it is happening and, if so, is it happening across Wales? In some ways, you have welcomed protected mealtimes, but I know that there are others who are concerned about that because, due to the

nutrition problems that we have seen with older people in hospitals, having family around can be helpful. I have had assurances from my local health board that it is going to be flexible with relatives who want to come in. However, that needs to be policed somehow.

[14] Finally, I wanted to ask about the standards of nursing care. The cases that I have dealt with have shown appalling deficiencies in nursing care. They have been really shocking. I have been left speechless by some of them. I know that there has been a debate following this report and the other reports that have come out about whether we are getting nurse training right. I know that some people believe that, since we moved to Project 2000, the focus has become too academic. What are your views? Do you think that we are getting the training for nurses right to deliver for older patients and are you satisfied that monitoring is now in place to ensure that we see no recurrences?

[15] **Mark Drakeford:** There is plenty for you to get your teeth into there, Ruth. I do not expect every member of the panel to answer every question, so I leave it up to you to decide who you want to address different parts of the questions that you are asked.

[16] **Ms Marks:** I will make some opening comments, but I think that Sarah may have some additional points to make and possibly Alun as well, because they were both closely involved in the process of the ‘Dignified Care?’ report, Lynne.

[17] The process in general has been well received by all the councils, the health boards and Velindre NHS Trust, and the Welsh Government. So, I am pleased with the way in which people have engaged in the process and the seriousness with which people are regarding the content of the report and its recommendations.

[18] As you noted, the process has involved different stages. I issued the report in March, required responses within three months and people responded in time. I felt, however, that I needed additional information from all the bodies; therefore, I issued a written notice to them all. Each body responded in time to that, and three of the bodies subject to the review satisfied me that they would put in place practical steps to implement the recommendations. Therefore, we have drawn a line under the review process with those three bodies at this time. I required all the other bodies and the Welsh Government to provide further information and, therefore, issued a supplementary notice. We are still in that process and assessing, at this time, so you will understand that I am not able to provide detailed comments.

[19] However, I can make some general reflections on the points that you made regarding continence care and safeguarding, protected mealtimes and standards of nursing care. In relation to continence care, the majority of people to whom we have spoken have been shocked by the findings of our report and of other reports that came out at a similar time to ‘Dignified Care?’ So, continence care and the safeguarding of vulnerable people are recognised as a priority issue. Sarah and Alun might have details in just a moment.

[20] In relation to protected mealtimes and the issues regarding nutrition and the care of hospital patients, I would draw your attention to the recommendation in relation to the effective use of volunteers. Protected mealtimes are helpful to patients and to the whole system of hospital healthcare, but there is no point in presenting a nutritious meal that someone might have chosen the day before or that morning, on whatever colour tray, if that person is not able to eat it or just does not feel like eating it. The effective use of volunteers that our review highlighted in north and south-east Wales is something that we are recommending that others consider, especially the use of volunteers, who can be family members and friends, trained in assistance in eating. They can be really valuable.

[21] On the standards of nursing care, I acknowledge the fact that, again, the majority of staff involved in providing healthcare in Wales have been shocked and horrified by some of

the instances that we reported in our report and that others have highlighted. They are concerned to ensure that standards are raised and that examples where practice is not good enough do not occur again. The general training point is one that we made in the report, about the importance for people involved in health and social care to understand that the majority of the people that they will be working with are older people, and to understand the potential complexity of their needs. There is a need to recognise changes in circumstances, because the smallest change can have the biggest impact—especially in relation to issues around cognitive impairment and dementia, so we need even more focus on training in dementia awareness and so on. Sarah or Alun might have additional points about the detail that you mentioned.

2.15 p.m.

[22] **Ms Stone:** I just have a few quick points, Lynne. First of all, in relation to nurse training, our panel of inquiry had quite a discussion about this, and the scope of the inquiry was not looking at the systems that we have for training nurses. What they were really clear about was that issues such as continence care are everybody's business; it is the business of everybody on the ward, whatever their position, to ensure that the sort of neglect that was reported to us does not happen. It is about the end result on the ward, and the training for everybody, because nursing care for older people is general nursing now—that is one of the big messages. It is not a segment of nursing, because of the numbers of older people, and the levels of dependency that some of them might have.

[23] Then, in relation to follow-up, we also have the legal process that is set down in our Act and through our regulations, which we are following now—we will reach a final verdict at the end of October. However, that does not end the process. We will be working closely with the community health councils and with Health Inspectorate Wales to make sure that the paper assurances that we have had are making a difference in practice, because that is really what it is all about.

[24] **Mr Thomas:** I will make a few points, if I may, on consistency, to start with, which applies to both continence issues and protected mealtimes. One thing that really surprised us was the level of inconsistency in approach, not just from hospital to hospital or ward to ward, but also from shift to shift. In particular, there are some challenges in relation to ward leadership and people knowing the appropriate numbers of staff to deal with wards that are increasingly populated by older people, who are often frailer, have a mix of impairments and so on, which is a challenge of itself. There has been some very effective work with community health councils in raising the issue around the inappropriate application of protected mealtimes, and we have certainly taken evidence from people who have found themselves in different wards, with one policy operating in one ward, and another in another ward. That inconsistency is damaging.

[25] The other point that I would make, particularly in relation to continence and other matters covered in the report, is that we are talking about basic human rights in this context. We know that, unfortunately, we have unhelpful case law, in terms of the outcome of *McDonald v the Royal Borough of Kensington and Chelsea* in relation to continence and human rights, but still, the organisations that we spoke to emphasised that there would be a zero-tolerance approach to padding people up unnecessarily, or doing so as a matter of convenience to the hospitals.

[26] **Mark Drakeford:** I am aware that lots of members of the committee want to ask questions. We will probably have to rattle through them a bit more quickly, given the time that we have.

[27] **William Graham:** Just moving on to your operational issues, could you enlarge on the ways in which the commission engages with other agencies and ensures that it does not

duplicate their work?

[28] **Ms Marks:** Engagement is part of our ongoing work to promote awareness of the interests of older people, so it forms a huge part of my work and that of my team. There is an active communications strategy undertaken with local and national groups, a series of visits, and engagement with local and national print and broadcast media. I ensure that we do not duplicate the work of other organisations by getting to know them and then building effective working relationships with them. There is an interesting balance there in terms of the number of bodies that I have the power to review and the number of bodies in Wales with which it is important to have effective working relationships. That is an interesting dynamic.

[29] However, to begin with, I have established memoranda of understanding with the Children's Commissioner for Wales and the Public Services Ombudsman for Wales. Certainly, with regard to the public services ombudsman, trends for complaints and information sharing have proven to be very useful. I also have effective partnership and communication agreements with a range of voluntary organisations and charitable bodies that provide advice and support to older people across the country. These would include, for example, Age Cymru, carers' organisations, Care and Repair Cymru and the Alzheimer's Society. We also have an effective information sharing agreement with the Care Council for Wales and we are also in discussions with the Care and Social Services Inspectorate Wales.

[30] **Lindsay Whittle:** Good afternoon. With respect, I thought that your objectives on equalities were a little spartan, but there may be a very good reason for that. You talk mainly about discrimination against older people in Wales, and it is clearly your remit to do so. However, I am concerned about discrimination against black and minority ethnic groups, lesbian, gay, bisexual and transgender groups, and disability groups. I recognise that they are probably groups that are harder to reach. Did you have much of a dialogue with those groups during the year? I am sure that you will recognise that they are groups that are harder to reach, so how do you propose to reach out to them even further?

[31] **Ms Marks:** The age discrimination work strand is one that Alun is an expert in, so I will ask him to give some additional information in a moment. However, as a start, I would like to note that we have undertaken a range of work with organisations and special interest groups in different communities across Wales. We have engaged with the Equality and Human Rights Commission, different faith communities, the older gay, lesbian, bisexual and transgender group that Age Cymru supports; we have attended the mardi gras and mela events in Wales and we have also undertaken specific research and dialogue with the Cardiff Chinese community and the Somali association. So, we have made a start. Ensuring that I am hearing all of the voices of all older people in Wales is incredibly important and I will maintain a constant vigilance as regards dialogues and different ways of communicating effectively with people—not just listening once, but going back to people to say, 'This is what we heard; this is what we have done; this is the outcome; what can we do next; and what else is on the agenda?' However, I would like Alun to give you a little more specific information to you.

[32] **Mr Thomas:** In terms of engagement, we aspire to reach parts of Wales that have not been reached by organisations previously. We tend to describe it as working with people who are seldom heard and seldom listened to. One of the problems that we sometimes have is that we see these groups as being hard to reach, and we stop there. This is a dynamic process that is happening and will continue to happen in the commission.

[33] As far as our work on the review is concerned, we identified at an early stage that, through the evidence that was coming through the normal channels, we were not necessarily gathering evidence from black and minority ethnic groups and older lesbian, gay and bisexual groups, for example. As a consequence, we did some specific work to collect that evidence. In

gathering evidence, particularly in relatively small communities in relation to number, it is important to collect qualitative as well as quantitative data to appreciate the richness of those experiences and reflect them.

[34] As far as our equalities work generally is concerned, we are working particularly to ensure that the aspects of age equality that remain to be implemented in the Equality Act 2010 are implemented. We are the only representative from Wales on the senior stakeholder's group of the Government's equalities office in the Home Office. We have been pushing the case for implementation, and we await an announcement that implementation will, we hope, go ahead in April next year. In the meantime, we are very excited about the fact that the Welsh Government has strengthened specific duties in relation to equality, and what they mean in relation to public services. We have been working with colleagues in the Welsh Local Government Association and in public services generally across Wales to make sure that they have a better understanding of age equality. One of the key aspects in all of this is getting involvement right and ensuring that it happens from the outset and throughout the process. We have already seen evidence of misunderstandings in relation to when equality impact assessments are implemented and a cursory attempt at consultation and rubber-stamping rather than full involvement. Those are the sorts of issues that we have got involved with to correct, and we will continue to do so.

[35] **Lindsay Whittle:** Thank you for that; I am pleased that I did not come in with flags flying and drums beating attack on you, because it is clear that a lot of good work has gone on. However, the report does not tell me that; that is the point that I want to make. Anyone from any of the groups that I talked about, on reading this report, would think that they did not even merit a mention.

[36] **Mark Drakeford:** I will go to Darren next, then to Mick and Vaughan.

[37] **Darren Millar:** Thank you for the presentation and the report. It highlights the very good work that you have been doing over the past 12 months, and I will take the opportunity to give you my personal congratulations on that excellent work as a commissioner. I want to raise a couple of issues with you. The first one is that there has been quite a bit of emphasis on the rights of children and young people since the establishment of the National Assembly. We now have a piece of law in Wales—the Rights of Children and Young Persons (Wales) Measure 2011—which was passed by the third Assembly with cross-party support and consensus. Do you think that it is time that the Assembly as an institution looked to develop some law on the rights of older people? Do you also think that the United Nations principles for older persons would be a good place to start, just as the Rights of Children and Young Persons (Wales) Measure 2011 was developed from the United Nations convention?

[38] The second issue that I wanted to raise is on a completely different tack. I note that you have a section on rurality in your annual report, which I am very pleased to see given the sparsity of population in some parts of Wales. One of the issues that you pick up on is transport. In our postbags, as Assembly Members who represent rural areas, we are very often praised for the concessionary bus pass scheme—the free bus passes for older people. However, bus passes are only useful if you can get a bus, and, unfortunately, I also get quite a bit of correspondence, as I know other Members do, about the withdrawal of grant support for bus services in some parts of Wales, and the impact of that on older people in particular, who may have to travel in order to get access to public services such as GPs, hospital appointments, post offices, and so on. Isolation can increase for some older people. What discussions have you had with transport operators and the Welsh Government as far as rural bus transport is concerned? Can you also comment on anything in respect of the rights of older people?

[39] **Ms Marks:** I will start with the point about rights, then I will also make a couple of

observations about transport before checking whether Sarah or Alun have any other points to add. In relation to rights for older people, I do not think that I will ever forget my first conversation with a group of older people in a community centre in Carmarthen, who said ‘Rights? They are not for me, are they? They are for people who are serving a custodial sentence; they are for people who have escaped violence in another country and are seeking refuge here; they are not for me’. People’s basic awareness of the fact that they have rights and what those rights are is sadly lacking. The United Nations principles for older persons’ five main themes, namely independence, participation, self-fulfilment, care and dignity, are a really important measure and bar that people who are developing policies, or delivering services, can reflect and consider as they take their work forward. Interestingly, there are only four countries in the United Nations framework that have supported the development of the UN principles into a convention, and they are: Argentina, Brazil, Chile and Uruguay. However, the fact is that the eyes of the world are on Wales, in that, until Claire Keating takes up her post in Northern Ireland in mid-November, we are still the only country in the world to have appointed an independent older people’s commissioner. The fact that we have got the United Nations principles for older persons writ large throughout our work would be something that I would certainly recommend to the committee and to the Welsh Government to consider taking forward.

2.30 p.m.

[40] In relation to our work in rural areas, we have progressed work throughout all our work strands. So, our hospital review covered issues relating to patients living in rural areas and the lack of major services in many parts of Wales. Our review of advocacy in care homes will also have that aspect written throughout it, and we have good engagement with individuals and organisations in different settings around Wales.

[41] We undertook some very useful research in relation to the use of the bus pass, which highlighted that there are real economic and social benefits to the bus pass for older people, and we have links with the community transport association in Wales. In answer to your question, we have had limited contact with transport operators, but it is an area that remains on our agenda because it is one of the top five issues that older people talk to us about. I am just going to check in with Alun and Sarah to see whether they have any further information to share.

[42] **Ms Stone:** Just very quickly on the transport issue and the withdrawal of local services, we have been approached by individual older people about this, and the intervention by us as a commission has changed the local transport decision in at least one instance that I know of. Sometimes, these decisions are made without properly considering the real impact, so that is one way in which to address it.

[43] **Elin Jones:** Just on that point, there is a case example on that particular issue in the report, but it strikes me that this was very much at the request of one older person who, in responding to the withdrawal of a bus service on which she was dependent, took the initiative to discuss it with you. Are you down as consultees for local authorities or transport consortia when they have to consult on changes to bus routes? It may be something that would be useful for you to raise with transport consortia, namely that you be included in all consultations on changes to bus routes. As Darren has said—and it is not just a rural issue; this is a general issue—some people are 100 per cent on public transport, and if that is taken away from them, it leaves them without any recourse to transport for various services, such as shopping and health services. I was a bit concerned to read in the report that it is only at the request of individuals that you intervened in that case. There should now be in place a means by which you are consulted in such situations.

[44] **Ms Marks:** That is a very helpful observation. Alun is indicating that he has a

comment to make, and then I might have one in relation to the impact on resources.

[45] **Mr Thomas:** There are important opportunities presented to us, particularly the planning of services relating to equality duty, and particularly in the context of age and disability in this context. There is also a gender aspect, in that a large proportion of bus users are older women. So, in that sense, there are some real opportunities between now and next April. However, there is a challenge for us, and a balancing act, in relation to our work with local authorities. While we can contribute our views to a consultation, ultimately, we have the power and responsibility to review those organisations. If they have not heeded any advice that we might have given them, that may compromise their position. So, we tend to operate at a collective level, and we are very interested in the possibility of working through the transport consortia as a means of overcoming some of those issues, so thank you for that suggestion.

[46] **Darren Millar:** I have question on the UN principles to which Ruth referred. It is a really important message that there is nothing stopping Wales from adopting and subscribing to those principles in a legislative way, and, effectively, slamming them into Welsh law. Hopefully, the committee could pick up that on in the future.

[47] Ruth, do you anticipate that there will be any legislative opportunities during the course of the fourth Assembly, in the social care Bill or anything else that might arise, where those principles could be adopted?

[48] **Ms Marks:** Yes. I think that the social services Bill would certainly provide an opportunity to focus on a person-centred approach to care and on the way in which older people are engaged in designing the services that they will use. That is not just an issue for older people, but for people of all ages planning ahead for services in the future.

[49] **Mark Drakeford:** I will bring Mick in next.

[50] **Mick Antoniwi:** There are two separate areas about which I would like to ask questions. One disturbing element that has emerged recently is the fear for families and those in care in relation to closures, particularly in respect of Southern Cross. There is concern as to whether the transfer arrangements are just staving off more long-term problems. I have been contacted about this by a number of people. How do you see your role in this? What has been your role so far, in terms of those processes, particularly, perhaps, with regard to the work of the Care and Social Services Standards Inspectorate for Wales? Also, what do you foresee as being your subsequent role, and do you see any legislative role following on from your experience of what has happened so far? That is one set of questions. I will ask the others separately, because they are on a distinct issue.

[51] **Ms Marks:** The work that we are progressing in relation to care home closures has several different strands. I will give you an overview, and then I expect that Alun and possibly Sarah will follow up with some more detail.

[52] First, I want to make sure that you know that we are working very closely with Swansea University. In fact, the fact that we have partnered with the university has enabled it to attract significant funding for a piece of research into care home closures. We will be pleased to share the report on that, which, hopefully, will be out before the end of the year. I have some concerns that extra care is being seen as the be-all and end-all, and about a perception that one size might fit all, when I do not believe that it does. The interventions that we have made in several sets of circumstances, on which Alun will provide some more details in a moment, have really made a difference. We have developed advice that has certainly made a difference in different parts of Wales. Only the other day, an older person who is active in one of the local fora in south Wales came up to me and said, 'You do not know how

helpful your comments and correspondence have been. You have raised this from being a local issue and one that is tied into a very particular set of circumstances and have taken it to a strategic level with regard to the importance of listening to older people, their families and carers, as well as with regard to the strategic issues that are being dealt with by all of the people who are involved in decisions about reconfiguring services at a local level.

[53] We issued a statement in relation to Southern Cross. We are very interested in a potential inquiry into care homes, and in the terms of reference that you would develop in respect of it. It is my absolute, stated position that the care of vulnerable older people should not be left to the vagaries of the market, in terms of the different ways in which care home provision is constructed. I will ask Alun to provide a little more detail, as I think that it might be helpful.

[54] **Mr Thomas:** In terms of care home closures, traditionally we have seen that we have mechanisms in place to deal with questions about the quality of the care that is given that trigger a certain process in relation to what happens to protect those individuals. We have guidance in place, 'Escalating Concerns with, and Closures of, Care Homes Providing Services for Adults', to that effect. Across Wales, we are increasingly seeing care homes being closed for a whole range of reasons over and above issues about quality, and often excluding issues of quality. For example, care homes are closing due to financial constraints and the future direction of care provision. It is fair to say that it is impossible for us, as there are well over 700 care homes in Wales, to be involved in discussions on closures all over Wales. So, we have picked a number of examples that have been presented to us, and we have become involved in those cases. We have then provided guidance that can support care home closures in other contexts.

[55] We have identified that, in the debates about the future of care homes in some authority areas in Wales, the debate itself has been drawn out, which, again, is damaging for many of the individuals concerned who are worried about their future home. There are issues about how, and at what stage, those people are engaged with. There are also issues about the quality impact assessment, or the lack of it, in that debate and the decisions that are being made. For example, there is an erroneous belief that the quality impact assessment is made right at the end of that process rather than at its beginning. Based on our experience, we would like to see new guidance drawn up to deal with issues around care home closures that are not necessarily motivated by the quality of care those homes provide.

[56] In another case of threatened care home closure we found that a couple were being threatened with the possibility of separation after many decades of marriage. Their care needs could be accommodated jointly in their current care home, but, as that care home closed, there was a threat that one would have to go in one direction and the other in another, because of their level of support needs, with one home having capacity and the other not. So, there are some real challenges and basic human rights issues, although there are inadequacies in the human rights legislation in this context, in relation to preventing couples from being separated. We think that even the threat of separation should constitute a breach of human rights, and that is not necessarily how the legislation is interpreted at the moment.

[57] **Ms Marks:** I will make a final quick point. The question of the links with the inspectorate and respective roles and so on also has a reference to the comments about the escalating concerns guidance that Alun was making. We do not think that the current 'Escalating Concerns With, and Closures of, Care Homes Providing Services for Adults' guidance can be treated as comprehensive guidance on the subject of care home closures for two main reasons: first, because it does not cover every issue that is connected with care home closures and, secondly, because it is far too general.

[58] **Mick Antoniw:** My question is to do with the agencies and signposting that you refer

to in your report. A number of the agencies, and different charities, that are involved in providing support have a commercial side to them. Do you have any concerns about co-operation between various agencies and charities, and also about the competition between their various products and whether, because it is a fairly niche market, they are delivering good products?

[59] **Ms Marks:** What is important for the commission is to ensure that we are aware of all the different organisations that are providing advice and support to older people, that we are able to signpost older people to the most relevant service to meet their needs in terms of it being offered at the right time, the right place and providing advice and information in the right format and so on. I want to make sure that I maintain an appropriate dialogue with all the staff, volunteers and trustees of the many different organisations that provide support to older people. The commercial aspect is one that Sarah has experience of in her previous working life with Age Concern Cymru, as was, and I think that she may have a few observations that it would be useful to share.

2.45 p.m.

[60] **Ms Stone:** This has not come to us as a specific issue, I must say. It is not my experience—and I stress that I am speaking about my own experience—that the offering of commercial products has skewed the advice being given. However, it is not to say that that could not be the case in future. It is really important to separate out the commercial part of any charitable organisation from the rest. There is usually a structural separation between a commercial operation that might be linked to a charity and the rest of the work that the charity does. Also, there is quite a diversity of charitable organisations providing information and advice that are making attempts to standardise in a much more significant way the quality of the information and advice services they provide. We have links with a number of those and we seek to assure ourselves that, when we signpost over to them from the commission, there will be a reasonable response to the local query presenting itself to us.

[61] **Vaughan Gething:** I have two points to make, one of which goes back to the points about closures and the reconfiguration of services. As well as residential care, there are also day care services that are of particular importance to older people. I have an example in my constituency with Gardenhurst Day Centre, and I am sure that others will have similar examples. In these cases, there is a basic dispute about whether the proposal by the local authority to reconfigure services is appropriate. I am sure that that will happen in the case of pretty much every proposal. However, one of the most difficult things has been the way the consultation has been run. The impression being given is that a plan has come from the local authority and that there is a consultation that is really about how quickly this can be done rather than whether it is the appropriate thing to do.

[62] On page 17 of your report, you say that decision making should be transparent, address concerns raised during consultation and stand up to external scrutiny. I am interested in how far that goes and what level of standing up to external scrutiny you are talking about. I am not sure that everyone would understand what that means. If that is not the case, how meaningful is the advice or guidance you give on what can be done about it? It is the whole issue of planning at the start of the process rather than, potentially, groups of older residents—many of whom, by definition, are vulnerable—having to take on a local authority, which, in comparison, appears to have fairly limitless resources.

[63] Secondly, on page 34, you talk about potentially learning lessons from Scotland on adult protection. It looks as though there is a bit of a hint that it may be something that the Government will do anyway, but I am interested to know how long the system you are referring to has been in place in Scotland, what the measurable positives are to have come out of it, and how you think those could work or be implemented here in Wales.

[64] **Ms Marks:** I will make a start on the reconfiguration answer. I will see whether Alun has something to add, but he might not. Sarah will give a detailed answer on the Scotland experience. The reconfiguration of services, whether linked to the closure of care homes or changes to day services, is an issue that has been brought to my attention by many individuals and groups across Wales over the past year. This has been the case particularly in relation to changes in different parts of the country to the commissioning of domiciliary care. That has led to a specific piece of work that we are undertaking on people's experience of home care. On meaningful consultation and practices that would stand up to external scrutiny, what I would offer is that the Welsh Government's own strategy for older people has a Wales-wide and very sensible structure of local fora and groups of older people who are joiners—people who want to be involved in discussing local issues and who are seeking to represent other views and feed their views into consultation processes. The external scrutiny that some local authorities are putting in place, in relation to the reconfiguration of services in their social care departments and their provision of social services, would also run across all aspects of local authority work. I will check whether we have any further information on that and, if we do, I will send a note to supplement that answer.

[65] In relation to Scotland, Sarah was on that visit and therefore has first-hand experience to share.

[66] **Ms Stone:** It is important that we improve the protection for people who are subject to abuse, and that we get much better at preventing it from happening in the first place.

[67] Scotland has the Adult Support and Protection (Scotland) Act 2007. We went up to Scotland as part of a series of work, which included work with the Law Commission, on the review of adult social care law, which is a complex patchwork that is hard to use and access. We went there to see how things may be done better. We have a report here; it may be simpler if I were to share it. I will read the headline parts, but I will send the full report, because it is quite a technical area, which is part of the problem and why it is difficult to use.

[68] The headline advantages that we see in the Scottish legislation are a duty to cooperate with investigations of cases of abuse, which means that all adult protection partners must be around the table, which is a challenge; a duty to share information effectively; a duty to make inquiries at an early stage when harm, as opposed to serious harm, is suspected, which is about prevention and getting to something before it becomes a much more serious issue; and a duty to provide advocacy where it is needed. That goes one step beyond the Scottish Act's duty to consider advocacy provision, which is to do with real access to your rights. It also includes adult protection committees, which will be tailored to Wales's needs, with independent chairs. There are a number of specific things that we could explore in more detail. However, there are good hints and another year of experience now in Scotland about how that is working out in practice.

[69] **Ms Marks:** That report has been shared with the adult protection board that was advising the Minister previously. We are confident that the lessons that are reflected in that will be considered during the development of the social services Bill, but we will certainly be monitoring that.

[70] **Mark Drakeford:** Thank you; it would be useful to have that report.

[71] Elin, a oes gennyh gwestiwn arall? Elin, do you have another question?

[72] **Elin Jones:** No, it has been answered.

[73] **Rebecca Evans:** In your report, you refer to challenging negative stereotypes of older

people. How ingrained are those stereotypes in Wales? Will you share some examples of your work in challenging those stereotypes? My other question is related to that. How pervasive is age discrimination in Wales?

[74] **Ms Marks:** I will respond to the stereotype question, and I will ask Alun to answer in relation to age discrimination.

[75] All too often, the media, in particular, present negative images of older people. On the radio or television, or in a newspaper, we quite regularly hear or see words such as, 'Older people are a burden', 'the grey tsunami', and 'older people are a drain on society'. I would recommend the publication that we have produced with a diverse range of partners, including the Institute of Welsh Affairs, based on focus group discussions with people of all ages, called 'Adding Life to Years—Welsh Policy Approaches to Ageing', with regard to challenging stereotypes. Sarah has recently had an article published in the *Bevan Foundation Review* on the human rights of older people, trying to extend our experience and evidence to a different audience, beyond the usual suspects, in terms of presenting positive and realistic images of older people and realistic experiences of what it is like to grow older in Wales today. The work that we undertook with the Church in Wales, which produced a common-sense report about a joined-up approach to the ageing experience in Wales, challenges some stereotypes with regard to getting some people around a table who, perhaps, have not had that opportunity before.

[76] With regard to age discrimination, I will pass over to Alun.

[77] **Mr Thomas:** It is acknowledged that age discrimination is one of the most common forms of discrimination. In fact, it is so common that many older people do not necessarily recognise it, because it is so much part of the daily experience that people have. We have had legislation in place since the 2006 European regulations relating to age discrimination in employment, and some significant progress has been made, particularly on issues around the default retirement age, and there was last week's action. However, we have some challenges in relation to age discrimination in goods and services. Again, the sort of issues that we are informed about all too often by older people are discrimination by financial services companies, whereby people are denied insurance or charged significantly higher rates of insurance, as well as discrimination issues in the provision of health and social care. For example, a GP might say to an individual that their condition is related to age and that nothing further can be done, whereas a little creativity can make a whole lot of difference to those individuals. There are also issues where age limits are placed on screening programmes, such as bowel cancer screening, where we have moved on as a society. In an ageing society, people's health needs and experiences are vastly different from what they were when those rules were constructed.

[78] There is a challenge before us in recognising and working with older people. We are about to embark on some research with older people on their experiences of unfairness and discrimination, and we are aiming to provide guidance and support for older people so that they can have quick results to counter the discrimination and unfairness that they face. It is important for us to think about cases that establish a legal precedent, but, a number of individuals want a quick answer to a problem that has been raised. We think that we can develop resources based on our research with older people. One thing to say, however, is that the Equality Act 2010 is not the be all and end all. There are all-pervasive examples of age discrimination relating to statutory provision, particularly the implementation of taxation and benefits. There is still age discrimination within the benefits system, and that is rife. We will continue to pursue those issues at the appropriate level in Westminster.

[79] **Mark Drakeford:** I think that that is it for the committee this afternoon. I thank the three of you very much for those clear and full answers to all the questions that were raised.

We have enjoyed it very much and are grateful to you all for being here.

2.57 p.m.

Cynnig Gweithdrefnol Procedural Motion

[80] **Mark Drakeford:** Mae gennym un eitem arall ar yr agenda y prynhawn yma. Yn ein cyfarfod ar 28 Medi, cytunodd aelodau'r pwyllgor i gynnal y sesiwn nesaf ar y gyllideb yn breifat. Felly, cynigiaf fod

Mark Drakeford: We have one other item on this afternoon's agenda. In our meeting on 28 September, committee members agreed to hold the next session on the budget in private. So, I move that

y pwyllgor yn penderfynu gwahardd y cyhoedd o eitem gyntaf y cyfarfod nesaf a gynhelir ddydd Mercher nesaf yn unol â Rheol Sefydlog Rhif 17.42(vi).

the committee resolves to exclude the public from the first item of the next meeting, which will be held next Wednesday, in accordance with Standing Order No. 17.42(vi).

[81] A oes gwrthwynebiad? Gwelaf nad oes.

Does anyone object? I see that no-one does.

*Derbyniwyd y cynnig.
Motion agreed.*

[82] **Mark Drakeford:** Felly, bydd eitem 1 yn y cyfarfod yr wythnos nesaf yn cael ei gynnal mewn sesiwn breifat, a bydd ein sesiwn gydag Iechyd Cyhoeddus Cymru ynghylch yr ymchwiliad i fferyllfeydd cymunedol yn cael ei gynnal yn gyhoeddus. Bydd yn dechrau tua 10.45 a.m..

Mark Drakeford: So, item 1 of next week's meeting will be held in private session, and our session with Public Health Wales in relation to the inquiry into community pharmacies will be held in public. It will begin at about 10.45 a.m..

*Daeth y cyfarfod i ben am 2.58 p.m.
The meeting ended at 2.58 p.m.*