



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

Cofnod y Trafodion The Record of Proceedings

[Y Pwyllgor Cyllid](#)

[The Finance Committee](#)

07/06/2017

[Agenda'r Cyfarfod](#)

[Meeting Agenda](#)

[Trawsgrifiadau'r Pwyllgor](#)

[Committee Transcripts](#)

Cynnwys Contents

- 4 Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datgan Buddiannau
Introductions, Apologies, Substitutions and Declarations of Interest
- 4 Papurau i'w Nodi
Papers to Note
- 5 Ymchwiliad i'r Amcangyfrifon Ariannol sy'n Cyd-fynd â Deddfwriaeth:
Sesiwn Dystiolaeth 1
Inquiry into the Financial Estimates Accompanying Legislation:
Evidence Session 1
- 27 Ymchwiliad i'r Amcangyfrifon Ariannol sy'n Cyd-fynd â Deddfwriaeth:
Sesiwn Dystiolaeth 2
Inquiry into the Financial Estimates Accompanying Legislation:
Evidence Session 2
- 47 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 ynnddi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd. Lle y mae cyfranwyr wedi darparu cywiriadau i'w tystiolaeth, nodir y rheini yn y trawsgrifiad.

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. Where contributors have supplied corrections to their evidence, these are noted in the transcript.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Mike Hedges Bywgraffiad Biography	Llafur Labour
Steffan Lewis Bywgraffiad Biography	Plaid Cymru The Party of Wales
Eluned Morgan Bywgraffiad Biography	Llafur Labour
Nick Ramsay Bywgraffiad Biography	Ceidwadwyr Cymreig Welsh Conservatives
Simon Thomas Bywgraffiad Biography	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)

Eraill yn bresennol
Others in attendance

Andrew Hobden	Y Tîm Arfarnu a Dadansoddi Economaidd, Llywodraeth Cymru Economic Appraisal and Analysis Team, Welsh Government
Matthew Mortlock	Cyfarwyddwr Archwilio Perfformiad, Swyddfa Archwilio Cymru Director of Performance Audit, Wales Audit Office
Martin Peters	Rheolwr Moeseg a'r Gyfraith, Swyddfa Archwilio Cymru Law and Ethics Manager, Wales Audit Office
Jonathan Price	Prif Economegydd, Llywodraeth Cymru Chief Economist, Welsh Government

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

Bethan Davies	Clerc Clerk
Martin Jennings	Y Gwasanaeth Ymchwil The Research Service
Cath Hunt	Ail Glerc Second Clerk
Georgina Owen	Dirprwy Glerc Deputy Clerk

Dechreuodd y cyfarfod am 09:40.

The meeting began at 09:40.

Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datgan Buddiannau Introductions, Apologies, Substitutions and Declarations of Interest

[1] **Simon Thomas:** Galwaf y Pwyllgor Cyllid i drefn. Croeso i bawb yn ôl ar ôl toriad y Sulgwyn. Jest i atgoffa Aelodau i dawelu unrhyw ddyfeisiadau ffôn. Mae clustffonau ar gael ar gyfer cyfieithu ar y pryd. Mae cyfieithu ar sianel 1 ac addasu lefel y sain gwreiddiol ar sianel 0. Gan ein bod yn cychwyn ar ymchwiliad newydd y bore yma, rwyf jest yn gofyn i Aelodau a oes unrhyw fuddiannau gyda chi i'w datgan ar ddechrau'r ymchwiliad newydd. Pawb yn hapus, felly.

Simon Thomas: I call the Finance Committee to order, therefore. Welcome back to everyone following the Whitsun recess. Just to remind Members to put any phone devices on silent. There are headphones for interpretation. Interpretation is on channel 1 and amplification on channel 0. We are beginning a new inquiry this morning, so I'd like to ask Members if you have any interests to declare at the beginning of this new inquiry. Everyone is content.

Papurau i'w Nodi Papers to Note

[2] **Simon Thomas:** A gaf i ofyn i'r Aelodau nodi dau bapur sydd gyda ni? Llythyr gan Ysgrifennydd y Cabinet dros Gymunedau a Phlant

Simon Thomas: Could I ask Members to note two papers that we have? A letter from the Cabinet Secretary for Communities and Children regarding

ynglŷn â Bil Diddymu'r Hawl i Brynu a the Abolition of the Right to Buy and
 Hawliau Cysylltiedig (Cymru). Yr ail Associated Rights (Wales) Bill. The
 bapur i'w nodi yw'r llythyr gan second paper is a letter from the
 Ysgrifennydd y Cabinet dros Gyllid a Cabinet Secretary for Finance and
 Llywodraeth Leol ynglŷn ag amseru'r Local Government regarding the
 gyllideb atodol gyntaf. Hapus? Ocê. A timing of the first supplementary
 hefyd cofnodion y cyfarfod diwethaf. budget. Happy with that? Okay. And
 also the minutes of the last meeting.

09:41

**Ymchwiliad i'r Amcangyfrifon Ariannol sy'n Cyd-fynd â Deddfwriaeth:
 Sesiwn Dystiolaeth 1**

**Inquiry into the Financial Estimates Accompanying Legislation:
 Evidence Session 1**

[3] **Simon Thomas:** Fe drow'n at y **Simon Thomas:** We'll turn to the
 tystion y bore yma a chroesawu witnesses this morning and welcome
 Matthew Mortlock a Martin Peters o Matthew Mortlock and Martin Peters
 Swyddfa Archwilio Cymru i'r from the Wales Audit Office to the
 pwyllgor. Rydym ni'n edrych ar committee. We are looking at costs of
 gostau deddfwriaeth ac yn dechrau legislation and looking at the process
 edrych ar y broses o lunio'r of creating the regulatory
 asesiadau rheoleiddio ac ati a'r assessments et cetera and the costs
 costau sydd ynghlwm wrth associated in legislation. We are
 ddeddfwriaeth. Rydym yn edrych looking forward to discussing that
 ymlaen at ddechrau sgwrsio gyda chi with you. Just for the record, if you
 ynglŷn â hynny. Jest ar gyfer y would state your names but also your
 cofnod, os gwnewch chi jest ddatgan roles at the Wales Audit Office. Thank
 nid yn unig eich enwau ond eich you.
 swyddogaethau chi gyda'r swyddfa
 hefyd, os gwelwch yn dda.

[4] **Mr Peters:** I'm Martin Peters and I'm the head of law and ethics at the
 WAO.

[5] **Mr Mortlock:** My name's Matthew Mortlock. I'm director of
 performance audit and I led on the work that we undertook in the fourth
 Assembly looking at the well-being of future generations Bill, more
 specifically the regulatory impact assessment.

[6] **Simon Thomas:** Diolch yn fawr am hynny. Rydych newydd grybwyll un o'r Biliau y byddwn yn edrych arno yn ystod yr ymchwiliad yma. Ond tybed, jest ar y cychwyn, a fedrwch chi roi amlinelliad mwy bras ynglŷn â pha rôl mae'r swyddfa archwilio yn ei gwneud o gwbl ynglŷn ag edrych ar gostau deddfwriaeth. Roeddech yn sôn am un Bil yn benodol yn y fan yna, ond a oes gyda chi rôl ehangach, ac a oes gyda chi unrhyw ganllawiau mewanol, os liciwch chi, ynglŷn â'r ffordd rydych chi'n ymwneud â hynny?

Simon Thomas: Thank you very much for that. You've just mentioned one of the Bills that we will be looking at during this inquiry. But at the start, I wonder if you can give a more wide-ranging idea of what work the Wales Audit Office does in terms of looking at the costs of legislation. You mentioned one Bill specifically there, but do you have a wider role, and do you have any internal guidelines about the way that you are involved in that?

[7] **Mr Mortlock:** Thank you, Chair. Perhaps if I answer first and Martin can come in on that. I suppose the first point we'd make is probably around the auditor general's powers fundamentally. Separate to the audit of accounts of public bodies, those really revolve around looking at the way that resources are used in the discharge of public functions. As a result, our focus has not been, historically, on getting engaged in scrutinising specific legislation and the costs associated with implementation of legislation at the Bill stage and passing of Acts. There are some specific circumstances that led to the work that I mentioned around the WFG Bill in the last Assembly, and we can perhaps expand on that for the benefit of Members to explain the circumstances to that work.

[8] But I think we set out in our evidence that we look at Bills for a number of reasons. One is to look at any impact on audit functions and to check that they are right. Martin can perhaps talk more around the issues around the Welsh consolidated fund and the use of resources from there as well. So, there are some specific reasons we'll look at Bills and legislation. We will also have a mind to, as part of the consultation process—have we got relevant audit evidence that we think is relevant to the Bill that's under consideration as well? So, that's a kind of separate factor that we take into account. But it's not a routine process of us engaging with the Bill process. It's very much on a case-by-case basis.

[9] **Mr Peters:** Yes. We specifically look at impact assessments and, more

widely, literature around Bills and the Bills themselves, when we can see them. We look for direct charges on the consolidated fund, because that's something we need to take into account in the auditor general's function of providing approvals for issues from the consolidated fund. There's also a specific requirement under Standing Orders for a report where there are direct charges—a report from the auditor general to see whether any direct charges are reasonable. Direct charges are things like indemnities and pensions for senior officers and things like that, where it wouldn't be appropriate to make those things subject to a budget motion. So, we look at that kind of thing. We look to see whether there are appropriate audit arrangements in legislation, where legislation is creating new bodies. But it would be wrong to say that we look at all RIAs in great depth. We don't make a point of trying to see whether there are inaccuracies in the costings of them. It's not our priority, and I suppose it would be an antagonistic way of working, really. If we do see obvious inaccuracies then, if we can, we will raise them with the Bill team, but we don't make a point of looking for trouble, as it were.

09:45

[10] **Simon Thomas:** Are you included at all at an earlier stage of drafting RIAs, or would you tend to see them when they're published with a Bill, at the same time as the public, if you like? Do you have an earlier sight of them?

[11] **Mr Peters:** Generally, we only see them when they're published. If there are particular issues, such as if a Bill is affecting the AGW's functions—

[12] **Simon Thomas:** As the future generations Bill did, for example.

[13] **Mr Peters:** Yes. Often, we'd be asked by the Bill team to give a view on—well, sometimes we would be asked by the Bill team to give some ideas about costs. That is quite a difficult subject, sometimes, because the Government is formulating policy, and, generally, policy will move somewhat. The details of it will be somewhat fluid. So, providing a cost is quite difficult, because we don't know exactly the details of what's going to be required. So, from time to time, we are invited in to have a look at the draft of an RIA. It happened on the local government Bill—the first one, anyway. But it varies from Bill to Bill, according to our input.

[14] **Mr Mortlock:** I'd just add to that, Chair, that there will be occasions, as well, where we may well, for other reasons, be engaged with officials in the

general development of the policy that perhaps sits behind a Bill. Qualifications Wales is, perhaps, one example of that, where I know we had people from our audit team as observers on working groups in the work that led up to that. But that's not necessarily to say that, even then, we were specifically engaged in the detail of the RIA. I think we made the point in our written evidence around—it's a minor point, but around the audit fee costs that went into the RIA for that Bill. Actually, our audit fees are lower than the estimates, and we're not aware that we were specifically engaged at the time with producing that figure—

[15] **Simon Thomas:** No, in that instance, I think you say, in fact, that the Welsh Government just sort of licked its finger a little bit, rather than looking at the figures that you had.

[16] **Mr Mortlock:** Yes, it based it on another example of the fee for a different organisation of a similar size, perhaps, so that—

[17] **Simon Thomas:** You could have given more specific figures.

[18] **Mr Mortlock:** Yes.

[19] **Simon Thomas:** So, am I correct in thinking that, at this stage, your involvement could basically be in three broad ways? It can vary, but clearly where a Bill directly relates to the auditor general's office, you will be interested in that. Where a Bill has direct implications for the block grant, if you like—for the draw-downs or whatever—then that might be something that you might be looking at. Then the third possible area, I suppose, where the committee is thinking of taking some of its inquiry as well, is whether, if you like, the process—not the detail of an RIA, but the process—is robust enough within Welsh Government to ensure that the financial information that's being used and being evidenced in an RIA is robust, really. We had an example yesterday where the Government, in fact, did not move a financial resolution on a Bill, having discovered that the figures had changed enormously since we as a committee first looked at the figures. We'll go after that Bill in a separate way, but what's your view on the process? Do you have any oversight of that, or are you interested as an office to look at that?

[20] **Mr Mortlock:** I think, again, we come back to the point that we wouldn't routinely look at that process, but I think the experience that we had in the fourth Assembly when we did a specific piece of work on the well-being of future generations Bill and the RIA for that was that, actually, what

that threw up was issues around consistency of presentation in that one example. There were some broader questions around the processes within Welsh Government for quality review. I think we found that we did that work in a relatively short space of time. But, as soon as you put a cold eye on some aspects of the RIA, that threw up things.

[21] I think one of the points we made in our report was, actually, those were issues that we felt a good-quality quality review process should and could have picked up within the Welsh Government before the RIA and explanatory memorandum were published. So, we wouldn't routinely do it, but I think there were some issues that fell out from our previous work that raised questions around whether the Welsh Government could itself strengthen that whole process. I have noted that the evidence that you've got from the Welsh Government does touch on some of the changes that have been introduced over the past couple of years, in response to some of those issues. I know you've got appended to our paper some of the evidence we gave to the Constitutional and Legislative Affairs Committee in the fourth Assembly, where Martin had done some work as well to look over a number of previous Bills, looking at the RIAs, and that threw up some similar issues in terms of consistency of presentation, clarity, and that sort of thing. But, really, it's only when you get to the point of more of a line-by-line analysis—. We had the benefit with the Well-being of Future Generations (Wales) Bill of actually doing a specific piece of audit work, which gave us that opportunity—we were engaging with officials, we were discussing in more detail with them the assumptions underpinning the figures in the document. To an extent, it's only by doing that that you can unpick and challenge those assumptions, otherwise, read cold, it's difficult always to be clear. One of the issues that was raised, though, was around the RIAs being clearer in themselves on the assumptions that sat underneath the figures that were there. So, the reader, and those scrutinising, like yourselves, can have that ability to at least understand where that's coming from rather than just taking it as a kind of matter of fact.

[22] **Simon Thomas:** And I would assume that, in general, you're not resourced or charged with that ongoing way of working?

[23] **Mr Mortlock:** Exactly, exactly.

[24] **Simon Thomas:** The future generations Act, as it is now, was a one-off in those terms. Yes.

[25] **Mr Peters:** Yes, that's right.

[26] **Simon Thomas:** Nick Ramsay.

[27] **Nick Ramsay:** Yes. Apologies if this is reached in later questions, but we were talking previously about the role of other auditor general offices in the devolved settings across the rest of the UK. Would, for instance, the situation in Scotland—would the involvement of the audit office there with legislation be the same approach that you take? You may not know, but is there uniformity across the UK or is there greater involvement with some Parliaments that might have been doing this for longer than us?

[28] **Mr Peters:** I don't know about Scotland, but I believe that the National Audit Office's approach—unless it's changed since I last looked at it—is fairly similar to ours. I suppose one basic point to make is that RIAs are a relatively recent development. Going back 10 years ago, they were really quite—

[29] **Simon Thomas:** Threadbare.

[30] **Mr Peters:** Sorry?

[31] **Simon Thomas:** Threadbare.

[32] **Mr Peters:** Threadbare, yes. 'Back of the envelope' might be an appropriate term. So, I think practice is evolving, but, as far as I know, we're fairly similar in our approach to the NAO.

[33] **Mr Mortlock:** I think it comes back to the point you made, Chair, which is, fundamentally, we're not resourced to routinely do that work. We made a discretionary decision at the time of doing the work on the WFG Bill that we would take up the invitation, or the request, from the then Environment and Sustainability Committee to look at that specifically. Even then, we went through a process of consultation with the previous Finance Committee and Public Accounts Committee about actually taking that work on, because it was displacing, potentially, other activity.

[34] **Nick Ramsay:** I probably should declare an interest as Chair of the Public Accounts Committee: I'm not really sure if I want all of this legislation going through there as well. [*Laughter.*] It seems to me—being serious on this now—that there is a general view that this work isn't being done as effectively as it should be, but there is not a clear idea about who actually

should be doing it. Clearly, we would hope that the Welsh Government would be able to do it at an early stage, but if that's not possible for whatever reason then I think that's why people are looking at you, to see whether you could do that function. Obviously, you've only got a certain amount of resource, but it's not quite clear where this does fit in in the overall process.

[35] **Mr Peters:** I don't think this is a function that would be appropriate for us to take on, quite frankly. Producing RIAs is fundamentally around ensuring stewardship of public money. It's essentially a treasury function. So, I think it does lie appropriately with the Welsh Government in the first instance. We do, perhaps, have a role in terms of—. We have an interest in reporting on whether the Welsh Government is looking after public money appropriately, so we can, perhaps, from time to time, do some work looking at how well it is done, the effectiveness of the treasury function, but—. Yes, we need to be careful not to take on, as it were, the role of the Executive in this.

[36] **Simon Thomas:** Mike Hedges.

[37] **Mike Hedges:** If I look at something we're not looking at here, a very simple Bill, the first one we ever passed, or Act we passed, which was the local government bye-laws—now, doing a simplistic approach to it, there's one stage removed, therefore there's an administration cost reduction, so you can do a simplistic approach and say, 'Well, for each one it'll now cost a couple of hundred pounds less, because you don't have to get it approved by the Minister.' But if you end up, because it's made easier, having more bye-laws being produced, the cost would actually be increased. So, you, or whoever's doing it, is really having to come to a conclusion of whether there'll be a change in behaviour, and that's something that we looked at with the Additional Learning Needs and Education Tribunal (Wales) Bill and with the Social Services and Well-being (Wales) Bill; it's not just mechanistic, 'It costs this much; we're chopping this cost off.' Isn't it the problem, looking at any of these things, that there can be behaviour changes because of the legislation?

[38] **Mr Mortlock:** I think that's right, Mike. I wouldn't pretend that this is an easy thing. In some legislation, it might be relatively easy to produce an RIA, but, fundamentally, I think it's inherently a difficult and complicated process, depending on the nature of the Bill that you're introducing. I think on the—. Sorry to keep referring back to the future generations Bill, but I think, actually, that's a good example of something that, if you went to the

nth degree on it, is massively complicated. If you went down the road of saying, 'Well, what are the potential benefits of public bodies behaving in the way that the Act requires them to behave over the long term?' well, potentially those benefits are huge for public spending in the future, through preventative measures or whatever. But actually trying to nail that down in any sensible way to put a figure on it is almost impossible, and you'd have to question is it worth the resource and time and effort of trying to do that exercise, which could be largely academic. But, obviously, you've got to go some way towards providing a meaningful estimate of costs, and there are some meaningful benefits that might arise as well.

[39] **Mr Peters:** Yes. I think there are two elements. The Welsh Government emphasised the economic analysis part of it, which is—you know, the standard approach is to try and identify all the costs and all the benefits and monetise them where possible, but, when it comes to treasury management, you can have a situation where you've got the potential of a very good investment, but it may not be affordable within your cash constraints. And so, there is, I think, a need to keep an eye on the cash element to new legislation, if you like, the affordability of it. Certainty from—. Yes, essentially that—the affordability angle.

[40] **Mr Mortlock:** Chair, if I may just pick up Martin's point, I think, in some of our value-for-money reporting recently, we've been commenting on situations where public bodies like Natural Resources Wales, for example, through various pieces of legislation, have been required to take on new functions, and one of the challenges for them is: is there clarity around whether any additional resources are coming with those new functions, or are they being expected to absorb that? I think even, again, with WFG Bill, there was a sense of the Welsh Government saying, 'Well, this will replace what people are already doing,' but the argument was, 'Well, actually, do they need to do something differently and better and do more of something?' But it then becomes a question of: if there aren't additional resources—so, if you can only afford it by not doing something else—what's the disbenefit? What are you losing by not doing the other stuff that you might otherwise be doing with that resource as well?

[41] **Simon Thomas:** Well, surely if it only displaces what you're already doing, you don't need a new piece of legislation.

[42] **Mr Mortlock:** Potentially.

[43] **Simon Thomas:** That might be a time to turn to that Bill a little bit more in detail, I think, with Steffan Lewis.

[44] **Steffan Lewis:** Thank you, Chair. Yes, going into the well-being of future generations Bill, as was, the revised RIA at Stage 2, do you think that that adequately incorporated the recommendations made by the auditor general in his review?

10:00

[45] **Mr Mortlock:** I think broadly—broadly, yes. The Welsh Government took some steps to address the issues we raised. We didn't do a forensic line-by-line check back on it. We did have dialogue with the Welsh Government, I think back in January 2015, following our report, while they were developing the revised RIA. Certainly, we had more engagement with them during that period on our own costs that went into the RIA process as well. They undertook a process of consultation with other public bodies, which was one of the issues that we'd recommended, which was that they needed to get a better feel from public bodies around what they were suggesting the cost to those public bodies would be. So, broadly, yes. And I think some of the presentational points that we made in our report, which were just simply around how the actual costs were laid out, they've sought to address. I think they moved to a 10-year horizon—which you could argue you could go even further—rather than a five-year horizon in the original RIA, and made an attempt to actually bring together the total cost envelope of the Bill. So, I think generally, yes, I would say, without us having looked forensically and kind of—. If you like, we didn't repeat the audit work that we did in the first RIA to come to a view on whether the numbers were right in the second case.

[46] **Steffan Lewis:** So, you say 'generally, yes', but where do you feel they did not adequately accommodate the—

[47] **Mr Mortlock:** Well, I think there's still an argument on whether 10 years was the right horizon in that case. You could've argued under the long-term agenda through the Bill that you could've looked even further into the future. But, in itself, that was a step forward from what was traditionally the case in terms of a five-year horizon. I think, even then, the process of consultation with public bodies was probably constrained by time and the Welsh Government I know was working against a pretty tight window between the consideration at the first stage and then presenting the revised

RIA. So, I think there were some compromises around that. But I think what they did do was address some of the points of consistency within the presentation of the document as well. One of our recommendations—we've touched on it already—was around more broadly looking at how do you strengthen the process within the organisation of producing the Bills and the RIAs and actually the quality review process. We haven't looked in detail at—. It kind of comes back to what Martin was saying. Technically, we could do further work to look more generally at the quality process and the actual arrangements generally for producing the RIAs. We haven't done that. I've taken it from the Welsh Government's evidence to you, and indeed to the Constitutional and Legislative Affairs Committee in the previous Assembly, that they have got actions in progress to do that, albeit there's a bigger agenda. I think the report that you've probably had sight of from the Public Policy Institute for Wales, which talks more generally around how the Welsh Government produces impact assessments—might they have to make further changes to what they do in the context of the WFG Act but to apply a different approach to future legislation as well.

[48] **Steffan Lewis:** Going back to the revised RIA, the auditor general's report states that they would have expected some issues to have been identified and picked up internally by Welsh Government. What's your assessment of their internal quality control? I know you've touched on it a bit earlier.

[49] **Mr Mortlock:** Well, I think then, bluntly, our assessment was that in that particular situation it wasn't good enough. I think in that respect we were being fairly clear that we felt that those things should have been picked up. As I say, I don't think we're in a position to comment on whether, since then, the quality review process has been any better on legislation that's been raised since that point. But, again, the work that Martin did, looking across a few historic Bills, probably exemplified that some of the issues that we'd raised on the WFG Bill were manifest in some of the other RIAs for previous Bills as well.

[50] **Mr Peters:** That's right. I think we set that out in the submission to the CLA committee. There were issues around having to subtract one table from another in order to actually get a view of the costs of the Bill. There were other issues around it being fairly obvious that things like on-costs had been omitted from estimations of staff costs and things like that—so, omitting NIC, national insurance contributions, and that kind of thing. In terms of looking at what the Welsh Government do in terms of quality processes, we

haven't looked at that further. We do notice that, in the submission that you have had, they say that the chief economist doesn't actually do any checking. So, they are, I suppose, doing a similar sort of review that we have done from time to time, which is to look at it cold to see whether it stacks up, rather than probing more deeply. I suppose that does raise the question of who is checking the calculations—presumably, the Bill teams themselves, but if that's the case, then perhaps there's a consistency issue.

[51] **Steffan Lewis:** Finally, just to—

[52] **Nick Ramsay:** Sorry, I was just going to say, is it a capacity issue, do you think, or is it just a—? Don't laugh, or you can if you want.

[53] **Mike Hedges:** Steffan was—*[Inaudible.]*

[54] **Nick Ramsay:** Sorry, I was just—. You inspired my question, but I have interrupted.

[55] **Mr Mortlock:** I suspect that it is a bit of capacity, and, in some areas, the inconsistency may also reflect variations in the capability of policy teams in this area.

[56] **Simon Thomas:** You have different Bill teams, in effect.

[57] **Mr Mortlock:** Exactly, yes. We have touched on the fact that this isn't necessarily easy stuff to do. If you like, the very process creates the scope for inconsistency because of the number of variables that you might have to be trying to take into account. There was, at the time of our appraisal work—. Certainly, the Welsh Government has some extant guidance for teams on producing some of these things. I think they also had internally some advice on figures to use in assumptions around staff costs across public bodies. But again, one of the points that we raised in our work on the WFG Bill was, actually, that a lot of the assumptions around senior staff costs in public bodies that would go into a lot of this work didn't actually align with our understanding of what the actual costs of those equivalent employees were. We were fortunate that we had done some work a couple of years previously looking at bringing together analysis of senior management pay, which helped us to kind of critique those figures. So, I think that that was an example where even some of the internal material that was there as a guide for Welsh Government officials in doing it wasn't necessarily up to date as well. So, they weren't necessarily helped by all of the internal guidance at the

time.

[58] **Steffan Lewis:** Is it the case that, because the Bill teams are coming up with estimates, there is a need for a designated, autonomous authority to check and challenge within Government? A bit like the UK Government has the Office for Budget Responsibility to scrutinise Government economic forecasting, is there a need for something similar with fiscal forecasting as it relates to Bills and the cost of Bills? I suppose that that is a role that you have been dragged into now and again.

[59] **Mr Mortlock:** I think this is where, in some of our evidence to the Constitutional and Legislative Affairs Committee in the last Assembly, and in our written evidence here—that's where we are touching on the role of the treasury function as well, and whether there is a role here, as that develops, for that to be the focal point for some of that internal scrutiny and challenge within the Welsh Government around these things. So, I think that's where we would see it rightly sitting, perhaps, isn't it?

[60] **Mr Peters:** Yes, I think there is an issue of having someone who is a bit detached from the policy makers being responsible for the costing and evaluation, just to ensure a greater degree of objectivity. But I won't go so far as to say that that is something we should be doing, because it should be objectivity within Government rather than outside.

[61] **Mr Mortlock:** I think I would just add that there is also—we have touched on it already—the question of when you consult with public bodies, or any organisations or representatives of those organisations affected by the legislation, around your estimates of the cost. Again, on WFG and other Acts as well, we have highlighted this: is there actually sufficient consultation at an early stage of the process to develop the costings, or is it all down to the Welsh Government officials largely doing this in their own auspice? Actually, there are lots of situations where there would be merit in more consultation with the bodies affected at an early stage around what the costs are likely to be, and with the Welsh Government testing out their own figures before they put them down on formal paper, if you like, and present them in the RIA for scrutiny.

[62] **Steffan Lewis:** Okay. Finally, just on the accuracy of costs associated with the provisions of the Well-being of Future Generations (Wales) Act 2015, as they relate directly to your organisations, can you give an assessment on that?

[63] **Mr Mortlock:** In respect of whether they have been accurate or not, I think that, to date, what we have—. Obviously, the committee has the opportunity to scrutinise our estimate process as well in terms of the costs that are built in there for it. I think what we've found over the last—well, last year was the first year, within the revised RIA covering 2016–17, that our costs were slightly lower than those that were built into our estimate process. Those comprising staff time were significantly lower, but we also put on some events last year. We had a conference last November jointly with the future generations commissioner, and we've got some costs around that. I'm happy to write to you with a full breakdown of that. If the committee wants to have sight of that, we can do that. But we were generally under that year. We were under the year before, when we also had a historic commitment in our estimate, before the Act was fully introduced, if you like. We slightly underspent against that. Obviously, what that's also going to be reflected in is part of our end-of-year position in terms of moneys coming back to the consolidated fund generally as well.

[64] What we're not yet in a position to say is, looking ahead, how our approach to delivering the auditor general's duty will stack up against the cost estimates that went into the revised RIA at the time. I think, even then, there were still some uncertainties around certain provisions. We've been going through a process of developing our thinking on how we take this work forward. We're still committed to trying to do that within the parameters of existing costs where possible, but, in certain sectors, notably central Government, as has probably been played out in previous scrutiny around our estimate process and fee schemes, we're likely to have to charge some additional fees. But, as I say, it's not yet clear whether that will be in excess of, about the same as, or below the costs that went into the revised RIA.

[65] **Steffan Lewis:** Can you give some examples of how you might have to consider revising fees because of the duties?

[66] **Mr Mortlock:** The issue in central Government is particularly around the fact that we've obviously got a specific duty to discharge audit work in those central Government bodies affected by the Act, but we don't have a specific stream of performance audit work, if you like, in any of those bodies as such, that our value for money studies programme could cut across them. So, particularly in some of the sponsored bodies affected, our audit fee currently provides simply for the audit of accounts; there is no provision

there to discharge the kind of work that we're required to do at least once in a five-year cycle under the Act. So, inevitably, we're having to ask the question of how we resource that work. That may result in some additional fees in that sector.

[67] You may have seen we've just published a consultation in the last day or so on the fee regime generally.

[68] **Simon Thomas:** Yes, this week.

[69] **Mr Mortlock:** Central Government and NHS fees and how they're dealt with in the future is the main focus of that piece of work as well, and that perhaps provides an opportunity to do things in a different way anyway in terms of the funding of work in that sector. Elsewhere, where possible, we're looking to say, 'How do we do this in a way that's cost-neutral?', by adapting the work that we already do, by embedding WFG thinking where possible in work that we do, such that we can discharge the auditor general's duty without creating an additional audit fee, if you like, for delivering that work, if that makes sense.

[70] **Mr Peters:** One major area of uncertainty in the slightly longer term is the future of the Local Government (Wales) Measure, because the Government is saying that it's intending to remove the Part 1 part of it—the requirement for improvement assessments and things like that. It's been consulting on things to replace that, but a lot of the work that is done in pursuit of those assessments is work that could be reused, if you like, or inform the future generations work. Because we don't know quite what's going to happen in terms of local government assessments, there is uncertainty as to what the implications are for future generations work. If it were to go completely, we'd still be able to reuse work—well, if it were to go completely, we'd probably have to do more work in relation to what we call the VFM conclusion. Some people argue that that's not a very good term. It's work that we do to satisfy the AGW as to arrangements for securing economy efficiency and effectiveness. That duty applies in local government and in health.

10:15

[71] In health, we do that through something we call the 'structured assessment'. In local government, we do it largely through work that's done to meet the Measure, but there's some additional work as well to meet that

requirement. But if the local government Measure work goes, then we're going to have to do more work in terms of the VFM conclusion, and probably more work in terms of future generations as well, though those two things will inform one another, I think. So, that forthcoming legislative development is another area of uncertainty, I think, in this.

[72] **Simon Thomas:** Without going into too much detail over that, in essence, what you're saying is that the costs associated with the future generations Act, as now, and the purpose of that Act, in effect, seem to have overtaken what the local government Measure was trying to achieve at a local government level. So, this continuous improvement idea that local government was trying to do, that now has to somehow be merged into the other costs associated with a bigger Act that is trying to do a much bigger piece of work around well-being in communities. Is that what it boils down to?

[73] **Mr Peters:** I think that's a fair way of putting it, really, because the two have got to be reconciled in some way and, yes, as you say, the bigger requirement of the future generations Act is probably the one that's got to prevail, really.

[74] **Simon Thomas:** Okay. We'll move on, I think, with Nick Ramsay.

[75] **Nick Ramsay:** I think a lot has been touched on, actually, but do you feel—. We've spoken about the problems, particularly with the future generations Bill. Do you think there've been any improvements over the time that you've been looking at this, or is it variable from Bill to Bill?

[76] **Mr Peters:** I would say that the RIAs for Bills in the fifth Assembly are better, certainly on presentational terms. You now have a summary table, which you can relatively easily find in the RIA, which just wasn't there before, and—

[77] **Nick Ramsay:** You said earlier that, previously, you had to take different tables and subtract. That wasn't the most transparent way of presenting your financial—*[Inaudible.]*

[78] **Mr Peters:** Yes, in the fourth Assembly, with some of the RIAs, you really had quite a lot of homework to do in order to really work out what the cost of the Bill was, because you had various options being costed and it wasn't always clear which option actually represented the Bill. And,

sometimes, even within an option, things like the existing background costs, as it were, were not deducted from the costs of the options, so you couldn't actually see the additional cost.

[79] I think we've said that we—. And it's certainly true that we haven't done a deep audit into any of the RIAs of the fifth Assembly, but, certainly, in terms of presentation, they are much better.

[80] **Nick Ramsay:** And do you think that the consultation process could be improved for RIAs?

[81] **Mr Mortlock:** Well, I think, certainly, looking historically, the answer to that would be 'yes'. I can't think of any Bills in the fifth Assembly where we've had a particularly strong engagement in that process or needed to have, but, certainly based on the experience in the fourth Assembly, I think there was scope to be much more proactive in terms of consulting at an early stage. And also—and we touch on this again in our report on the WFG Bill—there was a sense of: to what extent was the Welsh Government keen to keep its cards close to its chest on what it actually intended doing? So, as part of that consultation, I think there's a kind of onus on the Welsh Government to be as open as possible, to give those it's consulting with a fairly clear idea of what it's actually talking about doing. I think we made an observation in that case that it wasn't always clear to those it was engaging with what the real policy intent was, or, certainly, that then changed significantly over time.

[82] **Mr Peters:** I think, really, we know that work is being done on the new local government Bill, and I think we could be more closely brought in on the costing of that, really. I think there is some good engagement, but it could be better on that particular issue.

[83] **Simon Thomas:** Where do you come in in the hierarchy of things here? You mentioned how, in the past, some of these RIAs have just tended to turn very broad brush strokes about the cost and it hasn't been clear what the additional costs of different options would be or what the savings may be. Even now, it's difficult to tell, I think, with some of the RIAs. You'll get a monetarised cost there, but is that value for money? It's difficult to tell whether that's value for money. That's a different question, I know. But, with the value for money hat on, and with that overview of what Welsh Government does and its use of public resources, are you at all seeing, or starting to see, an emergence of a sense of value for money in some of these RIAs, of an application of that principle, rather than a straight-down-the-

line, 'Well, these are the on-costs, this is the pension cost'? And, very often, you've got these broad, bare figures, but you had no sense of whether this was worth doing or not. You knew what it would cost, but that's not the same question as whether it's worth doing.

[84] **Mr Mortlock:** Well, I think that comes back to some of what we touched on around actually also going as far as possible in trying to monetise benefits or, if not monetise them, then at least lay out what some of the anticipated benefits of the legislation are. And that's perhaps an area that has not been given as much attention previously, with more of a focus on, as you say, some of the bare administrative costs. And then it comes back to Martin's point earlier as well about affordability and decisions around what you value more. Do you value more the things that you're already doing, or what's the added value of doing the legislation, if that's going to be at the expense of doing something else?

[85] **Nick Ramsay:** You risk veering into policy areas.

[86] **Mr Mortlock:** I think that's another point that, when it boils down to it—Martin may correct me—I would see legislation effectively as being there to deliver a policy objective. And, of course, the auditor general, and we, therefore, on his behalf, can't question the merits of those policy objectives. So, we have to be careful. Absolutely, we have to be careful in that regard.

[87] **Mr Peters:** If there's a political mandate for a policy, even if it doesn't represent, in our view, good value for money, that doesn't give us a means of questioning it.

[88] **Simon Thomas:** Eluned Morgan.

[89] **Eluned Morgan:** Just a follow up to that really. I was just wondering where the opportunities are to actually go a little bit further, so, following on from what Simon was suggesting, but rather than it being a direct financial example that you can show. So, if I give you the social services Act as an example. What struck me recently, visiting some private sector care homes, is that, actually, they are being inspected three times, more or less for the same things, and there was perhaps a missed opportunity in that Act to stop the regulatory board's investigation, the health board's investigation, the local authority's investigation. There was an opportunity to bring those three together, and it sounds like that might have been missed. Now, that could have saved, effectively, the public purse a bit of money. Where's the

opportunity to do that kind of tightening up?

[90] **Mr Mortlock:** I think, if I recall correctly, some of our evidence in the fourth Assembly touched on that, if I'm interpreting it correctly, in terms of almost the layering of legislation and the burden, and actually the fact that a lot of these things are being looked at in isolation, without necessarily looking at 'How does this add something on top of an existing function, and what are those opportunities for rationalisation?' I won't make the—. I'm sure if Huw was here, he'd take the opportunity to talk about audit legislation in that context, and the complexities that have arisen because of different pieces of audit legislation. But that's one such example. So, I can see exactly the point that you're making, and I think there probably is a tendency to look at the individual Bills, the Acts, in isolation, without necessarily reflecting on what the impact of this is, in the context of other things that have gone before it.

[91] **Eluned Morgan:** How could you correct that? What could you do? Where's the opportunity?

[92] **Mr Peters:** It might sound a bit idealistic, but I would hope that—. One of the five ways of working under the future generations Act is prevention, and I think prevention of unnecessary spending is what you're talking about. And the Government is required to follow the five ways of working. If it applies that properly when it's drafting new legislation, developing new legislation, then it should be thinking about, 'Are there any duplications here?', and, 'How can we frame the legislation so that we avoid that sort of duplication?' No doubt, there will be very considerable practical barriers to that, because it does mean that you've got to be fully aware of these things happening as you're developing policy, which has not necessarily happened.

[93] **Mr Mortlock:** Just to cite another example, if you like, of where we've seen that manifest. Again, we made the point in our earlier work on the WFG Bill and it's coming up again because we're just doing a piece of work on the National Health Service Finance (Wales) Act 2014. One of the points that we made there was, actually, you've got the NHS finances Act that lays out various provisions and expectations around planning—for want of a better word, corporate planning—and, indeed, the WFG Act itself, a lot of what that's about has corporate planning at the heart of it, and objective setting. One of the points we raised there was, 'Actually, there just seems to be a tension anyway in some of the time frames and the expectations of those.' So, at a very rudimentary level, you've got two Acts impacting on the NHS,

both talking about corporate planning arrangements, but they don't really align with each other at the moment. There was perhaps an opportunity, but I don't think that was necessarily considered at the time that the WFG Bill was introduced, in any detail.

[94] **Mr Peters:** I think that's where another of the five ways of working comes in to be useful, which is the engagement, because the more you engage with people the more they're going to highlight these problems—the overlaps.

[95] **Eluned Morgan:** Yes, exactly. I think it would be useful for us to just think about that in terms of our response—where the opportunities are and how do we get that onto the agenda. I wanted to ask you: initially, there seemed to be some resistance from Welsh Government to the auditor general's suggestion that we had some kind of standardised template, but that has now been accepted. Are you happy with the template as it is now? Does anything need to be tweaked?

[96] **Mr Peters:** Yes, the Government is including more or less the table that we suggested, and I think we are happy with that. The one area that we remain a bit concerned about—and perhaps we weren't clear enough about this at the time when we were talking to the Constitutional and Legislative Affairs Committee—was the tendency to pick a standard five years for costing the effects of the Bill. That doesn't seem, intuitively, terribly meaningful. Why five years if, say, the new organisation is intended to have a much longer lifespan? Obviously, when it comes to very long periods, there is little difference between the costs over 50 years and 60 years. It also, I think, raises questions in terms of the future generations Act about taking the long view. If you're just taking five years, I don't see how you're really taking the long view.

[97] **Eluned Morgan:** Good point.

[98] **Simon Thomas:** Mike Hedges.

[99] **Mike Hedges:** Very briefly. I've looked at Standing Order 26.6 and the cost estimates summary table, but it doesn't distinguish between capital and revenue. I'm sure if a local authority produced a summary table that didn't distinguish between capital and revenue, you'd be highly critical.

[100] **Mr Peters:** I think the issue that we faced was that we wanted to make

this as simple and as comprehensible as possible in a short amount of time. I think we did suggest that there be a clear distinction between initial set-up costs and ongoing costs. I know that's not quite the same thing.

[101] **Mike Hedges:** That's no problem at all. You'd be happy with any other organisation doing exactly the same thing, because it could actually save other organisations quite a substantial amount of money if they didn't have to distinguish between capital and revenue, and they just lumped all their capital into start-up costs. You'd be happy for everybody to follow that road.

[102] **Mr Peters:** I'm not quite sure whether we would, actually. We don't audit people's investment appraisals as a matter of course.

[103] **Mike Hedges:** No, but you audit their accounts, and their accounts are normally split between capital and revenue.

[104] **Mr Peters:** Yes, absolutely.

10:30

[105] **Mike Hedges:** These are not split between capital and revenue, but you don't seem to have a problem with it not being split between capital and revenue. All I'm saying is, if this doesn't have to be split between capital and revenue, would you be happy for no-one else to split between capital and revenue?

[106] **Mr Peters:** I think we're talking about two quite different things. One is accounts, and one is investment appraisal, essentially. The requirements for accounts aren't set by us. They're set, in the case of local authorities, by the Chartered Institute of Public Finance and Accountancy, essentially, through the accounts and audit regulations. I suppose there is a debate to be had about how useful the form of local government accounts is, but I think that's really another matter.

[107] **Mike Hedges:** All I'm saying is that everywhere else you visit, you want capital and revenue split, and yet you're happy with it not being split here. I'm just wondering if that's a new change of view of yours and you'd be happy for nobody to split capital and revenue. I don't think I'm going to get very far with that.

[108] **Mr Mortlock:** I think that comes back to Martin's point that we're

auditing against auditing standards. They're not our standards.

[109] **Simon Thomas:** Which are international standards.

[110] **Mr Mortlock:** Yes. So, that's what we're expecting, if you like, Mike, is to see compliance with someone else's standard, in effect. I take the point, coming back to Martin's point around affordability of the cost, that there could be an argument that says that, somewhere, that sense check on affordability should be, 'Well, if these are all capital costs, are they affordable in the context of our capital budget?' or the capital budgets of those organisations. So, there is perhaps a sense check there that needs to be made, but that's back to that general question of: is it affordable within the context of our resources? If those have different implications for capital and revenue, you ask that question in both of those situations. That would be my view.

[111] **Simon Thomas:** I think Mike Hedges is challenging us as much as yourselves, to be honest with you, about how we approach this.

[112] **Mike Hedges:** Yes. I think it is a challenge for everybody. I think capital and revenue should be split. Now that's up to you. I may be in a minority of one in here at the moment—possibly a minority of two—but I think they should be split, and they should be split when the information comes to us. I would have hoped that we would have had your support for that, but obviously we haven't.

[113] **Mr Mortlock:** Well, I wouldn't take lack of support as not support. I suppose it's whether we have a view on that. We don't have a fixed view on that, I suppose.

[114] **Simon Thomas:** Mike, I don't know if you want to take forward any other questions at this stage. Are you happy?

[115] **Mike Hedges:** Yes.

[116] **Simon Thomas:** Just to conclude, really, can I ask you whether you're broadly happy with the current situation, that is, what's set out in Standing Orders; the approach being taken in this fifth Assembly, which, as you said, is a little better, improved; whether that does give us enough information, as you suggest in your written evidence, to then go back to legislation post Act and to trace back whether the implementation costs, whether they are capital

or revenue, are being correctly done; whether the cost of the legislation, the impact, is there; whether you think that the current structure that we have is sufficient to allow that post-legislative financial scrutiny—not the policy scrutiny, but the financial scrutiny?

[117] **Mr Mortlock:** I think I have two things to say from my perspective. One is that, certainly, in our evidence to you and indeed to the previous Constitutional and Legislative Affairs Committee, we certainly endorsed, or were supportive of, the principle of post-legislative scrutiny and that being done more routinely, while recognising the constraints on time and capacity within the Assembly to do that, and also emphasising that we would see it as the responsibility of Government to produce the analysis to inform scrutiny in that regard, rather than those scrutinising having to almost generate that information through the scrutiny process itself.

[118] In terms of how far you go, again, I think we've made the point in our written evidence that the practical reality of trying to do this with certain Acts, in certain circumstances, will actually be very difficult when you're talking about public bodies' staff time, as one example, as a lot of the costs in the WFG context were. In one sense, without time-recording systems in public bodies, any figures that you get subsequent to implementation are only going to be estimates in the same way that the estimates at the start of the process were. So, inevitably, I guess what I'm saying is that it's never going to be an exact science on a lot of things. Obviously, where there are fixed costs, like you've set up Qualifications Wales, you've set up the future generations commissioner's office: what are the costs of running that compared to the costs that were projected? Easily done, but that won't always be the case.

[119] **Mr Peters:** That's right. Very often, there will be quite a lot of work to do, rather like the work that's needed to do the initial estimates, and I think, as Matthew says, that's really a matter for Government to do as part of its own work to make sure that it's looking after public money properly.

[120] **Simon Thomas:** Just to flip the question on its head, do you have any evidence or have you seen any information there in the regulatory impact assessments that gives you confidence about identifying savings, as well? We've concentrated a lot in our questions on costs, but, sometimes, the purpose of legislation—Eluned Morgan touched on it—might be about trying to regulate things in a better way to achieve savings. Is that something that you've seen evidenced at all, to date?

[121] **Mr Peters:** The only one that really springs to mind is the costings and identified estimates of savings for the—I think it was the second local government Bill of the fourth Assembly. That did, I think—. I remember there was a lot of scope for debate about the savings, but it seemed to be a realistic approach that was being put forward.

[122] **Mr Mortlock:** I'd just make the point more broadly that, obviously, within the discretion or scope of the auditor general's audit programme, as well, there will, inevitably, from time to time, be opportunities to do pieces of work that will look at how public bodies are responding to their statutory obligations, not just in the context of us having a specific duty to look at how they're implementing their WFG responsibilities, but any other piece of legislation may impact on our audit work programme. We highlighted in our letter a few examples of work that we'll be doing in 2018–19 on a number of Acts, specifically in a local government context. There may be opportunities there for us to build in some consideration of whether those local government bodies are finding that the costs are exceeding what they expected and are struggling to deliver as a result, or whatever the case may be. So, in those particular examples, if there is any evidence that you take that's pertinent in that context, we'd be happy to try and consider how that might be addressed in our future work, as well.

[123] **Simon Thomas:** Any further questions? In which case, can I thank you—diolch yn fawr iawn—for coming in this morning and for your evidence? Obviously, there'll be a transcript for you to check for veracity, but thank you for the time being. Diolch yn fawr.

[124] Can I suggest to the committee that we break until 10:45 precisely, and then we'll come back with the next session? Diolch yn fawr.

*Gohiriwyd y cyfarfod rhwng 10:37 a 10:45.
The meeting adjourned between 10:37 and 10:45.*

**Ymchwiliad i'r Amcangyfrifon Ariannol sy'n Cyd-fynd â Deddfwriaeth:
Sesiwn Dystiolaeth 2
Inquiry into the Financial Estimates Accompanying Legislation:
Evidence Session 2**

[125] **Simon Thomas:** Croeso nôl i'r [126] **Simon Thomas:** Welcome back

Pwyllgor Cyllid, felly. Rŷm ni'n symud ymlaen i'r eitem nesaf ac yn croesawu swyddogion o Lywodraeth Cymru i roi tystiolaeth i ni ar gostau deddfwriaethol a pharatoi asesiadau effaith rheoleiddio. Croeso mawr i chi. Os caf i ofyn i chi ddatgan eich enwau a'ch swyddogaethau ar gyfer y cofnod i ddechrau, plŷs.

to the Finance Committee. We move on now to the next item and we welcome officials from the Welsh Government to give evidence to us on the costs of legislation and the preparation of regulatory impact assessments. I wish you a warm welcome. Could I just ask you to state your names and roles for the record, please?

[127] **Mr Hobden:** Certainly. Good morning. I'm Andrew Hobden. I'm an economist within the economic advice division of Welsh Treasury.

[128] **Mr Price:** I'm Jonathan Price. I'm chief economist. I also sit in the Welsh Treasury in the centre of the Welsh Government.

[129] **Simon Thomas:** Diolch yn fawr. Croeso, fel y dywedais i, a diolch am y dystiolaeth rŷch chi wedi'i rhoi i'r pwyllgor hefyd. A gaf i ddechrau jest trwy ofyn, yn gyffredinol, os gwnewch chi amlinellu, ar gyfer y pwyllgor y bore yma, sut rŷch chi'n mynd ati i sicrhau bod costau ac arbedion a buddion unrhyw ddeddfwriaeth yn cael eu hamlinellu yn yr asesiad effaith rheoleiddio, a'ch rŷl chi'n goruchwyllo neu lywio'r broses yna, os liciwch chi?

[130] **Simon Thomas:** Thank you very much. Welcome, as I said, and thank you for the evidence that you've presented to the committee. Could I start by just asking you, generally, if you could outline for the committee this morning how you ensure that the costs and savings and benefits of any legislation are outlined in the RIAs, and what is your role in overseeing or steering that process, if you like?

[131] **Mr Hobden:** Certainly. I think the first thing to say is that each RIA is intended to be a best estimate of the costs and benefits of the legislation, based upon the available evidence. Given that the RIA is a forward-looking assessment, there is, inevitably, a degree of uncertainty within the costs and benefits estimates, but, for transparency within the RIA, we do try to set out, as best as possible, the key areas of uncertainty and any assumptions that have had to be made in completing the analysis.

[132] Responsibility for preparing each RIA rests with the relevant policy department. They have the specific policy knowledge; they have the

relationship with the relevant stakeholders. Our role is to advise and support the policy teams as they develop their RIAs, setting out the requirements at the outset, discussing broad methodology, talking with them about potential alternative options, groups that may be impacted by the proposals, and then discussing potential sources of evidence to help inform their RIA. In terms of the sources of information, it would typically be around stakeholders, if there are official data sources, if there's evidence from other countries that have introduced a similar policy elsewhere. In addition, in some cases, we've identified where there's a particular external organisation with specific knowledge and expertise and, where appropriate, we have commissioned additional analysis from them to help inform the RIA.

[133] As we go through, or policy teams go through, the development process, we play the part of a critical friend, trying to challenge evidence and assumptions where we consider it's appropriate, and then, as set out in the evidence paper, prior to the introduction of a Bill, we undertake a final review of the RIA to make sure that it meets Standing Order requirements and HM Treasury Green Book requirements. That final review will look at trying to ensure that the broad methodology is appropriate, costs and benefits have been presented appropriately and proportionately, and that any key uncertainties and assumptions or any unquantified impacts have been highlighted within the RIA.

[134] **Simon Thomas:** And do you provide—? You said 'a critical friend', does that mean that there's somebody—either you or somebody from your team—that's constantly part of the development of the RIA, or is it a kind of you come in at spot checks, as it were, to check that the process is going correctly?

[135] **Mr Hobden:** It is certainly the latter. We're not resourced to have anyone continually sat with the policy team developing the RIA. It's at points—

[136] **Simon Thomas:** And, in terms of them developing the RIA, do they have, if you like, a ready reckoner, so if they wanted to know, 'Well, I'm going to put this extra burden on a local authority and I can turn to this piece of information that is consistent and tells me that 100 hours of a senior officer's time is x or whatever'—is that the kind of internal mechanism you might have for this kind of work?

[137] **Mr Hobden:** Yes, we'd have some data of that sort in certain areas:

Welsh Government staff costs, certainly local authority costs, and Wales Audit Office have looked at some senior posts, so there is that data element. It's certainly not comprehensive across all areas we need, so that's why, as I said, we look at official data sources. So, if we're looking at external organisations we may need to use annual survey of hours and earnings data from the ONS to look at the costs of a typical occupation, for example.

[138] **Mr Price:** If I might just add one thing to that, Andrew's sort of said this, really, but we do see the prime responsibility here lying with the policy teams in that what impact assessments are typically doing is documenting material that you would have needed to assemble in order to develop and make good policy in the first place—you know, the costs and benefits associated with different options. In terms of the role of critical friend, again, we're very lightly resourced within the Welsh Government. What we try and do, particularly where there are major costs and benefits involved, is we would operate sort of a degree of separation within the economic advice department, so we'd have one member of the team working with the people developing the policy, and then at the final stage we'd have a bit of a Chinese wall and somebody who hasn't been involved in that process reviewing and challenging and checking. That might be me in the case of more major elements.

[139] **Simon Thomas:** Just on that point, because we have this developing treasury function, really, within Welsh Government, which we all, and particularly this committee, are very interested in—. Rather famously in the Labour Government under Tony Blair, Gordon Brown wouldn't let a piece of legislation escape from Downing Street without that Treasury having had its very firm handprints all over it. I take it, from what you've told us in written, and so far in oral, evidence, that's not quite the approach that Welsh Government is taking. But is it reasonable to say there is a developing treasury role here? Because we're not just looking at costs, we're looking at value for money and looking to the effect of the overall Welsh budget for potential ongoing capital costs, ongoing borrowing, or whatever it may be. And is that something that's developing? So, I suppose I'm asking you whether your role has developed over the last several years in producing regulatory impact assessments, and whether you see a scope for developing a further role going forward as well.

[140] **Mr Price:** I think it certainly has developed, but I think it's still very much the case that the prime responsibilities lie within individual departments and policy teams. And the budget allocation process within the

Welsh Government involves money being passed out from the centre to departments who have their own operations teams, their own finance departments, and their own accounting officers. So, our advice is very much one of support and challenge, rather than the sort of 'Tony Blair' kind of model that you're describing.

[141] **Simon Thomas:** I wasn't necessarily advocating that; it's just a different model.

[142] **Mr Price:** Yes.

[143] **Simon Thomas:** How do you ensure consistency, then, with that kind of model? Because that would seem to suggest that different Bill teams will have different approaches, and perhaps, to be frank, some are stronger than others in terms of financial skills and abilities. How are you able to ensure consistency across the range of Government legislation?

[144] **Mr Hobden:** Well, we have produced RIA guidance, which is available to all of the Bill teams, and that sets out the broad requirements and the methodology. As I said, there are some sources of information that have been used across a number of different RIAs, so we've got that data bank, I suppose, available to policy teams now. It is through the quality assurance—you know, the challenge and then the final review process, trying to ensure that they do meet Standing Order requirements and the green book requirements, from our perspective.

[145] **Simon Thomas:** Is that what—? You've written evidence and the evidence from the Wales Audit Office talks about quality assurance and previous work by the recommendations from the auditor general on this, as well. Is that what that means, in effect? The quality assurance is the Green Book standards and also your own internal document for setting out how this should be done. Is that what it is, in effect?

[146] **Mr Hobden:** In effect. I think that's right, yes.

[147] **Simon Thomas:** And yourselves coming in and—

[148] **Mr Price:** I was going to say, it's very much—it is what we do, as well. And I think, again, you'll be well aware of this, but the diverse nature of impact assessment and regulation means that quite different processes and approaches are entirely appropriate. So, for example, if you're looking at—I

don't know what the change in the price of a commodity like alcohol might have on consumption, but there's highly technical modelling required in that kind of case, where we would have to engage external experts. We'd want then to have a process of review, we'd want to look at their quality assurance processes, and we'd want to do our internal checking on that kind of modelling. So, I think it's a very diverse set of approaches that are required because of the very diverse nature of impact assessments.

[149] **Simon Thomas:** Okay. Mike Hedges.

[150] **Mike Hedges:** That brings me neatly on to what I was going to raise about how you deal with reviewing and updating, because the last point you made there was a point I was going to make: behavioural change. That's very difficult to factor in. You've had the social services Act, and as that makes its way through that may bring in substantial behavioural change—or not. But I'll tell you one thing I'd be absolutely certain about: it won't be what you put in the RIA. I'm not being critical, but obviously you have to come to an opinion, and the opinion will hopefully not be very wrong but will almost certainly not be exactly right. So, how do you keep on up-revising and updating them?

[151] **Mr Hobden:** In terms of the policy development process, the development of the RIA is an ongoing process. As you move through the policy development process, you're looking to ensure it reflects the latest evidence and any additional information and so on that becomes available. You know, clearly, once a Bill has been introduced, then there is a very definite procedure for updating and revising RIAs set out in Standing Orders. So, it would be revised after Stage 2, and, if required, after Stage 3 as well. There have been occasions where, both during the fourth Assembly and this Assembly term, we have identified during the first-stage scrutiny process that there are some—either additional evidence comes to light or there are some errors in the RIA.

[152] **Simon Thomas:** Yesterday was one example.

[153] **Mr Hobden:** I'm sure we'll come to it. [*Laughter.*] In that case, then, we will contact the relevant committee. I believe we'll also write to the Finance Committee to inform you of that point and we'll go from there in terms of agreeing how to revise the RIA.

[154] **Mr Price:** If I might come in as well on the specific point about

behavioural change, I think there's sometimes a real tension, not just in regulatory impact assessments, but in all kinds of appraisal, between, I think—. As an economist, I really am very keen on the idea of quantification, putting things in monetary terms, having definite figures, but, on the other hand, there's an inherent unavoidable uncertainty in a number of these areas. One of the things we do think about and we try and manage is how you balance the need for precision and quantification with an acknowledgement and recognition of the inherent uncertainty. I'm very keen that impact assessments are clear when there is uncertainty because there's no point pretending that some of these things can be absolutely definite.

[155] **Mike Hedges:** Well, I'm glad you mentioned—you're going quite ahead of me. The Additional Learning Needs and Education Tribunal (Wales) Bill, that's been taken—. The financial regulations—and you're having a look at it and you're re-examining it, which I'm very pleased to see, but my understanding is that we as the Finance Committee see it just the once: that it comes in to us and we agree if it's reasonable or not, but, as the alterations are made, after Stage 2, we never see it again. Should they be coming back to us, or, as I think, probably is—. Should they be coming back to us when these major changes are made? Should the new financial assessment, which you're doing now for that, for the additional learning needs Bill—should that actually come back to the Finance Committee or does it just continue on its journey because we've seen it once in an old form?

[156] **Mr Hobden:** To be honest, I'm not sure what the procedure would be.

[157] **Mike Hedges:** Maybe you're not even the right people to ask. Maybe you'd say that's a ministerial decision, but—

[158] **Simon Thomas:** Well, and also an Assembly decision, I would—

[159] **Mike Hedges:** What?

[160] **Simon Thomas:** Also this Assembly's decision.

[161] **Mike Hedges:** But do you see an advantage of it coming back when there have been substantial changes? Because we've come to an opinion on one set of numbers that are now found to be wrong. I mean, our opinion may be different on a different set of numbers.

[162] **Mr Price:** I mean, I would have to say I'm not fully aware of what the

procedural context for this is—it's my fault—so I would find it very hard to offer a definite view on that, but I think I would want, whatever the final answer is—I think I obviously would want to draw a distinction between cases where there have been changes to the numbers that don't materially affect the conclusion, and a case where you might want to arrive at a different conclusion. I'm assuming that in the latter case there would be some procedure for revisiting this, but I'm not sighted as to what that procedure would be.

[163] **Mike Hedges:** Well, perhaps we can discuss that later, but I think that most are de minimis, aren't they? So, they'll give you 5 per cent either way and then that's sort of within the bounds of expected error. When you get up to 25, 50 or 100 per cent changes, that may have a materially different view of the people examining it.

11:00

[164] **Simon Thomas:** Okay. I think it was Nick Ramsay next. Yes. Thank you.

[165] **Nick Ramsay:** Good morning. In terms of the improvements that there have been in the presentation of costs and benefits in RIAs, how do you feel the Welsh Government has improved the process for the fifth Assembly, and what key changes have there been?

[166] **Mr Hobden:** I think, as set out in the evidence paper we submitted, we have tried to take on board the feedback we received from the previous Finance Committee and from stakeholders such as the Wales auditor general around the presentation of costs and benefits. We've revised the—. I know there is a particular issue around the presentation of monetised benefits, so we have revised the guidance to try to make clear about how monetised benefits should be presented, and not alongside cash costs. More generally, we have, again in light of evidence from the previous committee and the auditor general, included a standard summary table on the front of each RIA, which has been designed to be aligned with the Standing Order requirements, to set out the information required by Standing Orders, basically to try to improve the clarity and accessibility of the RIAs. I think the line used previously was that the reader had to do quite a bit of work to understand that the costs and benefits of—

[167] **Nick Ramsay:** I think the audit office told us that they had to take different tables and make their own subtractions and do the maths to try and

get the figures, so that's all been improved now.

[168] **Mr Hobden:** We've certainly tried to take steps in that direction, and as I say, the standard summary table is intended to set out the additional costs associated with post-legislation cost savings—if there's compliance cost and if there are any benefits. Those are all recorded separately to try to be as clear as possible. We've also tried to improve the signposting within RIAs, so that front summary table will identify which is the preferred option, and where within the detailed RIA the corresponding analysis can be found.

[169] **Mr Price:** I think there was some question, at some stage, about whether benefits should be included and how they should be included. I think our view would be very firmly that they need to be there. We need to see the costs separately, so I think we entirely accept that point, but then in order for us to be able to advise accounting officers that public money is being spent wisely, we need to have a look at the benefits alongside the costs as well.

[170] **Nick Ramsay:** Yes, that would be a pretty straightforward answer.

[171] **Mr Price:** Yes, but I think there was a suggestion at one stage that including the benefits confused things, and I think the presentation confused things. The principle, I think, is—

[172] **Nick Ramsay:** Well, that's the whole point of the costs, isn't it, to deliver the benefits?

[173] **Mr Hobden:** I think the previous Standing Orders didn't even mention benefits at all; it was all about the costs. That has been revised in the latest set of Standing Orders.

[174] **Nick Ramsay:** Good. During last year's legacy inquiry, the Welsh Government advised the committee that it would meet with the Wales Audit Office to discuss the RIA process. What input have they had into the changes made by the Welsh Government?

[175] **Mr Hobden:** Yes, I did meet with a representative of the Wales Audit Office towards the end of the last Assembly to discuss the evidence they provided to this committee, to the 'Making Laws in Wales' inquiry, and more generally, as well as discussing the concerns they had, to try to explain the approach that we'd taken, and why we did things a certain way. I think that

was a—. It was a very useful discussion. To be honest, I don't think there were many areas where we actually disagreed, and certainly, with the feedback we've had as a result of that meeting, we have made a number of changes to our approach, and I think the standard summary table is one of the recommendations—

[176] **Nick Ramsay:** Presentation being one of them.

[177] **Mr Hobden:** Yes, exactly. That was one of their recommendations. We didn't adopt the format for the summary table that they suggested. We had a couple of reservations about that format, but, certainly, we did take on board their comments.

[178] **Nick Ramsay:** Are there any further changes in the pipeline, or changes that have been difficult to implement?

[179] **Mr Hobden:** I think one of the big things we're looking to do—. The latest, or the revised, RIA guidance, which will hopefully be published shortly, sets out a more clearly defined, staged approach to the development of the RIA, and a key element of that will be the inclusion of a draft RIA within any consultation exercise. There's a number of reasons for that, not least trying to improve stakeholder engagement, and it benefits us—their ability to improve the information within the RIA. It also gives stakeholders the opportunity to scrutinise an RIA at an early stage rather than sometimes just when the Bill is introduced. That, I think, may take time to come in. Certainly, some of the first-year Bills were beyond consultation stage when guidance was revised, similarly for some of the second and third-year Bills. But that is the direction we're looking to move in.

[180] **Nick Ramsay:** So, the RIA has gone from initially—well, not existing initially—it's gone from a peripheral location in the process much more towards the centre of the process.

[181] **Mr Hobden:** I'm not sure I'd say it's peripheral. Certainly, in the formal documentation of the evidence it was only required at the end of the process with the introduction of it as part of the explanatory memorandum. The work to develop the evidence base, to look at the costs and benefits, that was certainly being done. But we're trying to formalise the process for there to be key stages when a documented RIA will be required, and, as I say, consulted upon.

[182] **Nick Ramsay:** Thanks.

[183] **Simon Thomas:** Just in terms of developing that, clearly you've got costs and you've got savings, which are easily monetarised, but when you're talking about benefits the only way you can really put them into an RIA is to monetarise them but then that can in itself be a very complex piece of work. You mentioned, for example, alcohol pricing. That's got all kinds of potential monetarised benefits but how you work it out and what period of time you allow for that is crucial, then, to try and come to that. Is that still—? How can I put it? Would you say that is still underdeveloped in terms of how we approach legislation in Wales, and that we still perhaps need to think more in terms of how we monetarise those benefits?

[184] **Mr Price:** My view is that, yes, we're on a journey, actually. I think in my time in the Assembly, within the Welsh Government, which dates back actually to the last days of the Welsh Office, we've got much better about this. I think we've become much more sophisticated. But it is challenging. It's difficult, and as I was trying to say before, I think there's a real balance to be struck between doing this as far as you can but not pushing it so far that you end up with spurious precision and a neglect of things that really can't be or are very difficult to be monetised. So, I think one of the things we're looking at in terms of developing the guidance going forward is to try and find ways of being clear about how far we can reasonably expect such monetisation, and how to handle those cases where there are important qualitative benefits that actually it would be spurious to try and monetise or lead to a sort of distortion of the purpose of the policy. I think that's a really, really tricky balance. I don't think any Government across the world has got that completely right. I think everyone's on a journey.

[185] **Simon Thomas:** It's particularly true with the environment, for example if you're talking about air quality or climate change, that we attempt to monetarise the benefits of that and it's extremely difficult. As the Government's chief economist, I assume you'd want to monetarise everything you can, but are you at all aware of alternative approaches of building other ways of trying to put that in economic terms, but not necessarily in such strict monetary terms, into an RIA?

[186] **Mr Price:** Absolutely. So, one alternative, for example, where you have health or avoidance-of-death benefits—there are ways of monetising that. So, in transport appraisal the value of the statistical life is used to monetise reductions in death and similar approaches are used for injury. I think that's

got a role to play. But, clearly, putting a monetary value on a human life is intrinsically open to challenge, and therefore I'm very keen when that kind of thing is done that you also present the raw health benefits in non-monetised terms as well. So, if somebody wanted to put a higher value on those accident savings, the Minister concerned—the decision maker—could do that. So, I think it's very important to do it as far as you can but not to use it as a way to make what are intrinsically value judgments appear to be purely matters for technicians like me.

[187] So, there are ways of doing it. Obviously, in terms of climate change, we use a carbon pricing in official appraisal, which I think is exactly the right thing to do. But in terms of effects on future generations, it's very important that that is considered, in my view, separately as an explicit value judgment.

[188] **Simon Thomas:** Okay. Eluned Morgan.

[189] **Eluned Morgan:** I was just looking at the Standing Order, the formula you have to fill in, and I just wondered—. It's very clear in terms of savings, but it's quite interesting that in terms of savings there is no reference to businesses, but there is a reference to costs of businesses. Is there a reason for that?

[190] **Mr Hobden:** I don't think the Standing Orders can be comprehensive in terms of setting out everything that needs to be included. Certainly, in the analysis, we would look at any cost savings to business.

[191] **Mr Price:** I think that that is actually, to be honest, a reflection of the kind of concerns that have been expressed in the past. We would naturally want to look, as Andrew said, at both cost reduction and—

[192] **Eluned Morgan:** Sure, but it is interesting that it is not actually in—. So, is that something that, perhaps, could be tweaked in future? Maybe we could note that for—. The reason I was thinking about this is that I have been looking at the social services Act and speaking to some of the people involved in providing private care home facilities. What they are telling me is that they get inspected three times by three different organisations. It strikes me that there was an opportunity missed there for us to rationalise. How do you quantify that? Why wasn't that quantified? How would we stop that situation from arising in the future? Is there a process that we can build in so that we can make those savings in the future?

[193] **Mr Hobden:** I think that goes back to the policy development stage, and certainly to have a sufficient understanding of the social services sector to understand the processes that are undertaken. But, yes, it is in terms of getting the policy right and the requirements around business inspection.

[194] **Mr Price:** I'm sure that's right—exactly right. But also, it may not be in the Standing Orders, but the underlying guidance that we use—like the Green Book and our own guidance—would exactly point you to trying to take account of that kind of benefit. So, it may not be there in the words of the Standing Orders now, but the processes that we would follow would seek to identify those kinds of changes and take them into account. But, certainly, in the future there might be scope for changing the wording to make that clear.

[195] **Eluned Morgan:** Yes. If we put that in to this new table, then you would have to quantify it, effectively, would you? Do you see what I mean?

[196] **Mr Hobden:** If it is set out in the Standing Orders, yes.

[197] **Eluned:** Yes. Okay.

[198] **Mr Price:** Yes. I mean, as I say, I would just caution that we don't place an undue duty on people to quantify where that is impractical. What you tend to get then is that people will make a number up or it will have a precision that is just implausible. So, it is about finding a form of words that steers people to appropriate quantification, I think.

[199] **Eluned Morgan:** Can I ask you about this group that was established by the Permanent Secretary on improving impact assessments? That is supposed to report by spring 2018. Why does it take so long?

[200] **Mr Hobden:** This is in relation to the PPIW report.

[201] **Eluned Morgan:** Yes.

[202] **Mr Hobden:** I think that, to some extent, it is an iterative process. The working group, and the work streams that underlie that working group, are looking at things like redesigning the RIA processes and potentially developing a single, integrated impact assessment, and then looking at how that impact assessment can be better integrated into the policy-making process. Then, there are issues around staff training and so on. Each stage needs to be completed—or certainly some of the stages need to be

completed—before the next one can be commenced. So, I think that that is essentially the reason why it is expected—

[203] **Eluned Morgan:** And two years is—. That's a long time. I don't know; maybe it isn't a long time. I have no idea. But it strikes me as being quite a long time for quite an important—.

[204] **Mr Hobden:** I think there was a delay in setting up the working group. It wasn't until the end of last year that the then Permanent Secretary established the working group. I know that the PPIW report was published in May or June time. There was that delay, which obviously hasn't helped.

[205] **Mr Price:** I think the other thing is that, as the report made clear, there is a very large number of these impact assessments, some of which have got a statutory basis. You have to look at how those changes will be both consistent with the statutory basis but also allow greater alignment. So, it's not quite as straightforward as it might seem, I think. But it is a long time.

[206] **Eluned Morgan:** Okay, thank you.

[207] **Simon Thomas:** Mike Hedges.

[208] **Mike Hedges:** Can I go back to the summary information? It doesn't distinguish between capital and revenue, which I find strange. I will give you an example of something that isn't legislation but is carried out—the new school building programme. The new school building programme is almost exclusively capital costs and revenue savings, plus it has social and educational benefits. If we had a situation where we had a Bill to do with the environment that was dealing with stopping flooding et cetera, that may again involve large-scale capital and very minimal revenue. So, why don't you split capital and revenue on it, because they do have differences? Also, capital is always in competition. You're not covering it here. We may feel that spending capital on x is not as good as spending capital on y, whereas within the £17 billion total budget, it's easily covered.

11:15

[209] **Mr Hobden:** As I said, the summary table has been designed to reflect Standing Order requirements. So, it's very much designed to deliver each piece of information required under Standing Orders. There are sections within the table where you can insert text, and certainly you'd expect there

to be a differentiation between capital and revenue costs or savings explained within the narrative of the summary table.

[210] **Simon Thomas:** So, you're throwing it back to the Assembly under the Standing Orders, which is fair enough. It's not a criticism; you're meeting the requirements and that's fair enough.

[211] **Mr Hobden:** The feedback in the fourth Assembly was that the summary table should reflect Standing Orders and clearly set out the information required under Standing Orders. One of the reasons why we didn't proceed with the suggested template from the Auditor General for Wales was that we wanted to enable some text to be included within the table to provide the narrative and to provide additional detail on some of these issues.

[212] **Simon Thomas:** Okay. Steffan Lewis.

[213] **Steffan Lewis:** How long does Welsh Government, and how does Welsh Government, track costs and benefits incurred in legislation after the legislation's passed—what kind of timescales?

[214] **Mr Price:** I'd want to come back to where I came in, really, in terms of the integration of legislation and changes to legislation within the policy development process. So, if you think in terms of a policy cycle where you identify a problem and you identify potential options to solve it, you choose an option based on evidence, which may be legislation or it may be some other action. That's then implemented, it's reviewed, and you review how effective it is, what the costs that it imposes are, whether they are as you expected when you designed the legislation or the policy intervention, and the policy teams will be taking policy forward in the light of that evidence. So, that really is a rather long-winded way of just saying it does depend on the specific piece of legislation, but the prime responsibility for this would be with the policy team who are responsible for policy in that area and would be monitoring—

[215] **Steffan Lewis:** So, there's no treasury template or oversight of the cost and benefits of any legislation; it's up to the policy teams themselves.

[216] **Mr Price:** There is no central oversight of that. That is seen to be something that is absolutely core to the function of the policy team, to assess how their policy is functioning and the effectiveness of that policy. Of

course, at times of spending reviews—again, I’ve been around within the Assembly for a number of years—different approaches have been taken to spending reviews, but, at that stage, there may be more of a central assessment of the effectiveness of different kinds of activity, but that depends on the approach that’s taken by any particular Government to the spending review process.

[217] **Steffan Lewis:** So, there’s nothing in particular that the Cabinet Secretary for finance, for example, would routinely undertake and check in with the policy or legislative teams to check the accuracy of the initial costings; it’s just left to the individual policy teams and they decide not just how often and the nature of the cost–benefit analysis, but whether to bother at all.

[218] **Mr Price:** Well, it’s not whether to bother at all, I think—Andrew might want to come in in a moment—there’s various guidance about evaluation that is produced. But within the way that the Welsh Government is structured, finance is allocated to departments, who have their own finance departments, their own accounting officer, who has responsibilities to ensure that public money is spent wisely and that guidance is followed. So, that is, in the way that things are currently operated, primarily a function of policy departments, not of the centre.

[219] **Simon Thomas:** Does that actually have an impact on the way policy departments continue the monitoring? I suppose that’s what we’re trying to get at here. There may not be a central monitoring, but how do we ensure that the other departments are in fact looking back at their legislation and saying, ‘Well, that did actually work’?

[220] **Mr Price:** Well, that’s a matter for the department. I’d have to come back to that fact that that is a matter for the department, for the Minister in that department, and for the accounting officer who is accountable for the wise use of public resources in that department.

[221] **Steffan Lewis:** So, what happens if there’s a significant difference in terms of the estimates and the actuals? Is that, again, internal to the department, or does that go then to the centre?

[222] **Mr Price:** That would be a matter for the accounting officer and the Minister in that department. Sorry—I don’t mean to come back to the same point, but they’re allocated the money and are responsible for the way that

money is spent. So, if it turns out that legislation is not working in the way it was intended, they would need to assess that and make a judgment about whether to revise the legislation, to change it in some way, or to put in place some other policy measures.

[223] **Steffan Lewis:** Thank you.

[224] **Simon Thomas:** I suppose the question that arises there is whether there's any, if you like, organisational knowledge around learning from experience. There might have been one department that had a particular experience with a Bill that didn't produce the effect, or the savings, say, that were expected—and how that might be used to inform either future legislation or amendments to legislation, or indeed, to a certain extent, the budget process, so that when the overall view was taken of the Welsh Government budget, there's an acknowledgement that a particular path hadn't been successful, for example, in a particular department. So, how would that learning process happen internally to inform future legislative proposals?

[225] **Mr Price:** I think there's clearly an informal process of learning. I'm not sure what exact fora there are around the process of developing legislation and to what extent the Bill teams actually meet, but I know that there are processes to develop the Bill teams and develop expertise in this area, and that that has been a—

[226] **Simon Thomas:** It's a corporate memory type of question, because if you've got different Bill teams, your next Bill team could be very different from the previous one, and they may not have the person on there who can tell them, 'Well, actually, just for you to know, two years ago, we tried this; it didn't work.' It's that kind of question.

[227] **Mr Price:** As I say, I'm aware that there are processes for the Bill teams to learn from each other.

[228] **Mr Hobden:** There is a cross-directory group for legislation that features the legislation leads from each department, as well as colleagues from the legislative programme and governance unit, ourselves, legal teams, and so on, where they bring forward any issues such as that to inform the rest of the group to try to ensure that that knowledge is shared across the organisation.

[229] **Simon Thomas:** Mike Hedges.

[230] **Mike Hedges:** Following on from what Simon has just said, if you take a number of Bills that actually impact on other bodies, either health or local authorities, for example, is anybody collecting the cost benefits? Take the bye-laws Bill; how much has been saved? What's the additional cost of any additional bye-laws over the average we've had, to actually see how much that's cost local government or has saved local government? Because all the costs and savings—or nearly all the costs and savings in local government—are small savings here from dealing with them, but the major savings are at local government level, or costs at local government level. None of the additional costs are here. Is anybody actually following that through? The same as the social services Bill; most of those costs are going to fall on local authorities, aren't they? And the three-year health planning; most of that cost is going to fall on health boards. So, is anybody collecting whether we got it right or wrong? Not here, because most of the costs here in this sort of legislation are going to be de minimis, but where it actually affects the organisations that are being legislated on, about or for.

[231] **Mr Hobden:** I'm not sure about actual costs. In terms of cumulative costs, the annual budget narrative includes a section looking at the costs of all legislation to the Welsh Government in terms of the funding it provides to public sector organisations, but that is based upon information within RIAs rather than some assessment of actual outturn costs.

[232] **Mike Hedges:** I couldn't, for example, write and ask you, or the appropriate Government Minister, what has been the cost and savings of the bye-laws Bill for local authorities across Wales and get the definitive answer.

[233] **Mr Hobden:** I think there would need to be an exercise to make that information readily available.

[234] **Mr Price:** That's right, but there is an expectation in guidance. Guidance sets out a requirement for post-implementation reviews to take place. But the question is—. But that's not a matter of collecting data through some kind of repeated return. This would be an episodic process, where you would review the legislation and you would look at the implications in terms of costs and benefits. Now, the timing of those is, again, a matter, I think, of variable geometry, because it depends very much on the nature of the legislation how soon after the legislation has gone through the changes that it brings about have been put into effect, and it makes sense to try and

assess the impact. But it's more of an episodic process rather than an ongoing monitoring.

[235] **Mike Hedges:** Would that information be available for any of the three Bills we're looking at, or the Acts that we're looking at?

[236] **Mr Price:** Sorry?

[237] **Mike Hedges:** We're looking at three Acts—the future generations is one of them—which are our under our study. Would that information be available for any of those three?

[238] **Mr Hobden:** I don't believe it would. I think—

[239] **Simon Thomas:** They are quite recent.

[240] **Mike Hedges:** Would it be available for for the first Act then—the local Government Byelaws (Wales) Act 2012?

[241] **Mr Hobden:** Sorry, I'm not directly involved in terms of—

[242] **Mike Hedges:** I don't expect you to answer that now, but—

[243] **Simon Thomas:** If it helps, perhaps you can reply or send us some further information just to see what might be held and what might have been done in line with what Mike Hedges asked.

[244] **Mr Price:** An example would be that, apparently, a review of the operation of the Further and Higher Education (Governance and Information) (Wales) Act 2014 has been undertaken and was published in August 2016. So, there are examples of where this has been done, and, as I say, the point at which you do it is going to depend very much on the nature of the legislation.

[245] **Simon Thomas:** If you can provide any further information, that would be really useful, I think, just to help us with that. Just to conclude, we've talked about, on the whole, primary legislation, but, of course, there's also secondary legislation, and there are often RIAs associated with secondary legislation. I just wondered if you could briefly outline the approach taken there, what the guidance is about preparing secondary legislation, the costs or savings involved in that, how that is done, and whether you have a

particular take as to whether that is referenced at the time that the primary legislation is going through, or whether you have a particular approach around, 'No, we wait until we have the secondary legislation ready.' What's the general guidance and approach within Welsh Government on that?

[246] **Mr Hobden:** The guidance is—. We recognise that, for effective scrutiny of a Bill, you need to have an understanding of the costs associated with the subordinate legislation. So, the guidance is clear that, as far as possible, the costs and benefits of any associated subordinate legislation should be included within the RIA for the Bill. There are difficulties within that. There are situations where, perhaps, policy decisions haven't actually been taken, the detailed policy decisions haven't been taken at the time that the RIA for the Bill has been produced, and there are areas of uncertainty. But, certainly, wherever possible, the RIA for the Bill will include a best estimate of subordinate legislation.

[247] In terms of the requirements around the RIA for subordinate legislation, there is the Welsh Ministers RIA code, which sets out very clear requirements around looking at the costs on business, public sector, voluntary organisations, and communities and consumers and so on. So, that is used as the basis of—. That's the overall guide for when an RIA would be required for subordinate legislation. The approach to an RIA for subordinate legislation doesn't differ dramatically from that for a Bill. It's about option appraisal—first of all identifying a policy objective and the rationale for Government intervention, then it's about option appraisal, cost-benefit analysis, and, like I say, that's consistent across subordinate and primary legislation.

[248] **Simon Thomas:** Not all subordinate legislation will have an RIA, and that may be completely appropriate, but does that mean that you have an internal threshold? What decides whether there should be an RIA with a piece of subordinate legislation?

[249] **Mr Hobden:** The Ministers' RIA code sets out exemptions whereby an RIA will be required for subordinate legislation, and it's around—I forget the full list—areas where a statutory fee is being increased or decreased in line with a predetermined formula, such as inflation. If we're just making technical amendments to subordinate legislation, which doesn't have a material—

[250] **Simon Thomas:** A change in an organisation's name or something.

[251] **Mr Hobden:** Yes, exactly. There have been examples of that. Subordinate legislation that needs to be introduced quickly, such as the example given in the RIA code of animal disease control measures. Similarly, if there's commencing of an Act and there's no leeway in terms of how that Act is commenced. Those are all stated exemptions as to when an RIA wouldn't necessarily be required for subordinate legislation.

[252] **Simon Thomas:** Okay. Any further questions from Members? Okay, in which case, thank you very much—*diolch yn fawr iawn i chi*. There will be a transcript that you can check as well, but, in the meantime, thank you for helping us start our inquiry. *Diolch yn fawr*.

11:30

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

Cynigiwyd y cynnig.

Motion moved.

[253] **Simon Thomas:** If Members are content,

[254] **rwy'n cynnig felly ein bod yn I propose a motion under Standing
symud i gyfarfod preifat o dan Reol Order 17.42 to resolve to exclude the
Sefydlog 17.42. Pawb yn hapus? public from the remainder of the
lawn. meeting. Everyone happy? Fine.**

Derbyniwyd y cynnig.

Motion agreed.

*Daeth rhan gyhoeddus y cyfarfod i ben am 11:30.
The public part of the meeting ended at 11:30.*