



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

Cofnod y Trafodion The Record of Proceedings

[Y Pwyllgor Cydraddoldeb, Llywodraeth Leol a
Chymunedau](#)

[The Equality, Local Government and
Communities Committee](#)

16/02/2017

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

Janet Finch–Saunders Bywgraffiad Biography	Ceidwadwyr Cymreig Welsh Conservatives
John Griffiths Bywgraffiad Biography	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Sian Gwenllian Bywgraffiad Biography	Plaid Cymru The Party of Wales
Bethan Jenkins Bywgraffiad Biography	Plaid Cymru The Party of Wales
Rhianon Passmore Bywgraffiad Biography	Llafur Labour
Jenny Rathbone Bywgraffiad Biography	Llafur Labour
Joyce Watson Bywgraffiad Biography	Llafur Labour

Eraill yn bresennol
Others in attendance

Andrew Cross	Ysgrifennydd Cynorthwyol, Cymdeithas Feddygol Prydain (Cymru) Assistant Secretary, BMA Cymru Wales
Jo–Anne Daniels	Cyfarwyddwr Cymunedau a Threchu Tlodi, Llywodraeth Cymru Director of Communities and Tackling Poverty, Welsh Government
Amelia John	Dirprwy Gyfarwyddwr yr Is–Adran Gymunedau, Llywodraeth Cymru Deputy Director of Communities Division, Welsh Government
Jonathan Lloyd	Pennaeth Cyflogaeth, Cymdeithas Llywodraeth Leol Cymru Head of Employment, Welsh Local Government Association
Martin Mansfield	Ysgrifennydd Cyffredinol, TUC Cymru General Secretary, Wales TUC Cymru
Peter Meredith–Smith	Cyfarwyddwr Cyswllt (Cysylltiadau Cyflogaeth), y Coleg Nyrsio Brenhinol Cymru Associate Director (Employment Relations), Royal

	College of Nursing Wales
Dr Stephen Monaghan	Cadeirydd Cyngor Is-bwyllgor Deddfwriaeth Cymru, Cymdeithas Feddygol Prydain Chair of the BMA Welsh Council's Legislation Sub- committee
Carl Sargeant	Aelod Cynulliad, Llafur (Ysgrifennydd y Cabinet dros Gymunedau a Phlant) Assembly Member, Labour (Cabinet Secretary for Communities and Children)
Margaret Thomas	Is-lywydd TUC Cymru Vice-president, Wales TUC Cymru
Steve Thomas	Prif Weithredwr, Cymdeithas Llywodraeth Leol Cymru Chief Executive, Welsh Local Government Association
Lisa Turnbull	Cynghorydd Polisi a Materion Cyhoeddus, y Coleg Nursio Brenhinol Policy and Public Affairs Adviser, Royal College of Nursing
Lien Watts	Ysgrifennydd Cyffredinol Cynorthwyol, Undeb y Gweithwyr Cymdeithasol Assistant General Secretary, The Social Workers Union

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

Osian Bowyer	Y Gwasanaeth Ymchwil Research Service
Chloe Davies	Dirprwy Glerc Deputy Clerk
Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Hannah Johnson	Y Gwasanaeth Ymchwil Research Service
Naomi Stocks	Clerc Clerk
Elizabeth Wilkinson	Ail Glerc Second Clerk

*Dechreuodd y cyfarfod am 09:16.
The meeting began at 09:16.*

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

[1] **John Griffiths:** May I welcome everyone to this meeting of the Equality, Local Government and Communities Committee? Item 1 on our agenda today is introductions, apologies, substitutions and declarations of interest. We've had one apology from Gareth Bennett, who's unable to be with us today. Are there any declarations of interest?

[2] **Joyce Watson:** I declare membership of Unite, the union.

[3] **Jenny Rathbone:** Also, I'm a member of Unite, the union—relevant for the next item on the agenda and not the one we're about to do.

[4] **John Griffiths:** Thank you.

[5] **Rhianon Passmore:** GMB.

[6] **John Griffiths:** GMB, Rhianon Passmore. Sian.

[7] **Sian Gwenllian:** Rwy'n aelod o Undeb Cenedlaethol Newyddiadurwyr. **Sian Gwenllian:** I'm a member of the National Union of Journalists.

[8] **John Griffiths:** Diolch yn fawr. May I add to those declarations by declaring my membership of the Unite union and also Community? Okay. Thanks very much for that.

09:17

Craffu ar Waith Ysgrifennydd y Cabinet dros Gymunedau a Phlant Scrutiny of the Cabinet Secretary for Communities and Children

[9] **John Griffiths:** We move on to item 2, then, scrutiny of the Cabinet Secretary for Communities and Children. Welcome this morning, Cabinet Secretary. Would you wish to introduce your officials for the record, please?

[10] **The Cabinet Secretary for Communities and Children (Carl Sargeant):** Good morning, Chair; good morning, committee. I'll ask Jo-Anne to start, please.

[11] **Ms Daniels:** I'm Jo-Anne Daniels, I'm the director for communities and tackling poverty.

[12] **Ms John:** Amelia John, deputy director, communities division.

[13] **John Griffiths:** Okay. I'd like to begin this morning, Cabinet Secretary, by just asking you, really, to set out briefly the new approach that you will take forward, following your decision not to continue with Communities First and also how you will ensure that the transition is as smooth as possible.

[14] **Carl Sargeant:** Okay, Chair, thank you for your question. This week has been quite intense, actually, in terms of the transition announcement. We've been doing a lot of work behind the scenes, working with communities and engagement with stakeholders, staff, interest groups, public services boards, local service boards, in communities.

[15] I made the announcement on Tuesday to start a transition period, which was about fully funding the programme until June with a 70 per cent profile over the first 12 months of business. After the 12-month period, we'd introduce a transition system of finance of £6 million revenue and £4 million capital. The £6 million revenue will be based on historic spend of Communities First funding. The capital spend will be an additional fund to the communities facilities grant, taking that additional £4 million, with a focus on bidding in for capital programmes. We see the capital element of that being used for sweating the assets and transition of capital assets into other alternative use. So, where you may have a community centre that is operating purely as a community centre for youth groups, it may be something that, with the addition of some capital spend in heating or kitchen or other, security issues, could be used in a childcare setting or a Flying Start setting or something similar. So, we're looking at the planning for the long term, as the Well-being of Future Generations (Wales) Act 2015 requires us to do.

[16] In addition, StreetGames, we'll be continuing the funding of StreetGames and also the advice services with Citizen's Advice. What not many people have picked up on is we're making a significant investment of £11.7 million on an employability programme, which will enhance the Lift

and Communities for Work programme, PaCE, across all of the clusters in the Communities First areas that are currently situated.

[17] So, that's the transitional proposal for Communities First, but, if it helps, Chair—and it is quite a long answer to your short question—I think what I wanted just to say to the committee is that Communities First was one part of a jigsaw, a suite of tools, that we've got. It was our flagship antipoverty programme, and the poverty stats indicate that it hasn't been as successful as it could have been. I don't think that's because of the action on the ground. The staff are fantastic in all of the clusters I've been. The activities are variable—some very good, some could be better. What I do recognise is the commitment by staff is fantastic, but it's not achieving what we need it to achieve. That's why, on its own, it's not working. But, as part of a new approach, with all of the other programmes that we have, focusing primarily on employability, skills and jobs, as you will have heard from Ken Skates, I believe, we believe that's the key to tackling poverty long-term, and I think we have to plan for the long term. As you'll be aware, you can't switch on and off poverty, particularly when there are indirect levers that we have no control over.

[18] **John Griffiths:** Okay. Could I ask, then, Cabinet Secretary, how you will ensure that what's been identified as of value in the current provision under Communities First will not be lost? Because obviously you've gone through quite an extensive exercise of consultation and understanding what's been working well and what hasn't been working as well. So, you may well continue some of the work in terms of employability and skills, but there will be other aspects that are of value but are not within those headings. So, how will you work with local authorities, with the voluntary sector, with communities, to make sure that those other aspects that are of value are not lost as we move forward?

[19] **Carl Sargeant:** Yes, a very important question, actually, because we do recognise that. Probably, Communities First moved into a space. It was not just tackling poverty; it was more of a community resilience type programme as well. There's nothing wrong with that, but under the heading of tackling poverty, it didn't fit in that box particularly. It fits in quite nicely now, actually, with what our plans are, wholesale, because we've got, as I said earlier on the suite of tools, the Families First, Flying Start, the children's zones, ACE hubs, and the legacy programme of what Communities First looks like in the future in employability plans. The issue started with a huge consultation exercise that we started with. We had a massive response, with

about 3,000 responses on the consultation process, primarily from workforce or individuals that have used the Communities First programme, which give us an indication about the popularity of where the programme operates and how that looks in functioning, but it didn't really answer the questions about performance issues around the issues that we are concerned about in terms of tackling the issues of poverty. So, following that, I made my decision to exit and transition the programme. What we will trigger now is the second part of the consultation, which will pick up the questions that you've asked—the bits that are effective and maybe not strictly poverty-based but actually work in creating a stronger community. I'm really interested in that. But that will be a matter for the local service boards or local authorities, and predominantly people on the ground—what works for them. Because I don't want to be dictating to communities about what we think works for them. We've done that for far too long. Actually, what we've got to do is listen to communities about what they think they need and enable that to happen. I think this opportunity, particularly about the funding stream for the longer term—so, we've got a four-year legacy programme in terms of revenue—that gives the opportunity for the clusters to plan with other organisations to see how they can gain resilience. So, the health board coming to the table, or the third sector organisations—how can they build a bigger system that will wrap around these. What I can't guarantee, Chair, is that all of the programmes that we are familiar with in our communities won't all carry on. But today, we can't describe that yet because, actually, that consultation starts now, talking to communities, talking to LSBs, about the bits that work. What we do need and do understand is that we have to refocus our programmes on the heart of tackling poverty.

[20] **John Griffiths:** Cabinet Secretary, could you say just a little bit more, then, about this second phase of consultation—how it will be structured; the period involved; how it will work?

[21] **Carl Sargeant:** I expect my team to start working on that. Well, actually, as soon as I made the announcement we started getting in touch with local authorities in that process. Now we'll start the engagement process with staff and the teams across Wales, PSBs and, again, interested parties. We'll probably start another consultation exercise as well, to try and get ideas feeding in. It's a really difficult one, this, in terms of that there are lots of emotive reasons about why you should pick up and carry on programmes, and that's always the case—it's the same with buildings, et cetera. We've got to get underneath that and look at what works, and this is what I'm really interested in.

[22] So, looking at our future programmes—and you'll have heard me talking about the issue around tackling adverse childhood experiences—we've just invested heavily in an ACEs hub. That will look at interventions that have long-term effects on people, so my—and the Government's—priority is making sure we have early intervention and prevention in schemes that will benefit in the long term. It's morally right, and it's fiscally right as well, because if we get this wrong, longer term we'll pay much more in health and mental health services, et cetera. So, it's a re-profiling of the way we do business, and I think it's—. I've been called lots of things this week—not just 'Cabinet Secretary'—but I actually believe this is the right thing to do because we have to refocus. The numbers speak for themselves: this programme, on its own, wasn't working as effectively as we wanted it to.

[23] **John Griffiths:** Just one further question from me, and I'll bring in other Members after that, Cabinet Secretary. Just in terms of community centres: some community centres have had substantial investment from Welsh Government and other sources, and are heavily dependent on Communities First funding. They're very important community assets. Will you ensure that you work closely with local authorities and, again, the voluntary sector and communities, to understand how community centres that are performing a valuable role can be sustained as we move forward?

[24] **Carl Sargeant:** Absolutely, and I see this as not—. I've always said this: Governments can't fix poverty on their own. It's a partnership approach with people on the ground—whether they are the fire service, local authorities or the police, who are a non-devolved function. But, actually, we need to get our heads around what communities look like for the future, and that's the principle of the Well-being of Future Generations (Wales) Act 2015, and that's why the PSBs in the future have to create well-being plans. On the very specific issue of community centres, I recognise that they play a strong part of community and, actually, a small investment in that community centre, whether that be capital or revenue, trying to make it sustainable for the long term, has positive effects on other budgets as well. So, that's why the health service, or the fire service, or the police, or other organisations that are in that area—. If it's preventing anti-social behaviour, why wouldn't the police make a small investment into that community centre? Why wouldn't Government make a small intervention? Because it's planning for the long term.

[25] We've got to get out of this silo mentality of operation, and I'm aware

that some public service boards operate better than others. I'm hoping that the future generations commissioner and the auditor general will be very robust with those organisations. I certainly will be, in making sure that they focus on how communities operate. So, I agree with you that community centres in some areas are very valuable, and that's why the capital programme is quite cute, with the ability for them to make modifications if they need to, to make it more resilient.

[26] The childcare pledge is the most generous childcare pledge in the UK, which we're going to be delivering. We're starting to ramp that up now. We are currently short of facilities, and we knew that was the case, and that's why we're ramping the programme up. So, there are huge opportunities in communities right across Wales for looking at community centres or other community assets, where that could be used alongside a small amount of legacy funding from Communities First, plus a transition in terms of capital funding, topped up with childcare facility funding. It makes these places sustainable. I just think authorities need to think differently in that space, but I'm really encouraged by the engagement we've had to date and the conversations we've already had, post announcement. I think people are up to making sure that their communities are fit for the future.

[27] **John Griffiths:** Okay. Thank you for that, Cabinet Secretary. I'll bring in Bethan Jenkins at this stage.

09:30

[28] **Bethan Jenkins:** Thank you. I just wanted to ask how you will be analysing the effectiveness of the current Communities First projects, when you speak in your statement about the fact that the legacy fund would enable local authorities to maintain some of the most effective interventions—and they are your words. I need to understand how that will be defined and what the criteria for that will be, because those who've come to me from the sector are concerned that the legacy fund could be used to mop up other areas of interest by the local authorities and that the money could disappear into other potential priorities for the local authorities. So, it's trying to understand how that will operate, and when it will come to an end, and what will come following that.

[29] **Carl Sargeant:** It would be fair to say that's a very similar situation to what it is now, in terms of the way Communities First operate in their budgets—it's very localised and determined upon what they want to spend it

on. If you go around the 52 clusters, as I've gone around many, they're all unique, they all deliver different programmes and different authorities deliver different services to others. So, it is a very mixed bag, and that's why unpicking it is quite difficult in itself because it's been locally focused, which is not a bad thing, but the Communities First programme, as I said earlier, while tackling poverty directly, in some areas has drifted into some effective, some nice projects, and I think what we're moving into—. We've measured the effectiveness of Communities First. There have been two reports since 2012 on the refocusing of that. I think that the Wavehill report is one of them, and the other one is Ipsos MORI.

[30] **Bethan Jenkins:** It's very difficult for us to compare various analyses, though, because the data are quite sporadic. So I'm just trying to understand how you will define those effective—. Will it be for you to define?

[31] **Carl Sargeant:** No.

[32] **Bethan Jenkins:** So, what guidelines are you setting for that to happen?

[33] **Carl Sargeant:** I'll move into that. As I said, the legacy issue of Communities First was sort of there anyway in terms of local determination. I intend that to be the same as we move forward, so I'll be issuing very little guidance to local authorities and PSBs. My key message will be the issue around well-being and tackling poverty. Those are the two principles I will be expecting authorities and clusters to lead on. That gives local authorities maximum flexibility to make sure that their well-being plans around this are able to flex enough to merge with other programmes—Flying Start and Families First. I'm relaxing some of the rules on that around postcodes. I'm looking at where there is need—local authorities and PSBs would be able to identify that. So I'm trying to have a more—this will be criticised by some because people like the ring-fencing one minute and then they don't like ring-fencing the next. I'm saying, 'This is a transition period where I want local authorities to look at their communities, working with communities about the programmes that are effective.'

[34] **Bethan Jenkins:** We'll have to judge it then on what the local authorities prioritise, and I think that would be the difficulty in this. But why have you decided that it's the local authorities? I mean, I've had some communication today from people saying that you could potentially have opened this up to the voluntary sector to put in new bids, or to take up new initiatives where they wouldn't have been able to have done so before. Was

that something that you considered when you were changing this?

[35] **Carl Sargeant:** Well, the current system is predominantly through local authorities, delivery through the local service boards, but what's important is how they operate. And there are some local service boards that operate through third sector organisations delivering a lot of those services. So, I'm not saying that local authorities should or must deliver these services. Actually, the options are for third sector organisations to be in that space as well. In fact, I would expect them to be part of that discussion because they often bring additional funding to the table, they certainly bring additional skills to the table, and it's something that many organisations out there that understand communities, to aid local authorities—I was going to say 'better', but they probably don't; it's about working with them. They're out there already. So, many are already engaged. What I don't want this to be is a land grab—a finance grab—'Why are you giving it to them and not giving it to us?' I get this with local authorities and third sector organisations all of the time, irrespective of this programme, about, 'We want the money; we could do a better job.' Well, actually, why don't you all get in a room and talk about this, about how we're going to engage for better opportunities for our community? That's what's important to me.

[36] **Bethan Jenkins:** Sorry to go back, but I don't think I understood what you—. From the statement, I can't see how long the legacy fund lasts and what happens after that to the moneys that would have gone into Communities First that, otherwise, now will—. Where do they go?

[37] **Carl Sargeant:** The legacy fund will be, certainly for the capital and the revenue, for a minimum of four years. After four years, the capital programme will be reviewed. I don't know what will happen then. We might open it up to a broader—because I want a strong focus on Communities First areas in the capital programme that we're investing in. On the revenue side of this, I've already spoken to the finance Minister and he's in discussions with the WLGA about how that looks and what they would want to do with that. Their first, initial indication is that they'd like that rolled into the RSG; I understand that, but there is a risk involved in that, too. The benefit from rolling it into the RSG is, because it's not a grant, there's less red tape around how it's spent and it's easier to distribute. The danger is that if it goes into the RSG, they could spend it beyond that—

[38] **Bethan Jenkins:** So, you're not stipulating now what you want to see happen.

[39] **Carl Sargeant:** My only stipulation is—. As I said earlier on, my expectation is, within their well-being plans, which are a statutory duty on PSBs and broader local public bodies, that there has to be a principle about tackling poverty and well-being. That's the direction I will be giving. They'll have to evidence how they spend their money on communities for the benefits of well-being and tackling poverty.

[40] **Bethan Jenkins:** But how can you be assured that they will be able to do that when the Government has failed to do it up until now in relation to—

[41] **Carl Sargeant:** I don't think we've failed—

[42] **Bethan Jenkins:** —making this scheme work in tackling poverty?

[43] **Carl Sargeant:** I don't think we've failed to do this. I think, actually, what I've said is the programme has worked as well as it could under the circumstances. I think we have stopped, probably, communities getting poorer. We've made them more resilient, but the real, fundamental challenge for any Government is to start to move that poverty uphill—the poverty positive uphill. We haven't been able to do that, and that's not because of our investments, always, in communities, but we've had many years of welfare reform and austerity, and that has a massive effect on our communities. I cannot mitigate that by simply saying, 'More money into Communities First,' because we don't have that finance. We've got to do something fundamentally different, and I believe our approach around employability and skills, giving people stability, is the absolute key for growth.

[44] **John Griffiths:** Okay. Rhianon.

[45] **Rhianon Passmore:** Thank you, Chair. With regard to a tighter focus around child poverty, I welcome what you said around Flying Start and the worth of those projects within that envelope, and I welcome very much the postcode lottery issue being addressed. We've talked about the legacy funding today and the external factors around welfare reform and those elements coming into Wales. We know that we're working uphill in any anti-poverty platform of policies to try and mitigate those, and I want to clearly say that this is a patchy programme in terms of its worth, but I know that there are very, very, very good applications of Communities First across Wales in some parts. I recognise that we need to be able to spread good

practice with best usage of that money. With regard to the legacy funding transitionally, where there are exemplar projects in terms of tackling poverty on a community regeneration basis, for instance, in Lansbury Park in Caerphilly, what flexibility is there going to be within that legacy funding to be able to tackle community regeneration where we've got a greater focus on employability and child poverty?

[46] **Carl Sargeant:** That will be a matter for the local authority in terms of their allocation of funding, which will be historically based, out of the £6 million revenue and £4 million capital bidding fund. What I will say is that we are now widening our scope with the employability programmes. So, Lift in communities will be across all of our programme areas. The flexibility between—. The suite of tools is what I'm trying to roll out. I'm talking to local authorities already; I've asked for them to come back to me with concepts of change. One of the leading authorities in this space at the moment is actually Torfaen, which I know is a neighbouring authority. Caerphilly's doing some great work as well. All of the Communities First clusters I've seen are doing something good, and that's down to staff and community engagement.

[47] The fundamental question here is: is it tackling poverty wholesale? There are as many people outside Communities First wards across Wales who are suffering from poverty too. We've got to tackle the national issue of the poverty trap. And we believe, by giving people that employability pathway, it's something that we can do. In our Communities First areas, that's why we have intense programmes of employability giving people the skills and opportunity. I visited one Lift programme in Cardiff about a month back; incredible work that they're doing in terms of engaging some of the very hard-to-reach individuals, with some people in that group that lacked confidence, had issues with self-esteem and possibly mental health issues, but taking them through a journey to give them confidence to get them into the workplace programme. So, the flexibility of—. I may have heard this wrong, but the Caerphilly-specific work programmes, compared to Lift or Communities for Work, is something that Caerphilly would have to consider funding from their legacy funding.

[48] **Rhianon Passmore:** Okay. So, basically what you're saying in a nutshell is that that transitional funding, even though it might not tightly fit an employability programme—for instance, something that's match funded in one of the poorest wards of Wales, or the poorest ward in Wales—there will be an element of transition and flexibility around that tighter governmental

focus as to what that money in future will be.

[49] **Carl Sargeant:** The revenue funding will give local authorities the ability to look at what works for them in their communities, tackling the issues of communities.

[50] **Rhianon Passmore:** Okay. What lessons have been learnt from the Communities First programmes? I don't know whether others would like to contribute as well.

[51] **Carl Sargeant:** Well, the first one is that it doesn't work on its own. It was our initial flagship programme, which has had significant investment—over £300 million in communities. I think there's more to celebrate than to commiserate about around Communities First, but I just think we're in a very different place in time. It had a refresh in 2012 as well, and moved into a different cluster-based approach. But as I said earlier, we are facing a very different world. On austerity challenges, there's still £3 billion of unallocated funding: non-funding from the UK Government to be announced shortly. That may have another dramatic impact on some of the services that we are currently providing, or are not able to provide in the future. There are the issues of welfare reform, and in your communities right across Wales you'll have seen the impact of that. So, we're in a very different space from when we started the Communities First programme. The significant one is: we've got to embed all of our thoughts and programmes around the principles of well-being, and that's why we legislated for this. They've for far too long probably operated in isolation in many cases. That's why I'm fortunate enough to have the remit of children and communities, because I think that's where we should be investing money—in our young people, because we know that if we don't get it right now, as I said earlier on, we'll pay for the consequences later on.

[52] I think there is an emotive feeling about Communities First because it's been a great programme in many communities, but it's time for change. I genuinely believe this is not just a fiscal issue but that it's also a programme issue that needs to think about the future.

[53] **Rhianon Passmore:** Okay—

[54] **John Griffiths:** Rhianon, before we move further into evidence, I think Sian and Jenny had questions on some of the earlier matters.

[55] **Rhianon Passmore:** Okay, I just need to ask one more thing on this issue. You've touched upon data collection and you've touched on future generations and well-being measurement of poverty. I don't know whether you want to take this up a bit later, Chair, but I'd like a little bit more clarification in terms of how we're going to measure the evaluation of this moving forward in terms of if it's going to be around—

[56] **John Griffiths:** If it's okay, Cabinet Secretary, we'll return to that. I think some of the earlier matters that we discussed—there's a wish to add to those from first of all Sian and then Jenny. Sian.

[57] **Sian Gwenllian:** Diolch, **Sian Gwenllian:** Thank you, Chair. I Gadeirydd. Rwyf jest eisiau deall would just like to understand a little ychydig bach yn well y *legacy fund*—y better the legacy fund—the £6 £6 miliwn. Sut fydd hwn yn gweithio? million. How will that work? Will it go A fydd o'n mynd trwy'r RSG? Dyna through the RSG? That's what you rydych chi wedi sôn. Hynny yw, a have mentioned. That is, will it be fydd o'n cael ei wasgaru i bob cyngor spread across every council through drwy'r RSG? the RSG?

[58] **Carl Sargeant:** The grant funding, on the revenue side of this, will be based upon historic spend from Communities First. So, if you were the top spend in Communities First, you will get the most out of the £6 million. So, it's not RSG formula-based; it's based on historic spend of Communities First funding. So, if you've got the larger clusters, you get the larger amount of money. I can give some very rough figures, but they are very rough, in the first draft. We've done some modelling about what that may look like in terms of the annual 70 per cent review, and then the revenue spend allocations, which I'm happy to share with you, Chair and committee.

09:45

[59] **John Griffiths:** That would be useful.

[60] **Sian Gwenllian:** That would be very useful.

[61] **Carl Sargeant:** All the local authorities that are affected by that have had those rough indicators. So, once I'm confident that they've all had them, I'll share that with you as well, of course. When, or if, it moves into RSG, which I don't envisage certainly for probably two years, because the complexity of doing that is quite difficult anyway, Mark Drakeford and the

WLGA would have that discussion. At that point, it would be distributed on a formula-based approach to all authorities, and current ones that aren't in the programme as well, because that's how it would be.

[62] **Sian Gwenllian:** Yes, well, that's my concern, really, because, at the moment, three local authorities don't need the money for Communities First. You can argue it that way: that's why they don't get the money. But if it is through the RSG and every council gets it through the RSG, it means that, you know, it's being spread even further and going to areas that may be not really—the benefit won't be there, whereas, at the moment, it is actually focused. So, I think, you know, that needs to be clear, really, going forward, so that we're not spreading the butter too thinly.

[63] **Carl Sargeant:** I think what's really important there is, and it's an important point you raise, that one of the criticisms of the Communities First programme—I think it goes back to one of the questions Rhianon mentioned earlier on—is about targeting poverty intervention. I said to you there are as many people outside the poverty target areas suffering from poverty. And it's been postcode based, so, you will all have areas of postcode assessments where you've got Communities First in one part and the street next to it can't get Communities First because it just fell out of the system. What the RSG will do is flex that system so that—. Again, the principles still apply to those authorities in Monmouth, Powys, I think it is—

[64] **Sian Gwenllian:** And Ceredigion.

[65] **Carl Sargeant:**—and Ceredigion, saying, 'You will still have to use the principles of well-being and poverty', because there are areas, even in those communities, that are impoverished. Raising the bar—that's what I would expect them to do. What I can say is that the employment programmes—so, the Lift and the Communities for Work programmes—will be across all of our communities, so everybody will get some of that, because we believe it's the right thing to do.

[66] **Sian Gwenllian:** Thank you for that clarification.

[67] **John Griffiths:** Jenny.

[68] **Jenny Rathbone:** Evaluating where we are, I think it's important to look backwards as well. I mean, some people would say that ensuring that communities haven't got poorer, given the tsunami of problems that have

been attacking communities, most of which are outside Welsh Government control, is a considerable achievement. I suppose one of my questions is really why it is Scotland has done a lot better than Wales in reducing the levels of poverty, because, back at the beginning of devolution, they were in about the same space and they've now reduced it, you know, down to 18 per cent from 24 per cent, which is a significant drop. And I just wondered what your insight into that was. Why is that?

[69] **Carl Sargeant:** This is a subject—. I've got no evidence to back this up, although I think the team might be able to help me, or we can find something that we can certainly drop a note to committee on this. But I think, historically, Wales has been a disadvantaged nation in many ways, going back to the 1980s when we lost significant employment levels through the coal and steel industries. We were a sicker nation, suffering ill health, and all those issues feed back into the system where lower employment feeds into the poverty system. Now, I believe—and we're starting to see that trend in terms of employment—we've got high levels of employment better than anywhere in the UK. So, that's not by chance; that's by planning and opportunity. We've managed to achieve that, but we still have areas that are low in employment. That's why the suite of things that we're introducing—the free childcare pledge for working parents—. So, we get people back into work and we enable them to have a stronger opportunity, with free childcare, and the ability to earn more. Those areas that are poverty based still have low employment levels. So, I can't answer the reason why Scotland have done particularly well in those spaces, but I think, as a nation, we were in a poorer place. Just the well-being of the nation was poorer.

[70] **Jenny Rathbone:** Following on from that, why do you think that your civil servants haven't been more effective at reshaping Communities First to better meet the targets that were set?

[71] **Carl Sargeant:** I think my civil servants do an excellent job—partly because they're sitting next to me as well—

[72] **Jenny Rathbone:** The teams that are in charge of supervising—

[73] **Carl Sargeant:** I think what we've been able to do with Communities First—. If we weren't hit by welfare reform and if we weren't hit by austerity, would we be in a different space now? I'd like to think we would be, because our investments would have changed. But the reality is, we're not heading in that direction. We're heading for deeper austerity, we're heading for a very

difficult couple of years, according to the IFS. Therefore, we've got to think differently about what we do.

[74] That's why Ken Skates, who leads on this whole-programme approach to tackling poverty, is as committed as I am in saying we believe in full employment and giving people the opportunity to get into that space. That's why our collective manifesto commitments focused on giving people the ability to be resilient. Rather than funding communities to stay poor, we've got to let them grow. I think it's ambitious. There's nothing wrong with ambition. It's about trying this for the right reasons.

[75] All of the things that we're doing—the 20,000 new homes, getting homeless people out of poverty, effective and energy-efficient housing—is the right thing to do. All of these suites of things—. That's why I said Communities First is—. It's been a difficult week. It's been a difficult week for all of us, especially me, the team and the communities. But, I'm offering hope of something else in terms of the suite of things we're doing to give the chance for Wales to grow into a different space.

[76] **Jenny Rathbone:** Okay. I mean, we can't disagree with the fact that having a job is the quickest route out of poverty. But unfortunately, many people, the hardest to reach, are furthest from the labour market. My concern is that dismantling Communities First will mean we will no longer have anybody with the remit to go and identify and work with the hardest to reach.

[77] **Carl Sargeant:** I don't think that is the case, because that's why we're investing £11.7 million in an employability plan. I said to you earlier on that the Lift, Communities for Work and PaCE programmes that I've visited are tackling the very hard-to-reach clients in our communities—the very hard to reach—and I was very impressed with the work they're doing. Alongside that, the legacy funding that is in place, I believe, will be able to pick up those issues that you talk about—the effective programmes that take people to give them confidence and personal resilience to get into that space.

[78] Look, I'm a realist. We're not going to be able to do that for everybody because that's the world we live in. But there's nothing wrong with trying to push the boundaries of saying, 'Look, if you want to work, if there's a barrier to get to work, how can we help you through that?' The Lift programme and Communities for Work and the additionality of the revenue funding that local authorities and others can bring to the table will, I believe, enable them to do

that.

[79] We're at the hard end here now. We've got high employment levels in Wales and the people we need to get into work are the people who are in the poverty trap in general. That's the space we're trying to engage in with our employment pathway programme. From the employment pathway that we're starting, this fits into the larger employability programme that Julie James is leading on. Once you're enabled with confidence to get to that place then we start giving people skills, allowing them to go into the workplace with free childcare, and then into bigger and better jobs, if that's what they want to do.

[80] We legislated for it and I remember the Member very well, when we were taking through the Well-being of Future Generations (Wales) Act 2015, saying about legislating in one of the goals for decent jobs. That's what our aspiration is about—not just bringing jobs for the sake of jobs, because that doesn't make things better always, but decent jobs will. That's what this Government is about.

[81] **John Griffiths:** Okay. Joyce.

[82] **Joyce Watson:** Good morning. I want to focus particularly on resilience and what that means because it's a new word to an awful lot of people. So, I think it's an opportunity to explain that, but I also want to focus on joining up. Some of those hard-to-reach people you talk about—those furthest away from the job market—are women. It is a fact, still, that they care for children more than their partners, shall we say. In an age of austerity, where benefits are clearly being cut and are beyond our influence, how do you see this programme helping 52 per cent of the population to be empowered to go to work by joining up what I understand as resilience and what you're about to tell me?

[83] **Carl Sargeant:** Yes. We sat for—. Part of our discussions in terms of what the future may look like—. 'Resilience' was the last word that we settled on, but we went through lots of what this may mean for communities: stronger communities, enabled and empowered communities. We thought that 'resilience' sort of captured all of that—that principle. It is about people being ready and able to go to work. People, particularly the offer that we give children the best start in life—. That then empowers, so we ask them and work with them, rather than do things to communities. That then engages with the public bodies and third sector organisations that operate in the

areas. It's making sure that we have proper engagement—the Act says that we've got to engage. Many organisations, including Government, have been very guilty of paying lip service to some of this stuff, and we don't talk to communities properly. That's got to change because people know their communities better.

[84] I visited a community recently that was very impoverished and was very resilient, interestingly. So, it didn't quite add up, because when I went to visit them, the place—both in capital state and in social state—was pretty poor. It was pretty poor. But I spoke to some of the residents there, and they said, 'We've lived here for 30 years, and we're not moving, because this is our community.' I thought that was a lovely sign of resilience, but actually, we are starting at a very low baseline. Actually, what we've got to do is build that capital and build that social responsibility back into that community. That's what true resilience is for me, and that's what our vision is, starting with all of those things: a great start in life, progressing into good employment. I think that gives the ideal tsunami of success for Wales.

[85] **Joyce Watson:** I'm particularly interested in the free childcare offer. I just want to ask if you're going to embed, at the very start of that offer, the advantages that should be accrued from good childcare at an early age, compared to—and there are existing data that would demonstrate this—where children haven't had any pre-school interaction whatsoever outside the home, so that we can in the future at least understand how that is working for the young people and their resilience in the future?

[86] **Carl Sargeant:** You're right, and I've had conversations with my advisory team around childcare. I have an advisory group feeding in, so the sector with interests—so, that's service users and sector deliverers, both private and maintained, coming to give us their advice on what childcare should look like. I've said to them that we don't want to do warehousing of children. We want good-quality services for all our young people, because it makes sense. That's a clever investment—planning for the future—if we look after our young people at an early age.

10:00

[87] Can I just pick up on the—? I'm missing the point that you raised earlier on, particularly around women and the disadvantages. We've done a significant amount of work on impact assessments on exiting Communities First and we believe we've got mitigating circumstances for all of these

issues, but I still really worry about the effects that it has on half of the population. That's why there is, often, an unconscious bias, particularly around women. I've recently, you'll be interested, written out to all of my Cabinet colleagues to look at the issue, particularly around pregnancy. Once a woman is pregnant and comes back to work, they have a—. The Equality and Human Rights Commission did a report about the challenges that they face. I've asked my teams across the whole of Government to look at this specifically because we have to remove the disadvantage. A lot of the stuff we're putting in place now, Joyce—and Chair—is going to be generational. That, in politics, I think, is brave too, because people will judge you about a five-year cycle of delivery. We know this is the right thing to do. We're having some great work already done on the first 1,000 days of a young person. There's a great programme operating in Gwent, actually, and one in Wrexham, I think it is. But early intervention we know works. Some of the things around tackling ACEs and tackling issues around childcare et cetera is a long-term investment in the future, but brave for politicians. But we've got to be brave.

[88] **John Griffiths:** Okay. Rhianon.

[89] **Rhianon Passmore:** Thank you, Chair. In regard to a shift from a more geographical poverty-placed programme to one more person-centred, which I believe we're moving towards, how would you comment in regard to potentially diluting the concentration of activities in communities where we know, for instance, the—[*Inaudible.*]*—*figures are hugely concentrated—the attraction of Communities First in the first place? How would you see the future legacy programme working alongside the employability aspects and the childcare, which you so crucially have mentioned in terms of it being qualitative, balanced with the fact that, yes, we need an emphasis on employability but we can argue we have positive employment growth here now and poverty here now? So, for me it is about how we built qualitative pathways within employment. I think you've mentioned the employability programme. So, how can we draw those strands so that we're not having very, very poor fully employed citizens working and being equally poor and therefore doubly disadvantaged?

[90] **Carl Sargeant:** I think there's a mixed approach to place-based services and a more generic-based service. We recognise that the people in poverty in Communities First areas won't change. There will still be pockets of significant poverty in those areas, and we will make and continue to make those investments. That's why the legacy funding is in place alongside a very

specific employability pathway programme. We already make some of those interventions around PaCE, Lift and Communities First in some of those areas, which they operate already, and we are seeing it's about a pathway to success, whether that would be Flying Start or Families First. Some families don't need all of those interventions—because they live in that area, they can get Flying Start, but, actually, they don't always need Flying Start. They might only need a little piece of that, but also a piece of Families First or Communities First. I'm saying to look at the individual. The individuals in Communities First areas won't change. They'll always be there and they'll always need those services. So, I can't see why they won't get those services, but there are also people outside of those areas who need intervention, too. Unless we tackle those issues as well, we're not going to have the signs of success that we are seeking. It is an important programme.

[91] I live in a Communities First area. I would like to think that I—and people might disagree—don't need any of those services that Communities First are supporting, and that would be familiar to lots of people, I expect. So, for the people who do need those services outside a Communities First area, why wouldn't we try to help them as well? So, for the people who need those services, they'll get them—I'm confident about that—but we can deliver a better service for the people who are in poverty elsewhere as well.

[92] **Rhianon Passmore:** So, in terms of qualitative employment around the employability strategy then, obviously, that will join up with the economic strategy. In terms of those pathways, I suppose my point would be: it isn't just about getting a tick in a tick box—we know that—but how are we going to be able to provide that qualitative of employment through those programmes that you're talking about in order to avoid poverty?

[93] **John Griffiths:** Before you answer, Cabinet Secretary, I just wonder if you might address these foundational economy ideas that are around looking at the care sector, for example, and retail and hospitality, and how there can be an upskilling of the people performing those roles and better rewards for them.

[94] **Carl Sargeant:** I probably wouldn't offer a view on that because that's not in my portfolio, but that doesn't mean to say that we haven't had a conversation about that because, particularly in the care sector—I look after looked-after children in the care setting with the childcare pledge—we have a significant stake in terms of people and investment, making sure that we've got the skills for the future as well.

[95] So, this fits in with the employability plan that Julie James is bringing forward and she'll make an announcement on that very shortly. We've had significant interaction with her department. We are at the very front end of this and I can share with you that I've had some robust discussions with Julie James about why we are operating an employment plan outside of the employment plan. And I'm saying that the people who we're dealing with here are at the very hard-to-reach end, as Jenny and others have alluded to, and that's why, for me, I have to have confidence that it doesn't fall into the easier option of the employability skills issue: if you're ready, you go into the programme because you can do this. Actually, we've got to enable people to get into that space in the first place.

[96] I've said to Julie that, once we get this off the ground and running, I can, with confidence then—and I'd be happy to—put that money into Julie's portfolio, if it shows a true pathway of delivery. But it absolutely is part of the pathway of the employability plan, and Julie, I'm sure, would be happy to come and speak with you, Chair, in terms of how that's panning out, but we are in the very front end of this and I'm absolutely certain—. I'm keeping a grip on this until I'm absolutely confident it's working and then I'll probably release the cash into a broader pot of skills. And that's the pathway from access to delivery.

[97] **John Griffiths:** Okay, thanks for that. Rhianon, did you have further questions on the matter of evidence?

[98] **Rhianon Passmore:** In terms of the comments earlier that we've made—I think Bethan also alluded to it, and others—on how we're now going to be measuring the remainder of this programme, we've talked about the well-being of future generations and measures of poverty, bearing in mind that 'poverty' is still a very loosely defined word, but how are you going to assess now the programme moving forward?

[99] **Carl Sargeant:** We've got the well-being of future generations indicators, which are in statute, which we and 44 public bodies will have to measure against so they're in place. They are new—well, they are old indicators, but they are new statutory indicators for some of these bodies, so that's why we go back to what I said earlier to Bethan and to Sian: the well-being plans are fundamental to this because that's what they're measured against in terms of the future generations indicators. It's all a statutory vehicle to make sure we're doing something.

[100] **Rhianon Passmore:** In terms of collecting those data, I presume what we're looking at are annual reports to PSBs. I mean, how are they going to be collated in future in terms of analysis of this?

[101] **Carl Sargeant:** There's a reporting mechanism on the future generations Act. I think it has to be—I'm trying to remember now—12 months before the election that the future generations commissioner has to report. Amelia is really good at this—

[102] **Rhianon Passmore:** We can find that out, can't we?

[103] **Carl Sargeant:** Again, with poverty, there's risk in measuring poverty on an annual basis because it bounces around. You've got to look at the long-term trend and that's what we've done. That's why, for the last 16 years—you get some peaks and troughs, but, actually, it's been pretty static, and that's why we think we need fundamental change now to make it go in a different direction. But there is a reporting mechanism through the WFG Act around all of the indicators, but certainly the poverty ones.

[104] **Rhianon Passmore:** Okay. Thank you, Chair.

[105] **John Griffiths:** If you could—. I'll bring Jenny—

[106] **Jenny Rathbone:** Can I just come in on this?

[107] **John Griffiths:** Of course.

[108] **Jenny Rathbone:** You're only going to get these indicators one year before the next general election, or the Assembly election, whichever it is. You know, a disaster could be occurring, and we wouldn't even know about it.

[109] **Carl Sargeant:** There's a track on our poverty indicators internally. The national indicators will be—. I'm going to have to check the detail for you, Chair, because I don't want to tell you something that's not true in terms of reporting structures. Amelia might—

[110] **Jenny Rathbone:** Okay, but this is crucial to our ability to scrutinise whether this new approach to tackling poverty is actually working, or whether it's having an adverse impact.

[111] **Carl Sargeant:** The measurement profile is no different to what we've been doing in the past, apart from that now it's statutory, in terms of the future generations Act. The stats will still be in place that we were using in previous years. My warning is: don't think you're going to have a dramatic change in 12 months' time, because—

[112] **Jenny Rathbone:** No, no, I wasn't expecting that. I suppose the anxiety is that the well-being plans that are going to be devised by PSBs are being done by people who are a very long way from Mrs Jones who is agoraphobic and never goes out. With the best will in the world, the leader of a local authority and the leader of a health board, they personally are not going to be able to be in touch with the challenges that are faced by impoverished communities.

[113] **Carl Sargeant:** I failed to mention—thank goodness, Amelia's here—the tackling poverty action plan, there are action points within that. But actually I'm not sure I fully agree with your comments about the chief executives of the authority or the local health board. They have a statutory purpose to deliver on a well-being plan. They have to understand their communities better, and they will be driven by effects of communities, and that's why they have to engage as well. This isn't a set piece where half a dozen men get into a room and talk about what they want to plan for the future; there is a process here about engaging real people. And that's why you'll have heard me say, over all of my contributions in the Chamber, I have to deliver against the Act, because—and I'm saying—. So, when I was talking about domestic violence yesterday, I have to get survivors, not only because it's the right thing to do, but that's engagement; that's about real time, real life examples.

[114] PSBs, while they have a statutory purpose in terms of invitees, can ask other people to come alongside those PSBs, as well, to give evidence about what that may look like. A good PSB would do that. A good PSB would invite the third sector organisations to come and talk to them about what interventions are needed in their communities, so I would expect that the cluster programmes around those areas would feed into the PSBs as well. So, we're in a very different environment about what information sources are available, historically. Have political decisions been made in communities? I would suggest they probably have. Now it's much more an evidence-based approach, and I think it's the right thing to do—not always popular, but that's what we should be doing for communities.

[115] **John Griffiths:** Okay, and I think Bethan has a question on data.

[116] **Bethan Jenkins:** Rydw i'n credu **Bethan Jenkins:** I think what's beth sy'n bwysig yn hyn ar hyn o important at the moment is that bryd yw pan fyddem ni'n edrych ar when we look at how the new system sut mae'r system newydd yn mynd i will be assessed, there are still gael ei hasesu, mae yna dal problems regarding how problemau o hyd ynglŷn â sut mae Communities First is currently Cymunedau yn Gyntaf ar hyn o bryd assessed, because of the fact, for yn cael ei asesu oherwydd y ffaith, er example: enghraifft:

[117] 'Nid yw data perfformiad ar 'Performance data on the 35 gyfer y 35 dangosydd ar gael ar sail indicators are not available on a hydredol ac nid oes modd eu longitudinal basis, and they are not cymharu yn sgil y cyfnodau o amser a comparable because of the time ddefnyddir.' periods used.'

[118] So, for example, there are data for the second part of 2014–15, for the fourth quarter of 2014–15, and for the second quarter of 2015–16, but we don't have all of those data. And then we will get an analysis of the Wales-wide view in relation to the data, but not for all areas. And so, what I'm trying to understand is, when people are deciding on how they prioritise for the future, when they don't have a clear analysis of the picture going forward, how do they then make a decision?

10:15

[119] For example, in the 2012 report, there's information there about how data are collected on the percentage of the population who have benefits, about the number of 18 to 19-year-olds who have moved forward to higher education, but those data haven't been updated since 2012. So, I'm putting it on the record because I'm feeling quite anxious about the fact that we don't have all the armoury by which to scrutinise how you're going to be making these changes, and whether these new projects will be viable moving forward, based on the fact that we don't have that full picture. So, how can you assure us that—regardless of who's accountable to who, and the public services boards being set up and the well-being plans—what they are going to start with is going to be robust enough for them to have a strong enough project moving forward? I'm not convinced yet because of that lack of

information that not only we, in this briefing, have had, but the previous committee of the other Assembly—we said quite strongly to Welsh Government, ‘Well, actually, it’s very difficult for us because we don’t have all the data from you.’

[120] **Carl Sargeant:** I think it’s a really reasonable question. I think it’s a difficult one because, in 2012, we didn’t have the legislation in place that we are statutorily involved in now. There are lots of data there; WLGA, health boards, hold lots of data. It would be really useful, Chair, maybe for you to think about this in terms of what data you think would be useful for you to use to measure success. Because all of those data feed in. There are 46 national indicators from the well-being of future generations Act, which are underpinned by individual data sources from authorities or public bodies—lots of them around free school meals or NEETs and performance around that. We’re not short of data—just, at the place and time you talk about, we weren’t statutorily required to provide those data. The future generations Act placed a very different duty on Government in terms of making sure we are measuring success. That’s why, again, the future generations commissioner will be very robust—and was very robust—in terms of making sure we have the right indicators to measure success as we move forward. Because she challenges us on this issue as well. So, I’m just not sure which data you think you haven’t got.

[121] **John Griffiths:** Well, it might be a good starting point, Cabinet Secretary, if you were able to provide the committee with a note of the data that you are using in evaluating the success of Communities First: what data have been used, what data do you intend to use moving forward in the transition period, and for the new approach. I’m sure the committee will consider these matters, but, obviously, the Welsh Government needs to be on firm ground itself.

[122] **Carl Sargeant:** Well, we believe we are, Chair; I’m very happy to offer you a paper on that. As I said earlier on the statutory vehicles that are in place now, we don’t have any option of not looking at this in detail, but I’m happy to provide you with the paper.

[123] **John Griffiths:** It would be useful to have the information on what you’ve used in the past for Communities First and what you’ll use going forward. Could I just—?

[124] **Bethan Jenkins:** Do you compare the data year on year, then, to give a

picture as to where you have changed and how you have based that on—?

[125] **Carl Sargeant:** Okay. We can probably do something like that. But I think that what I'd just take you back to is the over-arching statistic around poverty. You look at how that looks statistically. It hasn't moved. There is something fundamentally wrong here in the interventions that we have leverage over, and that's what drives me. But I'm very happy and understand the scrutiny element of this, about which bits are important to you, and I will provide a paper for you.

[126] **John Griffiths:** I think it's difficult, often, to prove cause and effect, isn't it? As Jenny said, it may be that Communities First has helped in all sorts of ways, but that other factors have prevented the sort of progress that would have been hoped for under the scheme. I do understand it's fairly complex to try and unravel the different impacts of different programmes and different levers available to the Welsh Government, UK Government, and others, but a note would be very useful to help the committee understand better what Welsh Government has been basing its evaluation and monitoring on, and what will happen moving forward. Would it be fair to say, Cabinet Secretary, that, in terms of the new emphasis on skills and employment, for example, that should make evaluation easier? So, if there's a certain level of employment in Communities First areas at the moment, and there are certain skill levels in Communities First areas at the moment, after a period of time, obviously, you could look at the employment rate and the skill levels and—well, again, proving cause and effect would be problematic—at least understand whether the employment levels and skill levels have improved.

[127] **Carl Sargeant:** We are hopeful that we'll be able to do that. There are indicators currently in place that give us a good view of that already. So, household income, economic activity of a household, the skills base, NEETs, we've got data on all of that, and that's our core group in terms of bringing through Lift and PaCE and Communities for Work. That will have a significant shift. I think the big challenge we have is that you can take somebody through that pathway and you can start them in a job on day 1, and, effectively, you tick the box that you've moved somebody into employment, but, at day 2, if it's not sustainable for that person, then we've probably failed.

[128] I'm asking the team now how we can give assurance to the employability pathway of saying, once we've got a person to that space, how

do we support them, moving on? I think that's one for Julie and myself to make sure that we can deliver on. But I don't dodge difficult questions. I think it's really important and a fundamental issue about making sure that what we are measuring is effective data rather than just numbers. What does it really mean? I can tell you I've got 600 people into employment on day 1, but, on day 2, how many more—what's the difference there?

[129] **John Griffiths:** Okay, well, a note would be very useful, Cabinet Secretary.

[130] **Carl Sargeant:** Yes.

[131] **John Griffiths:** Before we move off the area of evaluation and data and so on, could you tell the committee how you intend, if you do intend, to involve experts in advising Welsh Government on tackling poverty as you move forward? Obviously, there was a tackling poverty external advisory group up until the end of last year—would you intend to have a similar group moving forward or some other mechanism of feeding in expert advice and help?

[132] **Carl Sargeant:** The issue of the tackling poverty external advisory group is a matter for Mr Skates, of course, but what we do have in place—and I said to you earlier on it's about, for me, that experts are great, but we need real experiences as well alongside of that. Alun Davies is operating the ministerial taskforce group for the Valleys. I still meet with the children's group, the end child poverty network. So, there are experts that we call on to give us advice as well. The matter of the tackling poverty external advisory group is a matter for Ken, but I think they have done some good work in the past, and I think what we're trying to do is make sure that we engage other people, other than sector-driven—people who are affected in communities as well.

[133] **John Griffiths:** Okay. Janet, I think you have some questions on poverty reduction.

[134] **Janet Finch-Saunders:** Yes. The programmes in your portfolio now as regards this, will they have a distinct focus on raising household incomes for people in poverty?

[135] **Carl Sargeant:** Yes, because the employment pathway is the way we'll do that. There are lots of effects, aren't there, in terms of poverty? There are

lots of trigger points. The state of the household, the capital of the household, is one of those. So, investing, with Lesley Griffiths, through our energy efficiency schemes, giving people lower bills—by just doing that, it enhances the opportunity for a household in their income and gives them more expendable cash. So, giving decent jobs alongside of that and our childcare pledge, allowing people to go into work, are a suite of things that we are tackling to make sure that this is one of our focus areas to give people more ability to survive in their property.

[136] **Janet Finch–Saunders:** I know that you've referenced in the past, and you've just mentioned now decent jobs. I know we've talked about Wylfa. We've talked about other schemes, the metro and things like that. These are highly skilled jobs. How are you going to marry those two up?

[137] **Carl Sargeant:** Well, the employability plan. That's why Julie James, with her 100,000—. Again, you've given me the opportunity to celebrate one of our great manifesto commitments: our 100,000 apprenticeship programme for all is one that we are keen to ensure—. Ken Skates alluded to this in a debate yesterday on steel, actually—an urgent question on steel. We've got to plan for the future here because we are doing very well in our employment, but the times are changing. Automation is heading in the world's direction. We've got to give the people those skills in advance to be at the top of the game.

[138] **Janet Finch–Saunders:** Absolutely right.

[139] **Carl Sargeant:** That's why our apprenticeship scheme, our employability pathway programme, is about resilience for the long term. Tackling poverty here and now is one thing, trying to do that today, but the time in the future is changing—you've got to have your eye on that. That's why we legislated for future generations. That's why I want to invest in our kids today because of the legacy; what we leave today is for them to pick up tomorrow and we can't afford to do that.

[140] **Janet Finch–Saunders:** But on the point that Jenny made about the hardest to reach, how do you intend to really get out there with this, and reach those furthest away from the labour market, bring them forward and help them into these really highly skilled—?

[141] **Carl Sargeant:** Well, it's a pathway for the people, isn't it? Some people I've met, and you will have met, are not work ready. And there are some

softer interventions, like some things that happen in Communities First areas now, which we're saying are fairly effective pieces of work that local authorities engage in with their revenue funding. That's what they should do, if that's what it means to enable people to get into that pathway. We make an £11.7 million investment in our employability pathway for the very reasons of getting the people who are hard to reach into the skills pathway to fit into the employability pathway. I recognise a good decent job is the catalyst to success for the future.

[142] **Janet Finch–Saunders:** You've chosen now to focus on spreading prosperity rather than reducing poverty. The word 'poverty' isn't mentioned at all in 'Taking Wales Forward'. Why the sudden emphasis on spreading prosperity, and how have you risk-assessed that going forward?

[143] **Carl Sargeant:** It's a play on words, really, isn't it? The fact is, I said to you earlier, 'Do we want to maintain communities to be poor, or do we want to give them prosperity?' Do we want them to grow, with skills, with opportunity, wherever you are in Wales, particularly the areas that Communities First currently covers? That's the key for us—about giving people success and hope. And all of our interventions that we are seeking to do across Government, and all of those programmes I have just been talking about, are a jig-saw suite of tools that will hopefully enable communities to prosper wherever you are.

[144] **Janet Finch–Saunders:** And then to go back to many of the comments from my colleagues on this committee: how are you going to have tangible targets and, you know, sort of definite achievable outcomes? How are you going measure that? The reporting of the future generations and things like that, as Members have said, we want to know from the outset how this is going to start to work, how it's going to start to develop the success—the rise or fall of it.

[145] **Carl Sargeant:** We'll provide a note, as I said earlier, Chair, around the current indicators that we are operating within, and how that suite of indicators change. But from your first question about household income, et cetera, those are things that we measure already. And I don't move from this: this is about the long-term vision. Unless you physically—it's not about cash actually—give money to individuals en bloc, then you don't change communities in the short term; you've got to plan for the long term. That's why giving those skills and opportunities is something that we're investing in.

[146] **Janet Finch–Saunders:** I'm particularly interested, Chairman, in early years and why children present with additionality need—you know, they have additional needs—and that can be a single individual. How are you going to reach in and help? Because we do have a society at the moment—. We know there are 1,000 affected young children who are in pupil referral units, for instance, because they just cannot engage with the education system.

10:30

[147] So, they're already outside that—you know, not being educated with their peers, which makes it difficult for them to socialise. How will you get into those on an individuality basis, because, you know, no two individuals, children or adults, present ever the same? It's really fine tuning, isn't it, resources, guidance and support, as they're coming through the education system? How are you going to maintain that?

[148] **Carl Sargeant:** There are a couple of questions there that I'm really passionate about, because it really troubles me that we have young people in referral units that are sometimes not getting the services that we need, and we take them on a journey that is bound for not the success that they should be enabled to—

[149] **Janet Finch–Saunders:** And then they present later on, and—

[150] **Carl Sargeant:** Absolutely.

[151] **Janet Finch–Saunders:** Yes, you've got to get in early.

[152] **Carl Sargeant:** So, my thrust about intervention is about early years—early intervention and prevention. The problem we have with that is that we're doing the day job as well.

[153] **Janet Finch–Saunders:** I know.

[154] **Carl Sargeant:** So, we've got people in the system who are in need of support, but we know a lot of this—and there's some work we've done with Public Health Wales around ACEs—is generational. So, what happens is that it just presents itself again, so people who generally have suffered from a domestic abuse situation often find themselves either being the perpetrators or victims later in life, too, and it goes on from drugs and alcohol and other

issues, depending on what their personal resilience is—where they live, whether they are in poverty or not, all have effects in this space. We know we have to break that cycle, and that's why we've made this significant investment in an ACEs hub with Public Health Wales—that's me, the health Minister, social services and education—saying, 'We have some great staff out there, whether they be in education or whether they be in community-based support, who can identify and support individuals very specifically.' We know that it's clever investment, so these young people—. The youth justice board—I think I've mentioned this to you before. We've done a piece of work with the youth justice board. It's called an enhanced case management study. We've had some fantastic effects on some of the hardest-to-reach individuals in the youth justice system with the most reoffending. You should go to my constituency of Flintshire, as the youth justice board there have done this. It's a really interesting project. The largest cohort of individuals that are reoffending, they've gone through a different programme, with an ACE-focused lens, so they're treating the issues that they've suffered in the past, rather than saying, 'Don't reoffend', because that doesn't work. They've had, I think, 19 out of the 20 most prolific offenders in north Wales who haven't reoffended because they've been through this programme.

[155] **Janet Finch-Saunders:** That's fantastic.

[156] **Carl Sargeant:** That's clever investment, because they don't go to a safety unit, a referral unit, they don't go to jail, hopefully, and hopefully we've broken that cycle. That's what we've got to do with all our things. So, I'm in that space of intervention and prevention, but we're doing the day job at the same time, and that's really hard. Because you asked me, 'What about the ambulance times? What about the waiting times?', and we've got to deliver on that, but, actually, if we're really clever, we should be upstream of that. We shouldn't be investing in that end; we should be saying, 'Stop people being ill. Let's stop people getting into the hospital in the first place.'

[157] **John Griffiths:** Okay, thank you for that, Cabinet Secretary. And now, Jenny.

[158] **Jenny Rathbone:** That leads me on to the area that I was wanting to explore, which is that, clearly, you're wanting to mainstream the best of Communities First into other programmes, and I can see that that's going to work in terms of Communities for Work, Lift, PaCE, et cetera. The employability programme will, I'm sure, survive. So, the areas that I think are most challenging, as far as my vision of how it's going to happen, is around

the really important things that Communities First has done—you know, the glue between all these other programmes. So, for example: the social prescriptions for people who are, basically, lonely and isolated and not engaging with the community; the ‘frequent flyers’ programme to stop people going to A&E when their problem is that they’re lonely, they have attachment problems, they’ve got mental health problems, they’ve got addiction problems, and they all tip up in A&E. So, how are we going to get other organisations to adopt those things, given the pressures that the health service is facing?

[159] **Carl Sargeant:** There are things that we deliver currently that will stop. However, the transition funding that we’ve applied, working with other organisations, because there is a responsibility—I think it’s incumbent upon all of us, not just Government, but on all of us, to ask the questions of public service boards as a whole about how they make sure that they embed the future generations Act. This is a really clever piece of legislation, if we can get it to work. If we can get it to work properly—. I’ll give you a very simple example: the Help Point in Swansea is a point, where, of an evening, if you are a reveller in Wine Street and you fall foul of excessive alcohol or otherwise—. In years gone by, the door staff would help you out, accordingly, and often the police would turn up and send you to A&E, if you couldn’t walk or you were being sick everywhere. A clever intervention by Alun Michael initially—the police and crime commissioner—said, ‘We’re spending far too much time here. Let’s all get our heads around what the intervention should be here.’ So, he brought all the organisations, including the private sector, door staff, the owners of buildings, street pastors, the NHS and the ambulance service together and asked, ‘How can we fix this problem?’ That was, I believe, pre the future generations Act, but the principle is exactly the same.

[160] From that, they collectively started putting money in—most of the organisations put some money in; some didn’t, actually, which frustrated me then—and they created the Help Point—a portakabin behind the nightclubs. On the first weekend, I think they prevented 16 admissions to hospital. Purely on a financial basis, that was huge—that was into thousands of pounds by stopping people going through the A&E system. There were no ambulance calls, just because they had a portakabin with one paramedic, the St John ambulance, the voluntary sector street pastors and a policeman on the door. People were ill, or whatever they were, and often phoned parents, which embarrassed them profusely, but it works. But what we’ve got to do is make sure that schemes like that are important to all of the stakeholders. So,

it's about a health board in particular or the ambulance service saying that, for the sake of investing £10,000, £15,000 or £20,000, long term, that saves them thousands, but sometimes they don't want to do that and that's the frustration: how do we make sure that they have a social responsibility around their PSBs to say, 'Our priority has to be the well-being of individuals'?

[161] I think that your original question is a tough one because we're in the space of the day job. Chief executives or finance officers say, 'I want to stay away from that. This is our job and not that.' But actually, it's not. The fire service has done really well in terms of moving into that space as well.

[162] **Jenny Rathbone:** Okay. So, in your statement in the Chamber on Tuesday, you mentioned children zones and StreetGames as where we can obviously work with children. What role are schools going to play in that, given that some schools are still not community-focused and still won't let the community use the premises that belong to the community after 3.30 p.m.?

[163] **Carl Sargeant:** I've had some discussions with the Cabinet Secretary for Education on this issue. It moves quite nicely actually into the childcare pledge because our childcare pledge extends beyond the hours of 3.30 p.m. and it also extends beyond the hours of school holidays: it's 48 weeks of the year. We think that we're pretty sure that a lot of the maintained settings for operating the childcare setting will have to involve school settings. So, there's a different conversation being had about the use of schools and what their engagement process is.

[164] There is an interesting point around schools and governors, because I think I'm right in saying that if the governors or the headteacher don't want the school to be open through the summer holidays, they don't have to open it, which I find rather interesting, when, actually, it's a public asset. I'm with you, Jenny, in that community-focused schools are a good thing and I'm hoping that the Communities First transition might open up some opportunities in that space.

[165] **Jenny Rathbone:** Okay, so you're working on it with the education Secretary; that's good.

[166] In terms of the work that you're doing with the Department for Work and Pensions, how easy is it for the philosophy and approach of the Welsh

Government to marry up with the DWP? To the people in my community, the DWP are best known for the targets that they set for sanctioning individuals, which seems to me an entirely punitive approach, rather than giving people a helping hand.

[167] **Carl Sargeant:** I think we have a very good relationship with the DWP in terms of the civil service aspect of this. We have a good relationship. I perhaps would not like to comment on the issue of sanctions; that's a matter for the DWP and how they operate. But our jobs programme works very effectively, so we deliver some of that with Jobcentre Plus, and it is effective. So, we have a good relationship, and what I'm keen to learn as we roll out the programme is whether there are any elements of this that don't work so well that we need to iron out. At the moment, it seems to be working fine. I will be working with somebody externally, who has strong knowledge on the delivery of this from the DWP end, who will be able to give us some further advice.

[168] **John Griffiths:** Just on that, Jenny, if I may just intervene only for a moment, of course, there's the forthcoming work and health programme from the DWP. Are you confident that that will be aligned with appropriate Welsh Government programmes?

[169] **Carl Sargeant:** Yes. I think we've looked at this carefully, and we think it just dovetails into the system. There are political choices, and the UK Government have that mandate to do what they wish to do. We don't see it as a problem in terms of the programmes that we're delivering.

[170] **John Griffiths:** Okay. Jenny.

[171] **Jenny Rathbone:** I suppose my enduring anxiety is that you're clearly minded to relax the geographical boundaries around all these programmes, which, obviously, will benefit the people living in poverty living outside the geographical boundaries. But it also is in danger of taking the eye off the ball in terms of forcing staff to reach the hardest to reach, who are not the easiest people to work with—who don't come in at the first opportunity. How are we going to prevent programmes simply responding to those who shout loudest?

[172] **Carl Sargeant:** When I said earlier on that I am looking at flexing the programmes, I've not agreed that I will do this yet, because it's based on assurances from organisations that if they want to flex programmes, they've

got to be able to deliver on the services that I expect them to do, and nothing changes in that respect of targeting those that are most hard to reach. That's why I haven't released the employment money into the general pot of skills and education, because I know that these can be difficult people to deal with, and we've got to give them additional support sometimes, and that's the right thing to do.

[173] So, I've asked local authorities to give me examples of where they see a flex in the programme would give them greater ability to remove some of the red tape around that in order for them to deliver what they're doing, and more. We did a 5 per cent flex between Flying Start and Families First; we've seen some evaluation around that about how it worked for some authorities. As I said to you earlier on, I think the most advanced discussions we've been having have been with Torfaen, but I'm not yet convinced—we haven't completed those discussions yet—that I would flex the programme enough in that space until I've got assurances that they will deliver what they've been doing already, plus a little bit more.

[174] **Jenny Rathbone:** Okay. And lastly, how is the Welsh Government going to use the procurement powers that both the Welsh Government and all the other public bodies have—the 44 public bodies that are involved in the future generations Act—to ensure that we're boosting local employment and businesses locally?

[175] **Carl Sargeant:** There are two aspects to that. One is about the physical procurement of services or goods. We should be applying the FG Act to that. So, can we create an opportunity for locally produced goods and services? The other element of this is around people, about apprenticeship programmes and support mechanisms that will fit quite nicely into our employability pathway. So, once we've got people who are work ready through Lift or Communities for Work, can we get them into the space of the metro or the Valleys taskforce employability programmes? These are all—

10:45

[176] As I said at the start of this discussion, Chair, we can't afford to have one programme that we think will fix everything. We've got to make sure these programmes join up. I've been in Government a number of years, and I'm really encouraged by my Cabinet colleagues and their enthusiasm to help each other. I hope they see me the same, although I do present many problems for them, generally. But it's a fact: Ken Skates came to me early on

in the administration saying to me, 'The 20,000 homes that you've got to build is our problem', and I thought that was a very different way of doing business in Government, and I'm very encouraged by that.

[177] **John Griffiths:** Okay. Well, thanks very much, Cabinet Secretary. I'm afraid that's all we have time for today. You will be sent a transcript to check for factual accuracy. So, thank you very much for coming along to face scrutiny this morning, and thanks very much to your officials as well.

10:46

**Cynnig o dan Reol Sefydlog 17.42 (vi) i Benderfynu Gwahardd y
Cyhoedd o Eitem 4
Motion under Standing Order 17.42 (vi) to Resolve to Exclude the
Public from Item 4**

Cynnig:

Motion:

*bod y pwyllgor yn penderfynu that the committee resolves to
gwahardd y cyhoedd o eitem 4 yn exclude the public from item 4 in
unol â Rheol Sefydlog 17.42(vi).*

*accordance with Standing Order
17.42(vi).*

Cynigiwyd y cynnig.

Motion moved.

[178] **John Griffiths:** Okay, the next item is a motion to exclude the public under Standing Order 17.42. Is the committee content? Yes. Okay, we will move into private session.

Daeth rhan gyhoeddus y cyfarfod i ben am 10:46.

The public part of the meeting ended at 10:46.

Ailymgynullodd y pwyllgor yn gyhoeddus am 11:10.

The committee reconvened in public at 11:10.

**Bil yr Undebau Llafur (Cymru)—Sesiwn Dystiolaeth 2
Trade Union (Wales) Bill—Evidence Session 2**

[179] **John Griffiths:** Welcome back. We move to item 5 on our agenda today,

which is the second of our several evidence sessions to inform our scrutiny of the Trade Union (Wales) Bill. I welcome Steve Thomas, chief executive of the Welsh Local Government Association, and Jonathan Lloyd, head of employment at the Welsh Local Government Association, to our meeting today. I'll begin, if I may, by asking why, in the WLGA's view, the social partnership is important in Wales and how it contributes to the effective delivery of local services by local authorities in Wales.

[180] **Mr Thomas:** Thank you, Chair. The social partnership approach that we've developed has been an incremental approach that was built over a number of years and, in particular, accelerated when the black clouds started to gather in terms of local government finance around about 2009–10. What we've sought to do in the Welsh context with the trade unions, and working with the Welsh Government, as well, is to build an approach that—I wouldn't call it the old fashioned beer-and-sandwiches approach; it's certainly not that. But, what we've tried to do is actually build an approach where we all sit in a room and have a mature discussion about how we can protect public sector employment, because we knew, from 2010 onwards, that we were going to face some hefty cuts. The result of that is that a social partnership approach has developed.

[181] We see that exercised primarily through something called the workforce partnership council, which is either chaired by the First Minister or by the Cabinet Secretary for Finance and Local Government, and, at that partnership council, we have developed a range of ideas. A classic example was the development of the staff commission in Wales, which was put in place to deal with the then proposed mergers. Obviously, they didn't happen, but we've developed those types of approaches and we've developed a range of agreements, the classic one being the 2012 partnership and managing change agreement, which is in your pack in terms of the appendices from the Wales TUC, something that myself and the head of the Wales TUC worked on extensively at the time. What we were seeking to do was, in effect, put a framework in place for public services in Wales that protected employment, but recognised that the impact of austerity would see job losses, and how to deal with that in what was a fully partnership-based approach without the resort to what would be traditional ding-dong industrial relations. I think it's worked and I think it is one of the successes of devolution.

[182] **John Griffiths:** So, following on from that, could you expand on your assertion that UK Government's Trade Union Act will undermine the relationship between employers and staff within local authorities in Wales?

[183] **Mr Thomas:** I can see there may be a different set of industrial relations across Offa's Dyke, but, with the best will in the world, this is the equivalent of the Westminster Don Quixotes tilting at Welsh windmills. It's an approach that's trying to solve a problem, to one extent, that doesn't exist. As I say, I don't want to pretend that we live in a world full of peaceful co-existence with our trade union colleagues. We don't. We have vigorous discussions, we have disputes, we have arguments and, occasionally, there is industrial action. But we work that within a framework that is mature, that has developed and that, at all costs, seeks to avoid getting to that place.

[184] I think this Bill actually injects that hostility back into the system and that's not helpful. We've got enough to do out there. We've got plenty of things to occupy us in terms of some of the big issues we've got in local government, not least of all in terms of the future of things like social care. This, to some extent, is a distraction, and we want to take the workforce along with us in terms of these changes. I think the Trade Union Bill doesn't help us do that. I think the framework that we've currently got works. It's proven to have worked—the amount of industrial action in local government over the last five years, despite austerity, has been negligible. I think that, in and of itself, is a testimony to the success of the approach.

[185] **John Griffiths:** Going one stage further, if there was to be an undermining of that relationship between employers and staff, in your view, how would that impact on local services in Wales?

11:15

[186] **Mr Thomas:** Well, the danger is that if you end up with a heightened industrial relations climate, which is not helpful. The danger is that those agreements that we've made in terms of, unfortunately, staff leaving local government—and we've lost about 20,000-plus staff over the last five or six years—wouldn't exist. It could lead to us not taking the approach that we take, which is based on things like voluntary early retirements and a range of other things. You could end up with us using graded employment, compulsory redundancies and a range of other mechanisms. I think if we can avoid that, and my association doesn't give a commitment to avoid compulsory redundancies, but at the same time, wherever we can we will, and the approaches in the agreements we've had allow us to do that. So, I think if those frameworks are not in place it could lead to what is a more factious set of industrial relations in Wales.

[187] **John Griffiths:** Just on a point of clarity, I think you may have said earlier that the Bill might inject hostility into Wales—

[188] **Mr Thomas:** Yes, definitely.

[189] **John Griffiths:** Okay. Jenny, did you wish to come in on social partnership? Sorry, Joyce. I'm getting my Js mixed up. Joyce.

[190] **Joyce Watson:** I wanted to come in on social partnership. Good morning, both. I want to understand, or for you to put on the record, how important that social partnership is in terms of putting a benefit back to the taxpayer or the user of the services that are provided through your workforce.

[191] **Mr Thomas:** The level of social partnership is extensive. I've mentioned the workforce partnership council. We also have something called the joint council for Wales, which is a meeting between the WLGA as employers, meeting with local authorities and trade unions. We also have a local government group with the workforce partnership council. We have an education group with the workforce partnership council. So, the machinery is extensive. That doesn't count either all the other industrial relations frameworks that are agreed in the London setting. So, it's an extensive machinery. It's difficult to quantify what the social partnership does other than the avoidance of things like strike, and other than the fact that, I think, industrial relations in a Welsh setting are generally pretty good. I'm constantly amazed at the level of morale in local government. I'm not suggesting that people are walking around singing, you know, the Pembrokeshire national anthem, but at the same time, morale is generally pretty good. I think, from that point of view, that sort of intense discussion in terms of getting a conducive framework of industrial relations is money in the bank. I think it does save money for us and I think it does allow us to be in a position where, when it comes to the really hard stuff, when it comes to the devil-in-the-detail stuff, we have a framework where you can, at least, build on an accumulated level of trust. You can't put money—you can't put pound notes on that, but it's built up over the years, it's important and it works.

[192] **Joyce Watson:** So, how do you think—because this is a crucial question—the trade union Bill that's proposed in the UK, because we're trying to mitigate it, will put that in jeopardy?

[193] **Mr Lloyd:** Perhaps it might be helpful to give some examples.

[194] **John Griffiths:** Just to comment briefly—the Trade Union Act in a UK setting.

[195] **Joyce Watson:** Sorry, yes. Okay.

[196] **Mr Lloyd:** I think this is included in our evidence, where there was a national teachers' strike a number of years ago in England, which we managed to avert in Wales. We managed to avert that through sitting down and discussing the issue sensibly and maturely, and coming up with a solution that suited the approach in Wales. It caused major disruption in England: schools closed, there was loss of learning, and the impact that that has on the economy in terms of parents needing to take time off work to cover the absence. We stopped that in Wales, and we stopped it through having a proper, mature conversation under these social partnership arrangements.

[197] **Joyce Watson:** That's great, but it still doesn't answer—. How do you see that changing the Trade Union Act that is currently prescribed by the UK? How would that, in your opinion, change that?

[198] **Mr Lloyd:** Okay. One of the elements is the restriction on facility time. It's how you interpret that facility time, and that ability to be able to have a conversation at various levels, as Steve mentioned, whether they're national or local. If there's a restriction on facility time, that prevents that conversation, and prevents the opportunity to discuss a solution. Steve mentioned social partnership, but he also mentioned the frameworks. We're built on collective agreements; they are joint agreements between the trade unions representing their membership. That's in our national agreements. We're currently bound by that, and if that facility time disappeared or was restricted, that would put in danger the ability to have these mature conversations that resolve problems that affect our communities.

[199] **Joyce Watson:** To coin another phrase, then, 'It's good to talk'.

[200] **Mr Lloyd:** Yes.

[201] **Joyce Watson:** Have you ever thought about the amount of savings? Did you ever look at the cost? You mentioned that there was a cost, and you

gave an example of the teachers. Do you know if that was actually costed to the community or not?

[202] **Mr Lloyd:** No, it wasn't costed. We could put out finger in the air, but we'd also consider what it would be a considerable disruption to right across Wales, as I say, not just within the workforce and within schools and children, but in terms of others being able to attend work as well. I have no idea what impact that would have had on the economy, that particular day.

[203] **Joyce Watson:** Can I ask another question—because you've sort of alluded to it in terms of social partnership—about the added bonus of people feeling valued? Because you've had conversations and you've recognised, I hope, within those conversations, the difficulties on both sides, so how do you feel that that then feeds back into the productivity of the workforce?

[204] **Mr Thomas:** I've spoken to colleague chief executives in an English context, and talked about the framework with industrial relations there, and some more hostile frameworks, and I think there's a range of things that has happened across—. I'll readily admit that English local government has faced deeper cuts than Welsh local government, but I think in terms of the package that we give, in terms of a message to the 140,000 employees of Welsh local government, it's one of, 'We're going to seek to protect some of the key services as much as we can. We're going to back that up with an industrial relations framework, which is about dedicating ourselves to protecting your jobs wherever we possibly can. So, we won't give a commitment on no compulsory redundancies. We can't. But we will do our damndest to make sure that we do not go down that route.'

[205] A classic example: the leader of Neath Port Talbot, Ali Thomas, has negotiated a situation in that authority where, one year, there were 2 per cent salary cuts, but it was done on the basis that there would be no compulsory redundancies and it was done on the basis that those cuts hit everybody proportionally. The chief exec and the senior officers took a higher level of reduction. So, that sort of sense of fairness that comes out of those types of approaches I think plays well with the workforce, and I think people understand that, and I think people—. As I say, I'm not suggesting that everybody is walking around with a big smile on their face at the current time—it's very difficult out there—but I think it's one of those situations where it does at least provide a level of assurance about your employment, which in an English context is slightly different, because authorities there will privatise at the drop of a hat and authorities there have probably lost more

staff than we have, in terms of the approach that they've taken. We've lost a lot of staff—we've lost 20,000—but there are probably a lot more gone in the English context, and part of that is about the fact that we are seeking to put in place these frameworks that protect the employment. As I say, that is something that I think the employees of local government understand and appreciate.

[206] **John Griffiths:** Okay. Rhianon.

[207] **Rhianon Passmore:** Thank you. In regard to that, which is quite clearly articulated, you mentioned at the beginning, in a sense, that this is a non-issue—why fix what's not broken—and that you have got better things to do in terms of dealing with austerity—so-called—and the cuts to Wales and also social care matters, which are difficult. In regard to the situation in England and the Act itself, which we are seeking to disapply here, what is your view in terms of the motivation, if I may ask, in terms of why that was introduced, bearing in mind your quite clear narrative about the advantages of a social partnership here, in terms of our improved industrial relations here in Wales, compared to England?

[208] **John Griffiths:** I don't think that—. It's probably not a question that you are able to answer—

[209] **Rhianon Passmore:** It's a view.

[210] **John Griffiths:** —or is reasonable to expect you to answer, to be fair, Steve.

[211] **Rhianon Passmore:** I mean, I don't know if there is anything you want to add as to why we're having to go down this route.

[212] **Mr Thomas:** I think that the Conservative Government in Westminster has a different model of industrial relations than the type of approach that we take in Wales. That is a totally legitimate model of industrial relations that they are applying there. We don't agree with it. In Wales, 21 of our authorities do not agree with it either.

[213] **Rhianon Passmore:** Okay, thank you.

[214] **John Griffiths:** Okay, thank you. Sian.

[215] **Sian Gwenllian:** Diolch yn fawr am ddod atom y bore yma. Rwyf jest eisiau edrych ychydig bach ar Fil yr Undebau Llafur (Cymru), sydd yn ceisio datgymhwyso tri maes penodol o Ddeddf Undebau Llafur 2016. A ydych yn meddwl bod y meysydd yma yn bwysig—y tri maes y byddwn yn delio yn fwy dwfn â hwy? Yn gyffredinol, a ydych yn meddwl bod y rhain yn bwysig o ran cael eu datgymhwyso? A ydy'r Bil yn mynd ar ôl y pethau iawn, mewn gwirionedd, er mwyn cynnal y bartneriaeth gymdeithasol honno? Hefyd, a oes unrhyw rwystr yr ydych yn ei weld wrth roi darpariaethau'r Bil newydd hwn ar waith? Hynny yw, a ydym yn creu rhyw sefyllfa, yn anfwriadol, efo rhai o'r elfennau sy'n cael eu datgymhwyso?

Sian Gwenllian: Thank you very much for being here this morning. I just want to look a little bit at the Trade Union (Wales) Bill, which tries to disapply three specific areas of the UK Trade Union Act 2016. Do you think that these areas are important—these three areas that we will be looking at more deeply? Generally, do you think that these are important in terms of being disapplied? Does the Bill pursue the right things, as it were, in order to maintain that social partnership? Also, is there any kind of block that you see in terms of implementing the provisions of this new Bill? Are we creating unintended consequences with some of the elements that are disapplied?

[216] **Mr Thomas:** I think that, in terms of the approach you are taking, it is the right approach. I think if there are any unintended consequences, it will be the consequence to show that Wales applies a better model than is applied in England. We have got a situation here where, when it comes to things like check-off, when it comes to things like facility time, when it comes to a range of other elements in the Bill—I mean, I can't over-emphasise that, for most authorities, this is just a non-issue. You know, in terms of check-off, we take charitable donations out of people's salaries. It doesn't cost that much. It doesn't make that much difference. It's part of any good payroll system.

[217] In terms of facility time, I think facility time is important. Again, I'm not going to pretend we don't have disputes about it. We have had two authorities in the recent period—Carmarthenshire and Anglesey—who have had some fairly robust arguments about this. From our point of view, we want to see the trade unions subject to the same economic disciplines that the rest of us are subject to. But, you know, we see facility time as a way of having a dialogue at a local level that allows us, at the local level, to test some of the ideas that councillors and officers are coming up with. It's that

sort of pre-consultation, pre-scrutiny, pre-discussion that allows some of the more controversial things to get through in budgets. When you work in Gwynedd—it used to happen in that way, and, again, it was absolutely essential to have that. You need a point to go towards, don't you? You need an organisation that represents your workforce, where you can raise these things and take the temperature on some of the things that are being raised. So, that, as I say, is absolutely key for us.

[218] In terms of the way that the Bill is constructed, I've seen the legal advice that the Wales TUC has got on it, and I think it's a Bill that essentially disapplies an Act, isn't it? From our point of view, we do not see the need for the Act, so we're perfectly content with that.

[219] **Sian Gwenllian:** It disapplies three particular areas, doesn't it? That's what I'm trying to get at. Do you think that those are the correct areas to be disapplied or—? In general, you don't agree with the Act anyway, but do you see that these three areas will make a difference? Are there any unintended consequences?

11:30

[220] **Mr Lloyd:** In terms of that issue around facility time, that is essential in having that mature conversation. If that was taken away or restricted in anything, the industrial relations landscape in Wales would change totally. Steve mentioned previously some examples around the Neath Port Talbot workforce agreement. Discussions took something in the region of 18 months, but took £3 million off the pay bill, through a mature conversation. There would have been a different approach required. It would have been members losing their jobs and services affected because of that. So, I think it's crucial that facility time is maintained proportionately—proportionately—so that you can have that conversation with the trade union, who represent their workforce. So, it's useful to talk to the workforce through the trade unions, rather than trying to talk to a workforce that's geographically all over one's county in different offices and communicate—having that point of contact, taking that temperature test around where we're going. And also, dare I say, it's useful having the trade union to deliver messages for you, because I think sometimes we have messages from people and we disbelieve them because of the relationship. It's that doctor in a white coat—if a doctor tells me I've got a cold, as opposed to somebody else, it must be right. So, having that conversation with a trade union, who understand the issues and can tease that out—there's a lot of value in that as well.

[221] **John Griffiths:** Could I just ask, picking up on Sian Gwenllian's question, in your view, are there any provisions in the UK Act that would adversely impact on the social partnership and delivery of services that the Welsh Government Bill doesn't seek to disapply?

[222] **Mr Thomas:** I think, from our point of view, the Bill itself disapplies most of the more contentious elements of the Act. Many of the contentious elements of the Act were anyway amended through the House of Lords process in terms of the scrutiny within the Westminster environment. So, the Act is not quite as draconian as it was. It was David Davis, I think, who described the provisions originally on picketing as akin to Franco's Spain. Coming from a now Conservative Minister, I think that tells you a story.

[223] So, I think, from our point of view, the Bill covers and touches all the right bases. From our point of view as well, I think we want to carry on with what we think is a successful industrial relations framework. We see no need to change it.

[224] **John Griffiths:** Can I just ask as well, in terms of the Welsh Government's proposals to local government reform, I think you've said that keeping the sort of relations that currently exist with the trade unions would be beneficial for that and that trade unions will have an important role to play. Could you just say a little more in terms of how you think the UK Trade Union Act 2016 would harm that local government reform process, potentially?

[225] **Mr Thomas:** We're going to have—. Over the next five to 10 years (1) we're going to see voluntary mergers—that's going to happen—(2) we're going to see authorities take a range of services up to a regional level, with consequent impacts on the local government workforce. From our point of view, what we want to do is have a discussion about how we do that, because, inevitably, when you take things up to another level and a different level of scale, there are job losses.

[226] I think, from a discussion between ourselves, the Wales TUC, and a range of trade unions and the Welsh Government, we are anticipating this discussion at the workforce partnership council. In fact, I think there's a paper from the staff commission on this at the next workforce partnership council in March. So, people have said to me on a number of occasions, 'Now that local government reform is over—'. It's not over, is it? There's still a big

reform programme going on out there. There's a possibility in the future, as I say, of regionally delivered services to a much greater level than there is now, and there's going to be big workforce implications of that.

[227] So, I think this approach that we've got lays a foundation to get to where we want to go. I think, if we put in the provisions of the Act, it will make a more hostile trade union framework in the Welsh context. We do not want to upset the apple cart with the approach that we've currently got, and I think, you know, we can get to that next stage by applying the mechanisms that we've currently got, and that includes the structures of the workforce partnership council. It also includes—you know, I pick up the phone to the head of the Wales TUC; he speaks to me. The head of Unison speaks to me. We speak directly to each other, and we iron things out, and, you know, we are not sitting in rooms agreeing with each other all the time, we are disagreeing quite a lot, but we are seeking to find ways through how we take the reform programme forward, and I think the Act will help us to do that—what I mean by that is that the new Wales Act on trade unions will help us to do that. That will be a firm foundation for moving forward.

[228] **John Griffiths:** Okay. Jenny.

[229] **Jenny Rathbone:** I just wanted to come back to your remarks about facility time. Nobody's arguing that facility time isn't extremely important—otherwise, employers would have to consult with every individual employee, which is impossible. So, I think what we're trying to understand, though, is why it isn't beneficial, in terms of proper scrutiny by members of what their trade union representatives are getting up to, to have that level of publication. So, the Cabinet Secretary said that the public can already access information on facility time. Can you just explain, you know, how your average employee would get to find out how their shop steward, representative, was spending their time?

[230] **Mr Lloyd:** As a member of that union, that would be—. It's not all the staff who are—

[231] **Jenny Rathbone:** No, absolutely—[*Inaudible.*]

[232] **Mr Lloyd:** So, yes, they have their own frameworks, their own meetings. They appoint their own officers. They have their own membership panels and hold themselves to scrutiny in terms of what they're, as a trade union activity—.

[233] **Jenny Rathbone:** Sticking with facility time, though, what would be—? What do you think would be a disbenefit, negative, about just publicising what amount of the appointed representative's time was spent on facility time?

[234] **Mr Thomas:** If we could get a common framework to accurately account for how every authority accounts for facility time—which we may be able to do, I don't know, but, if we could, I have no problems with it being published at all. I think the trouble is, at the moment, we're comparing apples with pears in terms of the way authorities account for this. I was looking this morning—. In England, there's the Local Government Transparency Act 2014, and you can go through various English authorities and see how they account for facility time. There was one large metropolitan authority whose facility time agreement was much smaller than a district council. Now why is that? And I'm asking you the question, because I can't answer it. It's probably because somebody's accounting for it in a different way and it's being charged in a different way, and, as a result of that—. Part of the reason for publication is to make valid comparisons, isn't it? And, as it stands at the moment, I don't think we've got the framework to do that. But, in principle, I'm not against more transparency on this. We have pay policy agreements for senior officers, we have a range of transparent mechanisms in local government; there's no reason, if we couldn't get a framework in place, they shouldn't apply in this case.

[235] **Jenny Rathbone:** You say you review facility agreements periodically to ensure that they're fit for purpose. How come you haven't then addressed the issue of apples and pears being compared?

[236] **Mr Thomas:** Because, as I say, it would be—. In terms of the way local authorities account for this—. I mean, you know, somebody once said to me that there are two people who understand the local government finance settlement in Wales, and one of them is the director of finance for the WLGA and the other one's dead. It is incredibly arcane, some of the ways these things are accounted for, but I think what we need to start talking with the authorities about, if there is going to be a push for more transparency in this area, is to make sure that we do get a common accounting framework, and that's something you might want to think about as a Welsh Government.

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

[238] **John Griffiths:** Okay. Janet, if we stick with facility time, and we'll go back to check-off. Do you want to ask some further questions on facility time?

[239] **Janet Finch-Saunders:** Yes. I think it's fair to say there is some ambiguity, and it isn't as easy, really, to see how much facility time is taken out—I know we're doing a piece of work on it at the moment. But, if the amount and cost of facility time taken, say, within local authorities is not known, how can the public be confident that it is being managed appropriately and that it provides value for money for the public purse? Because, as you well know, Steve, some local authorities have designated trade union officials, and a number of them, and I know, in England—you know, large numbers of people. I know, with local authorities and the pressures upon them, my constituents in Aberconwy wouldn't be too happy to think that money was being spent on trade union activities when really those positions—you know, we've got very vital services to deliver.

[240] **Mr Thomas:** In fact, the authorities do review this in the sense that, if you take the Carmarthenshire example and the Anglesey example, there has been a rigorous local debate, which we've been involved in, in terms of reviewing the facility time agreements there. And, as you well know, Janet, if it moves in local government and has got a pound note attached to it at the moment, we review it. We are hugely conscious of every item of expenditure within a local authority, and this is one of the areas that we'd look at. But, as I say, it's one of those ones where, I've got to say, when I worked in local government, there wasn't too much public interest in this. Public interest tends to be on services, not the sort of what I'd describe as the industrial relations framework or the back-of-office framework. I think, when you actually look at this—and I've got a vague figure in my head about probably what we spend on this, but I can't verify that—you know, it's a tiny proportion of money in terms of the total cost of local government expenditure. Then you've got to think about that investment into trade union facility time, what does it save in terms of working days, in terms of ability to get through agreements, in terms of things like health and safety, all of these things. I genuinely think it's a good investment. It's a good investment. I was looking this morning to see what other people thought, and I came up with a very interesting quote from somebody—and, you know, this is not Len McCluskey. He says:

[241] 'In today's difficult economic climate, it is more important than ever that all resources available to the workplace are well deployed. Union

representatives constitute a major resource: there are approximately 200,000 workers who act as lay union representatives. We believe that modern representatives have a lot to give...to the organisations that employ them.'

[242] That's the head of the Confederation of British Industry, Richard Lambert. If they see that value, you know, I think we see it as employers as well. And yes, there's a cost, but I think it's both a cost and an investment.

[243] **Janet Finch-Saunders:** But to avoid the ambiguity, what has the WLGA done in terms of looking out some data to try and establish exactly what this is costing to our—?

[244] **Mr Thomas:** We've had discussions about this on the Joint Council for Wales. It is difficult to get a common framework on this. We could put out a survey, I suspect, tomorrow and ask everybody what their facility time agreements are, and whether they'd all respond, I don't know. But, I think, from our point of view, unless we get a common understanding of what's behind those figures, it's almost meaningless. It's like that example I used of the metropolitan authority and the district authority. The district authority does not spend more than that metropolitan authority on their facility time. But somewhere in there, there's a different way of accounting for that facility time.

[245] **John Griffiths:** Just following up on that, just to try and get some clarity on what processes apply, could you say a little more about the internal processes and the scrutiny arrangements in place in local authorities to ensure facility agreements are fair and reasonable? And are those arrangements operating successfully across all local authorities in Wales?

[246] **Mr Thomas:** Well, as I say, they are generally operated in a smooth-functioning fashion, but there have been flashpoints. As I say, the classic examples were the two authorities I mentioned previously. And that was about concerns in terms of the money spent on the agreement, and that was also about concerns about the nature of the persons in the job. That is another issue because, obviously, sometimes there are more senior grades in facility time agreement jobs. So, it might that the cost is more because the person in that is a more senior grade. So, it's a difficult comparison to make between authorities in terms of how we compare these—you're certainly not comparing like with like.

[247] **John Griffiths:** But there are those arrangements in place for scrutiny right across the local—

[248] **Mr Thomas:** Yes, definitely.

[249] **John Griffiths:** Okay. Janet, did you have any further questions?

[250] **Janet Finch–Saunders:** No, I'll come in a bit later. Well, I will ask you—you know, I've worked with you over the years, Steve. You know the issues facing local government, you know the issues facing us here in Wales. Do you actually think, genuinely, that this should be a priority for the early term of this fifth Assembly term, and that this is a fundamental, important issue when you consider other Bills that we've tried to bring forward? In the overall scheme of things—. Sorry, I am—

11:45

[251] **John Griffiths:** I think it's probably not really a question for the WLGA, but—

[252] **Janet Finch–Saunders:** No, but when other committee members are muttering. You know, I do want to get my point—

[253] **Mr Thomas:** I'll answer that.

[254] **John Griffiths:** We must have one meeting.

[255] **Janet Finch–Saunders:** If you would, Steve.

[256] **Mr Thomas:** In my view, it shouldn't be a priority for this Assembly, but it's a priority that's been set for them by Westminster and it shouldn't be a priority for Westminster. Honestly, Janet, on this one, there are elements of the Act, which—. I don't want to get into the high politics of it, but we know what's happening here, don't we? There are things in here that are quite unprincipled in terms of the Act and they were taken out during the Lords phase.

[257] I think, in Wales, we've got a situation where, you're right: we want to get on and we want to deliver services and we want to make sure that we maintain as many people in employment as we possibly can, and I think that the current situation that we've got, i.e. the way that we do business in terms

of social partnership—. And I can give you an absolute assurance that this is not some utopian system of peaceful co-existence between us and the unions. We call each other names, we row and we have big arguments, but we do it in a way that is about protecting public services and employment, and it works.

[258] **John Griffiths:** Okay, I think we need to move on to check-off, actually.

[259] **Jenny Rathbone:** I was hoping just to pursue this slightly further, this facility time issue, because it's not about the benefits of facility time; we're talking about whether or not there should be an obligation to publish information about facility time. So, you said that obviously people collect the information in different ways. What information does the WLGA have about how local authorities collate facility time taken by their representatives in that particular authority?

[260] **Mr Lloyd:** We're aware of the range of facility agreements that are out there. They're not costed.

[261] **Jenny Rathbone:** I'm not talking about cost; I'm talking about time. I know that time is money, but—

[262] **Mr Lloyd:** No, we have no sense other than where you have full-time officers in place—you assume that they're working full time as a trade union official, very often working closely with the authority, developing a whole range of issues around collective arrangements, around dealing with disputes and dealing with things that we have to deal with around all the issues of grievance, and—

[263] **Jenny Rathbone:** Where you have full-time officers, clearly they're employees of the relevant trade union and it's up to them to ensure that they're doing the job that they've been tasked to do, but what we're talking about here is the interface between the employer and the concession of facility time. How does the employer know that people are using the time they say they're using? How does—

[264] **Mr Lloyd:** How does it work in practice?

[265] **Jenny Rathbone:** Because if they're doing facility time, they're obviously not doing the other job.

[266] **Mr Lloyd:** You will have a facility: if you've got a lay representative who is, in principle, allowed to be released from their work, it is the manager who gives permission for them to be released. It's managed and it's usually released when they take a specific piece of work. It's not to go around and whip up the locals into a dispute; it's really to attend a particular meeting, deal with a disciplinary, support somebody and act as their advocate on sickness absence, but all of that would be agreed. They don't just, kind of, walk off site.

[267] **John Griffiths:** But is it published? Is it publicly available?

[268] **Mr Lloyd:** I would have thought not, no, in that sense. Other than it's an agreement about how many—. It's usually an agreement that you would be allowed x many days per year. So, it's kind of managed—

[269] **John Griffiths:** So, a member of the public wouldn't really be able to know how much facility time is taken within a local authority or how that time is used.

[270] **Mr Lloyd:** It's a demand-management approach.

[271] **Jenny Rathbone:** You can see that local authorities in England are going to have to come up with an accounting system that's going to be fair because the Act is going to apply to them whatever we do in Wales.

[272] **Mr Thomas:** They publish their facility time agreements now. They publish under the Local Audit and Accountability Act 2014. As I say, I've got no in-principle objection to that, but what I want to be absolutely confident about—and this is always the case when you publish information about 22 separate bodies—is that you're working on the same principles of publication and to understand the story behind it as well. If it's a senior officer in a facility time agreement in one authority, and a more lowly paid officer in another, it will look a lot more expensive in Abercwmawt than in Lower Abercwmawt, and yet there's a reason for that.

[273] **John Griffiths:** Okay, thanks for that. Time is moving on, and I think we'd better move to check-off arrangements. Rhianon.

[274] **Rhianon Passmore:** Thank you, Chair. I can be quite clear in terms of why I feel that they've done it in the UK, and I'll keep that until afterwards. With regard to the costs of publication and with regard to the costs of

reductions and restrictions on the crossover in terms of the payments with check-off, have we got any collated information across Wales in terms of the costs for local authorities for that? And with regard to the disapplication of that restriction within the new Bill moving forward, what is your view in terms of the cost for Wales?

[275] **Mr Thomas:** As you're aware, this is an accumulation of payroll information built up over years and years and years, and there would be employees who've been having their check-off deducted for many years, and it incrementally grows over the years. To give you a cost is almost impossible, but, honestly, the words 'de minimis' were invented for this. It is a very low amount of money that this costs. As I say, people have their salaries deducted, and deductions from their salaries for a range of things.

[276] **Rhianon Passmore:** So, from your perspective, it isn't an issue. It's a non-issue, again, coming back to that particular point.

[277] **Mr Thomas:** Absolutely.

[278] **Rhianon Passmore:** So, with regard to the whole principle and concept of social protection—sorry, social partnership—in terms of the reasoning for why we have relatively strong industrial relations in Wales compared to England, you either accept that premise at the very beginning or you don't, and you either value that principle and that concept of sound, solid, strong industrial relations in Wales or not. With regard to the precedence of teacher strikes and junior doctor strikes in England, as far as I can see the case is very clear that we value that social protection, and all of these accumulations of issues are important in order to be able to protect that moving forward. So, in terms of your context around that question, then, you don't feel that there is any real issue in that regard.

[279] **John Griffiths:** Can I just add to that by saying that in answering this question, could you make it clear as to whether you support the Welsh Government's Bill's intention to disapply the check-off arrangements in Wales? I've got a note here that, previously, the WLGA suggested that mandating an appropriate charge for check-off would be a reasonable approach.

[280] **Mr Thomas:** I think from our point of view, we've always looked at cost recovery in terms of how we go forward. Frankly, you as a legislature shouldn't be involved in this. You know, we can sort this out at a local level.

This is something that we can sort out at the local level. I genuinely think there are things that are the preserve of local democracy and local government, and that relationship and how we do that can be done at a local level. And, as I say, the amounts of money involved are tiny.

[281] **John Griffiths:** So, why hasn't that been done up to now, then?

[282] **Mr Thomas:** Because I don't think anybody identifies it as a huge problem. You've got to remember as well that there's a large section of the Welsh local government workforce that's not in the trade unions, so there's not a cost there. But those who are, the cost of it—. You know, I could probably pick up a phone to a director of finance today, and they're not worrying about this; they're worrying about all sorts of other things. The cost of it is very low.

[283] **John Griffiths:** Would there be any practical or financial implications for authorities if the UK Trade Union Act's measures on these matters were to proceed in Wales?

[284] **Mr Thomas:** Well, you'd have to go through your payroll system and disapply it, wouldn't you? I suppose there would be a cost to that, but, again, I don't think that would be huge. It's difficult for me to comment further on this.

[285] **Mr Lloyd:** Some of the practicalities around this are to do with the intelligence of understanding who in your workforce is a member of a trade union or not. Because when local authorities went through that massive single status job evaluation exercise, that intelligence was useful to understand whether they were represented collectively through one of the unions or not. You'd have to do that individually. Even at a practical level, understanding of issues around where there's a disciplinary investigation and somebody's entitlement to be represented, understanding that it's an upsetting time if somebody's being accused of something, and understanding that they're a trade union member and signposting them can save a lot of time.

[286] I can remember at a practical level dealing with—perhaps I'll share this experience with you, because it kind of runs through some of this stuff around check-off, intelligence and facility time. I dealt with a disciplinary some years ago when I was in an authority: phone call, somebody had fallen foul of our rules, and immediately I found that they were a member of a

particular union. I don't think the misdemeanour was massive, but it was one that needed dealing with. I found out they were a member of a particular union, they had an official just down the corridor from me, I saw the official and said, 'Look, you've got a member, this has happened', they made a phone call, I made a phone call to the manager, and within probably two to three hours we'd concluded the investigation, concluded the disciplinary interview and issued a sanction. So, back to some of the questions earlier on about disruption to services—if we'd not had that facility or that intelligence, that could have taken a couple of days and that person would have been taken out of service, which would have affected our communities.

[287] **John Griffiths:** Okay. I'm keen to move on to ballot thresholds. I think, though, Sian has a further, hopefully brief, point on this.

[288] **Sian Gwenllian:** Yes. I just think that you're contradicting each other a little bit on this one, because Steve is saying it's not really a big deal, so therefore why are we bothering putting it in the Bill at all, in the Welsh Bill, and Jonathan seems to be saying that it's more than just the way the subscriptions are paid; it's about being able to recognise who are trade union members and therefore point them in the right direction.

[289] **Mr Thomas:** My point is that what's not a big deal is the cost. The actual process of check-off, as Jon said, there are many positive aspects to it. But as a cost pressure, it's not a big deal.

[290] **John Griffiths:** Is that okay, Sian?

[291] **Sian Gwenllian:** Yes.

[292] **John Griffiths:** Okay. Bethan on ballot thresholds.

[293] **Bethan Jenkins:** I can see from your evidence that you've commented on the important public services distinction that the UK Government has exemplified, but there's nothing in the evidence—correct me if I'm wrong—on your perception of the necessity to reach 40 per cent for the ballot. So, with regard to this Welsh Government piece of legislation, do you support them in taking that necessity away, and if you do, why, and if you don't, why?

[294] **Mr Thomas:** You've got to apply, in all these things, a principled approach, haven't you? If you're going to apply this to one part of the public sector, you've got to apply it in another part of the public sector. In local

government, we have people who are elected and don't get any votes whatsoever. They stand unopposed. The police commissioners—I think the figures I saw were that the police commissioners are elected by one in five, one in six electors across the UK. If we're going to talk about thresholds, let's be consistent and let's do it across all elements of the public sector. I think to apply it solely to the trade union ballot is unfair.

[295] From our point of view, we've seen some pretty low ballots in the trade unions, and we sometimes think, 'Oh well, you know.' In one sense, that's a signal to us about the level of support, but we understand as well that the way that people vote in trade union ballots at the moment really probably does need reform—it's a bit cheap and not very cheerful. From our point of view as well, what we want to do is make sure that we're dealing with the issues and not having a debate necessarily about the numbers, because the issues are the most important things. As I say, if we apply all these principles across the way that we deliver democracy in the UK, it would forbid people from standing for public office, almost.

[296] **Bethan Jenkins:** Am I hearing that you're saying that there could have been a discussion in this particular piece of legislation about how trade unions potentially use that ballot as a tool in the industrial relations box, or are you saying that, for now, this would be sufficient because, of course, some are saying that it would enhance the difficulties between yourselves as employers and trade unions, and that the evidence surrounding it isn't strong enough? But could this potentially have been a missed opportunity to say, 'Well, let's have a discussion about how that comes about in the first instance'?

12:00

[297] **Mr Thomas:** I think I'd support the Wales TUC view on this. I think it's an opportunity to start looking at how we get people to participate in some key decisions. I noticed yesterday, and I've got to say, it somewhat surprised me, the difference in terms of the ballot outcomes for the Tata pension deal, which went from 51 per cent with one union to 75 per cent approval at the other union. Now, I'm not criticising anybody for that, but that difference there—I'd like to know why there was that difference. It's clearly not the case that 49 per cent of those members do not care about their pensions. Why didn't they vote? So, I think there are some things to be investigated underneath these issues, and what I think we should be doing is a more glass half-full approach, which is basically looking to see how we can help people

participate, because I think the current—. We have union members with us who will sometimes say that they don't receive a ballot form—that they'd like to participate and they're ringing up union officials. It might be that databases are out of date. It might be there's a range of problems. I ceased being a member of Unison 10 years ago, and I still get all Unison's elections for their national executive. I assure you I do not vote, but I still get it. So, the databases—some of them really do need looking at, and I think—

[298] **Bethan Jenkins:** But you don't think that this is the place to do that, you think that it's a conversation for a different day.

[299] **Mr Thomas:** Absolutely, but I think it does need to be looked at, and I think that's where—. Perhaps you have ideas in this place about how you might help facilitate that, and I think that would be something very progressive that you could put into the work that you're doing on this Bill.

[300] **Bethan Jenkins:** My final question was, going back to the threshold again: do you think that it would affect the way public services are run if this wasn't taken out? TUC evidence says that they dispute the quoted estimate of £85,000 annual savings through reduced days lost to strike action. I think the way the UK Government were trying to push it was that we could save money by putting this forward, but do you have any sort of financial analysis as to why this needs to be taken out because of the way that it stops potential days lost, as opposed to that figure there?

[301] **Mr Lloyd:** I suppose, working on the premise that we have very few industrial action days within Wales compared with England, you can draw your own judgments as to why the UK Government have chosen those particular services. I think, in terms of your original question—and it may not be clear; it's paragraph 13 in the evidence, where we're saying that all public services are important, why distinguish and have a different threshold for one set of workers to another set of workers? It's the principle of equality, basically, why you determine that. Why not social care? Why not refuse? Why not regulatory? Why those particular services? You can draw your own—

[302] **Bethan Jenkins:** But that's your fundamental point, not the actual number of the percentage of the threshold.

[303] **Mr Lloyd:** Yes. The threshold will be drawn where they're drawn, and we could debate that all day in relation to all the different thresholds around ballots and appointments, but it's drawn where it is. I think what we are

saying is it should be an equal playing field for all members of staff.

[304] **Bethan Jenkins:** Thanks.

[305] **John Griffiths:** Just to add to that, of course, the UK Government has said that that distinction between some services and others, where the 40 per cent threshold applies or not, is based on the potential impact on the public's health and safety. What's your view on that?

[306] **Mr Thomas:** I'm trying to think back to the last time we had industrial action, and I think it was 2014. There were clearly issues at that time in terms of the impact of that particular strike. I think the thing it crystallised around was the closure, if I remember, of the Butetown tunnel at that time. Yes, there are problems; there can be problems, but, in a democratic society, there are trade-offs, aren't there? It's the right to strike versus the inconvenience to the public, and I think, from our point of view, what we want to make sure is that people don't go on strike, and I think we have a system in Wales that, with a few exceptions—we've had strikes—minimises the amount of days taken in terms of strike action. If you look at strike figures over the last five years, particularly within the climate that we've worked in—it has been a very hard and difficult climate to work in—but, at the same time, the strike figures are down at historically low levels in the Welsh context. It suggests a system that is working, doesn't it?

[307] **John Griffiths:** Finally, we have some questions on agency workers, and Sian Gwenllian will ask those.

<p>[308] Sian Gwenllian: Diolch. Ar hyn o bryd, nid yw'r Bil drafft yn sôn am weithwyr asiantaeth a peidio â'u defnyddio nhw yn ystod cyfnod o weithredu diwydiannol, ond mae'r Ysgrifennydd Cabinet wedi sôn efallai y byddai'n bosibl i ddod â'r agwedd yma i fewn i'r Bil hefyd yn ystod y cyfnod o roi gwelliannau ymlaen. A ydych chi, fel cymdeithas, yn cefnogi cynnig Llywodraeth Cymru i barhau i atal defnyddio gweithwyr asiantaeth rhag cyflenwi yn ystod gweithredu diwydiannol; ac os felly, pam?</p>	<p>Sian Gwenllian: Thank you very much. At the moment, the draft Bill doesn't mention the use of agency workers or, rather, not using them during a period of industrial action. The Cabinet Secretary has mentioned it might be possible to bring that aspect into the Bill also during the amending stage. Do you, as an organisation, support the Welsh Government's proposal to continue to prevent the use of agency workers from covering industrial action; and if so, why?</p>
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[309] **Mr Lloyd:** Historically, when we've had periods of industrial action, we've not used agency workers. There may be an argument that undermines the democratic right of the trade unions to invoke industrial action and, as has been said, the aim would be not to have strike action and to mitigate that through mature conversation and an agreed outcome. There have always been arrangements made with the trade union to cover what is called life and limb services, and generally, they're around social care, CCTV and those critical things that perhaps are not reflected in the UK Government's interpretation of important public services. We've never seen a need to cover with agency workers previously, and for that reason I guess we don't see a need going forward. What might be useful is some consistency around how we determine life and limb services. But I don't think that's necessarily a matter for the Welsh Government. I think that's a matter for local government and the trade unions to work together to determine what services we allow concessions to keep going.

[310] **Mr Thomas:** On this particular one, we're taking it to our members as well in our next executive board. I don't think we've got a formal policy position on it, but I anticipate very clearly that they will not want to see agency workers used in these settings.

[311] **Sian Gwenllian:** So, do you think that it is appropriate to bring it into the Bill?

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

[313] **John Griffiths:** Okay. Well, thank you very much for that. You will be sent a transcript of your evidence to check for factual accuracy. Thank you very much for coming along today, and for giving evidence to the committee.

[314] **Mr Thomas:** Thank you, Chair.

[315] **Mr Lloyd:** Thank you very much.

[316] **John Griffiths:** The committee will break for lunch until 12:45.

*Gohiriwyd y cyfarfod rhwng 12:08 a 12:46.
The meeting adjourned between 12:08 and 12:46.*

Bil yr Undebau Llafur (Cymru): Sesiwn Dystiolaeth 3
Trade Union (Wales) Bill: Evidence Session 3

[317] **John Griffiths:** Welcome back to committee Members. We now move to item 6 on our agenda today, which is evidence session 3 in our evidence-taking on the Trade Union (Wales) Bill. This session is to enable us to deal with health and social care sector issues. Could I ask you all to introduce yourselves briefly, please, perhaps starting with Andrew on my right?

[318] **Mr Cross:** Thank you. I'm Andrew Cross. I'm assistant secretary and solicitor for the British Medical Association Cymru Wales. I'm a full-time trade union official, which I've been for the last 24 years. Prior to that, I was a lay official in the Unite union for five years, so my whole professional time has been between industrial relations and employment law. I'm a member of the Wales committee at the Law Society, I'm a chair of Cardiff Law Centre, and a pro bono volunteer at the Cardiff employment law clinic. I'm also a member of GMB and Unite trade unions—just to get all that out of the way.

[319] **John Griffiths:** Thank you very much.

[320] **Dr Monaghan:** I can't keep up with that. I'm Dr Stephen Monaghan. I'm a consultant in public health medicine in the day job, and with the BMA I chair the BMA Wales legislation sub-committee.

[321] **John Griffiths:** Okay.

[322] **Mr Meredith-Smith:** Good afternoon. I'm Peter Meredith-Smith. I'm currently the associate director for employment relations at the Royal College of Nursing in Wales, so I technically head up the trade union arm of the organisation in Wales. I'm still—just about—a registered nurse. I've worked in the health service in Wales for 36 years in some shape or form, and have been involved in employment relations issues from the bedside, through to the board, through to the RCN.

[323] **John Griffiths:** Okay, thank you.

[324] **Ms Turnbull:** Lisa Turnbull. Policy and public affairs from the Royal College of Nursing in Wales.

[325] **Ms Watts:** I'm Lien Watts from the Social Workers Union, which is a long-arm union of the British Association of Social Workers. I am a qualified

and registered social worker. I hail from Wales, but I've only ever practised in England. I moved to BASW, as we call it, about seven years ago, and shortly after that the Social Workers Union was set up, so I became a trade union official. I'm now the assistant general secretary of the Social Workers Union, and I head BASW's advice and representation service.

[326] **John Griffiths:** Okay. Thank you, and thank you all for those introductions. By the way, don't feel that all of you have to answer every single question that is asked, because obviously we do have a higher number of you giving evidence in this session than is normally the case, but obviously, please feel free to contribute as you wish. Perhaps I could get us under way by asking the question, really, in terms of general principles and the need for legislation, and to ask you to comment on the extent to which the social partnership model contributes to the effective delivery of services in the health and social care sector. Who would like to—? Peter.

[327] **Mr Meredith-Smith:** I'd be happy to make a start on that for you, to get things going. It's interesting for us. I guess, by way of preamble, just to be clear: there is big interest in the public sector in this but, primarily, our expertise is in the health service, though the social care sector is becoming progressively more important. It is interesting for us because, in terms of the key issues that relate to the legislation in terms of ballot thresholds, we don't have a reputation for striking. We deal with things without strike and industrial action. In terms of the subscription agenda, we don't use check-off. We are relatively transparent in terms of issues around release time, but there is an incredible strength of feeling from the membership that I engage with about the fact that the legislation that was passed in England in some way undermines the principle of partnership working and makes some judgment about the way that we do things in Wales.

[328] We have an exceptional record in Wales of working in partnership, as I indicated in my introduction. I've been involved with the NHS for 30-odd years, and never had tougher times than the last several years, certainly since the advent of austerity and so forth. We have needed to do some really difficult things within the NHS in Wales in terms of service reconfiguration, re-engineering staffing models, difficult discussions around the terms and conditions of employment, protection of pay, and so forth. We have steered our way through that, and that has been achieved through very, very successful partnership working, and I give credit to all parties in that: the trade unions, the employers, Welsh Government. I have to say that, certainly from our point of view, we involve all of the political parties in that. It works

really very well, and there is an implicit criticism—is the view of our members—in terms of the legislation that was passed in England that that isn't the case. It does ire members—our members, certainly—and we think that the efforts of the Welsh Government to address the issues that fall out of the UK legislation, as it is, are right and proper.

[329] **John Griffiths:** So, would you then, Peter, offer a view as to whether the UK Trade Union Act would adversely affect the social partnership in Wales in the social and healthcare sector, and would impact on the delivery of those services?

[330] **Mr Meredith-Smith:** I think it will, and, particularly, the way that the National Assembly for Wales responds to this legislation will be very important. Times are tough out there. There are far more important things, in terms of industrial relations, that we can be working on, other than these issues. I think that what this is about is making a very important statement—this legislation. As I said, from our point of view as an organisation—and I'll leave other colleagues to comment from their point of view—the individual bits and pieces are not major practical issues. But there are bigger issues of principle in terms of whether the people we represent are servants of society, in the sense of giving service, or whether they are servile—because that's the way it feels in terms of this legislation. So, the big issue is how we—and I count my politician colleagues in that—give a statement to those front-line workers about the value of partnership and the recognition that there is not a tendency in Wales to man the barricades and somehow disable the NHS because of industrial grievance.

[331] **John Griffiths:** Okay, well, thanks for that. Would the other organisations like to offer a view on those same issues, please?

[332] **Dr Monaghan:** Yes, just to say, on the social partnership—I don't know whether we will deal with all of those; I presume we will do them in turn—but on the social partnership, to start with, the BMA is broadly committed to the principle of social partnership within NHS Wales. BMA Wales has always been part of the council arrangements. We remain on the staff side, and we remain committed to those. We have also actively worked with other unions on matters of common interest—just to take one example, the NHS pension scheme. But, overall, we are committed and believe—it goes without saying, really—that the NHS and the nature of healthcare are very labour—with a small 'l'—centric. Seventy per cent of the budget is staff. It's dealing entirely with human beings: the patients. Most of the interactions are with other

human beings: the staff. There is a lot of staff, a lot of people, in the NHS, and they are critical. We believe that the smooth running of the NHS is substantially underpinned by, in a sense, network arrangements, more so than totally relying on a top-down hierarchical management approach. So, you'd expect us to say that because networks are the epitome of professionalism, whether that's within a profession or inter-professional—it's kind of a horizontal form. Obviously, there is a strong place, we believe, for representative organisations and trade unions representing staff. The interface between employers and their representatives, trade unions, is central to getting an efficient working relationship for the benefit of the service and, ultimately, the patients.

[333] **John Griffiths:** Okay.

[334] **Ms Watts:** I have a little bit more to add. I totally agree with the comments that have been made so far. We operate across the UK, so we're not specifically in Wales. We don't have a separate section in Wales, per se. We have officers based in Wales who manage the cases that come up for us within Wales. What I would like to say is that the social partnership model that is promoted in Wales is very much aligned to the way social workers work generally and the way our union operates as well. We find it far more effective and useful to try and work in partnership with not only our members and our service users but also the employers. Where that happens, there is no doubt it works much more effectively and you make progress.

[335] The introduction of this Act did cause a huge outcry amongst our members and the feeling was that this was perpetuating or exacerbating the them-and-us scenario between trade unions and employers. So, everything that you are trying to do in terms of working closely with employers to reach solutions without going to the last resort of industrial action—as I say, it aligns very closely with everything we are and do.

[336] **John Griffiths:** Okay, thanks for that. I wonder if I could just ask the RCN to expand a little on its view that the UK Government's Trade Union Act undermines the balance between workers' rights and the rights of the public to receive safe and effective health services in Wales.

[337] **Mr Meredith-Smith:** Yes, sure. Interestingly, there's often a lot of conversation in this debate about the power balance between the employer and the employee—that tends to focus the discussion. I guess what we're saying, in terms of that statement, is that what we recognise is that we have

a responsibility, and you have a responsibility, to ensure that the services that are run for the population of Wales are effective and efficient and not compromised by industrial action and so forth.

[338] As we've said in our evidence, there's no history or evidence that the services to the public have ever been compromised. So, what we're saying is we recognise that we need to consider that as part of the debate. By effectively taking away the rights of workers to act democratically within the workplace to raise issues of concern—it's very concerning, really. We don't doubt that we all have a responsibility and the way that we work as an organisation is rooted absolutely to not doing anything that harms patients. So, why would you shift that balance and suggest and offend our members that that is the case?

[339] So, what we're trying to do, I guess, is recognise—and, actually, picking up on the point that this isn't about redressing any imbalance between employees and employers in Wales, because we do not have that difficulty—. We work together very productively, but we have to acknowledge that, as part of this debate, and the difficult decision that the politicians will have to make around this legislation—we are mindful of that balance about the responsibility to the public as well. We think that this does something that is totally unnecessary. There isn't a problem that needs fixing. Why has this been done?

[340] **John Griffiths:** Okay, thanks very much for that. In that case, we'll move on then to some questions from Rhianon Passmore on the check-off priorities.

13:00

[341] **Rhianon Passmore:** Thank you. There seems to be a theme so far today in terms of there being a non-issue and, if nothing is broken, don't fix it, but we are where we are. I'll stop my narrative there. In regard to check-off—and I'll speak to the RCN, actually, at this point—do you believe that the restrictions that we're trying to mitigate with this Bill moving through are necessary? And if we get rid of check-off in Wales without this mitigation Bill, what knock-on effect do you think that would have?

[342] **Mr Meredith-Smith:** In practical terms, as I said, it doesn't have a major issue for us. For the last 10 years, I think, predominantly our subscriptions have been garnered by other means—you know, standing

orders and all that. Collection of fees through union fees through payroll is a very useful way of doing things for other unions and we would support that.

[343] **Rhianon Passmore:** Does it need fixing?

[344] **Mr Meredith-Smith:** No, it's not an onerous task with the IT that we have at the moment. It's easily done. We collect other things through payroll in terms of charitable giving and other things. It can be done, and I think that it's about investing in partnership because partnership working is actually a very core function of an effective organisation, and strong unions are very important in that. Again, it's this focus on industrial action all the time; it's engaging with the membership that's really very important. And I think it's actually an investment in democracy. It's about enabling people if they want to participate in union work, to pay for that in a way that is simple, in effect, not a problem. It's never been an issue of dispute in Wales between the unions and management. It's another problem that doesn't need fixing.

[345] **Rhianon Passmore:** And the same question to the BMA, if I may, in regard to your approach to this horrendous issue that needs to be fixed. What is your view and can you clarify what you do?

[346] **Mr Cross:** Well, our position is rather similar to the RCN because we're a professional association. Most of our members, I guess, have bank accounts, and they tend to pay by direct debit. That's the usual thing. And also, obviously, they get a journal and all the rest of it with that. So, that's the way that we operate. Having said that, we work in partnership with other trade unions. And from my own trade union experience, I don't understand, in a day of a sort of cashless society, why people are getting hung up on this, really. I think, if there is still a proportion of people out there who haven't got access to bank accounts and so forth, then they need to be accommodated, and, you know, I think that's got to be right. Rather, it's such an old debate—it reminds me, actually, of the debate about people being paid by bank transfer as opposed to in cash; it's about at that level, really. So, I think it's a bit in history, but we would want everybody to be included. So, if people can be excluded by not having access to check-off, then I think that's regrettable. Our view would be we want as large a tent, really, as possible.

[347] **Rhianon Passmore:** So, in order to enable those constructive industrial positive relationships that we have with health in Wales, you would say that this is advantageous in terms of being able to democratically input and to

propagate and progress those good and healthy industrial relations in Wales. And obviously I'm not going to mention the junior doctors' strike.

[348] In terms of social work, and you've got a slightly different arrangement, haven't you, holistically—?

[349] **Ms Watts:** Well we don't use check-off either, and we collect our subscriptions via direct debit or standing orders, cheques, whatever. But that said, we don't have a problem with check-off. It does seem to be used by the bigger unions, the recognised unions in employers, usually local authorities. But from our point of view, if it's what the member wants and it's not any strain on the public purse—and as I understand it, there are contributions made to cover the cost—we just don't feel that it's necessary to legislate for it; it should be a matter of personal choice. And I think, for us, it seems to undermine the value, or does nothing more than undermine the value placed on trade unions in the workplace, and—

[350] **Rhianon Passmore:** So, to just clarify what you say, you feel that—and I don't want to put words into your mouth; I'm just trying to understand what you're saying to me—. Would you say that, in terms of the UK Act, without this mitigation in Wales, that this would have an effect on, potentially, union membership in Wales? I don't know if that's possible for anybody to comment on.

[351] **Ms Watts:** I can comment.

[352] **Rhianon Passmore:** Yes, if you wish.

[353] **Ms Watts:** Speaking to colleagues from the other unions, that was the fear, that they would lose members as a consequence, that, particularly in these times of austerity, people are looking at where their money's going and they may not remember or it may not be in the forefront of their mind to maintain their trade union subscriptions.

[354] **Rhianon Passmore:** So, potentially, a knock-on effect that could happen as a result of this—

[355] **Ms Watts:** Yes.

[356] **John Griffiths:** Can I just intervene, briefly—

[357] **Rhianon Passmore:** Certainly, Chair.

[358] **John Griffiths:** —just to say that, if you believe, then, that the proposed restrictions on the check-off procedures would adversely impact on social partnership in health and social care in Wales, could you explain why you think that's the case and, if you also believe that there would be an adverse impact on the delivery of the services, health and social care services, in Wales, could you explain why that would be the case as well?

[359] **Mr Meredith-Smith:** As I said, we do need to look at these things in the round in terms of the message it sends. It's very reasonable to look at the individual parts of this. Union membership is protection for people, isn't it? It's not just—. There's an assumption that union membership is about, when you're in trouble, you need representation, or it's about joining up to an organisation that is at odds with management. But the range of support that is available to members is very significant in terms of service safety and quality.

[360] The union support that we provide, for instance, keeps people out of trouble. They have access to advice; they have access to engagement with professional staff who can support them. What we need to remember—maybe we'll get on to this in the conversation later—is that the bulk of trade union work, certainly as seen by the people who act as our representatives, is something of a civic duty in a sense, it's doing work that is valuable and contributing to the health service. The bigger the pool of people we've got to draw upon for that, the better, I think, for the health service.

[361] The bulk of the work that the representatives—volunteer and paid reps—who we support in the RCN engage in is actually partnership work. It's about working with the management of organisations and stakeholders to re-engineer the services to deal with the real challenges that we've got at the moment. It isn't a levy to enable industrial action or to create tension with the employers. It's about resourcing a very important part of service delivery. The challenges won't be met and the services won't be delivered at the pace that we need it to happen, in terms of the challenges that we're all facing at the moment, unless we engage with the people who are delivering those services to seek solutions from them and to have them on board. The bulk of trade union work that we engage with across the field—and I think I could actually speak beyond the RCN on this, wearing my chair-of-the-partnership-forum hat—it's partnership work that we're engaged in, working constructively with the NHS in Wales to tackle the challenges that we've got,

to modernise the services. The more people we've got on board with that, the better. The more people we've got in our membership who we can help to keep out of difficulties in terms of the industrial setting, the better.

[362] **Rhianon Passmore:** Can I just ask, Chair, if I may, in terms of—? You've mentioned—one of you mentioned—a shifting of the balance in terms of those delicate conversations that occur and all of the work that occurs behind the scenes in terms of avoidance of industrial action. Although I'm speaking particularly to this one element of our mitigation in terms of our Bill around check-off facility, do you feel that the collective mitigation of the Wales Bill will go far enough to be able to protect industrial relations in Wales compared to England? I don't know if the BMA would like to comment on that.

[363] **Mr Cross:** We're moving on to industrial action and those issues, are we, with—

[364] **John Griffiths:** I'd prefer to stick with check-off—

[365] **Mr Cross:** Well, if we can stick with check-off, I think the point about check-off, I would say, is that the unions are stronger together and I would be very unhappy, and I know that a lot of my members would be very unhappy, with the thought that there were people who were being excluded from the process by virtue of the fact that there wasn't a proper system in operation for collecting their subscriptions. Hospital work, in particular, which I know something about, is very much part of the team. Whatever people think of consultants, I can assure you that they know the people in their team. I walk around the hospitals all the time and I know who's friends with who, and I can assure you that it goes right across the piece, from everybody, from the chief executive to whoever at the other end of the spectrum. That's the point: it's a team thing, and we wouldn't want to see any body being formed, in terms of trade union activity, that wasn't representative of everybody that worked in the workplace. That's in nobody's interests, so—.

[366] **John Griffiths:** Okay, and Lisa.

[367] **Ms Turnbull:** I just wanted to add as well that it might be worth considering not just the impact on union relationships at the national level, but also on membership, and I think times are very difficult, very stressful for members—our members and members of all other unions. People are

working very, very long hours. They're working extremely long hours and they're often caring for elderly relatives and young children at the same time. They often have to travel long distances on public transport. In that kind of atmosphere, where people are very tired, even something that may seem as relatively trivial as, 'You have to now change the way—you have to create a standing order, you have to create a direct debit', is just one more thing that people then have to fit into their schedule, and the impact of that, I think, if it were to be sort of announced collectively, I think you would see a huge—we would see—a huge outcry from people just feeling that that was just yet another issue. So, I think the impact on the convenience for people's lives, really, is a very significant point in terms of protecting that goodwill and those relationships within the NHS.

[368] **Rhianon Passmore:** Okay, thank you.

[369] **John Griffiths:** Can I just ask, as well, in terms of the cost to public sector employers of providing the check-off service, do you think it's appropriate and reasonable for the trade unions to meet those costs?

[370] **Mr Meredith-Smith:** I'm not in a position to comment on that. I don't have any detailed briefing in terms of the costs themselves. My knowledge in terms of the way that the—. They're pretty insignificant, really. I think there are other issues of cost that would benefit from addressing. I mean, if we think of a situation—. I gave an interview this morning to the BBC about a situation in the NHS at the moment in terms of the staffing pressures in the service. We know from information that we garnered from members recently, in terms of the amount of work that our members are doing free, really, for the NHS in terms of run-over times and staying on the end of shifts because they can't cover shifts and stuff that they're not getting paid for, in terms of the cost of the agency bill that could be—it's probably about 1,000 staff nurses per annum in terms of the agency bill. There are other issues of cost that I would be focusing on. Money is a very important issue, and value for money is a very important issue, and transparency with the public. I can't imagine—as I say, I would reiterate, I'm not sure of the detail of the cost of that—that this is a major issue that we should be having discussions or passing legislation on if we want to address cost issues in the NHS.

[371] **John Griffiths:** Okay, and Andrew.

[372] **Mr Cross:** I don't know the individual cost, like Peter, but I do know that there are other things that are deducted from pay automatically, like

hospital social clubs. Now, I don't think anybody's suggesting that that's an inappropriate use of public money to do, but I think it's—we really are dealing with the minutiae here, and, if hospital social clubs are okay, I can't really see the problem with making a deduction automatically, electronically, for a trade union membership, if that's what people want. That'd be my take on it.

[373] **Dr Monaghan:** I agree with that. I think there are, ultimately, deductions for things like paying for a bicycle to go to work. So, there are lots of deductions. As far as I'm aware, the cost of doing this is pretty negligible, I would have thought—not I'm an accountant.

[374] **John Griffiths:** Okay. And Joyce.

[375] **Joyce Watson:** Just to try and get some understanding by those who might not be involved in this, are we talking about a cost that you just set up when you're setting a pay system for somebody—just a one-off cost of putting it in the computer so that there is a deduction? Is it really that simple?

[376] **Mr Meredith-Smith:** There's a starter form when you start in the NHS, and it'll be one of the fields on the form. That is easy enough. The important thing is the governance around it: we need to remember that people are not forced to do this, it's a choice that they make, and we need to have systems in place that enable that to come off the database as well. But, if you see the NHS starter form, it's got the range of things you fill in and that's an option that you tick, and then it's on the electronic pay system, essentially, which will deduct things like bicycle payments and childcare vouchers and charitable giving and so forth. The system's relatively sophisticated. I don't know whether you could apportion a cost to the trade union bit of that, really, to be honest, so I can't comment on that. I don't know if that's helpful.

[377] **Joyce Watson:** Yes, it is, because it's about getting a picture, isn't it, an impression. So, it would be part of a form, and it would be a tick box, or not, within the same form that would have cost implications in any case. Is that what you're saying?

13:15

[378] **Mr Meredith-Smith:** I suspect, again—I mean, I'm speculating a little

bit—when we’ve got a situation when we can’t get enough staff on the wards to give clinical care, I hope that we don’t have people sitting in offices with the sole purpose of collecting union dues. I think it’ll be the administrative function supported by the IT, which is the payroll, hopefully. Hopefully.

[379] **Joyce Watson:** It was just to clarify; that’s all I was trying to do for—

[380] **John Griffiths:** Okay. Well, thanks for that—

[381] **Dr Monaghan:** Just on that, looking back historically, I think we used check-off years and years and years ago. We moved to direct debit originally because junior directors, who are a particularly vulnerable hardworking group, moved every six months, so there was a question of having to re-set it up and there was a new technology called ‘direct debit’. It wasn’t that we have a problem with check-off, but we do it all by direct debit, not because we don’t agree with check-off—it’s a perfectly reasonable way of doing it.

[382] **Joyce Watson:** Thank you.

[383] **John Griffiths:** Okay. Lien, did you have anything to add at all?

[384] **Ms Watts:** No, except to reiterate that it’s a matter of personal choice. I think even very small employers have the systems in place, so the costs are minimal to do these things. So, I do think it’s an unnecessary discussion. I understand that the larger unions do, in fact, make contributions to the larger employers for this facility anyway. I don’t have any idea what those costs or contributions might be, but, as I say, for me, as long as it is a genuine matter of choice, then I don’t have a problem with it. Like the junior doctors, social workers tend to move around from time to time, and, as I say, we’ve never ever used check-off, but I just think it’s not a problem.

[385] **John Griffiths:** Of course, just to be clear, we’re talking about the UK Act restricting check-off and changing the system, rather than abolishing it entirely, but I think you’re all clear on that. Yes. Okay, well, thanks very much. If we move to facility time, which we’ve touched on already, could I begin by asking whether the proposed restrictions in the UK Act on the right of union officials to facility time is likely to adversely impact on the social partnership and the delivery of health and social care services? Could I invite views on whether that’s likely to be the case or not?

[386] **Mr Meredith-Smith:** Yes. It’s another of these issues: if it ain’t broke,

why fix it? I would reiterate the point that I made earlier on. I did a little bit of preparation yesterday to get a sense around the scale of the facility time issue in the RCN, and I found it even surprising myself in terms of how much of a non-issue it is in terms of the paid hours, really, in terms of the cost of it. I may not be able to go into detail with that, but I'll think about that, depending on how the questioning goes.

[387] But, again, I would make the point that the representatives, the accredited representatives, that we have across Wales are predominantly volunteers. A small percentage of them are actually benefiting from paid released time to do that. Most of the reps that we support are doing it in a voluntary capacity. Much of the work that we undertake—. The bulk of the work that the paid reps would undertake would be supporting the partnership agenda, as I've said. It will be things like RCN members sitting on boards to support the governance of the organisations. It might be chairing local partnership forums. It might be engaging in work within those partnership forums, which is about dealing with service pressures and modernising the services. So, inevitably, if there's what is perceived as an attack on facility time, yes, it would have an impact in terms of partnership working, undoubtedly, because the bulk of the paid hours, certainly for our staff—I've had a good look at the individual names, and so forth—are people that are not, again, spending hours each week planning industrial action or thinking about how we can fall out with management again next week. They're actually spending hours of time engaging in work streams that are set up by the health boards to try and tackle the problems that we're facing and to move things forward.

[388] **John Griffiths:** Okay, and is that 'yes', Andrew?

[389] **Mr Cross:** I think we could echo that. In the BMA, a large amount of the time that's spent, as you say, is exactly—it's responding to the management agenda, and the other part of it is representing members who find themselves the wrong side of a management decision. So, that's the work that's done. A large part of it, certainly for our members, because, clearly, they have operating lists and out-patient clinics and all the rest of it, they end up doing it in their own time, so it's very much a voluntary activity. We don't have any full-time seconded people. They employ people like me to go and represent where that's necessary, but we do have quite a lot of local representation that's done. We have a network of local negotiating committees whose sole purpose is to meet with management in each health board and NHS trust in Wales and to negotiate the agenda that's there. A lot

of what we do is responsive, and we don't certainly have any great benefit from facility time—it's just fitted in around things. We ask for some time in the job planning process, but that's about all. The junior doctors don't have that benefit, so it just has to be fitted in around their work.

[390] **John Griffiths:** Okay. Perhaps I could ask Lien, in terms of the Social Workers Union, how not having facility time affects the way that the union operates.

[391] **Ms Watts:** Well, it doesn't impact on us in any way, because all our officers are employed by the association, and we don't operate with local shop stewards or whatever. We have recently reintroduced a workplace volunteer scheme, so our members can put themselves forward as workplace volunteers, but they are not expected to represent members, for example, and they tend to do it, as the name suggests, in their own time. So, I'm not sure that I can give you any further information. I think, for smaller employers, it might be more of an issue, but I don't think I'm in a position to comment on that.

[392] **John Griffiths:** No, that's fine. Is it on this particular point, Jenny?

[393] **Jenny Rathbone:** Facility time, yes.

[394] **John Griffiths:** On this particular point of facility time with social—

[395] **Jenny Rathbone:** Well, I wanted to pursue some of the issues that were in the BMA paper.

[396] **John Griffiths:** Okay. Bethan, are you on the Social Workers Union point?

[397] **Bethan Jenkins:** Directly on this, yes. I just wanted to understand: if you're not paying somebody through that facility time, and it's mostly voluntary, why have you taken that decision? Is it because you're set up in a different way to some of the other trade union organisations? If you are not, would you be minded to look at that? Obviously, I don't feel potentially you may be able to answer in the same way if you're not actually engaging in that very process.

[398] **Ms Watts:** We're a fairly new union. We've only been operating for six years as a trade union, and prior to that we had an advice and representation

service through the British Association of Social Workers, which was, as the name suggests, advising and representing our members. In both arenas one of our unique selling points, if you like, is that we are independent of the employers, so, for us, that's the way we want to be. However, as the union grows and as we want to develop the union, we would want to reserve the right to have that long-held and long-fought-for opportunity. Again, it's going back to: what's the value placed on trade unions? Are they the opposition or are they a valuable, democratic part of the process to work with employers? If you value them in that way, then why would you not enable some of your own staff to give some of their time to do that work?

[399] **Bethan Jenkins:** So you'll be working towards providing that type of—

[400] **Ms Watts:** I can't say it's in our minds at the moment, but there's certainly no reason why we wouldn't move towards that eventually. As I say, from my point of view, even though we don't use it, I feel very strongly about the role of trade unions in positive industrial relations.

[401] **John Griffiths:** Okay. Peter.

[402] **Mr Meredith-Smith:** I just wanted to come back on that point, perhaps to clarify. We've got three ways that we do things, I guess. We have full-time officers that are engaged with some of the more technical aspects of representing, when we've got members in significant difficulty, usually, or negotiating some of the bigger issues around employment relations. Our preference at all times is to work with volunteer reps, because generally you're then working with people with real commitment. That's usually the starting point on a journey to paid hours.

[403] But I think a point that I wish to emphasise is that we certainly, in my experience, working in the Royal College of Nursing over the last six years, have never had to go banging at the door of HR directors and chief execs demanding paid hours. It's usually them offering that resource to us, because there is a consequence, as Lisa has alluded to, in terms of the volunteer model. From our membership, we're largely talking about front-liners, they're working very long hours, so that when they're doing the volunteering, it's in their own time. So, it's a measure of, again, the partnership that the employers recognise that; they want to put some money into the pot that can buy some time to free those people up in terms of key pieces of work. It addresses an opportunity cost, doesn't it, as well, because some of the work that needs to be done can put pressure on the front-line

service? So the way that that facility time works: we're not talking about people who are pulling a salary because of the union work they're doing, it's usually creating a sum of money to pay this medical ward to release that staff nurse or this sister to do union work, where they can buy some bank or agency time or what have you. It would be great if the staffing were so great in Wales that we could accommodate those pressures. So, I think that's worth understanding.

[404] We do not, in any aggressive way, say, 'We're not going to participate in partnership unless you give us hours.' These are negotiated agreements. I'm personally aware of all our paid agreements across Wales, and always, when I have discussions with directors of HR—I meet them usually twice a year on my rounds—we have conversations about how that's working, whether they feel they're getting good value out of that, because there's an interest in us doing that, in terms of ensuring that that money is spent efficiently and that we're getting good value out of that. If it's working well, we're very often able to get a bit more cash out of them. But they're not huge sums of money—really interestingly, when I looked at it, they're not massive.

[405] The other point to make—

[406] **Sian Gwenllian:** Sorry to interrupt, but it would be interesting for us to have some idea of the costings.

[407] **Mr Meredith-Smith:** I'm on tricky ground here, because I always get a slapped wrist when I disclose stuff like that, but I looked at it today: we represent 25,000 members in Wales, we're involved in every NHS organisation in Wales and, at the moment, in terms of the data that I ran off this morning, it's the equivalent of—the paid hours, not the volunteer—about 12 whole-time equivalents of staff. If you could get 12 NHS consultancy workers for the money that you're paying out and the value you're getting from those reps, I think you'd be well pleased as a member of the Welsh public. It's money that's very, very well spent and, as I say, I don't get HR directors or chief execs banging on my door saying, 'We need to claw this money back to pay for front-line services because it's of no value to us.' It's recognised as money well spent in terms of engendering a culture of partnership and co-operation in a service that is really complex and dealing with extremely challenging issues at the moment.

[408] **John Griffiths:** Okay, Peter, and I think Jenny—.

[409] **Jenny Rathbone:** Clearly, the important work being done during facility time, I think, is not the issue. The issue is how onerous would it be to publish information relating to it. If I could just ask the BMA: your members elect the people who are going to represent them on the local negotiating committees, and presumably you backfill these independent practitioners with locums; is that how it works?

[410] **Mr Cross:** Not quite. There's obviously another whole cadre of trainees and also what we call non-consultant career grades who work in teams with our consultants, so it would depend on the matter. The first thing to be said is our members have to give six weeks' notice to go to a trade union meeting, so you don't just drop tools. You can't cancel an operating list or a clinic, as obviously people, all of us, who use the NHS wouldn't be best pleased that our long-awaited appointment had been cancelled. So, that has to be done, and such backfill as there is has to be done by the team. It does put pressure on our members who are involved. This is one of the difficulties that we have in getting people involved in negotiating activity, because, clearly, when you've studied for lots and lots of years, as our members have, the top priority isn't necessarily going to be negotiating with the HR department. Some do do that, but it is difficult, because the members, by and large, want to be doing their clinical work first and foremost, so the rest of it gets done in their own time and around the edges. So, that's why we don't really get into this situation of facility time.

[411] **Jenny Rathbone:** So, even when you've got people representing your members on the local negotiating committees, the BMA doesn't normally backfill the locum required; it's normally the health board—

[412] **Mr Cross:** The local negotiating committee tends to take place out of working hours, so it's not when operating is taking place, by and large. Also, if it's an external meeting where we're having to meet with management in a proper face-to-face negotiation, then that's going to have been done with notice. So, arrangements will have been made; so, this will have been shifted to fulfil that.

13:30

[413] **Jenny Rathbone:** What I'm trying to ascertain is who might have the information. Who is the guardian of the information about how much time your members are spending on facility time? Is it something that's easily obtainable, or is it a variety of people doing it in their own time after work?

[414] **Mr Cross:** The HR departments obviously have all the job planning information, and it all goes to the Welsh Government. So, it's all stored—all of that information. So, yes, it's all there; it's all open. Every consultant has an annual job-planning meeting and this is one of the factors, if they do BMA activities that comes up. As I say, by and large we don't sort of negotiate a specified number of sessions for trade union work. We have looked at that, but it's so few and far between, it's quite hard to get a handle on what it would be regularly. It's really at the minimal level, you see, for our people. That's why they have full-time officials like myself to assist with that. That's how we manage it.

[415] **Jenny Rathbone:** So, as far as you're concerned, the whole thing is an irrelevance because there's such a tiny amount of time involved, and the RCN have already—*[Inaudible.]*

[416] **Mr Cross:** I wouldn't say 'irrelevant', but it's not the biggest thing on anybody's agenda, I think.

[417] **Jenny Rathbone:** If the cost of collating the information is more than—you know—it's—.

[418] **Mr Cross:** Oh, yes; it's disproportionate. Yes, possibly.

[419] **Mr Meredith-Smith:** Can I come in on that point?

[420] **John Griffiths:** Peter, yes.

[421] **Mr Meredith-Smith:** I think it's a really, really important question, clearly, in terms of transparency, the information that's available to the public that we serve through the NHS, and whether we're spending money appropriately, particularly in really tough times. I do have a worry about it. I don't think it would be a complicated thing, and I could go into some detail in terms of the way we govern that, and I think you'd be happy with that. I think there's a bigger issue. What we're talking about here is something that concerns us, because what we're talking about here today wasn't an issue. Somewhere else has made this an issue. Right? It's a really difficult sort of situation, and it's an element of using the NHS as a political football. I think that that's the risk that we've got in terms of how we handle this information. We're all for transparency. As I said, having a look at this in terms of preparing for this, and checking that I can look you in the eye and

say these things, I think people would be very impressed by the value for money that they get. But the only time we get asked these questions, our chief executives—. It's the Taxpayer's Alliance doing freedom of information checks. It further makes the NHS a political football; it further undermines very productive employment relations in the NHS. I think that we need to think that through. I think we do need to think about how we're transparent about these issues. As I said, that money effectively is public money. We need to be answerable for that. There are other far more important things that we need to be giving detail on in local health board annual reports and so forth. It's not that it's a secret issue for me; it's an issue about why we're having this conversation and where that takes us, because we don't want the NHS in Wales to be a political football distracting us. We want to be working together to sort out these very difficult situations to take the service where we want it to be for the benefit of the citizens of Wales. The real risk is that, once you get into that, all of us will be involved in press inquiries and freedom of information and what have you. It's unnecessary. The scale of it is small.

[422] **John Griffiths:** Okay. Well, thanks for that, Peter. We need to move on. Bethan, you had some questions on ballot thresholds.

[423] **Bethan Jenkins:** Well, I think it's quite timely to ask this question today, when some of the staff at Abertawe Bro Morgannwg University Local Health Board have gone on strike in relation to pay. I just wanted to understand your views on the 40 per cent marker that's in the Act from the UK Government. I think you've all more or less said the same thing, saying that it's unreasonable, unnecessary and has no basis, but I wanted to understand why exactly you said that and whether you could comment on the UK Government saying that they wanted to focus on the fact that it could jeopardise people's security and health if this wasn't put in place—that's part of their rationale for putting this 40 per cent limit or bar on the ballot for industrial action.

[424] **Ms Watts:** Shall I comment?

[425] **John Griffiths:** Okay. Yes.

[426] **Ms Watts:** Where was I going to go with this? I think I would like to bat the question back to the UK Government: what evidence do they have for bringing this measure in, despite what might have happened today, or indeed what happened with the junior doctors? So, I think there have been

fewer strikes taking place within public services over recent years than there have ever been before, and that's despite austerity and the extremely challenging times that we're all working in and we're all up against in terms of cuts and so on. Nevertheless, we still carried on; we still work very hard; we still provide the service to the public, who are the most important people here. So, why is it necessary? It's back to that same question: why is it necessary to introduce this just for public services? You know, what is the Government's agenda? Where is their evidence for this requirement? I certainly know that social workers aren't prone to taking industrial action, and I think I probably would say it's the same with my colleagues. We're in—for the want of a better expression—the caring professions. Our service users are the most important people, but we would want to reserve the right, as a last resort, to take action as necessary, in the same way as any other employee should be able to in this country. Again, it goes back to the feeling about the importance of trade unions and what they do. It doesn't necessarily mean that there are going to be more strikes or there's suddenly going to be this outbreak of industrial action. For me, on the contrary. I think it's more likely to cause such resentment and be seen as another attack on the trade unions. There is the potential that it could make members even more inclined towards militancy.

[427] **Mr Meredith-Smith:** I can't answer for the UK Government—as a trade union manager or a mental health nurse, actually. I couldn't comment on the logic for some of their thinking. It is disrespectful in terms of—. You know, is it for us to set legislation to dictate the democratic processes of organisations such as ours? I think it shows a naivety in terms of the way industrial relations work. We don't have a tendency to strike. We never have, actually. It's within our gift to do so, although we've got very severe restrictions in terms of what industrial action that we can take. But it's a no-brainer. When we have had recourse to ballot, any person with any experience of working in a trade union is hardly going to be recommending strike action if you've got a 15 per cent response rate on a ballot. It just beggars belief, really. We very seldom need to get to that situation. It's just unnecessary. I just do not know what the thinking is. For it to be done in the public sector is discriminatory, isn't it? What's wrong with all sectors? With a predominantly female workforce, and all those issues, we could sort of think that through. But again, I don't understand the logic for doing it. If it ain't broke, why seek to fix it? But we would be absolutely insane if we proposed any form of industrial action—and that doesn't need to be a strike; it can be other things—on the basis of flimsy ballot results. It beggars belief, really.

[428] **Ms Turnbull:** If I can just add as well in terms of any kind of negotiation that takes place, one of the things that's really helpful is to be able to say, 'Start with what you have in common'. So, the interest of the patient, the interest of the public. The second thing that's really helpful in forming common ground is to be able to say, 'We're taking this off the table', and that really does help in that relationship of trust, that stability of the relationship. Now, if you don't have the ability to say, 'We're taking this off the table', you can't claim the credit for it. So, in a sense, it undermines that relationship of trust right from the start because it implies that the trade union people might be irrational or take action that would damage the public interest. So, by being able to have the ability to say, 'We could do this, but we are not going to', then I think that actually really does help in terms of that negotiation process. I think that kind of negative action—

[429] **Bethan Jenkins:** Couldn't that still happen, though, about getting to the 40 per cent marker? It could still happen, but the bar would raise—to be devil's advocate.

[430] **Ms Turnbull:** Yes, and I think what we're saying is that it's unnecessary to make that—

[431] **Bethan Jenkins:** To make that arbitrary—

[432] **Ms Turnbull:** Precisely, because that is part of that relationship—the overall relationship of trust. So, I think that's possibly a different angle in perceiving why people would want to retain that ability. It's almost because it's that gesture of trust that you have that ability; that's not an ability that you're necessarily going to use wilfully or against the public interest, which we certainly would never do.

[433] **Mr Meredith-Smith:** Are our members in Wales so disenfranchised that we'd do this? Do we have this long history of forcing people to take industrial action that we need to be talking about this in legislation? It's really—

[434] **Bethan Jenkins:** So, you dispute—. Obviously, from the TUC evidence, they quote that the UK Government said it could estimate annual savings of £85,000 through reduced days lost to strike action. You dispute that potential saving and that this could create more problems down the line.

[435] **Mr Meredith-Smith:** Certainly in the Welsh context. We've never been on strike. In terms of when those situations do arise, industrial action has

been taken by other unions. We've always got this life-and-limb agreement. We support each other in that. Interestingly, there's a very symbiotic relationship between TUC unions and the RCN, because there's a recognition—. We don't have any difficulty crossing picket lines, because unions reserve the right to demonstrate, to make a protest, but we've got a healthily bizarre situation in the health sector, don't we, where we're having conversations, within partnership, across the unions, saying, 'Right, we've got to send a message that this is so important that we have to have some sort of industrial action'—not the RCN—

[436] **Bethan Jenkins:** But you are providing the life-and-limb element, then, when they're off, is it?

[437] **Mr Meredith-Smith:** Yes, and they're saying, 'We're not going to be giving you any grief when you cross the picket line.' It's the life-and-limb thing, and, in fairness, the other unions in the health sector—I've never seen them anything but responsible in those circumstances. The TUC unions are what we're talking about.

[438] **John Griffiths:** Stephen, did you want to come in?

[439] **Dr Monaghan:** In the BMA's experience, when we've taken industrial action, it has been on decisions above this threshold, as it so happens—very strong, like with the junior doctors, who were above this. So, it wouldn't really have made much difference to us. However, it does seem odd that this would be applied only to the public sector when, arguably, even bigger decisions were made in referenda on devolution, on Brexit, without—they wouldn't have reached the 40 per cent threshold, and yet, we made huge decisions with both of those. Possibly all of our MPs wouldn't be elected, because they don't get to the 40 per cent threshold, et cetera. So, it does seem a little bit odd, or maybe even draconian. However, it wouldn't have been a problem, but we still wonder why one would do this only for trade unions and not for any other democratic decisions.

[440] **John Griffiths:** I think we'd better move on, then, to our final area of questioning, and that's agency workers, and Sian Gwenllian has some questions.

[441] **Sian Gwenllian:** Roeddwn i jest **Sian Gwenllian:** I just wanted to hear isio clywed beth yw eich barn chi what your opinion is regarding the ynglŷn â gwahardd gweithwyr use of agency workers during

asiantaeth i gyflenwi yn ystod industrial action and your opinion on gweithredu diwydiannol. Beth yw eich that, banning the use of such barn chi am hynny? Hefyd, wedyn, a workers. Then, do you think that a ydych chi'n credu y dylid cynnwys section should be included in the adran am hyn yn y Bil newydd yng Welsh Bill? Should we be continuing Nghymru? Hynny yw, a ddylem ni fod with this ban on the use of agency yn parhau efo gwahardd gweithwyr work during industrial action as part asiantaeth yn ystod gweithredu of this Bill in Wales? diwydiannol fel rhan o'r Bil yng Nghymru?

[442] **Mr Meredith-Smith:** Shall I go first? Diolch yn fawr. Our position is quite clear: that we don't want to see a situation where agency workers are being brought in to strike-break. My previous comments apply. It's a thing that does need fixing anyway in terms of the way that industrial disputes are managed. Where you get these people from, I'm quite doubtful about anyway, because there's not a huge pool of nurses that I'm aware of, and if we can find them, we'll pass them out some RCN membership forms, I think, because we need to make sure that they're protected. It's not a good way of doing things. We ensure that life-and-limb services are provided during industrial action. Again, from the RCN's point of view, we've never taken that form of action, anyway.

[443] We have concerns about the use of agency staff anyway, in the NHS, because there are huge issues of clinical governance there in terms of continuity of care and people being parachuted into clinical areas that they're not familiar with. So, in really practical terms, it's not a good way of solving a problem that doesn't exist. It is not a sensible thing to do. I don't know where you're going to get them from, because, as I keep explaining to people, we don't have this huge resource of nurses in Wales who have chosen to opt out of the public sector, to which they are all extremely dedicated, to make a fortune doing agency. They're usually doing it to supplement the poor wages that they get in the NHS for the work that they put in. Being RCN members, if they were in dispute, they wouldn't be able to do it on the agency as well. So, it's not a practical solution, but it's not a good thing to do. Again, it's a further indication of a message being sent out that we've got such dreadful industrial relations and employment relations in Wales—and our members are being taken advantage of because of a lack of democracy—that this needs to be done. That's not a problem.

[444] For nurses and front-line staff generally, whichever union they are in,

it's never been a problem in Wales. It's a problem that does need fixing. If we do look to that as a fix in these circumstances, there are a lot of significant risks to patients in that, because if you can't use our members to do it, I don't know where you're going to get these members from. They're going to be parachuted in to circumstances that are very unfamiliar to them; all sorts of risks around continuity care and patient safety.

13:45

[445] **John Griffiths:** Okay, well, we're over time, I'm afraid, but I can see, I think, general agreement with the points that have just been made. Is that the case, or has anybody got a contrary view?

[446] **Sian Gwenllian:** I'd just like to have your view, because I don't think the view of your union is in black and white yet.

[447] **Ms Watts:** Okay. I'm not aware of agency staff being brought in. As I said earlier on, I can't think of a time when social workers have gone on strike in recent history. I have actually gone on strike as a social worker, but it was many years ago, and there was certainly no appetite at all to use agency staff at that time. Generally, social workers—there are a lot of agency social workers in the service across the country. I'm not quite sure of numbers, certainly not within Wales, but I would say in England a large number of social workers are moving across to agency work. That's a whole other subject.

[448] **Sian Gwenllian:** I'm just interested because the UK legislation would allow the use of agency workers during strikes, and the Welsh Government is minded to bring in legislation as part of the Bill that would ban it in Wales.

[449] **Ms Watts:** Again, I think it's undermining the relationship between trade unions and employers, and it's this negative—'Let's make life difficult for the trade unions because they're the bad guys.' Actually, there is no risk to the public and I think, like my colleagues across the table, we would take action to mitigate any risks, and we wouldn't do it lightly. So, I don't think we would support anything that undermines our rights to take that action if we were actually in that element of very last resort.

[450] **John Griffiths:** Is that okay, Sian? Thank you very much indeed. Thank you all for giving evidence to the committee this afternoon. You will be sent a transcript to check for factual accuracy. Thank you all very much.

13:49

Bil yr Undebau Llafur (Cymru): Sesiwn Dystiolaeth 4
Trade Union (Wales) Bill: Evidence Session 4

[451] **John Griffiths:** We are now at item 7, then, evidence session 4 in our evidence-taking on the Trade Union (Wales) Bill. I'm very pleased to welcome Wales TUC here today: Martin Mansfield, the general secretary, and Margaret Thomas, who is vice-president of Wales TUC. Thank you both for coming along. Let me begin by asking a question in terms of general principles and the need for legislation. Could you expand on how the social partnership, in the view of Wales TUC, helps the effective delivery of public services in Wales, and how the provisions of the UK Trade Union Act 2016 are likely to impact upon that?

[452] **Mr Mansfield:** Thanks, Chair. I think perhaps before we describe the social partnership, it's probably best to describe what we are as Wales TUC because I know you're receiving evidence from some individual unions—we saw some before us—and you'll also be receiving written evidence from individual affiliates of the Wales TUC. So, I think it's best if we just outline what we are and who we're representing in this evidence, if you bear with me.

[453] **John Griffiths:** Yes, certainly.

[454] **Mr Mansfield:** So, the Wales TUC is the voluntary federation of trade unions in Wales. We're part of the wider UK TUC, but have devolved responsibility for Wales and make our own policy on Welsh-specific issues. The membership of the 50 unions affiliated to us amounts to over 400,000, and we have a democratic process by which we establish the shared policy of those affiliated unions on behalf of their members, and they consult their members democratically. So, what we present to you today will be the shared voice of over 400,000 trade unionists in Wales and 50 affiliated unions. Obviously, there may be some specific priorities or specific areas that individual affiliates will want to raise, and I'm sure they'll do that through their own written evidence. So, it may be that the committee would want to see other affiliated unions of the Wales TUC, but this is our shared collective voice.

[455] **John Griffiths:** Okay, that's fine.

[456] **Mr Mansfield:** So, from a social partnership point of view, we've worked very hard with Welsh Government and employers—economic, private sector and public sector employers—in Wales to try and find a Welsh way to do employment relations, to try and ensure that what is mutually beneficial is delivered, and that we work to the benefit in the public sector of the services that our citizens and members rely on. We believe that that is the best way to deliver fairness at work for our members, but also effective delivery of public services.

[457] On the economy side, we've worked very closely together on ensuring that the skills agenda reflects fairness for employer and employee, and in the public sector, as we've detailed in the evidence, we work to ensure that disputes in the public sector are resolved at the earliest possible stage, fairly and with equity, and that the people who work in our public services have a direct voice in decisions that impact on them and their working lives. We see social partnership not just as a relationship between the employer and the trade unions that they recognise, but a tripartite approach for the whole of Wales that involves the employers collectively, the union voice collectively and Welsh Government, all working together to try and ensure that the best possible services are delivered and that change, as required, is accommodated properly.

[458] To do that, we have to have some very serious and challenging discussions, and I think the perception that there is of those who aren't involved in those social partnership discussions is of a very easy, tick the box, we all share together, it's apple pie, we all agree that social partnerships are a good thing. Actually, those discussions are very challenging and contested, and very serious issues are dealt with so that you can arrive at a fair and settled approach, without leading to individual disputes. It doesn't prevent dispute, but it does prevent unnecessary dispute or disputes arising where they could be settled. I think that's—

[459] **John Griffiths:** Yes. So, how would you consider the UK Government's trade union Act would impact on that social partnership and the delivery of public services in Wales?

[460] **Mr Mansfield:** Well, it comes from a very different position. If you track back to the intention of the Act, rather than the specific provisions, it's very clear that there's a view from the UK Government that trade union activism and trade union representation and trade union disputes need to be

prevented, and that trade union involvement is not necessarily a positive in any workplace. Certainly, in terms of some of the provisions of the Act, it would impact on how we deliver social partnership in Wales.

[461] Now, as part of the UK TUC, we've opposed many of the provisions of the Act, but in terms of how it impacts on Wales specifically and the devolved public services in particular, that is the area where we have been most engaged with Welsh Government and with the political parties in Wales to say that these impact directly on the very well-supported social partnership approach that we have, supported by Government, by the Senedd as a whole and by the employer and trade union side. Specifically, the two areas that impact on the day-to-day working of social partnership would be check-off and facility time, but also in terms of equity and the ability, at the end of the day, to be an equal partner, there is also the additional ballot threshold of 40 per cent of entitled members. So, those are the three areas that would specifically impact on how we deliver social partnership, both in terms of us as an equal partner, but also in terms of us delivering that on the ground and in the workplace.

[462] **John Griffiths:** Okay. We'll come on to each of those. Before we do, are there any provisions in the UK Trade Union Act that the Wales Bill does not seek to disapply that you would like to see disappplied?

[463] **Mr Mansfield:** In the Act itself, we very carefully reviewed it and we provided some of the background legal evidence from the legal opinion that we gathered. We would have liked, as our policy position, to disapply the whole Act for the whole of the private sector and for the whole of the public sector, but we do recognise that there are matters of competence for this body. We have looked very carefully at the 50 per cent threshold as being potentially one that could have been part of Welsh legislation, but it was a grey area in terms of whether that could actually be defined as being specifically impacting on devolved Welsh public services as opposed to impacting right across the economy. So, we felt that we would be suggesting, and Welsh Government and the political parties, in their manifesto commitments, looking at those areas that are clearly within competence. So, we would accept that the three areas highlighted are the three areas there is competence for the National Assembly to legislate on and with the provisions of the UK Act. What isn't in the UK Act, of course, is the agency workers regulations. I think you wanted to come on to that at another point.

[464] **John Griffiths:** Yes, absolutely. That's fine. Thank you very much. We'll

move on then to some of the particular provisions. Firstly, the check-off restrictions and Rhianon Passmore.

[465] **Rhianon Passmore:** You've quite clearly articulated that you feel that the UK Act, unless I've got this wrong, is an attack on trade unionism. Can you outline how restricting check-off as the UK Act does, if I read this:

[466] 'Has the potential to fundamentally challenge the social partnership model in Wales.'

[467] Because it's something that we value here greatly. How do you evidence that statement?

[468] **Mr Mansfield:** Margaret is vice-president of the Wales TUC, I should have said, and is our lead on public services. She's also the Wales secretary of Unison, which is the biggest and the leading public sector union in Wales. I'll be looking to Margaret to detail how this works on the ground in particular, and so, on check-off—she'd certainly have a contribution.

[469] Just generally, this is about the voluntary decision of individual trade union members on how they pay their subscription and the voluntary decision between an employer and a trade union that they see the benefit in offering an opportunity for trade union members to pay their subscriptions via check-off.

[470] This was an early approach in terms of direct deduction from salary—it's been ongoing for at least 100 years among various employers right across sectors, public and private. But it's now not an unusual benefit for an employee to see from their employer: from travel to the payment of bicycles to childcare to gym memberships—a range of facilities are able to be deducted from an employee's salary directly. We think it's totally unequitable that the trade union subscription should be singled out in this way—that, in some way, this is a benefit for a trade union as opposed to a benefit for the member.

[471] **Rhianon Passmore:** So, you feel that there's a disparity in terms of how this has been singled out.

[472] **Mr Mansfield:** And it's certainly being presented that the whole cost of any arrangement for payroll deduction should be applied to check-off, when clearly it's one element of a number and then a voluntary arrangement. So,

really, in the context of the Bill and the original consultations at UK level, it was seen as a way of restricting and damaging trade union organisation, another tool in the armoury of preventing trade unions from effectively operating—

14:00

[473] **Rhianon Passmore:** Okay, thank you.

[474] **Mr Mansfield:** —and what it does is it prevents individuals having a choice in how they relate to their trade union, and it prevents public sector employers deciding that they want to work co-operatively with trade unions.

[475] **Rhianon Passmore:** So, how does it undermine that principle of social partnership and the actual operation of social partnership if we did not have that system of check-off in place in Wales?

[476] **Ms Thomas:** Because the likelihood is that the trade union membership would fall off, because people wouldn't have access in terms of paying their subscriptions. So, for example, we have more women trade union members in the public service than men, we have lots of women on low pay, and there are bank accounts that many of our Unison members use where they don't have the facility to pay direct debit payments. So, the only way they would be able to pay their membership subscriptions is through check-off or via cash payments. Now, we all know that trying to collect cash payments, you know, across 400,000 members in Wales would be very, very difficult, and so they would become disenfranchised, because they wouldn't be trade union members. If the trade union membership reduces, it has an impact on the social partnership with the employers, because the employers would then start to argue that we're not representing the voice of the people they employ, and we do represent the voice of the people, so it's very, very important that our members—and as Martin has said, this is a voluntary arrangement, so our members choose, when they join, to have their subscriptions deducted from their salary. It enables lots of them to manage their household budgets better, because it's deducted before the money goes into their bank account. They have the facility at any stage to change from check-off arrangements. So, they don't have to stay on it; if they choose to change, they can. Again, that is a voluntary arrangement. And, altogether, it is about maintaining the opportunity for individuals to be trade union members and for the trade union to then conduct all those very, very important consultations and negotiations with the employer, which has a

major impact on the social partnership approach that we promote for Wales across the whole of the United Kingdom.

[477] **Rhianon Passmore:** So, how significant an issue is it if that facility wasn't to be there in terms of check-off, and do you think are disproportionately affects women?

[478] **Ms Thomas:** It does, yes.

[479] **Rhianon Passmore:** Okay. You think there's inequality in it.

[480] **Ms Thomas:** Potentially, I think it's discriminatory, because it does disproportionately affect women, and the impact would be massive. A number of years ago, there was a requirement from the UK Government—we're going back to the 1990s—where trade unions had to sign up their members again, and it was a massive task, and we lost members as a result of that, and it did impact on the relationship that we had with employers and the social partnership working that occurred within the workplace—not necessarily in the wider context of the social partnership, but specifically in the workplace, it had a massive impact. And that's where most of the issues are discussed and resolved. They're not escalated to the Government. We try to deal with things as close to the ground as we possibly can, and if we lose that ability, then matters will escalate.

[481] **Rhianon Passmore:** Thank you.

[482] **John Griffiths:** Just one question on cost: do you believe it's reasonable for trade unions to cover the cost to public sector employers of providing check-off services?

[483] **Ms Thomas:** There are a number of facility agreements where agreement has been reached that costs will be covered. The difficulty we have is that employers haven't to date been able to provide any of the trade unions with any of the evidence of how much it actually costs to deduct our member subscriptions. Now, years ago, when payroll systems were manual systems, then there was a resource issue and there was a cost to that. But now, with everything that can be done, virtually at the touch of a button—. For example, lots of employers, as Martin outlined, offer the facility for travel passes, to give them a loan and to have that deducted, and credit unions, which, again, helps our members. That doesn't cost, because, as soon as somebody joins an organisation, their information is input on the payroll

system. If one thing is added or one thing is taken away it's one exercise and then, each payroll run, it's the push of a button. So, we believe that the cost to employers is actually negligible. We have never said that we won't pay for it and we have several examples of where we do pay. But we're not able to get the information from the employer on how much it costs, so we reach agreement on a percentage figure, which most of the time we believe is unfair because the employer's being paid for something that isn't costing them that much.

[484] **John Griffiths:** Margaret, would you be able to tell the committee how much is involved in these trade union payments to cover the cost of check-off? Would you know the figures or would you be able to provide them to the committee with a note?

[485] **Ms Thomas:** I could probably provide the financial cost. Generally, it's agreed on a percentage basis. So, for example, it may be that we would pay 1 per cent of the contributions collected to the employer.

[486] **John Griffiths:** I see.

[487] **Ms Thomas:** Now, if you're talking about a big health board where we've got over 5,000, 6,000, members, then they're getting quite a lot of money. I think the health boards take 2 per cent or 2.5 per cent of subscriptions. I think that's outrageous, to be honest, because I don't believe it costs them that much to process our members' subscriptions. If that is something that will continue to be pursued, I'm sure the trade unions will come back and say, 'Well, if we have to pay over and above what we believe it costs to make those deductions, then we want something else on top of that'.

[488] **Mr Mansfield:** I think, in terms of equity in the approach, historically, when there were paper payroll systems, you could identify a member of staff, particularly in a big unionised employer, who was maybe dedicated to providing that service, and that is a cost. Historically, there were arrangements put in place to cover that. It's impossible to identify a cost in automated systems now. Trade unions are being singled out in the UK legislation and in attempts to ask for an administration fee in a way that others are not. So, for example, if the gym membership is deducted, does the employer go to the gym and ask for a percentage? Are Arriva Trains Wales paying? This is an equity issue, and it's not about whether it costs the employer substantial amounts of money to provide the check-off system, it's

about, 'Is there a hurdle we can put in the way of encouraging people to join trade unions?'

[489] **Joyce Watson:** Can I ask—?

[490] **John Griffiths:** If it's very brief, Joyce, because we do need to move on.

[491] **Joyce Watson:** It's very brief and it's on this. If you've identified that as an issue, an unfair issue, have you asked UK Government for a response as to the reasoning? If you have and you've got it, would you be willing to share it with us?

[492] **Mr Mansfield:** We have certainly asked at UK level, and, as part of the TUC, we were part of the engagement at that level. It's safe to say that the response wasn't adequate in terms of the evidence behind the proposal. As with much of the evidence behind the proposal when it was the Trade Union Bill, there were a lot of assertions not necessarily supported by a great deal of evidence.

[493] **Joyce Watson:** Thank you.

[494] **John Griffiths:** Okay, and we move on then to facility time and to Jenny Rathbone.

[495] **Jenny Rathbone:** You've given some excellent evidence in your written submission about the importance of facility time in delivering the social partnership, and particularly around the fact that workplace injuries are lower, workplace-related illnesses are lower, and time wasted on employment tribunals is a lot lower, in unionised workplaces. So, clearly, facility time is an important part of delivering that social partnership. My only question, really, is just whether—in the interests of transparency, what is the problem in publishing the amount of time that is spent on facility time, so that trade union members realise what contribution their union is making to enabling them to have this safer workplace? Or is it as burdensome as trying to identify what it costs to check off the subs?

[496] **Mr Mansfield:** Certainly, we're in no way afraid of transparency in terms of what time trade union activists spend on representation duties. These are again voluntary arrangements between employers and trade unions and their members to allow the functioning of social partnership and all the benefits that accrue. Employers, I know, including the WLGA, have

identified very strongly the importance that they attach to that, and they identify this as being a cost saving for them, that the money that they invest in releasing employees to carry out that function as trade union reps is, in effect, a cost saving for them. So, that is the issue that we return to.

[497] You have to think about the intent of this UK Act in these circumstances. The intent is not to say, 'This is the cost and benefit of having paid release for trade unions.' We quote in our evidence the UK Department for Business, Enterprise and Regulatory Reform in 2007. It did a proper study of the costs and the benefits. We were very happy to participate in that and completely accept the results. What this is about is disregarding the benefits and very specifically trying to identify costs. It's difficult to be precise on the cost because it varies according to the requirements. So, if, for example, there was a massive organisational change ongoing in a health board or a local authority, it would be expected that the employer would seek to ensure that the trade union representatives had more facility time to ensure that the workforce's voice was heard and people were represented. So, it varies according to requirements.

[498] Most trade union representatives have very little access to paid time from their duties. Most of that is spent on direct representation of individuals or a collective view in order to avoid disputes or industrial tribunals. Most of the rest of it is spent on training to ensure that there is a professional role there and that disputes are handled professionally. So, the perception that facility time is just a cost comes from a perspective of trying to prevent trade union activism, trade union engagement, and social partnership. It would be presented as a Tea Party/TaxPayers' Alliance-type headline, rather than a properly thought out, 'How does facility time impact our public services?' So, if it were the cost and benefits, we would be absolutely delighted to participate in that, and have done. Crucially, though, behind the publication is the sledgehammer of a UK Minister deciding that they can cap, or interfere with, the facility time that is crucial to Welsh public services' social partnership delivery.

[499] **Jenny Rathbone:** So, you think that that is a threat behind the clause in this Act.

[500] **Mr Mansfield:** Yes.

[501] **Jenny Rathbone:** But it's not actually in the Act.

[502] **Mr Mansfield:** But it's very definitely there as a power for Ministers at a later stage, following the publication of the facility time, that they can decide, through regulation, to cap facility time. Let's be clear: these are UK Government Ministers acting throughout the devolved public services of Wales. We elect our Assembly Members and Welsh Government to deliver our public services, and they have agreed to deliver that on the basis of social partnership. It's absolutely undemocratic for a UK Minister to decide to cap that and prevent it.

[503] **Jenny Rathbone:** I'm rather surprised that the UK Parliament hasn't insisted on an update of the 2007 report by the then Department for Business, Enterprise and Regulatory Reform, so that we have some slightly more up-to-date information on the benefits of trade union representation in the workplace. Are you able to cast any light on why that wasn't insisted upon before the UK Trade Union Act was passed?

[504] **Mr Mansfield:** It certainly wasn't a proposal from the trade unions. We would certainly support that updating.

[505] **Jenny Rathbone:** Okay. Because, obviously, it's very clear that it's a much safer place to work if there is a place where there's trade union representation.

[506] **Mr Mansfield:** It's certainly a fairer and safer workplace for individuals, but it's also a cost saving in the delivery of quality public services as well.

14:15

[507] **Jenny Rathbone:** Just going back to the transparency issue on facility time, is it the case that either the trade union or the employer has these data? The WLGA said that there were data available. I'm not aware of where one would find that. Is this something that would be easy to collate, or is it a burden for you?

[508] **Ms Thomas:** There's a mixture, because there will be parts of the public services where the facility time is specific in respect of the number of people that have paid full-time release. But there's also the local representative that will pick up purely individual issues, representation issues, and whilst that's part of the facility agreement and a right under law, it's not recorded, because it may only be that they represent one member a month. And it might be they take two hours to do the preparation, and then

an hour to attend the meeting that is convened by the employer. In terms of the agreed paid facility time as in release for individuals, that is readily available. There is a perception that people like myself are paid for out of the public purse and as part of the facility agreement. That is completely untrue. I am paid by the subscription from our members; there's no facility time used in that at all. I know that you will recognise the work that trade union representatives undertake in terms of avoiding disputes, helping members in the workplace in relation to—you know, it could be improving working practices, there could be disability issues, and the union representative is able to deal with that in a much quicker and efficient and professional way than if we didn't have trade unions representatives with the facility time. And, when facility time is attacked, we see almost immediately a negative change in relationships, not just between the trade union and the employer, but we see that negative change between the employee and the employer, because they feel that their voluntary choice to be member of a trade union, where their representative has facility time to support them in consultation and negotiations with the employer, is being attacked.

[509] **John Griffiths:** Could I just ask whether you would be opposed to the requirement on public sector employers to publish information on facility time if it weren't for the accompanying reserved powers for Ministers of the Crown to restrict that facility time?

[510] **Ms Thomas:** It depends on what basis you're going to produce the information, because, as Martin said, if you're purely going to look at how much it costs the public purse, then it becomes a TaxPayers' Alliance issue, and, if you're not publishing information in respect of how much it saved the public purse by having facility time representation, it just distorts information and it becomes purely a TaxPayers' Alliance type issue.

[511] **Jenny Rathbone:** But if it's not the money—. Because I think the money is an absolute side issue; it's about the amount of time. Do you think that that would then get it away from being used as a taxpayer issue?

[512] **Ms Thomas:** I don't believe employers would be able to readily identify the amount of time.

[513] **Jenny Rathbone:** Okay, thank you.

[514] **Ms Thomas:** In terms of—. For example, we may have a facility agreement where you would have one full-time release for—and I'll just use

an example—1,000 members. That's easily identifiable and could be produced on an annual basis. What isn't then produced is the amount of time that representatives spend over and above their standard working hours, which they do on a regular basis. That isn't recorded, and the employer is then getting the benefit of a trade union representative working more hours than they pay them to work, for the benefit of the employer as well as the trade union members.

[515] **Mr Mansfield:** I think proper transparency would not be an issue for us whatsoever. If we separate it from the intent of this Bill, and the sledgehammer behind the publication of a very specific set of data, of UK Government Ministers interfering in our social partnership—. If that was separated, we would need to say, 'Let's look at the real costs and real benefits', so Margaret referred to it there: most people who work full time on trade union business or Wales TUC business are paid for out of the union subscriptions. We allocate a great deal of our time, at very senior levels of the trade union movement, to making the social partnership work and preventing disputes. That money is not from the public purse. The voluntary time that individual members and reps put in outside of working hours is not allocated as being time paid for by the public purse. This is a partnership and the benefits of the partnership are mutual. Trying to allocate one particular cost and say that, therefore, that should be capped is not working in partnership; it's working to undermine trade unionism.

[516] **John Griffiths:** Okay, and Rhianon.

[517] **Rhianon Passmore:** Thank you, Chair. So, you feel that it would be divisive to publish facility time, although you are very open, on a transparency basis, to cost and benefit. Am I right, then, in summarising what you say, then, that you believe that the whole intent behind the UK Act has caused a distrust in terms of where you feel that is moving us towards? Is that correct to say? So in terms of being divisive around facility time, do you think that there would be issues within the workplace as well, in publication of facility time?

[518] **Ms Thomas:** It brings me back to the issue about the accuracy of the publication. If the information is inaccurate, then it does become divisive.

[519] **Rhianon Passmore:** Okay, thank you, Chair.

[520] **John Griffiths:** Okay. We will move on then. I think, Bethan, you have

some questions on ballot thresholds.

[521] **Bethan Jenkins:** Thanks. Obviously I've read your evidence in relation to this, and I just wanted your views, really, for the record, in relation to your opposition to the 40 per cent marker for triggering industrial strike action, in the context of the spirit in which you conduct industrial relations here in Wales, and your comments, really, I think, on the estimation of the savings that the UK Government have quoted, and whether you potentially have done any of your own research into—. You say quite clearly that it could actually lead to more issues with industrial relations. Can you tell me if you've got evidence, or if you've looked into that in an in-depth way, or is that just a view that you've taken anecdotally from members?

[522] **Mr Mansfield:** Specifically on the 40 per cent threshold, this is a new proposal. The status quo is not the 40 per cent threshold. Our concern, and the concern of the UK Regulatory Policy Committee, was that the move to the 40 per cent threshold was not supported, and the estimate of cost savings was not fit for purpose, and that the analysis done was not fit for purpose. It's for the UK Government, in making the proposal to change from the status quo to a new situation, to prove their claim that there would be substantial cost savings, and they've made an estimate based on the number of days they believe would be saved from strike action.

[523] Our view—and we've detailed it in the evidence—is that it is more likely, although not measureable because these are not in place, so we can't prove that there is a difference in fact, but it's our view that it would be more likely that disputes would be longer and more entrenched under that threshold, and we've set out why. So, in the preparation for a 40 per cent threshold ballot, that would probably take a longer period, so the dispute goes on for that period. Once you've balloted on that level, the expectation of the membership in terms of taking the action and delivering a substantive result is also raised, so it's harder to settle the dispute once it gets to that stage, rather than beforehand, in a mutually beneficial way. The employer side being more likely to wait and see whether the ballot threshold could be hit, rather than agreeing to try and voluntarily resolve a dispute, is more likely. So, all in all, it's more likely to impact on the number of days lost in strike action, but also it's more likely to damage the morale and the relationship, and that's probably the most important long-term impact. So, we believe there's no evidence, or no real, proper rationale supporting this new threshold, and that it's absolutely appropriate for the National Assembly and Welsh Government to maintain the status quo and maintain equality

between our important devolved public services and the rest of the economy in Wales.

[524] **Bethan Jenkins:** Okay, thanks for that. I was just wondering what you thought about whether the Welsh Government should have had a cost-benefit analysis in this Bill, as opposed to relying on the regulatory assessment from the UK Government. Obviously, the rationale from the UK Government was that they wanted to have a level playing field between the benefits for the union membership and then for the public, so to try and balance that out, probably because of industrial action that's happened outside of this country. But, just your views on that.

[525] **Mr Mansfield:** We dispute the £85,000 figure. We're not saying that there should have been a full-blown alternative regulatory assessment process. We're just drawing attention to the £85,000 figure—which is based on the UK Government estimates, and we dispute the basis of those estimates, as I just mentioned in my last answer. We don't think it would be a value-for-money use of public spend to try and carry out an analysis of something that—in any case—is fairly difficult to measure because it hasn't happened yet. So, the only alternative to a proposal, which is asserted by the UK Government would save money in strike days, is very complicated and, itself, not based on actual experience, but based on estimates of the alternative from our point of view. So, trying to cost out our estimates and our understanding of what would happen to relationships would be expensive and probably would not be as beneficial for the use of money as saying, 'Actually, you haven't proved the need to change. We don't accept the supporting evidence behind it, and the figures that you provide to support a change. UK Government don't actually support that change, evidentially.'

[526] **Bethan Jenkins:** We had the evidence from the WLGA today and despite them agreeing that the 40 per cent should be taken out in this particular legislation, they still said that there should be some wider discussion around industrial action in relation to how we can get more people to engage in the first place. They were mentioning that some people weren't getting ballot papers, or they weren't getting information correctly from the trade union. Do you concur with that? Would you like to see some work done on trying to encourage people to join and to take part in that democratic process that quite a lot of people are not engaging in now, unfortunately, for various reasons?

[527] **Mr Mansfield:** I'll let Margaret answer on the detail of the process, but

I think, overall, in terms of whether there should be additional methods of encouraging participation, we're absolutely for that. We're democratic organisations, we want to see the maximum participation of the union members in all of the decisions that relate to their union and their working lives. The original imposition of full postal balloting reduced the involvement of union members in those decisions. We're not looking to return to that discussion, but I think, again, the intent of the Bill is not about trying to encourage trade union members, and people to join unions and participate in them. So, yes, and Margaret and I do—

[528] **Bethan Jenkins:** No, it's just in general—. I'm just opening it up a tiny bit to see what your thoughts are.

[529] **Mr Mansfield:** In terms of the legislation itself, the intent of the change from the status quo to the new threshold is not about trying to encourage people to participate, it's about trying to put hurdles in the way of effective industrial action. I think that's important for us to think about when we're considering the legislation. But the point on participation, I think, Margaret.

[530] **Ms Thomas:** Yes, I mean, you know, the WLGA say that they agree with the removal of it, which I'm really pleased about. Participation: every trade union wants their members to participate fully in the democratic processes. The difficulties we have in terms of individuals participating in ballots is, as Martin has said, because of the need to have a full postal ballot now.

14:30

[531] People get so many envelopes through their letterboxes every day, and we get the ballot paper and if we don't open it and fill it in the same day, the likelihood is it goes on the pile of 'to deal with' post, and before you know it, they've missed the deadline. So, as trade unions, we know we have to do more in terms of trying to engage our members in that process. We will be doing that as a result of the TU Act in England. In terms of—. Sorry, I've lost my train of thought.

[532] In terms of the balloting, a move to e-balloting will, we believe, assist. In terms of the postal ballots, our members will change address. They have an obligation to inform their employer or the HMRC if they change address. They also have an obligation to tell their trade union, but lots of people don't tell their trade union. So, we do have processes in place so that when ballot papers go out, if they go to an address where the member is no longer

present, they come back, and then we have to try and find out where the member has moved to. The difficulty we have there is the employer will often block giving us the information, and they quote the Data Protection Act 1998 to us. Our members have already given us their information, they provide us with their national insurance number, and we have their permission to seek information. So, there has to be a greater partnership approach to dealing with participation, if we're seeking information from an employer.

[533] **Bethan Jenkins:** Okay, thanks.

[534] **John Griffiths:** Okay, and if we move on to—. Oh, did you want to add anything?

[535] **Mr Mansfield:** Are we still on the 40 per cent?

[536] **John Griffiths:** Yes.

[537] **Mr Mansfield:** Because I just wanted to add one thing.

[538] **John Griffiths:** Okay.

[539] **Mr Mansfield:** It's the administrative nightmare of trying to deliver the definition of what 'important public services' are, and how you would identify which groups of members you are balloting. So, for example, a teacher who spends 40 per cent of their time on GCSE, and 40 per cent of their time on A-level, and the rest on an administrative function: the GCSE is an important public service under the Act, but the A-level is not. Would you ballot that person under the 40 per cent threshold or would you ballot them under the existing requirement? Why is it that, if you're balloting 1,000 members in the private sector on industrial action, 500 participate in the ballot, 226 people vote in favour of action, that action is fair, but if you ballot 1,000 people in an important public service and 500 participate, you have to have 400 of them voting in favour? It's equity of issue, here.

[540] People don't take industrial action lightly, but in our democratic history, this kind of requirement has never been placed on any democratic organisation. I don't want to talk about MPs and AMs' turnouts, but look at referendums as being an equivalent. The National Assembly would never have been established and it would never have been given law-making powers, and certainly, the most recent referendum would not have been able to deliver that kind of percentage threshold to take us out of the European

Union. When trade union officials receive a knife-edge ballot result on industrial action, they take full account of the fact that a number—a large proportion; a large minority—of union members were not in favour of that action, and they act accordingly. I think people negotiating in Brexit could take a leaf out of that book.

[541] **John Griffiths:** Okay.

[542] **Ms Thomas:** And we have very clear processes in place. If the members vote, and it is—as Martin said—borderline, that doesn't automatically mean that industrial action will be pursued. We will go back to the employer and say, 'Look, this is the result we've had. Can we not return to the negotiating table?' because we don't want our members to take industrial action. And the majority of the time, they don't want to take industrial action, because why would they want to lose any pay?

[543] **John Griffiths:** Sure. Okay, well thanks very much for that. We'll move on, then, to Sian Gwenllian and some questions with regard to agency workers and their use in industrial action.

[544] **Sian Gwenllian:** Diolch yn fawr. **Sian Gwenllian:** Thank you very much. What are your views on the use of agency workers during industrial action? Will you also just explain exactly where we are in terms of this and in terms of the UK Act? I think, perhaps, that I've mislead the committee a little earlier—I don't think it's in the UK law, is it? But it is in the discussion that's ongoing. Could you explain your views on using agency workers?

Beth ydy eich barn chi am ddefnyddio gweithwyr asiantaeth yn ystod gweithredu diwydiannol? A wnewch chi hefyd jest egluro yn union lle rydym ni arni efo hyn, o ran Deddf y Deyrnas Unedig? Rydw i'n meddwl, efallai, fy mod i wedi camarwain y pwyllgor mymryn yn gynharach—nid ydy o ddim yn Neddf y Deyrnas Unedig, nac ydy? Ond mae yn y drafodaeth sydd yn mynd ymlaen. A fedrwch chi egluro beth yw eich barn chi am ddefnyddio gweithwyr asiantaeth?

[545] **Mr Mansfield:** Any industrial action is, clearly, a very contested area, and a very difficult-to-manage situation. Now, if an agency worker is placed in the position where their livelihood depends on crossing the picket line because their employer instructs them to do so, that puts them in an invidious position as an individual. In workplaces where agency staff are used

consistently throughout the normal process of the normal working year, that produces huge problems for the ongoing relationships of the collective workforce with the agency and the employer with the union. That is the reason why, at UK level, the agency workers regulations prevent agency workers being used to break strikes. That is what they're discussing here.

[546] That change from preventing agency workers being used to break strikes is not actually on the face of the UK Act. However, it was in the discussions leading up to the Act. The only thing that the UK Government Minister has to do is to go before the House of Commons and say, 'I wish to make the change to the Act', and they can vote in favour or against; they cannot amend. So, it's a straightforward statutory regulation decision that could happen at any stage. The UK Government have said that they wish to make that change, and that would impact on the devolved public services in Wales. You can imagine the difficulty that that would present.

[547] We've set out in our evidence to the agency workers consultation—which we attached to the evidence to the committee—all of the views of the agency employer and the industry itself. The industry boards at global and UK level are opposed to this change; they do not want to see the appropriate use of agency workers being undermined in this way. Obviously, the United Nations International Labour Organization has raised particular concerns about the impact on freedom of association and on UN conventions. So, it's another aspect of a really undemocratic and, we believe, unconstitutional approach. The National Assembly took a view on the trade union Bill in its LCM debate. The agency workers regs were not part of that because it wasn't part of the Bill. So, clearly, the Welsh Government—and we totally support this—has gone for a statutory 12-week consultation on the agency workers regs, and preventing that approach of allowing agency workers to break strikes from being applied to Welsh devolved public services. Our evidence is very supportive of adding that as a small clause to this Bill, but then providing more detailed secondary legislation from a Welsh National Assembly perspective.

[548] **Sian Gwenllian:** So, what you're saying is that we should actually pre-empt what may happen on a UK level: that it may become part of UK legislation so we should be acting now, as part of this Bill, to have that mitigation?

[549] **Mr Mansfield:** To have the ability to prevent that from being applied, to prevent a UK Minister acting to intervene in devolved public services to

prevent the operation—in a very visceral way—of social partnership in the progress of our dispute.

[550] **Ms Thomas:** And in terms of agency workers, there is a health and safety issue as well, because it may be appropriate to have an agency worker cover a temporary position for the odd absence, but to bring a wholesale group of agency workers in to cover a specific service, when you have the staff who deliver that service taking industrial action, could prove a big health and safety issue.

[551] **Sian Gwenllian:** Some would argue that not having any cover at all would be an even worse situation.

[552] **Ms Thomas:** Not necessarily, because trade unions are very pragmatic when it comes to taking any industrial action. And we have a clause that we call 'life and limb'. So, we will always look at life and limb situations and my responsibility, as a senior union official, is to agree those life and limb arrangements with the employer. And we don't—. Trade unions will never just say, 'You're all out', and leave people in danger; we don't do that. But what we do, when members want to take industrial action, is to have an impact that makes the employer come back to the negotiating table. That's the whole purpose of taking industrial action. And we don't want it—if we can return to the negotiating table without taking that industrial action, then that's what we do.

[553] **Sian Gwenllian:** Okay, thank you.

[554] **John Griffiths:** Okay. Content? Thank you very much.

[555] **Bethan Jenkins:** Could I ask one question? It's just we haven't asked in the other evidence sessions about this, but it just dawned on me we should have asked it. Obviously, we're pushing this legislation through before the new Wales Bill is going to come into operation. What are your fears—do you have fears—if this is passed, and then the UK Government under their new powers would say, 'Well, actually we'll just scrap it anyway and we'll make sure that this won't have any effect because of the changes to how Wales makes laws'? Is that something that you have an opinion on?

[556] **Mr Mansfield:** We wanted to see the Wales Bill have exemptions to the employment reservation that made very clear the ongoing ability of the National Assembly and the Welsh Government to legislate in this area. There

would still be some dispute about grey areas, but fundamentally you have to work with the situation you have at present, and this Bill is being discussed in the context of the existing devolution settlement, which is very clear that you have competence in these areas. The people of Wales elect AMs to the National Assembly to make decisions about running our devolved public services. That's a very important element of the decisions they make. The National Assembly in the LCM debate was very clearly—overwhelmingly—against the implementation of this UK Act for the devolved public services of Wales. If this Bill is passed and enacted by the Senedd, clearly it would be absolutely clear that our elected representatives do not want those provisions applied to our public services. And I think it would be a fundamentally unconstitutional, undemocratic act of the UK Government then to disapply that.

[557] **Bethan Jenkins:** Thanks.

[558] **John Griffiths:** Okay, thanks very much for that, and thank you both for coming along to give evidence today. You will be sent a transcript to check the factual accuracy. Thank you very much.

14:43

Papurau i'w Nodi Papers to Note

[559] **John Griffiths:** The next item we have is item 8, papers to note. Paper 7 is correspondence from me to the future generations commissioner following up on some of the matters arising from the scrutiny session we held with the commissioner. Paper 8 is further evidence in relation to Clearsprings Ready Homes Ltd, which we will consider as part of our refugee and asylum seeker enquiry. Is the committee happy to note both? Okay, thanks very much.

14:44

Cynnig o dan Reol Sefydlog 17.42 (vi) i Benderfynu Gwahardd y Cyhoedd o Weddill y Cyfarfod Motion under Standing Order 17.42 (vi) to Resolve to Exclude the Public from the Remainder of 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 the meeting in 17.42(vi).

accordance with Standing Order 17.42(vi).

Cynigiwyd y cynnig.

Motion moved.

[560] **John Griffiths:** In that case then, the next item is a motion to exclude the public for the remainder of the meeting under Standing Order 17.42. Is committee content to do so? Thank you very much. We move into private session.

Derbyniwyd y cynnig.

Motion agreed.

Daeth rhan gyhoeddus y cyfarfod i ben am 14:44.

The public part of the meeting ended at 14:44