

# Pwyllgor Deddfwriaeth Rhif 1

## Legislation Committee No. 1

Dydd Iau, 26 Chwefror 2009  
Thursday, 26 February 2009

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"Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynddi yn y pwyllgor. Yn ogystal, cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

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

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

Mohammad Asghar	Plaid Cymru The Party of Wales
Eleanor Burnham	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Rosemary Butler	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Janice Gregory	Llafur (yn dirprwyo ar ran Huw Lewis) Labour (substitute for Huw Lewis)
Ann Jones	Llafur Labour
Nick Ramsay	Ceidwadwyr Cymreig Welsh Conservatives

### Eraill yn bresennol Others in attendance

Simon White	Prif Weithredwr, Un Llais Cymru Chief Executive, One Voice Wales
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### Swyddogion Gwasanaeth Seneddol y Cynulliad yn bresennol Assembly Parliamentary Service officials in attendance

Claire Griffiths	Dirprwy Clerc Deputy Clerk
Bethan Roberts	Cynghorydd Cyfreithiol i'r Pwyllgor Legal Adviser to the Committee
Liz Wilkinson	Clerc Clerk
Graham Winter	Gwasanaeth Ymchwil yr Aelodau Members' Research Service

"Dechreuodd y cyfarfod am 12.30 p.m.  
The meeting began at 12.30 p.m."

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

**Rosemary Butler:** Good afternoon, everyone, and welcome to the meeting. We have received apologies from Huw Lewis, and Janice Gregory is kindly substituting for him. I welcome Mohammad Asghar to his first meeting; I think that you will find it very interesting. I remind everyone that this meeting is conducted bilingually, so headsets are available for simultaneous translation, if you need it. They also amplify the sound, because sometimes the sound is not as effective as it could be in here. I remind everyone to turn off their mobile phones, pagers or any other electronic equipment that they have about them, and to turn them off completely and not just put them on silent, because that interferes with the broadcasting system. I also remind you that you do not have to touch the microphones—this is for you, really, Mr White—because they turn on and off automatically.

## Y Mesur Arfaethedig Caeau Chwarae (Ymgysylltiad Cymunedau â Phenderfyniadau Gwaredu) (Cymru)—Cyfnod 1, Sesiwn Dystiolaeth 5 Proposed Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure—Stage 1, Evidence Session 5

**Rosemary Butler:** The item that is before us today is the Proposed Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure, which has been put forward by Dai Lloyd. I am pleased to say that we are joined today by Simon White, who is the chief executive of One Voice Wales and has come here to answer our questions, of which there are quite a number.

Notwithstanding your concerns that community and town councils will be subject to the requirements of the proposed Measure, do you consider that there is a need for further legislation governing the disposal of playing fields?

**Mr White:** We support the principle behind the proposed Measure. From speaking to a range of community and town councils on this matter, it is clear that they are in the vanguard in terms of local organisations that would look to preserve such facilities, and so we very much recognise what the proposed Measure is trying to achieve, and we would support that.

**Eleanor Burnham:** This is a similar question. What are your views on the fact that certain evidence that we have received says that protection is already afforded by the existing planning regime?

**Mr White:** We recognise that, within the planning regime, the recent publication of the new technical advice note 16 will provide additional protection. Also, community and town councils are bound under section 127 of the Local Government Act 1972, in the same way that the unitary authorities are by section 123, so the same requirement applies to them to advertise for two weeks in the press if there is going to be a disposal. However, as I said, we recognise that the proposed Measure would provide additional support over and above those requirements.

**Eleanor Burnham:** How are the views of community and town councils taken into account by a county or county borough council, or a national park authority, when the disposal of a playing field is proposed currently?

**Mr White:** Under the requirement to advertise the disposal, they would have the same opportunity as other organisations to submit representations to the unitary authority. With the new TAN 16 coming into force, the open-space assessment, as I think it is called, will require community and town councils to be involved upfront in the preparation of that open-space assessment, so they would have an opportunity to be involved in that process. However, you may make representations, but there is always the question of what might happen to those representations, and I recognise that that point was made in one of the previous committee hearings. Essentially, they would have the opportunity to be involved.

The other point that may be worth making is that if the new Proposed Local Government (Wales) Measure goes through, it will place a duty on community and town councils to be involved in the development of the community strategy. We strongly support that because we feel that, while it might place the duty on community and town councils, it would clearly place a requirement on the unitary authorities to involve the community and town councils appropriately in the development of their community strategies. So, there would be another opportunity for concerns to be raised by community and town councils through that process.

**Eleanor Burnham:** Bearing that in mind, do you still think that this proposed Measure is necessary?

**Mr White:** A question that I have had at the back of my mind as I have been going through the various papers and reading the evidence that has been given relates to the reason for focusing on disposal as opposed to change of use. To my mind, there could be a change of use that could be quite detrimental to the provision of an open space or playing field that does not involve a disposal. I just have a concern in the back of my mind about whether it is appropriate to tighten up or extend a planning aspect. However, I recognise that, and I know, from evidence that has been given to the committee, that Lampeter Town Council, for example, is very concerned about the potential loss of a playing field at present and would see additional value coming through this proposed Measure. However, as the new TAN 16 has only just been published it is quite difficult to know exactly what the new planning regime will be and how it will operate. Therefore, I can only say that we support the principle of what is being considered. The technicalities of how it is being delivered are slightly more difficult to reach a conclusion on at present.

**Rosemary Butler:** Fine. We may come back to that in a while. I think that you may have answered some of our questions, but we need to get them clarified. Therefore, thank you, Eleanor. Ann Jones is next.

**Ann Jones:** I think that you have alluded to the fact that town and community councils know about sections 123 and 127 of the Local Government Act 1972, so I will not ask you about that. Have town and community councils used the requirements under sections 123 and 127 of the Local Government Act 1972?

**Mr White:** We are not aware of them having been used in recent years and, as part of this, I have spoken to a range of what you might call experienced operators within the sector. No-one has been able to identify that happening in recent years. In most cases, if it was a unitary authority, it would be the community or town council that would be in the vanguard of opposing such a disposal.

**Ann Jones:** Do you have any concerns about the ability of community and town councils to meet the existing requirements under the Local Government Act 1972?

**Mr White:** I do not have concerns about their ability to meet the requirements. I think that there is a question about whether a formal notice in a newspaper is the appropriate way to proceed these days. That requirement to place a notice in the newspaper was placed on community and town councils following the introduction of the new local government code of conduct. My experience is that there are probably better ways to get that information out into the community. Therefore, it exists. I do not think that it is particularly onerous; I just think that the effectiveness of it could be considered.

**Ann Jones:** Okay. Thank you. The committee has received some conflicting evidence about the extent of ownership of playing fields by community and town councils in Wales. Do you have any idea how many town and community councils own playing fields in Wales?

**Mr White:** I do not have hard and fast figures on that. As part of doing my own research to come here today I looked at the other evidence that had been prepared to try to find some sort of statement that clarified ownership. I could not see anything there either. We could, if the committee required, write to all 735 community and town councils to ask that question, but my gut feeling, from talking to a range of councils, is that there is not a huge number out there and that, from those that I have spoken to, the issue of disposal is not one that they would recognise.

**Ann Jones:** Thank you for that offer, but I do not think that that would take us any further forward. Therefore, we will save you from doing that.

**Rosemary Butler:** If that information has not been needed thus far, it should not be needed for this piece of legislation.

**Mr White:** Thank you.

**Ann Jones:** We do not know how many would respond in any case. In giving evidence to this committee, Fields in Trust Cymru reported that Pembrokeshire and Anglesey county councils were passing ownership of playing fields to relevant community and town councils. Are you aware of that? Will any other local authorities follow this practice in the future? Is there anything that has been flagged up?

12.40 p.m.

**Mr White:** I have talked to councils in those two particular authority areas, and I think that there has been an enthusiasm over the last few years on the part of the county council to dispose of playing fields or hand them over to community and town councils. However, it has not been a particularly successful policy, because the county council has not contributed the resources up front that would be needed to make that work. That is always the problem—making the thing work in the long term. Although we would be in favour of community and town councils playing a greater role, and they could do a good job, the money would need to go with such a transfer of responsibility, and that is where things stall. So, although those may be the policies, I do not think that they have been particularly effective.

**Nick Ramsay:** You said in your evidence that it is unlikely that a town or community council would dispose of a playing field, but then you go on to say that you think they should be excluded from the requirements of the proposed Measure. Why is that? If it is unlikely that they would dispose of a playing field, then surely they would not be affected anyway.

**Mr White:** I came across one example where a community council had in its possession a playing field. It was interested in developing an alternative facility, a larger playing field, but would do so only if it could sell the original playing field. That was to be used for affordable housing, which was one of the other major concerns of the council. So, the council took a decision that it would sell the smaller playing field only if it could purchase another, larger field closer to the community, which could in time be developed more effectively. In that instance, my reading of the proposed Measure is that the community council would be bound to undertake the impact assessment, which could potentially cost tens of thousands of pounds, because the community council would not have the resources or expertise to do it itself. In that instance, the money would be better spent on having more facilities at the new playing field—whether that was a pavilion, or changing rooms, or whatever. The nub of the issue is that we should trust our local councillors to have a good idea of what their community needs, and allow them to take these decisions without tying their hands. These proposals could end up incurring a lot of expenditure, which would fall directly on the local electorate, because most community council income comes through the precept—there is no external Government funding, like the revenue support grant for local government. That would be a particular issue.

**Nick Ramsay:** When Dai Lloyd spoke to the committee, he said that he did not think that the proposed Measure would be overly burdensome for community councils. From what you have said, it seems that you think that it would.

**Mr White:** Absolutely. I will illustrate that by saying that the average precept charged by a community council in 2008-09 was £36,000. If an impact assessment of the sort that has been suggested by some of the evidence was required, it would be beyond the ability of the council to carry it out—unless there was external funding to support that, paid directly by the Assembly Government or the unitary authority. It could not be done within the existing resources of the community council. The other point that I would make is that most community councils employ a single part-time clerk, who works from home. There would probably be a higher cost per disposal on a community council because there is no internal expertise, as with the unitary authority. Although the unitary authority would be able to do a fair bit of the legwork, a community council would not have that option.

**Nick Ramsay:** Just to clarify, the benefits of including community councils in this proposed Measure would, in your view, be outweighed by the financial burden placed on them.

**Mr White:** Yes.

**Rosemary Butler:** Does anyone want to come back on that?

**Eleanor Burnham:** Dr Lloyd went on to suggest that there should not be an extra burden, because this work could be done in conjunction with the local authority, rather than the community council working alone, in the usual manner in which they send out information at regular intervals about other issues. Do you not agree with that?

**Rosemary Butler:** I do not think that it is the postage that we are worried about here. It is more the assessment itself, the legal advice, and so on. Is that right?

**Mr White:** The postage would be an additional burden on top of what we have already spoken about. I cannot comment on whether doing it as part of normal business would work within unitary authorities any way. However, a community council would certainly find it difficult to integrate with the unitary authority systems to enable that sort of consultation and information to be issued.

**Mohammad Asghar:** Simon, what are your views on the exemptions provided for in subsection 1(2) of the proposed Measure?

**Mr White:** I would recognise the exceptions. As I say, the issue for me is the inclusion of town and community councils in the definition of local authorities. However, the exemptions applying to land disposals to local authorities or registered charities are acceptable.

**Mohammad Asghar:** It has been suggested in evidence from Fields in Trust Cymru that it may be more appropriate to exempt only those charities whose aims include the promotion of sporting or recreational activities from the proposed Measure, rather than all registered charities. Do you have a view on this?

**Mr White:** That would seem to be a logical extension given what the proposed Measure is seeking to achieve, so I would not have any difficulty with that.

**Janice Gregory:** In your written evidence, you raised concerns about the way in which town and community councils would meet the requirements set out in sections 3 to 6 in instances where they were proposing to dispose of a playing field under their ownership. You have partly answered my question in a previous answer, but will you expand on your concerns, and particularly on whether your main concern is about the practical implications for community and town councils or simply their ability to meet the associated costs? You have already referred to the associated costs, and there clearly would be some.

**Mr White:** Both are of concern, but to start with the practical implications, the difficulties are that the proposed Measure appears to be drafted very much to take account of the unitary authority world, if you like, and not the community and town council world. For example, the requirement to place the impact and decision statements on display in the authority's principal office or one of its main offices just does not make sense because most community and town councils do not even have one office. So, it does not fit with how the sector operates. I would also highlight the fact that, subparagraph 3(1)(c)(iii), with regard to the impact statement, requires that the impact of the proposed disposal must be identified in the strategy that

'the authority is required to prepare under section 24(1) of the National Health Service Reform and Health Care Professions Act 2002 (c.17) (health, social care and well-being strategy).'

Community and town councils are not required to prepare that strategy; that is a requirement on unitary authorities, so, again, it does not fit with the sector at all.

We have touched on the cost issue, but the cost would be even greater when you are looking at how the community council would consider the users beyond the community council. For example, in my town of Kidwelly, a rugby sevens tournament is held every year that attracts teams from all over Wales. As it happens, the pitch there is owned by the county council, but if there were to be an assessment of users—and these are children who come to use the facilities, the people you would think of as the intended beneficiaries of the proposed Measure—the council would face a difficult and expensive job to take on such a consultation.

**Janice Gregory:** What are your views on the definitions of the terms 'playing field' and 'playing pitch' provided for in subsections 2(d) and 2(e)?

**Mr White:** We do not have particularly strong views on those definitions. My view would be that, wherever possible, we must avoid confusion between TAN 16 and what is contained in the proposed Measure. We should keep things consistent.

12.50 p.m.

**Nick Ramsay:** I want to move on to ask about the impact statement. In your evidence, you raise concerns about the ability of community and town councils to meet the requirement to provide an impact statement set out in section 3(1). Can you expand on that and tell us specifically why you are concerned about the impact statement?

**Mr White:** From my reading of it, the impact statement or assessment would be quite a complex assessment that would require expertise above and beyond that of part-time council clerks and would inevitably require external input, probably on a consultancy basis. So, my main concern is the degree of expertise required and how that would be resourced.

**Nick Ramsay:** So, your main concern is the cost implication for the council, rather than the practical implication.

**Mr White:** I see the two as going hand in hand, and I find it difficult to separate them out, because, ultimately, the practicalities will be constrained by cost. If you require that impact assessment to be sent out to all communities, yes, there will be a cost implication but there will also be the practical implication of how you achieve it. Can you find a way to do it through the unitary authority? That is unlikely, and so an additional cost burden will fall on the community council concerned.

**Nick Ramsay:** I was just trying to ascertain whether you would have a principled opposition to councils being asked to produce the impact statement if you took the cost out of it—and, from what you say, I can see that it is difficult to do that—or whether it is largely the cost that is the problem for you.

**Mr White:** There is an element of my having a problem with councils having to produce the impact statement, because it undermines the ability of community and town councillors to assess what their community needs. You are saying to community councillors, who live in the community and know it very well, 'Sorry, we are not taking your view on this; we require you to go out and spend an awful lot of money on getting an external consultancy to tell you this'. Then there is the opportunity cost of what that money could have been better spent on, as I referred to earlier. So, it comes back to this issue of needing to trust our locally elected politicians to make a sensible judgment, especially at that level, when they are in the community. One reason why this might be seen as necessary at a unitary authority level—and this is just a thought—is that, when a unitary authority considers a disposal, it has to assess the situation across the whole of the unitary authority area in the context of the wider position. Essentially, this proposed Measure would place a greater emphasis on local communities' needs in that wider assessment. Community and town councils consider only the needs of that community in the first place, so that is why this does not need to apply to community and town councils: in essence, they consider only the immediate community.

**Nick Ramsay:** I was going to ask you whether you think that the requirement is appropriate and reasonable, but I think that your answer would be 'no'.

**Mr White:** Yes, it would be.

**Nick Ramsay:** I am therefore happy to leave that line of questioning.

**Ann Jones:** In your evidence, you have suggested an alternative to the section 3 requirement, namely that a general duty be placed on all local authorities. How do you envisage that working in practice, and what do you consider to be the advantages of that general duty over the proposed provision?

**Mr White:** The advantage, I suppose, is that it would be a lighter touch for community and town councils. That would be the essence of what we would be looking to achieve, but it would still place a requirement on community and town councils to assess the health impact of what was being proposed if there was to be a disposal. I believe that that could be achieved through holding an open, public meeting in the community, for example. The nature of the consultation and engagement with the community would probably depend on the nature of the disposal being considered but, essentially, you could place a requirement to make sure that they had considered the impact, and you would expect that consideration to be reflected in the minutes of the council meeting at which any decision was taken. This came up when I spoke to a clerk earlier. The first response was to say that if they were to do that, they would hold a public meeting to get the views of the community. So, there is recognition that a community would be concerned if a playing field were to be disposed of. As you know, you cannot keep these things secret in a community, even if you wanted to—and I am not suggesting for a minute that a community council would. However, it would want to go out and engage with the community as part of its consideration.

**Ann Jones:** Is there not a danger that you are providing two levels of requirement, thereby making it easier for town and community councils to dispose of playing fields?

**Mr White:** Yes, there is a danger, but the likelihood of its being an issue is very small. Again, following discussions, I think that community and town councils would be in the vanguard of wanting to preserve such a facility, so I do not think that they would want to go down that route.

**Ann Jones:** You say that, but we do not know how many playing fields are owned by town and community councils, because we have not assessed that. You have said that community councils would be in the vanguard of wanting to protect them, and we hope that that would be the case, but there will be situations in which town and community councils may think that they can influence a development and playing fields will go. Is there not a danger that, if we allow what you are suggesting to happen, you have made it that much easier for the town council than for the county council? It is a 'yes' or 'no' answer, is it not?

**Mr White:** There is a danger, but I do not think that it is a significant danger because of the nature of community and town councils and the value that they place on such a facility.

**Ann Jones:** Okay, thank you.

**Eleanor Burnham:** Has that ever happened in Wales?

**Mr White:** We have not been able to establish an example of that happening. If anything of that nature were to take place, the planning regime would come into play, as would the new technical advice note 16, the open-space assessment and so on. So, additional safeguards are now in place that would prevent that from happening or would significantly limit the potential.

**Eleanor Burnham:** I think that you have answered my questions about consultations, but I will ask them just in case. You have raised concerns about the ability of community and town councils to meet the requirement to consult with individuals living outside its area. Could you clarify why you consider it to be particularly problematic for a community or a town council to undertake such an exercise?

**Mr White:** The difficulty is identifying who those users are in the first place. They will not always be the same users, because children grow up and do not always come back year after year, so you would not be able to go back a year later and identify the same people who will be using the facility in the future. It would be a logistical nightmare for a part-time clerk to try to establish who the users living beyond the immediate community boundary would be.

**Ann Jones:** I want to pick up on that. If the town and community council owns a playing field, surely the management committee knows who is using it. You keep saying that it is onerous on the clerk, but if the council owns the field, surely it would have a management committee. Therefore, the clerk has to make only one call to the management committee of a playing field to find out who the users are. Are you not over-egging the pudding here about the part-time clerk?

**Mr White:** I do not think so, because not all would have a management committee.

**Ann Jones:** I think that you are.

**Mr White:** I am just wondering how you would identify the users. If you were carrying out an impact assessment, presumably, you would also want to talk to the end users and not just to the organisations that would use it. So, you could be sending out questionnaires to householders or schools throughout Wales. I am just trying to clarify the problems that that would cause. I think that it would cause quite a problem.

1.00 p.m.

**Eleanor Burnham:** Following consultation on the proposed Measure, Dr Lloyd amended his proposal, as I am sure you know, to include a requirement on local authorities to send a copy of the impact statements to occupiers of every household in each local government electoral division that includes any part of the playing field. What are your views on that, and what are the practical and financial implications for the community and town councils that will have to meet that requirement?

**Mr White:** I will answer the last question first, if I may. I have already covered the practical and cost implications to some extent, but, bearing in mind the level of precept that councils are charging, I would say that 50 per cent of councils have a precept of less than £10,000, and so it would be prohibitive to undertake that sort of activity unless there was also a source of external funding. I cannot comment on the burden that would be placed on unitary authorities but, for community and town councils, the practical implications could not be addressed without a significant burden being placed on the precept the following year to recoup that funding.

**Eleanor Burnham:** Given where we are at the moment and how everyone is trying to prevent a rise in council tax, do you think that if people saw that they had to pay more, it would have a detrimental effect?

**Mr White:** Yes, and another concern is that, if this applied to community and town councils, it would be a further block to their agreeing to take on such a facility in the future. If we are looking to try to engage the management of community assets more locally and get more local involvement in that process, which is a good thing, this would be seen as another potential drain that the council would have to take into account if it were to take on that facility. Sorry, I have diverted a little from the point.

**Eleanor Burnham:** No, that is fine. We must also remind ourselves that community and town councillors are unpaid volunteers, so do you think that that has any bearing on what we are discussing?

**Mr White:** They are elected members, so my concerns are more about the practicalities and the cost rather than the principles involved. However, as I said earlier, there is an element of needing to trust elected members to make the decision that is in the best interests of their community.

**Eleanor Burnham:** A number of alternatives—

**Rosemary Butler:** Sorry, Eleanor, but Ann wishes to ask a supplementary question on that point.

**Ann Jones:** I wanted to press you a little more on your point about this being a block to their taking on playing fields or other services in future. Are you not trying to say that you would be willing to take on those services, but you would not want the work that goes with them if, for example, you wanted to dispose of playing fields? Are you not happy to take on the services, but not to do the work that goes with them?

**Mr White:** No, the point that I was trying to make was that, if a council were approached by a county council to take on a playing field, it would have a list of pros and cons. As well as the ongoing cost of maintenance, which would be a discussion to be agreed with the unitary authority, on the cons' side would be the fact that any solicitor would be required to point out to the council that, if at some point down the line it wished to dispose of the playing field—and that could be for perfectly straightforward reasons, for example, to develop another pitch elsewhere—that would incur the cost of many thousands of pounds. That would be a deterrent in the mind of the community council to taking on that facility. One Voice Wales would like to see more community facilities transferred and managed by community and town councils, because we feel that that is a good thing in principle.

**Ann Jones:** Yes, and I agree with that, but with rights come responsibilities, and what you are demonstrating to me—it might just be me—is that you want your rights, you want to be able to have the community facilities, you want to be able to manage them in consultation with the community. With that will come some revenue—we have not touched on the revenue that is coming in; you have talked about the revenue going out—but you are not prepared to take the responsibility of accepting that you must play a full role in this proposed Measure.

**Mr White:** For us, I think that the issue is one of proportionality. We have suggested an alternative that would make it more proportionate, in our view, to make sure that—

**Ann Jones:** But that would be two-tier—

**Rosemary Butler:** Sorry, but we are not having a discussion about the rights and wrongs of whether this should be undertaken by local and community councils. I think that the point that you are making is that, if you are taking on a burden, you need the resources to cover that burden. That is what you are saying, is it not?

**Mr White:** Yes.

**Rosemary Butler:** It is also about whether the resources should come from the borough council or whether there should be a further local community council tax in the precedent. Is that what you are saying?

**Mr White:** Yes.

**Eleanor Burnham:** In fact, that relates to the question that I wanted to ask, which follows on nicely from the previous question, about the number of alternative suggestions that have been made by those who have given evidence—you are obviously well versed in this—in relation to the method and scale of consultation, for example, notifying householders within a reasonable distance of the consultation and providing an impact statement on request. What do you consider is an effective and reasonable way for local authorities, including community and town councils, to ensure that communities are made aware of proposed disposals?

**Mr White:** If I deal with a proposal by a unitary authority first, I think that, because there are mailings that go out, it might be feasible for them to alert households to a potential disposal without significant additional cost and it presumably could be targeted at the households concerned, however widely you drew the circle. In terms of community and town councils, I do not think that it would be necessary for them to write to every household in their communities, because I think that it would become public knowledge very quickly within those communities if a disposal was planned. Indeed, a community council could organise a public meeting in order to engage the residents in that. I think that there are other ways in which it can be done more locally in the case of community councils.

**Eleanor Burnham:** If you consider the situation at the moment, even though the local authorities say that they communicate effectively, that is not necessarily the case. I have a simple example from my village, where no-one beyond the line of the actual road had been notified of a change in relation to speed bumps—we did not know, even though we were just behind the road, in our office. Whereas you would have expected everyone to know, it came as a huge surprise to some of us, because we had not been notified of the change. What I am trying to get at is that communication by local authorities is not always effective now, because it appears that only the very bare minimum of consultation takes place. They issue the very bare minimum of letters that they can get away with, so to speak. Where should the balance be struck?

**Mr White:** We would encourage planning authorities to make notifications more obvious and to be more aware. We have a number of examples of complaints from community and town councils that have not known that something was happening on their patch, so we would certainly support the aim under the proposed Measure to have a wider awareness. I just think that a community council could do that by organising a public meeting and that that would be a good way to engage the community and to gain their thoughts.

**Rosemary Butler:** I think that a simple way of raising awareness is to make sure that the agendas are publicised in plenty of places so that people can see what is being discussed. Obviously, the onus is often on the rate payer or members of the local community to find out what their council is doing—you cannot elect them and just leave them to it, you need to keep an eye on them. That is my personal view.

**Mr White:** Community and town councils are required to publish their agendas within the community, so that does take place and, of course, the council meetings themselves are held in public, unless they have to go in camera for any reason. There are members of the community and local reporters who go along to town and community council meetings, so as soon as anything like that comes up, it would get out into the community before a public meeting was held.

1.10 p.m.

**Janice Gregory:** I will move on, Simon, to section 5, 'Consideration of Representations'. Section 5 of the proposed Measure requires an authority to consider any representation that it receives during the consultation period, but there is no detail included about the way in which, or to what extent, an authority would undertake this consideration. What arrangements are currently in place for community and town councils to consider representatives and/or objections made in respect of proposed disposals under sections 123 and 127 of the Local Government Act 1972?

**Mr White:** Having thought about it, the main means by which those representations are taken into account is through the council meeting. If the council were to hold a public event or invite comments, the comments made would be reported at the council meeting, the councillors would discuss them and the minutes would record how the matter had been taken into account. I cannot think of any other mechanism that would easily do that, so I think that it is through the minutes of the council meeting that that would happen.

**Janice Gregory:** That would be the arrangement that is currently in place. In your view, is that provision adequate to meet the requirements in section 5, or would you perhaps need to look at a more formal way of gathering this information?

**Mr White:** There are two issues here—the gathering of the information, and the issue of how you take account of it in any decision that you make. The gathering of the information could be done through some public meeting or event, or by tacking it on to some sort of event that is already happening in the community, after which a report can be compiled. At the same time, any other representations to the council could be considered at the council meeting at which the councillors would discuss what decision to take. I do not think that any additional structure is needed to deal with this issue. I do not know whether it is more complicated or difficult for unitary authorities, but it is fairly straightforward for community councils, which would handle it in the council meeting and through the council minutes.

**Janice Gregory:** Thank you. Let us move on to section 6, which is the decision about whether to proceed with the proposed disposal. Simon, in your written evidence, you raised concern about the ability of town and community councils to meet the quite hefty requirement to prepare and publish a decision statement. Can you expand on your concerns for us?

**Mr White:** The concerns are substantially similar to those relating to the impact assessment in the first place. The fact is that a notice would have to be published in a newspaper, and the decision statement made available for inspection, but as I have said, in the main, community councils do not have an office where they could make such a statement available, and not all of them have a website. The issues are the same; it is just that they are at the end of the process rather than at the start.

**Janice Gregory:** In your written evidence, you referred to the ability of community and town councils to prepare a decision statement. You mention the issue of ensuring that that is publicised. You also say in your written evidence that,

'much will depend on the level of detail and professional input required'.

Do you think that the proposed Measure makes clear the level of detail required in such a decision statement? If not, how could it be addressed?

**Mr White:** I suppose that it did not to me because I was making an assumption as to what it might be, so my answer would be that it is not perhaps clear enough. How that is addressed is perhaps an area that is more appropriate for guidance, if the proposed LCO goes forward, rather than legislation, because the type of statement to be prepared would depend on the type of disposal taking place. It would not be appropriate now, but for a later stage.

**Nick Ramsay:** Still on the decision statement, Dr Lloyd amended his proposal following the consultation to include a requirement on local authorities to send a copy of the decision statement to all those who are consulted under section 4. What are your views on this, and what are your views on the financial and practical implications for community town councils of meeting such a requirement?

**Mr White:** I am in danger of repeating myself about the issues around the statement. It is really a matter of the cost of preparing the decision statement in the first place. I have mentioned the difficulty for a community council in making that available within the community as well. If it is to be sent to every household, there would be a huge cost for the community council to bear, and the burden would increase the wider you drew the circle around who has to be consulted and informed.

**Nick Ramsay:** Some witnesses have told the committee that the requirements are excessive. There has been a suggestion that they could be scaled down so that the local authority disposing of the playing field would only have to send a decision statement to specific people who might be interested. You said earlier that there could be other ways—word of mouth, for instance—for the community to learn of a decision taken. Can you elaborate on that? Are there any ways in which the system could be scaled down? I imagine that you would rather not have any of it at all, but if you are looking to play some part in the consultation, what would you identify as being a better alternative?

**Mr White:** On the publication of the decision statement, do you mean?

**Nick Ramsay:** Yes.

**Mr White:** It would be recorded in the council minutes, which is a public document in any case, so it would be available to interested parties in the community. If a community council has a website, it could make it available on that. In fact, all of our members can make their minutes available on our website to everyone in the community. So, there is a facility there that can be used. Many community councils will have notice boards where they will post their agendas, for example, so they could put it next to the agenda if you wanted to physically post something in the community.

**Eleanor Burnham:** In giving evidence to the committee, Dr Lloyd emphasised the purpose of section 7 provisions, directions by Welsh Ministers, to ensure that local authorities comply with procedures set out in the proposed Measure:

'The involvement of Ministers would be purely to adjudicate whether the process was carried out lawfully or not. That is the only involvement. The Minister would not get involved in the decision or in overturning any decision.'

What are your views on this? It could enable Welsh Ministers to act if a local authority fails to follow the requirement of the proposed Measure.

**Mr White:** I do not have a big difficulty with this. I suppose that if something has been set out it must be followed, and if it is not being followed, intervention by a Minister may well be appropriate. If a community council was going to go through the process of disposal and it was felt by a member of the community that it was trying to do it in an underhand way, it would be open for the member of community to contact the Assembly Government Minister concerned, and the matter could be looked at. However, I think that it is unlikely, because in the main it would be a very public exercise in any case within the community. I do not have a particular problem with section 7.

**Mohammad Asghar:** In giving evidence to the Finance Committee, Dr Dai Lloyd stated that he does not anticipate that the proposed Measure will have any significant cost implications for local authorities. Do you agree?

**Mr White:** I would argue that there is a significant cost implication for community and town councils if the proposed Measure goes ahead in its current form. Consultation and bringing in experts could mean that the cost of disposal could be higher for a community council, because it does not have any expertise, as I said earlier, to undertake any of the work. So, there would be a significant cost for community and town councils, which is money that could be better spent elsewhere; that is also a point that I wish to make.

**Mohammad Asghar:** On the other hand, the Minister for Social Justice and Local Government, in evidence to the committee, said that all associated costs with the proposed Measure should be met by the revenue support grant. Do you consider that this would be manageable from existing budgets?

**Mr White:** It would not be manageable from existing budgets of community and town councils. The average precept is £36,000 and 50 per cent of councils have a precept of less than £10,000, so it would not be feasible for it to be applied to community and town councils in its full form, as envisaged at the moment. It would be a significant problem.

1.20 p.m.

**Rosemary Butler:** In evidence to the Finance Committee, Dr Dai Lloyd ultimately argued that the benefits of the proposed Measure in helping to tackle the health risks associated with a lack of physical activity would outweigh the costs. You have indicated otherwise this morning. Do you wish to comment on that?

**Mr White:** As a sector, we are very much in support of community facilities such as playing fields being available. Community councils would be up in arms if any sort of disposal was being proposed. The problem is the cost that would be incurred if there was to be a disposal of the sort that I referred to earlier, which was a real example from Pembrokeshire. That cost would be disproportionate and would have a significant impact—first, because the community council does not receive any revenue support grant, to go back to my earlier point, so the entire burden would fall on precept-payers in the community. Secondly, these measures are simply not required, in our view, because community and town councils have the best interests of their community at heart anyway.

**Eleanor Burnham:** Otherwise they would not be community or town councillors for very long.

**Mr White:** Indeed.

**Rosemary Butler:** We have asked you lots of questions. Does anyone want to make a point that we have not covered? I see that no-one does. Would you like to put some questions to us, or add to the evidence that you have given?

**Mr White:** The only point that I would stress again is the question of why it is the disposal that is important, as opposed to a change of use. To my mind, it is possible for a change of use to take place easily, with a school playing field being built upon for one reason or another, or a community centre or other building extended on to land that is currently a playing field. I recognise that that would be covered through the planning system, but there could be changes of use that would involve playing fields disappearing that would not be captured by this proposal, as I understand it.

**Eleanor Burnham:** I have a brief point to make. I can think of an instance in north Wales where a tennis club relocated, and I believe that the old site was kept for a different purpose, with the club moving to a new development on another site. How would that be affected by the proposal in this proposed Measure?

**Mr White:** My understanding is that, if the existing facility was to be sold off for some other use within the community—and affordable housing is a concern for many community councils—then they would have to carry out this impact assessment, and that money would perhaps be better spent on building a better-quality new facility.

**Mohammad Asghar:** We do not have the right information on pitches and fields. I believe that the pitch is where the players play the game, and the field is the larger area, where spectators might stand, and so on. The field is larger than the pitch.

**Rosemary Butler:** We had quite a discussion on this previously, and I think that Dai Lloyd's point was that, if an area has been marked out, you would see that as a pitch. The point has been made that a field, where people tend to go for a walk, could be considered a recreational facility.

**Eleanor Burnham:** Lacrosse is played on an unmarked pitch or whatever.

**Rosemary Butler:** We can have these discussions when Mr White is not here. I thank him for answering our questions and making a contribution to our deliberations. A draft of the transcript will be sent to you for correction before it is finalised, so you can take the opportunity to look at that. Thank you for answering the questions on behalf of all your members.

**Mr White:** Thank you.

1.24 p.m.

## Cynnig Trefniadol Procedural Motion

**Rosemary Butler:** I propose that

"the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order No. 10.37(vi)."

I see that there are no objections.

"Derbyniwyd y cynnig.  
Motion carried."

"Daeth rhan gyhoeddus y cyfarfod i ben am 1.25 p.m.  
The public part of the meeting ended at 1.25 p.m."