



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

**Pwyllgor Deddfwriaeth Rhif 2
Legislation Committee No. 2**

**Dydd Iau, 7 Mai 2009
Thursday, 7 May 2009**

Cynnwys
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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi 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

Lorraine Barrett	Llafur (yn dirprwyo ar ran Sandy Mewies) Labour (substitute for Sandy Mewies)
Jeff Cuthbert	Llafur Labour
Paul Davies	Ceidwadwyr Cymreig Welsh Conservatives
Gareth Jones	Plaid Cymru The Party of Wales
Val Lloyd	Llafur (Cadeirydd y Pwyllgor) Labour (Chair of the Committee)
Jenny Randerson	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats

Eraill yn bresennol
Others in attendance

Naomi Alleyne	Cyfarwyddwr Cydraddoldeb a Chyfiawnder Cymdeithasol, Cymdeithas Llywodraeth Leol Cymru Director of Equalities and Social Justice, Welsh Local Government Association
Roger Bishop	Cyfarwyddwr Gweithredol, Tros Gynnal Executive Director, Tros Gynnal
Andrew Fletcher	Cyfarwyddwr Cyfathrebu, Cymdeithas Genedlaethol Gwarchod Plant Director of Communications, National Childminding Association
Catrin Fletcher	Cyfarwyddwr Cymru, Cymdeithas Genedlaethol Gwarchod Plant Director for Wales, National Childminding Association
Beverlea Frowen	Cyfarwyddwr dros y Gwasanaethau Cymdeithasol a Gwella Iechyd, Cymdeithas Llywodraeth Leol Cymru Director of Social Services and Health Improvement, Welsh Local Government Association
George Jones	Cyfarwyddwr Cynorthwyol, Tros Gynnal Assistant Director, Tros Gynnal
Dr Chris Llewelyn	Cyfarwyddwr Dysgu Gydol Oes, Hamdden a Gwybodaeth, Cymdeithas Llywodraeth Leol Cymru Director of Lifelong Learning, Leisure and Information, Welsh Local Government Association
Ann Williams	Pwyllgor Llysoedd Teulu, Cymdeithas yr Ynadon Family Courts Committee, Magistrates' Association
Margaret Wilson	Pwyllgor Llysoedd Teulu, Cymdeithas yr Ynadon Family Courts Committee, Magistrates' Association

Swyddogion Gwasanaeth Seneddol y Cynulliad yn bresennol
Assembly Parliamentary Service officials in attendance

Sarah Beasley	Clerc Clerk
Joanest Jackson	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser

Sarah Sargent

Dirprwy Glerc
Deputy Clerk

*Dechreuodd y cyfarfod am 8.59 a.m.
The meeting began at 8.59 a.m.*

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introduction, Apologies and Substitutions

[1] **Val Lloyd:** Good morning, everyone, and welcome to today's meeting of Legislation Committee 2, where we are considering the Proposed Children and Families (Wales) Measure at Stage 1. This is our fourth evidence session. I welcome Lorraine Barrett, who is substituting for Sandy Mewies, who has sent her apologies. You are very welcome, Lorraine.

9.00 a.m.

Y Mesur Arfaethedig ynghylch Plant a Theuluoedd (Cymru)—Cyfnod 1: Sesiwn Dystiolaeth 4 Proposed Children and Families (Wales) Measure—Stage 1: Evidence Session 4

[2] **Val Lloyd:** I welcome our first set of witnesses to give evidence and take questions. Please introduce yourselves.

[3] **Dr Llewelyn:** I am Chris Llewelyn, director of lifelong learning, leisure and communications at the Welsh Local Government Association.

[4] **Ms Alleyne:** I am Naomi Alleyne, director of equality and social justice at the WLGA.

[5] **Ms Frowen:** I am Beverlea Frowen, and I am the third director making up the team. I have responsibility for social services, health, and public protection.

[6] **Val Lloyd:** Thank you for coming. I will start the questioning. The proposed Measure is wide-ranging and covers diverse areas of policy. Do you support the general principles of the proposed Measure, and do you have any general comments about whether the key provisions are appropriate to deliver its stated objectives? Is it too broad to be effective?

[7] **Dr Llewelyn:** The answer to the first question is relatively simple: 'yes'. We support the broad aims of the proposed Measure, and we welcome the focus that it provides on child poverty issues. It is in line with the views of local government. We have had significant discussion within the WLGA, with our members, on the proposed Measure, and there is broad support for the ethos, or background, of what it tries to achieve. In our written evidence we have tried to reflect that level of support, but we have also drawn attention to some of the areas where there are concerns. You ask whether we think that the aims are too broad—I do not think that we would necessarily say that, but we would like to see some reconfiguration of the way in which some aims are presented.

[8] There are lots of challenges here and, in the current climate, with economic pressures being brought to bear on the public sector as a whole—both the Assembly Government and local government—it is important to be realistic about what can be achieved. On the one hand, we agree that it is important to be aspirational, and to set targets at a high level, and to make commitments and signal them publicly, but it is also important to have a sense of realism, of what can be achieved, and of flexibility in being able to respond to different circumstances. As a body that represents 22 authorities across the whole of Wales, we are

conscious that the challenges that authorities face differ considerably. In our relationship with the Welsh Assembly Government, across all service areas, we recognise the principle that strategy is set nationally by the Assembly Government but delivered locally by local authorities, and there is a need to have flexibility for authorities to take into account local needs, pressures and circumstances. That is definitely the case in relation to child poverty. We support the headline ideas but think that there could be some more flexibility in terms of local delivery.

[9] **Val Lloyd:** Does anyone want to add anything?

[10] **Ms Frowen:** Yes, I would like to add something specifically regarding the integrated family support teams. Both the profession and the politicians welcome the concept, and it has many benefits that reflect the Welsh approach to social services and joint working with our partners, particularly the NHS. The concept is extremely challenging—we welcome the fact that it will be thoroughly tested before a view is taken. With the capacity pressures across both the NHS and social services, it will be essential that it is tested, but the fact that we are doing this, and recognising that children exist within a family context, and that we have to push the boundaries in terms of joint working across individual agencies' statutory responsibilities should be commended.

[11] **Val Lloyd:** Lorraine, I believe that you want to ask a question.

[12] **Lorraine Barrett:** In your paper, you raise concerns that some parts of the proposed Measure, as currently drafted, will confuse rather than clarify existing legislation. Could you explain your concerns, particularly with regard to the longer-term impact of the proposed Measure?

[13] **Ms Alleyne:** From our point of view, the legislation in some areas seems to be quite general and therefore could be open to interpretation. There is a quite a lot in the proposed Measure that will be implemented through regulations at a later date, so until those regulations are produced, it is difficult for us to assess what the impact will be in the longer term.

[14] In contrast, there are other parts of the proposed Measure that are very prescriptive and which, in some instances, may be over-prescriptive in some ways. That has the potential to cause confusion. An example, which we will come on to later, is the definition of 'abuse' in relation to the integrated family support teams. We need to clarify that and link it to existing definitions—I am sure that we will cover that later. We also need to take into account that the UK Government has published a child poverty Bill for consultation, so there may be some requirements resulting from that, particularly relating to non-devolved issues, which may also impact on partnerships. So, we need to see this as a whole in order to be clear about how we move forward and what the requirements are on different agencies to take this forward.

[15] **Jeff Cuthbert:** My questions deal with the broad aims of the proposed Measure. You may feel that you have already answered some of them in part—that is not a problem. You seem to suggest in your paper that the expectation that local authorities set objectives against the broad aims is 'unrealistic' and 'aspirational'—those were the words used. Chris mentioned aspirational aims and, indeed, we need aspirational aims, otherwise you could say that there is no point to this, but they also need to be realistic in terms of what is achievable. Do you think that any of the aims should be amended to make them achievable, as well as aspirational, in terms of the responsibilities placed on children and young people's partnerships? Furthermore, you suggest, and it is clearly the case, that child poverty is a complex area that does not lend itself easily to a definitive list of objectives. You go on to suggest that perhaps these ought to be in guidance rather than objectives. However, do you

think that that could lead to inconsistencies across local authorities in Wales?

[16] **Ms Alleyne:** If we look at the detail of the broad aims, the concern is whether it is within the gift of the children and young people's partnerships to deliver on those and, from a local government point of view, around our ability to discharge that duty through the children and young people's plan.

[17] There are a few examples that we could give, and I think that other witnesses have mentioned, in particular, the aim on housing and ensuring that all children live in decent housing. That is aspirational and fits in with other broader housing policy in Wales. In the social housing sector, we have the Welsh housing quality standard, which sets a standard for social housing, but it is difficult, in relation to private sector dwellings, for example, to ensure that all children live in private sector dwellings of a decent standard. As such, it is difficult when that aim is on the face of the Measure, because it is very aspirational and there is a question as to whether it is deliverable in that way.

[18] Another example is broad aim (a), which relates to increasing income

[19] 'with a view to ensuring that, so far as reasonably practicable, there are no households in the relevant income group;'

[20] There are huge challenges to achieving that and, while the aims embody aspirations that we would commit to, it is difficult to have the aims on the face of the Measure in terms of legislation around how children and young people's partnerships can deliver on those. The partnerships will work within the existing policy framework, so you have housing strategies that local authorities develop, which will partly contribute towards that. However, it is not a definitive list; it is not exhaustive. There are other issues that you could add and others that could come off. So, we would want to see them linked to the seven core aims and the work that is already being undertaken. The issue was around whether or not they should be on the face of the proposed Measure or in statutory guidance.

9.10 a.m.

[21] **Jeff Cuthbert:** However, they are broad aims—they are not measurable objectives in that sense. I believe that we should be aspirational in stating that this is what we want to achieve in due course. Nevertheless, as I said at the beginning, we would not want something in the proposed Measure that was unrealistic. You mentioned the issue of private housing. I appreciate the difficulties in relation to private housing as opposed to public housing, but is that a reason for not including it?

[22] **Dr Llewelyn:** I suppose that what we are saying is that we are not disagreeing with what is contained in the broad aims, but we are suggesting that there might be a better way of capturing what is intended. A more general statement of these broad aims, without the same level of detail, would still capture what is intended, but would enable some flexibility in terms of deliverability. You mentioned the fact that we referred to the complexity of the whole issue of child poverty and the incompleteness of our understanding of how we can impact on child poverty. As that understanding changes and improves, it would be useful to be tied down to a general statement of broad aims, but it might not be appropriate to be restricted to some of the detail that is contained here. You mentioned inconsistency, but there is some advantage in having flexibility, rather than inconsistency.

[23] **Jeff Cuthbert:** I appreciate that there is a difference between flexibility and inconsistency, but we would not want a massive difference in standards.

[24] **Dr Llewelyn:** We recognise that, and we are not saying that this is easy. There is a

trade-off or a balance to be found, and we feel that the broad aims perhaps go too far in terms of detail and prescription. It might be that it is more appropriate to have that kind of detail in guidance and that a more general statement of broad aims would be appropriate at this point. I was interested in the evidence that the Joseph Rowntree Foundation provided, which captured the idea of being able to have general, broad aims in some instances, but also to have detail and specificity where it is deemed to be appropriate.

[25] **Jeff Cuthbert:** Thank you very much. I think that you have dealt with the issue that I was going to raise in a supplementary question, so I will not ask that. Moving on to the scope of children and young people's partnerships, you say that some of the broad aims are outside of their scope and that additional work and resources would be necessary for the partnerships to manage and co-ordinate effective delivery. What sort of changes would you wish to see made to bring things within the scope of the partnerships? How can the partnerships best assist to deliver on this agenda?

[26] **Dr Llewelyn:** Going back to the broad aims, I suppose that what we are saying is that some issues are for central Government rather than the Welsh Assembly Government, in terms of having an impact on household income and employment levels. There are issues of macroeconomic Government policy, and there are also issues of benefits take-up and tax credits. There are some things that are clearly outside the scope of local government and children and young people's partnerships. If there is an expectation that the broad aims will be used to set objectives and provide plans for how these aims can be addressed, it would in all probability involve an increased level of activity, and it is not clear to us what benefit there would be from that increased level of activity.

[27] Again, going back to the evidence that you have already received, it may have been the Joseph Rowntree Foundation that suggested that a considerable increase in activity would result from the proposed Measure. It is difficult to see how that increased activity would be compatible with the principle that additional resources are not required.

[28] **Ms Alleyne:** Added to that, on some of the broad aims, other organisations will be required to play their part, and they will not necessarily be members of the children and young people's partnerships now. For example, if you are looking to promote and facilitate paid employment for the parents of children, that is not within the gift of the children and young people's partnerships, so they would need to work in greater partnership with other organisations to have an influence on their work to ensure that they can help to deliver those objectives. Children and young people's partnerships are working at full pelt to make that happen. The requirement to have an increased focus on child poverty will probably need additional resources to ensure the necessary focus and the action required to deliver it.

[29] **Jeff Cuthbert:** Thank you.

[30] **Gareth Jones:** Mae fy nghwestiwn i yn ymwneud ag adnoddau. Yn eich tystiolaeth, dywedwch fod y Llywodraeth wedi tanamcangyfrif y llwyth gwaith a'r gost o gyflwyno'r Mesur arfaethedig. Yr ydych hefyd yn datgan pryderon am na wnaed unrhyw asesiad realistig o gost nac effaith y ddeddfwriaeth newydd. Yn eich tyb chi, pa amcanion o'r rhai y dylid anelu atynt yn y Mesur arfaethedig fyddai â chost sylweddol yn perthyn iddynt?

Gareth Jones: My question is on resources. You refer in your evidence to the possibility that the Government has underestimated the cost and work required to introduce this proposed Measure. You voice concerns about the fact that a realistic assessment of costs has not been undertaken in terms of the impact of this new legislation. In your view, which of the more aspirational aims in the proposed Measure have a significant cost attached to them?

[31] Yr ydych hefyd yn dweud na fydddech You also say in your evidence that you would

yn cefnogi unrhyw gyfrifoldebau newydd nad dydynt wedi'u cyllido pe baent yn rhoi gwaith ychwanegol ar ysgwyddau llywodraeth leol. Dywedwch yn glir na fydddech yn fodlon cefnogi'r rheiny. A allwch ymhelaethu ar hynny, gan gyfeirio at unrhyw rannau o'r Mesur arfaethedig y byddwch yn amharod eu cefnogi?

not support any unfunded additional responsibilities that place additional burdens on local government. You state clearly that you are not prepared to support that. Could you expand on that, making reference to any particular parts of the proposed Measure that you are unwilling to support?

[32] **Ms Alleyne:** Going back to one of the earlier points about the complexity of the legislation, we are not quite sure what the plans are for commencing the different parts of it. The extension of free childcare will obviously cost more money if it has to be provided. If the funding for that has to come from a certain pot of money with no increase, but all the money is already being fully used, we would have to scale down some of the current provision to make sure that we could provide the new extended provision required.

[33] As for being able to drive the proposed Measure forward and implement the various requirements, additional resources will be required in some instances. That is not to say that we should not look to use the resources that are already available in a better way, to ensure that the investment is used to best effect and that other moneys coming into an area—and I think that we highlighted Communities First funding as an example in the paper—can also be used and galvanised. That is so that the available resources are used to best effect at the local level.

[34] It is a concern, because there has not been any detailed discussion of the financial resourcing implications of the proposed Measure in the longer term. We will come to some questions about play at a later stage, having seen the feedback from Play Wales. It is about having that discussion so that, if we are to deliver on this and bring about the changes that are needed, we know what additional resources will be needed to drive it forward successfully.

9.20 a.m.

[35] **Dr Llewelyn:** On not taking on any new burdens without the funding being available, I know that it sometimes sounds like a negative statement, but it is a reflection of a general principle and of the understanding between central Government and local government. There are various protocols that recognise that principle, such as the Essex-Jones agreement, and it underpins the ongoing relationship between central Government and local government. It is not specific to this proposed Measure and to child poverty; it goes across the board. At a time when resources are stretched and public finances are under pressure, it is important and more than reasonable for local government to make the point that, while it supports the endeavour, it recognises in a realistic way that any new responsibilities need to be funded.

[36] **Jeff Cuthbert:** I have a supplementary question on that. I appreciate as a basic premise that you cannot do the work unless you have the resources. However, on reorganisation and sharing services with other public bodies, do you not see, looking in the round, that there could be scope to share resources between local government departments, such as social services and education, and with other services, such as the NHS? That may well be a way forward without increasing the overall burden on the public purse.

[37] **Dr Llewelyn:** I agree with that, and we may have neglected to mention that in the written evidence that we provided. I do not think that we highlighted that point, but it is valid. Through closer collaboration, it is possible to make more effective use of resources. Local government as a whole is committed to that and has a track record of delivering those kinds of efficiencies, and increasingly so. Nevertheless, our concern remains that the resource demands of the proposed Measure are, to some extent, a question of interpretation. In our

discussions with officials, there has been some reassurance that the intention at this time is for anything arising from the proposed Measure to be cost-neutral. However, it is legitimate to raise concerns that the interpretation at a future point might lead to increased cost pressures and that compromises or sacrifices might have to be made elsewhere to meet those demands.

[38] **Gareth Jones:** Diolch am yr atebion hynny. Cyfeirïaf yn awr at ddyletswyddau awdurdodau lleol mewn perthynas â gofal plant. I ryw raddau, yr ydych wedi ateb fy nghwestiwn cyntaf. Fel y gwyddom, mae'r Mesur arfaethedig yn galluogi Gweinidogion Cymru i gael pwerau newydd i gyflwyno rheoliadau mewn perthynas â darparu gofal plant am ddim. A fedrwch ymhelaethu ychydig ar eich pryderon? Credaf ichi gyfeirio yn gynharach at y ffaith y byddech am weld ymgynghoriad manylach pellach cyn cyflwyno'r rheoliadau hyn. Yn y cyddestun hwnnw, bu ichi godi rhai pryderon am Dechrau'n Deg. Sut mae'r dulliau a geir yn y Mesur arfaethedig yn groes i'r egwyddorion sy'n cynnal ein trefniadau presennol i gyllido llywodraeth leol drwy setliad y grant cynnal refeniw? A oes rhyw fath o drafferth yr hoffech ei rhannu â ni?

[39] **Dr Llewelyn:** Dechreuaf i ac wedyn efallai y gall Naomi ychwanegu rhywbeth. Ein gofid ni o ran y setliad yw y dylai awdurdodau lleol fod yn rhydd i wario'r grantiau sy'n mynd i mewn i'r setliad ym mha ffordd bynnag y dymunant. Fodd bynnag, ar hyn o bryd, mae amodau yn gysylltiedig â'r grantiau hynny. Yr ydym mewn trafodaethau â nifer o adrannau'r Llywodraeth i geisio lleihau nifer y grantiau arbennig sy'n cael eu talu i lywodraeth leol ac efallai i leihau'r symiau o arian sy'n dod at lywodraeth leol yn y modd hwnnw. Pe bai newid yn y gyfundrefn grantiau, y gofid sydd gennym yw y byddai'r amodau sy'n bodoli ar hyn o bryd, sy'n berthnasol i'r grantiau hynny, yn cael eu gosod mewn deddfwriaeth, ac mae'r egwyddor honno yn mynd yn groes i'r trafodaethau sy'n cael eu cynnal ar hyn o bryd. Byddai baich gweinyddol yn cael ei greu hefyd a fyddai'n tynnu arian oddi wrth y gwasanaethau yn lle ychwanegu atynt.

[40] **Gareth Jones:** Yr wyf yn cytuno â chi ar y pwynt hwnnw, ac yr wyf yn cydymdeimlo o ran y gofid hwnnw. Beth fyddai'r ffordd orau o symud ymlaen? A oes angen mwy o ymgynghori ar y pwynt hwnnw?

Gareth Jones: Thank you for those answers. I will now refer to the duties of local authorities in relation to childcare. You have already answered my first question, to some degree. As we know, this proposed Measure will enable Welsh Ministers to have new powers to introduce regulations in relation to the provision of free childcare. Could you expand a little on your concerns? I think that you referred earlier to the fact that you would like to see a more detailed consultation before these regulations are introduced. In that context, you raised some concerns about Flying Start. How are the methods set out in this proposed Measure at odds with the principles that underpin the current arrangements for funding local government through the revenue support grant settlement? Is there some sort of difficulty that you want to share with us?

Dr Llewelyn: I will start and then perhaps Naomi could add something. Our concern about the settlement is that local authorities should be free to spend the grants that go into the settlement in whichever way they choose. However, at the moment, there are conditions attached to those grants. We are in discussion with several Government departments at the moment to try to reduce the number of special grants paid to local government and perhaps to reduce the sums of money that are paid to local government in that way. If there were to be a change in the grant regime, our concern is that those conditions that exist at the moment, which are relevant to those grants, would be included in legislation, and that principle is at odds with the discussions that are being held at the moment. An additional administrative burden would also be created, which would take money away from the services rather than adding to them.

Gareth Jones: I agree with you on that point, and I sympathise with your concerns. What would be the best way of moving forward? Is there a need for further consultation on that point?

[41] **Dr Llewelyn:** Fel cymdeithas, byddem yn anghytuno â'r egwyddor, a buasem yn bendant yn croesawu mwy o ymgynghori. Y gofid yw y bydd y Mesur arfaethedig yn sefydlu egwyddor a fydd yn mynd yn groes i'r trafodaethau yr ydym yn eu cynnal ym meysydd eraill, fel yr oeddwn yn sôn yn gynharach. Bydd yn mynd yn erbyn rhai o'r egwyddorion o ran perthynas Llywodraeth ganolog a llywodraeth leol. Yn bendant byddwn angen trafodaeth bellach. Y peth i gofio hefyd yw bod llywodraeth leol, yn gyffredinol, yn gwario'r arian hwnnw yn y meysydd penodol. Hynny yw, nid oes tystiolaeth bod angen yr amodau tyn sy'n gysylltiedig â'r grantiau er mwyn gorfodi awdurdodau i wario'r arian yn y meysydd cywir. Felly, yr ydym yn teimlo eich bod yn creu deddfwriaeth i ddatrys problem nad yw'n bod.

[42] **Gareth Jones:** Yr wyf am symud at ofal plant am ddim. Eto, mae gennych ofidion am y Mesur arfaethedig yn hynny o beth, yn enwedig gan y bydd yn newid argaeledd gofal plant. Fwy neu lai, yr ydych yn dweud nad yw'n hollol glir beth yw bwriadau hirdymor y Llywodraeth unwaith y bydd y ddeddfwriaeth wedi ei phasio. A fedrwch ymhelaethu ar y pwyntiau hynny, os gwelwch yn dda?

[43] **Dr Llewelyn:** Eto, nid ydym yn gwrthwynebu'r egwyddor o ychwanegu at ddarpariaeth gofal plant, ac mae'r gyfundrefn bresennol yn gynaliadwy, ond ein gofid yw y bydd goblygiadau ariannol os bydd ychwanegiad at a thwf yn y ddarpariaeth. Y dymuniad yw cael rhyw fath o sicrhad o ran hynny, felly. Eto, mater o adnoddau yw hwn. Mae'n swnio'n negyddol, ond yr wyf am gyfleu'r ffaith ein bod yn amau y bydd ychwanegu at y ddarpariaeth bresennol yn gynaliadwy. A fyddai'r adnoddau ar gael? Mae goblygiadau o ran y gweithlu hefyd. A yw'n bosibl ychwanegu at y ddarpariaeth bresennol? Beth fyddai cost hynny? Sut yn union y byddem yn asesu pa fath o ddarpariaeth fydd ei hangen arnom yn y dyfodol?

[44] **Gareth Jones:** Diolch am hynny.

Dr Llewelyn: As an association, we would disagree with the principle, and we would definitely welcome more consultation. We are concerned that the proposed Measure will establish a principle that is at odds with the discussions that we are conducting in other areas, as I said earlier. It will run counter to some of the principles underpinning the relationship between central Government and local government. We will definitely need further discussions. The other thing to bear in mind is that local government, generally speaking, spends the money on those dedicated areas. That is, there is no evidence to suggest that restrictive conditions need to be attached to the grants to force authorities to spend the money in the correct areas. So, we feel as though you are creating legislation to solve a problem that does not exist.

Gareth Jones: I will move on to discuss free childcare. Again, you have concerns about the proposed Measure in that regard, especially because it will change the availability of childcare. You are more or less saying that it is not completely clear what the Government's long-term intentions are in relation to childcare, once the legislation has been passed. Could you expand on those points, please?

Dr Llewelyn: Again, we are not opposed to the principle of increasing childcare provision, and we know that the current system is sustainable, but we are concerned that there would be financial implications if there were to be additions to provision and growth. We would want some sort of assurances on that. Again, it is a matter of resources. It sounds negative, but I want to convey the fact that we doubt whether any addition to the provision will be sustainable. Will the resources be made available? There are also implications for the workforce. Would it be possible to add to the current provision? What would the cost be? How exactly would we assess what sort of provision would be needed for the future?

Gareth Jones: Thank you for that.

9.30 a.m.

[45] **Ms Alleyne:** One of the concerns is that the Welsh Ministers would, through regulations, be able to specify the type and duration of provision, and eligibility and the delivery area. It is important that we also look at the outcome of local needs assessments, and that there is a requirement to consult and to decide on those issues in consultation and in collaboration with the local authority, which will know the area much better. There is also a concern that you can provide childcare in designated areas, but that there will be children outside those designated areas who could also benefit. So, there needs to be much better local information about needs, and that is not necessarily reflected in the proposed Measure.

[46] **Gareth Jones:** We take that point, and I believe that it is an important one.

[47] Yn olaf, gan ddilyn y pwynt yr oeddech chi, Chris, yn cyfeirio ato ynghylch sut yr ydych yn datblygu'r gofal hwn dros y blynyddoedd, mae'r comisiynydd plant, yn ei dystiolaeth, wedi dweud y dylai'r ddarpariaeth hon gynnwys plant oed cynradd, hyd at 10 neu 11 oed. Beth yw eich barn ar hynny?

Finally, following on from the point that you made, Chris, about how you develop that care over a period of years, the children's commissioner, in his evidence, said that this provision should be extended to cover primary-school-aged children, up to the ages of 10 and 11. What is your view on that?

[48] **Dr Llewelyn:** Byddwn yn meddwl bod y comisiynydd plant yn gwneud pwynt dilys ynghylch hynny, ac mae'n rhywbeth i'w drafod ymhellach. O ran yr egwyddor—hynny yw, ar yr wyneb, heb ei drafod ymhellach—ni fyddwn yn anghytuno, ond eto mae pwynt ynghylch yr adnoddau. Byddai'n rhaid cynnal trafodaeth ynglŷn â chost darpariaeth o'r fath, sut yn union y byddem yn gweithredu unrhyw gyfundrefn newydd, pwy fyddai'n elwa, a sut yn union y byddent yn elwa. Fodd bynnag, mewn egwyddor, byddwn yn meddwl ei fod yn bwynt dilys.

Dr Llewelyn: I would think that the children's commissioner is making a valid point in that regard, and it is something that requires further discussion. In principle—that is, on the face of it, without a further discussion—I would not disagree, but again there is a resource issue. A discussion would have to be held regarding how much this kind of provision would cost and how exactly we would implement any new regime, who would benefit, and how exactly they would benefit. However, in principle, I would think that that is a valid point.

[49] **Ms Alleyne:** Childcare is obviously one of the Assembly Government's key priorities in respect of its approach to tackling child poverty. The point that the children's commissioner made is that, for parents who go out to work and who require childcare, that need does not stop at the age of five; childcare is also required for children much older than that. On that basis, if it is to be effective in ensuring that appropriate, good-quality childcare is available for children, in which parents can have confidence so that they can happily go to work, it would need to be extended from the current age range.

[50] **Val Lloyd:** Paul, before I call you in, I have a supplementary question. You have expressed concerns about the provisions of Part 2 of the proposed Measure on childcare resources and financial aspects; you focused on that. Do you agree with the policy in that area? I understand your concerns about the resources and finance, but do you agree with the policy in that area?

[51] **Ms Alleyne:** Do you mean the policy to extend free childcare?

[52] **Val Lloyd:** Yes.

[53] **Ms Alleyne:** Yes, particularly because of the benefits, as it does assist parents with

regard to employability. As I think that we said in the paper, good-quality childcare is also good for children. It is not just about supporting parents; it is about ensuring that children can learn and thrive within a good-quality childcare placement.

[54] **Val Lloyd:** In addition to childcare, and I did say 'yes', and I focused on that, what about Part 2 generally?

[55] **Ms Alleyne:** Do you mean the child-minding aspects?

[56] **Val Lloyd:** Yes.

[57] **Ms Alleyne:** I do not think that we have any issues with that.

[58] **Jenny Randerson:** In relation to childcare specifically, do you think that the proposed Measure should be more specific about children with disabilities? Statistics show that the parents of children with multiple disabilities, and with serious disabilities in particular, are more likely to be living in poverty, as is the whole family, and that those parents are less likely to be in work, which is a fundamental cause of that poverty. The take-up of childcare for children with multiple disabilities is very low indeed. Do you think that the proposed Measure should be more specific in that regard?

[59] **Ms Alleyne:** I would not suggest that the proposed Measure should be more specific, but there are certainly issues that you would probably want to address through statutory guidance. There are specific challenges in relation to childcare settings in ensuring that the needs of disabled children, particularly those with multiple disabilities, are catered for. However, it again comes back to other issues, not only regarding disabled children, as you are also talking about children from minority backgrounds who may have English as a second language. There is a range of issues that would need to be addressed to ensure that childcare was accessible and suitable for people, no matter what their needs were. It may require further resourcing and consideration of what requirements are provided. I would probably say that is should not be within the proposed Measure, but it is something that could follow in statutory guidance. You highlighted the fact that certain groups are at risk of falling into child poverty because of other factors, and you would want to see certain, targeted actions undertaken to ensure that their needs are met and that the appropriate support is provided.

[60] **Val Lloyd:** Paul, thank you for your forbearance.

[61] **Dr Llewelyn:** I will just add one point, if I may, which is in relation to childcare. It is a point that you have heard, I think, from other witnesses. It is important to emphasise that the point of extending childcare is to enable parents and guardians to get into jobs that pay well rather than to enable them to do more low-paid jobs. It is important not to lose sight of the goal behind the provision.

[62] **Paul Davies:** I will move the discussion on to Part 3 of the proposed Measure, on integrated family support teams. You make the point in your evidence that much of the work to do with these support teams depends on additional, secondary legislation. Does this cause you any concern, and should the requirement to consult fully on these regulations be explicit in the proposed Measure?

[63] **Ms Frowen:** I do not think that we have any overriding concerns, other than to say that we are making the general assumption that consultation will take place throughout the process and that we would definitely want to ensure that full consultation happens on any strategies that arise from the legislation or from secondary legislation. This is all predicated on the assumption that this innovative, challenging model will give benefit. We are starting from some sort of an evidence base, but we are mainly starting with innovation and challenge,

and risk, too. Therefore, I do not detect at the moment any tension between central Government and local government, and not even among any of the practitioners, that we are all going to jump into setting up these teams without a measured, thorough, robust approach to it. The consequences would be just too dire.

[64] **Paul Davies:** Section 51(2) of the proposed Measure appears to imply that secondary regulations would be prescriptive in relation to spending and the provision of posts and services. Do you agree that the structure and functions of the support teams need to be prescribed in order to provide a consistent approach to service delivery? Are there any amendments that you would like to see?

[65] **Ms Frowen:** We do not feel that they should be prescriptive. We feel that the emphasis is on the outcome, the functions and the broad way in which the teams operate. You must build flexibility in, and probably the best route for that would be through guidance, good practice and challenge with regard to how the individual teams would be constituted in number and size, and even in terms of roles.

[66] Looking again at this provided me with an opportunity to reflect on how, in the late 1980s, we set up what was then considered to be a very challenging multidisciplinary team model for people with mental health problems, namely the community mental health teams. On that, we were not prescriptive about how many you had to have of A, B or C. On the cost, we were very prescriptive on the outcome and the function that the teams had to achieve, and on the accountability, too, because that is a very important part of this.

[67] There are lessons to be learnt from being overly prescriptive, because it is not helpful. I would say 'yes' to strong guidance, but I would add that these changes will still be very challenging and we will need to learn and build in good practice and evidence throughout, and I would draw on that.

9.40 a.m.

[68] **Paul Davies:** Do you think, therefore, that the Assembly Government should wait for the outcome of the evaluation of the pioneer schemes before making legislative provision in this particular area, in order to ensure that the views of stakeholders who will work with the new support teams are taken into consideration?

[69] **Ms Frowen:** It is only on that premise that we would support this. We have made it abundantly clear that we support the innovation and the model and what it is trying to achieve. We could not, in any way, support a Measure that would prescribe in legislation that everyone must have that, with the considerable costs that are attached, if we did not know that it would have a real benefit. It is absolutely essential that we look at it after a robust evaluation. It would be remiss of me not to say, because I am here on behalf of the professional association as well as the politicians, that there is still a question as to why we need to have legislation in place before we have even piloted the model. Could you not achieve a similar aim through strong guidance, policies and the other mechanisms that we have? If you go ahead and put the legislation in place—because these pilot schemes will not be completed until 2012 or 2013 at the earliest, and then you are talking about the roll-out of another 19 schemes across Wales, with all of the complexity that that will bring—we would want clarity that there is a legal safeguard and that you would not enact the legislation without appropriate consultation and real evidence that this will work for these families. Without that, local government cannot give its support to the proposed Measure.

[70] **Ms Alleyne:** To build on Bev's point, informed legislation that is based on evidence is always much better. On some of the specific requirements in the legislation around IFSTs, it may be found in the pioneer authorities that that level of prescription does not work or that

prescription is needed in different areas. However, if the proposed Measure has gone through, even if it has not commenced, amendments might need to be made on the detail of the legislation, learning from the pioneers, after it has been approved. It is a question of looking at the timeframe that leads to that.

[71] **Paul Davies:** You raise a number of concerns in your evidence about the IFST boards. Can you expand on those concerns? Do you wish to see the proposed Measured changed to take account of your concerns?

[72] **Ms Frowen:** Initially, we had concerns about duplication and wondered whether specific boards for these teams would be necessary, given the range of partnerships and boards that already exist, such as the safeguarding boards, which are an obvious example, as are children and young people's partnerships. We welcome the fact that the potential for local authorities and individual health bodies to collaborate across areas is inbuilt in the proposed Measure. If we do that, we could probably still look at a board structure using what exists, but, if that is the reality—and we do not know whether it is yet—it is likely that you would want a different mechanism. If that is the case, it seems logical to have something such as the proposed board. I would not want to see those boards operating in isolation, so I welcome the fact that they would support up to a national level, but even at that level, the boards still need to be in touch with evidence and generally have strong communication about how it is working, because the boards would be new.

[73] We have come to understand the potential of the proposed Measure as we have thought it through vis-à-vis regional collaboration and multiple collaborations, but, throughout, we would look for no duplication to be added. Essentially, the same people may well be on these boards as are functioning on other co-ordinating and statutory boards, and time is precious.

[74] **Dr Llewelyn:** The issue is the added value. As I mentioned earlier, we have had significant discussions with members and leaders on this issue. On several occasions the question was asked as to what value the boards would bring, what they would add, and what the cost would be. As we state in the written evidence, while we recognise the need for robust governance arrangements, the question is whether there is a more effective and efficient way of achieving those governance requirements without adding this additional tier, with the additional cost and the potential for bureaucracy.

[75] **Ms Alleyne:** I have a final point, if I may—and you may pick up on this—which is that we disagree with the inclusion, under section 53(7), of the provision that a local authority may pay people who sit on that board. That goes against what happens with the boards that are already in existence whose members do not receive remuneration. From what I can see—and Bev might know better—these are professionals who are undertaking a role, and I do not see why they would receive remuneration for doing their job.

[76] **Jenny Randerson:** Can you expand on why it is that you think that the proposed Measure should clarify the definition outlined in section 50 in relation to family support functions? What specific amendments would you like to see?

[77] **Ms Frowen:** I will kick off on this question. I think that the concept of these new teams is that they work far more upstream and on the edge so as to address people who are in need and are at risk but who may well not be in the current system. There is a danger that they will just be hijacked and drawn into general child protection duties if resources are stretched, and that is not what we want. These teams are to be additional; it has been stressed by nearly everyone who has given evidence that these teams are to be additional to what is already out there. There is just a danger that unless we tighten down what the duties of these teams are, vis-à-vis core child protection, we run the risk of some blurring and losing of focus.

[78] In terms of specifics, speaking for the Association of Directors of Social Services, I think that the professionals would welcome further work around this. It would be very wise for this to be teased out through the pilot schemes, because there will be a far greater bank of knowledge once people start to work with these children and their families about how, in fact, the areas duplicate existing services. We have to do this to gain more knowledge. Therefore, we would need to build that into the evaluation of the pilot schemes, and as we go through; that is the time for it, rather than now.

[79] **Jenny Randerson:** Do you agree that the definition of ‘abuse’ needs to be changed in the proposed Measure to align it with the one used in the all-Wales child protection procedures and, if so, can you explain why that is important?

[80] **Ms Frowen:** It is always helpful to work off one definition. It does seem strange for it to be different. Practitioners did not understand why the two definitions of ‘abuse’ had appeared. We would welcome one definition being used, and that it is the one used in the all-Wales child protection procedures. That way, there is no margin for error or confusion.

[81] **Jenny Randerson:** The proposed Measure makes no mention of the long-term funding of integrated family support teams. I anticipate your answer, but does this cause you any concern, and would you like to see any amendments in relation to section 51(1)?

9.50 a.m.

[82] **Ms Frowen:** As we have said, we cannot embark on something like this without the knowledge that the funding will be there. It is absolutely crucial. It may well be that, even if this new way of working is beneficial and we can duplicate it in other parts of Wales, given the financial climate and the skills and learning involved—because this is not just about money, but about asking practitioners to take different roles, and to work in different ways, in a very skilled area for vulnerable children and families—we would have to do it as a phased roll-out, even if it ticks all the boxes at the end. That would be eminently sensible, because I cannot see how, in the current climate, with all the pressures on us, we would be able to just roll this out. That is not a reason not to do it, but we need to have an element of realism.

[83] There is one area where I would like to suggest a possible amendment, as we do not think that the cost or investment would be worthwhile, and that is the proposal for family social work standards officers. Yes, we have to get the best evidence, and we must learn, and we are not very good at that across Wales. Practitioners need a lot more help, so no-one would argue about the concept behind these officers. However, I believe that the proposal is to have one in every local authority. I think that the Minister’s concern was that, although she recognised that such a role already exists, it is tagged on to other duties, and therefore may not be as effective as it could be. I am not sure that putting money into these new posts is a good investment without exploring other avenues—particularly the network for social work learning and the Social Services Improvement Agency. You fund the latter specifically to give added value and co-ordinate learning across Wales, and there has not been sufficient dialogue on the opportunity to use that and the network for learning instead of prescribing these officers for every authority. Presumably you would fund the new posts, and, at a rough calculation, I think that you are talking about £30,000 per person x 22 authorities; it is quite a bit of money. Yes, we want that learning and sharing, but I am not quite sure that that is the way to achieve it. A requirement to use existing networks, such as the Social Services Improvement Agency, which was set up specifically to do this, and is funded by the Assembly Government in any case, would be a better way of ensuring that this happens.

[84] **Jenny Randerson:** Moving on to play, do you have any concerns about the financial resources currently available to local authorities to fulfil the new statutory duty to secure

sufficient play opportunities? Do you agree with the explanatory memorandum, which states that the proposed duties will not place any additional burdens on local authorities beyond those associated with the delivery of the related elements of Cymorth and Flying Start?

[85] **Dr Llewelyn:** We welcome the principles behind what is contained in the proposed Measure, as we have said in our written evidence, and the commitment to the UN convention on the rights of the child and the principles of the 2006 play policy implementation plan. This is one area where more discussion is perhaps needed, and a better understanding of what is meant by 'sufficiency'. As we move into difficult funding times, there is concern that there are issues of interpretation and understanding and perhaps a lack of clarity. Although there are reassurances that, at the moment, the intention is that there should not be an additional cost burden, it is not clear that that will not be the case in future. So, there are concerns there. There is also the issue of being confident that we can deliver on existing arrangements before taking on board the possibility of new commitments.

[86] **Jenny Randerson:** Finally, on the issue of participation, do you agree that there is a need for a duty to be placed on local authorities to promote and facilitate participation in decision making?

[87] **Dr Llewelyn:** To be brief, again, we have stated in our written evidence that we think that there are structures in place. The children and young people's partnerships and their planning processes have mechanisms in place that enable children and young people to participate in decision making. We also have school councils. Perhaps the focus should be on making the existing mechanisms work as effectively as possible.

[88] **Ms Alleyne:** There is also a need to ensure that best practice is shared across Wales, because there is some really good work going on with regard to involving children and young people. The partnership support unit has a role to promote best practice so that everyone is aware of the role that they can undertake. It also needs to link to other guidance. The Assembly Government has recently consulted on its Communities First guidance and Communities First's role in tackling child poverty. It talks about establishing mechanisms rather than using existing mechanisms, so we would not want other partnerships or bodies developing new mechanisms that are not already linked to some of the existing structures.

[89] **Jenny Randerson:** In light of that, do you agree that independent advocacy has a role in ensuring that more vulnerable children participate in decision making? Do you agree that that should be included in the proposed Measure? Do you agree with the idea that duties in relation to participation should be subject to inspection, with enforcement powers to take action against those authorities that do not achieve the appropriate level?

[90] **Ms Alleyne:** I am not an expert on advocacy, but a colleague has advised that there needs to be more work and discussion on the role of the advocate. Therefore, we would not suggest that it should be included in the proposed Measure. Advocacy is a very important issue for children and young people, and we need to ensure that we get right, so it needs further discussion and consideration.

[91] **Jenny Randerson:** What about inspection?

[92] **Dr Llewelyn:** There is a view that there is a considerable amount of inspection and regulation in the public sector and that more streamlining and a greater degree of proportionality in inspection and regulation would be useful. We are conscious that, in some of the committee's other evidence sessions, there has been discussion about inspection and regulation with regard to various aspects of the proposed Measure. As an association, we would like to see consideration of a more integrated, coherent and rationalised approach to inspection and regulation, to make it appropriate, clearly, and, essentially, as light as possible

so as not to be a burden or impediment. At the same time, it should secure as effective a delivery as possible.

[93] **Val Lloyd:** I am conscious that we have run over time, but it is important to hear people's views. I ask you to bear that in mind in answering the last question. Do you have any issues or concerns about the proposed Measure that you feel you have not yet had a chance to raise?

10.00 a.m.

[94] **Ms Frowen:** If I may start, my concern is not particularly about the proposed Measure per se, but the engagement of the NHS. To what extent do you intend to take account of the views of the NHS on the integrated family support teams? I have read the evidence taken so far, and there has not been anything specifically on that. These are times of great change and reform in the NHS, and the NHS faces ongoing capacity problems. So, the challenge of these new teams does not just fall on local government; it falls heavily on the NHS, too. I hope that its views and its ability to step up to the mark and meet the challenge that the IFST model and the whole proposed Measure will represent have been taken into account. As a committee, you will want to be reassured that it feels as though it can step up to the mark.

[95] **Val Lloyd:** You may be interested to know that the NHS Confederation cannot give us evidence. It has been asked to do so, but it has said that it cannot.

[96] **Ms Frowen:** I am staggered by that. It is a managed service that is within the realms of the Assembly Government. It is not 22 independent, statutory bodies being represented by three directors who have been through every possible professional group in a local authority. You are telling me that the NHS cannot give your committee evidence, and yet we are required to do so. I am absolutely staggered.

[97] **Val Lloyd:** There is a reason. It is being reconstituted at present so, up until now, it has not been able to give us evidence.

[98] **Ms Frowen:** Will it be giving evidence, then?

[99] **Val Lloyd:** We are pursuing that.

[100] **Ms Frowen:** I would make a very strong recommendation that the NHS, which is a managed system within the Assembly Government, give evidence on something as important as this.

[101] **Val Lloyd:** We are aware of that. We do have a little more time: we have another two weeks in which to take oral evidence, and we are pursuing it. The real reason is that it is in the middle of reorganisation, and I am sure that you understand the difficulties that that brings. I am only reporting what we have been told.

[102] On behalf of the committee, I thank you all for giving us evidence. You will know, because you are regulars, that you will receive a draft transcript of these proceedings for comment, in case there are any inaccuracies. Thank you for taking the time to come and talk to us.

[103] I now invite our next set of witnesses to the table. Channel 1 on the headsets is the interpretation and channel 0 is for amplification. The microphones will come on automatically. Would you like to introduce yourselves?

[104] **Ms Fletcher:** We are from the National Childminding Association, or the NCMA for short. That might be easier to say. My name is Catrin Fletcher, and I am the director for Wales.

[105] **Mr Fletcher:** I am Andrew Fletcher, and I am the director of communications. I ought to point out that we are not related.

[106] **Val Lloyd:** That was a burning question, and it was to be our first. [*Laughter.*]

[107] **Ms Fletcher:** I should also point that it is not obligatory to be called 'Fletcher' to work for NCMA.

[108] **Val Lloyd:** We feel reassured straight away. I will start the questioning. The proposed Measure is wide ranging and covers diverse areas of policy. Do you have any general comments about whether the key provisions are appropriate to deliver its stated objectives, or are they too broad to be effective?

[109] **Ms Fletcher:** I will start by saying that our area of expertise and knowledge relates to Part 2 of the proposed Measure, which is on child minding. We represent 47,000 members across England and Wales, so that is what we will be honing our evidence in on. However, we do have a general view about the proposed Measure: we agree with the principle and we think that it is a strategic way forward. It is quite exciting for us, supporting children as we do. We think that it is broad, but then it has to be, considering all the areas and the Ministers' portfolios that it is trying to cover, as well as the areas in a child's life that are affected by poverty. So, the question that I would ask is whether it is too ambitious rather than too broad. We will come to that as we go through our evidence. In general, we agree with the principle and we think that it is a good way forward.

[110] **Paul Davies:** I want to concentrate briefly on the powers of the proposed Measure. There are a number of sub-sections within it that would give Welsh Ministers regulation-making powers, which can be used to prescribe functions. Do you think that the proposed Measure achieves the correct balance between the powers on the face of the proposed Measure and the powers given to Welsh Ministers to make regulations?

[111] **Ms Fletcher:** I will start by giving a general view, and I think that Andrew would like to come in on that as well. In relation to Part 2, there is probably a balance of powers. The issue is whether that is prescriptive enough or too prescriptive, and we would like to discuss some of those sections in further detail as we go through. In general, we would say that some of the powers are not detailed enough to get a clear understanding of what is meant by them, and we would like to explore that in further detail.

[112] **Mr Fletcher:** I would agree. From my UK experience, the powers on the face of the proposed Measure seem to be broadly appropriate. Catrin's point is a good one, namely that the detail that sits behind that guidance just sits behind it; it is for the strategies that come out of it that the detail will really need to be buttoned down. From our perspective, and from practitioners' perspective, as a legislative framework, it is broadly sensible as regards powers. From the perspective of child minders, the extent to which those are implemented and rolled out is really where the challenges lie.

[113] **Paul Davies:** Do you think that the proposed Measure should place a duty on Welsh Ministers to undertake consultation as part of the process of making regulations relevant to the proposed Measure?

[114] **Ms Fletcher:** The straightforward answer is 'yes', but I think that you want some more detail than that. There needs to be extensive consultation on a number of areas, and

there is quite a lot behind some of them that has not been consulted on or discussed. There are many delivery partners and agencies that are going to be involved in this, so any consultation has to be quite broad. One of my concerns is that, once you start getting into a big, broad consultation, you will be slowing the process right down. Will we then achieve our ambitions within the timescale? However, in principle, consultation is absolutely essential.

[115] **Mr Fletcher:** I would agree. Catrin has already touched on this, and I think that the Joseph Rowntree Foundation also said this in its earlier evidence, but the experience across the piece is that we will not eradicate child poverty simply by having childcare strategies; we need a multiple-strategy approach. That inevitably requires consultation with a variety of stakeholders with different and complex interests. Given the extent to which it will rely on underpinning guidance and practicality, what is missing in the proposed Measure is a requirement for Welsh Ministers to consult on its key elements. We would certainly welcome that as an addition.

10.10 a.m.

[116] **Paul Davies:** Turning to current legislation, what is your view on whether the proposed Measure will lead to significant policy or legislative divergence from England? What are the possible consequences for tackling child poverty?

[117] **Ms Fletcher:** Our organisation covers both England and Wales, so we have quite a lot of experience of what is currently happening and what could happen in the future. The Assembly's broad objective with this particular proposed Measure, namely to eradicate child poverty, is the same outcome as that which Westminster is looking for. So, both Governments are heading for the same destination, but the way that you are taking to get there is starting to diverge. We have found that to be the case already. In current initiatives and funding streams, there are issues regarding the differences between England and Wales, but they are not insurmountable. If a certain locality works in that way, it is the right thing to do. However, there needs to be recognition that there will be some areas—both within certain organisations and geographically speaking—where this will cause problems. That needs to be built into any work that develops from that. For example, we might have a child minder who lives and works in Wrexham and so deals with the borders. We already have differences between inspections by Ofsted and the Care and Social Services Inspectorate Wales to contend with. If we take those separate ways even further, we will have issues to pick up.

[118] **Mr Fletcher:** To clarify, my role has a UK-wide element, so England and Wales. Catrin leads the work directly here. In our experience of the changes to registration in England to support the early years foundation stage, for example, I have read in evidence that officials were clear that, from a child-minding policy point of view, it would be 'policy neutral'. I think that that was the phrase used. That may very well be the case, but the reality is that there is a different perception among practitioners of what change will mean for them.

[119] The policy on the face of the proposed Measure consolidates pre-existing legislation in relation to children and childcare, which is perfectly sensible and so the impact may well be limited. However, in relation to the changes to the inspection and regulation regime for the early years foundation stage, we found that there was a gap between the perception—of the child minder, in this case—and the reality of what is expected. From a child minder's point of view, when the policy is demystified, so when it is explained and when there is training, support and guidance, they are well positioned to deliver it and feel comfortable and confident in delivering it. However, where that vacuum of information exists, they either make the decision to leave the profession or choose to move into another part of the childcare profession, which reduces parental choice and so on. So, as Catrin said, it is absolutely appropriate that policy developed by the Assembly and the Assembly Government diverge from the English policy agenda. However, the implication of that lesson, of filling the

information gap between what is proposed and what is practically delivered, is that it is important to ensure that practitioners understand the policy and feel confident to deliver it.

[120] **Lorraine Barrett:** I want to look at inspection now. You say in your evidence that there needs to be a future commitment to ensuring that effective regulation does not lead to a more time-consuming inspection regime that undermines the child minder's primary task of caring for the children. Could you expand on that, please? Do you envisage any problems with this as a result of the proposed Measure? Would you like to see specific provisions within it to provide for that?

[121] **Ms Fletcher:** We are all committed to high-quality childcare. We need to say that at the outset. So, inspection is absolutely vital to make sure that there is some control over who is looking after our children. We are all agreed on that. What we mean by a 'more time-consuming regime' is where child minders, in our particular case, spend more of their time filling out forms and covering all the detail and issues that they need to cover and not playing with the children, helping them to learn and develop. We based that paragraph specifically on our experience last year with the early years foundation stage in England. When that came in, it swept across the board of child minders in England. Andy has already alluded to that.

[122] It caused disruption and it led many people to leave the profession. There has been a drop in child minders in England because of new inspection and regulation. Today, we wanted to say, 'Please do not let that happen in Wales'. Let us learn from our neighbours and conclude that we will not replicate that experience. Let us ensure that our child minders continue to look after children and do not leave the profession because they are so inundated with bureaucracy.

[123] **Mr Fletcher:** This, again, is about practical application. The Westminster Government and Ofsted are perfectly clear in England that child minders should not spend endless amounts of time filling out diaries and keeping observation records on reams of paper. I alluded to this in an answer to an earlier question, namely that they perceive that that is what the regulator wants. That is the gap that needs to be filled. They might well be supportive in policy terms about what the early years foundation stage is trying to achieve in England and they may well be supportive, in this case, of what this proposed Measure is attempting to achieve. However, their experience of regulation is shaped very much by other child minders and the interaction that they have with other practitioners.

[124] Catrin is right. We are fully supportive, as are most child minders, of effective regulation because it provides the child minder with the opportunity to say to parents, 'CSSIW has inspected my provision and considers me to be an appropriate child carer'. That is important for child minders, because they work at home and are not as visible as other group-based carers. So, it is important that we get that right. Catrin is right to say that inspection should focus on how effective they are as practitioners, rather than on to what extent they keep endless bureaucracy up to date.

[125] **Val Lloyd:** Do you think that anything should be included in the proposed Measure to indicate that inspection is essential and accepted by the child minding profession, but that it should be done in a more controlled way?

[126] **Mr Fletcher:** From my point of view, the proposed Measure sets the legislative framework, so it would do no harm to make that commitment to effective regulation that is proportionate, balanced and that takes account of different types of childcare provision. However, the detail will come later and that is why the earlier point about consultation is so crucial, because, again, inspection looks different in different types of setting.

[127] **Lorraine Barrett:** Could you expand a little on the comment that you made about

standardisation of approach across Wales? Do you think that there should be provisions in the proposed Measure to address that? If so, what form should those provisions take?

[128] **Ms Fletcher:** When we were talking about standardisation and our approach to that, we looked specifically at section 39. I am sure that you will have further questions about that. Section 39 talks about non-compliance and penalties. We were concerned about having some standardisation across that.

[129] Inspection of people working in their home is often subjective. There are some obvious things that you would inspect, for example, whether they have a fireguard and this and that, but subjective things will also be inspected. Therefore, we need a standardised approach if people are then going to be penalised because they have not achieved that standard. Section 39 is the major element that is unclear and that we are concerned about. So, if we can come on to that, you will understand what we mean by the standardisation element of it.

[130] **Jenny Randerson:** My question refers very much to what you said about fixed penalty notices for minor offences. You say in your evidence that the proposed Measure sets the principles for fixed penalties for minor offences, but that the categories and penalties require considerable thought and definition. So, do you want clarity on what constitutes an offence and what level of penalty a practitioner could expect as a result of that offence? Do you want those definitions put on the face of the proposed Measure?

10.20 a.m.

[131] **Ms Fletcher:** May we first make a general point about section 39, which is what has concerned us? We perceive this as taking something that has been in the judicial system up until now, as part of the criminal justice system, and putting it in to a different organisation. That gives us concerns because you are setting up a whole new system and process that needs to be developed and dealt with. Falling out of that is the need to address all the issues that we have highlighted, such as developing categories, having appeals and standardising. So, our first major concerns are why this is happening and whether this is the right approach. We think that it could be, but it needs to be dealt with extremely carefully. Allocating the ability to penalise to another body has huge implications.

[132] **Mr Fletcher:** I think that there are a few issues at play. One is the principle of whether the regulator should also be the distributor of fixed-penalty notices. As Catrin said, that is obviously quite a complex issue. In terms of the practical application of it, we have concerns flowing out of that that the definitions of what would constitute an offence for which a fixed-penalty notice would be applied by CSSIW need to be appropriate and they are ill-defined in the proposed Measure. I think that the Welsh Assembly Government's thinking—and it may very well be sensible thinking—is that this will provide additional flexibility. It is designed to improve the situation for the practitioner, who would not have to go through a lengthy judicial process because it could be dealt with relatively quickly and easily. While that flexibility may be sensible, I think that there needs to be clarity on this, whether it is on the face of the proposed Measure or not. There could be a tariff of offences that would constitute a fixed penalty. In principle, going back to the point that we made earlier, there is an issue about perception: the way in which CSSIW is viewed by practitioners will shift and change as a result of a proposed Measure that says that CSSIW can now impose fixed-penalty notices, without offering real definitions of what would be penalised and for how much. It does not say at what level this would take place or whether it would be a sliding scale for particular offences. If those things are not defined at the outset, they may very well cause additional concern that could be avoided.

[133] **Jenny Randerson:** You have actually answered what was to be my next question

very fully, so I will move on to my final question. You make the point that the proposed Measure does not define the appeals procedure. Can you explain why you consider that to be necessary and what sort of provision should be made in relation to the appeals procedure? Do you think that it is necessary for that to be on the face of the proposed Measure or is that something else for guidance?

[134] **Ms Fletcher:** We feel that if you are going to put in something about penalties in any system, if you are penalised, you have a right to object to that and say, 'Yes, this is right', or, 'No, this is wrong'. At some point, there needs to be reference to an appeals procedure. We felt that it should be in the proposed Measure because if you are saying that you could be penalised, you should have the right to say, 'Well, I object to that'. So, we do think that it should be included. What this will look like as a process depends entirely on how the categories are to be developed. I think that there is a process to go through here, which will probably be part of the guidance afterwards and not part of the proposed Measure. Our initial thoughts are that you need to have something in it, right at the beginning, to say, 'Yes, you might be penalised, but you do have a right of appeal against that'.

[135] **Mr Fletcher:** I think that it is about defining that process again and saying that if CSSIW's role in childcare provision is, effectively, going to change as a result of this proposed Measure, it needs to say what the implications will be for practitioners who feel that the weight of the evidence is not sufficient. If CSSIW is to be made responsible for gathering evidence to support a fixed-penalty notice, then the practitioner, whether a child minder or a worker in a group setting, should have recourse to appeal. Again, it is simply a question of redressing that balance on the face of the proposed Measure.

[136] **Jeff Cuthbert:** Thank you for your written evidence and for what you have said so far. These questions are about child minding and day-care provision and, initially at least, Flying Start. It is said that the proposed Measure does not offer any further provision in terms of child minding and day care beyond that currently provided under Flying Start. Based on your experience, are there additional childcare provisions that you think should be included in the proposed Measure, perhaps to ensure that home-based child minder are used? Linked to that, the Joseph Rowntree Foundation told us that there is a need for better provision for school-aged children in terms of wraparound care and school holiday care.

[137] I may as well mop all the connected questions up in one go. The children's commissioner thought that the provisions for childcare within the proposed Measure should be extended to cover to primary-school-aged children. There are a few things there for you to deal with. What is your response to them?

[138] **Ms Fletcher:** Let us start with the excellent Flying Start programme. It has helped a lot of young children and families across Wales. It is very focused and targeted, and the provision of childcare is for a very short length of time. It is something like 12.5 hours a week, which is probably great for children, as that will help them in some respect. However, if we are looking at child poverty, that does not actually give the parent a significant amount of time to start working or obtain gainful employment that will take that family out of poverty. It is very restricted in that respect.

[139] It is also restricted geographically. There are people on the same streets who cannot access the same sort of childcare. If it is based on Flying Start—and presumably Cymorth within that—we already have a restricted group of people that we are supporting. While they are very good programmes, they need to be expanded further, and that raises the issue of this being meant to be financially neutral as well as policy neutral. Are we going to achieve what is in the proposed Measure with the amount of funding that is currently in place, bearing in mind that Cymorth is tapering off and that, in the future, there will not be a huge increase in any funding, as we know from the recent budgets?

[140] I think that additional provision is needed, and maybe Flying Start needs to be looked at differently, so that the funding is used more broadly and maybe targeted differently, and perhaps the length of time for which people can access it should be extended. However, as I said at the beginning, they are both really good programmes.

[141] On the home-based childcare side, I do not know whether this is common to other childcare organisations, but with Flying Start we found that health visitors refer into institutional care. Child minders have not had a huge amount to do with Flying Start. We have some good pockets where good local authorities have picked this up and worked with it, but it does not happen across the board. There are some areas, particularly rural ones, that have nurseries and integrated centres that are not benefiting from some of these practices. So, from a child-minding perspective, Flying Start has not hugely increased the number of places; those have very much gone to institutional, day-nursery-type care.

[142] I think that I have answered the first two parts. Was there anything else?

[143] **Jeff Cuthbert:** The views of the children's commissioner.

[144] **Ms Fletcher:** Was that on extending the age range? Absolutely. I think that this refers to the recent review of the national minimum standards and regulations, and that is with the Assembly Government at the moment, so we do not know the outcome and I therefore do not want to work on the basis of something that I am not entirely sure about. However, the views that we put into that were that the age range should be extended. Childcare regulations should not stop at the age of eight. Children between the ages of eight and 16 are still at risk of abuse or non-compliance from childcare. We are, therefore, clearly of the opinion that the age range should be extended, and we would support the children's commissioner and the Joseph Rowntree Foundation in what they say on that.

[145] **Jeff Cuthbert:** My final question is linked to Cymorth, which you mentioned, and the issue of resources. You note in your evidence that there could be a more widely spread interpretation of children's services, perhaps as a result of the transfer of Cymorth funding to the revenue support grant. You might want to expand on that.

[146] We are already aware of it, but you are right to point out the tightness of the public purse over the next year or so; there will be little additional money, so it is very important that existing resources are used as effectively as possible across all spenders of the public purse, whether that is the local authority, the NHS or any other body. What are your concerns or comments in terms of the specific issue of Cymorth funding coming into the revenue support grant? More generally, how do you see public services sharing resources towards this aim?

10.30 a.m.

[147] **Ms Fletcher:** I will start with the specific point that we mentioned. The childcare element of the Cymorth funding has already moved into the revenue support grant, and it has done so over the past two years. We thought that it was worthwhile raising the experience that we have had as a childcare sector, not just in child minding, but broadly across the sector, that it was very disruptive. The children's commissioner has also raised this. We found that local authorities did not have the processes and procedures in place to deal with this—they had not geared themselves up for it, and when everyone was starting to look at continuing to deliver their services in a new financial year, there was nothing there. In a number of cases, not just in our organisation but in other organisations, services have stopped. So, children have suffered because the services are not there. Local authorities have assured us that they want those services to continue, but they were not prepared and ready to do it.

[148] That was one element of the Cymorth funding, and we had been preparing for this for a couple of years. There are six other themes that will be transferring across, so our message for local authorities is to learn the lessons from that. It did not work with the first theme, so let us get ready for the other six themes otherwise children will be without services when this funding transfers across. It happened only because of a lack of processes and systems, rather than a lack of funding and goodwill to do the work. That is the first element.

[149] On the second element of it, you are right to say that there will not be further funding, but if eradicating child poverty is becoming a priority, is that what we want to happen? The money has to go in the right ways. We are not entirely sure that the proposed Measure is strong enough to deal with that, unless the guidance that comes with it picks that up and deals with it, and gives all the statutory authorities and all the people affected the correct guidance to say, 'This is what you should be spending your money on'. So, partnership work needs to be developed and there needs to be work with the third sector. There is a lot of good practice out there, but there is also a lot of not-so-good practice where the third sector is not being utilised correctly. We have a lot of expertise and skills, and we have the ability to attract private sector funding as well, which is often not recognised either.

[150] **Jeff Cuthbert:** Thank you.

[151] **Gareth Jones:** Mae'r cwestiwn hwn yn ymwneud yn uniongyrchol â thlodi plant. Mae'r Mesur arfaethedig yn anelu i leihau anghydraddoldebau o ran lles plant a phobl ifanc drwy gynnig cefnogaeth ychwanegol i'r rhai mewn angen. A allai'r ddeddfwriaeth greu mwy o argraff pe bai'n cyfeirio'n benodol ar grwpiau bregus o blant a phobl ifanc sydd fwyaf o dan fygythiad o dlodi plant, yn enwedig plant anabl? A yw'r Mesur arfaethedig yn mynd ddigon pell mewn perthynas ag anghenion plant anabl a'u teuluoedd?

Gareth Jones: This question is directly related to child poverty. The proposed Measure aims to reduce inequalities in the wellbeing of children and young people by offering additional support to those in need. Could the legislation have a greater impact if it made specific reference to vulnerable groups of children and young people who are most at risk of child poverty, especially disabled children? Does the proposed Measure go far enough in relation to the needs of disabled children and their families?

[152] **Mr Fletcher:** The point that you raised about disabled children is critical. Regardless of whether it is on the face of the proposed Measure, any future work or guidance that underpins the proposed Measure must take specific account of the needs of disabled children and their families. We know from evidence that they face unique challenges in accessing support to enable them to work. My understanding is that the Children's Act 2004 already includes definitions of specific groups, and we would like to those see reflected on the face of the proposed Measure, highlighting the specific groups that might require additional support and help. So, in answer to your broad question, we would like to see that more clearly defined in terms of the legislative framework, even if the things that underpin it go into more detail.

[153] **Ms Fletcher:** If you think of this as consolidation, bringing a lot of other legislation together, the Childcare Act 2006 specifies—and the Welsh Assembly Government made this clear—that it is in relation to childcare places, parents of disabled children, those wishing Welsh-medium provision and those in pursuit of working tax credit. Those three were brought out as part of the Childcare Act, but that is not reflected in the proposed Measure. We would say in response that if this is consolidating all the legislation and bringing it together, that element is missing. We were commissioned by the Assembly Government to do a piece of research into disabled children and childcare, which is with officials at the moment and has not yet been published, but we could send you a copy. It contains a lot of detail on the lack of uptake of childcare by parents of disabled children.

[154] **Val Lloyd:** We would be very grateful if you would send us a copy of that.

[155] **Mr Fletcher:** We know that, for families with disabled children, home-based childcare can play a particularly critical role, as we say in our written evidence, in providing a greater level of one-to-one support, that is, in a home environment that replicates a child's home environment. There are particular benefits to a home setting for disabled children in terms of their development, and Catrin is absolutely right that the research suggests that take-up is not where it needs to be if those families are to be supported in the way that they need to be.

[156] **Gareth Jones:** Mae'r cwestiwn olaf—wrthyf i, beth bynnag—yn ymwneud ag oblygiadau ariannol. Yn eich tystiolaeth, bu i chi ddatgan pryderon ynghylch oblygiadau ariannol y Mesur arfaethedig. A allwch chi ymhelaethu ar y pryderon hynny ac yn enwedig ar y sylw hwn gennyh:

Gareth Jones: The final question—from me, at any rate—is to do with financial implications. In your evidence, you raised concerns regarding the financial implications of the proposed Measure. Can you expand on those concerns, particularly your comment that:

[157] ‘To implement the new provision of CSSIW regulation and enforcement NCMA may be required to provide further support and guidance to child minders which may be beyond the current capacity level?’

[158] **Ms Fletcher:** This returns to a number of things that we have already said in our evidence. First, we are not entirely sure that we can achieve the objectives of the proposed Measure given the current funding streams and their possible reduction. However, specifically in relation to umbrella organisations—we are only talking about ourselves, but I am sure that other umbrella organisations would say the same—if there is a roll-out from this of training, development and communication for key stakeholders, we do not have the capacity to provide that, so we are already hitting stumbling blocks, where financial implications come into this. So, we raised that as an issue that might need to be thought through when it comes to developing guidance, consulting and rolling out any elements of the proposed Measure, particularly section 39. That is what we were referring to.

[159] **Val Lloyd:** To close, are there any issues or concerns about the proposed Measure that you have not had the opportunity to raise with us?

[160] **Mr Fletcher:** We have highlighted a number of areas where we would like further support, either on the face of the proposed Measure or underpinned by additional guidance, but we are very supportive of the strategic commitment to eradicating child poverty and the principles that underpin the proposed Measure. We have very much welcomed the opportunity to come and give evidence to support that.

[161] **Val Lloyd:** Thank you for that; thank you both. You will be sent a transcript of today's proceedings, before it is finalised, so that you can comment on any inaccuracies. Would Members like to get a cup of coffee and come back for an informal discussion? I see that you would.

*Gohiriwyd y cyfarfod rhwng 10.39 a.m. a 10.52 a.m.
The meeting adjourned between 10.39 a.m. and 10.52 a.m.*

[162] **Val Lloyd:** Good morning. I am sorry to keep you waiting. These things inevitably overrun, although we try our best to keep to time.

[163] I welcome representatives from Tros Gynnal to our evidence session. Perhaps you would like to introduce yourselves to the Members.

[164] **Mr Bishop:** I am Roger Bishop, executive director of Tros Gynnal.

[165] **Mr Jones:** My name is George Jones. I am assistant director of Tros Gynnal.

[166] **Val Lloyd:** Thank you. We will start by asking you questions, the first of which is from me. The proposed Measure is wide-ranging and covers diverse areas of policy. Do you have any general comments about whether the key provisions are appropriate to deliver its stated objectives, or is the proposed Measure too broad to be effective?

[167] **Mr Bishop:** I think that we are broadly in agreement with and support the proposed Measure. In terms of whether it is too broad, from my point of view, it is difficult to have a strong opinion on that. We certainly feel that the proposed Measure is very important and we agree with its objectives.

[168] **Val Lloyd:** Thank you. Gareth, would you like to move to your questions?

[169] **Gareth Jones:** A gredwch bod yr amcanion eang i ddileu tlodi plant, fel ag y maent yn adran 1 y Mesur arfaethedig, yn realistig ac yn gyraeddadwy, ynteu a oes rhai ohonynt yn fwy amcanus yn eu natur? Er enghraifft, mae un yn cyfeirio at **Gareth Jones:** Do you think that the broad aims for eradicating child poverty, outlined in section 1 of the proposed Measure, are realistic and achievable, or are some more aspirational in nature? For example, one aim is

[170] ‘sicrhau bod pob plentyn yn tyfu mewn cymunedau diogel a chydlynus’. ‘to ensure that all children grow up in safe and cohesive communities’.

[171] Yn eich tyb chi, a ddylid newid yr amodau hyn neu eu haddasu mewn unrhyw ffordd? Do you think that the aims should be amended in any way?

[172] **Mr Bishop:** As I said earlier, we are very much in support of the proposed Measure. We have looked at the broad aims, and we think that they are fairly comprehensive. We think that there may be a need to say something in those broad aims about emotional health, as we had a look through them and felt that that might be an omission. The ability to deliver on them is dependent on the effectiveness of the strategies that lie behind them. We feel that they are strong and generally achievable as long as those strategies are robust.

[173] **Val Lloyd:** I am interested in why you mentioned emotional health.

[174] **Mr Bishop:** As an organisation, we are particularly interested in that. We have developed advocacy work on supporting children with emotional health issues recently, and we are looking at poverty and deprivation as being interlinked, and so emotional health must tie into that. One’s emotional health needs not being met is a strong part of the concept of deprivation, and it is quite easy to link that to poverty of opportunity. So, somebody with unmet emotional health needs could find it difficult to gain employment, their education could be disrupted, and so on. So, they are linked together. It may be that emotional health is dealt with elsewhere in the proposed Measure, but I am not sure that that is outlined strongly enough in the broad aims.

[175] **Gareth Jones:** Mae’r Mesur arfaethedig yn anelu at leihau anghydraddoldebau o ran lles plant a phobl ifanc drwy gynnig cefnogaeth ychwanegol at y sawl sydd mewn angen. A fyddai’r **Gareth Jones:** The proposed Measure aims to reduce inequalities in the welfare of children and young people by offering additional support to those who are in need. Would the legislation be more effective or

ddeddfwriaeth yn fwy effeithiol neu'n creu mwy o argraff pe bai'n cyfeirio'n benodol at grwpiau bregus o blant a phobl ifanc sydd fwyaf o dan fygythiad o dlodi, megis plant digartref, plant a phobl ifanc sy'n ceisio lloches, a ffoaduriaid? A ddylem fod yn fwy penodol yn ein defnydd o dermau?

would it have more impact if it referred specifically to vulnerable groups of children and young people who are most at risk of poverty, such as homeless children, asylum-seeking children and young people, and refugees? Should we be more specific in our use of language?

[176] **Mr Bishop:** Our view is that that would be helpful. If you identified the groups that you mentioned, along with disabled children, for example, the proposed Measure would be strengthened. People can take it for granted that a group is included. Unless you mention a marginalised group, such as young asylum seekers, as you mentioned, that group can get overlooked.

[177] **Jenny Randerson:** Delivery of much of the child poverty provisions in the proposed Measure will be done through Cymorth and Flying Start, which are targeted programmes aimed at disadvantaged communities. Do you think that it will address child poverty in families living beyond the targeted criteria or geographical areas, and do you think that it will ensure that child poverty is addressed as a children's rights issue?

11.00 a.m.

[178] **Mr Jones:** We think that the specific areas that Cymorth identifies under the themes—specifically the empowerment to participation, which is theme D, but also the protection of health and wellbeing elements—are susceptible to missing particular communities of need. Therefore, we would like a more prescriptive approach to identifying those communities of need in Cymorth areas.

[179] **Jenny Randerson:** The Children's Commissioner for Wales suggested that there were weaknesses associated with the targeted approach, as you suggest, because some groups fall outside the target areas. In fact, the Joseph Rowntree Foundation has said that the majority of children living in poverty are outside the targeted areas as they currently stand. The children's commissioner suggested an amendment to the wording of the proposed Measure that would make specific provision for universal access to services for children and young people living in Wales. Do you think that that would be a good idea?

[180] **Mr Bishop:** That sounds like a useful amendment, yes.

[181] **Jenny Randerson:** As a result of this proposed Measure, the determination of 'material deprivation' and 'median income' in relation to a household could be provided for in future regulations. Should those definitions be included in the proposed Measure as opposed to guidance, to ensure continuity and a consistent approach across Wales?

[182] **Mr Jones:** 'Yes' would be the short answer to that. It would be helpful to have that median defined, rather than expect it to find its own level and then rely on guidance locally.

[183] **Jenny Randerson:** In your evidence, you say that the eradication of child poverty will also depend on successful measures to redistribute wealth. The Welsh Assembly Government has initiatives to encourage benefit take-up, and so on. Should that be included in the proposed Measure?

[184] **Mr Bishop:** If that were possible, it would be advantageous. We are aware that the redistribution of wealth, as it were, is a non-devolved issue, but we are also aware that the Assembly Government has ways and means of influencing Westminster. Our view in our submission was that the Assembly Government should strengthen its influence and links with

Westminster, although I am sure that this is happening, and will continue to happen.

[185] **Val Lloyd:** Before I bring Lorraine in, Jeff wanted to make a comment.

[186] **Jeff Cuthbert:** I put a general question to the earlier presenters on this point of linking wealth, money and fiscal resources. As you know, the pressure on the public purse is great, and will remain so for the next year or two. It would be foolish to pretend otherwise. In that context, do you have any views on whether we need not so much a redistribution of wealth but a redistribution and reorganisation of financial and physical resources within bodies that could contribute towards the eradication of child poverty? I was thinking of the public sector—local government, and the NHS, for example—and, indeed, the voluntary and even the private sector. That would not necessarily mean spending more in total, just redistributing the existing resources.

[187] **Mr Bishop:** It would be naive to imagine that all those funds are spent in the optimum way at the moment. There must be opportunities to look at more efficient and smarter targeting of those resources. So, I agree with your proposal. The onus is on us all in the voluntary and public sectors to look at ways in which we can help. The country's current financial situation will inevitably be a main obstacle to the eradication of child poverty in the short term. Therefore, redistributing existing resources is an important aspect.

[188] **Lorraine Barrett:** Chair, do you want me to ask the question about advocacy? Has that been missed?

[189] **Val Lloyd:** I wanted you to ask questions 32 and 33.

[190] **Lorraine Barrett:** Sorry, I had the wrong numbers. The proposed Measure makes no mention of advocacy provision for children and young people in health or in the operation of the integrated family support teams. Does that cause you concern, and do you think that it should be included on the face of the proposed Measure?

[191] **Mr Bishop:** In our response, we said that we wish that it had been included. We feel that, if it is possible to include it in the proposed Measure, it would strengthen what is an important part of the Welsh Assembly Government's current policy. It is very important to safeguard children and young people.

[192] **Mr Jones:** I just want to add a bit to that and tease the issue out a little further. We are concerned that independent advocacy is not mentioned specifically, but we welcome the mention of empowerment, participation and active citizenship. Our underlying concern is that advocacy, participation, empowerment and active citizenship do not become synonymous, even though they are all parts of the same process. We would welcome the delineation of those aspects, so that a child whose family is being supported by an integrated family support team has access to an independent advocate to make their voice heard within the circle. Within that, they should be involved in broader participation activities and in forming services in the local area, which will further empower them.

[193] **Lorraine Barrett:** Do you see there being some tension between the professionals in the integrated family support teams, who would be there for the children, and the advocates, in the sense that their presence might suggest that those professionals, who are there for the children, are not really doing their best for them? Do you see the conflict there?

[194] **Mr Jones:** It is not conflict; I would call it a productive tension. There needs to be a learning process between professionals, who are working in the best interests of children and young people, and independent advocates who are working to a rights-driven agenda to ensure that the views and wishes of those children are taken into account.

[195] **Lorraine Barrett:** Okay. Do you agree that the structure and the functions of the integrated family support teams need to be prescribed to provide a consistent approach to service delivery?

[196] **Mr Bishop:** Yes, we see that as important.

[197] **Lorraine Barrett:** Should there be any amendments to the proposed Measure in that regard?

[198] **Mr Bishop:** In the sense that it should be made clear that there is that consistency, yes.

[199] **Mr Jones:** When you say 'structure', do you mean identifying the key services involved, such as health, education and so on?

[200] **Lorraine Barrett:** Yes. I mean the provision of posts and services, that they should all be the same.

11.10 a.m.

[201] **Mr Jones:** We would encourage that, and we do have experience, in certain parts of Wales, of independent advocacy being jointly commissioned by those services. Therefore, it makes sense to have them in that integrated support service.

[202] **Lorraine Barrett:** It might be useful to have any extra information or evidence; I do not know whether that is appropriate.

[203] **Val Lloyd:** Yes, if you want to provide written examples.

[204] **Lorraine Barrett:** You say that you have examples. If there was something that you felt was appropriate, you could forward it.

[205] **Val Lloyd:** We would be delighted to receive it.

[206] **Lorraine Barrett:** As a supplementary question, the children's commissioner said that he believes that the proposed Measure should explicitly identify the role that schools could play in identifying the children who may be at risk, and also that the role of the family GP could be crucial in this regard, as well as the proposed family nurse service and the police. What is your view on that? Do you think that such a provision to name those bodies should be made on the face of the proposed Measure?

[207] **Mr Bishop:** On balance, I would agree with the children's commissioner. There is always difficulty when you name parties, because, if you miss some out, that in some way weakens their impact or input. Generally, having heard what you said about what the children's commissioner said, I think that that would be useful.

[208] **Jeff Cuthbert:** My first question is on participation. I will bring in a few points as they are linked, rather than getting you to repeat points, as that might be more productive. You make comments about participation by children in local authority decision making, and indeed you make the point that you are wary of it being seen as just an exercise or event. You mention avoiding 'ticking the box', which steers me clearly towards your thinking that it is important that it be meaningful, as opposed to just being there. Could you expand on that? Do you think that the participation powers within the proposed Measure are more or less right, or would you like to see changes? On the specific issue of vulnerable children, you say in your

evidence that you are disappointed that independent advocacy as a way of helping with participation is not specifically mentioned. So, could you say more about how the mechanism for that should work? Finally, do you think that the duties in relation to participation should be subject to inspection, and, if so, how should that be done?

[209] **Mr Bishop:** Can I take them in reverse order?

[210] **Jeff Cuthbert:** Absolutely; as you wish.

[211] **Mr Bishop:** We feel that the duties should be open to inspection and regulation.

[212] **Jeff Cuthbert:** Open to it or subject to it?

[213] **Mr Bishop:** Subject to it, I think. As far as independent advocacy is concerned, that is one of our main planks as a service and as an organisation. We are a significant provider of independent advocacy and, therefore, we feel that, although the Assembly Government is moving forward positively with guidance on how advocacy should be commissioned and delivered, it would be strengthened were it to be included in the proposed Measure. That is to emphasise what we said in our written evidence. My colleague, George, will pick up on the participation.

[214] **Mr Jones:** I will pick up on the participation element. We said, in our evidence, that we were 'wary' because of what I mentioned earlier about the merging together of empowerment, participation, active citizenship and advocacy into one general definition of the involvement of young people. There is a danger that it becomes something that is seen as a tick-box exercise of consultation on decisions that have already been made. Young people can see through that immediately, in that they are effectively participating in something that has already been decided, which fulfils the need for the participation of children and young people. We encourage many examples across Wales where the active embedding of participation is taking place at a local level as part of the single children's plan.

[215] **Jeff Cuthbert:** Thank you. I will move on to play. You make the point that play is one of the fundamental needs for a healthy childhood and good educational attainment. I do not think that there would be disagreement on that. However, in your view, does the proposed Measure go far enough in that regard?

[216] **Mr Bishop:** It is difficult to know whether the proposed Measure goes far enough. I suspect that, if we were a specialist play organisation, we might say that it does not. I have heard colleagues from such organisations indicate that. As a general comment, the question is whether the proposed Measure enables the development of play, the expansion of play opportunities and the improved quality of play opportunities. However, at the same time, we live in a world where most parents are mindful of health and safety. There is a feeling, when we discuss this, that children's lives are more restricted than they used to be in some ways and the opportunities to learn and develop and take risks are less available than they might have been a generation ago. So, it is difficult for us to know whether the proposed Measure will be particularly successful in developing that. I know that that is the intention. We certainly hope that it expands play opportunities, but does something about children being able to take risks within reason and develop through that difficult area. Society is more alive to dangers and worries about children's safety and is in danger of reducing the opportunities for children to develop and expand their horizons through play.

[217] **Jeff Cuthbert:** Thank you. I appreciate that the point about risk has been made by presenters on this issue previously. I suppose that we remember our own childhoods. However, for most of us, the volume of traffic, for example, was nowhere near as high as it is now.

[218] **Mr Bishop:** It is a real change.

[219] **Jeff Cuthbert:** It is, in certain aspects. However, that is a question about general chaotic, unstructured play—whatever the child wants to do. As an aside, if we have a minute or two, the foundation phase in primary school education is basing learning on structured play. It is still play of a sort, but it is about learning without realising it. Do you feel that that will have an impact on the broader issue of child poverty? Education has a crucial role in this. Do you have any views on that?

[220] **Mr Bishop:** The development of the foundation phase has taken account of, for example, the experience of Scandinavian countries, as I understand it, where they have structured play, which we have begun to develop in Wales. My feeling is that those societies are, perhaps, more successful in dealing with child poverty than we are. Perhaps it is too big a leap to make. However, I certainly see the foundation phase as being a positive development in developing children and young people. If that produces more rounded, able and resilient young people then they will be more able to take advantage of the opportunities and to avoid poverty. So, it is a bit of a leap to take, but it is an important contribution.

11.20 a.m.

[221] **Mr Jones:** I am an avid supporter of the foundation phase and of learning through play. While I agree with Roger in that it represents quite a leap and means that there is a lot of catching up to do, it will eventually assist in moving towards the eradication of child poverty, because the foundation phase of learning through structured play will enable children to release their imaginations and it will train them to be able to at least imagine themselves in a different setting. They can imagine themselves somewhere else, doing something different.

[222] **Val Lloyd:** I have a few questions, to bring this session to an end. Are there any missed opportunities relating to your area of work in this proposed Measure?

[223] **Mr Bishop:** I think that we have touched on the fact that we would like to see independent advocacy in the proposed Measure. That is quite an important point. I do not know whether you were going to ask about disabled children, but we feel that the proposed Measure could be stronger in respect of disabled children. The day care element, for example, needs to clearly outline that disabled children will be accommodated in day care and that they will be welcomed and encouraged to participate in day care. We mentioned play, but play opportunities should be clearly open and children with disabilities should be encouraged and enabled to take advantage of those opportunities. I wanted to mention that.

[224] **Val Lloyd:** Thank you; that is very helpful. You said earlier in your evidence that you were concerned that the budget reductions would create a significant barrier. Could you expand on that? What impact could that have on your area of work and could anything be done to mitigate that in terms of the proposed Measure?

[225] **Mr Bishop:** Clearly, the eradication of poverty and the development of services will be hampered by budgetary constraints. That is a significant barrier and a big challenge for all of us. As an organisation that receives quite a lot of funding through local authority service level agreements, and we will clearly be driven by the Welsh Assembly Government's expansion of advocacy services, we can see that local authorities will find it quite difficult to expand the commissioning of those services in a tight financial climate. So, that is a concern of ours—that there will be financial barriers to the development and expansion of this important service.

[226] **Val Lloyd:** I have one last question and I think that you have gone some way to

answering it. Are there any issues of concern about the proposed Measure that you feel that you have not had a chance to raise?

[227] **Mr Jones:** I will refer to the earlier question asked by Gareth about identifying particular groups. It might be useful to refer to the national guidance on the commissioning of advocacy services that has gone to some lengths to identify those groups, but it sits under the umbrella of universal provision. The intention of the Assembly is to provide universal provision, but it categorises the groups that must be catered for.

[228] **Gareth Jones:** We have access to that information, do we?

[229] **Val Lloyd:** Yes. Thank you for raising that point. Mr Bishop and Mr Jones, thank you very much for taking the time and trouble to come here. Thank you for your written evidence and for answering our questions. The clerk will send you a transcript of today's proceedings before it is officially published, so that you can comment on its accuracy.

[230] Good morning and welcome to the committee. I will just mention a few housekeeping issues that may be helpful to you, before I ask you to introduce yourselves. The microphones will come on automatically when you want to speak, so you do not need to turn them on or off. You can receive the interpretation service on channel 1 of the headsets, or if you need amplification, that is on channel 0. I welcome you both to this morning's meeting. Please start by introducing yourselves.

[231] **Ms Williams:** I am Ann Williams. I am a magistrate in Brecon and I am the Welsh representative for the magistrates. I am the council representative for the Powys and Herefordshire branch and, as such, I sit on the family courts committee in London and that is how I come to be here. I also sit on the Children and Family Court Advisory Support Service advisory group in Wales.

[232] **Ms Wilson:** I am Margaret Wilson. I am the immediate past chair of the family courts committee of the Magistrates' Association. I am a family magistrate and I sit in central London at the Wells Street court, which is a specialist family proceedings court. I am also on the ministerial group on care proceedings, which Gwenda Thomas is on, with Teresa Hallett from CAF/CASS. I am also on the president's private law working group, where CAF/CASS Cymru is represented by Catriona Williams. So, I do sit on some of the national committees. I was chair of the family courts committee of the MA and we have been aware of the developments in Wales and we are particularly interested in forging links with the Welsh Assembly Government, as there have been quite a lot of developments in the childcare and family proceedings court arena.

11.30 a.m.

[233] **Val Lloyd:** Thank you, and thank you also for your written evidence. We will move to questions now. I will start with a pretty broad question.

[234] The proposed Measure is wide-ranging and covers diverse areas of policy. Do you have any general comments about whether the key provisions in the proposed Measure are appropriate to deliver its stated objectives?

[235] **Ms Wilson:** I would first like to make the point that our remit is quite narrow, and we are responding from the perspective of the family courts under point v) of the call for evidence, to consider the views of stakeholders. Our interest in the proposed Measure is therefore quite narrow, but we do have one or two general comments to make.

[236] **Ms Williams:** Yes, we do have one or two general comments to make. Obviously, we

think that anything that will help to reduce child poverty is a good thing, but there is a difference between child poverty and children who are at risk. The fact that the alleviation of child poverty has been put at the top of the objectives is perhaps a little misleading, because, as far as I can tell, most of it is looking at addressing children who are at risk and children who are in need. I think that the end result will alleviate child poverty, but not all children at risk are in poverty, and poverty does not always lead to children being at risk. It is the protection of children from harm that is the most important thing, and that thread runs through most of the proposed Measure.

[237] **Val Lloyd:** Thank you very much. I have a question on regulation-making powers that I think that you might find appropriate. Do you think that the proposed Measure achieves the correct balance between the powers on the face of the proposed Measure and the powers given to Welsh Ministers to make regulations?

[238] **Ms Wilson:** Sorry, but what was the first part of that? The powers between which bodies?

[239] **Val Lloyd:** Do you think that the proposed Measure achieves the correct balance between the powers on the face of the proposed Measure and the powers given to Welsh Ministers to make regulations?

[240] **Ms Wilson:** I think that that is a point that we wanted to make later on.

[241] **Ms Williams:** Yes, to an extent. I was not quite sure what that meant, although I do think that Welsh Ministers should have powers to govern Wales—obviously, living in Wales—and to do things differently when that means doing them better. The family courts are for England and Wales, so any distinction between the two should be clear and not lead to any confusion. Some measures that have already been passed have led to some slight, but key, differences, and it is important that we all understand those.

[242] **Val Lloyd:** Jeff, I believe that you have some questions to ask.

[243] **Jeff Cuthbert:** Thank you, Chair. This comes under the broader heading of child minding and day care for children in terms of legislation. I will bring these questions together, because I think that they are logically linked.

[244] In your paper, you highlight the similarities between the provisions in the proposed Measure and the Childcare Act 2006. Do you think that what we are doing is to re-enact that Act, and if so, is there any point to it, or are we talking about some significant differences that will add value? Likewise, you refer to similarities between the Children Act 1989 and the Childcare Act 2006 and a few significant differences in relation to Wales. Could you set out what those differences are?

[245] Finally, you say in your evidence that sections 20 to 24 of the proposed Measure are similar to those in section 66 of the 2006 Act. Do you think that that is satisfactory, or should we be seeking to make different arrangements?

[246] **Ms Wilson:** First of all, in answer to your first question, you are working under the Childcare Act 2006, the current legislation, and we take it that you are seeking to bring in this proposed Measure to change it for Wales. We see the proposals set out in the proposed Measure to be similar to the Childcare Act 2006. We are not critical, but because the changes are so small, we wondered what the need was for it. Also, Part 2 of the Childcare Act 2006 refers to Wales.

[247] From our perspective, with regard to the family jurisdiction and the criminal

jurisdiction—because this also overlaps into the criminal jurisdiction for contravening the regulations—the courts operate consistently over England and Wales. The differences in the proposed Welsh Measure may lead to the court dealing with things differently.

[248] **Jeff Cuthbert:** So, differences could come about as a result of regulations, but at the moment would it be fair to say that you do not see a significant difference on the face of it?

[249] **Ms Wilson:** That is our view on the whole, yes.

[250] **Jeff Cuthbert:** That is interesting. Thank you.

[251] **Ms Williams:** The main thing was a little later on, where you would bring an application before a magistrate, but that is in section 28 and we have not reached questions on that yet.

[252] **Jeff Cuthbert:** Other colleagues will deal with that.

[253] **Ms Williams:** Otherwise, there is very little difference, so we do not think that it will make a huge amount of difference.

[254] **Jeff Cuthbert:** Thank you for that.

[255] **Lorraine Barrett:** With regard to sections 25 to 27, you say that the proposals are similar to sections 68 to 70 of the Childcare Act 2006 in that there is provision for the cancellation or suspension of the registration or for the person to voluntarily remove themselves from the registration. Does the proposed Measure make sufficient provision in this regard, or is there a need for an amendment for the cancellation or registration of persons?

[256] **Ms Wilson:** Once you get to that situation, having gone through all the previous procedures, it should be sufficient to remove or vary the registration.

[257] **Ms Williams:** We do not know whether any weaknesses have been noted in the current arrangements. If you were looking to strengthen them and address any weaknesses, that would be a good thing, but we do not have evidence of any weaknesses that have been noted.

[258] **Ms Wilson:** The implementation of the Childcare Act 2006 in England, as opposed to Wales, is relatively recent, and it has quite a wide remit; in fact, we have knowledge of it applying to care homes. If you close a care home, it is a huge business that is closed. Our first impressions are that the powers in the proposed Measure are sufficient, given all the procedures that lead up to it.

[259] **Lorraine Barrett:** That is useful, thank you. In section 28, with regard to an emergency situation, you state that Ministers may apply to a justice of the peace for an order cancelling a person's registration, and so on. You say in your evidence that the child

[260] 'must be suffering or likely to suffer significant harm'.

[261] Are you content that this is a sufficient test for cancelling a registration? Do you think that it should be strengthened in any way?

[262] **Ms Wilson:** We think that that is a sufficient test, but the person who makes the finding on the harm needs to be clarified. At the moment, it is only a family proceedings court or a higher family court in England and Wales that makes that finding as to whether the child is suffering or likely to suffer significant harm. That would come before a family court, and

not before a criminal court. So, who would make the findings needs clarification, because as we read it, the finding is under the Children's Act 1989 because that is where the definition is—as far as there is one—of harm or likelihood of harm. So that needs to be clarified.

[263] In answer to the other part of your question, as to whether we think it is sufficient, it is sufficient once one reaches that threshold, but we think that who makes the decision on the threshold needs clarification.

[264] **Ms Williams:** It is quite important that it comes before a court. It is useful that the application comes to court, because it gives it that independent authority.

11.40 a.m.

[265] **Ms Wilson:** If a court makes a finding of harm or of the likelihood of harm, that is sufficient to bring care proceedings into the family court. That would require consistency, and we are not sure whether there is consistency here. We may have misread it, but we do not see where the consistency lies. If a court or whoever makes the finding of harm or of significant harm, that should kick off care proceedings, which should come before the family court. It might start in the family proceedings court or a higher court, but it would be under the family court's jurisdiction, and it would make the first decision.

[266] **Ms Williams:** In addition, we were not clear whether only ex parte applications would come to the court or whether all applications would. That was not clear.

[267] **Ms Wilson:** We are confused about the emergency measure coming ex parte before a justice of the peace. In the family arena, we have ex parte applications before a JP, and the ones that come most regularly to mind are emergency protection orders and orders under the Family Law Act 2006 for injunctions, non-molestation orders and so on. They can be made ex parte before a JP, even a single JP, although non-molestation orders are normally made ex parte before a bench. What normally happens in the court context is that a time-limited order is granted and that there is then an inter partes hearing, which gives the respondent an opportunity to put his side of the story. I do not know that it is in the English version either, but we cannot see a provision for an ex parte hearing. Although it relates to care homes, we understand that a case in England is going to the European court on this very point. You have an appeals procedure, but that would be an appeal against a decision, which is the next stage. We were concerned that there is no provision, as we see it, for an ex parte hearing.

[268] **Ms Williams:** Or for the party to be heard at some stage before an appeal, because we have that provision in children's law. Following an emergency protection order, there is always an opportunity for the parties to come to court, but that provision is not here.

[269] **Val Lloyd:** That is very helpful indeed.

[270] **Lorraine Barrett:** It will be taken forward by the committee.

[271] I am not an expert on these matters, so I am not sure whether this cuts across what you have just been talking about, but, in your evidence, you highlight the difference between England and Wales. In England, the powers of cancellation of registration, of varying, or of imposing conditions in an emergency are exercised by a JP, but the proposed Measure intends to separate these out, with some powers being exercised by the Welsh Ministers. Do these arrangements cause you concern and do you think it appropriate for the Welsh Ministers to exercise some of those powers?

[272] **Ms Williams:** We were a little concerned about that, as we are not sure whether there is any need to separate them. We are not sure at which stage Ministers would get involved, or

who would bring the application. Normally, social services would have a concern and would bring an application to court or to whichever other regulatory body may exist for the proposed new teams. We were not quite sure at which stage Ministers would get involved. They would often be involved in the appeals process rather than at the beginning, when someone has concerns. We thought that it might be better if they were all brought before a court, anyway.

[273] **Ms Wilson:** It politicises it, in some ways, and we felt the need for a regulatory body. English law talks about the Secretary of State but also about the chief inspector having those powers. We were confused as to which powers the Ministers would have, or who the delegated people would be, and we thought that perhaps there was a need for a regulatory body between the Ministers and actual practice on the ground.

[274] **Ms Williams:** We were not sure where a parent would go if they had concerns about a child minder, for instance. I do not know where they would go in the first instance.

[275] **Val Lloyd:** Those are interesting questions.

[276] **Ms Williams:** If there is a significant risk of harm, you want prompt action to be taken.

[277] **Lorraine Barrett:** The example that you just gave about a parent with a concern about a child minder could come under the non-emergency situations, could it not?

[278] **Ms Williams:** It could, but it could be an emergency if a child was at significant risk of harm.

[279] **Lorraine Barrett:** Do you have any comments on the arrangements for non-emergency situations and the appeals process, as provided for in section 30?

[280] **Ms Williams:** We do not have any experience of this, really, because I do not think that this comes before the courts. We have never seen it in our courts.

[281] **Ms Wilson:** The implementation of it is recent and we have not had many of them. I think that there has been more activity on the care home side of things.

[282] **Ms Williams:** It is probably dealt with by the local authorities or whatever regulatory body there might be. We could think only of the analogy of some of the environmental health cases that we get, some of which are dealt with by the agency itself and its regulatory body before they come to court. It would be as a last resort for them to come to court. So, if it is a non-urgent situation, social services and the local authority—and even the Ministers as a last resort—would probably deal with it.

[283] **Ms Wilson:** We think that there needs to be a clear procedure, and if one is going down this route—and I come back to the issue of harm or likelihood of harm—one is getting very much into child protection issues. So, there needs to be a set procedure as to who would be the responsible person in a non-emergency situation, or the conduit for the parent who is concerned.

[284] **Jenny Randerson:** My first question is on section 35. Should the proposed Measure include a requirement for consent to enter domestic premises or for a warrant of assistance, as set out in sections 77 and 78 of the Childcare Act 2006?

[285] **Ms Williams:** Yes, we think that that is important. When an application is brought to us as magistrates, we have various questions that we work through to ensure that it is done very sensitively if children are involved. So, if you are talking about a child minder, who may

look after a number of children, it is very important that consent be obtained.

[286] **Ms Wilson:** If consent were given to inspect premises, there is no problem; the problem is where consent is withheld. Children can get very upset if someone is seen to be forcing their way in. We are concerned with the protection of children, and we therefore think that the application for a warrant with, as Ann has said, the appropriate questions being asked minimises the upset for children.

[287] **Jenny Randerson:** I must say that, as a former magistrate, I fully appreciate your point, and I was amazed when I read this section that it made no reference to the need for a warrant. I know how seriously the questions are asked.

[288] **Ms Wilson:** Exactly. It is a very serious issue.

[289] **Jenny Randerson:** And I know that warrants are refused when those questions are not satisfactorily answered.

[290] **Ms Wilson:** As you were a magistrate, you will know that warrants are mostly granted by application to the police, and the process can become quite heated because the situation can be quite complex. You are quite right that warrants are refused if the questions are not answered properly; there are very specific requirements.

[291] **Jenny Randerson:** You refuse warrants to enter the premises to look at the gas meter, do you not? Moving on to sections 39 and 41, can you explain your concerns about section 39 and the powers of the Welsh Ministers to consider criminal matters in relation to fixed penalties for the offences listed?

[292] **Ms Wilson:** The Magistrates' Association takes a strong view on this. We have had a great deal of press coverage recently about police cautioning and the police issuing fixed penalty notices. Some of these notices are for what we consider to be quite serious offences, and so we think that they should come before a court. The defendant then has the opportunity to reply and, if convicted—and we have been talking about the criteria for conviction—the sentences are strictly set out in sentencing guidelines. There is a committee that sets these guidelines; it is not done directly by Ministers, but by an intermediary. There is normally a mixture of people on the committee, from judges to probation officers. So, there is a range of people who set these guidelines, which, I think, are sanctioned by the Ministry of Justice, but it is all very transparent and above board, and there is a right of appeal. However, we feel that these offences are getting into the serious level, and they should not be dealt with by fixed penalties.

11.50 a.m.

[293] **Jenny Randerson:** On section 41, you have concerns about the time limits on bringing proceedings. Can you explain what those concerns are?

[294] **Ms Williams:** We could not really understand why it was being changed, because there is the maximum of three years from the commission of the offence anyway, and the time limit that you are changing is from the time the information is made known to the prosecutor. If you extend that time, it will add delay, and we felt that the case should be able to be brought within six months.

[295] **Ms Wilson:** It hangs on what we have been saying all the time. If we are talking about children experiencing harm or the likelihood of harm, these are very serious situations, and the local authority process should be kicking in. If there is that level of concern, it should not be left to this legislation to protect the child; it comes under care legislation.

[296] **Ms Williams:** I was not sure whether there was any case law to suggest that it was necessary to have a longer time, and we were not sure why you decided to make this extension in the first instance.

[297] **Gareth Jones:** Mae fy nghwestiynau yn ymwneud â'r timau integredig cymorth i deuluoedd. Yr ydych wedi cyfeirio atynt yn eich tystiolaeth, gan groesawu'r cynlluniau peilot mewn tri chyngor. Yr ydych hefyd wedi cyfeirio eto at y ffaith nad oes cynnig yma o ran sut i ddwyn achos llys pan fydd angen i'r llys ymyrryd—a '*court application*' yw'r term yr ydych yn ei ddefnyddio. A ddylid cynnwys rôl a swyddogaethau'r timau ar wyneb y Mesur arfaethedig, yn enwedig pan fyddant yn ymwneud â gweithgareddau'r llysoedd teuluol?

Gareth Jones: My questions relate to the integrated family support teams. You referred to them in your evidence, and you welcomed the pilot schemes taking place in three councils. You also referred again to the fact that there is no proposal here on how court proceedings can be brought when there is a need for a court to intervene—and 'court application' is the term that you use. Should the role and functions of the IFSTs be included on the face of the proposed Measure, particularly when they deal with the proceedings of family courts?

[298] Gan ystyried bod cynlluniau peilot yn mynd rhagddynt, a ddylai Llywodraeth Cymru aros i weld beth fydd yn deillio ohonynt cyn gwneud darpariaeth ddeddfwriaethol, a hynny er mwyn inni ddeall safbwyntiau'r rhanddeiliaid cyn i'r timau ddechrau ar eu gwaith?

Given that the pilot schemes are under way, should the Government of Wales wait for the outcomes of those pilots before making legislative provision, in order that we can understand exactly what the views of stakeholders are before the teams get to work?

[299] **Ms Williams:** Yes, I think that the face of the proposed Measure should include the interface and relationship between the integrated family support teams and the family proceedings courts. We are not clear to whom the new teams would be answerable or who would bring the applications to court, so it would be useful if that were included.

[300] We feel that some legislation is needed before the pioneer schemes are created. However, guidance and regulations should follow the pioneer schemes once you have assessed how they worked in practice. The public law outline was not enshrined in legislation as such, but the pilots were completed before the final draft of the guidance was drawn up. So, it is quite useful to have the pilot schemes, but I think that some legislation will be necessary first.

[301] **Gareth Jones:** You make the appeal that you might wish to comment at that stage, after the outcomes are known, as it were. We would certainly take note of what you are saying.

[302] **Ms Wilson:** We wondered how you were going to evaluate the pilot scheme. You mentioned the views of stakeholders, but will it be through academic research or by collating responses?

[303] **Gareth Jones:** We need to know about the experience of those involved in the teams for the pilot schemes. We will just have to wait and see on that.

[304] **Val Lloyd:** I think so. We are in the very early stages of this proposed Measure. We are taking evidence, and this is what we call 'Stage 1'. We are grateful that you are giving us your views on particular aspects.

[305] **Ms Wilson:** Nothing like this has been done in England, and I just wondered why

you were doing it, as a matter of interest. We do not have anything similar in England.

[306] **Val Lloyd:** It is a commitment in ‘One Wales’ for the ruling parties in the Assembly to take forward measures to alleviate child poverty. That is why we are taking this forward.

[307] **Lorraine Barrett:** Just to make it clear: this is a Government-proposed Measure, and the committee is reviewing it and taking evidence on it. We also question the Government.

[308] **Val Lloyd:** We report back. It is a Government-proposed Measure, not a backbench Measure. We are here trying to look at the merits or otherwise of it, and then we report back, as a committee, directly to the whole Assembly, not to the Ministers. The Ministers gave us evidence at the beginning of our work, and they will come again at the end, when we will be able to raise any concerns with them. We then take it to the Assembly and it is debated by all Members. We are here to scrutinise the proposed Measure. We do that by asking interested people to give us written and/or oral evidence.

[309] **Ms Wilson:** We think that the pilot schemes will be interesting, so we may well like to comment at a later stage.

[310] **Gareth Jones:** We have scrutinised the Minister on the nature of the teams, their function and so on. All that is on record, and can be accessed, presumably. It is not our idea, as such, but the rationale behind this has been explained to us in committee. We actually share your concerns, because we want it to be perfect and workable, obviously, and that is why we value your input as to your interpretation of it.

[311] **Ms Williams:** It is interesting that you are thinking of going down this line. There have been a lot of problems in the past because of a lack of co-operation between different departments, and I think that having integrated teams will go a long way to alleviate that.

[312] **Ms Wilson:** One of the findings from the public law outline, which is in its early stages, is that there is a lack of communication between the agencies. Funding tends to be ring-fenced, so everyone guards their information too much, whereas what we need—as the baby P case and so on have shown us—is communication. So, that is a very interesting aspect.

[313] **Jeff Cuthbert:** It is fair to say that the overarching purpose of this is to eradicate child poverty by 2020. What we are trying to do is see whether a legislative approach is, in fact, required in order to get various holders of the public purse to work together in a better way. Otherwise, we could go back—and this is why you are here giving evidence—and say, ‘We are not sure whether legislation is necessary; we can do this, that or the other’. So, it is open at this stage, and we are gathering evidence from you and others to inform our response to the Welsh Assembly Government. At the moment, the belief is that we will need to go down this road in respect of Welsh legislation.

[314] **Ms Williams:** It formalises things, does it not? The expectation is then that those teams will be set up and that there will be a different way of working. With a different hat on—I am involved with carers’ services in Powys and I set up the young carers’ support service there some years ago—I am pleased to see that the needs of young carers specifically are going to be addressed by these integrated teams. I am very pleased that these sorts of issues are being addressed.

12.00 p.m.

[315] **Ms Wilson:** I went to the launch of the Government’s response to Lord Laming’s report yesterday, where this aspect of communication and working together was really very significant. I have forgotten his name, but Sir Roger somebody is setting up a national board

and there is to be a Welsh representative on that board. It goes over the agencies in any event, but there is to be a specific Welsh representative on that board.

[316] **Val Lloyd:** Mrs Williams, I was going to move to my final question, but you have brought another question to mind. Do you feel that the proposed Measure does enough in relation to carers? You mentioned carers and your knowledge of related issues.

[317] **Ms Williams:** Certainly, on the face of it, the integrated support teams seem to be addressing the specific needs of young carers; however, we do not know how many young carers are involved with families where there is substance abuse, for instance, let alone all the others who show up in the census. We think that we have touched only the tip of the iceberg in Powys. I cannot remember the figures; I did not think to bring them today, so I am not sure of the exact numbers at the moment. However, at any one time, we know of probably 100 to 200 youngsters in Powys, and that is probably not all of them. Some of them have very complex issues, which is why I said at the beginning that it is not just an issue of poverty. We need to be thinking of children in need rather than poverty, because children in need come from all walks of life and children in poverty are not necessarily in need. So, there is quite a distinction there.

[318] **Val Lloyd:** Thank you. I have a closing question now, which is very open-ended. It is for both of you. Are there any issues or concerns about the proposed Measure that you feel that you have not had a chance to raise?

[319] **Ms Wilson:** The only concern that we have, which I think is a general concern and it is something that we are trying to work much more closely with Wales and the Welsh Assembly Government on, is how we would cope with this in terms of consistency in the courts of England and Wales. One or two of the Welsh Assembly Government initiatives are slightly different to what is undertaken in England, but the courts are very much 'England and Wales' and we work towards consistency the whole time. We know that there is a long way to go, but particularly in the family courts, we are working towards consistency and there is just a question about how this will fit in with the courts. Of course, there will be a training need and there will certainly need to be briefing notes for legal advisers. It is a question of how different it would be as far as its application in the courts goes.

[320] **Ms Williams:** I think that there is an issue regarding clarification of where the proceedings are expected to be heard. Obviously, we are from the family proceedings court, so we assume that, where there is a question of risk of harm to children, they would be brought to the family proceedings courts. However, where there are breaches of regulation in child minding, for instance, those may well go to a miscellaneous Magistrates' court rather than the family proceedings court. So, I think that there needs to be some clarification as to where cases should be heard.

[321] **Val Lloyd:** On the differences, if this proposed Measure is passed, it will be applicable to Wales only—you mentioned your sentencing guidelines; I was also a magistrate and I remember them well—and I am sure that you would get an addendum for Wales. There would be differences when it came to those issues, but the main legal issues would be the same.

[322] I thank you both, Mrs Wilson and Mrs Williams, for taking the time and trouble to produce your written evidence and to come here today with your oral evidence. The clerk will send you a transcript of today's proceedings so that you can comment on it before it becomes the official Record. You may be interested to know that you can access the Record of Proceedings of all previous meetings on the Assembly's website, if you want to ascertain any further information. I thank you, once again, for coming today.

[323] **Ms Williams:** Thank you for inviting us.

[324] **Ms Wilson:** I think that this is the first time that the Magistrates' Association has been asked to give evidence to a committee and we are very pleased to have been able to come to give evidence.

[325] **Val Lloyd:** If there are no further points from Members, I declare the meeting closed.

Daeth y cyfarfod i ben am 12.05 p.m.
The meeting ended at 12.05 p.m.