



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

**Y Pwyllgor ar y Mesur Arfaethedig ynghylch
Gwneud Iawn am Gamweddau'r GIG
The Proposed NHS Redress (Wales) Measure
Committee**

**Cyfnod 2
Stage 2**

**Dydd Mawrth, 4 Mawrth 2008
Tuesday, 4 March 2008**

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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

Janice Gregory	Llafur (yn dirprwyo ar ran Val Lloyd) Labour (substitute for Val Lloyd)
Edwina Hart	Llafur (Y Gweinidog dros Iechyd a Gwasanaethau Cymdeithasol) Labour (The Minister for Health and Social Services)
Helen Mary Jones	Plaid Cymru The Party of Wales
Jonathan Morgan	Ceidwadwyr Cymreig (Cadeirydd y Pwyllgor) Welsh Conservatives (Committee Chair)
Jenny Randerson	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats

Eraill yn bresennol
Others in attendance

Vanessa Phillips	Pennaeth, Gwybodaeth Cyfrifyddu, Polisi a Rheoli, Llywodraeth Cynulliad Cymru Head, Financial Accounting, Policy and Control, Welsh Assembly Government
Pat Vernon	Pennaeth, Cangen Cynnwys Cleifion a'r Cyhoedd y GIG, Llywodraeth Cynulliad Cymru Head, NHS Public and Patient Involvement Branch, Welsh Assembly Government

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

Joanest Jackson	Cynghorydd Cyfreithiol Legal Adviser
Lewis McNaughton	Dirprwy Glerc Deputy Clerk
Siân Wilkins	Clerc Clerk

Dechreuodd y cyfarfod am 9.31 a.m.
The meeting began at 9.31 a.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

[1] **Jonathan Morgan:** Good morning. I call the Proposed NHS Redress (Wales) Measure Committee to order. I welcome Members to the committee's first Stage 2 consideration of the Measure. Before I move to the first item of business, I remind members of the public in the gallery that the committee operates bilingually and that headsets are available for translation or as an induction loop to hear the proceedings more clearly. Channel 0 provides the verbatim broadcast and channel 1, the translation. If there is a fire alarm, the ushers will escort Members and members of the public from the room. I also remind those in the gallery and around the table to turn off any mobile phones, pagers, BlackBerrys or any other electronic device. I also remind Members that they do not need to touch the microphones, as they will work automatically. Apologies have been received from Val Lloyd,

and I am delighted to see that Janice Gregory is substituting for her this morning.

[2] Before we move on, I wish to explain how we will handle the procedures around Stage 2, because it is complicated and we have a series of processes to help us through it. Members have received a note from the clerks explaining the principles of how Stage 2 works, but I want to explain in more detail how this morning's meeting will run, and how I intend to handle the amendments and the discussions around them.

[3] The second item, namely the order of the consideration of amendments, has been agreed informally by the committee, and has been published to give other Assembly Members sufficient notice of the deadlines for tabling amendments, and also to allow the clerks to marshal the amendments in the correct order for this meeting. We will consider that in a moment.

[4] The third item on the agenda is the consideration of the amendments to the proposed Measure. In relation to this item, Members will have before them a copy of the proposed Measure, the marshalled list of amendments, and the groupings of the amendments for debate. You will see from the groupings list that the amendments have been grouped to facilitate debate, but the order in which they are called and proposed for a decision is dictated by the marshalled list. Members will need to follow the two papers, although I will advise Members when I call them of whether they are being called to speak in the debate or called to propose their amendments for a decision.

[5] There will be one debate on each group of amendments. I will call the proposer of the first amendment in that group, who should speak to, and propose, their first amendment and also speak to the other amendments in that group. I will then call other speakers, including any other proposers of amendments in that group, but they should not propose their amendments at that stage. Are we clear so far? I see that we are. Members who do not have an amendment in the group but who wish to speak should indicate that to me, and I will ensure that we get people to speak on those particular items in each group. I will call the Minister to speak on each group, and, to conclude each debate, I will call the proposer of the first amendment in that group to wind up. So, we will have a considered debate on each group, with the proposer of the first amendment in the group being called and then those who wish to speak to that amendment and to other amendments in the same grouping.

[6] Following the debate on a group of amendments, I will at that point clarify whether the Member who proposed the first amendment still wishes to press the matter to a decision. If not, he or she may seek the committee's leave to withdraw the amendment. If the amendment is not withdrawn, I will put the question that the first amendment in the group be agreed. If any Member disagrees, we will proceed to a vote by a show of hands. It is important that Members keep their hands raised until the clerks have fully recorded the vote. Unless Members request otherwise, names will not be recorded in the minutes, only the numbers voting for, against or abstaining.

[7] I will call those who have the other amendments in each group to propose them at the appropriate time, in accordance with the marshalled list. If you do not wish to propose your amendment, you should say so when the amendment is called. For the record, only committee members may propose amendments, but as we have not had any amendments from any other Members so far, that will not be an issue for today. Members will be aware that the only way to debate a section of the proposed Measure is to table an amendment to it. Any sections to which amendments have not been tabled will be deemed agreed, as will any sections to which the tabled amendments are not agreed. I will announce the sections that have been agreed at the end of the meeting so that we are clear as to what has thus far been approved.

[8] I will not delay any proceedings today to enable the return of Members who have left

the room. While any Member can propose an amendment in the absence of another Member to facilitate debate—that includes me, as Chair—if we come to the disposal of an amendment, I will have to proceed to a vote.

[9] Unless Members have any questions on procedure, I will move to item 2 on the agenda. Are there any questions about procedure? Was the explanation fairly clear? I see that Members are content.

9.37 a.m.

**Y Mesur Arfaethedig ynghylch Gwneud Iawn am Gamweddau'r GIG (Cymru)
2007—Cyfnod 2: Trefn Ystyried y Gwelliannau
Proposed NHS Redress (Wales) Measure 2007—Stage 2: Order of Consideration**

[10] **Jonathan Morgan:** In accordance with Standing Order No. 23.34, the committee resolves to dispose of amendments to the proposed NHS Redress (Wales) Measure 2007 in the following order. At this meeting consideration will be given to sections 3 to 6 and 9 to 14. At next week's meeting, on 11 March, consideration will be given to sections 1 and 2, and 7 and 8. That is also provided for at the meeting on Tuesday 8 April. Given the number of amendments tabled so far, I expect that we will conclude Stage 2 proceedings at our meeting on 11 March. That means that the deadline for tabling any amendments to sections 1, 2, 7 and 8 is 5.30 p.m. today. Subject to how we proceed with that, I anticipate that Stage 2 will conclude next week.

[11] Before I proceed, do Members agree the order of the groupings? I see that you do.

9.38 a.m.

**Y Mesur Arfaethedig ynghylch Gwneud Iawn am Gamweddau'r GIG (Cymru)
2007—Cyfnod 2: Ystyried Gwelliannau
Proposed NHS Redress (Wales) Measure 2007—Stage 2: Consideration of
Amendments**

**Adrannau 3 i 6
Sections 3 to 6**

[12] **Jonathan Morgan:** I call amendment 1 in the name of the Minister. It is grouped with amendment 2. I invite the Minister to propose amendment 1 and to speak to the other amendment in the group.

[13] **The Minister for Health and Social Services (Edwina Hart):** I propose amendment 1.

*Cafodd gwelliannau 1 a 2 eu grwpio ar gyfer y drafodaeth.
Amendments 1 and 2 grouped for debate.*

[14] Amendment 1 would remove the provision about time limits and extensions for the acceptance of an offer from section 5(2), so that the corresponding provisions may be placed in section 5(3), which relates to amendment 2. The practical effect of amendment 1 would be to give effect to my commitment to bring forward an amendment to ensure that there is a requirement that the regulations contain provision for time limits for the process. Members will be aware that the regulations themselves will be subject to debate.

[15] Amendment 2 would bring into effect my commitment to ensure that the regulations

also contain time limits for the investigation and conclusion of cases being dealt with under the redress Measure. The practical effect of the amendment would be that any regulations made under this section will have to specify time limits for the stages of the investigation and their completion, for making an offer under the arrangements and for the acceptance of such an offer. That fits nicely into some of committee's previous discussions.

[16] **Jonathan Morgan:** Do any other Members wish to speak to either amendment 1 or amendment 2?

[17] **Jenny Randerson:** I very much welcome this amendment from the Minister. I had the benefit of seeing that she had tabled it before I tabled an amendment that, although perhaps less complex, was certainly designed to have the same effect. We heard evidence that there was a feeling among the public—and we have all experienced it with our constituents—that investigations can be deliberately allowed to plough on for far too long. Therefore, I think that time limits are an essential element of a system that is both fair and is perceived by the public to be fair.

9.40 a.m.

[18] **Helen Mary Jones:** To add briefly to that, time limits are also essential to keep the costs down, otherwise, these things run and run and you end up spending more on administration than you give to the wronged patient.

[19] **Jonathan Morgan:** Minister, do you wish to say anything in reply?

[20] **Edwina Hart:** No.

[21] **Jonathan Morgan:** The question is that amendment 1 be agreed to. Are we all agreed? I see that we are.

*Derbyniwyd gwelliant 1.
Amendment 1 carried.*

[22] **Jonathan Morgan:** I now call amendment 2 in the name of Edwina Hart; this has already been debated with amendment 1. Minister, please formally propose amendment 2.

[23] **Edwina Hart:** I propose amendment 2.

[24] **Jonathan Morgan:** The question is that amendment 2 be agreed to. Are we all agreed? I see that we are.

*Derbyniwyd gwelliant 2.
Amendment 2 carried.*

[25] **Jonathan Morgan:** I now call amendment 13 in the name of Jenny Randerson, which is grouped with amendment 16. I call Jenny Randerson to propose amendment 13 and to speak to the other amendment in the group.

[26] **Jenny Randerson:** I propose amendment 13.

*Cafodd gwelliannau 13 a 16 eu grwpio ar gyfer y drafodaeth.
Amendments 13 and 16 grouped for debate.*

[27] These two amendments fit very well together, because they set out the view that, although we accept that there may be circumstances in which a report is withheld, those

circumstances should be exceptional. Amendment 13, from Jonathan, sets out the view that there should be an independent view when a report is withheld. That follows on very much from the evidence that we received as a committee. The committee's Stage 1 report has a whole section on withholding investigation reports. The issue was raised with us by witnesses who expressed concerns, specifically by the organisation Action against Medical Accidents. Paragraphs 120 and 121 of the report refer to Carmarthenshire County Council's telling us that there could be a risk of harm in having the full details in a report and that, perhaps, when that is the case, the complainant could have an amended report rather than there being a blanket refusal to disclose the report. Paragraph 121 states:

[28] 'The Minister indicated that she is supportive of considering further whether investigation reports could be withheld under certain exceptional circumstances.'

[29] Paragraph 122 states:

[30] 'We are concerned that the Measure does not emphasise the importance of disclosing information to the complainant.'

[31] So, I believe that we have the Minister's sympathy in these two amendments. They are realistic in that they accept that there could be circumstances in which either the patient or the patient's family or, occasionally, other clinicians who have been involved in the process but not directly involved, could be affected by the full report's being revealed. However, we believe very strongly that there is a necessity to set a norm that reports will normally be published and that we should have a situation whereby there is an independent review if those reports are not published, so that you do not have an organisation looking after its own. You know very well that when reports are withheld, it is always controversial and there is always the view—whether fair or not—that the organisation is looking after its own interests. Therefore, that is the importance of the independent view and, using the term 'exceptional circumstances' lays down as a norm to the organisations involved that they will be expected to publish their reports.

[32] **Jonathan Morgan:** Thank you, Jenny. As I have added my name in support of amendment 13 and have tabled amendment 16, I would like to speak to both.

[33] To endorse what Jenny Randerson has said, what went through my mind was that if redress is going to work as a system, people need to have confidence in the arrangements that exist to support them through what can be quite a complicated process, particularly when you have people, in effect, doing battle with very large organisations in order to have their cases assessed. One way in which confidence can be improved and enhanced is to ensure that there is as great a degree of independence as possible in providing help, guidance and advice and that, within that, when a decision has been taken to withhold the report, that decision can be independently looked at. As Jenny rightly pointed out, people are often very suspicious about large organisations—they believe that that organisation is there to look after its own—and if this section were to be inserted, particularly with regard to amendment 16, it would allow the Minister to ensure, by means of regulations, that that review process was introduced. I think that it is a worthwhile amendment and, certainly, in terms of expanding the way in which redress can deal with an individual's needs and provide independence from the NHS, it is quite important. I was happy to see that amendment here this morning. Do any other Members wish to speak to either amendment 13 or 16?

[34] **Edwina Hart:** I concur fully with the comments made by you and Jenny about concerns about withholding information and that people are very suspicious if organisations do not share information. However, I think that inserting 'in exceptional circumstances,' would cause problems. The effect of amendment 13 is to define all the circumstances in paragraphs (a) to (c) as exceptional and I do not think that that is required. That is my

problem with the amendment.

[35] Section 5(4)(a) provides that a copy of investigation reports should not be provided before the offer of redress is made or if the proceedings are terminated. That is not exceptional; it is actually part of a normal process. The report is meant to inform the offer, so would be provided at the same time as the offer is made, to enable the complainant to consider what they need to do. Providing a copy of an investigation report before an offer is made would provide the opportunity for people to contest the report and extend the argument indefinitely and that, of course, then goes against the spirit of the Measure. Section 5(4)(b) already relates to exceptional circumstances and, of course, in addition, the regulations made under this section would be subject to the affirmative procedure in all cases, so the Assembly would be required to approve any exceptional circumstances set out in future regulations.

[36] I understand the issues in terms of amendment 16. This matter was raised at committee and in Plenary and I think that the same things apply. We are working on the assumption that reports will only be withheld if they contain information that is potentially harmful to someone's health. These are likely to be tiny in number and such a decision should only be taken by, or after consultation with, a health professional, as currently applies to the withholding and disclosure of information, as we all know, under the Data Protection Act 1998. I do not believe that it would be appropriate for what was in fact a clinical decision to be viewed in such a manner. However, of course, we will have the opportunity to deal with the whole issue of exceptional circumstances in future regulations that, of course, will be subject to the affirmative procedure.

[37] **Helen Mary Jones:** I completely support the intent of these amendments because I am on record, as are other committee members, as being very concerned about the possible abuse of the process for withholding reports. However, I take on board what the Minister has said about the specific nature of these amendments. Chair, may I ask whether the Minister is prepared to give a commitment today that the regulations will make it clear that the circumstances will need to be highly exceptional—or however we phrase it in legal terms—for a report to be withheld, and that those decisions will be reviewed by an independent health professional, independent of the trust or whatever organisation is being complained about? If the Minister can give us that assurance today, I am prepared to oppose these amendments, but only in those circumstances.

[38] **Edwina Hart:** I am prepared to give that commitment to the committee today.

[39] **Jonathan Morgan:** Janice, do you wish to speak to these amendments?

[40] **Janice Gregory:** No, I am fine; the Minister has given that commitment and that is good enough for me.

[41] **Jonathan Morgan:** I invite Jenny to reply to what the Minister has said.

9.50 a.m.

[42] **Jenny Randerson:** I accept what the Minister has said about the phrase 'exceptional circumstances'. Although amendment 16 is not in my name, I have added my name in support of it, and I feel that there is no problem with having a specification that an independent review must be written at this stage in the Measure. When all is said and done, although we will have an affirmative procedure on the regulations, we all know that that is much less formal and that it does not have such a high profile. This independent review is a point of principle. I understand entirely what the Minister says about the phrase 'exceptional circumstances', in that that, clearly, will be specified in the regulations and that saying it here may not be necessary, but the principle of the independent review is fairly fundamental.

[43] **Jonathan Morgan:** Before we put the question on amendment 13, I will speak to amendment 16, as it is in my name. All that amendment 16 does is to insert an amendment that allows the Minister to bring forward regulations to provide that any proposal to withhold a report must be reviewed and approved by an individual or a body specified in the regulations. That in no way specifies conditions or what or who that body should be, so if it is the intention of the Government to do something similar, I do not see how this amendment to the Measure causes the Government any difficulties. It is a fairly straightforward addition to the Measure, which provides for regulations. That is my concern. It is a valued amendment that provides the Government with an opportunity to bring forward regulations for an independent review of why a report has been withheld, which I think is fairly non-controversial.

[44] The question is that amendment 13 be agreed to. Are we all agreed? I see that we are not, and therefore call for a vote.

*Cynhaliwyd pleidlais drwy ddangos dwylo.
A vote was held by show of hands.*

*Gwrthodwyd gwelliant 13.
Amendment 13 defeated.*

[45] **Jonathan Morgan:** We now come to amendment 16 in my name; this has already been debated with amendment 13. I formally propose amendment 16.

[46] The question is that amendment 16 be agreed to. Are we all agreed? I see that we are not, and therefore call for a vote.

*Cynhaliwyd pleidlais drwy ddangos dwylo.
A vote was held by show of hands.*

*Gwrthodwyd gwelliant 16.
Amendment 16 defeated.*

Adrannau 9 i 14 Sections 9 to 14

[47] **Jonathan Morgan:** I call amendment 15 in the name of Jenny Randerson, which is grouped with amendment 14.

[48] **Jenny Randerson:** I propose amendment 15.

*Cafodd gwelliannau 15 ac 14 eu grwpio ar gyfer y drafodaeth.
Amendments 15 and 14 grouped for debate.*

[49] This is a simple amendment, which is to be found on page 6, line 35, and it is simply to turn the 'may' into 'must'. If you look through this Measure you will see that there are many 'mays' and many 'musts' and it seems to me that there are a few places where 'may' should mean 'must'. If you look at the use of 'may' in the following:

[50] 'The regulations may make provision for any person or body within the health service in Wales to have such functions with regard to the operation of redress arrangements under this Measure as the Welsh Ministers think fit'.

[51] The implication of that 'may' is that the Minister could decide not to put anyone in

charge of all of this. I do not think that that would be good. It is too nebulous, so it lacks clarity. I am absolutely not suggesting, Minister, that you create a new body to do this; I am suggesting that you should have to designate a person or an organisation to do this, so that we have clarity. Paragraph 162 on page 38 of the committee's report states:

[52] 'We recommend that the regulations make provision for consistent management and guidance of the redress arrangements'.

[53] We need that steer. We received evidence time and again about the lack of clarity. I know that a great deal of clarity will come from the regulations, but a view was put to us that, although local ownership of the process was fine, there needs to be some oversight of how it works, some place where the buck stops, so that there is equality and equity with regard to how this is applied throughout the country. That is all that I have to say about amendment 15.

[54] I now wish to speak to amendment 14, which also calls for leaving out 'may' and inserting 'must', in line 1, page 7 of section 9. Looking at that section, it is surely unthinkable that it will not be obligatory to keep records. The evidence that we have had, and, indeed, that I have had from a constituent only this week, is that most people want to ensure that lessons are learned. It is one of the Measure's great potential strengths that we can ensure that we have a system that is easier, less complex, more transparent and that feeds back into the organisation so that lessons are learned; that is the ethos of the whole thing. If we are going to achieve that, someone will have to be in charge to ensure that it works. There is a simple theme that runs through both of these amendments. I am sure that the Minister is planning to do it and you may well say that you are going to achieve this through regulations, but, to go back to what I said earlier, regulations can be changed much more easily than a Measure, and it is fundamental to the ethos of this that there must be a process through which we can learn lessons.

[55] As an example, look at the evidence in the committee's report from Blaenau Gwent Local Health Board. It spoke about the importance of local ownership when it comes to learning lessons from adverse incidents. It explains that complaints are an important part of the process of understanding how services are delivered and whether they meet the needs of patients. As a committee, we go on to recommend that the regulations make provision for consistent management and guidance of the redress arrangements. Simply by replacing 'may' with 'must' that is set in stone as a basic principle of the Measure.

[56] **Jonathan Morgan:** Are there any comments?

[57] **Edwina Hart:** I appreciate what Jenny has said in the context of the committee's report. I feel really mean this morning because of the points that I am making about the amendment, because I completely understand the spirit of the amendment. In relation to amendment 15, many of the opening sections are worded sufficiently broadly to enable Ministers to make practical arrangements that are fit for purpose. I have not decided, at this stage, exactly how functions are to be conferred, so the section, as currently worded, will allow me to do that. In any case, the first set of regulations that I will make under section 9 of the Measure will be subject to the affirmative procedure, so Members will then be able to deal with all of those issues if they wish.

[58] Amendment 14 is not required, and we believe that it is undesirable to require all bodies and persons carrying out functions related to redress to keep records and to be charged with certain responsibilities when, in practice, only certain categories of people will be charged with such specific tasks.

10.00 a.m.

[59] This is what the word ‘may’ allows in this context; ‘may’ is not an optional extra—it is designed to give the right degree of flexibility in the Measure. The first set of regulations made under section 9 will be subject to the affirmative procedure; Members will, therefore, be required to approve regulations setting out the provisions in respect of record keeping, the oversight of functions, and other responsibilities. I am advised that the best way of dealing with these matters is through regulation.

[60] **Helen Mary Jones:** I understand the Minister’s point on amendment 14. However, the committee’s question is not about this first set of regulations, but about future regulations that may change in future years, and with different Ministers. Is the Minister content that the wording as it stands makes it clear enough that, whatever changes to the regulations may come in the future, we will have the kind of clarity that the committee report mentions, and that Jenny Randerson mentioned in presenting the amendment? That point was clear in the evidence that we received.

[61] **Edwina Hart:** I am clear that I have the necessary requirements by doing this via regulations.

[62] **Jonathan Morgan:** Do you wish to reply, Jenny?

[63] **Jenny Randerson:** This comes back to the basic principle; Helen Mary touched on the key point. We all know the Minister’s views on this, and we are convinced that the Minister is committed to this path, but future Ministers may not be, and the basic principles could be whittled away. Whereas, in future, if the word ‘must’ is included rather than ‘may’, that basic principle of learning the lessons could not be whittled away. That applies to both the amendments. It is a case of getting the principles of the legislation in the Measure, rather than relying on the Minister’s goodwill. The regulations for some parts of this Measure will be made by affirmative procedure throughout; others will only be the first set of regulations. Therefore, we do not have that ongoing guarantee in relation to all these issues that I have raised this morning, and that Jonathan has also raised.

[64] **Jonathan Morgan:** The question is that amendment 15 be agreed to. Are we all agreed? I see that we are not, and therefore call for a vote.

*Cynhaliwyd pleidlais drwy ddangos dwylo.
A vote was held by show of hands.*

*Gwrthodwyd gwelliant 15.
Amendment 15 defeated.*

[65] **Jonathan Morgan:** I call amendment 3 in the name of the Minister, which is grouped with amendments 4, 5, 6, 7, 8, 9, 10 and 11. I invite the Minister to propose amendment 3, and to speak to other amendments in the group.

[66] **Edwina Hart:** I propose amendment 3.

*Cafodd gwelliannau 3, 4, 5, 6, 7, 8, 9, 10 ac 11 eu grwpio ar gyfer y drafodaeth.
Amendments 3, 4, 5, 6, 7, 8, 9, 10 and 11 grouped for debate.*

[67] This is a tidying up amendment—they all tidy up little bits and pieces. I do not believe that there is anything contentious here, and it has no effect on the meaning of any of the sections.

[68] **Jonathan Morgan:** I invite any other Member to speak to these amendments. I see that no-one wishes to do so. As there has been no discussion, Minister, I assume that you do

not want to wind up. Therefore, the question is that amendment 3 be agreed to. Are we all agreed? I see that we are.

*Derbyniwyd gwelliant 3.
Amendment 3 carried.*

[69] **Jonathan Morgan:** I call amendment 14 in the name of Jenny Randerson; this has already been debated with amendment 15. I invite Jenny to formally propose amendment 14.

[70] **Jenny Randerson:** I propose amendment 14.

[71] **Jonathan Morgan:** The question is that amendment 14 be agreed to. Are we all agreed? I see that we are not, and therefore call for a vote.

*Cynhaliwyd pleidlais drwy ddangos dwylo.
A vote was held by show of hands.*

*Gwrthodwyd gwelliant 14.
Amendment 14 defeated.*

[72] **Jonathan Morgan:** I call amendments 4, 5, 6, 7, 8, 9, 10 and 11 in the name of the Minister. These have been previously discussed. I invite the Minister to formally propose these amendments together.

[73] **Edwina Hart:** I propose amendments 4, 5, 6, 7, 8, 9, 10 and 11.

[74] **Jonathan Morgan:** Does any Member object to a single question being put on amendments 4, 5, 6, 7, 8, 9, 10 and 11? As there is no objection, the question is that amendments 4, 5, 6, 7, 8, 9, 10 and 11 be agreed to. Are we all agreed? I see that we are.

*Derbyniwyd gwelliannau 4, 5, 6, 7, 8, 9, 10 ac 11.
Amendments 4, 5, 6, 7, 8, 9, 10 and 11 carried.*

[75] **Jonathan Morgan:** I call amendment 12 in the name of the Minister. This amendment is in a group on its own.

[76] **Edwina Hart:** I propose amendment 12. This amendment gives effect to the undertaking that I gave, both in committee and in Plenary, to make certain sets of future regulations subject to the affirmative procedure. This gives effect to annex G of the Subordinate Legislation Committee's report, but the amendment does not introduce the so-called superaffirmative procedure. I considered the recommendations of the Subordinate Legislation Committee for the superaffirmative procedure to be used for the first set of regulations; however, while there is a place for that process, I do not believe that it is in this Measure. The use of the superaffirmative procedure should be reserved for those rare occasions when the Government might wish to introduce legislation for which the immediate application cannot be foreseen, which cannot be said about the NHS redress Measure.

[77] **Jonathan Morgan:** Does any Member have any comment on this amendment? I see that no-one does. Therefore, the question is that amendment 12 be agreed to. Are we all agreed? I see that we are.

*Derbyniwyd gwelliant 12.
Amendment 12 carried.*

[78] **Jonathan Morgan:** We now come to amendment 18 in my name, which is in a group

on its own. I propose the amendment.

[79] The reason for tabling amendment 18 was that, throughout the entire process of taking evidence, the witnesses who spoke made it clear that they felt that there should be a statutory duty upon Welsh Ministers to

[80] ‘consult with such persons as appear to them to be representative of interests likely to be substantially affected by the regulations’.

[81] This is quite an interesting way of amending the Measure, placing that duty on Welsh Ministers to ensure that consultation takes place. It is something that people were unanimous about when they came to give evidence during Stage 1 of the committee’s work. For that reason, I thought that it was sensible for the amendment to be made to section 11 of the Measure. If you look at the evidence, and at the way in which the Measure has been drafted, the whole process of consultation was an area of concern, so I thought it important to include this constructive amendment. So, the amendment is motivated simply by those basic reasons based on the evidence that people brought to us during our Stage 1 considerations.

[82] Does any Member have any comment on this amendment?

[83] **Jenny Randerson:** The importance of consultation was underlined time and again and, in the light of previous votes this morning, there are certain basic principles that are no longer present in the Measure that I would have liked to have seen—they will now be placed in the regulations. Ongoing consultation is an important aspect of the whole process.

[84] **Edwina Hart:** I understand the issues around consultation and the need to consult, but I publicly indicated what I would do about that. The amendment has the effect of diluting the commitment that I have publicly made. I said that we would go to full public consultation, whereas the amendment restricts that to a consultation with representative interests. So, I would oppose it.

[85] **Jonathan Morgan:** Thank you, Minister. I will push the amendment to a vote. The question is that amendment 18 be agreed to. Are we all agreed? I see that we are not, and therefore call for a vote.

*Cynhaliwyd pleidlais drwy ddangos dwylo.
A vote was held by show of hands.*

*Gwrthodwyd gwelliant 18.
Amendment 18 defeated.*

[86] **Jonathan Morgan:** That concludes today’s consideration of amendments. Sections 3 to 6 and 9 to 14 are therefore deemed agreed.

[87] The target for next week’s meeting, on 11 March, is to consider amendments to sections 1, 2, 7 and 8, and, as I said, the deadline for tabling amendments is 5.30 p.m. today. I therefore close the first meeting of our Stage 2 consideration.

*Daeth y cyfarfod i ben am 10.09 a.m.
The meeting ended at 10.09 a.m.*