



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

Y Pwyllgor Plant, Pobl Ifanc ac Addysg **The Children, Young People and Education** **Committee**

Dydd Iau, 13 Tachwedd 2014
Thursday, 13 November 2014

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

These proceedings are reported in the language in which they were spoken in the committee. In addition, a transcription of the simultaneous interpretation is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Paul Davies	Ceidwadwyr Cymreig (yn dirprwyo ar ran Angela Burns) Welsh Conservatives (substitute for Angela Burns)
Suzy Davies	Ceidwadwyr Cymreig Welsh Conservatives
John Griffiths	Llafur Labour
Bethan Jenkins	Plaid Cymru The Party of Wales
Ann Jones	Llafur (Cadeirydd y Pwyllgor) Labour (Chair of the Committee)
Lynne Neagle	Llafur Labour
David Rees	Llafur Labour
Aled Roberts	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Simon Thomas	Plaid Cymru The Party of Wales
Joyce Watson	Llafur (yn dirprwyo ar ran Keith Davies) Labour (substitute for Keith Davies)

Eraill yn bresennol
Others in attendance

Helen Jones	Llywodraeth Cymru Welsh Government
Huw Lewis	Aelod Cynulliad, Llafur (y Gweinidog Addysg a Sgiliau) Assembly Member, Labour (the Minister for Education and Skills)
Simon Moss	Llywodraeth Cymru Welsh Government
Keith Towler	Comisiynydd Plant Cymru The Children's Commissioner for Wales
Eleri Thomas	Prif Swyddog Gweithredol, Swyddfa Comisiynydd Plant Cymru Chief Executive Officer, the Office of the Children's Commissioner for Wales

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

Sarah Bartlett	Dirprwy Glerc Deputy Clerk
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Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Marc Wyn Jones	Clerc Clerc
Gareth Rogers	Clerc Clerc
Anne Thomas	Y Gwasanaeth Ymchwil Research Service
Sian Thomas	Y Gwasanaeth Ymchwil Research Service

*Dechreuodd y cyfarfod am 09:30.
The meeting began at 09:30.*

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introductions, Apologies and Substitutions

[1] **Ann Jones:** Good morning. Welcome to the Children, Young People and Education Committee. May we just do the usual housekeeping rules? I remind Members that, if you have got your mobile phone on, could you make sure it is on silent? The same goes if you are using tablets, iPhones or iPads: could you take the ‘ping’ off, please?

[2] We operate bilingually, as you know. So, channel 0 is for the amplification of the floor language and channel 1 is for the translation from Welsh into English, if you need it. We are not expecting the fire alarm to operate. If it does, we will take our instructions from the ushers. That is it for the housekeeping.

[3] We have had an apology from Keith Davies today. Keith has had an operation. We will send him a card. We are grateful that Joyce is subbing again for this meeting.

[4] I think I asked this last time—do Members need to declare any interests that they have not already declared? No. That is fine. Okay. We will move on then.

09:31

Y Bil Addysg Uwch (Cymru)—Cyfnod 2: Trafod y Gwelliannau The Higher Education (Wales) Bill—Stage 2: Consideration of Amendments

[5] **Ann Jones:** We are delighted to have the Minister with us for this item. Minister, would you like to introduce yourself and your team for the record, please?

[6] **The Minister for Education and Skills (Huw Lewis):** Thank you, Chair. I am Huw Lewis, Minister for Education and Skills. On my left is Simon Moss, and on my right is Helen Jones.

[7] **Ann Jones:** Thank you very much. Members will know that we got as far as group 6 at the last meeting, so we will now start off with group 7.

Grŵp 7: Cod Rheolaeth Ariannol (Gwelliannau 51, 52, 57, 28, 58, 59, 29, 60 a 30) Group 7: Financial Management Code (Amendments 51, 52, 57, 28, 58, 59, 29, 60 and 30)

[8] **Ann Jones:** The lead amendment in this group is amendment 51, so I call Simon to move that amendment and to speak to it and any others in the group.

[9] **Simon Thomas:** Cynigiaf welliant 51 yn fy enw i.

Simon Thomas: I move amendment 51 in my name.

[10] Gwelliannau 51, 52 a 57 yw'r tri gwelliant sy'n benodol yn effeithio ar natur y Bil hwn. Mae gwelliannau 58, 59 a 60 yn rhai dilynol.

Amendments 51, 52 and 57 are the three amendments that have an impact on the nature of the Bill. Amendments 58, 59 and 60 are consequential.

[11] Pwrpas gwelliant 51 yw gosod yn gliriach ar wyneb y Bil y ffordd y byddai cod cyllido neu ariannol yn gweithredu. Rwyf wedi seilio'r gwelliant ar sail yr hyn sydd eisoes yn ei le rhwng Cyngor Cyllido Addysg Uwch Cymru a'r sefydliadau, o dan y memorandwm ariannol, sy'n gysail, am wn i, ar gyfer y cod y mae'r Gweinidog yn ei gynnig. Er bod y gwelliant yn fwy manwl ynglŷn â pha rannau o'r ymddygiad ariannol gan brifysgolion a fydd yn eu rheoli gan y Bil, mae hefyd yn dal i ganiatáu i'r cyngor cyllido addysg uwch gael pwerau mwy mewn perthynas ag unrhyw fylchau yn y cod, ac unrhyw fylchau potensial yn y cod.

The purpose of amendment 51 is to set out more clearly on the face of the Bill the way in which a financial code would work. I have based the amendment on what is already in place between the Higher Education Funding Council for Wales and the institutions, under the financial memorandum, which is the precedent for the code that the Minister proposes. Although the amendment is more detailed in terms of which aspects of financial conduct will be controlled by the Bill, it continues to allow the higher education funding council to have greater powers in relation to any gaps in the code, and any potential gaps in the code.

[12] Rwy'n meddwl fod y gwelliant yn ymateb i bryderon y pwyllgor ynglŷn ag ymreolaeth a statws elusennol y sefydliadau. Hefyd, gyda gwelliant 52, mae'n dod â mwy o sylw cyhoeddus i mewn i'r drafodaeth. Byddai gwelliant 52 yn golygu bod yn rhaid i'r cod gael ei osod am o leiaf 12 wythnos, er mwyn i'r cyhoedd, ond yn fwy penodol, efallai, y rhai sy'n cael eu heffeithio gan y cod, gael cyfle i edrych arno ac i benderfynu cynnig y gwelliannau, efallai, sydd eu hangen. Wedyn, gwelliant 57 yw yn union yr un peth ag argymhelliad y pwyllgor hwn, sef y dylai'r cod, yn y pen draw—o leiaf yn y lle cyntaf—gael ei gymeradwyo gan y Cynulliad, o dan y weithdrefn gadarnhaol.

I think that the amendment responds to the committee's concerns about autonomy and the charitable status of the institutions. Also, through amendment 52, it brings more public scrutiny into the picture. Amendment 52 would mean that the code would have to be laid for at least 12 weeks, so that the public, but more specifically, perhaps, those affected by the code, have an opportunity to view it and to decide to propose any amendments that may be necessary. Then amendment 57 is exactly in line with the recommendation of this committee, which is that the code should, ultimately—at least in the first instance—be approved by resolution of the Assembly, under the affirmative procedure.

[13] So, the amendments, taken together, do have the effect of making it clearer that the financial code used by HEFCW with the institutions is based on the current financial memorandum. It does not necessarily go beyond that. It is more focused, with more on the face of the Bill and less left up to the Minister or HEFCW. It also focuses generally on institutional viability, and that is on the face of the Bill then, so that a wider assessment can be made of the impact of the financial code and, indeed, the long-term sustainability of institutions.

[14] I think these amendments answer some of the concerns that were raised in evidence to the committee that the code was being done in the dark, if you like, and that stakeholders would not have an opportunity to participate necessarily, under the law—although they might in practice, I understand—and also that the Assembly should be the final arbiter in passing the code. So, I hope that the spirit of the amendments, if not their exact wording, does find the

committee's support.

[15] **Ann Jones:** Does any other Member wish to speak?

[16] **Suzy Davies:** Well, I have amendments in this group, do I not?

[17] **Ann Jones:** Yes.

[18] **Suzy Davies:** We share Simon Thomas's concern on this, but we are just coming at it from a slightly different angle, reflecting the concerns of both this committee and the Constitutional and Legislative Affairs Committee. We accept completely that codes are a very useful legislative tool that can help interested parties to meet the legislative intention by, in the future, providing some detail about how they are to comply with the Government's intention. However, of course, you can only do that when that intention both is clear and, I would argue, uncontroversial as well. You know that there are serious concerns about what a financial code might look like, and the changes proposed by amendment 51 give some idea of the extent of that concern that many of us feel about the reach that this Bill could give HEFCW into the essential finances of higher education institutions. Minister, obviously, we would not argue against the proposition that public money must be properly accounted for, certainly in terms of direct grant, although a little less certainly in terms of indirect funding means. However, should a body responsible for distributing direct public funds have powers that enable it not just to insist on accountability for those funds but on actions that speak to funds from other sources? It is not clear from the face of the Bill that that possibility will definitely be avoided.

[19] Effectively, what you see in our amendment is just an alternative to what is being offered to you by Simon Thomas. It is two ways of, we would say, improving the Bill. We would actually support either of these ways forward, but I think it is worth reiterating the point made by this committee that higher education institutions are autonomous, mature institutions and that they are already subject to rigorous financial controls due to their charitable status and the operation of law that demands solvency and viability. Given that we do not have the reassurance on the face of the Bill or in the way that you currently propose to introduce a code, I think that I would really want to be able to scrutinise both any suggested code and any suggested changes to the code in due course as well. I would be very hesitant about putting our name to primary legislation that is uncertain and which leaves such a risky detail to an instrument that we cannot challenge.

[20] **Ann Jones:** Okay. Does any other Member want to speak? No. I call the Minister.

[21] **Huw Lewis:** Thank you, Chair, and my thanks to Simon Thomas and Suzy Davies too. Amendments 28, 29 and 30, which amend sections 28 and 29, seek to apply an Assembly procedure to the approval of the financial management code, and those amendments seek to achieve a similar effect to that in section 13 of the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill. Such an approach was, as has already been highlighted, recommended by the Constitutional and Legislative Affairs Committee in its Stage 1 report. Now, it is important to recognise that this is HEFCW's code and, as such, it is very different to the approval of statutory guidance issued by the Welsh Ministers, the position described by the arrangements in section 13 of the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill.

[22] Turning now to amendments 57, 58, 59 and 60, which amend sections 28 and 29, these seek to put in place a procedure preventing HEFCW from publishing a code or any subsequent revision unless approved by the Assembly. In considering the approval process, it is important to remember that the requirements placed on institutions under the code will not be new. The code will enable HEFCW to continue the established financial assurance

practices that it carries out under its current financial memorandum with institutions. This is a process that institutions are used to. It is also important to remember that HEFCW's existing financial memorandum is not subject to approval by either Welsh Ministers or the Assembly. So, the Bill already provides for an additional stage of scrutiny that does not exist under the current arrangements.

[23] I remain of the view that the procedures set out in the Bill for the approval of the code represent an adequate and practical approach that balances the need for robust scrutiny with the operational needs of HEFCW and the sector. Nevertheless, I have reflected on the views of stakeholders and the recommendations of both committees and I have listened carefully to the other speakers. However, unfortunately, I do not consider that the amendments tabled by Suzy Davies and Simon Thomas on approval of the code will operate effectively. As they are currently drafted, the amendments would require approval of the draft code by both the Welsh Ministers and the Assembly, and I have serious concerns about how that requirement would operate in practice. Furthermore, I do not consider that the amendments provide sufficient clarity on the procedure to be applied if the Assembly does not approve the draft code and on how any reasons for non-approval are communicated and addressed. At present, section 29 of the Bill lays out the procedure to be followed if the Welsh Ministers do not approve a draft code submitted by HEFCW. This procedure does not work effectively with the proposed amendments for Assembly approval. However, recognising the views expressed here today and previously, I accept the principle that there should be a role for the Assembly in scrutinising a draft code brought forward by HEFCW. Accordingly, I propose returning to this at a later stage so as to take into account the need for a process that is effective and efficient and provides the National Assembly with a role in scrutinising a draft code. I ask the committee, therefore, not to support amendments 28, 29, 30, 57, 58, 59 and 60 at this time in light of the commitment that I am making today.

[24] Turning now to amendment 51, which amends section 27, I am of the view that the Bill already makes clear the scope of the financial management code. It makes clear that the scope of the financial management code is limited to the organisation and management of a regulated institution's financial affairs. To be clear, the code cannot deal with matters other than this. Issues of wider governance are, and will remain, a matter for individual institutions. I am confident that the Bill provides adequate protection to institutions by restricting the matters that the code can relate to. As we discussed in group 2, amendment 2 will prevent anything in the Bill from requiring a governing body to act in a manner incompatible with the institution's governing documents or that interferes with its obligations as a charity. This includes any requirements imposed by HEFCW under the financial management code. As such, I am not convinced that an amendment of this nature is necessary, nor am I convinced that amendment 51, as drafted, would allow HEFCW to provide an appropriate level of assurance. However, I have listened to the concerns raised by stakeholders and will look afresh at section 27, with a view to bringing forward proposals at Stage 3, if it is considered necessary, to provide further clarification on the Government's intention in relation to the scope of the code. I therefore ask that the committee does not support amendment 51.

[25] Amendment 52, which amends section 28, places a requirement on HEFCW to allow a minimum period of 12 weeks for those persons consulted in accordance with section 28(2)(b) to submit comments on a draft financial management code. Given the significance of the code, I recognise the importance for both HEFCW and the institutions that the consultation is thorough and affords all relevant stakeholders the opportunity to contribute. As a public body, HEFCW is under a legal duty to undertake any consultation properly, which includes providing sufficient time for those who are likely to be interested in the consultation to respond. Accordingly, I consider this amendment unnecessary. I also consider this amendment to be inflexible in its application, and I have concerns about how it would work in practice. As drafted, the amendment applies to the initial code and all subsequent revisions. While a 12-week period for submissions may be appropriate in some circumstances, I do not

believe it to be appropriate in all circumstances; for example, there may be occasions when revisions to the code are minor in nature, or need to respond more rapidly to changes in the operational environment. On such occasions, I do not consider that a 12-week submission period would be appropriate or practical. We must remember that the Bill already contains a number of safeguards for institutions in respect of the code. The Welsh Ministers are able to issue guidance to HEFCW, and HEFCW must take account of this as it develops the code. I anticipate that such guidance will include details of the consultation process that HEFCW must take account of. Furthermore, in submitting a draft of the code for approval, HEFCW is required to submit a report that, among other things, provides details of the consultation undertaken and summarises the representations received. I, therefore, consider that the Bill already provides adequate safeguard for institutions, and, as such, the amendment is unnecessary. I urge the committee not to support amendment 52.

[26] **Ann Jones:** Thank you. Simon, do you wish to reply to that?

09:45

[27] **Simon Thomas:** Yes, thank you, Chair. I thank the Minister for responding in detail on these amendments and for at least some of his concessions—in principle, at least—to some of the issues here. I think that it is important to restate that, going from a position where you have a financial memorandum that is agreed by a body like HEFCW with institutions to one in which a financial code is placed on the face of the Bill, I think it is appropriate that the Assembly has a role, therefore, in looking at that financial code and a role, in some way, in facilitating. The Assembly might not be the best place to debate the financial code, I admit, but the Assembly would then facilitate that public discussion around the implications of the code. So, I would very much look forward to seeing any amendments that the Government is seeking to bring forward to allow that role for the Assembly. I understand that the Minister does not want to be too restrictive on the face of the Bill. However, I think that we all—well, not all, because I am looking at the Government party, but many of us—feel that we may trust current Ministers, but we have to have an eye to the future, as well, and the procedure that might be followed by a different kind of approach. In that regard, I would like the committee to vote at least on the main amendments here, to have its view. I look forward, nevertheless, to seeing what the Government is able to bring forward at the next stage.

[28] **Ann Jones:** I take it that you want amendment 51 to go to a vote.

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

[30] **Ann Jones:** The question is that amendment 51 be agreed to. Does any Member object? There is objection. Thank you. Okay, we will go to a vote by show of hands.

Gwelliant 51: O blaid 5, Ymatal 0, Yn erbyn 5.

Amendment 51: For 5, Abstain 0, Against 5.

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Davies, Paul
Davies, Suzy
Jenkins, Bethan
Roberts, Aled
Thomas, Simon

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Griffiths, John
Jones, Ann
Neagle, Lynne
Rees, David
Watson, Joyce

Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei phleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).

As there was an equality of votes, the Chair used her casting vote in accordance with

Standing Order 6.20(ii).

*Gwrthodwyd gwelliant 51.
Amendment 51 not agreed.*

[31] **Ann Jones:** Simon, do you want to move amendment 52?

[32] **Simon Thomas:** I do; I move amendment 52 in my name.

[33] **Ann Jones:** The question is that amendment 52 be agreed to. Does any Member object? There is objection. Thank you. We will go to a vote by show of hands.

*Gwelliant 52: O blaid 3, Ymatal 2, Yn erbyn 5.
Amendment 52: For 3, Abstain 2, Against 5.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Jenkins, Bethan
Roberts, Aled
Thomas, Simon

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Griffiths, John
Jones, Ann
Neagle, Lynne
Rees, David
Watson, Joyce

Ymataliodd yr Aelodau canlynol:
The following Members abstained:

Davies, Paul
Davies, Suzy

*Gwrthodwyd gwelliant 52.
Amendment 52 not agreed.*

[34] **Ann Jones:** Simon, do you want to move amendment 57?

[35] **Simon Thomas:** Cynigiau welliant 57 yn fy enw i.

Simon Thomas: I move amendment 57 in my name.

[36] **Ann Jones:** If amendment 57 is agreed, amendment 28 will fall. If amendment 57 is not agreed, amendment 58 will fall. The question is that amendment 57 be agreed to. Does any Member object? There is objection. We will go to a vote by show of hands.

*Gwelliant 57: O blaid 5, Ymatal 0, Yn erbyn 5.
Amendment 57: For 5, Abstain 0, Against 5.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Davies, Paul
Davies, Suzy
Jenkins, Bethan
Roberts, Aled
Thomas, Simon

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Griffiths, John
Jones, Ann
Neagle, Lynne
Rees, David
Watson, Joyce

Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei phleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).

As there was an equality of votes, the Chair used her casting vote in accordance with Standing Order 6.20(ii).

*Gwrthodwyd gwelliant 57.
Amendment 57 not agreed.*

[37] **Ann Jones:** Suzy, would you like to move amendment 28?

[38] **Suzy Davies:** Yes, please; I move amendment 28 in my name.

[39] **Ann Jones:** The question is that amendment 28 be agreed to. Does any Member object? There is objection. We will move to a vote by show of hands.

*Gwelliant 28: O blaid 5, Ymatal 0, Yn erbyn 5.
Amendment 28: For 5, Abstain 0, Against 5.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Davies, Paul
Davies, Suzy
Jenkins, Bethan
Roberts, Aled
Thomas, Simon

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Griffiths, John
Jones, Ann
Neagle, Lynne
Rees, David
Watson, Joyce

Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei phleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).

As there was an equality of votes, the Chair used her casting vote in accordance with Standing Order 6.20(ii).

*Gwrthodwyd gwelliant 28.
Amendment 28 not agreed.*

*Methodd gwelliant 58.
Amendment 58 fell.*

[40] **Ann Jones:** Simon, do you want to move amendment 59?

[41] **Simon Thomas:** No, Chair, it is a consequential amendment.

[42] **Ann Jones:** So, amendment 59 is not moved.

*Ni chynigiwyd gwelliant 59.
Amendment 59 not moved.*

[43] **Ann Jones:** Suzy, do you want to move amendment 29?

[44] **Suzy Davies:** I cannot remember. Yes, I think so, with this one, please. I move amendment 29 in my name.

[45] **Ann Jones:** If amendment 29 is not agreed, amendment 30 falls, just for people to know. The question is that amendment 29 be agreed to. Does any Member object? There is objection. We will go to a vote by show of hands.

*Gwelliant 29: O blaid 5, Ymatal 0, Yn erbyn 5.
Amendment 29: For 5, Abstain 0, Against 5.*

Pleidleisiodd yr Aelodau canlynol o blaid:

Pleidleisiodd yr Aelodau canlynol yn erbyn:

The following Members voted for:

Davies, Paul
 Davies, Suzy
 Jenkins, Bethan
 Roberts, Aled
 Thomas, Simon

The following Members voted against:

Griffiths, John
 Jones, Ann
 Neagle, Lynne
 Rees, David
 Watson, Joyce

Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei phleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).

As there was an equality of votes, the Chair used her casting vote in accordance with Standing Order 6.20(ii).

*Gwrthodwyd gwelliant 29.
 Amendment 29 not agreed.*

*Ni chynigiwyd gwelliant 60.
 Amendment 60 not moved.*

*Methodd gwelliant 30.
 Amendment 30 fell.*

Grŵp 8: Cywiro Testun Cymraeg (Gwelliant 11) Group 8: Correction of Welsh Text (Amendment 11)

[46] **Ann Jones:** The lead and only amendment in this group is amendment 11. Minister, would you like amendment 11 in your name to be moved?

[47] **Huw Lewis:** I would.

[48] **Ann Jones:** I move amendment 11 in the name of the Minister. Minister, do you want to speak to the amendment?

[49] **Huw Lewis:** Just briefly, Chair. The purpose of amendment 11 is to correct a typographical error in the Welsh text of the Bill in section 32. The effect of amendment 11 is to ensure consistency of drafting between the English and Welsh texts of the Bill. The Welsh text has been amended so that it refers to 'the' failure to comply, rather than 'a' failure to comply; that is all.

[50] **Ann Jones:** Is anybody speaking on that amendment? No. There is no need to reply to the debate, then, Minister. Do you wish to proceed to a vote on amendment 11?

[51] **Huw Lewis:** I do.

[52] **Ann Jones:** Thank you. The question is that amendment 11 be agreed to. Does any Member object? There are no objections, therefore amendment 11 is agreed.

*Derbyniwyd gwelliant 11 yn unol â Rheol Sefydlog 17.34.
 Amendment 11 agreed in accordance with Standing Order 17.34.*

[53] **Ann Jones:** We now return to dispose of amendments debated earlier, in group 1. Minister, would you like amendment 12 in your name to be moved?

[54] **Huw Lewis:** Yes.

[55] **Ann Jones:** I move amendment 12 in the name of the Minister.

[56] The question is that amendment 12 be agreed to. Does any Member object? There are no objections, therefore amendment 12 is agreed.

*Derbyniwyd gwelliant 12 yn unol â Rheol Sefydlog 17.34.
Amendment 12 agreed in accordance with Standing Order 17.34.*

[57] **Ann Jones:** Minister, would you like amendment 13 in your name to be moved?

[58] **Huw Lewis:** I would.

[59] **Ann Jones:** I move amendment 13 in the name of the Minister. The question is that amendment 13 be agreed to. Does any Member object? There are no objections, therefore amendment 13 is agreed.

*Derbyniwyd gwelliant 13 yn unol â Rheol Sefydlog 17.34.
Amendment 13 agreed in accordance with Standing Order 17.34.*

[60] **Ann Jones:** Minister, would you like amendment 14 in your name to be moved?

[61] **Huw Lewis:** I would.

[62] **Ann Jones:** I move amendment 14 in the name of the Minister. The question is that amendment 14 be agreed to. Does any Member object? There are no objections, therefore amendment 14 is agreed.

*Derbyniwyd gwelliant 14 yn unol â Rheol Sefydlog 17.34.
Amendment 14 agreed in accordance with Standing Order 17.34.*

[63] **Ann Jones:** We will move on to dispose of amendments that were debated earlier, in group 4. Suzy, would you like to move amendment 55?

[64] **Suzy Davies:** Yes, please; I move amendment 55 in my name.

[65] **Ann Jones:** The question is that amendment 55 be agreed to. Does any Member object? There is objection. We will move to a vote by show of hands.

*Gwelliant 55: O blaid 4, Ymatal 0, Yn erbyn 5.
Amendment 55: For 4, Abstain 0, Against 5.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Davies, Paul
Davies, Suzy
Jenkins, Bethan
Roberts, Aled

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Griffiths, John
Jones, Ann
Neagle, Lynne
Rees, David
Watson, Joyce

*Gwrthodwyd gwelliant 55.
Amendment 55 not agreed.*

[66] **Ann Jones:** Suzy, would you like to move amendment 56?

[67] **Suzie Davies:** Yes, please; I move amendment 56 in my name.

[68] **Ann Jones:** The question is that amendment 56 be agreed to. Does any Member object? There is objection, therefore we will move to a vote by show of hands.

Gwelliant 56: O blaid 4, Ymatal 0, Yn erbyn 5.

Amendment 56: For 4, Abstain 0, Against 5.

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Davies, Paul
Davies, Suzy
Jenkins, Bethan
Roberts, Aled

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Griffiths, John
Jones, Ann
Neagle, Lynne
Rees, David
Watson, Joyce

Gwrthodwyd gwelliant 56.
Amendment 56 not agreed.

[69] **Ann Jones:** We are still disposing of amendments that we debated earlier. Minister, would you like amendment 15 in your name to be moved?

[70] **Huw Lewis:** Yes, please.

[71] **Ann Jones:** I move amendment 15 in the name of the Minister. The question is that amendment 15 be agreed to. Does any Member object? There are no objections, therefore amendment 15 is agreed.

Derbyniwyd gwelliant 15 yn unol â Rheol Sefydlog 17.34.
Amendment 15 agreed in accordance with Standing Order 17.34.

Methodd gwelliant 16.
Amendment 16 fell.

[72] **Ann Jones:** Minister, would you like amendment 17 in your name, which we debated earlier in group 4, to be moved?

[73] **Huw Lewis:** I would.

[74] **Ann Jones:** I move amendment 17 in the name of the Minister. The question is that amendment 17 be agreed to. Does any Member object? There are no objections, therefore amendment 17 is agreed.

Derbyniwyd gwelliant 17 yn unol â Rheol Sefydlog 17.34.
Amendment 17 agreed in accordance with Standing Order 17.34.

Methodd gwelliant 18.
Amendment 18 fell.

[75] **Ann Jones:** Aled, would you like to move amendment 41?

[76] **Aled Roberts:** Yes, please. I move amendment 41 in my name.

[77] **Ann Jones:** The question is that amendment 41 be agreed to. Does any Member object? There is objection. Okay, we will, therefore, take a vote by show of hands.

Gwelliant 41: O blaid 4, Ymatal 0, Yn erbyn 5.

Amendment 41: For 4, Abstain 0, Against 5.

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Davies, Paul
Davies, Suzy
Jenkins, Bethan
Roberts, Aled

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Griffiths, John
Jones, Ann
Neagle, Lynne
Rees, David
Watson, Joyce

*Gwrthodwyd gwelliant 41.
Amendment 41 not agreed.*

[78] **Ann Jones:** Minister would you like amendment 2 in your name to be moved?

[79] **Huw Lewis:** I would.

[80] **Ann Jones:** I move amendment 2 in the name of the Minister. The question is that amendment 2 be agreed to. Does any Member object? There are no objections, therefore amendment 2 is agreed.

*Derbyniwyd gwelliant 2 yn unol â Rheol Sefydlog 17.34.
Amendment 2 agreed in accordance with Standing Order 17.34.*

[81] **Ann Jones:** Minister, would you like amendment 3 in your name to be moved?

[82] **Huw Lewis:** I would.

[83] **Ann Jones:** I move amendment 3 in the name of the Minister. The question is that amendment 3 be agreed to. Does any Member object? There are no objections, therefore amendment 3 is agreed. Thank you.

*Derbyniwyd gwelliant 3 yn unol â Rheol Sefydlog 17.34.
Amendment 3 agreed in accordance with Standing Order 17.34.*

**Grŵp 9: Gofynion Adrodd (Gwelliannau 31 a 19)
Group 9: Reporting Requirements (Amendments 31 and 19)**

[84] **Ann Jones:** The lead amendment in this group is amendment 31. I call on Suzy to move and speak to amendment 31 and speak to the other amendments in the group.

[85] **Suzy Davies:** Thank you very much, Chair. I move amendment 31 in my name.

[86] Minister, amendment 31 is a pretty straightforward amendment to improve transparency and enable scrutiny while being no burden on the Government. The Assembly may scrutinise the annual reports of commissioners and all manner of arm's-length bodies funded by Government, so it is hard to think of a reason why HEFCW's annual reports should not be laid before the Assembly as well as being sent to you. You know that this committee has concerns that the Bill may be introducing powers that are, maybe, unnecessarily muscular to achieve its aims. I am sure that you will disagree with that view, but the easiest way to ensure that we can agree with you is to allow the Assembly to satisfy itself that HEFCW uses its powers proportionately. Fourteen days seems a reasonable period to lay a report, but I am more than happy to consider a different timescale, if that helps.

[87] **Ann Jones:** Okay. Do any other Members wish to speak? No. I call on the Minister.

[88] **Huw Lewis:** Thank you, Chair. Section 48(1)(a) of the Bill, as introduced, enables the Welsh Ministers to direct HEFCW to report to them on compliance with the provisions of approved plans generally, or with the provisions of a particular plan. Reference to the provisions of an approved plan could be ambiguous, and I consider that amendments to section 48(1) are necessary to ensure clarity about the matters that fall within the scope of special reports under this section. The amendment clarifies that the Welsh Ministers are able to direct HEFCW to provide a special report on compliance with applicable fee limits for regulated courses by institutions generally, or by a particular institution. The amendments also provide consistency with the approach taken in sections 15, 36 and 38 of the Bill. Amendment 31 amends section 47. Under section 47 of the Bill, HEFCW is obliged to report annually to Welsh Ministers on how it has exercised its new functions under the Bill. Reports must comply with any requirements that Ministers may specify by way of direction to HEFCW.

[89] While I am supportive of the principle of this amendment, in that it would provide for greater transparency in the operation of HEFCW's new functions, I consider that the proposed 14-day tabling period could be problematic for practical reasons. For example, HEFCW may submit its reports when the Assembly is in recess. I would therefore be willing to bring forward an amendment at Stage 3 that would require the Welsh Ministers to lay annual reports received from HEFCW before the Assembly as soon as is possible. Therefore, to sum up, I ask committee members to support amendment 19 and to resist amendment 31 for the reasons that I have stated.

[90] **Suzy Davies:** Thank you very much for the explanation that you give for resisting this particular amendment. I am comforted by the fact that you might be bringing forward a further amendment. It is just the time frame that it is worrying you, Minister, I am more than happy not to push this amendment and see what you bring forward at Stage 3.

[91] **Ann Jones:** Okay. Thank you. Do you wish to withdraw amendment 31?

[92] **Suzy Davies:** Yes.

[93] **Ann Jones:** So, amendment 31 is withdrawn.

*Tynnwyd gwelliant 31 yn ôl gyda chaniatâd y pwyllgor.
Amendment 31 withdrawn by leave of the committee.*

[94] **Ann Jones:** Minister, would you like amendment 19 in your name to be moved?

[95] **Huw Lewis:** I would.

[96] **Ann Jones:** I move amendment 19 in the name of the Minister. The question is that amendment 19 be agreed to. Does any Member object? There are no objections, therefore amendment 19 is agreed.

*Derbyniwyd gwelliant 19 yn unol â Rheol Sefydlog 17.34.
Amendment 19 agreed in accordance with Standing Order 17.34.*

[97] **Ann Jones:** We now move to dispose of amendments debated earlier. Minister, would you like amendment 20 in your name to be moved?

[98] **Huw Lewis:** I would.

[99] **Ann Jones:** I move amendment 20 in the name of the Minister. The question is that

amendment 20 be agreed to. Does any Member object? There are no objections, therefore amendment 20 is agreed.

*Derbyniwyd gwelliant 20 yn unol â Rheol Sefydlog 17.34.
Amendment 20 agreed in accordance with Standing Order 17.34.*

[100] **Ann Jones:** Minister, would you like amendment 21 in your name to be moved?

[101] **Huw Lewis:** I would.

[102] **Ann Jones:** I move amendment 21 in the name of the Minister. The question is that amendment 21 be agreed to. Does any Member object? There are no objections, therefore amendment 21 is agreed.

*Derbyniwyd gwelliant 21 yn unol â Rheol Sefydlog 17.34.
Amendment 21 agreed in accordance with Standing Order 17.34.*

*Methodd gwelliant 22.
Amendment 22 fell.*

Grŵp 10: Offerynnau Statudol: Gweithdrefn y Cynulliad (Gwelliannau 32, 33, 34, 35, 36, 37 a 38)

Group 10: Statutory Instruments: Assembly Procedure (Amendments 32, 33, 34, 35, 36, 37 and 38)

[103] **Ann Jones:** The lead amendment in this group is amendment 32, so I call Suzy to move the amendment and to speak to other amendments in the group.

[104] **Suzy Davies:** I move amendment 32 in my name.

[105] As Members will, I am sure, understand, all the amendments in this group flow from the recommendations made by the Constitutional and Legislative Affairs Committee, which we believe have not received a satisfactory response from Government. However, I would like to say that while much detail is left to secondary legislation with this Bill, it is an improvement on others that have come out of this department, and I commend the Minister on three particular counts: firstly, his willingness to engage further before the CLAC report was published on the concerns regarding the distinction between permissive and necessary powers; secondly, his paper on the policy intention to be reflected in regulations; and thirdly, the publishing of some draft regulations by Stage 2. I think that that is good practice for other departments to consider.

[106] Where Bills remain essentially framework in nature, these sorts of actions do help us to understand a Minister's intentions, but they also suggest that if this level of consideration had been given to the content and process for regulation prior to a Bill being published, we might well have seen more detail on the face of the Bill itself. We understand, in deciding what goes on the face of the Bill, and which procedure is appropriate to introduce secondary legislation, that the Minister, and other Ministers actually, have tried to balance the need for scrutiny with the effective use of Assembly time.

[107] Minister, it is for the Assembly to decide what constitutes effective use of its time, not Government. It is completely inappropriate for a Minister—and you are not alone—to restrict legislative scrutiny on the grounds that the Government does not believe that the Assembly has the capacity to carry out that scrutiny. It is the Assembly that legislates, not Government, and when Assembly Members express concern that their opportunity for scrutiny on a particular matter is diminished, then Government must overcome that concern,

if it can, with considered argument. It is not considered argument to say, almost routinely these days, Chair, ‘It is technical; do not worry about it’, or ‘You won’t have time to look at this level of detail; just leave it to us’, or even ‘We think we’ve followed the counsel general’s guidance and that is good enough for us’.

[108] We all find the counsel general’s guidance on the application of the negative and affirmative procedures as useful as Ministers—let me reassure everybody of that—but it is just guidance. Assembly Members have legal advice too and, as you might expect, it might not always accord with that of a Government lawyer. Therefore, we were disappointed with the Government’s response to certain CLAC recommendations, which seemed to amount to an argument that the counsel general’s decision was final. I hope, in your response to these amendments, Minister, that you are able to void answers that amount to no more than the examples that I have given.

[109] All of the amendments in this group refer to section 52, which lists regulations to be made through the affirmative procedure. We believe that an additional seven regulations, out of the 20 or so in the Bill, need to be added to the list.

10:00

[110] I hope that the fact that it is only seven does give you some comfort that it is not just a random approach to this—we have carefully considered that seven need attention. There are regulations that are significant enough to warrant Assembly scrutiny without the requirement of a Member calling them in. Even prior publication of the draft regulations, as in the case of amendment 34, does not overcome putting the onus on Members to chase the opportunity to challenge rather than that opportunity being a given.

[111] The full arguments for each of these amendments are set out in the CLAC report, but in essence, arise from uncertainty. Amendment 32 is tabled because we are concerned that, considering the core importance of fee and access plans in this legislation, HEIs are given no steer on how to apply for approval without being open to the application being rejected. There is no obligation on Government to introduce regulations that give that steer. Similarly with amendment 33, what constitutes a designated institution—another core concept—is left to regulation, which a Minister is under no obligation to introduce.

[112] Amendment 36 speaks to another core concept: the promotion of equality within fee and access plans. There is no obligation on Ministers to introduce provision to prescribe how institutions can satisfy their duty to promote equality. On amendment 37, again, HEFCW needs to know what it must consider in approving or rejecting a plan, but there is no duty on a Government to introduce regulations setting out what it must consider.

[113] Minister, I appreciate that, in your letter of 2 July to CLAC, you responded to the committee’s concerns about whether some Government powers to introduce regulation should in fact be duties, in order for the relevant parts of the primary legislation to actually function. I thank you for that. However, your follow-up letter of 23 July rejects CLAC’s views and states unequivocally, and I quote:

[114] ‘As explained in the annex to my letter of 2 July there is an implicit requirement on the Welsh Ministers to make certain regulations under the Bill.’

[115] Indeed that first letter is peppered with references to such requirements being applied. I think that my view on this, Minister, is that primary legislation does not imply; it must be explicit. It must be clear in its intention and its requirements and I cannot see how you can overcome your own officials’ declaration that, in places, this Bill is not.

[116] I have already mentioned amendment 34 and the same arguments apply to amendment 35, which relates to maximum fees in that case. Early sight of draft regulations is informative, but it is not a replacement of the opportunity to scrutinise and challenge and, particularly, as not all draft regulations will be available before Stage 3.

[117] Finally, amendment 38 relates to our old friend, commencement Orders. All Ministers must be aware by now that commencement Orders permit Ministers to make and scrutinise provision ‘in connection with’—which are looser words than usual—the coming into force of the provision of the given Act. In theory, these provisions could include amending primary legislation, and it is right that the Assembly should decide whether any of those unknown provisions might be of concern and so we consider that the negative procedure allows for that decision to be made.

[118] **Ann Jones:** Does any other Member wish to speak? I see that you do not. Minister, do you wish to respond?

[119] **Huw Lewis:** Thank you, Chair. As you know, during the general principles debate, I stated that I would look favourably on several of the Constitutional and Legislative Affairs Committee’s recommendations about the Assembly procedures to be applied to regulations. I would contend that the Bill, as drafted, allows for an appropriate balance between scrutiny by the Assembly and effective use of Assembly or committee time. I have reviewed the procedures applied to regulation-making powers throughout the Bill.

[120] The majority of the amendments in this group seek to change the procedure applied to the making of regulations from the negative to the affirmative—amendments 32, 33, 35, 36 and 37 to section 52. There is also amendment 38 to section 52, which seeks to apply a negative procedure to commencement Orders, which make transitional, transitory or saving provisions when bringing the Bill into force. I am pleased to inform the committee that I am willing to support amendments tabled by Suzy Davies, with the exception of amendments 34, 35, and 38, which I will not be supporting.

[121] Taking amendment 34 to section 52 first, I have already indicated that the Government would bring forward an amendment at Stage 3 to deal with the main arrangements for prescribing the maximum duration of an approved plan on the face of the Bill. I will also address the arrangements for regulations to alter that prescribed period at the same time.

[122] I turn to amendment 35 to section 52, which would have the effect of regulations that prescribe qualifying courses and persons and regulations that prescribe the maximum tuition fee amount being subject to the affirmative procedure. Members will be aware that I have written to the committee with an initial draft of regulations that include, among others, those to be made under section 5(2), 5(3) and 5(5). Additionally, we will consult on those regulations in due course, and they will therefore be subject to scrutiny by stakeholders and by the Constitutional and Legislative Affairs Committee. It is my view that there is nothing in the content of those regulations to be made under section 5(2) and 5(5) that would require them being subject to the affirmative procedure on their first making, or subsequently. Indeed, regulations that define qualifying courses and persons for the purpose of Welsh Government student support have, to date, been made unamended under the negative procedure, as and when the definitional changes have been necessary. These are not, in my opinion, matters that require regulations to be subject to the affirmative procedure on their first making, or subsequently. I believe that the negative procedure is appropriate and right for regulations to be made under sections 5(2) and 5(5). So, in summary, although I am content for regulations to be made under section 5(3) under the affirmative procedure on their first making, I am not content for regulations under sections 5(2) or 5(5) to be subject to that requirement. Therefore, I cannot support amendment 35, as drafted. However, I commit to bringing

forward an amendment at Stage 3 to apply the affirmative procedure to the first regulations to be made under section 5(3).

[123] Amendment 38 to section 52 would have the effect of applying the negative procedure to Orders made in accordance with section 56(2), which make transitional, transitory or saving provisions when bringing the Bill into force. It is my view that this is both unnecessary and unworkable in practice. The Bill, as drafted, does not provide for any procedure to apply to commencement Orders. This is usual practice, and the First Minister wrote to the Constitutional and Legislative Affairs Committee in October 2013, setting out the Government's position concerning powers for commencement Orders to include incidental, supplementary and transitional provisions. At commencement, the Assembly will already have scrutinised the Bill and passed the provisions that are being commenced, so it is unnecessary to make provision for a procedure to apply that would allow the Assembly to vote against their commencement, leading to uncertainty and ambiguity for stakeholders. Such a procedure would have the effect of giving the Assembly the power to stop the bringing into force of provisions that it has already agreed to be enacted. This would create legal uncertainty and an unnecessary delay in the introduction of the new regulatory system.

[124] Commencement Orders with transitional, saving and consequential elements are designed to cater for the process of moving from one regime to another, so that the process is as seamless as possible, and so that the new law works. I would like to assure Members that the provision at section 56(3)(b) of this Bill is perfectly normal in Bills, and is such that there is no possibility of a commencement Order for the Bill including any transitional, transitory or saving provision that is not properly part of commencement. It is common wording in most Acts that include secondary legislation-making powers. Such provisions do not introduce new policy principles, but ensure that the transition is smooth, and that it is clear whether the old law or the new law applies.

[125] The transitional provisions that could be made by way of a commencement Order are very limited and would have to relate to the commencement of provisions that themselves have already been approved by the Assembly. If commencement Orders that included transitional, transitory or savings were to be made subject to a form of Assembly procedure, we would find ourselves in an unfortunate position, where it would be possible for the substantive provision to be commenced, but the connected saving or transitional or transitory provision to be annulled. It would be undesirable for the fate of a transitional Order to be uncertain when its provisions were necessary to allow effective commencement of the main provisions. Making commencement Orders subject to a form of Assembly procedure would also cause uncertainty as it would subject the Order to the 40-day annulment period. In other words, if an order was laid for the appropriate 21-day period, there would then be a further 40-day period when a Member may table a motion to annul the Order. This would mean that, within that 40-day period, it would not be clear to the public whether the old law or the new law was in force. That would not be an acceptable position. Commencement Orders are generally subject to no procedure, partly because the time necessary to complete the procedures is too long for the practical administration of implementation, given that commencement is a one-off event.

[126] In conclusion, I ask Members not to support amendments 34, 35 and 38. I am, however, supportive of amendments 32, 33, 36 and 37.

[127] **Ann Jones:** Suzy, do you want respond?

[128] **Suzy Davies:** Yes. Thank you, Minister, for agreeing to some of these amendments. You may remember that I was not present at the Stage 1 debate, but I should have mentioned in my opening remarks that I was conscious that you had made these suggestions and I am very grateful to you for accepting the amendments that you have. We may still disagree on

amendments 34 and 35, although I appreciate that things have moved on a little bit, in as much as we had draft regulations to look at. The main reason that I will still be moving these amendments is that not all the regulations under this Bill will be available at Stage 3 for us to see.

[129] Thank you for your very detailed response on amendment 38 and commencement Orders. You will be aware, as will other Ministers, that this is a constant bugbear of the Constitutional and Legislative Affairs Committee, in particular. I am very grateful to you for setting out in the level of detail that you did the reasons for resisting, yet again, the commencement Orders today.

[130] The one point that I want to pick up on is that you said that the opportunity to bring a commencement Order back to the Assembly, even if it were by the negative procedure, adds time and uncertainty into the system. However, of course, the purpose of scrutiny is to make sure that something that you bring forward actually works. If you introduce transitional and consequential provisions with a commencement Order and everything is fine with them, then obviously the Assembly will say, 'Yes, that's fine, off you go'; it does not add any delay. However, it is important to have that tiny opportunity to pick up on something that we think, as an Assembly, does not work or crosses the boundaries of the intention that you set out in some detail in your response. I do not think that any Assembly Member would predict that a Minister would use consequential and transitional provisions incorrectly, but we are here as a final test, if you like, just to make sure that something does not slip through the net inadvertently.

[131] **Ann Jones:** Suzy, do you wish to proceed to a vote on amendment 32?

[132] **Suzy Davies:** Yes, please.

[133] **Ann Jones:** The question is that amendment 32 be agreed to. Does any Member object? No; amendment 32 is agreed.

*Derbyniwyd gwelliant 32 yn unol â Rheol Sefydlog 17.34.
Amendment 32 agreed in accordance with Standing Order 17.34.*

[134] **Ann Jones:** Suzy, do you want to move amendment 33?

[135] **Suzy Davies:** I move amendment 33 in my name.

[136] **Ann Jones:** The question is that amendment 33 be agreed to. Does any Member object? No; amendment 33 is agreed.

*Derbyniwyd gwelliant 33 yn unol â Rheol Sefydlog 17.34.
Amendment 33 agreed in accordance with Standing Order 17.34.*

[137] **Ann Jones:** Suzy, do you wish to move amendment 34?

[138] **Suzy Davies:** I move amendment 34 in my name.

[139] **Ann Jones:** The question is that amendment 34 be agreed to. Does any Member object? There are objections. Therefore, we will take a vote by show of hands.

*Gwelliant 34: O blaid 4, Ymatal 0, Yn erbyn 5.
Amendment 34: For 4, Abstain 0, Against 5.*

Pleidleisiodd yr Aelodau canlynol o blaid:

Pleidleisiodd yr Aelodau canlynol yn erbyn:

The following Members voted for:

Davies, Paul
Davies, Suzy
Jenkins, Bethan
Roberts, Aled

The following Members voted against:

Griffiths, John
Jones, Ann
Neagle, Lynne
Rees, David
Watson, Joyce

*Gwrthodwyd gwelliant 34.
Amendment 34 not agreed.*

[140] **Ann Jones:** Suzy, would you like to move amendment 35?

[141] **Suzy Davies:** I move amendment 35 in my name.

[142] **Ann Jones:** The question is that amendment 35 be agreed to. Does any Member object? There are objections. Therefore, we will take a vote by show of hands.

*Gwelliant 35: O blaid 4, Ymatal 0, Yn erbyn 5.
Amendment 34: For 4, Abstain 0, Against 5.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Davies, Paul
Davies, Suzy
Jenkins, Bethan
Roberts, Aled

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Griffiths, John
Jones, Ann
Neagle, Lynne
Rees, David
Watson, Joyce

*Gwrthodwyd gwelliant 35.
Amendment 35 not agreed.*

[143] **Ann Jones:** Suzy, would you like to move amendment 36?

[144] **Suzy Davies:** I move amendment 36 in my name.

[145] **Ann Jones:** The question is that amendment 36 be agreed to. Does any Member object? No; amendment 36 is agreed.

*Derbyniwyd gwelliant 36 yn unol â Rheol Sefydlog 17.34.
Amendment 36 agreed in accordance with Standing Order 17.34.*

[146] **Ann Jones:** Suzy, would you like to move amendment 37?

[147] **Suzy Davies:** I move amendment 37 in my name.

[148] **Ann Jones:** The question is that amendment 37 be agreed to. Does any Member object? No; amendment 37 is agreed.

*Derbyniwyd gwelliant 37 yn unol â Rheol Sefydlog 17.34.
Amendment 37 agreed in accordance with Standing Order 17.34.*

[149] **Ann Jones:** Turning to the remaining amendments, we will vote on the remaining amendments in the script later, and we will return to dispose of amendments debated in earlier groups. Minister, would you like amendment 23 in your name to be moved?

[150] **Huw Lewis:** No.

[151] **Ann Jones:** The Minister has indicated that he will not move amendment 23. I take it that everybody is happy with that suggestion.

Ni chynigiwyd gwelliant 23.

Amendment 23 not moved.

[152] **Ann Jones:** We now move to amendment 38. Suzy, would you like to move amendment 38?

[153] **Suzy Davies:** I move amendment 38 in my name.

10:15

[154] **Ann Jones:** Thank you. The question is that amendment 38 be agreed to. Does any Member object? There is objection. We will move to a vote by show of hands.

Gwelliant 38: O blaid 4, Ymatal 0, Yn erbyn 5.

Amendment 38: For 4, Abstain 0, Against 5.

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Davies, Paul
Davies, Suzy
Jenkins, Bethan
Roberts, Aled

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Griffiths, John
Jones, Ann
Neagle, Lynne
Rees, David
Watson, Joyce

Gwrthodwyd gwelliant 38.

Amendment 38 not agreed.

[155] **Ann Jones:** Aled, would you like to move amendment 42?

[156] **Aled Roberts:** I move amendment 42 in my name.

[157] **Ann Jones:** The question is that amendment 42 be agreed to. Does any Member object? There is objection. We will move to a vote by show of hands.

Gwelliant 42: O blaid 4, Ymatal 0, Yn erbyn 5.

Amendment 42: For 4, Abstain 0, Against 5.

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Davies, Paul
Davies, Suzy
Jenkins, Bethan
Roberts, Aled

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Griffiths, John
Jones, Ann
Neagle, Lynne
Rees, David
Watson, Joyce

Gwrthodwyd gwelliant 42.

Amendment 42 not agreed.

[158] **Ann Jones:** We have debated amendment 53. Does anybody wish to move amendment 53?

[159] **Bethan Jenkins:** I move amendment 53 in the name of Simon Thomas.

[160] **Ann Jones:** Thank you. The question is that amendment 53 be agreed to. Does any Member object? There is objection. We will move to a vote by show of hands.

Gwelliant 53: O blaid 4, Ymatal 0, Yn erbyn 5.

Amendment 53: For 4, Abstain 0, Against 5.

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Davies, Paul
Davies, Suzy
Jenkins, Bethan
Roberts, Aled

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Griffiths, John
Jones, Ann
Neagle, Lynne
Rees, David
Watson, Joyce

Gwrthodwyd gwelliant 53.

Amendment 53 not agreed.

[161] **Ann Jones:** Minister, would you like amendment 24 in your name to be moved?

[162] **Huw Lewis:** I would.

[163] **Ann Jones:** I move amendment 24 in the name of the Minister. The question is that amendment 24 be agreed to. Does any Member object? No; amendment 24 is agreed.

Derbyniwyd gwelliant 24 yn unol â Rheol Sefydlog 17.34.

Amendment 24 agreed in accordance with Standing Order 17.34.

[164] **Ann Jones:** We have now disposed of all of the amendments. Well done, everybody. Now that all of the amendments have been disposed of, for the record, all sections of the Bill have now been agreed to by the committee. As we have disposed of all of the amendments, Stage 3 will begin tomorrow. The deadline for tabling amendments will be notified to Members in due course. The Standing Order requires that, if a Bill is amended at Stage 2, the Member in charge must prepare a revised explanatory memorandum unless the committee considering Stage 2 proceedings resolves that no revised explanatory memorandum is required. Do Members feel that there needs to be a revised explanatory memorandum, or are we happy to accept that we do not need a revised explanatory memorandum?

[165] **Suzy Davies:** I do not have a view, really.

[166] **Aled Roberts:** *[Inaudible.]*

[167] **Ann Jones:** You want a revised explanatory memorandum, therefore, under Standing Order 26.2, we will have to have a revised explanatory memorandum. So, there we go. That concludes Stage 2 proceedings of the Higher Education (Wales) Bill. Thank you, Minister, and your officials for attending and to the committee as well, because it is always a torturous procedure to go through and quite legal. With that, the committee will break for a quarter of an hour.

Gohiriwyd y cyfarfod rhwng 10:17 a 10:48.

The meeting adjourned between 10:17 and 10:48.

Adroddiad Blynyddol Comisiynydd Plant Cymru
The Children's Commissioner for Wales's Annual Report

[168] **Ann Jones:** Welcome back to the Children, Young People and Education Committee. We will turn to the Children's Commissioner for Wales's annual report. We are delighted to have with us the children's commissioner himself. Keith, would you like to introduce yourself and your colleague for the record?

[169] **Mr Towler:** Sure. My name is Keith Towler and I am the Children's Commissioner for Wales for the next three months. This is Eleri Thomas, who is the chief executive of the office, and the deputy children's commissioner.

[170] **Ann Jones:** Thanks very much for that. We note that it is your last appearance before this committee. We hope that it will be memorable and that it will be one of the ones that you will recall when—

[171] **Mr Towler:** I will treasure it. [*Laughter.*]

[172] **Ann Jones:** You will treasure it. Okay. [*Laughter.*]

[173] Thank you for the report, which all Members have had. We have several areas that we want to cover. Basically, the sort of headline topics are: the work of the office; your legacy as commissioner; the review of the role and functions of the commissioner, which we might get on to; and the Welsh Government's overarching approach to children and young people's policy. We then have some specific issues around policy, including the children of offenders, the Social Services and Well-being (Wales) Act 2014, advocacy, young people leaving care, the national independent safeguarding board, access to play and child poverty. So, there is a raft of those that we will try to go through. We will see where we go. As I say, we will try to make this memorable for you. [*Laughter.*]

[174] Lynne, do you want to start off with the first set of questions on the work of the office?

[175] **Lynne Neagle:** Good morning. I have a couple of questions. The first is on your point that you have had quite a few calls from children, or cases related to cuts in local authority services. You have also said in your policy—there are so many different booklets here; it is the one that goes through the specific policy areas—that you wrote to all local authorities asking how they were monitoring the impact of budget decisions on children and young people, and that quite a lot have not replied. Can you update us on that, and also tell us what you are doing to pursue those local authorities? I would have expected you to chase all of them to get a response.

[176] **Mr Towler:** Yes. No, we are chasing them to get the response. That work is ongoing. I can give you some specifics in relation to the kinds of calls that we have had from the casework service. They fall into four broad areas. The first is around education. We have had seven cases in the reporting period in relation to cuts to things like home tuition budgets, ethnic minority support services, school transport services, cuts to learning support assistance, and the closure of special educational needs units. Those have come from the public, local authority councillors, social workers and staff working in those services. We have also had six cases in relation to the closure of youth clubs, youth service provision, and cuts to play services and play centres. Those calls have come in from volunteers, young people and staff. In health, we have had five cases in relation to conflicts between health and social services about who should fund provision, withdrawal of a professional support post for a child and adolescent mental health service—and I know that you are particularly exercised on CAMHS

at the moment—cuts in respite hours, closure of paediatric services and disputes between two authorities about who should fund assessed therapeutic intervention. Most of those calls have come in from professionals but also from parents. The last group relates to social services, with five cases: cuts to respite services, cuts to support services, cuts to legal aid and the impact on children and young people in the criminal justice system. They have come from social workers, parents, carers and a QC.

[177] So, you can see that there has been quite a broad range of issues in relation to cuts to services. As you say, Lynne, I did write to the chief executives of local authorities. Some of them have come back, but we are pursuing the rest to try to gauge some real impact in terms of what is happening to children and young people's services.

[178] It would be fair to say, in terms of my meetings with children and young people—and I think that sometimes people do overlook this, remarkably—children have a pretty good acute awareness of what is going on, and are struggling to really access some pretty basic services. The overall thing that I am left thinking about, when we look at the success of our youth justice system and reductions in offending and how few people are getting drawn into having to go to custody, is that we are taking away the universal and support services for children and young people—the very infrastructure that supports those children and young people to lead fulfilled lives. So, it is something that we are particularly active on and particularly keen to drive some work through on, but those cases are pretty broad and they cover most areas of a child's life.

[179] **Lynne Neagle:** In terms of the local authorities, how many have not responded to you?

[180] **Mr Towler:** I do not know. Do you know that?

[181] **Ms E. Thomas:** I think that we have had about half who have come back, and we are actively pursuing. One of the key issues that we are wanting to make sure of is that, when authorities are making decisions about financial resources, they undertake an equality impact assessment that includes looking at the impact on children and young people. Very much when we have had approaches in relation to individual cases, we have worked with the callers to talk to local authorities to challenge the impact assessments and make sure that we fully understand the impact that the cuts are making on particularly vulnerable families. I think that there have been some very clear messages, especially in relation to universal services and the impact on child poverty. A particular case that we have received in the office in the past month is about a family that is very much accessing leisure services, and so thinking about the impact of the closure of leisure services for families who cannot afford to actually pay for those services due to child poverty.

[182] **Lynne Neagle:** In terms of the local authorities that have responded, how satisfied are you that they have looked appropriately at the impact on children and young people? Is it a mixed picture?

[183] **Mr Towler:** It is a bit of a mixed picture, but what I would say, in terms of the discussions that I have had with elected members of local authorities—and many of you will know this from your own constituency work—is that lots of those local authority elected members are overseeing those cuts with an incredibly heavy heart. This is not something that anyone is taking any glee or pleasure in, and I have had conversations with elected members where they have been in tears talking about it. So, in terms of whether they really understand, I do not think that you can doubt that they really understand the gravity of the decisions that they are making. I do not criticise them for the position they find themselves in. What I think is happening in those authorities that are really getting to grips with this is some real creativity about what can be done and what can be achieved. However, some of the decisions

that have been made are clearly very upsetting for everybody involved.

[184] **John Griffiths:** Just on that, Chair, I think that we all understand that very difficult decisions have to be made. Unfortunately, these are the times we live in and will probably live in for at least a few years yet. However, one of the issues is ensuring that proper process is gone through and that, when a difficult decision is made, it can be made in that context where it can be pointed out that the hard work and hard thinking has taken place. People rightly expect local authorities to be able to demonstrate that.

[185] **Mr Towler:** Yes. I agree.

[186] **John Griffiths:** So, is that something that you need to be satisfied on?

[187] **Mr Towler:** That is what we are pursuing now. Responding to Lynne, it is a bit of a mixed bag so far in terms of what has come in. Some local authorities can really evidence the decision-making trail, however difficult that has been, but with some that is not so clear. So, that is the area we are pursuing with them, and we are really chasing the others that have not yet got back to us.

[188] **John Griffiths:** Do you ever get to the stage where you publicise those who have not responded?

[189] **Mr Towler:** We do do a bit of naming and shaming, but we would start from the position of trying to work closely with them to get them to a position where they would own some actions themselves.

[190] **Ann Jones:** I have got Suzy and Bethan next. I do not know whether Lynne had finished, but Suzy and Bethan next and then we will come back.

[191] **Suzy Davies:** Yes, I just wanted to ask a question about the impact assessments, because obviously local authorities, unlike this place, have not signed up to having due regard to children's rights under the UNCRC, with one notable exception, of course. I am just wondering whether, with Swansea council in particular, because it has made this commitment, you have seen an improvement in its understanding of children's rights and the inclusion of them in assessments where perhaps children would not normally be at the forefront of their minds when they are making decisions about where cuts are to be made. Does that make an improvement?

[192] **Mr Towler:** It is early days, of course, for Swansea. We should say that Pembrokeshire has taken a very similar line to that, which is obviously welcome, and it is very early days. I think that it has changed the way in which those two local authorities are beginning to think about impact in relation to children. It is making them look at the convention. It is making them realise things about rights and entitlements. So, I think it is early days, but Eleri has been recently to a meeting in Swansea, where they are looking at how they are implementing their own due-regard duty in relation to the convention, and, from the discussions we have had, even though it is early days, we would say that it is taking that really very seriously. It is working its way through these. Of course, what we are seeing in Swansea and Pembrokeshire is members of the public saying, 'Well, you've signed up to the UN convention on the rights of the child, so how do you justify a decision to close something or reduce something, if you have that commitment to the convention?' So, I think it is testing, but I think that those two local authorities are working their way through it. Do you want to add anything on that meeting?

[193] **Ms E. Thomas:** I think that there was a big challenge, certainly in Swansea, raising awareness with the entire workforce in order for it to understand the implications of

undertaking a child rights impact assessment. However, what we have seen is that it does raise the profile of children when making those difficult decisions. Just in response, I think that the importance of thinking through the impact on children and families when authorities are making those difficult decisions is absolutely crucial. The child rights impact assessment is a tool to be able to do that. We have seen in Swansea the decision around ethnic minority support services, which was a clear change in an outcome, in thinking through that that was a vital service for families that needed extra support.

[194] **Suzy Davies:** I am encouraged. Thank you.

[195] **Mr Towler:** It is early days, but we do need to recognise, I think, that the moves by both Swansea and Pembrokeshire are brave and good, and—

[196] **Suzy Davies:** And not just lip service, which is what the concern was.

[197] **Mr Towler:** Absolutely, and we should encourage that development.

[198] **Suzy Davies:** Okay, thank you.

11:00

[199] **Bethan Jenkins:** I suppose that I take a more cynical view, because I want to understand the expectations that may then follow through from that. If you have the UN convention as that marker, if they do not adhere to that or reach that marker, what do the parents and the children feel? While Swansea council went back on its decision to sell off Pontarddulais playing field, it had hundreds of letters from young children, and they were not responded to until we had a meeting with the council to tell it that those children had sent those letters? If the UN convention on the rights of the child is there in Swansea and Pembrokeshire, or any other council that sees fit to take it up, how proactively are you as a commissioner saying, 'This is what I would expect for you to be doing, and this is how' so that they do not fall down on that and children do not think, 'There's no point in writing to the council, because even though they have got the UN charter, they are still not listening to my views'? That is something that I really, really want to understand, that you as an office would be pre-empting those issues as opposed to waiting for them in any other way, so to speak.

[200] **Mr Towler:** We have been working quite closely with Swansea and Pembrokeshire around their commitment to the CRC, and one of the things that has stuck in my mind, when you think about the CRC and the principle about progressive realisation, is that everybody is working towards the full realisation of children's rights as outlined within the UNCRC. From a local authority point of view, local authorities have to make some pretty hard decisions and tough calls about what that progressive realisation path for them is going to be all about. One of the things that struck me in early discussions with Swansea was thinking about the status of looked-after children, and the responsibilities that a local authority has as a corporate parent. My early view, from talking to councillors and staff in Swansea, was to say, 'Actually, looking at your statutory responsibility as a corporate parent and your commitment to the UNCRC, that is a really big statement to make, and you need to absolutely nail that for those vulnerable children'.

[201] In terms of things like the playing fields, which is a much broader issue and affects a much bigger range of children and young people, the general public are right to raise it and to ask questions of the local authority. 'Where within your realisation of the CRC do issues like this fall?' I think that there is a big task for local authorities to be absolutely crystal clear about the way in which they communicate their progressive work towards the realisation of the CRC. In Wales—or anywhere, really—I have yet to see where we could, hand on heart, say that the UN committee gives a state party the rubber stamp of approval for full realisation

of the CRC. I do not think that there is one anywhere. However, what you have to be absolutely clear about is the journey that you are going to take and the commitment that you are making to children's rights. There is something about the communication of that that is the key.

[202] **Ms E. Thomas:** I think that, in the example that you are giving, Bethan, it would have been helpful to engage with those pupils in the first instance, rather than those pupils having to resort to complaints or writing letters. So, I think that there is a very real challenge for all of us in terms of how we engage children and young people right at the start of difficult processes, when we are making challenging decisions, and to have direct engagement. We have seen very good examples in school reorganisation where pupils have been engaged right from the start when, perhaps, the consequence is not the outcome that they want, as in their school will be closed, but they can be part of understanding, coming up with and influencing the outcome of a new school provision. I think that it would have been very helpful in the example that you are giving for the school and the council to work proactively with children and young people to think through the difficult decisions that were being made.

[203] **Ann Jones:** I call on Joyce and then David.

[204] **Joyce Watson:** Thank you, Chair. Good morning. I am particularly pleased to hear that Pembrokeshire has adopted the United Nations charter on the rights of children. It needed to, let us be clear. However, the question that I want to ask is—that is great and it is testing, and I certainly welcome it—how will we know that they have achieved it, here and in your office? Do you have a monitoring role? Would you be looking at it? I know that you are obviously helping them implement it, and that is one thing, but it is about, after that implementation and sign-off, whether that has made any difference not only to front-line services, as we have heard, but to the policies and the implementation of those policies, because that is really where it is at, as far as I am concerned?

[205] **Mr Towler:** Absolutely, and I think that we have been having those discussions with Welsh Government at a Wales level. It has certainly been stuff that I have fed into the independent review of the role and functions of the children's commissioner, which is to really tease out the kind of holding to account and the monitoring role. So, if we are talking in relation to the Welsh Government—you know, the strengthening of the remit for the next children's commissioner—that still needs to be sorted out at the national level, and what we have been doing with Pembrokeshire and Swansea is working out what the relationship needs to be in terms of monitoring their implementation, and being more than their critical friend by actually holding them to account on the commitments that they make. I think that that kind of ties into the answer that we gave to Bethan on the previous question. To be fair both to Swansea and to Pembrokeshire, which came at this probably from different angles—and you are right, there were particular issues in Pembrokeshire—what was pleasing, eventually, in Pembrokeshire, was the, 'We've got to do better than we're currently doing' recognition, and then, 'How are we going to do that?', and 'How can we use the CRC?' Thinking through the relationship around engaging more children and young people and asking the commissioner's office for some support and assistance in that was the early quick win, if you like, but, actually, what we are now debating and talking through with them is the monitoring, the implementation. The relationship between the commissioner and the local authorities that make that kind of commitment to the CRC changes slightly, in as much as I would be expecting reports on progress nailed against plans that they put in place on an annual basis. So, we are working that through now, but that is the absolute key part; that is the real test of whether outcomes are improved for individual children and young people as a result.

[206] **Ms E. Thomas:** I think that one of the additional aspects that Pembrokeshire is putting in place is that it has employed a young person to take forward the work. It is also establishing an annual process. Both Swansea and Pembrokeshire have taken it on board to

report annually—in Swansea, to council, and in Pembrokeshire, very creatively, they are looking to mirror the UN reporting process, but answerable to children and young people and its youth forum. So, there will be an annual opportunity for a debate with council, but with the questions being asked by children and young people, exactly on those issues of what progress has been achieved over time. In addition to the clear points that you are making around front-line services, and thinking through about policy, I think that what Pembrokeshire has really understood is that what it is attempting to do is to change the culture of the authority, and that that, in itself, is the key outcome that we are trying to achieve. So, yes, we are looking at changes to front-line services, but also, in particular, wanting to use the convention and reporting process of the convention, being held to account by children and young people, to change that attitude—Pembrokeshire was not listening to the critical issues that children and young people were identifying—and to give a very strong message to children, families and professionals living in Pembrokeshire that it is a listening authority, or, certainly, on the journey to becoming a listening authority.

[207] **Ann Jones:** David, you are next.

[208] **David Rees:** Thank you, Chair. I have just a couple of quick points. You mentioned Swansea and Pembrokeshire. Well, that is two out of 22—less than 10%. I suppose that what I want to know is: what progress is being made in the other 90% of authorities? You also mentioned good practice examples. Again, what is being done, perhaps by your office, to ensure that that good practice is disseminated across the local authorities? Every local authority, we know, is facing the same difficult decisions, whether it is looking at leisure services, schools, play schemes in the summer, all authorities are facing the same hard problems. So, how are you going about actually ensuring that that good practice that you have talked about is actually being spread across all authorities here in Wales?

[209] **Mr Towler:** I think it would probably be fair to say that most local authorities in Wales are aware of the position that both Swansea and Pembrokeshire have taken. They are watching it with interest. However, it would also be fair to say, I think, that, if you took a look at work in schools on schools councils, and Rights Respecting Schools, the ambassador programme that we run, you can see in education across Wales a much greater level of realisation and understanding of child rights practice. We see that in work that we do with heads of children's services, with the Welsh Local Government Association. So, there are a number of ways in which, I think, increasing awareness and realisation of children's rights and of the importance of the CRC are beginning to play out. We have had a struggle with advocacy, for example, for looked-after children and care leavers, which we might talk about a bit later on. However, we have had some really positive meetings in the last couple of months—in the last couple of weeks, actually—thinking about how the CRC, that entitlement to voice and what listening is all about, as Eleri says, actually drive good child's rights practice. So, I think we are beginning to see those things happen, and I think you are right to pinpoint a responsibility on the commissioner's office, but there is also one in relation to Welsh Government, I would have to say, in terms of raising awareness. Sharing good practice, my team working with people across Wales, promoting really good practice and talking about those things, is something that the team does constantly in the work that we do behind the scenes with different authorities in different ways, sometimes through the casework function, sometimes through the policy function or, indeed, through the communications function.

[210] So, we are beginning to see that excitement about what rights-based practice is all about beginning to take some shape. People will use different language about that. So, in the Families First areas, discussions with practitioners there are about what the team around the family actually means, and how children get their voice heard. If you are thinking about individual practice with vulnerable looked-after children, thinking about what this means for disabled children, thinking about Gypsy and Traveller interventions or thinking about the

asylum process in terms of access to education and health support, all of that language is becoming much more comfortable with the idea of a rights-based approach. So, we are beginning to see those bits of progress. I suppose the next logical question is: will we see all local authorities in Wales adopting the CRC? I would like to think so, but I think people will watch Swansea and Pembrokeshire's move with some real interest.

[211] **Ms E. Thomas:** I think, in addition, I would say that, while we are referring to Swansea and Pembrokeshire in relation to the adoption of the UN Convention on the Rights of the Child, we work with all 22 local authorities in relation to all of our work. Every thematic review that we have done includes looking at the circumstances in each of the 22 local authorities. Our reports do have recommendations for each local authority, and we follow those recommendations up and we follow those reports up. So, annually, we will be going back to authorities, for instance, with regard to our 'Lost After Care' publication, asking for them to identify and share their progress against the original recommendations. We have published the outcomes of those and we share that with heads of children's services. So, there is very much a way of working within the office that wants to drive better practice, to work collaboratively with all local authorities, but equally to provide that challenge to local authorities when they may be falling short of the mark for children and young people.

[212] **David Rees:** As a consequence, raising awareness is critical, but are we seeing an implementation and an acting upon that awareness now starting to happen across a wider range of authorities?

[213] **Mr Towler:** I would not want to get carried away and say that this is a bed of roses, but I would say that local authorities really listen to the issues that we raise in relation to individual cases. We have rehearsed, I think, this at previous committee meetings. Whenever we raise particular issues regarding individual children, young people or families, there is not a local authority that does not take that engagement seriously and that does not work with us to get the decent outcome that we want for that individual child or young person, and then to think through with us what we need to do to make sure that these things do not happen again, or that systematic changes can be made. So, I think we have a good and healthy relationship with local authorities. It is challenging at times, and I think what I have enjoyed, and what the team enjoy, is respect for the function of the office of the Children's Commissioner for Wales. So, while we can work together in a positive and a good way, and sometimes in a fun way, about raising awareness of children's rights, there is respect for the office of the children's commissioner when the office challenges and says, 'Actually, you're failing here for an individual child', and we never get fobbed off by local authorities; we get proper engagement.

[214] **Ms E. Thomas:** I think the key critical challenge is how we drive consistency; it goes back to your point about good practice. The key message of the annual report is how we achieve that strategic vision for children consistently across the 22 authorities. Some of the challenges in the thematic work that we have done over the last year are about what the levers are to drive delivery at local authorities, and some of the challenge and discussion with Welsh Government is what is the role of national government, and also thinking through the scrutiny function of government, in order to drive change at a local authority level consistently. Importantly in all of that is the voice of children and, actually, the engagement that we have with all of our youth forums—there are 22 youth forums across Wales—and making sure that we have good, robust mechanisms of engaging with those youth forums so that we can hear from children and young people directly about their experiences and add that into the challenge that we can then present in driving that consistency of practice.

11:15

[215] **Lynne Neagle:** I was just going to ask whether the commissioner could let the

committee have a note of which local authorities had responded and which ones had not, so that—

[216] **Mr Towler:** Yes, I would be very happy to do that.

[217] **Ann Jones:** May I just ask what the impact is on your staff of being members of some 50 working groups, which must take quite a lot of your time, and which then takes away the time that you can spend with the younger people, I would have thought?

[218] **Mr Towler:** Do you want to deal with that, Eleri?

[219] **Ms E. Thomas:** Certainly. It may sound like a bureaucratic process, but, actually, the working groups that we are involved in are very much about the commissioner's office driving impact and change for children, trying to influence policy and making sure that the views of children and young people are adequately reflected when legislation and policy is being developed, and, at the same time, being that robust challenge. So, I can assure you, Chair, that we take our engagement in groups very—. We review and make sure that we are absolutely providing best practice, value for money and input in terms of our engagement in external groups, but it is very much to achieve the aim of influencing and developing practice for children and young people.

[220] **Mr Towler:** What I would say about that, and, again, we have spoken about this at previous committee meetings, is that, when we set the corporate plan and the annual work plan, we have to be absolutely clear what things we will commit to do to achieve those objectives that we set. Sometimes, that means that we do say, 'No, we can't do this.' One of the things that I have seen the team grow in confidence about is the fact that we get huge amounts of requests for officers of the commissioner to go and attend particular groups. I think that that is a fantastic achievement in terms of recognition of what they can provide, but we are a small team, and, sometimes, we just have to say 'no'.

[221] **Ann Jones:** Okay, thanks. John is next.

[222] **John Griffiths:** In terms of the division of work, as we mentioned earlier, it is a very difficult time for public spending. I just wonder whether you are finding that casework is increasing to the extent where it is difficult for you to do the wider work in terms of thematic reviews, making representations on broader issues and so forth. Are you basically getting rather snowed under with casework at the moment?

[223] **Mr Towler:** No, I would not say that we are snowed under. In the annual report, we talk about 500 plus cases this year. That is reasonably consistent with—. It is slightly higher, but it is not overwhelming in terms of being snowed under. So, what we try to do, and I think this is a really important point with that casework—. That casework is a really important part of the evidence that enables us to decide or focus on thematic reviews. So, what we try to do is—. I have four caseworkers working on an all-Wales basis; I have four policy officers and what we try to do is do best value with that work. So, in other words, that evidence trail led us to do all of the work with looked-after children in the last couple of years and it led to all of the work that we have done on advocacy. So, there is a way of kind of boxing clever with the resources that you have got and using that evidence to make sure that you do not just deal with the individual case, but you drive and push for thematic change. So, using it in that way has been quite successful, I think, given, as you say, the pressure on the public purse, and we realise that we work with a reasonably small amount of resource on some of those issues.

[224] **Ann Jones:** Every time that you have come before the committee, we have spent the biggest half hour on the first set of Members' questions and we have several areas that we want to come to. So, Bethan, do you want to take the legacy, and then I think Paul is going to

do the review on the role of functions.

[225] **Bethan Jenkins:** Mi wnaef ofyn fy nghwestiwn yn Gymraeg. Gan sôn am waddol, rydych wedi son lot am y gwaith rydych wedi'i wneud ond a allwch ehangu ar yr hyn rydych yn meddwl rydych wedi ei wneud yn bositif a'r hyn rydych yn meddwl sydd wedi bod y sialens fwyaf i chi? Mae hyn yng nghyd-destun y ffaith fy mod bach yn *concerned* am y ffaith bod llai o bobl ifanc eu hunain yn cysylltu â chi. A yw hynny'n rhywbeth rydych yn ei weld fel rhywbeth negyddol neu a ydych yn gweld y ffaith bod pobl broffesiynol a rhieni yn cysylltu â chi ar yr un lefel? Hefyd, yn eich adroddiad, eleni, nid ydych yn rhoi rhesymau ynglŷn â pha sector y mae'r gŵyn neu'r ymholiad yn ymwneud ag ef, er enghraifft, cyfraith y teulu neu addysg ac yn y blaen, er mwyn i ni allu edrych ar y blynyddoedd cynt ac efallai edrych yn ôl a gweld sut yr ydych wedi datblygu fel swyddfa. Felly, jest trawstoriad o'r hyn rydych wedi ei wneud yn eich swydd hyd yn hyn i adael y nodyn hwnnw a'i roi i'r person newydd sy'n dod i'r swydd.

Bethan Jenkins: I will ask my question in Welsh. Talking about legacy, you have mentioned a lot about the work that you have done, but could you expand on what you think that you have done positively and what you think has been the biggest challenge for you? This is in the context of the fact that I was concerned about the fact that fewer young people themselves are contacting you. Is that something that you see as a negative thing or do you see the fact that professional people and parents are contacting you on the same level? Also, in your report, this year, you do not give reasons as to which sector the complaint or inquiry relates to, for example, family law or education and so on, in order for us to be able to look at previous years and maybe look back and see how you have developed as an office. So, that is just a cross-section of what you have done in your job so far, to leave that as a note to be handed over to the new person who takes the post.

[226] **Mr Towler:** In terms of the legacy thing, the first thing to say is that I am working with the team; we will produce a report in terms of what we think is the legacy of the 14 years of having a children's commissioner because, of course, at the end of the first term of the children's commissioner, Peter Clark did not get that opportunity to reflect on where the office had got to. So, we are working on that and we will be trying to look at the last seven years in particular. But, to think about the 14 years of having a children's commissioner, the appointment of a new commissioner is quite an exciting time. There are still quite a lot of challenges that an incoming commissioner has to face.

[227] In terms of the casework service and children and young people's direct contact with the casework service, I was concerned a few years ago that children and young people were not getting in touch with the service and we have done a fair amount of work in trying to promote the service, particularly with vulnerable groups. So, we have spent a lot of time talking to various groups of looked-after children and young people in a variety of formats. I have brought together a national meeting of care leavers for the last two or three years. So, we promote the service and talk about it, but I think that what that has seen is an increase in confidence among professionals, carers and parents to get in touch with us. But, young people still do not use that service as much as they might do.

[228] I think that we have worked quite hard on trying to make sure that young people know that that service is there. Very often, we will get parents and grandparents—and grandparents are a really good source of referrals—coming to us and saying that they are doing this on behalf of a child or a young person. So, I have become less hung up about whether they get in touch with us through the casework service, but more interested in how we are engaging with children and young people more broadly.

[229] So, in the report this year, we say that the office or the commissioner has met with or has had some engagement with 6,000 children and young people in a variety of formats. All

of that, all of the time, talks about the casework service and the casework function: you can get in touch with us at any time and we will be pleased to hear from you. Some children and young people will start to use the Twitter feed. We have talked about that before. They will engage in a different way. Very often, they have engagement with us through the thematic reviews. All of the work on the planner document for looked-after children, in terms of legacy, is something that I am quite proud of. That was about children and young people in the looked-after system saying that they have had some schooling or teaching or training around the United Nations Convention on the Rights of the Child, but asking what were their entitlements and rights. That planner document is designed in the way that it is for them and with them. We are going to do some more work on updating it on an annual basis. So, those kinds of things have really helped to improve the visibility and access for children and young people to the commissioner's office. The same is true in terms of the work we have done on respite care for families with children with disabilities. It is very much the same in terms of that kind of targeted work.

[230] So, in terms of thinking about the legacy, in the report we say—. We got the Beaufort Research group to do some work for us around general levels of awareness among children and young people, and among adults. The Beaufort research tells us that one in seven children in Wales now knows about the children's commissioner or would know how to get in touch with the office. That is probably higher than it has ever been. Among professionals and adults, it is 44% or something. Again, both of those are not where we would want them to be, but in terms of that way of working and that way of increasing confidence and building trust, I think that the team could take some pride in having set some train in motion that an incoming commissioner can build on even further.

[231] So, I think that those things are good, but I have become less worried about whether children and young people are engaging with the casework service, and more encouraged by the fact that professionals, carers and parents recognise the role and function of the commissioner's office and get in touch when they need to, and that they also recognise that the commissioner's office is a bit of a safety net—that they use it when they beat their heads against a brick wall because they cannot get anywhere. I think that the casework function, the policy function and the participation group work pretty closely together as a team of people. My expectation among the whole staff team is that every member of staff will engage with children and young people. So, when I go out on visits to schools or other settings, I will take different staff with me all the time, and we spend a lot of time doing that promotional stuff. So, in terms of levels of awareness, I think that they are probably quite good. However, I have become less concerned about whether children get in touch with us through the casework function. I would be really worried, though, if they did not engage with us on the thematic reviews and the areas of work programme interest.

[232] **Ms E. Thomas:** I think, Bethan, on your specific question on what areas of complaint people have brought to the office, in the report we have identified the percentages in terms of social services, health and education. However, obviously, 29.5% related to areas of youth justice, immigration, housing, family law, environment, child protection, bullying and advice. We will provide you with a note with a breakdown of those cases for your information.

[233] I think that what we have really done over the last two years is generate a very different way of engaging with children and young people. So, through our super ambassadors scheme, we now have over 200 primary schools signed up as ambassador schools across Wales, where two year 6 pupils become ambassadors for the children's commissioner. We have now held webinars in order to make sure that we promote the work of the children's commissioner through our ambassadors scheme. This week, Keith chaired—well, the ambassadors chaired—a webinar in Rhosymedre school in Wrexham, where 21 schools from across Wales all joined in to have a conversation about the issues that were important to them. So, I think that we are continuously striving to find interactive ways that

children and young people can communicate directly with the office and raise issues of concern.

[234] **Bethan Jenkins:** I gario ymlaen yn fras, nid ydym yn gallu gofyn cwestiwn am waddol heb sôn am sut mae eich perthynas chi gyda Llywodraeth Cymru, a sut mae eich perthynas chi gyda ni, fel Cynulliad, a hynny er mwyn sicrhau bod eich gwaith chi yn cael y dylanwad rydych chi ei eisiau. Rydych yn sôn eich bod chi wedi dylanwadu newid, ac rwyf am ddeall a ydych chi, fel swyddfa, wedi bod yn gweiddi yn ddigon uchel ynglŷn â rhai materion o bwys. A ydych chi'n credu, wedyn, bod hynny wedi cael ei glywed, naill ai yn y lle hwn, fel sefydliad, neu gan Lywodraeth Cymru, er mwyn ichi gynghori'r person newydd sy'n dod mewn i'r swydd efallai i newid tactegau rhywfaint ar sut i gyfathrebu neu wella pethau? Os yw'n gweithio'n iawn, bydd dim angen hynny, ond sut wedyn y mae hynny'n gallu digwydd? Er enghraifft, byddai'n neis weithiau inni wybod, os ydych chi'n mynd mas i'n cymuned ni, i ble rydych yn mynd. Nid wyf yn cael y cyfathrebiad hwnnw. Weithiau, gallem fynd mas efo chi a gweld yr hyn rydych yn ei wneud, yn hytrach na bod ni'n gorfod bod yn rhagweithiol pan fydd ysgolion yn cau ac yn y blaen. Byddai hyn er mwyn inni gael syniad yn ein pennau o'r hyn rydych yn ei wneud. Rwy'n credu bod hwn efallai wedi bod yn ddiffyg, jest ar lefel bersonol.

Bethan Jenkins: To expand more broadly, we cannot talk about legacy without talking about your relationship with the Welsh Government and your relationship with us, the Assembly, in order to ensure that your work is having the influence that you want. You mentioned that you have influenced change, and I just want to understand whether you, as an office, have been shouting loudly enough about some issues of importance. Do you think that that has been listened to, either by this place, as an institution, or by the Welsh Government, in order that you can advise the next person who comes into the post to perhaps change tactics somewhat on how to communicate or improve things? If it works properly, then that would be unnecessary, but how then could that happen? For example, it would be nice, sometimes, for us to know, if you are going out into our community, where you are going. I do not get that information. Sometimes, we could go out with you and see what you do, rather than us having to be reactive when schools close and so forth. This is so that we can have an idea of what you do. I think that that has been a weakness, just on a personal level.

[235] **Mr Towler:** I think that we have certainly rehearsed this at previous committees too, in terms of our relations. I will deal with the Welsh Government bit and then come back to the Assembly, if that is okay. The relationship with Welsh Government, I would say, in the last 18 months, has been tense and I have been pretty outspoken.

11:30

[236] I am thinking about the progress of the Social Services and Well-being (Wales) Act 2014 and this annual report, saying that I think that the Welsh Government has become a bit complacent in relation to its reputation as an international trailblazer on children's rights. I can discuss why I think that that is the case. I think that the tension is probably a healthy tension. I think that that tension needs to be there between the independent human rights institution and the Government of the day. If the tension did not exist, I think that we should all be a bit worried about that.

[237] However, we have seen some good progress on those things. I have said this before and I will say it again, because I think that it is worth saying: however tense this has been—and it has resulted in Ministers publicly disagreeing with the commissioner, calling into question whether the commissioner's evidence is strong enough, whether I have got something fundamentally wrong, as these have been quite strong issues that we have

debated—the Welsh Government has never interfered with the work programme or, indeed, tried to influence what I would say publicly. I make that point because, in terms of the independent review of the children’s commissioner, I have made a very strong point to Mike Shooter, the independent reviewer, both in the written response and in a meeting with him, that I think the accountability to the First Minister for me as an independent human rights institution is wrong. The accountability should be with this place. That is where the accountability should be. So, I would hope that the review, in strengthening the remit of the third children’s commissioner, will move from Welsh Government and say that the accountability to children and people needs to be here with the National Assembly for Wales.

[238] That then raises questions about the scrutiny responsibilities and the holding-to-account functions that the commissioner has and, indeed, the work of committees of the National Assembly for Wales. I think that we have enjoyed some memorable discussions around this table. In terms of the way in which we present the annual report and all of that, you have been really helpful for us in thinking through how we present things and how we communicate things. For the work that you did on the child and adolescent mental health services inquiry, the work that we were able to do with some of the non-governmental organisations to bring together children and young people to give evidence really enriched—it would be really interesting how you feel about this—the quality of the debate that you were able to have as a committee.

[239] When I think about what I hope the review will do, I hope that the review will absolutely nails the governance and the accountability of the children’s commissioner with a stronger relationship with the National Assembly for Wales. I think that it is important to say that, however tense that relationship has been with the Welsh Government, it has never ever tried to interfere with my functioning as an independent commissioner. But, fundamentally it is just wrong.

[240] If we are to realise the Paris principles that the United Nations set for independent human rights institutions, the next logical step is to make sure that the human rights institution for children is accountable through the Assembly rather than through Welsh Government. I think that is a really positive thing. My criticism of Welsh Government in the annual report about being a bit complacent on children’s rights would go some way—there are other things that it needs to do—if it accepted that recommendation and worked with it. To see that accountability move would be a really good thing.

[241] **Ms E. Thomas:** We, as an office, will take the point around engagement with you as individual Members. After last year’s appearance, we met with individual Members. That offer would certainly be there and we will come back to you and think through how we can constructively create that more proactively with all of you.

[242] **Mr Towler:** What we have always done—and I see no reason why the third commissioner will not do this, whoever that person is—is to have a programme of visits and scheduled things. Some of them are tied into thematic pieces of work that we are doing, if we are conducting reviews; some of them are more general in terms of raising awareness. Like the webinar, I could have picked up the phone to Aled and told him to pop over.

[243] **Bethan Jenkins:** That is fine where it is appropriate, but it would not always be appropriate.

[244] **Mr Towler:** Yes, but those opportunities exist.

[245] **Bethan Jenkins:** It could even be by e-mail saying that you are in the area, like we do with the outreach team, and you could ask whether we would want to come along. We will not always be able to, but it may be interesting if we could.

[246] **Mr Towler:** I think that this works two ways, too. Whenever I am in this building and there are hoards, there must be hundreds of thousands of children and young people parading, sometimes I have thought, ‘Actually, if I just sit out there, I could probably meet hundreds and hundreds of children and young people.’ So, I think that that is a two-way street, really, in terms of what opportunities could exist.

[247] **Ann Jones:** Paul, do you want to ask about the review of the role?

[248] **Paul Davies:** Yes, thanks, Chair. You have already touched on the review in terms of the role and functions of the children’s commissioner. I know that you have said before that you want to see the role strengthened, and I think that you have made it clear today that you want to see it be much more accountable to this place. How else would you want to see it strengthened?

[249] **Mr Towler:** The first point—and I have made this point to Mike Shooter, having talked about this for some time—is that the legislative framework for the children’s commissioner is really cumbersome and definitely of its time. It is completely out of date and does not recognise how Wales and democracy have progressed. So, when the legislation was drafted, we did not have an executive Government and a separate National Assembly for Wales. I know that these are obvious points, but the legislative framework really needs sorting out, and I think that that is absolutely clear.

[250] The accountability to the National Assembly for Wales, I think, is really important. I think that the remit should be extended to all matters that affect children and young people, and to make that in line with the recommendations that Dunford made around England commissioner. When Dunford looked at England and came and met with us in Wales and with the commissioners in Scotland and Northern Ireland, I think that he reached the conclusion that there was no reason why an independent human rights institution could not deal with or have power and remit over any matter that affected a child normally resident in Wales. So, that would extend the remit to issues around asylum, to youth justice—things that we have debated here previously—and to all aspects of child poverty. I do not think that the current legislative framework in relation to the UK serves children and young people well. The powers and responsibilities of commissioners across the UK are slightly varied. There is the appointment of a new England commissioner, and we are seeing strengthening of powers for the Scotland commissioner. I would say that the four commissioners of the UK work really well together as individuals. We are about to see a big change in the personalities, because it is not just Wales that will have a fresh face—Wales, England and Northern Ireland will have new commissioners in the next two months, so that is quite a big issue. Youth justice and asylum are pretty obvious remit issues, and, although we work really well together as four commissioners, it just does not serve children and young people well.

[251] Again, we have made very strong recommendations to Mike Shooter. I would like to see the consolidation and updating of existing legislation in a new children and young people’s Bill, and I would like the strengthened remit for the children’s commissioner to be absolutely a part of that. One of the things that I think we need to look at is the power and the status of recommendations that come from the children’s commissioner. Eleri mentioned, in response to an earlier question, that the office spends a lot of time, every time that I publish a review or report, or that Peter Clarke did, in following up all the recommendations that have we ever made. We push, remind, cajole, hold to account and name and shame, and say, ‘We’re unhappy with you, Welsh Government’ or ‘We’re unhappy with you, local authority, because you haven’t done this.’ I think that that raises a question about the status of the recommendations. All I can do is continue to go back and ask those questions about why something has not been implemented. I can ask for responses within timescales, but the responses can be weak. If you look at the frustration that I have had around independent

professional advocacy and the ‘Missing Voices’ report, I would just remind you that I did that initial piece of work four years ago and we are just beginning now to get to the point where, after continual reminding, cajoling, talking and speaking out publicly about it, we are beginning to get somewhere. That is a long road. It makes me think about the status of the recommendations.

[252] **Paul Davies:** When you say that you want to extend your remit, would that, therefore, include such things as proposals to close a school in a particular area. Should you have some sort of statutory responsibilities in that sort of example?

[253] **Mr Towler:** If we get down to that level of detail, we seriously need to think about the resource implications for the team. If we just looked at the casework that we mentioned at the beginning of this discussion in terms of cuts to services, in this current climate we would probably be doing nothing else, given the existing resource. So, the question that we would have to ask ourselves is: do we increase the resource to meet that? Or do we actually ask: is that an appropriate use of the independent human rights institutions? I think that it is quite a complex one that we really need to work our way through. It raises quite a big and significant issue that the original legislation for the Children’s Commissioner for Wales steered well away from, which is that I have an inability to interfere in funding or financial decision-making in much the same way as I cannot challenge the decision of a court. Both of those, in their own way, are quite sensible things to have concluded.

[254] In terms of the challenge in relation to funding decisions, that would be quite a complex one. What we do at the moment, just so that we are absolutely clear about this, is that with all local authorities, with the school closures, the playing fields and those things that come our way, we spend a fair amount of time already on the cases that we are talking about, saying, ‘You really must consult with children and young people. This is the way that you should do it’. Sometimes, we provide direct assistance about how they should do it. We will meet with children and young people who feel that they are not being consulted. We will work with the local authorities to say, ‘You’ve really let yourself down here because you’re not consulting with children and young people. This is tokenistic; it is patronising and you are just winding everything up’. Whether it would be sensible to give the commissioner review powers over funding decisions, I think, is a really big call. I would honestly say that I am personally undecided about whether that would be a good thing or not.

[255] **Paul Davies:** Coming back to this review, are you confident that this review will actually deliver the necessary changes?

[256] **Mr Towler:** I guess that I am the wrong person to ask, but what I would say on that is that we have had very positive engagement with Mike Shooter and the review team. I have personally had a couple of meetings with him. We have submitted written evidence—everything that he has asked for in terms of stuff we have supplied as an office. He has met with every member of the management team, and he has offered meetings with the staff team. It has been a very good engagement from the review team. So, we are fully engaged with the review. I was really pleased that the review is happening. I think that the timing is less than great in terms of the appointment process, but I am really pleased with the review. I am meeting with Mike Shooter this week. He tells me that he is on track, or on course, to publish the review. I know that there will be recommendations for the Welsh Government. There is likely to be recommendations for the children’s commissioner. So, I am optimistic.

[257] In terms of the discussions that I have had with people who have also submitted evidence to review, I think that there is overwhelming support for the accountability to be moved from the Welsh Government to the National Assembly for Wales. I am optimistic that the review will have the strength to make the right recommendations.

[258] **Ms E. Thomas:** We need to ensure that the review concludes within the original remit—so, very much focusing around the accountability and governance mechanisms. The review has extended its remit to look at effectiveness of impact, which I think is very helpful in terms of having an independent look on the office. We need the conclusion to be very much focused on the accountability and governance questions, and to ensure—and this is where I think that your role comes in—that there is a legislative vehicle to actually take forward the outcomes and recommendations. Unless we have the legislative vehicle, the review will have helped to inform a position. However, in order to achieve the change that the office needs and the role of the commissioner will require, it will require a change in legislation.

[259] **Mr Towler:** It is also worth adding that the auditor general has committed to a piece of work looking at, in terms of best value, the children's commissioner, the older person's commissioner, the Welsh language commissioner and, indeed, the public services ombudsman. The four of us, individually, are very happy and up for that review, and we are beginning to do some work on thinking through how we can exercise even better management of our own resources.

11:45

[260] So, I think that Eleri's point is absolutely right, and we need the review to focus on legislation and remit, and we know that the auditor general will be doing a further piece of work looking at commissioners more broadly. I think it is really important, when you think about the future generations commissioner and the sustainable development work that is going on, that we actually have something, in terms of public engagement and understanding, that has some consistency around the functions of independent organisations like commissioners and ombudsmen.

[261] **Ann Jones:** We have about a quarter of an hour left. I will extend it slightly, but that is not an invitation to everybody to wax lyrical. Lynne has a couple of questions on the overarching approach to children's and young people's policy by the Government, and then I want to go into some policy-specific areas, which I know that Aled, Suzy, Lynne and John have some issues on.

[262] **Lynne Neagle:** I have two questions in terms of the Welsh Government's overarching approach. You have welcomed the introduction of child rights impact assessments as a positive step, but you have raised a number of concerns about the whole CRIA process and in particular the fact that it is quite difficult sometimes to get to see them. This is something that this committee has been concerned about—the need for all of these CRIAs to be published. Your report says that you were concerned that they should be made public from 2014-15. So, can you give us an update? Are they now routinely being made public? On the other issue—should I ask the two at the same time?

[263] **Ann Jones:** You can do, yes.

[264] **Lynne Neagle:** The other issue is in relation to the children's voice. Obviously, we are losing Funky Dragon, and it is far from clear what the arrangements are going to be for having that kind of national voice to feed into Welsh Government from here on in with the new Children in Wales money. I just wondered whether you could say something about that and how satisfied you are that the Welsh Government is going to be effectively listening to children.

[265] **Mr Towler:** To deal with the CRIA thing first, it has been a bit of a struggle to get some of the CRIAs public, and I am a bit concerned about a communication we received recently from Welsh Government about—I forget the right terminology—single integrated

assessments—

[266] **Ms E. Thomas:** Impact assessments.

[267] **Mr Towler:** —impact assessments, and the idea that single integrated impact assessments, which have a more people-generic focus, can be seen as Ministers exercising due regard to the UN convention on the rights of the child. That really worries me, and I think that it is worth reflecting on this in this twenty-fifth anniversary year of the UN convention on the rights of the child. The reason we have the convention is that the UN recognised that children and young people did not have political, social or economic rights. Our equalities legislation in the UK gives children no status whatsoever, and my expectation of due regard would be that child rights impact assessments have to be conducted by Welsh Ministers to evidence that they are having regard to the UN convention on the rights of the child. Having said that, I think that the quality of some of those child rights impact assessments has been very inconsistent. There have been some very good ones, and we are very happy to share thoughts on the good ones. However, I do not think that an impact assessment that just tells me that, ‘This is the policy change and these are the articles in the convention that apply’ is an assessment. It is not an assessment. It does not do the basic things that the assessment needs to do—does this policy change make any impact on a child’s life; will it enhance a right and entitlement; will it take away a right and entitlement, or, is the right and entitlement not affected? That is what the impact assessment should be telling us.

[268] In terms of transparency and whether they are always published, I do not know that they are all published. I still struggle to get hold of them. I hear from the Minister for Communities and Tackling Poverty that there is a commitment towards making that a reality, but, at the moment, it is still struggle.

[269] On the national participation structures, I think that it is really important for me to say—and I want to place this on record actually—that I think that we need some public recognition of the achievements of the children and young people in Funky Dragon over the last 12 years. It is quite a remarkable piece of work, and I was really disappointed when Funky Dragon lost its funding, and it takes us back, I think, to the question about funding decisions and the impact that the commissioner can make. I very quickly initiated meetings with Ministers about the funding decision. I met, at that time, with both Jeff Cuthbert and Vaughan Gething; they both wanted to meet. I was very clear that I was not challenging the funding decision, but I wanted to know what the national participation mechanism for children and young people will be.

[270] You will know that, within that grant programme, Children in Wales has been funded to do a project piece of work. I wrote to Children in Wales and the people who were listed as partners in that bid. Children in Wales told me very clearly that it was not replicating that, and that that bid was not about being a national participation mechanism. I have subsequently met now with Lesley Griffiths. I am seeking a meeting with Rosemary Butler. I know that the young people involved in Funky Dragon have been in front of the Petitions Committee and have made their position known that they want a say in what happens thereafter. So, we are pursuing this with some real vigour. We do not have, at the moment, a national participation mechanism for children and young people.

[271] Next year, the UN committee will commence the pre-sessional examination of the UK state party. The UK state party report is already in, so the Welsh Government’s response is already in. The commissioners and non-governmental organisations will be writing their reports. If we were writing it right now, it would not look very good for Wales. That is the issue, I think, that we need to really get to grips with. It would be really embarrassing, I think—I know it will not be me—to go to Geneva next year and to not have a national participation mechanism for children and young people in place. That would be almost

unbelievable, given the huge impact that Funky Dragon made at an international level in the last reporting process. Without doubt, the recommendations, or the concluding observations that flowed from the last reporting round were in no small measure due to the group of young people from Wales who went out there and spoke with such passion about what their Governments needed to do.

[272] **Ann Jones:** Does anyone have a specific policy issue? Aled, do you want to do yours on children and young people?

[273] **Aled Roberts:** Mae'r gwaith adeiladu ar gyfer un o'r carchardai mwyaf Ewrop yn mynd rhagddo yng ngogledd Cymru. Mae eich adroddiad yn sôn am raglenni blaengar ar gyfer cefnogi plant troseddwy'r ar ran Llywodraeth Cymru. A fydddech yn gallu ymhelaethu ar pam rydych yn meddwl eu bod yn rhaglenni blaengar?

Aled Roberts: The building work for one of the largest prisons in Europe is under way in north Wales. Your report mentions innovative programmes for supporting the children of offenders on behalf of the Welsh Government. Could you expand on why you think these are innovative programmes?

[274] **Mr Towler:** I am referring to work that goes on in Parc prison. What struck me about the children of offenders, like other children, I suppose, in terms of the level of support that they need, is that there is a real vulnerability around the educational and social care support for the children of offenders. There is some really brilliant work that goes on in Parc prison. It has a fantastic programme that all kinds of issues are run through. It is very much centred on the child's needs and the child's understanding of what is happening to the family situation and what the support needs are. Without doubt, in terms of talking to some of the fathers in Parc prison in relation to that piece of work, it has a massive impact on them thinking through their own responsibilities as parents who find themselves in this situation.

[275] I pay tribute to the work that Barnardo's has done. I met with the chief executive of Barnardo's recently around its work on the children of offenders. It has launched resources for schools and I think that it is really important to start thinking through how primary schools and secondary schools can support and identify when a member of a family goes into prison. There are particular support needs that those children have when they are coping with that kind of loss and that kind of lack of understanding.

[276] For the children I have met who have been on the receiving end of these services, it all kind of falls into place. They can begin to see—. The idea of 'my dad' or 'my mum' being in prison is a horrifying thought, and there is really good work that encourages children to go into somewhere like a prison. It is worth taking a look at Parc, particularly thinking about the new building in north Wales, because the provision—the crèche, the nursery provision and the paintings on the walls, all of the things that if you did not know that you had just walked through a locked gate with big bars all around you, you would be proud to think that that children's resource area was in our library, or in our youth club. So, there is real benefit, in terms of the north Wales provision, to really think through children as visitors to that establishment.

[277] **Aled Roberts:** Rydym wedi cael cyflwyniad fel Aelodau Cynulliad ynglŷn â'r rhaglen yng ngharchar Parc ac rwy'n cytuno ei bod yn dda iawn. Fodd bynnag, mae gwahaniaeth rhwng dweud bod carchar sy'n cael ei redeg gan gwmni preifat wedi mabwysiadu cynllun a dweud bod rhaglenni blaengar o ran Llywodraeth Cymru. Nid oedd tystiolaeth bod y fath drefniadau ar gael yng

Aled Roberts: As Assembly Members, we have had a presentation on the Parc prison program and I agree that it is very good. However, there is a difference between saying that a prison run by a private company has adopted a particular scheme and saying that there the Welsh Government has innovative programmes. There was no evidence of such arrangements at Cardiff

ngharchar Caerdydd. Rydych wedi sôn am anghysondeb o ran cynghorau lleol, ond sut y dylai Llywodraeth Cymru sicrhau bod plant pob troseddwr sy'n cael ei garcharu yng Nghymru yn cael yr un fath o ddarpariaeth â'r hyn sydd ar gael yng ngharchar Parc? prison. You mentioned inconsistencies in terms of local councils, but how should the Welsh Government ensure that the children of all offenders in Welsh prisons get the same kind of provision as is available in Parc prison?

[278] **Mr Towler:** We have talked about the geographical targeting in Families First, integrated family work, teams around the child and all of that kind of work. There has to be a sense of which—. I think it happened in Parc and you are right to talk about the issue of private and public engagement on this, but my understanding was that there was a real reaching out to make that happen. You have to really put some leg work in here. I think it comes back to the point around leadership in relation to children's rights. So, what I would expect Welsh Government to do is to be absolutely clear how local authorities, health providers and others should be working with private sector prisons to deliver a rights-based practice.

[279] **Aled Roberts:** Well imi symud ymlaen, neu bydd y Cadeirydd — **Aled Roberts:** Perhaps I should move on, or the Chair—

[280] **Ann Jones:** Hang on, because David has a quick supplementary question—and it is quick—to that point.

[281] **David Rees:** Clearly, there are no female prisons in Wales, so mothers would be located elsewhere. Are you able to interact with prisons outside of Wales? What type of support would work with those prisons, because the female element, clearly, is a critical part of this?

[282] **Mr Towler:** Yes, it goes back to the question about the remit of the commissioner. We have picked up bits of casework and we have done policy work in what we would describe as a non-devolved area. So, thinking about the north Wales position and about young people sentenced to custody who go outside of north Wales, with both Hindley and Stoke Heath, I think that we were quite instrumental in helping them to realise what their education offer needed to be. So, I am able to go to work in prisons outside, but actually, it is a real stretch of the remit. What I would say is that, whenever we have made an approach to a governor in a prison, they have never stopped me from visiting them; in fact, they have always genuinely welcomed the interest.

[283] However, strictly speaking, and going back to the question about what we would hope that the review would do, we would need to be absolutely clear that this is within the remit of the Children's Commissioner for Wales.

[284] **David Rees:** Have you been to women's prisons?

[285] **Mr Towler:** Not as commissioner.

[286] **Ann Jones:** Could we move on? I think that we have covered the prison stuff and Aled has quite a few more questions around young people.

[287] **Aled Roberts:** Wrth sôn am gyfiawnder ieuenctid, mae Llywodraeth y Deyrnas Gyfunol yn sôn am golegau diogel ar gyfer troseddwr ifanc o Gymru a Lloegr. A rydych wedi cael unrhyw fath o drafodaethau efo Llywodraeth Llundain **Aled Roberts:** Talking of youth justice, the UK Government is talking about establishing secure colleges for young offenders from England and Wales. Have you had any kind of negotiations with the Government in London on your stance on the creation of

ynghlŷn â'ch agwedd chi tuag at greu colegau secure colleges?
diogel?

[288] **Mr Towler:** No I have not, although, yesterday, I met with Leighton Andrews to ask him about the delivery plan against the youth justice strategy in Wales. He has undertaken to get back to me on that. I have regular meetings with the Youth Justice Board for England and Wales, but I have not taken things on in relation to secure colleges.

[289] **Aled Roberts:** A gaf symud ymlaen at rai materion ynghylch plant sy'n gadael gofal? Rwy'n cymryd eich bod yn ymwneud â rhai o'r grwpiau dan Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014. Sut ydych yn teimlo am ymestyn y ddarpariaeth hyd at 21 oed o dan y Ddeddf honno? Sut mae'r trafodaethau'n mynd? Roedd lot o'r manylion yn dibynnu ar reoliadau o dan y Ddeddf, yn hytrach na chael eu cynnwys o fewn y Ddeddf ei hun.

Aled Roberts: May I move on to some issues around children leaving care? I assume that you deal with some of the groups under the Social Services and Well-being (Wales) Act 2014. How do you feel about extending provision to 21 years of age under this Act? How are those discussions going? Much of the detail was dependent upon regulation under the Act, rather than being included in the Act itself.

12:00

[290] **Ms E. Thomas:** As you are aware, Aled, the commissioner was very clear in the scrutiny of the Bill and the development of the Act about the need to ensure that children were very visible in relation to social services, but the detail was very much not present when we were going through the scrutiny processes. We are members of a number of the technical groups, and we continue, as the regulation and guidance are now being consulted on, to want to ensure that children and young people do feature. So, are we confident at this point? I think that it too early to say. We are very much trying to influence, making sure that children have the status and priority in those discussions. The detail around eligibility for children and young people in relation to making sure that the provisions that were under the Children Act 1989 and the Children Act 2004 are held within the new implementation of the social services Act will be the crux. We would want to be saying that there is an opportunity to influence and to make sure, collectively, that the regulation and guidance do achieve parity with the previous landscape for children and young people. I think that we have some concerns in relation to some of the discussions in some of those technical groups about being very adult-focused. There are issues around passports for vulnerable children and entitlements for vulnerable children, and making sure that assessments are transparent and that children are able to access those is absolutely critical. So, I think that there is a collective onus on us, as this is a critical time. The next year will be critical in making sure that those commitments that were given by Welsh Government in the development of the Act for children and young people, in terms of safeguarding, run absolutely true.

[291] We are equally helping to influence the When I'm Ready scheme—I know that, again, it is an area of interest for the committee—in terms of young people leaving care and making sure that young people are able to stay in foster placements. Those are all elements that are currently in the process of being firmed up, and we need to keep a very close watching brief, collectively.

[292] **Mr Towler:** May I just add to that? I think that we are about to see—or we now have—the first tranche of consultation on the social services and well-being Act, and we are going to see, through the course of next year, leading up to implementation of the Act in April 2016, a massive swathe of work. Members of the policy team, who will be watching this session now, are sharpening their pencils, and I will give you an absolute undertaking that, in terms of the work that they will do as a team, we will be going through this with a fine-

toothed comb. We might be at risk of sounding a bit like a stuck record, but what would be really good to work with the committee on is being absolutely clear that all regulations and guidance are critically outlining what children and young people can expect through various parts of this Act. It is going to be a massive piece of work next year for the commissioner's office.

[293] **Aled Roberts:** A oes gennych unrhyw sylw ar adroddiad Gweithredu dros Blant, a gafodd ei gyhoeddi ryw bythefnos yn ôl ac a oedd yn dweud nad ydym yn deall yn union y sefyllfa ynglŷn â phlant sy'n gadael gofal, gan fod y data sy'n cael eu casglu gan gynghorau yn wahanol iawn i'r data sydd ar gael yn Lloegr, gan na fesurir plant sy'n mynd yn ôl i'w teuluoedd ar ôl tri mis? Sut mae'r grwpiau technegol hyn yn ymwneud â rhai o'r problemau hyn os nad yw hyd yn oed y data yr ydym yn eu casglu ar lefel cynghorau lleol—. Rwy'n deall nad yw Llywodraeth Cymru'n casglu data ar lefel genedlaethol. Sut mae hynny'n gweithio?

Aled Roberts: Do you have any comment on the Action for Children report, published around a fortnight ago, saying that we do not know in detail about the situation in terms of children leaving care because the data gathered by councils are very different from the data available in England, as those children who return to their families after three months are not counted? How are these technical groups actually dealing with some of these problems if even the data that we gather at the local council level—. I understand that Welsh Government does not gather data at a national level. How does that work?

[294] **Mr Towler:** Action for Children is right to raise it. We share that concern, and I think that quite a lot of the work that we did around the planing document and the work on young people leaving care, and the discrepancy in terms of the quality of the offer that those young people got, alarmed us. The technical groups, we are clear—in terms of what senior officials are telling us and what Ministers are telling us—will deal with this level of detail. However, at the moment, it is really hard to give you a clear indication of what that would look like.

[295] **Ms E. Thomas:** I think that the other aspect—perhaps we can reflect on our collective experience of working with you on mental health—is that maybe this year is the opportunity to get the voice of looked after-children very critically looking at what the changes are. That may be an undertaking for us as an office. As Keith says, we bring looked-after children together—and care leavers—annually, and we have some very strong messages from them. However, there may be an opportunity for the office to make sure that those officials and Ministers who are taking forward these regulation and guidance discussions actually engage with children and young people.

[296] **Mr Towler:** Maybe you should come.

[297] **Aled Roberts:** Okay; point made. [*Laughter.*]

[298] **Bethan Jenkins:** I have opened a can of worms.

[299] **Mr Towler:** You have; it is an open invitation.

[300] **Ann Jones:** Are you happy with that?

[301] **Aled Roberts:** Yes, I am fine.

[302] **Ann Jones:** On advocacy, we have Suzy.

[303] **Suzy Davies:** I have two questions on this; there is a perfect segue here on this. We have all heard about your frustration on the slow progress with the Government's dealings on requirements for advocacy. I heard your very interesting remarks on the status of your

recommendations, but clearly the length of time it has taken to get advocacy on the face of the Bill means that there are other barriers to progress on this. It would be helpful for us to know whether there is resistance or indifference within certain parts of Government that you need to offer advice upon to your successor, because we are coming into a regulation period and we do not really want them facing the same process. What sort of advice will you be giving to your successor to help them to avoid the barriers that you have faced in restricting the timing as well as the content of the regulations?

[304] Secondly, bearing in mind your enthusiasm for independent advocacy in particular, what kind of work has your office been doing to build capacity during this period? You mentioned earlier that you had been having positive conversations, but I do not know with whom. It should not just be with local authorities. Who else are you talking to about independent advocacy?

[305] **Mr Towler:** Okay, shall we start with the independent advocacy? You will see very shortly a real breakthrough in relation to this. On the people we have been talking to, including this week, everybody I am about to list says that the evidence and the case for change are well made, and we now need to deal with this. That includes the Welsh Local Government Association, the Association of Directors of Social Services Cymru, Welsh Government and the children's commissioner's office.

[306] If you remember when I published one of my follow-up reports to 'Missing Voices: Right to be Heard', initially there was quite a negative response from Welsh Government in the media release, which was followed by a more positive letter from the then Deputy Minister, Gwenda Thomas. I had a concern that two Ministers had a responsibility for advocacy, in terms of universal and independent advocacy. At that meeting this week, I was told there will be one Minister overseeing advocacy. That is a fantastic achievement, and I congratulate Welsh Government for making the right call on that. So, we will see a breakthrough and I think we will see some speed and recognition that we need to do something quite quickly in terms of the provision of independent professional advocacy.

[307] The people I have not mentioned in that group are the providers, and the providers group themselves. Although they were not part of that meeting, they will be invited pretty shortly to take a look at outlines about how this can be taken forward. In other words, those organisations that will form part of a delivery group will produce something that they will share with providers and work through how we can deliver a consistent, national approach to the delivery of independent professional advocacy.

[308] You are right; it has been really frustrating. It has taken nearly four years. All of the work that we have done publicly and behind the scenes has got us to this point, but it has been quite a frustrating period. It goes back to my earlier comment about the status of the recommendations of the children's commissioner.

[309] What I would say to my successor is, 'Have hope in your heart. Be absolutely consistent and be like a dog at a bone on any issue that you want to take forward. There will be times when you will be exposed and maybe a bit out on your own, but you have to continue to battle away at those things. Take nothing for granted. Don't get carried away with the status of the children's commissioner, because actually you really need to work hard to make those things a reality'.

[310] All the way along with all of this, we have been working really closely with children and young people in the looked-after system who rely on good advocacy services. So, all of that reliance and all of that steadfastness about making sure that this happens, happens because of the close working relationship that the commissioner has with those particular children and young people, and that has driven me on to continue to do that work. So, the

other piece of advice is: 'Whatever the Ministers are saying, whatever Welsh Government is saying, you have to focus on whether young people are telling you that there is any difference in their lives'. If they continue to tell you that it is not happening, then that is who you listen to the most. So, those are the bits of advice.

[311] **Suzy Davies:** Will you also be asking them perhaps to work a bit more closely with Assembly Members to fire the bullets for you on those subjects where we perhaps agree?

[312] **Mr Towler:** Absolutely, and it goes back to the discussion that Bethan provoked about the remit for a children's commissioner, its relationship with this committee and other Assembly Member committees too.

[313] **Ann Jones:** Okay. Lynne and then John, and then I think that will be it.

[314] **Lynne Neagle:** I have a few points. I want to go back to the Social Services and Well-being (Wales) Act 2014. You have been very consistent in expressing concerns about the people-focused nature of the Act. I personally want to see the good features of the Children Act 2004 and everything retained as we take forward this legislation. You said that it is too early to be confident that those issues are going to be taken on board, but you said that there were some early indications of problems in some areas. Can you give the committee a bit more detail on that?

[315] **Ms E. Thomas:** Perhaps we can come back to you with more detail, but certainly I think that it is in relation to children and young people's assessments and thinking through how vulnerable children and young people can actually be passported into the new process and the systems for assessment and eligibility. However, I will get a note back to you and follow that up.

[316] **Lynne Neagle:** Okay; thank you. You have secured an agreement from the Welsh Government that it is going to monitor access to school-based counselling. Is that something that it is going to report formally to you on?

[317] **Mr Towler:** Yes. School-based counselling is a really interesting legacy issue and, again, it comes back to how long sometimes these things take to happen. That recommendation was made by Peter Clarke when he was the children's commissioner. We continue to see that through and we have seen some real success and progress in access to school-based counselling services. However, it goes to illustrate the extent to which you have to work for quite long periods of time to secure these things, but that is good news.

[318] **Lynne Neagle:** On breaks for carers of disabled children, your report says that you are calling on Welsh Government to provide a timely response. The report was published in July. Has it provided a response to the recommendations?

[319] **Mr Towler:** Engagement with officials and Ministers has been really positive on this. They are engaging with us and we are really pleased with their response. In terms of the social services and wellbeing Act, I think that this piece of work is a golden opportunity for the Act to make a real difference to these young people's lives.

[320] **Ms E. Thomas:** What we were looking for very much was the spirit of the Act and why the people model emerged. However, in relation to the recommendations in 'Full Lives', it is about making sure that we design services that are not for children and young people up to 18 and from 18 plus, but, specifically for children and young people with disabilities, that we think about services from the age of 15 to 25 and think through how services can be delivered differently. We have seen as an outcome of the 'Lost After Care' report that what were leaving-care services are now very much seen as multi-agency services, spanning young

people's ages, and I think that we want to see something replicated in that way. We are looking very positively with officials at how to achieve that.

[321] **Lynne Neagle:** Just finally, Ann, the issue of the lack of leisure opportunities and cuts in sports has been a particular issue in my area, not because the council has wanted to cut them, as you have highlighted, but because it had to make a tough choice. Do you think that the Welsh Government is doing enough at a strategic level to militate against the impact of those kinds of changes across Wales?

[322] **Bethan Jenkins:** May I answer that? *[Laughter.]*

[323] **Lynne Neagle:** Do not laugh. *[Laughter.]*

[324] **Mr Towler:** I would say, 'No, you are not doing enough'.

[325] **Ann Jones:** I think we know what Bethan would say. *[Laughter.]*

[326] **Mr Towler:** And I would agree with her. I do not think that it is doing enough and I think that we should take much more seriously the impact on children and young people than we are currently doing. I do not think that it is doing enough. It takes me back to what the annual report is all about. Its key message is: can somebody please tell me what the vision for children and young people is now, what are we all working to, and how seriously committed are we to the UNCRC? These are difficult times, and we all know that these are difficult times, but you only get one childhood; you only get one chance at these things, and it is just not good enough at the moment.

[327] **John Griffiths:** My question is allied to Lynne's, Chair. It is a very serious issue for us in terms of access to play and leisure facilities for young people. We all know about the obesity crisis, health issues, as well as general quality of life and development of abilities and talent.

12:15

[328] I take your response to Lynne in terms of Welsh Government responsibility on this. You wrote to the local authorities in terms of your concerns, but as with many problems, there are many players who could contribute to solutions or progress and necessary work on these matters. For example, the local service boards, the health boards, Sport Wales and sports governing bodies with local authorities, there could be a lot of coming together to understand the impacts of not providing adequate leisure and play facilities. As ever, there could be a bringing together of resource, both in financial and general terms. So, when you look at an issue, as well as writing to the particular organisation and contacting a particular organisation that is making budgetary decisions, do you look at that wider picture and try to bring together some of the key players?

[329] **Mr Towler:** Yes, very much so. You mentioned Sport Wales and a few others. I am really impressed with the approach that those organisations have taken in terms of their engagement with children and young people, recognising that children and young people have got a part to play in helping to design how some of these things can be remedied. So, we always take that approach of trying to have a much broader look at who can assist in these issues.

[330] The other thing that you provoke me to remember is, we talked about the Funky Dragon funding decision, but in relation to play services and play provision, one decision by Welsh Government that looked like it was taking funding away from Play Wales—the national organisation that is supporting the training and development of play workers—has to

be almost overturned subsequently because there is a recognition that you have just shot yourself in the foot by not funding Play Wales to run our support for play service provision. That is where this lack of vision becomes a real stark reality. There is nobody joining up the dots between all those key players and what their contribution is to making sure that children get the best opportunities.

[331] **Ann Jones:** I have got one final question, which is the Chair's indulgence because I know that we have run out of time. You have played a pivotal role in Operation Pallial, and I do not want you to go into Operation Pallial per se because it is just an observation really. I think that it is quite right that you have been there and that you are there to make sure that those things do not happen. Many of those people, who were victims of the historical abuse that led to Operation Pallial, were children of the 1950s and 1960s—and I can declare an interest because I was born in the 1950s—so, they are now older people. Have you had any discussions with the older people's commissioner around supporting—and I know that there is advocacy in place—those who were children? You have just said that you only get one childhood, and many more are now losing their childhoods. Have you had any discussions with the older people's commissioner about supporting those people who have been brave enough to come back and relive some of those awful stories?

[332] **Mr Towler:** On the practical things, they call it the gold command group, namely the strategic co-ordinating group for Operation Pallial, which I have been a part of, and it has worked really well, I think, in terms of supporting those people to get their voices heard. I have been really impressed by the response of the north Wales authorities in relation to the provision of counselling services and support. So, I have updated the older people's commissioner. We have spoken about those things in very general terms. I am about to do a piece of work—it will probably be my last report, apart from the legacy report, of course—talking directly to some victims and witnesses. We have to choose those victims and witnesses very carefully. They have to be people who have been processed through the system, have told their story and are no longer a part of any other investigation. I will talk to them about what the emerging lessons have been for them because I think that one of the things that impressed and motivated me right at the beginning of this, before we knew what the word 'Pallial' was all about, was that those victims who I spoke to, who talked about their own childhood, actually wanted their voices to be heard, so that children today would not suffer the same abuse. I think that that is a really important point and we are doing that piece of work now. I am hoping that we will publish that report in January.

[333] **Ann Jones:** Okay, thank you very much. You can see from the time that we have taken, we have gone well over time, that—

[334] **Mr Towler:** I am sorry.

[335] **Ann Jones:** No, do not be sorry about that; that just shows the interest from the committee in your work. As it is your last appearance before this committee, you know the drill: we will send you a copy of the transcript for you to check for accuracy. Could we just say 'thank you'? You have always been candid, you have always been up front, and, where you think that you are right, you have always stuck to your guns, despite the fact that many of us will have had ways to try to ask you to answer questions that we want the answers to. So, thank you very much for all of that. I know that the work will go on, and we will look forward to your legacy report, which your successor will have to come and answer to. So, be generous on it. You can sit in the public gallery and watch how they perform.

[336] **Mr Towler:** Yes, I will watch.

[337] **Ann Jones:** That will be quite interesting. So, I want to say 'thank you very much'. I am sure that, on behalf of all of those children who know you, they will make their own

tributes to you when the time comes. However, do that last piece of work and do your legacy report, and we will have a look at it. Thanks very much for coming.

[338] **Mr Towler:** Thank you, and thanks for the opportunity over the years to discuss things. It has been robust at times, but it has been enjoyable, and this one has been memorable. So, thank you for that. Diolch.

[339] **Ann Jones:** You are welcome. Thanks very much. We are at the end of the meeting.

12:21

Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd
Motion under Standing Order 17.42 to Resolve to Exclude the Public

[340] **Ann Jones:** We are at the end, but I propose that

under Standing Orders 17.42(vi) and (ix), the committee resolves to exclude the public from the remainder of the meeting and from the next meeting.

[341] Is that okay? I see that it is.

Derbyniwyd y cynnig.
Motion agreed.

[342] The meeting is closed. Thank you very much.

Daeth rhan gyhoeddus y cyfarfod i ben am 12:21.
The public part of the meeting ended at 12:21.