

# Cofnod y Trafodion The Record of Proceedings

[Y Pwyllgor Iechyd a Gofal Cymdeithasol](#)

[The Health and Social Care Committee](#)

07/10/2015

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Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales

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

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

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

Alun Davies	Llafur Labour
John Griffiths	Llafur Labour
Altaf Hussain	Ceidwadwyr Cymreig Welsh Conservatives
Elin Jones	Plaid Cymru The Party of Wales
Darren Millar	Ceidwadwyr Cymreig Welsh Conservatives
Lynne Neagle	Llafur Labour
Gwyn R. Price	Llafur Labour
David Rees	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Lindsay Whittle	Plaid Cymru The Party of Wales
Kirsty Williams	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats

**Eraill yn bresennol**  
**Others in attendance**

Mark Drakeford	Aelod Cynulliad, Llafur, (y Gweinidog Iechyd a Gwasanaethau Cymdeithasol) Assembly Member, Labour (the Minister for Health and Social Services)
Kate Johnson	Cyfreithiwr, Llywodraeth Cymru Lawyer, Welsh Government
David Pritchard	Pennaeth Rheoleiddio a Datblygu'r Gweithlu, Llywodraeth Cymru Head of Regulation and Workforce Development, Welsh Government
Mari Williams	Cyfreithiwr, Llywodraeth Cymru Lawyer, Welsh Government

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

Helen Finlayson	Ail Glerc Second Clerk
Gareth Howells	Cynghorydd Cyfreithiol Legal Adviser
Rhys Morgan	Rheolwr Craffu Scrutiny Manager
Gareth Pembridge	Cynghorydd Cyfreithiol Legal Adviser

*Dechreuodd rhan gyhoeddus y cyfarfod am 09:09.*  
*The public part of the meeting began at 09:09.*

**Cyflwyniad, Ymddiheuriadau a Dirprwyon**  
**Introductions, Apologies and Substitutions**

[1] **David Rees:** Good morning. Can I welcome members of the public and Members to this morning's meeting of the Health and Social Care Committee? Can I remind Members that the meeting is bilingual? If you wish to use the headphones for simultaneous translation from Welsh to English, the translation is on channel 1. The headphones are also available for amplification, but that will be on channel 2. There are no scheduled fire alarms this morning, so, if one does occur, please follow the directions of the ushers. Can I remind Members as well to please turn your mobile phones off or put them to 'silent', as with any other equipment that may interfere with the broadcasting equipment or may make noises? We've not received apologies this morning.

09:10

**Y Bil Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru): Cyfnod 2—**  
**Trafod y Gwelliannau**  
**Regulation and Inspection of Social Care (Wales) Bill: Stage 2—**  
**Consideration of Amendments**

[2] **David Rees:** We now move into the session today where we now consider Stage 2 of the Regulation and Inspection of Social Care (Wales) Bill. We will consider the amendments that have been submitted to that particular

Bill. Can I welcome the Minister, Mark Drakeford, to this morning's meeting?

[3] **The Minister for Health and Social Services (Mark Drakeford):** Thank you.

[4] **David Rees:** Minister, would you like to introduce your officials?

[5] **Mark Drakeford:** Diolch yn fawr. Good morning, Chair. So, I have with me David Pritchard, who has been the person in charge of the Bill overall, and Mari Williams and Kate Johnson, who are lawyers working on the Bill on behalf of the Welsh Government.

[6] **David Rees:** Thank you, Minister. Before we go into the first set of amendments, can I remind Members of a few issues, just to clarify the purpose of the meeting and how we will proceed? The purpose, obviously, is to consider Stage 2 proceedings of the Regulation and Inspection of Social Care (Wales) Bill. In line with the deadline set by the Business Committee, which is 16 October for Stage 2 to be completed, we've allocated this week's meeting and next week's meeting to consider the amendments. If we do not conclude our consideration today, we will continue that next week, on 15 October.

[7] You should all have copies of the Bill in front of you, the marshalled list of amendments and the groupings of the amendments for today's debate. As agreed by the committee on 9 July, the order of consideration will be section 2, Schedule 1, sections 3 to 63, section 1, section 66, Schedule 2, sections 67 to 173, sections 64 to 65, sections 174 to 183, Schedule 3, sections 184 to 188, and the long title. That's the order in which we will do the amendments. They've been grouped to facilitate that debate.

[8] There'll be one debate on each group of amendments, but the order in which amendments will be called and moved for a decision will be dictated by the marshalled list. When determining the groups, particular attention has been given to try to ensure that the disposal of amendments follows as soon as possible after they've been debated, so that we are aware of the issues.

[9] The debate on each group will follow the same structure. I will call the proposer of the lead amendment in the group, who should move the lead amendment, speak to the lead amendment and other amendments in that group. I will then call other Members who wish to speak to the group. I will then call the proposer of the lead amendment to reply to the debate, but in

those groups where the Minister does not have a lead amendment, the Minister will be called as the penultimate speaker in that group.

[10] Following each debate, I will ask the Member who moved the lead amendment to confirm whether they wish to press ahead with the amendment for a decision. If not, the Member may seek the agreement of the committee to withdraw the amendment. If the amendment is not withdrawn, I will put the question on the lead amendment and ask whether any Member objects to the amendment. If no Member objects, it will be deemed agreed. If a Member does object, then we will go to a vote by a show of hands. The vote will be recorded in the minutes, so please, whilst we do the recording, can you make sure that your hands are kept up so that we've got a record of everybody's vote? In accordance with Standing Orders 17.37 and 6.20, if there's a tied vote, as Chair I will exercise a casting vote against the amendment.

[11] I will call on the proposers of other amendments in each group to move the amendments at the appropriate time as we move through the marshalled list. If you do not wish to move an amendment, please make it clear at that time.

[12] For the record, only committee members can move amendments. Therefore, in accordance with the convention agreed by the Business Committee, as Chair I will move the amendments tabled by the Minister. For expediency, I will assume that the Minister wishes me to move the amendment, unless he indicates otherwise—clearly, please. I do not intend to use the words 'formally moved' each time. Please, therefore, when I ask the question if a Member objects, please take it that I actually am formally moving the amendment on behalf of the Minister.

[13] As requested by Members, we have looked at whether there any to be taken en bloc. There are a couple of opportunities and we will do those as we progress through the marshalled list.

[14] As usual, advisers to the committee or Ministers are not expected to provide advice on the record. If Members wish to seek legal advice—and we have our legal advisers with us to my left—please do so by either passing a note to the relevant adviser or by asking me for an adjournment to have a discussion on the legal advice. Are Members clear? Is everybody happy? In that case, we will proceed. On with our amendments.



09:15

**Grŵp 1: Ystyr 'Gwasanaeth Rheoleiddiedig' (Gwelliannau 126, 127, 128, 156, 157 a 158)**

**Group 1: Meaning of 'Regulated Services' (Amendments 126, 127, 128, 156, 157 and 158)**

[15] **David Rees:** Group 1 of the amendments is relating to regulated services. The lead amendment in this group is amendment 126. I call on Lindsay Whittle to move amendment 126 and to speak to that amendment and other amendments in this group. Lindsay.

*Cynigiwyd gwelliant 126 (Lindsay Whittle).*

*Amendment 126 (Lindsay Whittle) moved.*

[16] **Lindsay Whittle:** Thank you, Mr Chairman. I formally move amendment 126 and all of the other amendments in group 1 that are tabled in my name. Can I, at the very start of the proceedings, please place on record my most sincere thanks to the legal team, who are sitting around you, for all of their exceptionally hard work and excellent advice in helping me formulate these amendments? I felt that was important to say.

[17] Amendment 126 is all about advocacy and, basically, we want to add advocacy services to the list of regulated services. This service was actually included in the Social Services and Well-being (Wales) Bill and, I believe, should be included in this Bill. It is a vital service for many people who, at times, will need an independent person or organisation to represent their needs and interests.

[18] I think there's also a need to add 'a preventative and enablement service', as such services will assist in helping to maintain people in their own homes, so they too must be subject to regulation and inspection.

[19] Can I briefly talk on 158, although I believe my colleague may also wish to join in that debate, about extra-care services, which are important to specify on the face of the Bill because they play an important role in social care? These are homes where people live, even if the people living in them are supported to live independently, and, as such, it's equally important that providers of extra-care services fall under this regulation, Chair. I so move, thank you.

[20] **David Rees:** Thank you, Lindsay. Are there any other Members who wish to speak on this group of amendments? Elin.

[21] **Elin Jones:** Dim ond i siarad yn benodol ar welliant 128, sef i gynnwys gwasanaethau gofal ychwanegol—*extra care*—yn y rhestr o wasanaethau rheoleiddiedig. Efallai bydd y Gweinidog yn cofio fy mod i wedi codi'r materion yma yn y pwyllgor yma dros gyfnod gweddol o hir erbyn hyn, yn deillio o'm profiad i o weld gwasanaethau pwysig fel rhai gofal ychwanegol yn datblygu yn f'etholaeth i. Roedd pobl a oedd yn cymryd lan y gwasanaethau hynny, ar y cychwyn, wedi cael tipyn o sioc i ystyried nad ydyn nhw'n dod o dan y gwasanaethau rheoleiddio, a rheoleiddio o ran gofal cymdeithasol, ond, yn hytrach, eu bod yn dod o dan y gyfundrefn rheoleiddio tai. Wrth inni weld y math yma o fodel yn datblygu ymhellach—rwy'n siŵr y bydd e gan fod yna gyfeiriad polisi i wneud hynny—rwy'n credu bod angen i'r gwasanaethau gofal ychwanegol yma gael eu cynnwys o dan ystod y teulu sydd yn cael ei reoleiddio yn y maes yma—maes gofal yn benodol. Mae pobl sydd ag anghenion a phobl fregus hefyd yn byw yn y sefydliadau yma ac, felly, yn dod yn naturiol, yn fy meddwl i, o dan yr angen i gael eu rheoleiddio o fewn y teulu gofal. Dyna pam rŷm ni, felly, heddi, yn cynnig y gwelliant yma i gynnwys y datblygiadau yma o dan y rhestr sy'n cael ei rheoleiddio yn yr adran yma.

**Elin Jones:** I wanted to speak specifically on amendment 128, to include extra-care services in the list of regulated services. The Minister may recall that I have raised these issues in this committee, and have done so over a lengthy period now. They've emerged from my experience of seeing important services, such as extra-care services, developing in my own constituency. People who took up those services, at the outset, were surprised to learn that they weren't included under the regulated services in terms of social care, but instead came under the housing regulation regime. As we see this kind of model developing further—I'm sure that it will as there is a policy direction to do that—then I do feel that these extra-care services will need to be included under the umbrella of services that are regulated in this area—in the care sector specifically. People who have particular needs and vulnerable people also live within these institutions, and, naturally, to my mind, should be included within the regulatory regime of the care family. That's why we, today, are proposing this amendment to include these developments in the list of regulated services in this section.

[22] **David Rees:** Thank you, Elin. Alun.

[23] **Alun Davies:** Thank you very much. I've got great sympathy with these amendments. When I read these amendments, I was quite surprised to see them. I assumed that the care provided within extra-care facilities was already regulated and would be regulated under the provisions of this Bill. I understand that the regulations provide, or the legislative framework—it's actually a framework—provides, for the services that are provided in extra-care facilities to be regulated in the same way as any other service to be provided, but it is the housing part or element that isn't already regulated through this legislation or through existing legislation. It therefore seems to me that we need to find a response to that issue, and I'm not sure that these amendments provide that response in that way. I think we need to be in a position at some point where there is a regulatory environment that ensures that all aspects of care in life are provided by a service provider that is accountable for the services that they provide. I would ask the Minister whether, looking at these amendments, he would accept that there is a requirement for a level of regulation, whether or not the amendments currently in front of us actually provide that solution.

[24] **David Rees:** Okay. Are there any other Members who wish to speak? No. Then Minister, do you wish to respond?

[25] **Mark Drakeford:** Chair, thank you very much. As this is the first group of amendments, I wonder if I might just very briefly set out some of the general approach that I hope to take during the Stage 2 proceedings. First of all, I should thank you and members of the committee for all the work that was done in Stage 1, and the report that the committee provided.

[26] Government amendments that will come in front of the committee during this morning fall, I believe, into one of three broad categories. There are a small number of very, very technical amendments, simply replacing some textual omissions from the Bill as originally presented. There is a slightly larger group of Government amendments that are just to clarify and strengthen parts of the drafting of the Bill, and then there are a significant number of Government amendments that respond directly to the recommendations made by this committee and by the Constitutional and Legislative Affairs Committee at the end of the Stage 1 proceedings.

[27] I said when the Bill was introduced on the floor of the Assembly back in February that my view is always that the scrutiny process is about

improving the Bill, and that there will always be ways in which the Bill can be improved. I hope that, as the morning goes on, Members will see that there will be some amendments put down by opposition parties where I'll be indicating that the Government will hope to support those amendments today, and there will be other examples where, even though I won't be asking Members to vote in favour of them, I will be making offers of further discussions with a view to seeing what might be done in the final stages of this Bill's passage in front of the Assembly. So, that's the spirit in which I hope that the Government has approached this morning's proceedings.

[28] In exactly that spirit, I'll begin by saying that the Government is happy to accept amendment 126. So, this is the amendment that puts advocacy on the face of the Bill. Now, I've said throughout this Bill's proceedings that advocacy will be a regulated service, and that we would make it a regulated service in the first tranche of regulations that flow from the Bill. I've listened to what Lindsay has said this morning, and what was said by the committee during Stage 1, and I'm happy to put advocacy on the face of the Bill in order to recognise its significance in that way.

[29] Lindsay then offers amendment 156, which is a definition of what is meant by advocacy, and there I'm going to ask Members not to accept that amendment this morning, because I think that there are definitional issues in the way that amendment 156 is drawn up that would lead to some unintended consequences. The amendment defines advocacy as a service that provides assistance to persons for purposes relating to care and support. Arguably, that would mean that solicitors and barristers who provided social care-related advice and representation would have to register under this Bill. Relatives who phone a social services department on behalf of their mother or father could be captured by that definition. A 'friends of' group at a care home could be captured by that definition. So, it's simply a matter of the Government wanting to work with the Member between Stage 2 and Stage 3. I feel confident that we will agree a definition that will do what Lindsay wants to see done and will be acceptable to the Government as well.

[30] In relation to the issue of extra care, of course I've heard the arguments that Elin Jones has made regularly in relation to this Bill. I definitely accept that extra care is a developing area of care and support, and a very important one, but it is important to say that, where extra care includes personal care, then that personal care will be regulated as a domiciliary care service under the regime set up by this Bill. So, where people are receiving care services in extra care, the Bill already captures those

services. People who live in extra care are tenants, so they have rights under housing legislation as well. Elin's question, I think, all along has been: is it possible to capture that person's experience from a regulatory perspective in the round? So, as a result of those questions, I have asked the chief inspector of the Care and Social Services Inspectorate Wales to investigate the position in Wales and to provide advice to me as to whether she thinks that extra care should be placed on the face of the Bill as a regulated service at this point. I don't have that advice as yet, but I know that it's being worked on actively. So, I'm going to ask Members to reject amendments 128 and 158 today so that we can hear the views of the chief inspector. I'll make sure that those views are made known to Members. I think that doing it in this way is consistent with the recommendations that this committee put forward at Stage 1, because those recommendations did not conclude that there should be a recommendation in relation to extra care. So, that's one to keep open, but not to conclude today.

[31] The third area of amendment in this group is the area of preventative and enabling services. There, I feel more strongly that this is not the right moment at which to put preventative services onto the face of the Bill. I'll pause if—

[32] **David Rees:** Kirsty, did you want to intervene?

[33] **Kirsty Williams:** Could the Minister clarify whether the advice from CSSIW will be available before the next stage of proceedings—Stage 3 in the Chamber?

[34] **Mark Drakeford:** I can't be certain that it will be, but we are working with the chief inspector on that, and I would hope that it would be. It would be useful to me and to Members that it should be, but it will depend on how fast she is able to conclude some of the investigations she needs to conclude and how quickly she can formulate that advice. But, as soon as it's available to me, it will be available to Members.

[35] **Alun Davies:** Can I—?

[36] **David Rees:** No, he has answered the question. Minister, continue.

[37] **Mark Drakeford:** Well, I'm dealing with the issue, then, of preventative and enabling services. My reason for not wanting to put those on the face of the Bill at this stage is that I think it is premature. Members will know that

there are regulation-making powers in the Bill to allow services to be added to the list of regulated services at the point where that becomes clear—that the service is in a fit state to be regulated. Preventative and enabling services are new services, particularly emerging from the Social Services and Well-being (Wales) Act 2014. That Act doesn't come into force until 6 April next year. In the way that this amendment is drawn up—. There is nothing in the purposes that I read that I had any objection to at all. They seemed to capture, to me, very well the sort of things that we would like preventative services to achieve, but as drafted they could, I think, capture a youth club talk on drugs, which might be considered as

[38] 'encouraging children not to commit criminal offences';

[39] a church hall organising tea dances could be seen as

[40] 'enabling people to live their lives as independently as possible';

[41] and a council-run yoga class might be considered as

[42] 'delaying the development of people's needs for care and support'.

[43] The net is cast so widely in this amendment that all sorts of things that are not intended to be captured by the regulation and inspection of social care would suddenly find themselves being taken up in that net. I think it's important to allow preventative services to mature and develop. I'm confident that there will come a point at which it could be right through regulations to add them to the list of regulated services, but we're quite a distance from that today. This amendment particularly, I think, is premature.

09:30

[44] **David Rees:** Do you have an intervention on this point?

[45] **Alun Davies:** Can I come in on that? The regulations that will enable you to add additional services—would extra care be an additional service under those regulations? So, if the inspector did not report in time for a subsequent debate here at the National Assembly, then there would still be an opportunity through secondary legislation to add that service.

[46] **Mark Drakeford:** Absolutely.

[47] **David Rees:** Thank you, Minister. Have you finished?

[48] **Mark Drakeford:** I think that concludes my response on this.

[49] **David Rees:** Okay, thank you. I call on Lindsay to reply to the debate.

[50] **Lindsay Whittle:** Thank you, Chair; I'll do my best. Thank you, Minister, for your reply and thank you for accepting the lead amendment 126, which is very important indeed. I accept what you say about amendment 156, and I can accept your argument that it does appear to be perhaps a little bit nebulous—that's a big word for this time of the morning—and so, with the permission of the committee, I will withdraw amendment—

[51] **David Rees:** At this point it hasn't been moved; you just don't have to move it.

[52] **Lindsay Whittle:** All right, okay, well I won't move 156. On 157, Minister, I do perhaps feel you are being slightly overcautious, and I think we would like to pursue amendment 157 and certainly pursue 158.

[53] **David Rees:** And 127 and 128.

[54] **Lindsay Whittle:** Oh, and 127 and 128; sorry, I thought—*[Inaudible.]*

[55] **David Rees:** Okay, thank you, Lindsay. Therefore, I confirm that you wish to proceed to a vote on amendment 126.

[56] **Lindsay Whittle:** Yes, please.

[57] **David Rees:** Okay. Before we move to a vote on amendment 126, I will make Members aware that if it's not agreed, then amendment 156 will automatically fall. The question is that amendment 126 be agreed. Does any Member object? There are no objections, therefore amendment 126 is agreed.

*Derbyniwyd gwelliant 126 yn unol â Rheol Sefydlog 17.34.*

*Amendment 126 agreed in accordance with Standing Order 17.34.*

[58] **David Rees:** Lindsay, would you like to move amendment 127?

*Cynigiwyd gwelliant 127 (Lindsay Whittle).*

*Amendment 127 (Lindsay Whittle) moved.*

[59] **Lindsay Whittle:** I formally move, Chair.

[60] **David Rees:** Again, before we move to a vote on amendment 127, we should be aware that if 127 is not agreed, then amendment 157 will fall. The question is that amendment 127 be agreed to. Does any Member object? [*Objection.*] We have an objection, therefore I'll take a vote by a show of hands. The question is that amendment 127 be agreed. Those in favour, please raise your hands. Thank you. Those against, please raise your hands. Thank you. Therefore, in relation to amendment 127, we actually have a tie, and I use my casting vote in the negative—that's against the amendment—in accordance with Standing Order 6.20(ii). As a consequence, 157 also falls.

*Gwelliant 127: O blaid 5, Yn erbyn 5, Ymatal 0.  
Amendment 127: For 5, Against 5, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Davies, Alun  
Griffiths, John  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).  
As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 127.  
Amendment 127 not agreed.*

[61] **David Rees:** Lindsay, would you like to move amendment 128?

*Cynigiwyd gwelliant 128 (Lindsay Whittle).  
Amendment 128 (Lindsay Whittle) moved.*

[62] **Lindsay Whittle:** I formally move, Chair.

[63] **David Rees:** Thank you. And, again, before we move to amendment



128, you should be aware that if 128 is not agreed, amendment 158 will fall. The question is that amendment 128 be agreed to. Does any Member object? [*Objection.*] We have an objection, therefore I will take a vote by a show of hands. Those in favour of amendment 128, please raise your hands. Those against, please raise your hands. Again, we have a tied vote. I use my casting vote in the negative against the amendment in accordance with Standing Order 6.20(ii). Therefore, amendment 128 is not agreed, and amendment 158 also falls.

*Gwelliant 128: O blaid 5, Yn erbyn 5, Ymatal 0.  
Amendment 128: For 5, Against 5, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Davies, Alun  
Griffiths, John  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).  
As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 128.  
Amendment 128 not agreed.*

[64] **David Rees:** Lindsay, amendment 156—do you wish to move that or not?

[65] **Lindsay Whittle:** I won't move it, Chair. Thank you.

[66] **David Rees:** Does any other Member wish to move 156? No. Okay, then it's not moved.

*Ni chynigiwyd gwelliant 156 (Lindsay Whittle).  
Amendment 156 (Lindsay Whittle) not moved.*

*Methodd gwelliant 157.  
Amendment 157 fell.*

*Methodd gwelliant 158.*  
*Amendment 158 fell.*

[67] **David Rees:** In that case, we've now completed group 1 and we move on to group 2.

**Grŵp 2: Diffiniad a Safonau Gofal a Chymorth (Gwelliannau 129, 1, 2, 109, 43, 110, 111, 44, 45, 46, 47, 48 a 49 )**

**Group 2: Definition and Standards of Care and Support (Amendments 129, 1, 2, 109, 43, 110, 111, 44, 45, 46, 47, 48 and 49)**

[68] **David Rees:** The lead amendment in group 2 on the definition and standards of care and support is amendment 129, and I call on Lindsay Whittle to move amendment 129 and speak to the amendment and other amendments in this group. Lindsay.

*Cynigiwyd gwelliant 129 (Lindsay Whittle).*  
*Amendment 129 (Lindsay Whittle) moved.*

[69] **Lindsay Whittle:** Thank you, Chair. I formally move amendment 129, which is all about additions to the list of needs. I believe it's not just enough to cater for physical and mental needs; a person's spiritual, cultural and wellbeing needs also have to be recognised and provided for. I believe we should ensure a definition of care reflects quality of life. In particular, I think we should value more privacy, dignity, choice, rights, independence and fulfilment. And if we can tackle this, I believe we can reduce the currently unacceptable variation in standards of care across Wales, and focus on the quality of life. I see the Government's amendments are also aimed at expanding this definition, and the Conservative amendments are also designed to include emotional needs as well. So, as all the amendments can achieve the intention to have a wider definition, I believe that we can support all the amendments, but I believe that my amendments are more strongly worded, Chair. I formally move.

[70] **David Rees:** Thank you, Lindsay. Does any other Member wish to speak? Altaf?

[71] **Altaf Hussain:** Amendments 109 and 111 in my name seek to expand the definition of care in section 3 to include a person's emotional needs alongside their physical needs. It is important that the definition of care

includes a reference to a person's quality of care rather than being solely focused on meeting a person's physical needs. The Minister has indicated that he is supportive of the intention behind amendment 109. I am, therefore, happy to withdraw amendment 109 and will work with the Minister to bring forward a suitable amendment at Stage 3.

[72] With amendment 110, we're seeking to explicitly link the definition of wellbeing set out in the Social Services and Well-being (Wales) Act 2014 with the definition of care. This is to ensure that the care promotes the wellbeing of the individual rather than focusing solely on the physical requirements of the body.

[73] **David Rees:** Thank you. Does any other Member wish to speak? If not, I will ask the Minister to speak.

[74] **Mark Drakeford:** Thank you, Chair. Well, I have listened carefully to what's been said and I don't think there is any great difference in objective between the Government's wishes here and what's been said by other Members. Amendments 1 and 2 in my name have been drafted to attempt to do much of what other Members have already said: to bring clarity to the definition of care and support as asked for by stakeholders and by this committee and by providing examples of what is meant by care and support in the context of this Bill.

[75] My amendment 43 is again in response to observations from others, including the committee report, which asked that when inspecting the quality of care the provision should be amended to say that the Welsh Ministers 'must' rather than 'may' make regulations in that area. Amendment 43 does exactly that. It makes it a requirement that regulations made under section 26 of the Bill 'must'—instead of 'may'—include requirements as to the standard of care and support to be provided by a service provider.

[76] The Government amendment 45 responds to recommendation 21 in the committee's report. There the committee said:

[77] 'Given the significance of the regulations to be made under the section, the Committee believes that it would be appropriate for the Welsh Ministers to be required to publish a statement setting out how the consultation outcomes have influenced the regulations made under sections 26(1) and (3).'

[78] Amendment 45 gives effect to the committee's recommendation in that regard. The requirement to consult on regulations about regulated services is already on the face of the Bill. The effect of this amendment is to place a duty on Welsh Ministers to publish a statement about the consultation and to lay a copy of that statement before the National Assembly for Wales.

[79] Government amendments 47 and 48 make minor changes to section 28 of the Bill. Amendment 47 places an obligation on Welsh Ministers to 'publish' as opposed to 'issue' guidance and amendment 48 provides a power to Welsh Ministers to revise the guidance. Amendments 44, 46 and 49 are consequential amendments upon other amendments in this group. I, therefore, ask the committee to support all the amendments put forward by the Government in this group.

[80] If I turn now to amendments tabled by Lindsay Whittle and Altaf Hussain. I'm dealing here with amendment 129 from Lindsay and 109 by Altaf Hussain. I have no difference of view from them in what these amendments are seeking to achieve. I think, as Altaf Hussain has said, there are some drafting issues that we would like to discuss with both Members to see if we could agree a Stage 3 amendment that would draw together both those amendments and provide legal certainty in the way that we think the Bill would be. I'm grateful for what Altaf has already said, about not moving his amendment, to allow those discussions to take place, and I make the same offer, of course, to Lindsay, in relation to amendment 129.

[81] Amendment 110, tabled by Altaf, would place a requirement on Welsh Ministers to require that regulations made under section 26 specify how a service provider should promote the wellbeing of persons cared for. While I have, again, no difference of view in relation to the purpose of that amendment, I believe that that is a matter that is better dealt with through the statutory guidance that will be issued and associated with the standards of care and support to be provided under section 28 of the Bill. I think we will get a better purchase on that issue by putting it into the guidance, which will be closer to the practicalities of how this Bill will be operated, rather than simply on the face of the Bill itself. And, for that reason, I'll be asking Members to oppose amendment 110, and amendment 111, which is consequential upon it.

[82] **David Rees:** Thank you, Minister. Lindsay, do you wish to reply to the debate?

[83] **Lindsay Whittle:** Chair, in view of the Minister's offer to meet further on amendment 129, in particular, I will not be moving that amendment, thank you.

[84] **David Rees:** Okay, thank you, Lindsay. You have already officially moved the motion, so it's now a question of whether you wish to withdraw that—

[85] **Lindsay Whittle:** With the permission of the committee, is it?

[86] **David Rees:** I need that confirmation from Members that they are content for that motion to be withdrawn.

*Tynnwyd gwelliant 129 yn ôl gyda chaniatâd y pwyllgor.  
Amendment 129 withdrawn by leave of the committee.*

[87] **Lindsay Whittle:** Thank you. We'll get there.

[88] **David Rees:** Okay, thank you for that.

*Cynigiwyd gwelliant 1 (Mark Drakeford).  
Amendment 1 (Mark Drakeford) moved.*

[89] **David Rees:** In that case, we move on to amendment 1. The question is that amendment 1 be agreed. Does any Member object? No. Therefore amendment 1 is agreed.

*Derbyniwyd gwelliant 1 yn unol â Rheol Sefydlog 17.34.  
Amendment 1 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 2 (Mark Drakeford).  
Amendment 2 (Mark Drakeford) moved.*

[90] **David Rees:** The question is that amendment 2 be agreed. Does any Member object? 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.*

[91] **David Rees:** Altaf, you indicated that you will not be moving

amendment 109. Can you confirm that?

[92] **Altaf Hussain:** That's correct.

[93] **David Rees:** Does any Member wish to move 109? No. Therefore 109 is not moved.

*Ni chynigiwyd gwelliant 109 (Altaf Hussain).*

*Amendment 109 (Altaf Hussain) not moved.*

**Grŵp 3: Diffiniad o Swyddogaethau Rheoleiddiol Gweinidogion Cymru  
(Gwelliant 3)**

**Group 3: Definition of the Regulatory Functions of the Welsh Ministers  
(Amendment 3)**

[94] **David Rees:** In order with the marshalled list, we move on to group 3, where the definition of the regulatory functions of the Welsh Ministers is considered.

[95] The lead and only amendment in this group is amendment 3, in the name of the Minister. So, I call on the Minister to speak to the amendment.

*Cynigiwyd gwelliant 3 (Mark Drakeford).*

*Amendment 3 (Mark Drakeford) moved.*

[96] **Mark Drakeford:** Thank you, Chair. This is a Government amendment that falls into that definition I provided earlier of an improvement to the drafting of the Bill, and it seeks to correct an unintended limitation in the current draft of the Bill. So, this amendment, amendment 3, seeks to expand the list of regulatory functions that the Welsh Ministers will have for the purposes of this Bill to include the intervention powers which are set out in the 2014 social services Act.

[97] Section 3(1)(b) sets out all the regulatory functions of Welsh Ministers for the purpose of this Bill, and through that, Welsh Ministers are to have powers to review local authorities with regard to the exercise of their social services functions. But, there are further additional powers in the 2014 Act, which are not currently included in the list of regulatory functions in section 3, but they need to be. In particular, the powers of intervention need to be there too. These are powers that follow on from the powers of review that can be used by Welsh Ministers in cases of non-compliance by a local

authority. Powers of intervention are, therefore, part of the regulatory function, and I believe it's right that those powers should be included in the list of regulatory functions for the purposes of this Bill. I ask Members to support this amendment.

[98] **David Rees:** Thank you, Minister. Are there any other Members who wish to speak? There are no other Members. Minister, do you wish to add anything else to that? No. Then, I assume you wish to proceed with amendment 3.

[99] **Mark Drakeford:** Yes.

[100] **David Rees:** Therefore, the question is that amendment 3 be agreed. Does any Member object? There are no objections. Therefore, amendment 3 is agreed.

*Derbyniwyd gwelliant 3 yn unol â Rheol Sefydlog 17.34.*

*Amendment 3 agreed in accordance with Standing Order 17.34.*

**Grŵp 4: Personau Addas a Phriodol mewn perthynas â Gwasanaethau Rheoleiddiedig (Gwelliannau 130, 131, 4, 5, 7A, 7, 136, 139, 140, 14, 141, 24, 25, 26 a 102)**

**Group 4: Fit and Proper Persons in relation to Regulated Services (Amendments 130, 131, 4, 5, 7A, 7, 136, 139, 140, 14, 141, 24, 25, 26 and 102)**

[101] **David Rees:** We move on to the fourth group of amendments, which is in relation to the fit and proper persons in relation to regulated services. The lead amendment in the group is amendment 130, and I call on Lindsay Whittle to move amendment 130 and speak to the amendment and others in this group.

*Cynigiwyd gwelliant 130 (Lindsay Whittle).*

*Amendment 130 (Lindsay Whittle) moved.*

[102] **Lindsay Whittle:** Thank you, Chair. I formally move amendment 130, tabled in my name. It's about service providers, and I do believe that the definition should be extended. Our amendment seeks to widen what a fit and proper person means within the legislation so that we include people with authority to give instructions about how the service is managed, so it includes owners with any executive functions but excludes absentee owners

who have no say. It should also include a person at the service provision—for example, a person who perhaps does have managerial responsibilities. I believe that people should be subject to a fit-and-proper-person test. I think, all too often, we hear of care workers, nurses, managers who are, quite rightly, prosecuted if they fail in their duties of care to the residents that they're looking after, but, often, owners elude prosecution. Well, if you're prepared to take the money, you should take the responsibility, and that is the purpose of my amendment. Thank you.

09:45

[103] **David Rees:** Thank you, Lindsay. Are there any other Members who wish to speak? Altaf.

[104] **Altaf Hussain:** Amendment 7A seeks to strengthen provisions in the Minister's amendment 7 relating to whether a person is fit and proper to provide a regulated service. The purpose of amendment 7A is to ensure that, if a person has previously been involved in misconduct or mismanagement of a regulated service, they are not able to provide a regulated service in the future. However, the Minister has indicated that he is supportive of the intention behind our amendment but that it requires some minor realignment. I am therefore happy to withdraw amendment 7A and to work with the Minister on a suitable amendment at Stage 3.

[105] **David Rees:** Thank you, Altaf. Are there any other Members who wish to speak? No. Minister, do you wish to reply?

[106] **Mark Drakeford:** Thank you, Chair. Government amendment 7 in this group is a significant amendment. It is made in consequence of the Flynn review that we discussed on the floor of the Assembly yesterday and a recommendation made by this committee. The committee's recommendation asked that I review the provisions in the Bill to ensure that there are sufficient protections to prevent unsuitable individuals from providing services in Wales. The Bill has the ability to do that already, but the test of fitness was to be left to regulations. My amendment now seeks to place that test on the face of the Bill. The fitness test means that unsuitable people will not be able to register as providers of social care services or become responsible individuals. In addition, if they do things while they are service providers or responsible individuals that make them unfit, then the regulator can take action to cancel their registration. In other words, this is a continuous power. It doesn't simply happen at the start of a process but is



available thereafter as well.

[107] There are other amendments in this group—4, 5, 14, 24, 25 and 26—which are consequential to the amendment that I have just outlined. I'm grateful to Altaf Hussain for what he said. His amendment 7A seeks to set out some of the evidence that may be considered when a decision regarding fitness is being made by Welsh Ministers. I'm happy to acknowledge that there may be some merit in setting this out on the face of the Bill, but I'm advised that there are some technical deficiencies here, and specifically on the location where that amendment would take effect as currently drafted. I'm grateful for the indication that we can discuss that with a view to bringing something else forward at Stage 3.

[108] So far, when I've asked Members not to support opposition amendments, it's generally been because I have shared their purpose but think there have been some difficulties in the drafting. My understanding, though, of the amendments in the name of Lindsay Whittle, 130, 131, 136, 139 and 140, is that they are, actually, ones I wouldn't wish to support in principle either, because, although I listened to what Lindsay said—and what he said, I think, is entirely consistent with the position the Government is in—we want the fit-and-proper-person test to rest with the organisation and with the responsible individual. That's the purpose of this part of the Bill. It is to recalibrate responsibilities in the sector in the way that the Flynn review recommends. You'll know that Dr Flynn concluded that, far too often, people on the ground were left to shoulder the responsibility and, indeed, the blame, when things went wrong and that owners and people who had board-level responsibilities were able to escape those responsibilities by pointing to people at front-line level. We want the fit-and-proper-person test therefore to fall on people at the responsible individual and board level. My understanding of Lindsay's amendments is that they would reinsert those obligations on the shoulders of managers and people at the front line. I think that would be to muddy the very important distinction that this Bill seeks to bring about by putting responsibilities where they properly lie. For that reason I will ask Members not to support those amendments.

[109] **David Rees:** Thank you, Minister. I call on Lindsay to reply to the debate.

[110] **Lindsay Whittle:** Well, either—with respect—I haven't read it correctly or you haven't read it correctly, Minister, because that is quite the opposite of what I want to achieve. You know, I want to achieve what the Minister just

said, and I was rather hoping that my strongly-worded amendment 130, which, incidentally, is supported by the older people's commissioner, is that we do in fact look for the owners of these homes as well. Just because they are not present on a day-to-day basis—. As I said in my little spiel earlier on, they do have a responsibility. It shouldn't fall to the managers and the care workers and the nurses in the homes. The responsibility should definitely rest with the owners of the homes, as the Flynn report says. That, with respect, is what I thought my amendment 130 was all about. That's why I would like to pursue my amendment 130. As I listened to the Minister, I thought that he was actually supporting me. So, we're not a million miles apart.

[111] **David Rees:** Thank you, Lindsay.

[112] **Elin Jones:** An amendment apart.

[113] **Lindsay Whittle:** Just an amendment apart. Yes.

[114] **David Rees:** I can confirm therefore that you wish to proceed with amendment 130.

[115] **Lindsay Whittle:** Yes, please. Thank you.

[116] **David Rees:** Before we move on amendment 130, I wish to make Members aware that, if amendment 130 is not agreed, amendments 139 and 140 will fall. The question is that amendment 130 be agreed. Does any Member object? [*Objection.*] I have an objection. Therefore, I'll take a vote by a show of hands. Can I ask those Members who are in favour of amendment 130 to please raise your hands? Those Members against, please raise your hands. As there is a tied vote, I use my casting vote in the negative—that's against the amendment—in accordance with Standing Order 6.20. Therefore, amendment 130 is not agreed, and amendments 139 and 140 also fall.

*Gwelliant 130: O blaid 5, Yn erbyn 5, Ymatal 0.  
Amendment 130: For 5, Against 5, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Jones, Elin  
Millar, Darren

Davies, Alun  
Griffiths, John  
Neagle, Lynne

Whittle, Lindsay  
Williams, Kirsty

Price, Gwyn R.  
Rees, David

*Gwrthodwyd gwelliant 130.  
Amendment 130 not agreed.*

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais  
fwrw yn unol â Rheol Sefydlog 6.20(ii).  
As there was an equality of votes, the Chair used his casting vote in  
accordance with Standing Order 6.20(ii).*

*Methodd gwelliannau 139 a 140.  
Amendments 139 and 140 fell.*

[117] **David Rees:** Lindsay, would you like to move amendment 131?

*Cynigiwyd gwelliant 131 (Lindsay Whittle).  
Amendment 131(Lindsay Whittle) moved.*

[118] **Lindsay Whittle:** Formally move, Chair.

[119] **David Rees:** Thank you. The question is that amendment 131 be agreed. Does any Member object? [*Objection.*] I have an objection. Therefore, I'll take a vote by a show of hands. The question is that amendment 131 be agreed. Those in favour, please raise your hands. Thank you. Those against, please raise your hands. Thank you. There is a tied vote, and I use my casting vote in the negative, against the amendment, in accordance with Standing Order 6.20. Therefore, amendment 131 is not agreed.

*Gwelliant 131: O blaid 5, Yn erbyn 5, Ymatal 0.  
Amendment 131: For 5, Against 5, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Davies, Alun  
Griffiths, John  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gwrthodwyd gwelliant 131.  
Amendment 131 not agreed.*

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

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

**Grŵp 5: Ymgymeriad mewn perthynas â Hyd Ymweliadau Gofal Cartref  
(Gwelliannau 132 a 133)**

**Group 5: Undertaking in relation to the Duration of Domiciliary Care Visits  
(Amendments 132 and 133)**

[120] **David Rees:** We will now continue with the amendments on the marshalled list. The next amendment is amendment 132 in group 5. Group 5 is the amendments to be considered in relation to undertakings in relation to the duration of domiciliary care visits. The lead amendment in this group is amendment 132 and I would like to call on Lindsay Whittle to move amendment 132 and speak to the amendments in this group.

*Cynigiwyd gwelliant 132 (Lindsay Whittle, gyda chefnogaeth Kirsty Williams, Altaf Hussain).*

*Amendment 132 (Lindsay Whittle, supported by Kirsty Williams, Altaf Hussain) moved.*

[121] **Lindsay Whittle:** Thank you, Chair. I formally move amendment 132, which is the lead amendment in group 5. This is not the sexiest of Bills, with the greatest of respect, but this amendment is perhaps the most important amendment, I think, that will be before us. It's all about the duration of domiciliary visits. Many Members have spoken in the Chamber and in committee about visits of 15 minutes. That cannot be the norm. A visit should at least be extended to a minimum of 30 minutes unless there are absolutely compelling circumstances where a shorter visit would be in order. Arguments against this perhaps would be—not within this committee, I hope, but from outside—the need for more staff; it will cost more; it's not valid. You cannot put financial implications ahead of safety and proper standards of care.

[122] The new NICE guidance supports this amendment. It shows that care deteriorates if care workers have no time to complete care tasks and, indeed, to be sociable with the people that they're caring for. Sometimes, new carers visiting will have to do extremely personal and intimate care for some of our elderly people. If they don't know those people, at least let's have a few

minutes to talk to those people to gain trust and confidence, and, in 15 minutes, you can't do that. I'm not even sure you can do it in 30, but at least it gives people more time to gain that trust. This, for me, is the most important amendment that we will discuss today and I formally move.

[123] **David Rees:** Thank you, Lindsay. Are there other Members who wish to speak? Kirsty.

[124] **Kirsty Williams:** Thank you, Chair. I particularly want to speak to amendments 132 and 133 around the issue of timings of domiciliary care calls. Members who were members of this committee during the passage of the Social Services and Well-being (Wales) Bill will be aware of the commitments made by the Deputy Minister at that time, that the issue of 15-minute care calls was not appropriate for that piece of legislation to deal with the issue and that the issue would be dealt with in the forthcoming RISC Bill, and the can was kicked firmly down the road. Well, today, we have caught up with the can and it is now time, once and for all, to deal with this issue.

[125] There is much, much anecdotal evidence that suggests that 15-minute care calls are not suitable and not appropriate, with domiciliary care workers often reporting that they have a choice between toileting an individual and preparing a meal for that individual. Even if we think of ourselves, as able bodied people, I suggest it would take longer than 15 minutes for most of us to get up, to wash, to attend to our personal care needs, to dress and to cook and eat a meal. If we can't do that in 15 minutes as able bodied individuals, I would challenge why we think it's appropriate for a domiciliary carer to go into a vulnerable person's home and to do those very same tasks.

[126] As I said, the anecdotal evidence is overwhelming, but perhaps basing law on anecdotal evidence is not sufficient. Therefore, we have to look at different types of evidence and I think that the recent acknowledgement by NICE in their guidance around these issues that stated that 15-minute care calls were not appropriate and should not be routinely commissioned, is something that we need to take due cognisance of. This is an independent body that is set up to provide guidance and advice on how we deliver decent services and they themselves have said that 15-minute care calls are not appropriate.

[127] I know that the Minister is fond of saying that there are certain types of calls, i.e. a medicine check, that can be carried out in 15 minutes, and I believe that the amendments are structured and formed in a way that there is

nothing to prevent a council from commissioning a 15-minute care call if all the requirement of that call is to ensure that an individual has taken medication, or where the 15-minute care call is part of a wider package of care. So, the amendment is written in such a way to allow for those—

[128] **Alun Davies:** Can I—

[129] **Kirsty Williams:** Yes, I'll give way.

[130] **Alun Davies:** So, what you're saying is that there shouldn't be any calls under 30 minutes, unless a call is required to be under 30 minutes.

[131] **Kirsty Williams:** No. What I'm saying is that—

[132] **Alun Davies:** It just doesn't seem to make sense, that's all.

[133] **David Rees:** Can I remind Members, please, that we focus on the amendment?

[134] **Kirsty Williams:** What the amendment says is that calls under 30 minutes should not be commissioned as the norm, unless there are explicit extenuating circumstances. Therefore, there may be a few exceptions where a 15-minute care call allows for those to be undertaken, but, for the vast majority of calls, there is no justification why a call should be under 30 minutes.

[135] This is a simple case of whether you believe people can be treated with dignity, with respect, and with due acknowledgement of their needs, in under 30 minutes. Maybe, Mr Davies, you think that they can. I challenge you to do it; I don't and I know how I'll vote.

[136] **David Rees:** We're not here to challenge Members. We're here to discuss and debate. Lynne is next.

[137] **Lynne Neagle:** I wanted to speak in support of amendment 133. I won't repeat what other Members have said, but I think that we know that lots of committee members, including myself, have expressed concern about the prevalence of these very short calls. It's certainly something that I am seeing in my own constituency and is a cause for concern. I hope that, while this does provide some flexibility, it will send a clear message to the sector that we don't believe that 15-minute calls are appropriate to deliver dignified

and quality care to service users.

[138] **David Rees:** Thank you, Lynne. Darren.

10:00

[139] **Darren Millar:** I have a great deal of sympathy with these amendments too. We will be supporting these amendments. I think it is important that there's a registration, if you like, on the face of the Bill that 15-minute calls are not typically acceptable. I do believe that the amendments, as they are framed, provide an opportunity for shorter duration calls, as and when they may be appropriate, as part of a wider care package. But, clearly, the evidence is compelling; it's evidence that has been provided to us—yes, anecdotally, as has been said by Lindsay Whittle, but also the evidence is compelling from those independent experts at NICE, and, indeed, many of the different organisations who've been in to give us hard evidence, that these 15-minute calls, particularly for those first morning calls and those last calls at night, are completely inappropriate, yet are widespread in terms of their use across Wales. I think it is important that, whilst there is flexibility, we register, on the face of this Bill and send a very clear message to the industry and to local authorities across Wales that commissioning calls of that duration should not be acceptable, unless there's a compelling reason otherwise.

[140] **David Rees:** Alun, do you wish to speak?

[141] **Alun Davies:** Yes, just to discuss the amendment, because we've heard some speeches here, which I don't disagree with and I don't think anybody would necessarily disagree with, but that's not what the amendment says. I think the law will be different to the intention that's been expressed here, because what we're doing is creating a law that says that an under-30-minute visit is only acceptable if it's part of 'a wider package', which it normally is, allows sufficient time to complete a time-limited task, which it usually is,

[142] 'or to check if someone is safe and well',

[143] which it usually is. So, my concern is that we are making pious speeches in Cardiff bay that have little impact on what actually happens in Blaenau Gwent, Caerphilly, Brecon and Radnor or even the north coast—*[Interruption.]* So, I am concerned that, in supporting these amendments, we

are saying something here that won't be delivered in reality. It's that concern that I have.

[144] **Darren Millar:** Can I—

[145] **David Rees:** No.

[146] **Alun Davies:** I'll take an intervention.

[147] **David Rees:** No, he's finished. I call on the Minister.

[148] **Mark Drakeford:** Thank you, Chair. Well, of course, I've listened carefully to what Members have said and followed this debate through the whole passage of the Bill and in relation to the 2014 Act. The Government will support the amendments this morning. We'll do so because it sends a message to providers. The amendments require applicants who wish to become registered providers—this is not an amendment about commissioners; it's about registered providers, and it says to people who wish to become registered providers that they must provide an undertaking of the sort set out in the amendments at the point of registration. That, I think, will send a message to providers.

[149] I recognise that the amendments are built upon recent NICE guidelines, although the NICE guidelines are aimed at commissioners, and not at providers. And, of course, the 2014 Act already places requirements on local authorities as commissioners to be satisfied that any visits to a person's home for the purpose of arranging care and support

[150] 'are of sufficient length to provide the person with the care and support required to meet the needs in question'.

[151] So, to a certain extent, we have already addressed the commissioning end, and, no doubt, we'll return to that later on when we look at amendments about commissioning.

[152] The point that Alun Davies is making, I take seriously, however, and I just want to say to the committee that the Government will go further than this amendment and will do the things that I have already explained in earlier parts of this Bill, using our standards-setting powers that the Bill provides to make sure that there are specific standards in relation to length of care visits that make that relationship between the length of time and the care



provided. Because the relationship is definitely there, but the things are not identical; an hour spent providing bad care is no better to the individual than 25 minutes spent providing good care. So, the two things are not the same as one another, although there's that very clear relationship. The regulations that we will have, if this Bill succeeds, will allow standards to be set. Those standards will have important things to say about the length of time that a visit takes and the nature of the care to be provided. So, we support these amendments because they send that message at the start of the registration process, but we will go further, using the regulation powers that the Bill provides.

[153] **David Rees:** Thank you, Minister. I call on Lindsay Whittle to reply to the debate.

[154] **Lindsay Whittle:** I'd like to thank the Minister for accepting this; that's extremely positive. I also accept his comments about the quality of care, which is why I was hoping that he would have supported amendment 129; but that's gone now. So, yes, I'm very happy, Chair, to accept what the Minister said, thank you.

[155] **David Rees:** And therefore we'll proceed to a vote on 132.

[156] **Lindsay Whittle:** Thank you.

[157] **David Rees:** Before we move to a vote on amendment 132, we should be aware that if 132 is not agreed, then amendment 133 will fall. The question is that amendment 132 be agreed. Does any Member object? There is no objection, therefore 132 is agreed.

*Derbyniwyd gwelliant 132 yn unol â Rheol Sefydlog 17.34.*

*Amendment 132 agreed in accordance with Standing Order 17.34.*

[158] **David Rees:** In accordance with the marshalled list, we move on now to amendments in their order.

*Cynigiwyd gwelliant 4 (Mark Drakeford).*

*Amendment 4 (Mark Drakeford) moved.*

[159] **David Rees:** The question is that amendment 4 be agreed. Does any Member object? No. Therefore, amendment 4 is agreed.

*Derbyniwyd gwelliant 4 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 4 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 5 (Mark Drakeford).*  
*Amendment 5 (Mark Drakeford) moved.*

[160] **David Rees:** The question is that amendment 5 be agreed. Does any Member object? No. Therefore, amendment 5 is agreed.

*Derbyniwyd gwelliant 5 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 5 agreed in accordance with Standing Order 17.34.*

[161] **David Rees:** Lindsay, would you like to move amendment 133?

*Cynigiwyd gwelliant 133 (Lindsay Whittle, gyda chefnogaeth Kirsty Williams ac Altaf Hussain).*  
*Amendment 133 (Lindsay Whittle, supported by Kirsty Williams and Altaf Hussain) moved.*

[162] **Lindsay Whittle:** I formally move, Chair.

[163] **David Rees:** The question is that amendment 133 be agreed to. Does any Member object? No. Therefore, amendment 133 is agreed.

*Derbyniwyd gwelliant 133 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 133 agreed in accordance with Standing Order 17.34.*

**Grŵp 6: Amodau ar gyfer Caniatáu Cais (Gwelliannau 134 ac 135)**  
**Group 6: Conditions for the Grant of an Application (Amendments 134 and 135)**

[164] **David Rees:** We move now to group 6, which we consider in relation to the conditions for the grant of an application. The lead amendment in this group is amendment 134. I call on Lindsay Whittle to move amendment 134 and speak to the amendments in this group.

*Cynigiwyd gwelliant 134 (Lindsay Whittle).*  
*Amendment 134 (Lindsay Whittle) moved.*

[165] **Lindsay Whittle:** Thank you, Chair. I formally move amendment 134 in group 6, and, indeed, all of the amendments in this group.

[166] Service providers must have regard to the preferred language of the person to whom the service is being provided, and these amendments are to ensure just that. Amendment 134, for example, would enable a person who is bilingual, English and Welsh-speaking, to receive a service in their preferred first language. This could apply in several parts of Wales, and very often in the case of elderly people. On amendment 135, the service provider should have policies and procedures setting out the arrangements for the delivery of service, including recruitment, retention and training. Domiciliary care workers are monitored less, for example, in this country than security staff and doormen of nightclubs, can you actually believe? I believe that service providers should have policies in place on how their workforce planning is arranged, how their recruitment and training of their workforce is arranged as well.

[167] **Alun Davies:** Will you take an intervention?

[168] **Lindsay Whittle:** Yes, certainly.

[169] **Alun Davies:** I'm interested as to how—I don't disagree, by way of the objective—you believe that this amendment will interact with the standards that are being implemented by the Welsh Language Commissioner.

[170] **Lindsay Whittle:** I believe they'll strengthen them.

[171] **Alun Davies:** Why?

[172] **David Rees:** We've had an intervention, and that's been answered. Lindsay, do you wish to continue?

[173] **Lindsay Whittle:** No, that's fine, Chair, thank you.

[174] **David Rees:** Does any other Member wish to speak on these amendments? No. Then I call on the Minister.

[175] **Mark Drakeford:** Thank you, Chair. I entirely understand the motivation behind amendments 134 and 135. As Members have heard, they seek to set out the clear expectations we have for the providers of care in Wales around the Welsh language and the workforce, and I share the wish to be clear about those matters. But, I'm going to ask Members to reject the amendments for two reasons. First of all, I think that, as drafted, they appear

in the wrong place in the Bill, and then I have a different objection, which I'll come to in a moment.

[176] In terms of the wrong place, section 7 of the Bill, which is where these amendments would bite, is concerned with the granting or refusal of an application for registration, and amendments 134 and 135 seek to insert requirements into subsection (3) of section 7 so that the grant of an application for registration must be subject to conditions specifying that the service provider must have policies and procedures in place about a service user's preferred language and its arrangements for current and future delivery of service. I simply think that this is the wrong part of the Bill to insert such requirements. If they are to be inserted, then they would, I think, belong in the regulations set out under section 26 of the Bill. That's where specific requirements are to be placed on service providers.

[177] That's why I have a second objection to these amendments. The requirements that will be developed as a result of section 26 of the Bill will, I am very happy to provide a commitment, include issues of the Welsh language and workforce planning. They are both very important parts of the regulatory regime that would be set out using regulations under 26.

[178] My second objection is to elevating two of what would be a much wider set of requirements out of the section 26 requirements and putting them on the face of the Bill. When I was in front of the Constitutional and Legislative Affairs Committee, the whole argument was rehearsed there about the way in which, whether they appear on the face of the Bill or in regulations, they have exactly the same effect in law, but by elevating some examples onto the face of the Bill, you run the risk of giving the impression to people responsible for operating under the Bill that there are actually two classes of standards here: some that are important enough to be on the face of the Bill, and others that only appear in regulations. In fact, in law, they are of identical impact. I think it's not good law to give an impression that some things are more important than others, when actually all are of equal significance in law. So, they should appear in section 26, they will appear in the regulations there, and they'll appear in one common set of standards.

[179] **David Rees:** Minister, will you take an intervention?

[180] **Mark Drakeford:** Of course.

[181] **Darren Millar:** Can I just clarify that, Minister? I know you're giving us a

commitment to produce regulations in relation to these particular amendments, but there's no requirement for you to publish regulations in respect of these particular issues. Isn't that the difference between putting something on the face of the Bill, rather than waiting for everything to come out in the wash as far as regulations are concerned?

[182] **Mark Drakeford:** Well, it would no doubt have that effect; it would guarantee that these two particular aspects would appear within the regulations made under section 26. I'm giving the committee an assurance that they will do, but they will appear there in a coherent way, alongside all those other very important standards that we will want to put in place to ensure that the nature and quality of care is properly delivered.

[183] **Elin Jones:** A gaf i ofyn i'r **Elin Jones:** May I ask the Minister, Gweinidog, felly, i gadarnhau y bydd therefore, to confirm that those y rheoliadau hynny yn cael eu regulations will be introduced during cyflwyno yn ystod y tymor Cynulliad this Assembly term, and during the yma, ac yn ystod tymor y Llywodraeth period of this Government? yma?

[184] **Mark Drakeford:** Na, nid wyf **Mark Drakeford:** No, I don't think yn meddwl y byddan nhw. Rwyf wedi they will be. I have laid down a rhoi'r amserlen i lawr ac, o ran y timetable and, with regard to the *regulations* sy'n codi o dan 26, regulations arising under 26, we will byddwn yn dod yn ôl atyn nhw yn y return to them in the next Assembly. Cynulliad nesaf. Ond, nid wyf yn But, I don't see anyone in the gweld neb yn y Cynulliad sydd yn Assembly who actually opposes this erbyn y syniad, felly rwy'n siŵr, pwyr idea, so, whoever is in Government bynnag fydd yn y Llywodraeth ar ôl yr after the election, I'm sure that will etholiad, y bydd hynny'n digwydd. proceed.

[185] **David Rees:** Thank you. Do you wish to continue, Minister?

[186] **Mark Drakeford:** No. Those are the two reasons, Chair—not because I disagree at all with the intention, but because I think this is the wrong way to go about it.

[187] **David Rees:** Thank you, Minister. Lindsay, do you wish to reply to the debate?

[188] **Lindsay Whittle:** I thank the Minister for his advice, which I accept that

he's given us, as always, of course, in good faith. But, if you believe it could go into section 26, then why can't we put it in? It's not too late. I don't particularly want to trust the next Assembly to do this, because we can't guarantee that we will have the same health Minister, for example, in the next Assembly. So, I would prefer to proceed with this.

[189] **David Rees:** Okay, thank you. You've indicated that you wish to proceed with amendment 134—[*Interruption.*]

[190] **Kirsty Williams:** No, it could be Darren Millar, and I definitely don't trust that. [*Laughter.*]

[191] **Elin Jones:** No; put it on the face of the Bill. [*Laughter.*]

[192] **David Rees:** Let's not get into a discussion about who will form the next Government; let's discuss this particular Bill. The question is that amendment 134 be agreed. Does any Member object? [*Objection.*] I've had an objection, therefore I'll take a vote by show of hands. Those in favour of amendment 134, please raise your hands. Thank you. Those against, please raise your hands. Thank you. As there's a tied vote, I use my casting vote in the negative, against the amendment, in accordance with Standing Order 6.20. Amendment 134, therefore, is not agreed.

*Gwelliant 134: O blaid 5, Yn erbyn 5, Ymatal 0.  
Amendment 134: For 5, Against 5, Abstain 0.*

*O blaid:*  
*For:*

*Yn erbyn:*  
*Against:*

*Ymatal:*  
*Abstain:*

Hussain, Altaf  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Davies, Alun  
Griffiths, John  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).  
As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 134.  
Amendment 134 not agreed.*

[193] **David Rees:** Lindsay, do you wish to move amendment 135?

*Cynigiwyd gwelliant 135 (Lindsay Whittle).  
Amendment 135 (Lindsay Whittle) moved.*

[194] **Lindsay Whittle:** I formally move, Chair.

[195] **David Rees:** The question is that amendment 135 be agreed to. Does any Member object? [*Objection.*] I've had an objection, therefore I ask for a show of hands. The question is that amendment 135 be agreed to. Could those in favour please show? Thank you. Can those against please show? Thank you. As there's a tied vote, I use my casting vote in the negative, against the amendment, in accordance with Standing Order 6.20. Therefore, amendment 135 is not agreed.

*Gwelliant 135: O blaid 5, Yn erbyn 5, Ymatal 0.  
Amendment 135: For 5, Against 5, Abstain 0.*

*O blaid:  
For:*

*Yn erbyn:  
Against:*

*Ymatal:  
Abstain:*

Hussain, Altaf  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Davies, Alun  
Griffiths, John  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

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

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

*Gwrthodwyd gwelliant 135.  
Amendment 135 not agreed.*

**Grŵp 7: Tystysgrifau a Chofrestrau Cofrestru (Gwelliannau 6, 10, 13, 42, 67,  
71, 72 a 73)**

**Group 7: Certificates and Registers of Registration (Amendments 6, 10, 13,  
42, 67, 71, 72 and 73)**

[196] **David Rees:** We now move on to the seventh group of amendments to

consider, and these are in relation to certificates and registers of registration. The lead amendment in this group is amendment 6.

10:15

*Cynigiwyd gwelliant 6 (Mark Drakeford).*  
*Amendment 6 (Mark Drakeford) moved.*

[197] **David Rees:** I formally move amendment 6 in the name of the Minister. I call on the Minister to speak to the amendments in this group. Minister.

[198] **Mark Drakeford:** Thank you, Chair. I said at the start of proceedings that I would be bringing forward some changes to improve and clarify the Bill, and the amendments in this group fall into that category, and I will ask the committee to support them.

[199] Amendment 67 is the most significant amendment in this group. Section 36 of the Bill introduces a requirement for the Welsh Ministers to maintain a register of service providers. This register must contain all significant details about a service provider's registration, and amendment 67 makes it a statutory requirement that this register must be available for public inspection and that such an inspection must be free of charge.

[200] As we will now have a publicly available register, and as no provider can operate without appearing on that register, the requirement in section 25 to display a separate certificate of registration has been overtaken, should these amendments be accepted. It's therefore unnecessary, and so may be dispensed with. Amendment 42 therefore removes section 25 from the Bill, and amendments 72, 73, 10 and 13 are all consequential on that change.

[201] **David Rees:** Thank you, Minister. Are there any other Members who wish to speak to these amendments? No, there are no Members. Minister, do you—

[202] **Lindsay Whittle:** Could I ask the Minister a question on amendment 6?

[203] **David Rees:** If you can raise the concerns on amendment 6, the Minister will answer.

[204] **Lindsay Whittle:** You seek to withdraw a subsection there. I wonder if you could explain why.



[205] **David Rees:** Minister, do you wish to respond?

[206] **Lindsay Whittle:** Sorry; it's section 7, page 5, line 18—'leave out subsection 5'.

[207] **David Rees:** Do you wish to take some time for advice, Minister?

[208] **Mark Drakeford:** I'll be back in one moment.

[209] **David Rees:** If we give the Minister five minutes to ask the specific question, just to clarify.

[210] **Mark Drakeford:** Thank you very much.

[211] **David Rees:** So, we'll have a break of five minutes. Thank you.

*Gohiriwyd y cyfarfod rhwng 10:17 a 10:25.  
The meeting adjourned between 10:17 and 10:25.*

[212] **David Rees:** Can I welcome Members back? The Minister has had an opportunity now to seek clarification in relation to the question raised by Lindsay Whittle. Minister?

[213] **Mark Drakeford:** Thank you, Chair. I think the explanation for amendment 6 is this: as I explained, with our amendment, it makes it clear that the register must be publicly available and available at no cost. The need for the display of certification falls away. Amendment 6 says what the Government must do to tell people what the certificate would need to contain. As there's going to be no certificate, there is no need for Government to tell people what the certificate would need to contain, and therefore it falls.

[214] **David Rees:** Thank you, Minister. Therefore, we move to a vote on amendment 6. The question is that amendment 6 be agreed. Does any Member object? There are no objections. Therefore, amendment 6 is agreed.

*Derbyniwyd gwelliant 6 yn unol â Rheol Sefydlog 17.34.  
Amendment 6 agreed in accordance with Standing Order 17.34.*

[215] **David Rees:** We'll now dispose of amendments 7A and 7, but we deal

with the amendment to the amendment first. Altaf, you indicated that you will not wish to move amendment 7A. Is that still the same?

[216] **Altaf Hussain:** Yes.

[217] **David Rees:** Does any other Member wish to move amendment 7A? No. Therefore, amendment 7A is not moved.

*Ni chynigiwyd gwelliant 7A (Altaf Hussain).  
Amendment 7A (Altaf Hussain) not moved.*

*Cynigiwyd gwelliant 7 (Mark Drakeford).  
Amendment 7 (Mark Drakeford) moved.*

[218] **David Rees:** Minister, if we move amendment 7, we should be aware that if amendment 7 is not agreed, amendment 102 will fall. The question is that amendment 7 be agreed to. Does any Member object? There are no objections; therefore, amendment 7 is agreed.

*Derbyniwyd gwelliant 7 yn unol â Rheol Sefydlog 17.34.  
Amendment 7 agreed in accordance with Standing Order 17.34.*

[219] **David Rees:** Lindsay, do you wish to move amendment 136?

*Cynigiwyd gwelliant 136 (Lindsay Whittle).  
Amendment 136 (Lindsay Whittle) moved.*

[220] **Lindsay Whittle:** I formally move.

[221] **David Rees:** The question is that amendment 136 be agreed to. Does any Member object? [*Objection.*] We have an objection, therefore, I will take a vote by a show of hands. Can those in favour of amendment 136 please raise your hands? Those against, please raise your hands. Therefore, there is a tied vote and I use my casting vote in the negative against the amendment, in accordance with Standing Order 6.20. Therefore, amendment 136 is not agreed.

*Gwelliant 136: O blaid 5, Yn erbyn 5, Ymatal 0.  
Amendment 136: For 5, Against 5, Abstain 0.*

O blaid:

Yn erbyn:

Ymatal:

For:

Against:

Abstain:

Hussain, Altaf  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Davies, Alun  
Griffiths, John  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

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

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

*Gwrthodwyd gwelliant 136.*

*Amendment 136 not agreed.*

10:27

**Grŵp 8: Datganiad Blynyddol (Gwelliannau 8, 8A, 8B, 137, 138 a 9)**

**Group 8: Annual Returns (Amendments 8, 8A, 8B, 137, 138 a 9)**

[222] **David Rees:** We now move on to group 8, which is in relation to annual returns. The lead amendment in this group is amendment 8.

*Cynigiwyd gwelliant 8 (Mark Drakeford).*

*Amendment 8 (Mark Drakeford) moved.*

[223] **David Rees:** I formally move amendment 8 on behalf of the Minister and I call on the Minister to speak to the amendments in this group. Minister.

[224] **Mark Drakeford:** Thank you, Chair. The amendments in this group, tabled in my name, seek to respond to recommendations made by both this committee and by the Constitutional and Legislative Affairs Committee. The Constitutional and Legislative Affairs Committee recommended that I table an amendment, setting out the information that service providers will be required to submit in an annual return. Amendment 8 does that. It specifies the fundamental information that is needed to be included in providers' annual return and places those fundamentals on the face of the Bill. Amendment 8 also requires that the annual return must include a statement, setting out how the service provider has complied with any regulations made under section 26 of the Bill, which will place requirements on service providers as to the standard of care and support that must be provided.

Amendment 8 replicates the regulation-making powers in the Bill as introduced, which allows for further information to be prescribed. Amendment 8 also replicates the regulation-making powers in the Bill, as introduced, to prescribe the form of the annual return. This power will ensure that there is consistency in the way annual returns are presented, providing people with useful and comparable information about regulated services and settings.

[225] As far as amendment 9 is concerned—the second Government amendment in this group—it responds to this committee’s recommendation at the end of Stage 1, which was recommendation 10 of the committee’s report. I therefore brought forward this amendment, which requires the first set of regulations made under section 8 to be subject to the affirmative procedure.

[226] Lindsay Whittle’s amendments 8A and 8B further amend my amendment 8 and add to the list of basic information detailed on the face of the Bill so that it specifically includes workforce planning and adds a definition of what that is.

10:30

[227] I’m happy to support amendment 8A because I accept the argument of the significance of workforce planning. It’s amendment 8B that seeks to define what that means and there I’d ask the Member if he’d be prepared to have some further discussions so that we can bring forward a Stage 3 amendment just to tighten up the definition as set out currently in amendment 8B. My understanding is that that will provide a preferable way forward of achieving the intention set out in amendments 137 and 138, so that if those are moved, I would ask Members to vote against them.

[228] **David Rees:** Thank you, Minister. Lindsay, do you wish to speak?

[229] **Lindsay Whittle:** Well, I formally move amendment 8A and accept what the Minister says on 8B and would not wish for that to proceed. I do not know if I have to have the permission of the committee to do so?

[230] **David Rees:** We’ll discuss that now. Does any other Member wish to speak? No. Minister, do you wish to say anything extra?

[231] **Mark Drakeford:** I’m grateful for the indication by Lindsay.

[232] **David Rees:** In that case, let's move to votes. As amendment 8 has been tabled and there's an amendment to that, we'll dispose of the amendment to the amendment first. Lindsay, do you wish to move amendment 8A?

*Cynigiwyd gwelliant 8A (Lindsay Whittle).  
Amendment 8A (Lindsay Whittle) moved.*

[233] **Lindsay Whittle:** I formally move.

[234] **David Rees:** I just want to confirm that before we move to a vote on 8A we should be aware that if 8A is not agreed, 8B will fall. The question, therefore: is 8A to be agreed? Does any Member object? There are no objections, therefore 8A is agreed.

*Derbyniwyd gwelliant 8A yn unol â Rheol Sefydlog 17.34.  
Amendment 8A agreed in accordance with Standing Order 17.34.*

[235] **David Rees:** Lindsay, do you wish to move amendment 8B?

[236] **Lindsay Whittle:** No, thank you, Chair.

[237] **David Rees:** Does any other Member wish to move amendment 8B? No. Therefore, 8B is not moved.

*Ni chynigiwyd gwelliant 8B (Lindsay Whittle).  
Amendment 8B (Lindsay Whittle) not moved.*

[238] **David Rees:** Before we move to a vote on amendment 8, we should be aware that if amendment 8 is agreed, then amendments 137 and 138 will fall. We should also be aware that if amendment 8 is not agreed, then amendment 9 will fall. The question is that amendment 8 as amended be agreed? Does any Member object? There are no objections, therefore, amendment 8 is agreed.

*Derbyniwyd gwelliant 8 fel y'i diwygiwyd yn unol â Rheol Sefydlog 17.34.  
Amendment 8 as amended agreed in accordance with Standing Order 17.34.*

[239] **David Rees:** As amendment 8 was agreed, amendments 137, 138 have fallen.

*Methodd gwelliannau 137 ac 138.  
Amendments 137 and 138 fell.*

*Cynigiwyd gwelliant 9 (Mark Drakeford).  
Amendment 9 (Mark Drakeford) moved.*

[240] **David Rees:** We'll now move on to amendment 9. The question is that amendment 9 be agreed? Does any Member object? No. Therefore, amendment 9 is agreed.

*Derbyniwyd gwelliant 9 yn unol â Rheol Sefydlog 17.34.  
Amendment 9 agreed in accordance with Standing Order 17.34*

[241] **David Rees:** I'd like to remind Members that, as amendment 130 was not agreed, amendments 139 and 140 have fallen. So, we now move to amendment 10.

*Cynigiwyd gwelliant 10 (Mark Drakeford).  
Amendment 10 (Mark Drakeford) moved.*

[242] **David Rees:** The question is that amendment 10 be agreed? Does any Member object? No objections. Therefore, amendment 10 is agreed.

*Derbyniwyd gwelliant 10 yn unol â Rheol Sefydlog 17.34.  
Amendment 10 agreed in accordance with Standing Order 17.34*

**Grŵp 9: Technegol (Gwelliannau 11, 12, 55)  
Group 9: Technical (Amendments 11, 12, 55)**

[243] **David Rees:** We now move to the ninth group of amendments to consider technical amendments. The lead amendment in this group is amendment 11.

*Cynigiwyd gwelliant 11 (Mark Drakeford).  
Amendment 11 (Mark Drakeford) moved.*

[244] **David Rees:** I formally move amendment 11 in the name of the Minister and I call on the Minister to speak to these amendments in this group. Minister.

[245] **Mark Drakeford:** Chair, I hope this is the most technical of a technical group of amendments. Amendment 11 inserts the two words 'satisfied that' in section 11 and then does so, again, in amendment 12 for consistency. Amendment 55 inserts one missing word. These are all inadvertent drafting omissions in the Bill as originally presented. I hope Members will agree to rectify those omissions.

[246] **David Rees:** Okay, Minister. Does any other Member wish to speak? No, then, Minister, I don't see that you wish to respond to anything. We'll move straight to the voting. The question is that amendment 11 be agreed. Does any Member object? No. 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*

*Cynigiwyd gwelliant 12 (Mark Drakeford).  
Amendment 12 (Mark Drakeford) moved.*

[247] **David Rees:** The question is that amendment 12 be agreed. Does any Member object? 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*

*Cynigiwyd gwelliant 13 (Mark Drakeford).  
Amendment 13 (Mark Drakeford) moved.*

[248] **David Rees:** The question is that amendment 13 be agreed to. Does any Member object? 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*

*Cynigiwyd gwelliant 14 (Mark Drakeford).  
Amendment 14 (Mark Drakeford) moved.*

[249] **David Rees:** The question is that amendment 14 be agreed. Does any Member object? 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*

**Grŵp 10: Seiliau dros Ganslo heb gais (Gwelliannau 15, 16, 17, 18, 19, 27, 28, 29, 30, 31)**

**Group 10: Grounds for Cancellation without Application (Amendments 15, 16, 17, 18, 19, 27, 28, 29, 30, 31)**

[250] **David Rees:** We now move to the tenth group of amendments and these are in relation to the grounds for cancellation without application. The lead amendment in this group is amendment 15.

*Cynigiwyd gwelliant 15 (Mark Drakeford).*

*Amendment 15 (Mark Drakeford) moved.*

[251] **David Rees:** I formally move amendment 15 in the name of the Minister and I call the Minister to speak to these amendments.

[252] **Mark Drakeford:** Thank you, Chair. I've been mindful, in bringing these amendments, of the debate that took place in committee during Stage 1. I said then that my ambition for the Bill is to position regulation as a force for improvement in the sector. Members, while I think broadly accepting that point of view, were also clear that the Bill needed to be effective in how it responds to failure in the sector as well.

[253] These are amendments to clarify and extend the powers of Welsh Ministers to cancel the registrations of both service providers and responsible individuals, where failure takes place. Currently, a service provider's registration or a responsible individual's designation may be cancelled if they have committed 'relevant offences', as defined in the Bill, but there is no provision in the Bill currently to allow a registration to be cancelled, or a responsible individual's designation to be cancelled, where a caution has been imposed. So, an offence that has been established before a court can amount to a ground for cancellation, yet a formal admission of exactly the same offence, made to a police officer and formally recorded, cannot be taken into account in the way the Bill is currently drafted. These amendments regularise that position. Just to be clear, a caution would not automatically lead to consultation, and neither would an offence. But, if these amendments are passed, then both aspects could be taken into account.

[254] Amendment 19 provides a definition as to what is meant when we refer to a 'caution', while amendments 15, 17, 27 and 31 specify that if either a service provider or responsible individual has received a caution, as



defined in amendment 19, for a relevant offence, this would be regarded as grounds for potential cancellation of their registration.

[255] Amendments 16 and 28 provide additional clarity that only relevant offences in connection with a regulated service would be deemed grounds for cancellation of the registration of either a service provider or a responsible individual. So, for example, an offence of intentionally obstructing an inspector or making false statements in an annual return would be relevant offences in connection with a regulated service. The commission of an offence by a service provider or responsible individual that is not connected to a regulated service will be instead relevant to the question of whether a person continues to be a fit or proper person. So, for example, theft of groceries from a supermarket would not be a relevant offence in relation to the regulated service, but could be a relevant offence in relation to whether or not someone continues to be a fit and proper person. Amendment 14, to which I spoke in group 4, provides this as a separate ground for cancellation.

[256] Amendment 18, then, simply provides consistency of approach between Part 1 and the rest of the Bill to ensure offences committed outside England and Wales can also be considered.

[257] Amendment 30 ensures that when a responsible individual has not complied with the requirements imposed by regulations under section 27(1) of the Bill, that can be grounds for registration being cancelled. This is, again, to provide consistency of approach with service providers. One of the grounds for the cancellation of the registration of a regulated service is that it is not being provided in accordance with the regulatory requirements applicable to that service. This amendment provides equivalent grounds for responsible individuals.

[258] I know all this sounds technical in nature, but I think it does provide additional strength and clarity to these parts of the Bill and answers the committee's wish, during Stage 1, to make sure that where failure takes place, there is a straightforward and clear way of responding to it.

[259] **David Rees:** Thank you, Minister. Do any Members wish to speak? Kirsty.

[260] **Kirsty Williams:** Thank you, Chair. Can I thank the Minister for his comments this morning? I think the point around a caution is particularly

relevant, because that potentially could have been the loophole by which somebody could have avoided the sanctions as outlined, and that's not what the Minister or the committee would have wanted.

[261] Can I ask, Chair, for some clarification with regard to amendment 28, please, Minister? Could you clarify for me that, with regard to 28, it will not limit the grounds on which the designation of the responsible individual could be cancelled, because it'll be limited to relevant offences to those committed in connection with services currently being provided. I'd just be grateful for some clarification that offences previously committed would be taken into consideration under this, and so you could not have—it's not just limited to offences committed in a current service, but would, actually, be able to protect against retrospective offences as well, please.

[262] **Mark Drakeford:** Yes, I can—

[263] **David Rees:** I'll give you a chance to respond, Minister. I'll just clarify whether any other Members wish to speak first; then it's your turn to reply, Minister.

[264] **Mark Drakeford:** I'm happy to provide that confirmation. Offences previously committed that are relevant offences in connection with a regulated service would continue to be relevant in relation to the services currently being provided, just as offences previously committed would continue to be relevant in making a judgment of whether someone is a fit and proper person.

[265] **Kirsty Williams:** Thank you.

[266] **David Rees:** Thank you, Minister. Anything else to add, Minister?

[267] **Mark Drakeford:** No, Chair.

[268] **David Rees:** Then we move on to the vote. The question is that amendment 15 be agreed to. Does any Member object? No. Then amendment 15 is agreed.

*Derbyniwyd gwelliant 15 yn unol â Rheol Sefydlog 17.34.*

*Amendment 15 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 16 (Mark Drakeford).*

*Amendment 16 (Mark Drakeford) moved.*

[269] **David Rees:** The question is that amendment 16 be agreed to. Does any Member object? No. Therefore, amendment 16 is agreed.

*Derbyniwyd gwelliant 16 yn unol â Rheol Sefydlog 17.34.*

*Amendment 16 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 17 (Mark Drakeford).*

*Amendment 17 (Mark Drakeford) moved.*

[270] **David Rees:** The question is that amendment 17 be agreed to. Does any Member object? 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.*

[271] **David Rees:** Lindsay, would you like to move amendment 141?

*Cynigiwyd gwelliant 141 (Lindsay Whittle).*

*Amendment 141 (Lindsay Whittle) moved.*

[272] **Lindsay Whittle:** I move, Chair.

[273] **David Rees:** The question is that amendment 141 be agreed to. Does any Member object? [*Objection.*] We have an objection, therefore I'll take a vote by show of hands. Can those in favour of amendment 141 please raise your hands? Thank you. Those against, please raise. As there's a tied vote, I use my casting vote in the negative, against the amendment, in accordance with Standing Order 6.2. Therefore, amendment 141 is not agreed.

*Gwelliant 141: O blaid 5, Yn erbyn 5, Ymatal 0.*

*Amendment 141: For 5, Against 5, Abstain 0.*

O blaid:

For:

Hussain, Altaf

Jones, Elin

Millar, Darren

Whittle, Lindsay

Williams, Kirsty

Yn erbyn:

Against:

Davies, Alun

Griffiths, John

Neagle, Lynne

Price, Gwyn R.

Rees, David

Ymatal:

Abstain:

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

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

*Gwrthodwyd gwelliant 141.*

*Amendment 141 not agreed.*

*Cynigiwyd gwelliant 18 (Mark Drakeford).*

*Amendment 18 (Mark Drakeford) moved.*

[274] **David Rees:** The question is that amendment 18 be agreed to. Does any Member object? No objections, therefore 18 is agreed.

*Derbyniwyd gwelliant 18 yn unol â Rheol Sefydlog 17.34.*

*Amendment 18 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 19 (Mark Drakeford).*

*Amendment 19 (Mark Drakeford) moved.*

[275] **David Rees:** The question is that amendment 19 be agreed to. Does any Member object? No objection, 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.*

**Grŵp 11: Gofynion Hysbysiadu (Gwelliannau 20, 21, 22 a 23)**  
**Group 11: Notice Requirements (Amendments 20, 21, 22 and 23)**

[276] **David Rees:** We now move on to group 11, which is in relation to notice requirements. The lead amendment in the group is amendment 20.

*Cynigiwyd gwelliant 20 (Mark Drakeford).*

*Amendment 20 (Mark Drakeford) moved.*

[277] **David Rees:** I formally move amendment 20 in the name of the Minister, and I call on the Minister to speak to the amendments in this group.

[278] **Mark Drakeford:** Thank you, Chair. The purpose of these amendments is to tighten up the time limits within which CSSIW must issue notices of

decisions that they make. Amendment 20 amends section 14 to set out expressly that a service provider may make representations about those improvement notices, while amendment 21 makes it clear that urgent action taken by the regulator is excluded from the notice-of-proposal procedure.

[279] The amendments in relation to time do this: amendment 22 allows Welsh Ministers, through CSSIW, of course, in practice, to issue a decision notice following receipt of representations after a period of 28 days. So, the amendment will permit the decision notice to be issued after the 28-day time limit if there are reasons for that delay, and makes it a requirement that those reasons must be given. However, it sets an absolute maximum time permitted for issuing such a notice of 56 days. If CSSIW were not to comply with that time limit, then the effect would be that the notice of proposal would become invalid and the process would have to start all over again. The purpose of the amendments, therefore, is to put some extra grit into the system to make sure that decisions are made and notices are provided in a timely fashion, and introduces some consequences for the regulator if they don't act within those time limits.

[280] We recognise, Chair, that some parts of this Bill will need to be kept under review in practice. These time limits may turn out to be too generous, or, alternatively, they might prove to be too onerous. So, amendment 23 is a regulation-making power to amend the time limit set out in the Bill, should, as practice develops, that become necessary.

[281] **David Rees:** Thank you, Minister. Does any Member wish to speak on these amendments? No. I assume, Minister, it's okay if we move forward to a vote.

[282] **Mark Drakeford:** Yes. Thank you.

[283] **David Rees:** The question is that amendment 20 be agreed to. Does any Member object? 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.*

*Cynigiwyd gwelliant 21 (Mark Drakeford).  
Amendment 21 (Mark Drakeford) moved.*

[284] **David Rees:** The question is that amendment 21 be agreed to. Does

any Member object? No. 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.*

*Cynigiwyd gwelliant 22 (Mark Drakeford).*

*Amendment 22 (Mark Drakeford) moved.*

[285] **David Rees:** The question is that amendment 22 be agreed. Does any Member object? No. Twenty-two is therefore agreed.

*Derbyniwyd gwelliant 22 yn unol â Rheol Sefydlog 17.34.*

*Amendment 22 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 23 (Mark Drakeford).*

*Amendment 23 (Mark Drakeford) moved.*

[286] **David Rees:** The question is that amendment 23 be agreed to. Does any Member object? [*Objection.*] We have an objection, therefore I will take a vote by a show of hands. The question is that amendment 23 be agreed to. Can those in favour please raise your hands? Thank you. Can those against please raise your hands? Thank you. In relation to amendment 23, there voted eight in favour and two against, and, therefore, amendment 23 is agreed.

10:45

*Gwelliant 23: O blaid 8, Yn erbyn 2, Ymatal 0.*

*Amendment 23: For 8, Against 2, Abstain 0.*

O blaid:

For:

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay  
Williams, Kirsty

Yn erbyn:

Against:

Hussain, Altaf  
Millar, Darren

Ymatal:

Abstain:

*Derbyniwyd gwelliant 23.*

*Amendment 23 agreed.*

*Cynigiwyd gwelliant 24 (Mark Drakeford).*

*Amendment 24 (Mark Drakeford) moved.*

[287] **David Rees:** The question is that amendment 24 be agreed to. Does any Member object? No objections. Therefore, 24 is agreed.

*Derbyniwyd gwelliant 24 yn unol â Rheol Sefydlog 17.34.*

*Amendment 24 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 25 (Mark Drakeford).*

*Amendment 25 (Mark Drakeford) moved.*

[288] **David Rees:** The question is that amendment 25 be agreed to. Does any Member object? No objections. Therefore, amendment 25 is agreed.

*Derbyniwyd gwelliant 25 yn unol â Rheol Sefydlog 17.34.*

*Amendment 25 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 26 (Mark Drakeford).*

*Amendment 26 (Mark Drakeford) moved.*

[289] **David Rees:** The question is that amendment 26 be agreed to. Does any Member object? No. Therefore, amendment 26 is agreed.

*Derbyniwyd gwelliant 26 yn unol â Rheol Sefydlog 17.34.*

*Amendment 26 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 27 (Mark Drakeford).*

*Amendment 27 (Mark Drakeford) moved.*

[290] **David Rees:** The question is that amendment 27 be agreed to. Does any Member object? No. Therefore, amendment 27 is agreed.

*Derbyniwyd gwelliant 27 yn unol â Rheol Sefydlog 17.34.*

*Amendment 27 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 28 (Mark Drakeford).*

*Amendment 28 (Mark Drakeford) moved.*

[291] **David Rees:** The question is that amendment 28 be agreed to. Does any Member object? No objections. Amendment 28 is agreed.

*Derbyniwyd gwelliant 28 yn unol â Rheol Sefydlog 17.34.  
Amendment 28 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 29 (Mark Drakeford).  
Amendment 29 (Mark Drakeford) moved.*

[292] **David Rees:** The question is that amendment 29 be agreed to. Does any Member object? No objections. Amendment 29 is agreed.

*Derbyniwyd gwelliant 29 yn unol â Rheol Sefydlog 17.34.  
Amendment 29 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 30 (Mark Drakeford).  
Amendment 30 (Mark Drakeford) moved.*

[293] **David Rees:** The question is that amendment 30 is agreed. Does any Member object? No. Therefore, amendment 30 is agreed.

*Derbyniwyd gwelliant 30 yn unol â Rheol Sefydlog 17.34.  
Amendment 30 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 31 (Mark Drakeford).  
Amendment 31 (Mark Drakeford) moved.*

[294] **David Rees:** The question is that amendment 31 be agreed to. Does any Member object? No. Therefore, amendment 31 is agreed.

*Derbyniwyd gwelliant 31 yn unol â Rheol Sefydlog 17.34.  
Amendment 31 agreed in accordance with Standing Order 17.34.*

**Grŵp 12: Pwerau'r Tribiwnlys (Gwelliannau 32 a 41)**  
**Group 12: Powers of the Tribunal (Amendments 32 and 41)**

[295] **David Rees:** We move now to group 12, and these are amendments in relation to the powers of the tribunal. The lead amendment in the group is amendment 32.

*Cynigiwyd gwelliant 32 (Mark Drakeford).*



*Amendment 32 (Mark Drakeford) moved.*

[296] **David Rees:** I formally move amendment 32 in the name of the Minister, and I call on the Minister to speak to the amendments in this group. Minister.

[297] **Mark Drakeford:** Thank you, Chair. So, this is a Bill that sets out in law some very serious powers—powers to protect the standards of care provided to individuals but also powers to intervene in the livelihood of individuals providing a service up to and including the removal of that livelihood. So, it's very important that the law has a proper set of checks and balances to protect the rights of people whose livelihood is being affected. This group of amendments refines and clarifies that balance in relation to the role of the first-tier tribunal.

[298] Under Part 1 of the Bill, all decisions, apart from in one instance, are made by the Welsh Ministers through, today, CSSIW. The one exception is urgent decisions to cancel or vary a registration, and those are made in the magistrates' court. The Bill provides service providers with a right of appeal in respect of all of those decisions to the first-tier tribunal. Both of these amendments are concerned with clarifying the powers that the first-tier tribunal will have in respect of appeals against decisions made either by the court or by Welsh Ministers under Part 1 of the Bill.

[299] These are new powers created in this Bill. Currently, in relation to appeals made under the Care Standards Act 2000, the tribunal has powers that are limited, but, given the seriousness of the decisions that are being made, we have believed it's important that the tribunal has wide and varied powers in respect of the appeals that come before them so that they can make the right and the proportionate decisions, depending upon the individual facts of the case. So, in relation to amendment 32, the explanatory notes to the Bill made it clear that a power to make interim Orders includes a power to suspend or stay the Order made by the courts in cases of urgent cancellation, but the advice I have since received is that this power for the first-tier tribunal should be made explicit on the face of the Bill, and that's what amendment 32 does.

[300] Amendment 41 clarifies the potential that might have been there otherwise for misinterpretation. The intention all along was that a first-tier tribunal should be able not simply to 'vary' the original decision—the term used in the first draft of the Bill—but have the power, should it decide that

that is the right thing to do, to set aside the first decision entirely and substitute its own judgment in place of that original decision. The term ‘vary’ might have been taken to imply that that power wasn’t available to the first-tier tribunal. I think it’s important that it should be able to make its own judgment in place of that made by CSSIW or the magistrates’ court, and amendment 41 makes that clear beyond any doubt. I hope that Members will feel able to support both these amendments.

[301] **David Rees:** Thank you, Minister. Do any Members wish to speak to this group? No. Therefore, Minister, I assume you don’t wish to reply to anything. We move straight to the vote in that case. The question is that amendment 32 be agreed to. Does any Member object? No objection. Therefore, amendment 32 is agreed.

*Derbyniwyd gwelliant 32 yn unol â Rheol Sefydlog 17.34.*

*Amendment 32 agreed in accordance with Standing Order 17.34.*

**Grŵp 13: Amrywio, Gosod neu Ddileu Amodau Brys (Gwelliannau 33, 34, 35, 36, 37, 38, 39 a 40)**

**Group 13: Variance, Imposition or Removal of Urgent Conditions  
(Amendments 33, 34, 35, 36, 37, 38, 39 and 40)**

[302] **David Rees:** According to the list, we move on to group 13, which is in relation to the variance, imposition or removal of urgent conditions. The lead amendment in the group is amendment 33.

*Cynigiwyd gwelliant 33 (Mark Drakeford).*

*Amendment 33 (Mark Drakeford) moved.*

[303] **David Rees:** I formally move amendment 33 in the name of the Minister. I call on the Minister to speak to the amendments in this group.

[304] **Mark Drakeford:** Thank you, Chair. Well, this is a further set of amendments, quite like group 12, which reflect the Stage 1 discussion of the balance to be struck between the power of the regulator to respond to concerns about a service and the rights of the provider to reply to or challenge the regulator’s actions. All the amendments in this group relate to the circumstances where the regulator believes there should be the urgent imposition of conditions.

[305] The current test would allow the regulator to act only if there is a

serious risk to a person's life or physical or mental health, or of a person suffering abuse or neglect. The amendment in front of you this morning lowers that threshold. It brings it more into line with the current test in the Care Standards Act, where Welsh Ministers may act where there is or may be a risk, and the word 'serious' doesn't appear. So, what the amendment does is to allow CSSIW to impose urgent conditions with a lower threshold of intervention, and that's to provide additional protection for people receiving the service. But given that we are lowering the threshold in that regard, this group of amendments provides additional safeguards for service providers in those circumstances by giving them a right to appeal immediately to the first-tier tribunal. So, it's a sort of check and balance in this system. It's here in order to make sure that, where there is a need for urgent action, CSSIW is able to take that action, but it does offer an immediate course of redress for service providers who feel that that action has been taken unnecessarily.

[306] **David Rees:** Thank you, Minister. Do any other Members wish to speak on this group of amendments? No. Therefore, Minister, if it's okay with you we'll move straight to the vote.

[307] **Mark Drakeford:** Thank you.

[308] **David Rees:** The question is that amendment 33 be agreed to. Does any Member object? No. Therefore, amendment 33 is agreed.

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

*Cynigiwyd gwelliant 34 (Mark Drakeford).  
Amendment 34 (Mark Drakeford) moved.*

[309] **David Rees:** The question is that amendment 34 be agreed to. Does any Member object? No. Therefore, amendment 34 is agreed.

*Derbyniwyd gwelliant 34 yn unol â Rheol Sefydlog 17.34.  
Amendment 34 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 35 (Mark Drakeford).  
Amendment 35 (Mark Drakeford) moved.*

[310] **David Rees:** The question is that amendment 35 be agreed to. Does any Member object? No objections. Therefore, amendment 35 is agreed.

*Derbyniwyd gwelliant 35 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 35 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 36 (Mark Drakeford).*  
*Amendment 36 (Mark Drakeford) moved.*

[311] **David Rees:** Before we vote on amendment 36, you should be aware that if amendment 36 is not agreed, amendments 37 and 38 will fall. The question is that amendment 36 be agreed to. Does any Member object? No. Therefore, 36 is agreed.

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

*Cynigiwyd gwelliant 37 (Mark Drakeford).*  
*Amendment 37 (Mark Drakeford) moved.*

[312] **David Rees:** The question is that amendment 37 be agreed to. Does any Member object? No. Therefore, amendment 37 is agreed.

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

*Cynigiwyd gwelliant 38 (Mark Drakeford).*  
*Amendment 38 (Mark Drakeford) moved.*

[313] **David Rees:** The question is that amendment 38 be agreed to. Does any Member object? No. Therefore, amendment 38 is agreed.

*Derbyniwyd gwelliant 38 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 38 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 39 (Mark Drakeford).*  
*Amendment 39 (Mark Drakeford) moved.*

[314] **David Rees:** The question is that amendment 39 be agreed to. Does any Member object? No objections. Therefore, amendment 39 is agreed.

*Derbyniwyd gwelliant 39 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 39 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 40 (Mark Drakeford).*  
*Amendment 40 (Mark Drakeford) moved.*

[315] **David Rees:** The question is that amendment 40 be agreed to. Does any Member object? No. Therefore, amendment 40 is agreed.

*Derbyniwyd gwelliant 40 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 40 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 41 (Mark Drakeford).*  
*Amendment 41 (Mark Drakeford) moved.*

[316] **David Rees:** The question is that amendment 41 be agreed to. Does any Member object? No. Therefore, amendment 41 is agreed.

*Derbyniwyd gwelliant 41 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 41 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 42 (Mark Drakeford).*  
*Amendment 42 (Mark Drakeford) moved.*

[317] **David Rees:** The question is that amendment 42 be agreed to. Does any Member object? No objections. Therefore, amendment 42 is agreed.

*Derbyniwyd gwelliant 42 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 42 agreed in accordance with Standing Order 17.34.*

**Grŵp 14: Chwythu'r Chwiban (Gwelliannau 142, 147 a 148)**  
**Group 14: Whistleblowing (Amendments 142, 147 and 148)**

[318] **David Rees:** We move on now to group 14, which is in relation to whistleblowing. The lead amendment in the group is amendment 142. I call on Lindsay Whittle to move amendment 142 and to speak to the amendments in this group.

*Cynigiwyd gwelliant 142 (Lindsay Whittle).*  
*Amendment 142 (Lindsay Whittle) moved.*

[319] **Lindsay Whittle:** Thank you, Chair. I formally move amendment 142, in group 14, in my name. Whistleblowing, of course, is extremely important. I

believe that a service provider must have in place a whistleblowing policy and procedures. This will contribute to maintaining and improving the quality of service provided, and failure to do so should be an offence. Too many employees report victimisation by their employer, and this will ensure an end, finally, I believe, to this lip service. Owners of homes must knuckle down and take their responsibilities seriously. I formally move amendment 142, Chair.

[320] **David Rees:** Thank you, Lindsay. Does any other Member wish to speak?

[321] **Alun Davies:** Do we have advice on whether this is—*[Inaudible.]*

[322] **David Rees:** That's legal advice that I will need to seek clarification on. Therefore, I think, again, I will need to take a five-minute break to get that clarification, because that's something that we need to—. You've asked the question and we now need to have the answer. So, we'll have to take a five-minute break to get that clarification.

*Gohiriwyd y cyfarfod rhwng 10:54 a 11:02.  
The meeting adjourned between 10:54 and 11:02.*

[323] **David Rees:** Can I welcome Members back from the short interval for clarification and some legal advice for the committee? I was at the point of asking if any other Members wish to speak. Are there any other Members who wish to speak to these amendments? No. Therefore, I call on the Minister.

[324] **Mark Drakeford:** Thank you, Chair. I'll begin by saying that this is a serious group of amendments and the necessity of freedom of workers to raise issues of concern is something that we rightly take very seriously. Social care workers already enjoy some protections, because if they choose to whistleblow, then they are protected by the Employment Rights Act 1996. I think we can go beyond that through this Bill by creating workplace cultures and practices that support whistleblowing. And, as I think I've said before in front of the committee, it is my intention to strengthen provisions in this area through the regulation-making power in section 26 of the Bill to require service providers to have whistleblowing and concern-raising policies and practices in place.

[325] I also intend to use the regulation-making power in section 27 to

place statutory duties on responsible individuals, so that both the service providers and responsible individuals have duties to ensure social care workers are supported to raise concern. That's consistent with the approach taken in the Bill, generally, that all of the key duties to be placed on service providers and responsible individuals will be achieved via the regulations made under sections 26 and 27 of the Bill. We will set out guidance to accompany that, again, issued under section 28 of the Bill. Through that guidance, we will establish a detailed and thorough set of requirements setting out exactly what should be included in such policies and how providers and responsible individuals are to be expected to show how they are complying with the policies that they will be obliged to have in place. I think that that is a stronger way of providing protection to whistleblowers than the amendments offered under this group.

[326] There are two key reasons why I think these amendments should not be supported. Notwithstanding whatever advice the committee may have received, the advice that I have is that, as drafted, there are competence risks associated with these amendments, and the argument, as I understand it, is this: for something to be within the Assembly's legislative competence, the provisions must relate to a devolved subject; in this case, that devolved subject would most likely be that of social welfare. The way the amendment has been drafted contemplates providers having to have policies and procedures in place that deal with complaints against anybody. The type of bad practice that the duty is aimed at uncovering therefore goes wider than any kind of bad practice that is connected with social welfare. Because of that, that connection that must be there to a devolved competence is broken. Examples of this could include a member of staff alleging financial impropriety or an employment grievance within a service. The amendment is not specific enough to demonstrate that it relates to social welfare and, therefore, there is a significant risk that its inclusion in the Bill could lead to a successful challenge in the Supreme Court.

[327] The second reason why I think these amendments should not be supported is that I don't think that, as drafted, their inclusion in the Bill would result in an outcome that would satisfy Members. The amendments make no reference as to the content or substance of the whistleblowing policies and procedures that service providers would be required to have in place. And, of course, that substance would be required under the course of action that I have outlined to you, using sections 26, 27 and 28 of the Bill. These amendments simply require service providers to have a policy in place. Providers could, therefore, satisfy the requirement of these amendments by

simply having a policy that states that employees have no other rights other than those that they already have under the employment rights Act of 1998. I think that there are better ways of achieving the shared objectives that lie behind these amendments, and I think that doing it through sections 26, 27 and 28 will be a more significant way of providing protections of the sort we want to provide to social care workers, without any risks to competence either. I therefore ask Members to vote against these two amendments—three amendments, I beg your pardon.

[328] **David Rees:** Thank you, Minister. I call on Lindsay Whittle to reply to the debate.

[329] **Lindsay Whittle:** Thank you, Chair. Well, I thank the Minister for his advice and, you know, perhaps, if we lose this vote, as I fear we may, we will come back at a later stage to try and put some more substance onto this particular amendment, which I think is important. I looked at this as an opportunity to strengthen the regulation and inspection Bill. With the greatest of respect, some of the language I've heard here today—you know, they're going to 'ask', 'this is guidance' and employers will be 'obliged'—it's very polite. There's no polite way to tell somebody to do something, you know, it's just: 'Do it.' That's my opinion. It's very much like the 'The Foreign Office regrets' statements that used to come out, and I think we need to be a bit stronger than that. But I accept what the Minister says. I will put it to the vote, though, with your permission, Chair.

[330] **David Rees:** Thank you, Lindsay.

[331] You've indicated you wish to move to a vote and, therefore, before we move to the vote, I wish to make Members aware that if amendment 142 is not agreed then amendments 147 and 148 will fall. The question, therefore, is that amendment 142 be agreed to. Does any Member object? [*Objection.*] I have an objection, therefore, I'll take a vote by a show of hands. Can those in favour of amendment 142 please raise your hands? Thank you. Those against, please raise your hands. Thank you. There's a tied vote, and I use my casting vote in the negative, against the amendment, in accordance with Standing Order 6.20. Therefore, amendment 142 falls.

*Gwelliant 142: O blaid 5, Yn erbyn 5, Ymatal 0.*

*Amendment 142: For 5, Against 5, Abstain 0.*

O blaid:

Yn erbyn:

Ymatal:



For:

Against:

Abstain:

Hussain, Altaf  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Davies, Alun  
Griffiths, John  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

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

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

*Gwrthodwyd gwelliant 142.  
Amendment 142 not agreed.*

[332] **David Rees:** As does 147 and 148.

*Methodd gwelliannau 147 a 148.  
Amendments 147 and 148 fell.*

**Grŵp 15: Y Defnydd o Contractau Dim Oriau wrth Gyflenwi Gwasanaethau Rheoleiddiedig (Gwelliant 143)**

**Group 15: Use of Zero Hours Contracts in the Delivery of Regulated Services (Amendment 143)**

[333] **David Rees:** We now move on to group 15, and group 15 is in relation to the use of zero-hours contracts in the delivery of regulated services. The lead and only amendment in the group is amendment 143, and I call on Lindsay Whittle to move 143 and to speak to the amendment.

*Cynigiwyd gwelliant 143 (Lindsay Whittle).  
Amendment 143 (Lindsay Whittle) moved.*

[334] **Lindsay Whittle:** Thank you, Chair. I formally move 143 tabled in my name. Obviously, the purpose of this is so that we have no zero-hours contracts. In order to retain staff, I do believe they should be appointed on proper contracts with assured hours so that there is a stable environment for both staff and, of course, more importantly, for the people receiving the regulated services. Employing people for two or three hours on an ad hoc basis each week—their heart isn't really in that job, and, if your heart's not in the job, then are you providing the best quality to the individuals concerned?

I don't think you are. A well-paid, happy workforce provides the best quality, in my opinion.

[335] I do believe these amendments are within the competency, because it is related specifically to social care, and the intention behind the amendment is to improve the quality of social care. We've heard evidence that the agricultural wages board legislation proves we do have competence over some aspects of employment, so, if we stick to that, and just concentrate. Yesterday, the Flynn report called for the Government in the social care market to improve low pay and conditions. Zero hours easily falls into that category. If this amendment is defeated, make no mistake, there will be more incidents of poor care in homes, and lower standards, leading inevitably to injury, neglect or worse. The Flynn report was most specific yesterday: better pay and conditions are needed, and that's what this is all about.

[336] **David Rees:** Thank you, Lindsay. Are there any other Members who wish to speak? I've already had indications from Darren and Kirsty. So, Darren.

[337] **Darren Millar:** I want to speak against this amendment. Whilst I don't contest its competency, based on my understanding of the competency issue, I do not accept that zero-hours contracts are necessarily a bad thing for either employers or their employees. In fact, zero-hours contracts suit large parts of the workforce, particularly students, the elderly and many women who want the flexibility that these particular sorts of contracts can afford. I have to take issue with Lindsay's assertion that those who are on zero-hours contracts do not have their heart in the job, and that their job performance is worse than those who have contracts for, you know, one minute plus, which this particular amendment would still allow. You would still be able to award contracts of even one second to an employee in the way that this particular amendment is framed. So, occasional work, and the need to be agile in terms of being to flex hours up and down, particularly for social care workers, where the needs of service users can change significantly from one week to the next, lead me to conclude that this is a very bad amendment and that we shouldn't be pursuing it.

[338] According to the Chartered Institute of Personnel and Development, those who work on zero-hours contracts are afforded a much better work-life balance, they're more satisfied than those who have contracted hours with their employment, and far fewer of them are looking for alternative employment than the general workforce, so I think this is a very bad

amendment, I will be opposing it, and I would encourage others to do likewise.

[339] **David Rees:** Thank you. Kirsty.

[340] **Kirsty Williams:** Thank you. Can I begin by saying that I too think that people who find themselves on zero-hours contracts working in the care sector are people who do actually want to give of their all to their job, and do want to be in a profession that allows them to do something that many of them really value doing? Can I also, though, take issue with the fact that it's not just women who need flexible arrangements and look to have flexible working arrangements? Men do as well.

[341] **Darren Millar:** Chair, can I make an intervention on that point, with your permission?

[342] **David Rees:** For clarification only.

[343] **Darren Millar:** Yes. I just want to clarify the point that I was making was that a greater proportion of women are on these zero-hours contracts—54 per cent versus 46 per cent of those with zero-hours contracts are women, and what I am concerned about is that it will have a disproportionate impact on women if this amendment proceeds.

[344] **David Rees:** You've made the point.

[345] **Kirsty Williams:** But the issue is, for many of those people, being on a zero-hours contract actually drives them out of a sector that they want to work in, because of the instability and the uncertainty and actually they take on other roles, and other jobs, and it drives people, often with very good motivation, and the right set of skills, out, because they require something more concrete for their families and for their own livelihood.

11:15

[346] We do know as well that the use of zero-hours contracts—specifically in the domiciliary care sector, because it's not so much in the residential care sector, it usually is within the domiciliary care sector that these are used—can make it incredibly difficult to recruit staff in the first place, and the failure to recruit staff leads to a devastating impact on individuals and on service providers who are trying to provide a service. That has a direct

relationship with the quality of care. One only has to read the recent inspection report by CSSIW into domiciliary care services in Powys, which states quite clearly that a failure to recruit was the main factor in poor levels of service and poor levels of care. I think the use of zero-hours contracts in that sector is detrimental to recruitment.

[347] Yesterday, the First Minister made quite clear his intentions to act in this regard, although he did talk about needing extra powers devolved. I wonder, if the Minister goes on to say this morning that he's not able to accept these amendments, whether he will he look to pursue these issues, like he has said he intends to do with 15-minute care calls, and whether he will use the standards at a later date, if he's not prepared to accept this today, to pursue this agenda to ensure that service providers and commissioners look to limit their use of zero-hours contracts, where at all possible.

[348] **David Rees:** Thank you. I have Alun and then Lynne.

[349] **Alun Davies:** We've had a lesson in the reality of compassionate Conservatism this morning, haven't we? In terms of where we are, I think all of us are aware that the casualisation of the workforce has been a driver of in-work poverty in communities up and down Wales. It's been a driver of extraordinary hardship and difficulty for hard-working families in Blaenau Gwent and elsewhere, and we've seen the results of that in all sorts of different places. I think the compulsion to work on zero contract hours is one of the most devastating blows to a professionalised and effective workforce we've seen. It isn't being driven by either concern for working people or concern for the people who are receiving the service. Let's be absolutely clear about that. That's not why you have zero hours; you have zero-hours contracts in order to maximise profit at the expense of people who are working for a business or who are receiving a service. So, you do not have zero-hours contracts in order to increase quality or increase standards. That's not why they exist, and that's not why we've seen them grow in the last few years. Whether the amendment as written is a way to deliver a better quality of work and better quality of care in the sector, I'm not so sure, but I certainly agree very much with what's been said by both Lindsay and Kirsty, and I do hope that the Minister, in listening to this debate and understanding the workforce issues within the sector, and also taking a view on the culture that we want to create within the workforce and within the environment here, will appreciate, I think, that there is a clear majority in this committee, in this place and across Wales to ensure that we do not have zero-hours contracts

as the norm in the delivery of services, that people are not compelled to work in three or four jobs in order to maintain their family together, in order to make ends meet, and then that we're able to move forward with a regulated, registered workforce, where quality and standards define that, and not casualisation.

[350] **David Rees:** Lynne.

[351] **Lynne Neagle:** I don't want to repeat what other people have said. I have a great deal of sympathy with this amendment, and would just like to ask the Minister, if he's not minded to accept the amendment, whether he can look at trying to deliver this aim in a different way, and would ask that he gives some concrete assurances in that regard to the committee this morning.

[352] **David Rees:** Are there any other Members who wish to speak? No. Therefore, Minister—.

[353] **Mark Drakeford:** Thank you, Chair. Well, my starting point is quite certainly not that this is a very bad amendment. It's not an amendment that I can ask Members to support, for reasons that I'll explain, but I absolutely agree with both what Kirsty Williams and Lynne have said, that this is an agenda that needs to be pursued. We do not want to see a social care sector in Wales in which zero-hours contracts are the norm. We just need to be clear that we're not voting on a general 'We don't like zero-hours contracts' proposition; we're voting on a specific amendment that would form part of the law. And what the amendment in front of this committee proposes is an outright ban on zero-hours contracts. They would not be permissible for anybody in any set of circumstances, and in that way it goes well beyond not simply what employer organisations have said, but it goes beyond the position taken by Unison, the union, for example. It goes beyond the Resolution Foundation and it goes beyond the Work Foundation, both of whom are opposed to zero-hours contracts as the norm, but say that an outright ban is not the sensible way of tackling them. An outright ban would, I think, have a very high risk of this amendment being a one-way ticket to the Supreme Court, because we would have to demonstrate that the ban was directly connected to a devolved subject area—that's to say, social welfare. It wouldn't be enough in a general sort of way to say, 'Zero-hours contracts are bad and we don't want them in social care'. We would have to demonstrate how zero-hours contracts have a direct impact on the quality of care that is provided, and if we couldn't assemble that argument in a way that was

empirically convincing, then we would be in a very weak position indeed.

[354] So, what the Government has done is to set about getting that empirical evidence. The Minister for Public Services published research in July into zero-hours contracts in the public services in Wales. It showed that, from the point of the users, sometimes people do say that there are advantages as well as disadvantages to zero-hours contracts. But, that piece of research said that in home care services in particular, there were issues that need to be explored further. And CSSIW has reported itself on a connection between zero-hours contracts and the point that Kirsty made about increased staff turnover.

[355] For those reasons, I have commissioned further research on factors that affect the recruitment and retention of home care workers, and the relationship between that and zero-hours contracts. Interim findings from that research will be available by the turn of the year, and we will consult on policy options flowing from that research in the early part of next year. And then, I think, we will have the proper ground on which we can move forward to use section 26 of the Bill to impose requirements on service providers on how zero-hours contracts can be made the exception and not the norm in the domiciliary care arena.

[356] **Darren Millar:** Will you take an intervention just on that point? I accept that they should be exceptions and not the norm, and, in fact, that is the reality in the domiciliary care sector; most people do have contracts with a specified minimum number of hours. Do you accept that that is fact?

[357] **Mark Drakeford:** No, I don't, Chair; 61 per cent of all domiciliary care workers in England are employed on a zero-hours contract. [*Interruption.*] Sixty one per cent of workers in the domiciliary care sector are on zero-hours contracts. That suggests to me that that is not the exception, but that they have become the norm and that that could become the position in Wales as well, and we don't want to see that position.

[358] So, depending on the outcome of the research, I think we will be able to put some policy options forward for consultation. They could, for example, include a proposal that if you begin on a zero-hours contract, if you've been employed on that basis for 12 weeks, you are guaranteed to be made an offer of a permanent hours contract. It's an offer—you wouldn't have to accept it, because some people do say that they would prefer a different one. But, if you've been there for 12 weeks, as an example—and it's

just an example—then you'd be guaranteed that you'd go on to a proper contract if you wanted one. Or we could decide that what we would do is limit the number of hours that a domiciliary care provider could provide within its contract; if you had a contract for 100 hours, you could say, 'Only a certain percentage of these can be provided on a zero-hours-contract basis.' I think there are a number of very practical and very effective ways in which we can achieve what this amendment sets out to achieve.

[359] **Elin Jones:** Can I ask the Minister if you're confident that section 26, and the regulation-making powers that you have in section 26, provide sufficient scope for you to be introducing the kind of regulations that you're looking to introduce, should the evidence provide that, or whether the regulation-making powers at this point need to be amended further to allow you the scope to legislate in this area?

[360] **Mark Drakeford:** I thank the Minister—. I thank Elin Jones, I beg your pardon. [*Laughter.*] Anticipating there.

[361] I thank Elin Jones for that important point, because we have explored this very directly. And the advice I have is that the regulation-making power is widely drawn and quite sufficient to make sure that we would be able to use it in the way that I've explained this morning. It wouldn't be a barrier in section 26 to doing this. The barrier we have to overcome is the one that enables us to demonstrate that there is a direct connection between the quality of care provided and the use of zero-hours contracts and that's what the research that we are conducting will help us to establish in that reliable, defensible way. This amendment doesn't do that; it opens us up to real challenge. Could I say as well that I don't think it even manages to achieve what I think it was intended to achieve? The amendment simply prohibits the use of zero-hours contracts. There are no consequences for providers if they fail to comply with that provision. It's therefore unenforceable because there is no enforcement regime that goes alongside this amendment.

[362] So, as I say, I started off by saying that I don't think it's a bad amendment at all because I think it pursues a very important objective and an objective that is widely shared around the table. I think there are better ways of getting to that objective. I was asked by both Kirsty and Lynne whether I'd make a commitment to taking this issue forward in the way that I've described, and I'm happy to repeat that that's the way that we would want to go about it.

[363] **David Rees:** Thank you, Minister. I call on Lindsay to reply to the debate.

[364] **Lindsay Whittle:** Thank you, Chair, and I thank the Minister and everybody who's taken part. This is extremely important and it does affect—. People from both sides of the Chamber have spoken so eloquently about this, and passionately about it. But, with respect, saying 'ooh' and 'ah' in all the right places is not going to achieve what we want to achieve, and let's be blunt, that is an end to zero-hours contracts. That's what I'm here to do. It is my job, Minister, along with all the opposition Members, to scrutinise you. I did, in a brief conversation I had with you yesterday, say that it's not my job to embarrass Governments, in particular in social services, because I think social services should rise above political point-scoring. I believe we should just concentrate on providing the best service. I have believed that throughout my 40 years in public life and I will never deviate from that. I do feel this is an opportunity missed, but I accept fully, of course, what you say. I can see clearly that we're not going to win this vote, but I will proceed with the vote, Chair, and we will be back, perhaps, in January. I hope to have the opportunity to be back; I don't know whether I'll be back after May—I'll do my best—but certainly, I'll be back in January to look at this as well.

[365] **David Rees:** Okay. Thank you. You've indicated that you wish to move to a vote, so the question is that amendment 143 be agreed to. Does any Member object? [*Objection.*] We have an objection; therefore, I'll take a vote by a show of hands. Can those in favour please raise their hands? Thank you. And those against, please raise their hands. In relation to amendment 143, there voted 3 in favour and 7 against. Therefore, the amendment is not agreed.

*Gwelliant 143: O blaid 3, Yn erbyn 7, Ymatal 0.*

*Amendment 143: For 3, Against 7, Abstain 0.*

O blaid:

For:

Jones, Elin  
Whittle, Lindsay  
Williams, Kirsty

Yn erbyn:

Against:

Davies, Alun  
Griffiths, John  
Hussain, Altaf  
Millar, Darren  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

Ymatal:

Abstain:



*Gwrthodwyd gwelliant 143.  
Amendment 143 not agreed.*

*Cynigiwyd gwelliant 43 (Mark Drakeford).  
Amendment 43 (Mark Drakeford) moved.*

[366] **David Rees:** We move on now to a vote on amendment 43. The question is that amendment 43 be agreed to. Does any Member object? [*Objection.*] We have an objection; therefore, I'll take a vote by a show of hands. Can those in favour of amendment 43 please show? Thank you. And those against, please show. In relation to amendment 43, I have 8 in favour and 2 against. Therefore the amendment is agreed.

*Gwelliant 43: O blaid 8, Yn erbyn 2, Ymatal 0.  
Amendment 43: For 8, Against 2, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay  
Williams, Kirsty

Hussain, Altaf  
Millar, Darren

*Derbyniwyd gwelliant 43.  
Amendment 43 agreed.*

[367] **David Rees:** Altaf, would you like to move amendment 110?

*Cynigiwyd gwelliant 110 (Altaf Hussain).  
Amendment 110 (Altaf Hussain) moved.*

[368] **Altaf Hussain:** Yes.

11:30

[369] **David Rees:** The question is that amendment 110 be agreed. Does any Member object? [*Objection.*] We have an objection. Therefore, I'll take a vote by show of hands. Can those in favour of amendment 110 please raise your

hands? Thank you. Those against, please raise. Thank you. We have a tied vote. Therefore, I use my casting vote in the negative, against the amendment, in accordance with Standing Order 6.20 and amendment 110 is not agreed.

*Gwelliant 110: O blaid 5, Yn erbyn 5, Ymatal 0.*

*Amendment 110: For 5, Against 5, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Jones, Elin  
Millar, Darren  
Williams, Kirsty  
Whittle, Lindsay

Davies, Alun  
Griffiths, John  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

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

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

*Gwrthodwyd gwelliant 110.*

*Amendment 110 not agreed.*

[370] **David Rees:** Altaf, would you like to move amendment 111?

*Cynigiwyd gwelliant 111 (Altaf Hussain).*

*Amendment 111 (Altaf Hussain) moved.*

[371] **Altaf Hussain:** Yes.

[372] **David Rees:** The question is that amendment 111 be agreed to. Does any Member object? [*Objection.*] We have an objection. Therefore, I will ask for a vote by a show of hands. Can those in favour of amendment 111 please raise your hands? Thank you. Those against amendment 111. Thank you. We have a tied vote. I'm going to use my casting vote in the negative against the amendment and, therefore, according to Standing Order 6.20 amendment 111 is not agreed.

*Gwelliant 111: O blaid 5, Yn erbyn 5, Ymatal 0.*

*Amendment 111: For 5, Against 5, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Jones, Elin  
Millar, Darren  
Williams, Kirsty  
Whittle, Lindsay

Davies, Alun  
Griffiths, John  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

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

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

*Gwrthodwyd gwelliant 111.*

*Amendment 111 not agreed.*

*Cynigiwyd gwelliant 44 (Mark Drakeford).*

*Amendment 44 (Mark Drakeford) moved.*

[373] **David Rees:** Amendment 44. The question is that it be agreed. Does any Member object? No objections. Therefore, amendment 44 is agreed.

*Derbyniwyd gwelliant 44 yn unol â Rheol Sefydlog 17.34.*

*Amendment 44 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 45 (Mark Drakeford).*

*Amendment 45 (Mark Drakeford) moved.*

[374] **David Rees:** The question is that amendment 45 be agreed to. Does any Member object? There are no objections. Therefore, amendment 45 is agreed.

*Derbyniwyd gwelliant 45 yn unol â Rheol Sefydlog 17.34.*

*Amendment 45 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 46 (Mark Drakeford).*

*Amendment 46 (Mark Drakeford) moved.*

[375] **David Rees:** The question is that amendment 46 be agreed to. Does any Member object? No. Therefore, amendment 46 is agreed.

*Derbyniwyd gwelliant 46 yn unol â Rheol Sefydlog 17.34.*

*Amendment 46 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 47 (Mark Drakeford).*

*Amendment 47 (Mark Drakeford) moved.*

[376] **David Rees:** The question is that amendment 47 be agreed to. Does any Member object? No. Therefore, amendment 47 is agreed.

*Derbyniwyd gwelliant 47 yn unol â Rheol Sefydlog 17.34.*

*Amendment 47 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 48 (Mark Drakeford).*

*Amendment 48 (Mark Drakeford) moved.*

[377] **David Rees:** The question is that amendment 48 be agreed to. Does any Member object? No. Therefore, amendment 48 is agreed.

*Derbyniwyd gwelliant 48 yn unol â Rheol Sefydlog 17.34.*

*Amendment 48 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 49 (Mark Drakeford).*

*Amendment 49 (Mark Drakeford) moved.*

[378] **David Rees:** The question is that amendment 49 be agreed to. Does any Member object? No objections. Therefore, amendment 49 is agreed.

*Derbyniwyd gwelliant 49 yn unol â Rheol Sefydlog 17.34.*

*Amendment 49 agreed in accordance with Standing Order 17.34.*

**Grŵp 16: Arolygiadau o Ddarparwyr Gwasanaethau Rheoleiddiedig  
(Gwelliannau 50, 144, 64)**

**Group 16: Inspections of Regulated Service Providers (Amendments 50, 144,  
64)**

[379] **David Rees:** We now move on to group 16, which is in relation to

inspections of regulated service providers. The lead amendment in the group is amendment 50.

*Cynigiwyd gwelliant 50 (Mark Drakeford).*

*Amendment 50 (Mark Drakeford) moved.*

[380] **David Rees:** I formally move amendment 50 in the name of the Minister. I call the Minister to speak to the amendments in this group.

[381] **Mark Drakeford:** Thank you, Chair. The two Government amendments in this group seek to clarify the purpose and focus of inspections. Amendment 50 makes it explicit that an inspection will be of a service provider as opposed to a regulated service and that an inspection will involve two things: firstly, the impact of care on the wellbeing of those receiving services; and, secondly, the co-ordination and organisation of those services. This reflects a key aim of the Bill, which is to move our regulatory regime to focus more on outcomes achieved for service users. The second amendment in my name, No. 64, amends the list of things that must be included in an inspection report, and that's a consequence of amendment 50, which alters the definition of an inspection.

[382] I've reflected on amendment 144, proposed by Lindsay Whittle. My understanding is that inspectors do currently complete reports of inspections within 28 days of an inspection taking place, but then you have a period beyond that in which the provider is given 16 days to comment on the draft, and I think that that is an important part of the procedure. CSSIW need the 28 days. It can involve taking legal advice and so on, but it is right that there is a period of time built in so that the person on whom the report is being made has a chance to comment on that report and correct any factual errors and so on. These amendments are often made to the report prior to publication on the CSSIW website. So, I think that there are systems in place to do what I understand the effect of Lindsay's amendment to be and that is to see a rapid and efficient turnaround of reports following inspections.

[383] There will be a new requirement for a code of practice under this Bill, under section 32(4), and I'm happy to give an undertaking this morning that information about the timeframes involved between an inspection taking place and the time that that report will be published will be included within

the code of practice that will be established.

[384] **David Rees:** Thank you, Minister. Lindsay, do you wish to speak to your amendment?

[385] **Lindsay Whittle:** Yes, Chair. On amendment 144, I do think there should be a date. It's 'How long is a piece of string?', I guess. We've put a time limit of 28 days, and I accept what the Minister says that they have, perhaps, 16 further days for the people who've been reported upon to respond. But, I believe there were some criticisms levelled at Health Inspectorate Wales last year, which didn't report some of their findings quickly enough, and I believe any improvement to service quality should be acted upon speedily so the improvements can be implemented as soon as possible. But, with respect, Minister, I think you have to put a deadline on these inspection reports. Otherwise, some of them are in danger of gathering dust on a shelf, and I think you have to be firm.

[386] **David Rees:** Thank you. Does any other Member wish to speak? No. Minister, do you wish to reply to the debate?

[387] **Mark Drakeford:** Well, I'll think carefully about what Lindsay has said this morning. For today, I'll continue to ask Members to reject amendment 144, but I will reflect, certainly, on what I've heard.

[388] **David Rees:** Thank you, Minister.

[389] The question is that amendment 50 be agreed to. Does any Member object? No objections. Therefore, amendment 50 is agreed.

*Derbyniwyd gwelliant 50 yn unol â Rheol Sefydlog 17.34.*

*Amendment 50 agreed in accordance with Standing Order 17.34.*

**Grŵp 17: Cynnwys y Cyhoedd a Gofalwyr mewn Arolygiadau (Gwelliannau  
112, 68A a 68)**

**Group 17: Involvement of the Public and Carers in Inspections (Amendments  
112, 68A and 68)**

[390] **David Rees:** We move on now to group 17, which is involvement of the public and carers in inspections. The lead amendment in the group is amendment 112, and I call on Altaf Hussain to move amendment 112 and to

speak to the amendments in this group.

*Cynigiwyd gwelliant 112 (Altaf Hussain, gyda chefnogaeth Kirsty Williams).  
Amendment 112 (Altaf Hussain, supported by Kirsty Williams) moved.*

[391] **Altaf Hussain:** I will. Thank you very much. Amendment 112 would require the code of practice prepared under section 32(4) to include details about the involvement and engagement of lay reviewers in the carrying out of inspections. Lay reviewers should be integral to the inspection regime. Lay reviewers can provide a valuable insight into the quality of care and the quality of life of those people living in care homes. Lay reviewers help, within a special regime, to see things from the point of view of those in care and should be integral to the inspection process. When we took evidence on this, the majority of respondents to the committee were in favour of lay inspectors. Family members of those who suffered abuse and neglect in care homes told us that lay inspectors have a role to play in preventing such abuse and neglect in future. Concerns have been raised about the costs involved in maintaining lay inspectors, but, as the older people's commissioner has said, the benefit of using lay inspectors far outweighs the costs associated and the cost to an individual in respect of poor care. While we welcome the Minister's view that the public should play an active role in the inspection process, we feel that there needs to be a commitment to involve lay reviewers on the face of the Bill.

[392] The purpose of amendment 68A is to remove paragraph (a) in the Minister's amendment to avoid duplication. Thank you.

[393] **David Rees:** Thank you, Altaf. Does any other Member wish to speak? Kirsty.

[394] **Kirsty Williams:** Thank you very much, Chair. The Minister will be aware that, during the first stage of scrutiny of the Bill, there was a great deal of debate about the appropriateness and the advantages of using lay inspectors in the regime, and the committee, in its report, in recommendation 9, did state that the committee wished the Minister to bring forward

[395] 'amendments to place a requirement on the face of the Bill'

[396] for CSSIW

[397] 'to include the use of lay inspectors as an integral part of its approach'.

[398] I appreciate that the Government's response to recommendation 9 is to have tabled their own amendments. My concern is that the amendments tabled by the Government state that the statement of policy will have to include description of the use of lay inspectors, and that does not fully reflect, I think, the view of this committee, in that the use of lay inspectors should be on the face of the Bill. Therefore, I think the opposition's amendment is stronger, although I welcome the movement by the Minister, which seems to take us on from the debate we had on the committee's report, where the Minister said he didn't wish to tie the hands of the regulator. So, I think that there is definitely movement on behalf of the Government in this regard. But, I think an explicit statement, as outlined in the amendment at the start of this group, is the preferable way forward. Thank you.

[399] **David Rees:** Thank you. Does any other Member wish to speak? No. Then, I call the Minister.

[400] **Mark Drakeford:** Thank you, Chair. Kirsty Williams is absolutely right that the Government amendment in this group does respond to recommendations 8 and 9 of the committee Stage 1 report. I think this is an example where there is a very shared sense of what we are wanting to achieve. We all want the same thing: the involvement of the public in the inspection process. A fresh pair of eyes that will draw attention to what might otherwise be overlooked and an independent perspective that will provide challenge where that is necessary. How do we best do that? Well, I feel strongly that it is not the best way to engage a new professional class of lay inspectors or lay reviewers or lay assessors. All these terms are used—none of them are defined by anybody in relation to the Bill, and they certainly would have to be if we were to introduce such a term.

[401] Everywhere you see a scandal that has happened in social welfare, you will find that there have been lay people who have been walking through the door, but, because they have become habituated and become part of the system, they cease to see what is going wrong, just like other people who, because they're there every day, have stopped becoming sensitised to things that someone who is genuinely outside comes in and sees with those fresh eyes.



[402] I think that our amendment to require CSSIW not simply to set out their policy for how they will involve the public in inspections, and carers, as well—remember that our amendment also involves CSSIW in deploying carers as part of inspection—but also to report on how they’ve done it, so there is another obligation on CSSIW to give us confidence that this would happen—. I think our amendment is more progressive; it is about the democratisation of the inspection process, and I think narrowing down the way that we want to see the public involved in the inspection process to terms like ‘lay inspection’, ‘lay reviewers’ and ‘lay assessors’ is old-fashioned, I think it’s restrictive, and I don’t think it delivers what we want to do, and I think the Welsh Government amendment does, and I hope Members will support it.

[403] **David Rees:** Thank you, Minister. I call on Altaf to reply to the debate.

[404] **Altaf Hussain:** Thank you very much. Let us go and vote.

[405] **David Rees:** Okay. Altaf’s indicated he wishes to proceed with a vote. Therefore, the question is that amendment 112 be agreed to. Does any Member object? [*Objection.*] I have an objection. Therefore, we’ll take a vote by show of hands. Can those in favour of amendment 112 please raise your hands? Thank you. Those against amendment 112, please raise your hands. Thank you. In relation to amendment 112, there voted three in favour and seven against. Therefore, the amendment is not agreed.

*Gwelliant 112: O blaid 3, Yn erbyn 7, Ymatal 0.  
Amendment 112: For 3, Against 7, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Millar, Darren  
Williams, Kirsty

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay

*Gwrthodwyd gwelliant 112.  
Amendment 112 not agreed.*

[406] **David Rees:** Lindsay, would you like to move amendment 144?

*Cynigiwyd gwelliant 144 (Lindsay Whittle).*  
*Amendment 144 (Lindsay Whittle) moved.*

[407] **Lindsay Whittle:** Yes. I formally move 144, Chair. We have discussed it.

[408] **David Rees:** Yes. The question is that amendment 144 be agreed to. Does any Member object? [*Objection.*] We have an objection. Therefore, I'll take a vote by show of hands. Can those in favour of amendment 144 please raise your hands? Thank you. Those against amendment 144, please raise your hands. Thank you. In relation to amendment 144, there voted three in favour and seven against. Therefore, amendment 144 is not agreed.

*Gwelliant 144: O blaid 3, Yn erbyn 7, Ymatal 0.*  
*Amendment 144: For 3, Against 7, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Jones, Elin  
Whittle, Lindsay  
Williams, Kirsty

Davies, Alun  
Griffiths, John  
Hussain, Altaf  
Millar, Darren  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gwrthodwyd gwelliant 144.*  
*Amendment 144 not agreed.*

[409] **David Rees:** Before we move to group 18, I recommend that we take a 10-minute break and reconvene at 11.55 a.m.

*Gohiriwyd y cyfarfod rhwng 11:43 a 11:50.*  
*The meeting adjourned between 11:43 and 11:50.*

**Grŵp 18: Pwerau Arolygwyr (Gwelliannau 51, 52, 53, 54, 56, 57, 145, 146, 58, 59, 60, 61, 62, 63, 80, 81, 82 ac 83)**

**Group 18: Powers of Inspectors (Amendments 51, 52, 53, 54, 56, 57, 145, 146, 58, 59, 60, 61, 62, 63, 80, 81, 82 and 83)**

[410] **David Rees:** We now move on to group 18. This group of amendments

is to consider the powers of inspectors. The lead amendment in the group is amendment 51.

*Cynigiwyd gwelliant 51 (Mark Drakeford).*

*Amendment 51 (Mark Drakeford) moved.*

[411] **David Rees:** I formally move amendment 51 in the name of the Minister. I call on the Minister to speak to the amendments in this group. Minister.

[412] **Mark Drakeford:** Thank you, Chair. Well, here's a further set of amendments to clarify and reinforce the Bill as a result of its consideration at Stage 1. Amendment 51 is important as it provides the necessary powers to inspectors to be able to inspect service activity that may not have a premises base, or to inspect premises that are connected to the service but from which the service is not actually provided. If this amendment is passed, it will mean that no place that is connected with a service is exempt from the inspection process, even if a regulated service is being run, for example, using a laptop in a car or where records may be stored in a service provider's office or on an industrial estate. This amendment means that inspectors will have the power to inspect that place, if required.

[413] Amendments 52 to 60, other than amendment 51 are consequential—. Sorry, I beg your pardon. Amendments 52 to 60 are consequential to amendment 51, with the exception of amendment 55, which was considered previously in group 9.

[414] Amendment 63 is brought forward as a direct response to recommendation 23, made by this committee in its Stage 1 report. This amendment inserts a new section clearly setting out the inspectors' powers to interview people in private, and that includes a right to insist that carers and relatives can be interviewed in private as well. The amendment also makes provision concerning medical examination. Amendments 80 to 83 provide parallel powers of inspection in relation to local authorities.

[415] I can't recommend to Members that they support amendments 145 and 146, which Lindsay has tabled. I understand the reasoning behind the amendments. I don't think section 33 is the right place to bring about such an amendment and, indeed, by specifying particular types of documents that could be inspected under section 33, there is a risk that it might unintentionally tie the hands of inspectors by allowing an interpretation of

that section that suggests that only the documents identified in the amendments should be made available. Section 33 has purposely been constructed in broad terms so that all records are available for inspection by the inspector, with the exception of medical and personal records, and I think that the section is best left in that way.

[416] **David Rees:** Thank you, Minister. Lindsay, do you wish to speak to your amendments?

[417] **Lindsay Whittle:** Chair, before I speak to and formally move my two amendments, 145 and 146, it's been remiss of me—I should have declared an interest that I am, indeed, a member of Caerphilly County Borough Council, though I receive no remuneration from that body. I just merely wish to move 145 and 146, Chair, formally.

[418] **David Rees:** Thank you, Lindsay. Does any other Member wish to speak to these amendments? Therefore, we go straight to the vote. The question is that amendment 51 be agreed to. Does any Member object? No objection. Therefore, amendment 51 is agreed.

*Derbyniwyd gwelliant 51 yn unol â Rheol Sefydlog 17.34.  
Amendment 51 agreed in accordance with Standing Order 17.34.*

[419] **David Rees:** I propose that amendments 52 to 54, which appear consecutively on the marshalled list, are disposed of en bloc, given their nature. Do Members object to that?

*Cynigiwyd gwelliannau 52, 53 and 54 (Mark Drakeford).  
Amendments 52, 53 and 54 (Mark Drakeford) moved.*

[420] **David Rees:** Therefore, the question is that amendments 52, 53 and 54 be agreed to. Does any Member object? No. Thank you very much. Therefore, amendments 52, 53 and 54 are agreed.

*Derbyniwyd gwelliannau 52, 53 a54 yn unol â Rheol Sefydlog 17.34.  
Amendments 52, 53 and 54 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 55 (Mark Drakeford).  
Amendment 55 (Mark Drakeford) moved.*

[421] **David Rees:** The question is that amendment 55 be agreed to. Does any Member object? No. Therefore, amendment 55 is agreed.

*Derbyniwyd gwelliant 55 yn unol â Rheol Sefydlog 17.34.  
Amendment 55 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 56 (Mark Drakeford).  
Amendment 56 (Mark Drakeford) moved.*

[422] **David Rees:** The question is that amendment 56 be agreed to. Does any Member object? No objections. Therefore, amendment 56 is agreed.

*Derbyniwyd gwelliant 56 yn unol â Rheol Sefydlog 17.34.  
Amendment 56 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 57 (Mark Drakeford).  
Amendment 57 (Mark Drakeford) moved.*

[423] **David Rees:** The question is that amendment 57 be agreed to. Does any Member object? No objections. Therefore, amendment 57 is agreed.

*Derbyniwyd gwelliant 57 yn unol â Rheol Sefydlog 17.34.  
Amendment 57 agreed in accordance with Standing Order 17.34.*

[424] **David Rees:** Lindsay.

*Cynigiwyd gwelliant 145 (Lindsay Whittle).  
Amendment 145 (Lindsay Whittle) moved.*

[425] **Lindsay Whittle:** Formally.

[426] **David Rees:** Thank you. The question is that amendment 145 be agreed to. Does any Member object? [*Objection.*] We have an objection. Therefore, I will take a vote by a show of hands. Can those in favour of amendment 145 please show their hands? Thank you. Those against, please raise your hands. Thank you. As there's a tied vote, I use my casting vote in the negative, against the amendment, in accordance with Standing Order 6.20. Therefore, amendment 145 is not agreed.

*Gwelliant 145: O blaid 5, Yn erbyn 5, Ymatal 0.  
Amendment 145: For 5, Against 5, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Davies, Alun  
Griffiths, John  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gwrthodwyd gwelliant 145.  
Amendment 145 not agreed.*

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais  
fwrw yn unol â Rheol Sefydlog 6.20(ii).  
As there was an equality of votes, the Chair used his casting vote in  
accordance with Standing Order 6.20(ii).*

[427] **David Rees:** Lindsay, amendment 146.

*Cynigiwyd gwelliant 146 (Lindsay Whittle).  
Amendment 146 (Lindsay Whittle) moved.*

[428] **Lindsay Whittle:** I formally move, Chair.

[429] **David Rees:** The question is that amendment 146 be agreed to. Does any Member object? [*Objection.*] We have an objection. Therefore, I will take a vote by a show of hands. Can those in favour of amendment 146 please raise your hands? Thank you. Those against the amendment. Thank you. There's a tied vote, and I use my casting vote in the negative, against the amendment, in accordance with Standing Order 6.20. Therefore, amendment 146 is not agreed.

*Gwelliant 146: O blaid 5, Yn erbyn 5, Ymatal 0.  
Amendment 146: For 5, Against 5, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Davies, Alun  
Griffiths, John  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gwrthodwyd gwelliant 146.  
Amendment 146 not agreed.*

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais  
fwrw yn unol â Rheol Sefydlog 6.20(ii).  
As there was an equality of votes, the Chair used his casting vote in  
accordance with Standing Order 6.20(ii).*

[430] **David Rees:** I propose that amendments 58 to 60, which appear consecutively in the marshalled list are disposed of en bloc, given their nature. Do Members object to that? No.

*Cynigiwyd gwelliannau 58, 59 a 60 (Mark Drakeford).  
Amendments 58, 59 and 60 (Mark Drakeford) moved.*

[431] **David Rees:** Therefore, the question is that amendments 58, 59 and 60 be agreed to. Does any Member object? No objections. Therefore, amendments 58, 59 and 60 are agreed.

*Derbyniwyd gwelliannau 58, 59 a 60 yn unol â Rheol Sefydlog 17.34.  
Amendments 58, 59 and 60 agreed in accordance with Standing Order  
17.34.*

*Cynigiwyd gwelliant 61 (Mark Drakeford).  
Amendment 61 (Mark Drakeford) moved.*

[432] **David Rees:** The question is that amendment 61 be agreed to. Does any Member object? No objection. Therefore, amendment 61 is agreed.

*Derbyniwyd gwelliant 61 yn unol â Rheol Sefydlog 17.34.  
Amendment 61 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 62 (Mark Drakeford).  
Amendment 62 (Mark Drakeford) moved.*

[433] **David Rees:** The question is that amendment 62 be agreed to. Does any Member object? No objections. Therefore, amendment 62 is agreed.

*Derbyniwyd gwelliant 62 yn unol â Rheol Sefydlog 17.34.  
Amendment 62 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 63 (Mark Drakeford).*  
*Amendment 63 (Mark Drakeford) moved.*

[434] **David Rees:** The question is that amendment 63 be agreed to. Does any Member object? No objection. Therefore, amendment 63 is agreed.

*Derbyniwyd gwelliant 63 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 63 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 64 (Mark Drakeford).*  
*Amendment 64 (Mark Drakeford) moved.*

[435] **David Rees:** The question is that amendment 64 be agreed to. Does any Member object? No objection. Therefore, amendment 64 is agreed.

*Derbyniwyd gwelliant 64 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 64 agreed in accordance with Standing Order 17.34.*

**Grŵp 19: Rheoliadau am Raddau Arolygu (Gwelliannau 65, 66, 113, 70 a 79)**  
**Group 19: Regulations About Inspection Ratings (Amendments 65, 66, 113, 70 and 79)**

[436] **David Rees:** We now move on to group 19. These amendments are in relation to regulations about inspection ratings. The lead amendment in this group is amendment 65.

*Cynigiwyd gwelliant 65 (Mark Drakeford).*  
*Amendment 65 (Mark Drakeford) moved.*

[437] **David Rees:** I formally move amendment 65 in the name of the Minister and I call on the Minister to speak to the amendments in this group.

[438] **Mark Drakeford:** Thank you, Chair. Well, this set of amendments arises from the very fruitful debate that was held during Stage 1 about the whole business of inspection ratings. As a result of an amendment passed earlier this morning, amendment 42, the requirement for service providers to display a certificate of registration has been removed. Therefore, we need amendment 65, which allows a power through regulations, which by virtue of section 185 of the Bill will be subject to the affirmative procedure, to require a service provider to display an inspection rating and to specify the manner



and place in which it is displayed. So, this is just to be completely clear that, if and when an inspection rating regime is introduced, once a rating is given then that rating will have to be displayed, and it will have to be displayed in a manner that will be set out in regulations, in relation to both the size of any notice and its location and so on. That's what amendment 65 secures.

[439] Amendment 70 is required so that when regulations are made that establish a ratings system, an offence can be established in relation to the requirement to display an inspection rating.

[440] Amendment 66 responds to recommendation 25 in this committee's report, which calls for there to be consultation with the social care sector before making regulations under section 35 in relation to the establishment of a quality ratings system. So, we now have that on the face of the Bill: that there will be consultation. Amendment 66 inserts a requirement for Welsh Ministers to consult any persons they think appropriate when making regulations about inspection ratings. The amendment also specifies the circumstances in which the requirement to consult will not apply. By that, I simply mean those circumstances where changes are not substantive and relate simply to administrative detail.

[441] Amendment 79 serves the same purpose and provides the same duty to consult in respect of regulations relating to the rating of local authority social services functions.

12:00

[442] Altaf Hussain's amendment 113 calls for the superaffirmative procedure to apply to regulations about inspection ratings under section 35. This is an example where the two Assembly committees that considered this matter came to slightly different conclusions. This committee asked for the affirmative procedure with requirements to consult to be on the face of the Bill, and the Constitutional and Legislative Affairs Committee asked for the superaffirmative procedure. I have looked at both recommendations. I think that this committee's recommendations secure what was being asked for during Stage 1 and my amendments therefore provide what this committee had recommended. I think that amendment 113 is therefore superfluous and ask that you reject it.

[443] **David Rees:** Thank you, Minister. Altaf, do you wish to speak to amendment 113?

[444] **Altaf Hussain:** Yes. The purpose of amendment 113 is to apply a superaffirmative procedure to the regulations proposed under section 35. The introduction of a quality rating for social care services is one of the biggest shake-ups to the inspection process in recent times and is widely welcomed. Quality ratings have the potential to drive the continuous improvement of social care services, but it is vital that the rating system is robust and widely supported.

[445] Our amendment will ensure that the proposed regulations are widely consulted upon and that the results of that consultation are presented to all Assembly Members before we vote on the proposed regulations. It is vital that we get these regulations right and by applying a superaffirmative procedure, we can ensure that the rating regime is robust and widely supported.

[446] **David Rees:** Thank you. Does any other Member wish to speak? No. Minister, do you wish to reply to the debate?

[447] **Mark Drakeford:** Simply to reinforce the point I made earlier, Chair, that the recommendation of this committee is delivered through the amendments that I have laid and I think that it makes it clear that there must be consultation—[*Interruption.*]—I'm so sorry.

[448] **Darren Millar:** I'm just wondering whether the Minister's prepared to take an intervention. Is that okay?

[449] **Mark Drakeford:** Yes, of course.

[450] **Darren Millar:** Obviously, the food hygiene rating system triggered a significant piece of work here in the Assembly—there was extensive discussion on it and it's something, I believe, we can be very proud of in terms of what we have here in Wales. Given that this system is akin, in some ways, to the food hygiene rating system, does the Minister not believe that it is entirely appropriate for a superaffirmative procedure to take place with extensive discussion with consultees and then a vote in the National Assembly for Wales in order to approve the details of such a scheme?

[451] **David Rees:** The Minister was answering that point.

[452] **Mark Drakeford:** Yes. Thank you, Chair. In a way, I have to say, I think

this is a bit of a debate with a distinction that isn't a difference. Our amendments deliver both of the things that Darren Millar just asked for. It puts the requirement to consult on the face of the Bill and it makes any regulations in this area subject to the affirmative procedure and, therefore, the subject of a debate on the floor of the Assembly. I think we've done everything that's being asked for and I simply think that the superaffirmative procedure is superfluous, given the amendments that the Government has now laid.

[453] **David Rees:** Thank you, Minister. We will move to a vote. Before we vote on amendment 65, Members will wish to be aware that if amendment 65 is not agreed, amendment 70 will fall. The question is that amendment 65 be agreed to. Does any Member object? There is no objection. Therefore, amendment 65 is agreed.

*Derbyniwyd gwelliant 65 yn unol â Rheol Sefydlog 17.34.  
Amendment 65 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 66 (Mark Drakeford).  
Amendment 66 (Mark Drakeford) moved.*

[454] **David Rees:** The question is that amendment 66 be agreed to. Does any Member object? [*Objection.*] We have an objection, therefore I will take a vote by show of hands. Can those in favour of amendment 66 please raise your hands? Thank you. Those against, please raise your hands. Thank you. In relation to amendment 66, there voted eight in favour and two against. Therefore, the amendment is agreed.

*Gwelliant 66: O blaid 8, Yn erbyn 2, Ymatal 0.  
Amendment 66: For 8, Against 2, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay  
Williams, Kirsty

Hussain, Altaf  
Millar, Darren

*Derbyniwyd gwelliant 66.*  
*Amendment 66 agreed.*

[455] **David Rees:** Altaf, would you like to move amendment 113?

*Cynigiwyd gwelliant 113 (Altaf Hussain).*  
*Amendment 113 (Altaf Hussain) moved.*

[456] **Altaf Hussain:** Yes, sir.

[457] **David Rees:** Therefore, the question is that amendment 113 be agreed to. Does any Member object? [*Objection.*] We have an objection, therefore we'll take a vote by a show of hands. Can those in favour of amendment 113 please raise your hands? Thank you. Can those against please raise your hands? Thank you. Therefore, in relation to amendment 113, there voted two in favour and eight against and, therefore, the amendment is not agreed.

*Gwelliant 113: O blaid 2, Yn erbyn 8, Ymatal 0.*  
*Amendment 113: For 2, Against 8, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Millar, Darren

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay  
Williams, Kirsty

*Gwrthodwyd gwelliant 113.*  
*Amendment 113 not agreed.*

*Cynigiwyd gwelliant 67 (Mark Drakeford).*  
*Amendment 67 (Mark Drakeford) moved.*

[458] **David Rees:** The question is that amendment 67 be agreed to. Does any Member object? There are no objections, therefore amendment 67 is agreed.

*Derbyniwyd gwelliant 67 yn unol â Rheol Sefydlog 17.34.*

*Amendment 67 agreed in accordance with Standing Order 17.34.*

[459] **David Rees:** We'll now dispose of amendments 68A and 68, and we'll deal with the amendment to the amendment first. So, Altaf, would you like to move amendment 68A?

*Cynigiwyd gwelliant 68A (Altaf Hussain).  
Amendment 68A (Altaf Hussain) moved.*

[460] **Altaf Hussain:** Please, yes.

[461] **David Rees:** The question is that amendment 68A be agreed to. Does any Member object? [*Objection.*] I have objection, therefore we'll take a vote by show of hands. Can those in favour of amendment 68A please raise their hands? Thank you. Those against, please raise your hands. Thank you. Therefore, there's a tied vote and I use my casting vote in the negative in accordance with Standing Order 6.20. Therefore, amendment 68A is not agreed.

*Gwelliant 68A: O blaid 5, Yn erbyn 5, Ymatal 0.  
Amendment 68A: For 5, Against 5, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Davies, Alun  
Griffiths, John  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

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

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

*Gwrthodwyd gwelliant 68A.  
Amendment 68A not agreed.*

*Cynigiwyd gwelliant 68 (Mark Drakeford).  
Amendment 68 (Mark Drakeford) moved.*

[462] **David Rees:** The question is then that amendment 68 be agreed. Does any Member object? No objection, therefore amendment 68 is agreed.

*Derbyniwyd gwelliant 68 yn unol â Rheol Sefydlog 17.34.*

*Amendment 68 agreed in accordance with Standing Order 17.34.*

**Grŵp 20: Cydymffurfio ag Egwyddorion a Chonfensiwn y Cenhedloedd  
Unedig (Gwelliannau 114, 69, 115 a 124)**

**Group 20: Compliance with United Nations Principles and Conventions  
(Amendments 114, 69, 115 and 124)**

[463] **David Rees:** We move on to group 20. This will be the last group for this morning. This is concerned with the compliance with United Nations principles and conventions. The lead amendment in the group is amendment 114. I call on Altaf Hussain to move amendment 114 and speak to the amendments in this group.

*Cynigiwyd gwelliant 114 (Altaf Hussain).*

*Amendment 114 (Altaf Hussain) moved.*

[464] **Altaf Hussain:** Thank you very much. Amendments 114, 115 and 124 are to ensure a consistent human rights-based approach to the regulation and inspection of social care. We welcome the Minister's commitment to report annually on how the duty under section 7(1) of the Social Services and Well-being (Wales) Act to

[465] 'have due regard to the United Nations Principles for Older Persons'.

[466] However, this does not go far enough. The effect of our amendments are to ensure that all those who exercise functions under the Bill have due regard to the United Nations conventions on the rights of the child and the rights of disabled people, as well as the United Nations principles for older people. Thank you.

[467] **David Rees:** Thank you, Altaf. Does any other Member wish to speak? Alun.

[468] **Alun Davies:** I'm a bit concerned by some of these amendments. We've had a number of these amendments in front of the committee, and we had this debate and discussion at Stage 1 as well. It appears to me that we spend a great deal of time putting these conventions and these rights into law, and

then we spend a great deal of time putting them back into law in subsequent Measures and Bills. It would appear to me that what we should be doing is accepting that we have overarching law in Wales that demands that Welsh Ministers and others have clear duties in order to deliver the rights and to ensure that the conventions, as appropriate, are delivered in terms of services and the rest of it. Then we should scrutinise Government on the delivery of that.

[469] I find it really curious that, you know, I spent some time, in a previous Assembly before, enacting law to provide for these overarching duties and now, in this Assembly, I find that I'm being asked to do it again. Now, my view, for what it's worth, is that we should pass a law once, and the Government should deliver on it, and we should scrutinise the Government to ensure they are delivering on it. And that we shouldn't go through a process, every time there's a Bill, of trying to tick boxes to reinsert conventions and rights, which already exist, into legislation. Now, you know, it might be that I've got this terribly wrong, but I really do think that we should take the view that, as a legislature, we legislate once and that we ensure that all subsequent legislation actually fits within that framework and that context, and not try to legislate on these matters every time there's a Bill in front of us.

[470] **David Rees:** Thank you, Alun. Does any other Member wish to speak? No. Minister, I call on you to speak.

[471] **Mark Drakeford:** Thank you, Chair. Can I begin by saying I've got a great deal of sympathy for the point of view that Alun Davies has just set out? I tried making this argument earlier in the passage of this Bill: that simply restating duties that already exist in law is not a sensible way of making good legislation. However, because of recommendation 5 of the committee's report and because Welsh Ministers are already under an obligation to have regard to the UN principles for older people in section 7 of the Social Services and Well-being (Wales) Act 2014, I have, for consistency's sake, tabled amendment 69 to include that within the list of things that the service regulator must address in its annual report. So, in order to make sure that the two pieces of legislation mirror one another, and because of what the committee said in its recommendation, I brought amendment 69 forward today.

[472] I have not brought forward an amendment in relation to the United Nations Convention on the Rights of Persons with Disabilities, as is proposed

to you under Altaf Hussain's amendment 114. I haven't done that because I believe the system is already under that obligation as a result of the Equality Act 2010, and the public sector equality duty that that Act places on public organisations. I think that the public sector duty is a higher duty than a due regard duty as suggested in the amendment. I really think it is superfluous for us to continue to repeat these things, particularly when there is a higher obligation already in law that public bodies would be subject to. So, while I see that the amendment is properly intentioned, I don't see how it would benefit or protect disabled people any more than existing legislation already does, and therefore I would ask you to vote against amendments 114 and 115.

[473] I think amendment 124 is actually more concerning than the other two, because this now seeks, as I read it, to pass on the obligations that are set by United Nations principles and conventions from member states, which is where these principles and conventions are meant to bite—. They hand them on to public sector organisations, and by doing that they hand them on to the individuals who discharge the functions of those obligations. In other words, it seeks to put United Nations principles and conventions onto the shoulders of individual social care workers knocking somebody's door and going about their business. And we just have to be clear that if we were to do that—that is not at all what those conventions and principles are meant to be for—but if we were to do it, we're not just doing it in a sort of general and declaratory way. That person having that obligation now placed on them would have to be able to show how they have complied with the new duty that this amendment would introduce. It would be resource-intensive, it would be time-consuming, it would be costly and it would be put in the wrong place. It will place those obligations not on the member state where they're meant to be, but on the lowest level of intervention.

[474] **Darren Millar:** Will you take an intervention on this point?

[475] **Mark Drakeford:** Yes, of course.

[476] **Darren Millar:** In the Social Services and Well-being (Wales) Act, it's very clear that the obligations in relation to the rights of older people apply to all of the organisations that have obligations in that Act. That was an amendment that was supported by the Government. It's very clear that every organisation, every body and every relevant authority that has duties under that Act have an obligation to meet the UN principles for older persons. I see no reason as to why this piece of legislation should not mirror, as you have



described it, that Act in ensuring that the duty to comply with those principles—

[477] **David Rees:** Can you make it a clarification, not a speech?

[478] **Darren Millar:** It's not a speech; I'm simply trying to address the point that the Minister is making. It's quite a convoluted point, but it's an important one. I see no reason why this piece of legislation shouldn't mirror that piece of legislation. If the Minister feels that this is an inappropriate way to do it, then, perhaps, you know, he can consider this point further. But, clearly, we're already expecting those obligations to be met by people, not just the state—by other organisations and other bodies, not just the state—and therefore this amendment that Altaf Hussain has proposed is simply seeking to apply the same principle for those other UN conventions.

[479] **David Rees:** Thank you. Minister.

[480] **Mark Drakeford:** Thank you, Chair. As I said earlier, my amendment 69 does indeed mirror in this legislation the United Nations principles in relation to older people, as they are in the 2014 Act. But, of course, I'm very willing to listen to the points that both Members have made. For today, my view is that amendment 124 would not be a sensible or proportionate way to take this matter forward, and I'll be asking Members to vote against it, but I will take the opportunity to read what's been said and think about it further.

12:15

[481] **David Rees:** Thank you, Minister. Altaf, would you like to reply to the debate?

[482] **Altaf Hussain:** No, just thank you very much.

[483] **David Rees:** Okay. We'll move to a vote, then. Before we move to a vote on amendment 114, we should be aware that if amendment 114 fails, then amendment 115 falls. The question is that amendment 114 be agreed to. Does any Member object? [*Objection.*] Objection. Therefore, I will take a vote by a show of hands. Can those in favour of amendment 114 please raise your hands? Those against, please raise your hands. And as there's a tied vote, I use my casting vote in the negative against the amendment in accordance with Standing Order 6.20, and therefore amendment 114 is not agreed.

*Gwelliant 114: O blaid 5, Yn erbyn 5, Ymatal 0.  
Amendment 114: For 5, Against 5, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Davies, Alun  
Griffiths, John  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais  
fwrw yn unol â Rheol Sefydlog 6.20(ii).  
As there was an equality of votes, the Chair used his casting vote in  
accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 114.  
Amendment 114 not agreed.*

*Cynigiwyd gwelliant 69 (Mark Drakeford).  
Amendment 69 (Mark Drakeford) moved.*

[484] **David Rees:** The question is that amendment 69 be agreed to. Does any Member object? There is no objection, therefore 69 is agreed.

*Derbyniwyd gwelliant 69 yn unol â Rheol Sefydlog 17.34.  
Amendment 69 agreed in accordance with Standing Order 17.34.*

[485] **David Rees:** As amendment 114 was not agreed, amendment 115 has fallen.

*Methodd gwelliant 115.  
Amendment 115 fell.*

[486] **David Rees:** So, we move on to amendment 70.

*Cynigiwyd gwelliant 70 (Mark Drakeford).  
Amendment 70 (Mark Drakeford) moved.*

[487] **David Rees:** The question is that amendment 70 be agreed. Does any Member object? There are no objections, therefore amendment 70 is agreed.

*Derbyniwyd gwelliant 70 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 70 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 71 (Mark Drakeford).*  
*Amendment 71 (Mark Drakeford) moved.*

[488] **David Rees:** The question is that amendment 71 be agreed to? Does any Member object? There are no objections, therefore amendment 71 is agreed.

*Derbyniwyd gwelliant 71 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 71 agreed in accordance with Standing Order 17.34.*

[489] **David Rees:** As amendment 142 was not agreed, amendment 147 has fallen.

[490] **David Rees:** We move on to amendment 72.

*Cynigiwyd gwelliant 72 (Mark Drakeford).*  
*Amendment 72 (Mark Drakeford) moved.*

[491] **David Rees:** The question is that amendment 72 be agreed. Does any Member object? There are no objections, therefore amendment 72 is agreed.

*Derbyniwyd gwelliant 72 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 72 agreed in accordance with Standing Order 17.34.*

[492] **David Rees:** As amendment 142 was not agreed, amendment 148 has fallen.

[493] **David Rees:** We move on to amendment 73.

*Cynigiwyd gwelliant 73 (Mark Drakeford).*  
*Amendment 73 (Mark Drakeford) moved.*

[494] **David Rees:** The question is that amendment 73 be agreed to. Does any Member object? There are no objections, therefore amendment 73 is agreed.

*Derbyniwyd gwelliant 73 yn unol â Rheol Sefydlog 17.34.*

*Amendment 73 agreed in accordance with Standing Order 17.34.*

[495] **David Rees:** I intend at this point to halt proceedings. Just to confirm that, for the record, sections 2 to 54 of the Bill, and Schedule 1 to the Bill have been deemed agreed by the committee. The next meeting to dispose of amendments will be held on Thursday, 15 October. Further amendments may be tabled to the remaining sections and Schedules to the Bill, but tabling should be no later than six o'clock tomorrow evening—Thursday, 8 October. Members who wish to table further amendments are advised to contact the clerks as soon as possible. Therefore, we will reconvene on Thursday, 15 October to dispose of the remaining amendments. And that brings today's proceedings to a close. Thank you very much.

*Daeth y cyfarfod i ben am 12:17.*

*The meeting ended at 12:17.*