



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

Cofnod y Trafodion The Record of Proceedings

[Y Pwyllgor Iechyd, Gofal Cymdeithasol a
Chwaraeon](#)

[The Health, Social Care and Sport Committee](#)

19/01/2017

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Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynnddi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd. Lle y mae cyfranwyr wedi darparu cywiriadau i'w tystiolaeth, nodir y rheini yn y trawsgrifiad.

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. Where contributors have supplied corrections to their evidence, these are noted in the transcript.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Rhun ap Iorwerth Bywgraffiad Biography	Plaid Cymru The Party of Wales
Dawn Bowden Bywgraffiad Biography	Llafur Labour
Jayne Bryant Bywgraffiad Biography	Llafur Labour
Angela Burns Bywgraffiad Biography	Ceidwadwyr Cymreig Welsh Conservatives
Caroline Jones Bywgraffiad Biography	UKIP Cymru UKIP Wales
Dai Lloyd Bywgraffiad Biography	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)
Julie Morgan Bywgraffiad Biography	Llafur Labour

Eraill yn bresennol
Others in attendance

Julie Barratt	Sefydliad Siartredig Iechyd yr Amgylchedd Chartered Institute of Environmental Health
Andy McGuinness	Swyddog Polisi Cymdeithasol a Materion Cyhoeddus, Crohn's and Colitis UK Social Policy and Public Affairs Officer, Crohn's and Colitis UK
Ray Monelle	Llywydd Cenedlaethol, Ffederasiwn Cenedlaethol Manwerthwyr Papurau Newydd National President, National Federation of Retail Newsagents
John Parkinson	Aelod o'r Pwyllgor Gweithredol Cenedlaethol, Ffederasiwn Cenedlaethol Manwerthwyr Papurau Newydd Member of the National Executive Committee, National Federation of Retail Newsagents
Sarah Rochira	Comisiynydd Pobl Hŷn Cymru The Commissioner for Older People in Wales
Edward Woodall	Pennaeth Polisi a Materion Cyhoeddus, Cymdeithas Siopau Cyfleustra Head of Policy and Public Affairs, Association of

Convenience Stores

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

Gareth Pembridge	Cynghorydd Cyfreithiol Legal Adviser
Claire Morris	Clerc Clerk
Sarah Sargent	Dirprwy Glerc Deputy Clerk
Philippa Watkins	Y Gwasanaeth Ymchwil Research Service

Dechreuodd y cyfarfod am 09:30.

The meeting began at 09:30.

Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datgan Buddiannau
Introductions, Apologies, Substitutions and Declarations of Interest

[1] **Dai Lloyd:** A gaf i estyn croeso i chi gyd y bore yma i gyfarfod diweddaraf y Pwyllgor Iechyd, Gofal Cymdeithasol a Chwaraeon, yma yn y Cynulliad? A allaf yn arbennig, felly, estyn croeso i'r tyst y bore yma, Andy McGuinness, i'r sesiwn gyntaf? Mwy amdano fe yn y man. A allaf estyn hefyd groeso i fy nghyd-Aelodau, ac a allaf ddatgan yr ydym wedi derbyn ymddiheuriadau oddi wrth Lynne Neagle, a hefyd mae Angela Burns wedi fy hysbysu y bydd hi hefyd yn hwyr? A allaf yn bellach egluro bod y cyfarfod hwn yn ddwyieithog? Gellir defnyddio'r clustffonau i glywed cyfieithu ar y pryd o'r Gymraeg i'r Saesneg ar sianel 1, neu i glywed cyfraniadau yn yr iaith wreiddiol yn well ar sianel 2. A allaf i atgoffa pobl i ddiffodd eu ffonau symudol, ac

Dai Lloyd: May I welcome you all this morning to the latest meeting of the Health, Social Care and Sport Committee, here in the Assembly? May I in particular, therefore, welcome our witness this morning, Andy McGuinness, to this first session? More about him later. May I also welcome my fellow Members, and may I state that we've received apologies from Lynne Neagle, and also Angela Burns has informed us that she will also be late? May I further explain that this meeting is bilingual? Headsets can be used to hear simultaneous interpretation from Welsh to English on channel 1, or contributions in the original language amplified on channel 2. May I remind people to turn off their mobile phones and any other

unrhyw offer electroneg arall a allai ymyrryd ag offer darlledu? Wrth gwrs, nid ydym yn disgwyl larwm tân y bore yma. Os bydd yna larwm tân, dylwn ddilyn cyfarwyddiadau'r tywyswyr yn yr amgylchiadau hynny.

electronic equipment that could affect the broadcasting equipment? Of course, we're not expecting a fire alarm this morning. If there is an alarm, we should follow the instructions of the ushers in those circumstances.

09:31

**Bil Iechyd y Cyhoedd (Cymru)—Cyfnod 1, Sesiwn Dystiolaeth 10—
Crohn's and Colitis UK**

**Public Health (Wales) Bill—Stage 1 Evidence Session 10—Crohn's and
Colitis UK**

[2] **Dai Lloyd:** Felly, symudwn ymlaen yn gyflym i eitem 2 a'r craffu ar Bil Iechyd y Cyhoedd (Cymru) yng Nghyfnod 1. Dyma sesiwn dystiolaeth 10. O'n blaenau ni, fel yr wyf wedi awgrymu eisoes, y mae'r gymdeithas Crohn's and Colitis UK. Croeso arbennig, felly, i Andy McGuinness, swyddog polisi cymdeithasol a materion cyhoeddus. Croeso; bore da i chi, Andy. Mae nifer ohonom wedi cyfarfod â chi eisoes ac hefyd rydym wedi darllen eich papur sydd gerbron yr ymchwiliad yma, sydd yn llawn syniadau grymus. Felly, yn ôl ein traddodiad, fe awn ni yn syth at gwestiynau. Yn sylfaenol, rydych chi wedi canolbwyntio, ac yn naturiol felly, ar yr adran yna o Fil Iechyd y Cyhoedd sy'n ymwneud â thoiledau cyhoeddus, ac felly fe fydd ein cwestiynau ni am yr hanner awr yma yn sylfaenol ar doiledau hefyd. Mae Caroline Jones yn mynd i ddechrau.

Dai Lloyd: So, moving on quickly, therefore, to item 2 and the scrutiny of the Public Health (Wales) Bill, Stage 1. This is evidence session 10. Before us, as I've suggested already, we have the Crohn's and Colitis UK society. A special welcome, therefore, to Andy McGuinness, the social policy and public affairs officer. Welcome; good morning to you, Andy. A number of us have met you already, and also we've read your paper that is before this inquiry, which is full of robust ideas. So, according to our usual practice, we'll go straight to questions. Basically, you've concentrated, naturally, on that section of the public health Bill that relates to public toilets, so our questions for the next half an hour will basically be based on toilets too. Caroline Jones is going to start.

[3] **Caroline Jones:** Diolch, Chair. Good morning; bore da, Andy. My first question is, when identifying the individual needs of people within the community and those with specific health issues, can you tell me how local authorities can communicate and engage effectively during consultation with the public to ensure that the community's needs are met, including hard-to-reach groups?

[4] **Mr McGuinness:** Thank you very much, and thank you very much for having me. The legislation is pretty clear about the duties of local authorities to consult widely. They have to look at all those people within their local area who have an interest and a need for access to toilets. Obviously, that's not just traditional public toilets, but access to toilets in the round. Obviously, it'll be working with national stakeholders like ourselves, who certainly have an interest, but also some kind of expertise within that, and also working with the local stakeholders that they will come up with, whether that's local forums or online. I think there has to be a whole suite of avenues available to local authorities to ensure that they're not only assessing the needs of local people about their toileting needs, but also their demands, and addressing their dignity as well, and also tapping into their knowledge.

[5] The Bill is clear that it's not just looking at high fall areas, but you also have to think about the geographical spread. As a member and patient organisation with Crohn's and Colitis UK, we often find that the patient voice is the strongest and often the most knowledgeable. So, it's going to be different in different areas, and I don't think it's the job of, necessarily, the Government to put that down in writing about, you know, what it has. Obviously, the guidance that will be issued by the Government will be very clear on that, and one of the good things about the Bill under this guise, rather than under the previous committee, is that it's actually been strengthened. So, it's not just guidance that they have to take note of, it's guidance that they have to implement, and that's one of the strengths of the Bill.

[6] **Caroline Jones:** Yes. So, the timing of the provision of these toilets, that's also important, isn't it?

[7] **Mr McGuinness:** Yes, absolutely, and particularly with traditional public toilets. They're often open later than toilets available in local buildings or through community toilet schemes. That's why I think we have to be very realistic in this day and age: that, with toilets, it's not just about traditional public toilets; it's a whole suite of toilets that need to be available. But if

there are toilets through a community toilet scheme, or through public buildings, which is one of the strengths of the Bill, they're not always open. Businesses close after 9 a.m. to 5 p.m.. If people are out socialising, either before that or afterwards, they have toileting needs as well. So, being aware that there needs to be a wide spread of not only the types of toilets available, but also when they're open and accessible is crucial as well.

[8] **Caroline Jones:** Thank you. So, the provision of the toilets: do you think that the information given out to the public is going to be different between local authorities—you know, that the approach taken by authorities is going to vary greatly?

[9] **Mr McGuinness:** At the moment, absolutely. I was trawling the internet the other day, in preparation, to actually look at the kind of access and information that is available to local people, and going through the 22 local authority websites. Unfortunately, it's a mixed bag, completely. I think Cardiff is a very good example, where you can put in your postcode and that information is there. The toilets actually might be up to 0.5 mile away or more, but at least that information is there. Some councils don't have any information on their websites. So, the information, even if the toilets are there, which is an issue in itself, is not easily accessible.

[10] I think one of the possibilities that the committee could recommend to the Government to really boost and add something to the Bill would be about access to the information. The Bill does require that. But there's no point having 22 different local solutions about access to information. A lot of the provisions in the Bill are stipulations for local government, and it's for them to implement. I think that the Government have an opportunity to really take some of that heavy lifting off local authorities and to provide access through a united one-Wales approach, which is often what the Government tries to do with access to data—have one cross-Wales approach, whether it's another united website or an app.

[11] Information about toilets is not just an issue in Wales; it's an issue across the UK because there is no unified approach to it. It wouldn't be hard to do. Local authorities have to provide that information by creating these local toilet strategies and supplying that information to the Government. Working with stakeholders to create this would not only reduce the fixed costs associated with providing information to the public, but whether you are a local, travelling within Wales, or a tourist, not only would it be the first one across the UK, but it would be a real boon to the services available to

local people and particularly people with extra continence needs.

[12] It's not a small amount of people. There are 15,000 people across Wales who are diagnosed with Crohn's disease and ulcerative colitis. People with continence issues: roughly, if you do the maths, there are 3 million people across the UK, so taking into account Wales's population, it's about 150,000 people. It's around 3 per cent to 5 per cent of the population. So, it's not a small amount of people, whether you're young, old or of working age and have continence issues.

[13] **Caroline Jones:** Yes. So, how do you think this area of the Bill can be strengthened?

[14] **Mr McGuinness:** About access to information?

[15] **Caroline Jones:** Access to information.

[16] **Mr McGuinness:** I would suggest putting, actually, in the Bill about the Government working with local authorities, collecting that information, and the Government having an oversight and review function to not only collect that information, but also to work to have some form of app or website, which would not only allow easy access and free access to information, but also could be used to do some form of gaps analysis.

[17] So, particularly, if you think about transport, for example, one of the things that were strengthened under the last guise is that we have to take account of trunk roads, which is fantastic, but if you've got all 22 local authorities doing trunk roads in their areas, you can quite easily imagine a situation where it's very sporadic and there are huge areas where toileting needs are missed. So, I think there's a real role for the Government to have that oversight and overview role, to not only collect that information and ensure that it's available to the public, but just to ensure that there is that gap analysis to ensure that toileting needs are met across Wales, and not just in specific areas that can afford it.

[18] **Caroline Jones:** Given the tremendous financial pressure on local authority public services at the moment, how do you envisage that these needs of toilet provision can be met effectively?

[19] **Mr McGuinness:** The reason why the toileting Part—Part 7—was needed was that there are not enough toilets in Wales. There are not enough

toilets across the UK. There's analysis by ITV Wales that, between 2004 and 2013, there was a 20 per cent drop in public toilets, and I think they said that there were about 500 or so toilets. The Welsh Government say that there are 950 toilets that are accessible by the public—that's both normal, traditional public toilets and then toilets available through community councils. And, from their conservative estimate, there needs to be double that, and that's regardless of whether toilets have closed over the number of years or not. There's actually a question about whether there were ever enough toilets in the country. So, you know, it's a real issue, particularly for people with continence needs, whether, again, it's a condition or due to their age. It's a real isolating and debilitating issue. People do not go out and leave their homes due to either the real or perceived concerns about toileting needs. So, firstly, it's a real problem, and if it wasn't a problem there wouldn't need to be a national issue.

[20] However, you can't get away from the fact that there are not enough resources to go around, so we need to change our thinking and our culture about accessing toilets. It's not necessarily about throwing money at it. There are a number of traditional public toilets, but, if you think about the current supply of toilets, there are quite a lot. You only have to go to all the restaurants in the bay and think of all the restaurants and cafes that are there; they've all got toilets for their customers, but there are no public toilets there. So, if you're a young mother and don't want to go into one of those buildings, you don't have a choice in the matter. Whereas, if they worked constructively with the council and opened up that toilet supply, they've got a whole multitude of toilets available to them. So, it's about thinking outside the box and not necessarily just throwing money at an issue.

[21] But it's also clear that local authorities need to do something. I wouldn't put it in terms that they need to be made to do something, but they certainly need to be compelled to do something. And don't get me wrong; the local toilets strategy will be a key way of doing that, not only in assessing the needs of the local area, but hopefully increasing supply, and releasing and making more accessible the toilets available through public buildings is certainly part of that. But, like anything in life, there are always going to be the ones that over-deliver and the ones that under-deliver, and even the Welsh Government are clear that, basically, because money is tight and because there's not a statutory duty, local authorities often prioritise and local toilets are not there.

[22] It's very clear that toilets are a public health issue, and so I'd certainly like to see a statutory requirement to ensure access to toilets. I wouldn't necessarily go as far as to say that they need to provide those toilets directly themselves, because I think it would be a bit naïve to say that. It's really easy for organisations to come here and say 'have a statutory duty to provide public toilets'—you know, where's the money? Essentially, it's really easy for us to say that, and it's really easy for the Government to say, 'No, we won't do that'. You have to think a bit more intelligently for us to come up with intelligible solutions. I think part of that is ensuring that local authorities actually deliver on their local toilets strategies. Again, if you take the Government's figures, there are 950 toilets available currently. If you double that—well, if you think that they need to increase by 50 per cent—each local authority needs to provide an extra 22 toilets.

09:45

[23] In some areas, that supply could be taken up by toilets in local buildings, but some of them won't be. Also, you've got to think about the changing-places toilets, which often need extra resources.

[24] **Dai Lloyd:** Before we go on, Julie, you've got a question.

[25] **Julie Morgan:** Yes, I just wanted to pick up on what you said. I just wondered if you could perhaps explain how a statutory need to provide access is different to putting a sort of statutory duty on the local authorities. I'm not quite sure of what we will gain by that. If you could explain—.

[26] **Mr McGuinness:** Absolutely. The difference between a statutory duty to provide is—. You could say it's semantics, but I think it's a real difference. A statutory duty to provide toilets means that local authorities have to physically provide the toilets themselves. A statutory duty to ensure access to toilets would mean that they'd have to work with other partners to ensure and effectively deliver the local toilets strategies.

[27] Whether you call it a statutory duty to ensure access to toilets or, as we tried under the last guise of the Bill, to ensure that local authorities simply deliver on the needs of the local people that they've identified through the local toilets strategies—. It's a great part of the proposed legislation, but it could, in some areas—I'm not saying all areas, but at least in some areas—be quite easy that these strategies will be put on the shelf. One of the Government's key arguments around the Bill is that, by putting

toilets a bit more front and centre, the level of scrutiny and onus on it will mean that they will provide more toilets. Well, essentially, we've already got that situation. Whether they're proposing, through cutting toilets or through local scrutiny committees—. They often do investigations about access to toilets, and yet toilets are still closing; toilets are still being transferred. So, essentially, the wording would be just to deliver, in a reasonable timescale—because we have to be realistic—ensuring that, because they've got these strategies, just to ensure that they deliver them and have particular targets that they can deliver, because the needs are great.

[28] **Julie Morgan:** Thank you. I understand that now.

[29] **Dai Lloyd:** There are several more questions and time is trotting on. Caroline, question 4.

[30] **Caroline Jones:** Okay, thank you. How do you feel the Bill can include third party organisations that receive public funding to ensure that they provide access to toilet facilities?

[31] **Mr McGuinness:** That's one of the key positives of the Bill—that recognition that it's not just local authorities themselves; there is that local toilet supply in an area and it's freeing those toilets up. The only issue at the moment is that those third parties, whether its museums, art galleries, or any institution or building that receives public funds, there is no obligation on them to actually work with local authorities. As I've said before, there are a lot of duties in here and a lot of work to do for local authorities. I think there's a role there for Government and also the legislation to take away some of that heavy lifting.

[32] You can imagine a certain situation where the local authority, through their local strategies, are saying to the museum or the art gallery or whatever that might be, 'Please allow your toilets to be open to the public', and they'll refuse to do that because there might be a cost element to that. There is no compulsion for them, other than working as good local stakeholders, as they might do, or we'd at least hope that they would, to work constructively with local authorities. So, as I've asked for in other pieces of legislation, is there to be a duty to co-operate with local authorities to ensure that they can free up access to toilets? Not only would that give some validation to the local authorities' calls, but also to the Bill and the success of the Bill as well.

[33] **Dai Lloyd:** Mae'r ddau **Dai Lloyd:** The next two questions are

gwestiwn nesaf o dan ofal Dawn from Dawn Bowden.
Bowden.

[34] **Dawn Bowden:** Thank you. Morning, Andy. How are you? Okay?

[35] **Mr McGuinness:** Hi there.

[36] **Dawn Bowden:** I just wanted to ask you a little bit about the public facilities grant scheme. In your evidence, you talk about the scheme and you talk about how the nature of its allocation has changed. Can you perhaps tell us a little bit about how it's changed from being a specific ring-fenced grant to now being part of the general revenue support grant, so that, actually, local authorities don't have to use it for toilet community schemes and so on and so forth? Can you tell us a bit about the impact of that and what kind of change you would want to see?

[37] **Mr McGuinness:** When the public facilities grant was first introduced in 2009, it was ring-fenced and there was £200,000 available for local authorities to give to local businesses, which was normally about £500 for them to open up their local toilets. That was designed for private businesses—for cafes, restaurants and the like. And then, I think it was in 2012 or 2013, going from my notes, it was un-ring-fenced. So, if you cut it—it doesn't always have to be, it's for councils to bid towards, but it's about £9,000 per local authority for each of the 22 local authorities. So, we're not talking about a huge amount of money, but what happened is that, because it was un-ring-fenced, local authorities, through their own priorities, used it as they might. So, the number of public toilet schemes across Wales is—. There are not very many of them, unfortunately, and, even where there are, because there's only £500 available to local businesses, whether they are cafes or restaurants, the take-up of that is not particularly huge. And I think, going forward, if we're going to realise the real strengths of the Bill and the possibilities of opening up the local supply of toilets, actually, doing something about the public facilities grant is needed. It not only needs to be ring-fenced again, but potentially the funding increased, because we're not talking a lot of money. And, again, it's providing another resource to local authorities to enable them and actually provide a bit more impetus for them to work.

[38] **Dawn Bowden:** Sorry, Andy, for cutting across you there. Is the amount of money we're talking about likely to be a great enough incentive to get local businesses on board to open up their toilets?

[39] **Mr McGuinness:** As a charity, we've not done any research on that, but I was just thinking from my own perspective, if I was a local business, a local café or restaurant, £500, whilst it is an incentive—and also there are good things and positives for your own business in opening up your toilets, because you've got a higher footfall and people use your toilets and think, 'Oh, I might buy something'—there is no compulsion to do so. So, you could quite easily think that, 'Actually, £500 is not a lot of money. Why should I get involved in that? I'll make my life easier'. You know, business can be tough at the best of times, whereas if you doubled that, hypothetically, it's not a huge amount of money for the Welsh Government to make available, but it could make that big difference.

[40] **Dawn Bowden:** Unless every business decided to take part in it, then it would be hugely expensive, wouldn't it?

[41] **Mr McGuinness:** In all fairness, just because they apply to take part in the scheme doesn't mean that they get accepted.

[42] **Dawn Bowden:** Can I just take it one step further, from the other angle now, about users of toilets? Because one of the things that would have to change—and I'd just welcome your views on this—would be a bit of a cultural shift for individuals who would actually feel a little bit embarrassed about walking into an establishment that's not a public toilet and asking if they can use their toilets. Because you know as well as I do, you walk up any high street and you'll see a sign on a café door saying, 'Toilets for the use of customers only' and pubs do the same, and that kind of thing. So, there would be quite a shift in culture, because we've now got used to that idea that you can't go somewhere, unless you're going to go in somewhere and sit down, have a coffee, buy something, and use their toilets. What's your thought in terms of how we might shift that kind of culture, really?

[43] **Mr McGuinness:** It's a very good point that we can't get away from the fact that there are never going to be enough traditional public toilets, and you need to take advantage of the current supply in any one area. So, businesses, local authorities, residents and tourists have to change their mentality about using toilets. But also I think on the flipside of that is making sure that there's an adequate supply, because not every person will necessarily feel comfortable in using certain facilities, and also you've got to be mindful of certain sensitivities around culture about going into pubs or certain other institutions. So, I think that needs to be realised, and, through

local toilet strategies—

[44] **Dawn Bowden:** It's about normalising it, isn't it?

[45] **Mr McGuinness:** But, also, normalising it, I would say that people with continence issues have long got over the fact that any toilet will do, essentially. We've got our own 'can't wait' card that we provide to our members in Crohn's and Colitis UK, just so that, if people get caught short and there is no public toilet or community council toilet available, they show this card and, hopefully, it can allow access to the toilets for staff members. We know, unfortunately, that's not always the case. There are instances where people show the card and they don't get access to that toilet and they have an accident in public. That's just horrendous.

[46] It just goes to and reinforces, whether real or perceived, that thing about 'I'm not going to leave my home because I can't access a toilet'. So, I think a change in culture is certainly needed but, again, you can only access the toilets that are available to you. Other than people, I think businesses really have to change their culture about allowing people other than their own patrons to use that toilet, and not only for the greater good and for people's needs. Because, if you're asking to use a toilet, you need to access a toilet. I just can't imagine a situation where someone would say 'no' to that, but, unfortunately, it happens. That's why things like the Public Health (Wales) Bill are necessary, because those local solutions haven't worked. We need to change our mentality about that.

[47] **Dawn Bowden:** Thank you. Thank you, Chair.

[48] **Dai Lloyd:** Okay. Well, time is marching on. I think, basically, we've covered the questions that Jayne and Julie were going to ask. We'll cut to the last question, with Rhun, for the last four minutes.

[49] **Rhun ap Iorwerth:** Mae'r **Rhun ap Iorwerth:** This question cwestiwn yma yn ymwneud â relates to costs. You said in your chostau. Mi ydych chi'n dweud yn evidence that you can't support what eich tystiolaeth chi na allwch chi the Bill says with regard to allowing gefnogi yr hyn y mae'r Bil yn ei local authorities to charge for the use ddweud ynglŷn â chaniatáu codi ffi of toilets. I can understand your am ddefnyddio toiledau. Mi allaf concern that you would prefer it if ddeall eich consyrn chi: y byddai'n access to toilets would all be free of well gennyh chi pe bai mynediad i charge. But how would you balance

doiledau i gyd am ddim. Ond sut ydych chi yn balansio'r consyrn yna yn erbyn dadleuon bod codi ffi yn fodd i gael dros rhai o'r problemau ariannol rydym ni wedi eu trafod yma y bore yma, sef bod arian yn dynn ar awdurdodau lleol, a bod codi ffi, o bosib, yn ffordd i gadw toiledau ar agor?

that concern against the arguments that charging a fee is a way to overcome some of the financial problems that we've discussed this morning, which is that funds are tight for local authorities, and that charging is a way of overcoming some of those barriers?

[50] **Mr McGuinness:** It's interesting. Much like with, say, prescription charges in England—obviously, it's free here—if you ask people are they going to get access to the drugs that they need or are they going to pay for it if they can afford it, people will always say, 'I will pay for it if I can, because I get it', even with the severely ill people with long-term conditions that we deal with. In preparation for the Public Health (Wales) Bill last year, we asked our own stakeholders about whether they'd be happy to pay a small fee for charging, and about 50 per cent of people said that, yes, they would be. The reason is because those toilets are available. They are actually there—physically there. They're often cleaner, and there's a lack of anti-social behaviour. But, again, it comes down to dignity and ensuring that, actually, this toilet is part of something that will keep someone well. The reason why prescriptions are free in Wales is that there's an indispensable idea that, actually, someone needs access to this to keep them well, to make sure that they have a full and healthy life. So, we would never support charging, because it's a barrier. It's not only a barrier physically, but also mentally as well. Particularly people with Crohn's and colitis, if they are experiencing a flare up—or even when they're not—they need access to a toilet up to 10 or 20 times a day. Also, people with stomas and colostomies need access to toilets a lot of the time. If they have to charge for those, even at 10p, 20p or 30p at a time, that's a real barrier to accessing something you really need. Also, just on a practical level, it's whether you have the change available, or—. When you've got instant need and need access to a toilet or you're going to have an accident in public, you need that toilet there and then, and any barrier whatsoever is a barrier for using that toilet and accessing that resource that you need. So, whilst it can be, in certain kinds of stations as well, highly lucrative, I think that there's a duty on local authorities and businesses—and, again, it comes back to changing culture to ensure that, whilst it is an option for local authorities, there are alternatives to charging, particularly about utilising the supply of toilets in an area.

10:00

[51] **Rhun ap Iorwerth:** We know that, without it being a statutory duty to have them, the reason that we have some public toilets still open in parts of Wales is because local authorities have made the decision that, 'You know what? We'll charge'.

[52] **Mr McGuinness:** I'd say it's an avenue that local authorities can take. It is not something that we'd ever go down.

[53] **Rhun ap Iorwerth:** Thank you.

[54] **Dai Lloyd:** Diolch yn fawr. Mae'r sesiwn wedi dod i ben, felly mae'r hanner awr wedi pasio yn eithaf rhwydd. Diolch yn fawr iawn i chi, Andy McGuinness, am eich tystiolaeth ysgrifenedig, am y cyfarfodydd efo rhai ohonom ni ymlaen llaw ac, wrth gwrs, am ateb y cwestiynau mewn modd mor raenus ac aeddfed y bore yma. Fe allaf i ymhellach gyhoeddi y byddwch chi'n derbyn trawsgrifiad o'r cyfarfod yma'r bore yma er mwyn i chi allu cadarnhau bod beth rydych chi wedi ei ddweud yn ffeithiol gywir. Gyda gymaint o hynny o eiriau, gallaf ddweud bod y sesiwn yma o dystiolaeth ar ben, a gallaf gyhoeddi i fy nghyd-Aelodau y bydd yna egwyl nawr am bum munud cyn y sesiwn nesaf. Diolch yn fawr.

Dai Lloyd: Thank you very much. The session has come to an end, so the half an hour has passed quite easily. Thank you very much, Andy McGuinness, for your written evidence, for the meetings with some of us beforehand and for answering the questions in such a great and mature way. I can further announce that you will be receiving a transcript of this meeting this morning so that you can confirm that what you've said is factually correct. With those few words, I can say that this evidence session has come to an end, and I can announce to my fellow Members that there will now be a five-minute break before the next session. Thank you.

*Gohiriwyd y cyfarfod rhwng 10:01 ac 10:06.
The meeting adjourned between 10:01 and 10:06.*

**Bil Iechyd y Cyhoedd (Cymru)—Cyfnod 1, Sesiwn Dystiolaeth 11—
Comisiynydd Pobl Hŷn Cymru
Public Health (Wales) Bill—Stage 1 Evidence Session 11—
Older People’s Commissioner for Wales**

[55] **Dai Lloyd:** Croeso yn ôl i'r cyfarfod yma o'r Pwyllgor Iechyd, Gofal Cymdeithasol a Chwaraeon. Rydym ni ar eitem 3 y bore yma rŵan ar ôl yr egwyl yna—yr ail sesiwn dystiolaeth y bore yma ar Fil Iechyd y Cyhoedd (Cymru) Cyfnod 1; sesiwn dystiolaeth rhif 11 yn gyfan, ond yr ail am y bore yma.

Dai Lloyd: Welcome back to this session of the Health, Social Care and Sport Committee. We are on item 3 this morning after that short break—the second evidence session of this morning on the Public Health (Wales) Bill, Stage 1. It's evidence session No. 11 in total, but the second for this morning.

[56] Mae'n bleser croesawu Comisiynydd Pobl Hŷn Cymru, Sarah Rochira, i'r pwyllgor y bore yma i osod ei chyfraniad hi gerbron. Rydym ni'n ymwybodol ein bod wedi derbyn tystiolaeth ysgrifenedig gennych chi, wrth gwrs, yn naturiol, ac y mae Aelodau wedi darllen pob manylyn yn drylwyr iawn ac y bydd y cwestiynau yn dilyn o hynny. Awn yn syth mewn i'r cwestiynau ar Fil Iechyd y Cyhoedd, yn amlwg yn canolbwyntio ar yr adrannau hynny o'r Bil yr ydych chi wedi sôn yn benodol amdanynt yn eich adroddiad chi. Felly, awn yn syth mewn yn y lle cyntaf i'r adran yna sy'n ymwneud ag unigedd ac arwahanrwydd ac y mae Jayne yn mynd i ddechrau cwestiynu efo ni.

It gives me great pleasure to welcome the Commissioner for Older People in Wales, Sarah Rochira, to the committee meeting this morning to make her contribution to the debate. We are aware that we have received written evidence from you, and Members will have read every detail of it thoroughly and the questions will stem from that. We'll go straight into the questions on the public health Bill, focusing naturally on those areas of the Bill that you've mentioned specifically in your report. So, we'll turn to the section dealing with loneliness and isolation and Jayne is going to start the questions.

[57] **Jayne Bryant:** Diolch, Chair. Morning, Sarah. The issue of social isolation and loneliness has come to the fore in recent years and there have been studies that have said that it's as dangerous to your health as smoking 15 cigarettes. I was just wondering if you could expand on the significance of loneliness and social isolation as a public health issue, and perhaps say

about how many people you think will likely be affected and what impact that would have on social services within Wales.

[58] **Ms Rochira:** Okay, thank you very much. When I started as commissioner five years ago, we weren't really talking about loneliness and isolation at all. I was very clear, as were many other organisations, that we needed it to be recognised as a national issue and I think we've made great strides in, actually, a relatively short period of time in doing that, and we just recently had another debate in the Senedd about loneliness and isolation. I have to say that, in my experience and with the people whom I meet, I think we need to change the title: it is loneliness and isolation and the vulnerability that flows from that. I have called it—and I've called it based on the research I've seen and the evidence that other bodies are providing me with and my own engagement—the major public health issue of our time. In fact, I think, in the public health Bill, it's conspicuous in its absence in relation to focusing on loneliness and isolation.

[59] I think its scale and impact is vast and deep and growing as well. I think there's no simple explanation as to how we've got to the position that we've got to. I think, very often, it's a cumulative impact of a range of things. Sometimes it's the unintended consequences of things that we've done and all of those crystallising together. I have a particular focus and interest, of course, in older people, but I've always been very clear that it covers all ages and increasingly, actually, I think we're seeing reports, narratives, blogs, evidence, coming out that talks about it as an intergenerational issue. But, even if that wasn't the case, we hope our younger people will grow older. There's a very strong focus on young people in Wales, and rightly so, but what we want to ensure is that, when they go into older age, they don't become vulnerable and, really, blighted by what I've called this plague of loneliness and isolation. So it is a plague; it's plague on both our houses— young and old alike.

[60] If you think about it from the older people's perspective, however, 75 per cent of older people, for example, talk about being lonely and isolated. I think one of the most stark facts, in terms of it being the silent killer, is the fact that it increases your chance, by 45 per cent, of an early death. It's stark and it's salutary. I think it shows just how significant the impact of loneliness and isolation is on people's physical health and their overall mental well-being. I think one of the reasons that it has, in a sense, come into its own in Wales—because we do now recognise it, we are now talking about it, we see it in the national indicators for Wales, which is a really positive step, and we

are going to have a strategy in Wales—but I think one of the reasons we have recognised it and pushed it right to the top of our agenda is because we are talking about well-being, and it absolutely is part of our overall ambition and drive around the overall well-being of the people of Wales. So, I think its scale is huge, the depth of it is huge. And it's not just about the effect on individuals; it has also a huge effect on the public purse, a huge effect in terms of demand for increased services, and it has a huge effect on our local economy and our national economy as well.

[61] In fact, we've just had some more research published that was funded—not published by me, I have to say, but published through funding from the Big Lottery Fund—that quantifies that even further. So if you look at that further research that's just out, it talks about the cost in Wales being £2.6 billion a year. I know evidence is also being given to the Finance Committee at the moment, and I know the focus of that will be the resource constraints we have, but a price is being paid through not focusing on this and not recognising it as the emerging public health issue of our times. And I think the cost—. What's really interesting about this recent research is the way it talks about the cost. So, the cost pressures that are placed on public services, but also the lost opportunities, the loss of benefit to society of people who become lonely and isolated. So, just to give you an example of what that looks like, because it's a double loss: a gentleman, an older gentleman, might be lonely, isolated and vulnerable, there might be a risk of crime in his own home, or he's one of the 120,000 people who were scammed out of their life savings, but we're also missing an opportunity, perhaps, for him to volunteer in his local youth club or become a mentor to a young person who might be struggling and troubled. So, there's a double missed opportunity there. It is the one thing—and I've said this many times—I thought not to see as commissioner, but we have to recognise it as a public health issue, because that's exactly what it is: it's a public health issue for our times.

[62] The other reason I think we have to recognise it as such is I think individuals are very reluctant to say, 'I'm lonely, I'm isolated, I'm vulnerable'. I've called it—it's the modern version, to steal from Oscar Wilde, of the shame that dare not speak its name. Nobody wants to say, 'I'm lonely and I'm vulnerable', yet it is of epidemic proportions across Wales. And increasingly, we're seeing people like GPs talking about it. I saw Dr Dave Minton recently speak about it as part of the Gwent work on loneliness and isolation. So, I think it's got breadth, it's got depth to it—that figure of £2.6 billion—devastating to individuals, making them more vulnerable to things

like crime, a huge cost to the public purse and to the wider economy as well. It is the emerging public health issue of our times. So my simple question, I guess, in terms of our first opportunity to lay out our public health priorities in Wales is that it's conspicuous by its absence. And it's important that we have it as a national indicator. I'm clearly really pleased that that's taken place, I'm really pleased that we're going to have a strategy, but that's not sufficient; we have to give it the status that it deserves as that public health issue, and this is our opportunity to do that.

[63] **Jayne Bryant:** Thank you. I think you've eloquently and forcefully put the case for it and the importance of it being a public health issue. Do you think there are measures to address loneliness and isolation that could be taken forward without legislation? Do you have, perhaps, some good examples that are happening within local authorities? I can speak for my own health board, Aneurin Bevan, which is launching the Friend in Me campaign, and I think it'll be very successful. The Minister is coming to the launch, I think, next week. They have volunteers, they're looking for volunteers, to match with lonely people and their interests. So if you've got a volunteer who's doing gardening, they're trying to match people that way, so it has the double benefit that you were talking about. I know the Robins scheme, as well, does something very similar where you have older people, perhaps, who are quite isolated, volunteering through Aneurin Bevan and Age Cymru to work within the hospital there in the Royal Gwent and St Woolos. So, do you have any other local examples that you could highlight to us that we can all follow?

10:15

[64] **Ms Rochira:** Yes, I do—

[65] **Dai Lloyd:** But briefly.

[66] **Ms Rochira:** Okay. What I would say, to remind you, is that when I gave evidence in my scrutiny session, I said, 'I don't naturally default to legislation. It has its role, but it's not the only device that we should have'. You're absolutely right: there are other mechanisms that can be used and the Ageing Well in Wales programme itself was about just generating and encouraging activity at a local level. We've seen public bodies across Wales as a result of that finally understand that loneliness is part of their agenda. You gave some great examples. The work of Men's Sheds; many fantastic third sector organisations across Wales; the Contact the Elderly tea parties; and

the work done by the campaign to end loneliness—all of those are on the ground, using the resources we've got, doing a myriad of different things—and that's probably appropriate—to make a difference and to tackle this issue. But I hold the view that those in and of themselves won't be necessary. It's the scale and the impact of it.

[67] What I have proposed I think is very proportionate, very moderate, and I think that's the right approach to take when you think about, 'Does legislation have a role within that?' So, all I've proposed is that that duty is placed on the public service boards. That means this isn't a non-negotiable issue; it absolutely cements that. I think we've got the vehicles to deliver it. What it says is: 'You absolutely must address this issue'. It is pulling down the health, wealth and well-being of individuals, our communities and our country, both now and, increasingly, in the future. So, I think that's a very proportionate response; it doesn't build in new mechanisms, new strategies, new delivery systems and costs; it uses what we've already built in.

[68] The other area that I should just touch on in there, I think, is the strengthened role for Public Health Wales, and those are conversations that I want to grow personally with Public Health Wales, but I think those can be addressed through their own work programmes and things like remit letters. So, I'm very proportionate; I'm not building a huge new infrastructure in terms of legislation.

[69] But just to close, Chair, what I would say is: if I was an older person looking at this, I would ask myself the question, 'Where is loneliness and isolation?' It is the big public health issue. This is our first big public health Bill; what message do we send to the public if we do not include it in that most proportionate way in this legislation?

[70] **Dai Lloyd:** Gyda rhagor o **Dai Lloyd:** We have more questions gwestiynau ar y manylion on the legislative details—Julie. deddfwriaethol—Julie.

[71] **Julie Morgan:** Diolch and bore da. You've talked about some examples of good practice and you mentioned Men's Sheds, and I'm really pleased that there's one in Rhiwbina that's had a bit of publicity lately. Would you say the strength of that sort of initiative is that it does seem to come from people themselves who are experiencing loneliness and get together and try and do something about it? My other question is: you've said what you propose for public service boards; how are we going to ensure that that being a duty on

them is actually going to result in something?

[72] **Ms Rochira:** To take your first question, there is sometimes a need for what I would call a strategically consistent national approach. For some things, that's absolutely right and proper. For other things, the phrase I would use is 'let 1,000 flowers bloom'—different things, different places. One size won't fit all, and will rarely fit anybody. Very often, it's a combination of the two, which is my view on public toilets. I think the 1,000 flowers that are starting to bloom around loneliness and isolation are incredibly valuable, but what I would say is that I think there are some underpinning principles that probably run through all of them when they're impactful. I think the first is that they draw on the evidence that we're increasingly developing and drawing together about what works. So, they're evidence based.

[73] The second thing I would say is that they're very often intergenerational in approach. I don't want to build silos around ages. This is an intergenerational issue, as I explained before. And the third thing: in my experience, what they do is take an asset-based approach that recognises the asset that sits within the individual. If you go back to the five ways to well-being, one of the ways to grow older in the very best possible way you can is to continue to give. That's why I always give the example of a gentleman who could volunteer, for example. So, I think that's absolutely appropriate that 1,000 flowers bloom, but with an evidence-based, intergenerational and asset-based approach. On the point about how we know how well we're doing, well, I think that's my point about Public Health Wales. I think Public Health Wales has a role to play in terms of actually saying, 'What is the scale of this? What is the impact of this? If it's a public health issue, how well are we doing on this agenda within Wales?' And also, I think, there's a role to play in helping to disseminate some of the evidence that I spoke about earlier.

[74] **Dai Lloyd:** I symud ymlaen, **Dai Lloyd:** Moving on now. We're rydym yn sôn yn y Bil iechyd y talking in the public health Bill about cyhoedd ynglŷn ag asesiadau effaith health impact assessments, and Rhun iechyd, ac mae gan Rhun gwestiynau has questions on this issue. ar y mater yma.

[75] **Rhun ap Iorwerth:** Rydych chi, **Rhun ap Iorwerth:** In your evidence yn eich tystiolaeth chi, fel—mwy neu and, really, like everyone who has lai—pawb sydd wedi rhoi tystiolaeth given us evidence, you welcome the

inni, yn croesawu'r cam tuag at alw step in calling for health impact
 am asesiadau effaith iechyd. assessments. Explain, if you can,
 Eglurwch, os gallwch chi, eich barn your view about including well-being
 chi y dylid cynnwys llesiant hefyd yn in these assessments. Why is that
 yr asesiadau yma. Pam y mae hynny'n important? And are there examples
 bwysig? Ac a oes yna enghreifftiau o of good practice where this is
 arferion da lle y mae hynny yn happening already?
 digwydd yn barod?

[76] **Ms Rochira:** Just a few general comments about impact assessments: I am strongly supportive of them and think the whole concept of impact assessment is incredibly important—important most of all when times are most difficult and challenging and the issues are most complex. I think that's when they come into their own. I think Wales has a long-standing history of understanding that, and we have a more divergent approach in Wales than in England towards impact assessment, for example. So, they are a really practical tool. They're a practical tool to prevent detriment—often unintended, but detriment nonetheless—but also, although we don't use them enough in this way, to look for additional beneficial interests and additionality within changes. So, I come on the starting point of thinking that they are inherently a useful tool.

[77] The reason I think that it should be health and well-being is that I think, if we don't, we're in danger of being out of step with the way that we're changing our thinking about public service and outcomes within Wales. I know that it was introduced—I think it was fairly late; I think it was in Stage 3 of the Bill last time. I heard the evidence being given, but since then, I think our world has changed—the work we've done around well-being, the future generations Act, particularly the public service boards and the well-being plans. Our narrative has changed radically in Wales in a really short period of time. You know we spoke last time about outcomes. I think, at last, we've started to work out what the real outcomes are. There's still a way to go, but we've shifted fundamentally. There's a danger if we just focus on health. I think there are a number of issues. One is that it feels siloed. Health and well-being go intrinsically hand in hand. I think it's almost a little bit old-fashioned, if I'm honest. I think we miss opportunities. I'll just give you some examples around those. We have the national indicators for Wales. If we had a health and well-being impact assessment, we could, in every decision we make—the little and the big—be assessing our progress towards those; not just wait four years for the plans to come out, but we could be asking ourselves the question, 'How will this decision help deliver against this?' Yes,

avoid detrimental impact, but help deliver. I think that's impact assessment at its best. Because, in my experience, the big outcomes are delivered not through just one big action, but those everyday cumulative decisions that we make. So, I think that's really important—continuous, ongoing, real-time assessment towards those big goals.

[78] The other point I would make in terms of not including health and well-being hand in hand—actually, I would argue that health is probably a sub-section of well-being, but I'm not hung up on that—is that we need to avoid those unintended consequences that I think may arise if we just focus on health. I'll just give you one example I was thinking about this morning. So, the move towards digital telehealth, for example, where you don't see people anymore, but we do it through electronic methods—an important part of future healthcare provision. If you look at it just from a health impact assessment, it probably ticks all the boxes; it's great. But if you look at it in the context of well-being, people don't see healthcare professionals anymore, and then in not seeing them, they don't raise the fact that they're a victim of domestic abuse, don't raise the issue that they're being scammed or that they're becoming lonely and vulnerable. So, we've shifted our whole agenda towards well-being, but now the proposal is just do this niche health—. I don't see it adding particularly additional costs. The principle is the same; it's what you ask yourself.

[79] **Rhun ap Iorwerth:** What does it actually mean in terms of this legislation, though—what you're asking for? Because we'll be talking later on this morning to witnesses who provide training in health impact assessments. It is a discipline. What would need to change in order to broaden that out to being a health and well-being assessment? In actual terms, what does this legislation need to do?

[80] **Ms Rochira:** I think an integrated approach is important. I'm not saying there should be a health page, and then do a separate well-being impact assessment. I guess what I'm saying is that you then build in another column into the document that you use that talks about well-being. I would focus it back to the well-being indicators that we've got, because we've all accepted those, that's what people are working towards. What really I think fundamentally changes is the questions we ask of ourselves of the impact of a decision on other broader policy agendas. So, we don't just say what impact this will have on an individual's health, but what it will have on their overall well-being and the achievement of these goals for them, and also the national outcomes framework as well. So, it's not another industry, it's just

an additional layer of questioning and self-scrutiny in relation to the decisions that we make.

[81] **Rhun ap Iorwerth:** You are talking, briefly, about both mental well-being and physical well-being. I suppose it's easier to align physical well-being with the health bit.

[82] **Ms Rochira:** Absolutely. I'm talking about mental and physical, and I think also—and I think this is where we've shifted our thinking around well-being is—it's not just the absence of mental or physical ill health. Well-being is much more than that. A phrase I've always used is: 'Become a nation of people with great hips—we've done the health bit—but with nowhere to go, no way to get there and no desire to go on.' That's the well-being part of that. I have seen so many examples of decisions that have been made, by a department often, not even an organisation, that have those unintended consequences on well-being for other people.

[83] **Rhun ap Iorwerth:** And you'd include things like loneliness, which we've been talking about already, presumably.

[84] **Ms Rochira:** Absolutely. So, if the impact assessment says, 'What impact will this decision have on—?', and list the following—at the moment we've got health. I'm saying it's narrow, it's niche, it's starting to feel old-fashioned. It should say health and well-being, because we know the indicators we would use. A good impact assessment, fundamentally, is a thought process.

[85] **Rhun ap Iorwerth:** We'll put that to our witnesses later.

[86] **Dai Lloyd:** That's powerful stuff.

[87] Yr adran olaf rŷm ni'n mynd i drafod ydy'r angen i ddarparu toiledau. Mae Caroline Jones yn mynd i arwain ar hyn.

[88] The last section that we're going to discuss is the need to provide toilets. Caroline Jones is going to lead on this section of questions.

[89] **Caroline Jones:** Diolch, Chair. Good morning, Sarah. Could you tell me, please, what you consider the challenges would be in taking into account the needs of the community in the provision of toilets, specifically people with specific needs, and during consultation and preparing a strategy? How do we

reach people and ensure that their needs are met?

[90] **Ms Rochira:** Sorry—I'm just thinking for a moment. I think there are some challenges in reaching groups. We often talk about hard-to-reach groups, don't we? I don't think I like that phrase. I think, if you work really hard, you use intermediaries and your networks, and you want to well enough, you can reach out to most groups and ask them, not just what they think, but what they think a good solution would be on issues. I think people want to be, not just consulted with, but continually engaged with on those issues. I can only speak from my own engagement work, but we don't seem to struggle to find people. People never seem to struggle to tell me what they think, and what they think 'good' would be. I think consultation and engagement with older people across Wales is hugely variable. I think there are some groups who are incredibly marginalised, so, for example, elders from the black minority ethnic communities, and people with dementia, for example. I don't think it is hard to hear from them, I'm just not always sure people are good enough at knowing how to reach out to them.

[91] So, I don't necessarily see that as being the hardest part of this agenda, nor necessarily, I think, do I see assessing need being the hardest part. I think the hardest part of it—. I guess what I'm saying is—I've been very clear—I don't think what's in the Bill is sufficient. I think there's a huge risk it will fail in its intent because of that insufficiency. I think the real issue is how we ensure that people can access public toilets in years to come. I don't think duty to write a strategy or just publicise progress is going to be sufficient to be able to do that.

10:30

[92] Might I just explain why I think that's the case? I think we all get the importance of public toilets. I get it from my work, you get it from constituency work, and there's now a huge body of evidence that talks about the link of public toilets with people's individual health and well-being, at a research level but also an individual level, the link between public toilets and local economies, and public toilets and wider economies. But despite all of that, we are seeing our public toilets close across Wales. So, despite us knowing that they are absolutely crucial to, for example, the prevention agenda and those big policy agendas in Wales, they are still going. And I'm not just saying this—the Wales Audit Office said this as well in its report into the independence of older people. In fact, they spoke about the effect of cuts potentially proving to be a false economy for taxpayers. So, despite knowing

all of this, which we do, they are still going. So, I hold the view—reluctantly, but I hold the view—that unless we strengthen that to be a duty to ensure access to them, we will continue to see those toilets disappear across Wales.

[93] If you look at the report from Wales Audit Office into the independence of older people, there's a very interesting chart where they talk about the issues that older people say maintain their independence, and at the top of that is public toilets. And the funding cuts to public toilets are some of the highest cuts you see across Wales. I have to say I would go even further, because I think public toilets are so important. I would go further, I would bring back some of the hypothecation around it as well. I know that's not popular with local government and I understand why. Again, it's not my general default mode either, but, again, when you read the Wales Audit Office report, you see evidence that when hypothecation was lifted, so the funding for toilets started to slip as well. It's bad for individuals, it's bad for our big policy drivers and intent in Wales, and it's bad for our local and it's bad for our wider economy. I think the Bill does not go far enough and I think there is a real risk that it will fail in its intent.

[94] **Caroline Jones:** Okay, thank you. When assessing costs and benefits by the Welsh Government of improving the provision of toilets, do you think that the Welsh Government has adequately taken into account the prevention agenda?

[95] **Ms Rochira:** Thank you for asking me that. The challenge, of course, I get back—. What I get back from local authorities on lots and lots of issues is, 'But we can't afford to and there's a cost', and I absolutely understand that. I don't take away from those financial pressures, but I would say a number of things, and these directly relate back to the explanatory memorandum that sits behind the Bill. One is, let's not kid ourselves, the price is being paid anyway. The gentleman I met in the Llŷn peninsula who was told to walk a little every day after his stroke to maintain his health—he has a prostate problem. He doesn't walk—why? Because they've closed the public toilets. It's for want of a nail—that sort of equivalent, in terms of people's own health. We're paying a price anyway. It's just not necessary, and it's on a different budget line, so it may not show up.

[96] But if I look back in terms of the details that sit behind the Bill, I think there are a number of issues. One in terms of the costs that are identified, I think under option 4, assumes that half of all new toilets are going to be new build. I don't think that that's necessarily the most appropriate assumption

to make behind that. I'll tell you why: I think there's a whole range of creative things that public bodies can look at and I just jotted down some notes on those. So, there's the use of public buildings. I live in a village and it has a lovely library in the park. If you want to go to the loo, you have to beg for the key and if you're lucky, you might get the key, and I tell you what, it's pretty humiliating. You've got to be pretty steely nerved to say, 'No, I desperately do need to go.' There's a whole range of public buildings that we have in different shapes or forms that are important—new developments, for example bus stations that are being built, and other new developments. And I think, under the Town and County Planning Act 1990, people can already build these in as requirements under agreed permitted developments. The role of town and community councils, for example—. In the Groe car park in Builth, there's a fabulous upgraded set of public toilets, which also have shower stops for lorry drivers. That's a community asset that's been, what's the phrase, sweated to be much more than just the toilets?

[97] I think there's something about revisiting the public facilities grant and looking at the reasons why the uptake of that hasn't been as good as it might have been. So, I think there are a whole range of options that are not reflected in the figures that sit behind, which just talk about, 'We've got to build x many new toilets across Wales.' I don't think that's been thoroughly explored and you're absolutely right: what it doesn't talk about is the price that is already being paid. If I might, Chair, just very quickly build on a couple of examples. So, the gentleman in the Llŷn peninsula—he probably spent £50,000 on his health and social care after his stroke. When he was told to walk, we decided that the toilets wouldn't be open, and that's how we undermined his health and his future well-being, and risked another £50,000, as well as detriment to him. Or the ladies I met in, I think it was Ebbw Vale, who told me that because the toilets shut, basically, lock, stock and barrel, overnight, they don't go into their local town anymore, to the detriment of the community. I was just out in Europe recently, collecting an award for Wales on our work around older people, and I tell you what, there are colleagues out there who absolutely have eyes on the money that tourism can bring to a country, for example. None of that is really taken into account within it.

[98] **Dai Lloyd:** Diolch am hynny. **Dai Lloyd:** Thank you very much. Mae Dawn yn mynd i barhau efo'r Dawn is going to continue with this math yma o thema. Dawn. line of questioning. Dawn.

[99] **Dawn Bowden:** I think your evidence this morning's been very

powerful, particularly around isolation and loneliness. We're going to be meeting tomorrow in Merthyr at the weekly tea dance, which I think is one of those events that are quite easy to set up in the community, which can get people involved in socialising, and helping with that.

[100] I just want to move on. We're still talking about toilets, but the Minister talked about how, in the new strategy, if we are not going to be able to find hundreds of thousands of pounds to build new toilets, then we've got to convince businesses to open up their facilities and so on. But one of the barriers to that is the kind of cultural problem that people have, and you just alluded to it yourself—like going into a local library and having to beg for the key, and that sort of thing. People actually feel embarrassed to go into businesses and premises that are not badged as public toilets, and businesses themselves haven't really helped with that. They stick notices on the door, 'These toilets are for customers only', and all of that kind of thing. What more do you think we can do to actually change that kind of cultural approach to the use of what, after all, is probably the most natural biological function that all of us have to perform, and yet everybody feels embarrassed about doing it.

[101] **Ms Rochira:** Absolutely. Just to pick up very quickly on the point you made there about all of us, this is absolutely an all-age issue. I note again from reading the notes at the back of the Bill that it talks about some people being particularly impacted. Well, find me someone who's not particularly impacted on by public toilets. It's why it is a public health issue. It absolutely is.

[102] I suppose you're absolutely right. There are a couple of issues. In terms of the PFG and why it wasn't successful, I think we need to go back and unpack that, and look at what exactly were the barriers that you faced. If there were issues about embarrassment, was it the way it was marketed? Was it that people maybe said one thing but actually really implied another? Actually, I think the place to start in this is public service itself. We are in no small part a public service economy, and if we started and led by example in our public buildings—those big signs, 'Welcome here' and 'Welcome. Do come in. Did you know there's a public toilet here? You're free to use it'. If we started and led by example I think others might just follow.

[103] We need a transformational approach to this concept of going to the toilet and public toilets. We've partly done it, because we've recognised—. Who'd have thought 'toilets' and 'public health Bill'? But rightly so. But we

need to follow that through, because actually transformational change is as much about leadership and culture as it is about structure as well. But let's start in the public sector through our own leadership.

[104] **Dawn Bowden:** Fair comment. Thank you, Chair.

[105] **Dai Lloyd:** Mae'r cwestiwn olaf, **Dai Lloyd:** And the final question in felly, yn yr adran yma o dan law Julie this section is from Julie Morgan. Morgan.

[106] **Julie Morgan:** I think, Sarah, you've told us your views—quite wide-ranging views. Do you think there's anything else that there should be in this Bill that would improve things, particularly for older people? Is there anything else you'd like to see in here?

[107] **Ms Rochira:** I think what I would say is that it's important we get the public health Bill passed. I absolutely want to see loneliness and isolation included in there, and the other issues that we've spoken about. Other than that, I think our focus should be on passing the Bill, but more than that, remembering to go back and check, just like you do and I do, and ask those questions that say, 'Did it deliver on its intent?', because ultimately, as older people will tell you, the proof of the pudding will be in the eating.

[108] **Dai Lloyd:** Eating pudding is in another part of the public health Bill, I think, but we'll just let that one go.

[109] **Ms Rochira:** Cake is an important public health issue. [*Laughter.*]

[110] **Dai Lloyd:** Diolch yn fawr iawn **Dai Lloyd:** Thank you very much, i chi, Sarah, am eich tystiolaeth Sarah, for your excellent evidence fendigedig y bore yma—cwestiynau this morning—some new questions ac atebion ac, mewn ffordd, syniadau and answers and, in a way, ideas, and newydd, a byddem ni'n edrych i roi'r we will be looking to include those sylwadau yna gerbron y Gweinidog. comments in our report to the Minister. So, that's been very useful Felly, mae hynny wedi bod yn this morning. Thank you very much werthfawr iawn y bore yma. Diolch yn for your presence and also your fawr iawn i chi am eich presenoldeb a evidence. This session has come to Mae'r sesiwn dystiolaeth yma ar ben. an end. I can now announce that Gallaf gyhoeddi nawr y bydd yna there will be a brief break for my egwyl i'm cyd-Aelodau hefyd am fellow Members for 15 minutes. We'll

chwarter awr. Byddem ni yn ôl am be back at 10.55 a.m. Thank you.
10.55 a.m. Diolch yn fawr.

*Gohiriwyd y cyfarfod rhwng 10:41 a 10:56.
The meeting adjourned between 10:41 and 10:56.*

**Bil Iechyd y Cyhoedd (Cymru)—Cyfnod 1, Sesiwn Dystiolaeth 12—
Cymdeithas Siopau Cyfleustra a Ffederasiwn Cenedlaethol
Manwerthwyr Papurau Newydd
Public Health (Wales) Bill—Stage 1 Evidence Session 12—Association of
Convenience Stores and the National Federation of Retail Newsagents**

[111] **Dai Lloyd:** Croeso yn ôl i'm cyd-Aelodau i'r sesiwn ddiweddaraf o'r Pwyllgor Iechyd, Gofal Cymdeithasol a Chwaraeon yma yn y Cynulliad. Rydym ni wedi bod yn derbyn tystiolaeth drwy'r bore ar Fil Iechyd y Cyhoedd (Cymru), Cyfnod 1. O'n blaenau ni rwan mae sesiwn dystiolaeth rhif 12 yn y gyfres yma ar y Bil yma. O'n blaenau ni mae cynrychiolwyr o Gymdeithas Siopau Cyfleustra a Ffederasiwn Cenedlaethol y Manwerthwyr Papurau Newydd i roi'u tystiolaeth nhw gerbron. A allaf groesawu'r tri ohonoch chi: Edward Woodall, pennaeth polisi a materion cyhoeddus, Ray Monelle, llywydd cenedlaethol, a John Parkinson, manwerthwr o ogledd Cymru ac aelod o bwyllgor gwaith cenedlaethol Ffederasiwn Cenedlaethol y Manwerthwyr Papurau Newydd? Croeso i'r tri ohonoch chi. Rydym ni wedi derbyn eich papur chi gerbron ac felly gyda'ch caniatâd awn ni'n syth i mewn i gwestiynau. Mae gyda ni ryw hanner awr ac wedyn—yn syth

Dai Lloyd: Welcome back to my fellow Members to the latest session of the Health, Social Care and Sport Committee here at the Assembly. We have received evidence throughout the morning on the Public Health (Wales) Bill, Stage 1. Before us now is evidence session No. 12 in this series on this Bill. Before us we have representatives from the Association of Convenience Stores and the National Federation of Retail Newsagents to give their evidence. May I welcome the three of you: Edward Woodall, head of policy and public affairs, Ray Monelle, national president, and John Parkinson, a retailer from north Wales and a member of the national executive committee of the National Federation of Retail Newsagents? I welcome the three of you. We have received your paper and, therefore, with your permission we'll go straight into questions. We have about half an hour and then—we'll go straight into questions and that's it, essentially. So, with those few words of

mewn i gwestiynau ac wedyn dyna fe, introduction we'll start the yn y bôn. Felly, gyda chymaint â questioning with Jayne Bryant. hynny o ragymadrodd gwnawn ni ddechrau'r cwestiynau efo Jayne Bryant.

[112] **Jayne Bryant:** Diolch, Chair. Good morning. Just to start off on tackling the illegal tobacco trade, we often hear about the evidence around illegal tobacco and how, sometimes, it's accessed through retail premises. Perhaps you could talk a little bit about the evidence around illegal tobacco accessing through retail premises and also why you believe, in your evidence, that a register of retailers would do little to tackle that.

[113] **Mr Monelle:** I'll start, if you like. As a federation, and for most responsible retailers, it is a big part of the business. So, the majority, in most cases—. Any risk of putting their business at risk is something that a responsible retailer would not do, and we find that, in places where registration has been in place, there's been no benefit from the registration that has come out of it. In most cases, the majority of the illicit tobacco is by sources other than the responsible retailer. So, we cannot see any benefits with registration. Responsible retailers are very educated on what they can and cannot do. So, the signs are—. We have fears about the education of trading standards and the lack of response in us reporting evidence of illicit tobacco trading. I, myself, have had one shop 50 yards from me raided three times and found to sell illicit tobacco, but they've still not been closed, fined or anything. So, we feel that registration is not the answer. There are other routes for better success in trying to stamp this out.

[114] **Mr Woodall:** There's a lot to go at in terms of the illicit market. It's worth £2.4 billion in terms of lost revenue and I think the evidence you heard from ASH was that it makes up about 15 per cent of the Welsh market, which is huge. So, we definitely, as an industry, want to see more done to tackle that. But I think the registration scheme is probably barking slightly up the wrong tree in terms of having retailers listed on a register doesn't mean, necessarily, that enforcement agencies will go into those stores and find illicit tobacco. Often, it'll be the people who aren't on the register who are the biggest part of the problem, as we just explained.

11:00

[115] I think the area where there is more focus and there is a solution in

the Bill is around restricted premises orders and the potential extension of that measure to illicit tobacco offences, because, essentially, that creates the same system as a register would have. So, if you get caught selling illicit tobacco on three occasions, then you are struck off and you are no longer allowed to trade for 12 months, or whatever's deemed appropriate by the magistrates. And that system is much better, because we don't have to go through the cost—it cost the Scottish Government nearly £0.5 million to set up the registration scheme—and we don't have to go through the issues of retailers having to be on the register and also pay to be on the register. So, I think there's a far simpler solution in this Bill, which isn't the registration scheme, it's an extension of the existing penalties.

[116] **Jayne Bryant:** Edward, you just mentioned the Scottish tobacco retailers register: what impact do you think this has had on retailers?

[117] **Mr Woodall:** I think the feedback we've received from retailers in Scotland is that, in terms of burdens on their businesses, it hasn't had a particularly strong impact, and the reasons for that are that there is no charge—it's free—and the way that they sign up is online. So, it's quite a simple process of typing in the details and managing that process. Now, that's still another administrative burden that they have to do, it's still another cost, and it's still another process, but it has been light touch. But, on the other side, I'd say, equally: what's been the benefit of that registration scheme in Scotland? And there's not much I can report back. I asked the Scottish Government, or the officials, about how many people had been taken off the list, but their database doesn't track that, so they can't tell me who's been taken off the list and for what reason. Some of our own industry trade press have done an investigation that suggests five retailers have been taken off, but that's not necessarily in relation to illicit tobacco. So, yes, it's been light touch, yes, there's no cost to that scheme in Scotland, but we haven't seen the benefits back, either.

[118] **Mr Parkinson:** Could I just add, I don't think that—? A lot of the illicit tobacco is actually going on Facebook as well as through retail shops—irresponsible retail shops. I know a shop in Colwyn Bay, it took nearly five years before it was closed down. It was raided several times. It was eventually closed down, but, in the meantime, a small kiosk three doors away closed its doors forever, because it had lost so many sales to the shop three doors away. So, responsible retailers aren't going to—. It's not going to help. The register isn't going to help, because the responsible retailers would sign up to it, of course, but the people on Facebook and the people who are selling

illicitly, you're not going to touch them at all, not one iota, unfortunately.

[119] **Jayne Bryant:** Okay. I'd like to move on to underage sales. We've had some evidence to the committee that suggested that the Bill would have a positive impact on tackling underage sales. Perhaps you could give me your views on that, or the committee your views.

[120] **Mr Monelle:** Yes. Talking to a lot of retailers, we already—we advise, and, in most cases, our retailers use the under-21 or under-25 rule. If there's any doubt that they're of that age, then they are questioned and asked. I can't see how registration would change that. The biggest fear we have at the moment is that plain packaging has increased youth smoking. It's made counterfeiting a lot easier, and it's made access to cigarettes a lot easier for youth smoking. So, it is the illicit, but, for underage smoking, there is no—. As far as we've done tests, we've looked and we can see no reason why registration would change that. If you're a tobacco retailer, you already get test cases, so that is already running, and it's very successful. The tobacco companies and independent companies do test purchases, so there's already a scheme to do that, and that is not the area where most of the youth smoking is coming from, unfortunately. So, again, we cannot see, really, how registration would change that.

[121] **Jayne Bryant:** Okay. The registration fee that we're talking about in this Bill would be a one-off registration fee of £30 and, I think, £10 for additional premises. Why do you think that that one-off fee of £30 would be unreasonable? All of you want to—. Yes, okay, you go; you'll all get a chance, so it's okay. [*Laughter.*]

[122] **Mr Woodall:** I think, from what we've modelled, the cost, that works out, at £30 and £10 per additional store, at around about £90,000 for the sector, based on there being around 3,000 convenience stores in Wales. Of course, that figure isn't written on the face of the Bill, so that could go up. It's down to Welsh Ministers what they decide that fee might be, and our experience of the other registration systems and licensing systems suggests that fees tend to go up to manage that process. So, I suppose there's one concern there about whether it will be £30 forever and what is that cost.

[123] Equally, I suppose you have to take that, the cost of the registration, as a cumulative impact in other costs that retailers are facing. They're facing increases in business rates, they're facing increases in employment costs; that all has an impact on their investment decisions and ways in which they

operate their business.

[124] Equally, if you take it directly in relation to tobacco—and I think the NFRN have provided some interesting evidence on this about the margins on tobacco products—the margins are very small for retailers on tobacco products. They don't make a significant amount. So, you'd have to sell quite a high number of cigarettes to cover that cost. So, it is an additional cost; I appreciate that it is £30, but that does accumulate to quite a large amount. So, just to be clear, the margins for tobacco would generally be under 10 per cent for a retailer.

[125] **Mr Monelle:** They average about 4.5 per cent.

[126] **Mr Parkinson:** I think small shops in particular have been hit very hard over the last few years. I've taken stock off three small shops that have closed in the last two years alone, just to help them close with dignity. Margins on cigarettes are very low. To cover the costs of a £30 registration, I would have to actually sell 86 packets of cigarettes—£700 worth of stock—just to pay for the £30, just to give you an indication of how low the margins are. That's on top of minimum wage rates, which you can't argue against, because I'm all for it, but the costs fall on the small shops disproportionately to the large shops, as with the £30. I just think that, if you're going to have a register, there should be no charge whatsoever.

[127] **Jayne Bryant:** Okay, thank you. We've also had some responses about, because tobacco is a harmful product, it should be subject to additional control, such as the same, perhaps, as alcohol, for example. What are your views on that?

[128] **Mr Monelle:** Basically, I'm in agreement with you. We recognise that it's classed—. There's no reason it should be identified as any different from alcohol. We're used to dealing with alcohol and we're used to premises dealing with that, so, the underage, it's the same rules exactly. So, as far as treating it in any different way, really, I don't believe we would argue against that. There are a lot of reasons for that, but one of our biggest fears with all of it is keeping trading standards up to date—with all the legislation and all of it—because, as a body, their funding, I think, has suffered over the last few years, and we find that they've a lack of time and they've got to prioritise in a lot of areas. But you can understand the fears and it's very rare that we see trading standards these days, which I think is a shame. But, as far as treating it differently, then, to a large extent, it shouldn't be. I would argue

that there is a good reason to treat them similarly.

[129] **Mr Woodall:** I think we have to distinguish the differences between how alcohol is regulated and how tobacco is regulated. Obviously we have a very complex and costly system around alcohol licensing and that's very much associated with the anti-social behaviour harm that alcohol has surrounding it. That isn't the same as tobacco, so I don't think you can lump them into the same system and have a licensing system for alcohol as you do for tobacco—you have to distinguish those two.

[130] **Dai Lloyd:** Dawn.

[131] **Dawn Bowden:** Thank you, Chair. Can I just ask about the answer that you gave Jayne just now about the very small margins on tobacco? Why do you continue selling tobacco if those margins are that small—it's a genuine question—or is it that tobacco, although it produces very, very low returns, actually gets people into the shop? Is that the key issue really?

[132] **Mr Parkinson:** I think you're correct in that small margins bring the regular customer in. But, although it's a small margin, we have a lot of small shops that rely on a lot of small margins. If you add all the small margins up together and you get a reasonable turnover, you're still making your living, but it's getting harder.

[133] **Dawn Bowden:** Okay, that's fine.

[134] **Mr Monelle:** In the small independent trade, there are some products that are actually loss leaders: the likes of PayPoint, et cetera, we do, but it's because we also provide a service to the community. Community shops are getting less and less, so whatever the community wants, the small independent will try and supply. So, it is a case of, like John said, all those pennies add up to pounds. So, it's a hard trade to be in at the moment.

[135] **Dawn Bowden:** Okay, thank you.

[136] **Dai Lloyd:** I think Angela's questions have been addressed in the comprehensive answers thus far, so we can move on to Dawn's question, even though that's partially been addressed as well.

[137] **Dawn Bowden:** It has partially, but it was—. The ACS commented, in your evidence, that trading standards officers at the moment don't actually

have the power to use RPOs to sanction retailers on the sale of illicit tobacco. But there's now provision in the new Bill that would allow Ministers to specify other tobacco offences that might count towards a restricted premises order. To what extent do you think that might help address some of the illicit and illegal tobacco trade?

[138] **Mr Woodall:** I think it would be extremely helpful on a couple of fronts, just in the sense that that would remove the need for a register in a sense, because you'd have a penalty system that would have a three-strike system. If someone's caught, they're removed from the system because they're in escalation. Because as it currently works, there is no escalation in the system. So, if you look at the Chartered Trading Standards Institute's report, 56 per cent of offences that they've dealt with have been dealt with via verbal or written warnings. That's pretty insufficient if there is someone trading illegally. Let's as quickly as possible remove them from the market and close that business down. Let's not wait any further or give them a written warning. That's why there's so many—

[139] **Dawn Bowden:** So, you'd like to see a strengthening of the sanctions, really.

[140] **Mr Woodall:** I'd like to see a strengthening of the sanctions so that there's a clear escalation, there's a clear warning to the retailer that, if you continue to do this, we will remove you from the market. That is a more effective penalty than a fine, a letter or a written warning because it's a threat to their business. Fifteen per cent of their sales are around tobacco, on average. Equally, with alcohol licences, there is a power that exists where, if someone is selling illicit tobacco, you can remove their alcohol licence. That's not used. If that was used, then there would be a serious plummet in the amount of illicit tobacco sold through retail, because it would be a threat to their livelihood. So, we strongly support the idea of getting away from the register to a restricted premises order.

[141] **Dawn Bowden:** And making greater use of that.

[142] **Mr Woodall:** And making greater use of what we already have. Then, it doesn't load the cost on local authorities to manage a register and it doesn't load the cost on the retailer to pay for a registration scheme that they won't really see any benefit from.

[143] **Dawn Bowden:** Okay, thank you. Thank you, Chair.

[144] **Dai Lloyd:** Mae'r ddau **Dai Lloyd:** The final two questions gwestiwn olaf o dan law Rhun ap Iorwerth. Iorwerth.

[145] **Rhun ap Iorwerth:** There are lots of different international models of how to mark the fact that tobacco is a restricted product. It's not a tin of beans, it's a product that is harmful to health, and we particularly want to keep it out of the hands of young people. If you go to Italy, for example, and you're pretty much going to the equivalent of an off-licence. You can only buy tobacco in the shops with the T outside. What would be your model, reflecting on the fact that this is a harmful, restricted product that needs to be sold in places that are properly designated? We can use the words 'registration' or 'licensed' or whatever. What would be that model of yours?

[146] **Mr Woodall:** I think we're in a pretty regulated market as it stands in terms of health warnings on packets, display bands, standardised packaging, and preventing underage sales. There's a pretty restricted market as it stands. Colleagues mentioned earlier that, in terms of things like preventing underage sales, we've made huge progress as an industry. It's showing in the national figures that people no longer gain access to tobacco underage in shops. They're more likely to do that because they have got other people to buy it for them. So, I think we're already in a very restricted market and we shouldn't ignore the fact that there's huge amounts of legislation that already exists about tobacco.

[147] **Rhun ap Iorwerth:** But that's equally true for alcohol. Nobody can just decide to sell alcohol; they'll need to go through a licensing process. Why shouldn't that be the case for tobacco?

11:15

[148] **Mr Woodall:** I think there's a clear distinction, which I mentioned earlier, that the reason we have the alcohol licensing system we have, and the objectives we have, is because there are issues around antisocial behaviour around that product. That's why we have the objectives of protecting children from harm and protecting people through, you know, reducing antisocial behaviour. We have that specifically for that product for those reasons. There's no health objective—.

[149] **Rhun ap Iorwerth:** I wouldn't necessarily—. I mean, no, antisocial

behaviour has become more associated with alcohol. That's a more recent development. Licensing was in place much before then, more related to health. And, you know, there's nothing more dangerous than smoking.

[150] **Mr Parkinson:** The trouble with making more regulation is, as the regulation has increased, so have the number of illicit sales increased. The problem we really need to be tackling is the illicit sales, because that is the booming market. There are people selling on Facebook. I believe there are four people in my small area selling cigarettes on Facebook. They're in closed groups, so I can't access them. There are people selling in pubs and clubs. That is where we really need to be targeting, because not only are they selling cigarettes, but they're also selling tobacco with harmful additives in them as well.

[151] **Rhun ap Iorwerth:** And I wouldn't disagree with you at all that that needs to be sorted out now, absolutely.

[152] Just turning to another element, a suggestion has been made by Action on Smoking and Health and the Directors of Public Protection Wales that a register should also apply to the whole supply chain, if you like, including tobacco manufacturers and distributors. What would be your thoughts on that?

[153] **Mr Woodall:** I think you'd have to ask the tobacco manufacturers.

[154] **Rhun ap Iorwerth:** But you wouldn't have any particular—?

[155] **Mr Woodall:** No.

[156] **Mr Monelle:** No, I'd have to think that through because, initially, I can't see unless—. There, again, it's the sanctions. So, it's alright having registration, but it's the sanctions that go with it. So, at the moment, it is very—. Those sanctions have got—. If there is registration, you know, there's got to be a clause there, or something there, that if you don't register properly—. So, I think, that's got to be very much in place before anything else goes ahead. And at the moment, the signs are that that isn't there at all, really. I mean, as I said before, a shop near me was raided three times and was not even closed, not even fined, and each time there was over £70,000-worth of illicit alcohol and tobacco.

[157] **Rhun ap Iorwerth:** If I could finish with a general question: you'll be

aware, I'm sure, that the Bill in its last guise included a controversial section on vaping, e-cigarettes, which has now gone. Are there any other comments that you'd like to make on what is or is not in this Bill relating to tobacco and nicotine products in general?

[158] **Mr Monelle:** A very open question there. But, I mean, the vaping is now going to grow more and more. There's a lot of new products: Heat Not Burn is a new one that's just been launched in this country, which is actually a tobacco product but it's not burned so the nicotine content's not there. I mean, as far as licensing and registration goes, it's an area that we were glad to see. A lot of these products now need proper licensing and that because it's another area where there's a lot of illicit vaping being brought in, and you see some of these cheap vapouring tanks or equipment that are quite harmful and you've seen some bad injuries as a result. So, as far as that goes, control on that side, we can see, is coming in line with tobacco. I think that's an important area.

[159] **Mr Woodall:** I think we've always welcomed the harmonisation of proxy purchasing issues on e-cigarettes with tobacco, so, you know, making that an offence. That's pretty standard. Whenever we've polled our members on how they sell e-cigarettes and vaping products, they sell them in exactly the same way as they'd sell a tobacco product, with the age restriction. They're very used to that, so we've always been supportive of harmonising the two regulations.

[160] **Mr Monelle:** But, I mean, with the vaping area at the moment, there are vaping shops opening up all over the place and there's very little control on them at all. So, we would be happy were the under-18 rule to be applied to them a lot more because, at the moment, I'm told that a lot of these vaping shops aren't performing like a responsible newsagent or a responsible retailer. So, I think that that needs to be brought in line with cigarettes, but you know, again, it's the sanctions that go with it. Just a warning or a telling-off really doesn't work. In vaping, the profits are too high for them to even worry about that.

[161] **Dai Lloyd:** That's not for this Bill. Okay. [*Laughter.*]

[162] Diolch yn fawr, a dyna Thank you very much, and that's the ddiwedd y sesiwn dystiolaeth. A allaf end of the evidence session. May I i ddiolch yn fawr i chi'ch tri am eich thank the three of you for your tystiolaeth, a hefyd am y dystiolaeth evidence, and also for the written

ysgrifenedig y gwnaethoch ei evidence that you've submitted chyflwyno gerbron? Felly, er mwyn y beforehand? So, for the record, may I cofnodion, a allaf ddiolch unwaith eto thank Edward Woodall, Ray Monelle i Edward Woodall, Ray Monelle a John and John Parkinson for being here Parkinson am fod yma heddiw, ac am today, and for answering the ateb y cwestiynau mewn ffordd mor questions in such a mature and aeddfed a thrylwyr? thorough way?

[163] Diolch yn fawr i chi a dyna Thank you very much. That's the end ddiwedd y sesiwn dystiolaeth yma. A of this evidence session. May I gaf i gyhoeddi i fy nghyd-Aelodau y announce to my fellow Members that bydd egwyl fach o bum munud nawr there will now be a short break of cyn i ni ddechrau efo'r tystion nesaf? five minutes before we start with the Diolch yn fawr iawn i chi. next witnesses? Thank you very much.

*Gohiriwyd y cyfarfod rhwng 11.20 a 11.25.
The meeting adjourned between 11.20 and 11.25.*

**Bil Iechyd y Cyhoedd (Cymru)—Cyfnod 1, Sesiwn Dystiolaeth 13—
Sefydliad Siartredig Iechyd yr Amgylchedd
Public Health (Wales) Bill—Stage 1 Evidence Session 13—Chartered
Institute of Environmental Health**

[164] **Dai Lloyd:** Bore da i chi i gyd a **Dai Lloyd:** Good morning to you all chroeso yn ôl i'r sesiwn ddiweddaraf i and welcome back to this latest gymryd tystiolaeth ynglŷn â Bil Iechyd session. We're hearing evidence with y cyhoedd, Cyfnod 1. Rydym wedi regard to the public health Bill, Stage cael tair sesiwn eisoes y bore yma 1. We've already had three sessions gyda gwahanol dystion ynghylch y Bil with different witnesses with regard to this public health Bill and this is Iechyd y cyhoedd, a nawr mae sesiwn evidence session number 13. We're dystiolaeth rhif 13 o dan arweiniad being led by the Chartered Institute Sefydliad Siartredig Iechyd yr of Environmental Health. A very warm Croeso mawr i Julie Barratt, sy'n amlwg o flynyddoedd yn welcome to Julie Barratt, who is ôl pan oeddem ni'n ymdrin â'r maes familiar to us from years ago when ysmegu. Wrth gwrs, mae Sefydliad we were dealing with smoking. Of course, the Chartered Institute of Siartredig Iechyd yr Amgylchedd yn Environmental Health deals with ymwneud â lot mwy na hynny ond much more than that, but the public mae Bil Iechyd y cyhoedd hefyd yn

ymwneud ag ysmysgu a hefyd nifer o health Bill also deals with smoking bethau eraill. Felly, croeso swyddogol and a number of other issues. So, an i Julie Barratt, cyfarwyddwr Cymru official welcome to Julie Barratt, Sefydliad Siartredig Iechyd yr director for Wales for the Chartered Amgylchedd. Rydym wedi derbyn ac Institute of Environmental Health. wedi darllen eich tystiolaeth We've received and read your written ysgrifenedig ac felly, fel sy'n arferol, evidence and, as usual, so we'll go fe awn ni'n syth i gwestiynau. Mae'r straight into questions. The first set of general questions come from Julie law Julie Morgan. Morgan.

[165] **Julie Morgan:** Thank you, Chair, and bore da. I was going to ask some general questions to start with. First of all: what do you feel about this Bill? Do you feel the opportunity's been maximised in terms of public health issues? Do you feel there should be more in it or do you think its scope is fine? Could you give us your general views on that?

[166] **Ms Barratt:** We've said in our evidence we very much welcome this Bill. We've put a lot of work over the last couple of years into getting the Bill into the condition it is and it's great that it's been such a collaborative effort. There are things we would like to see in there. I very much regret that minimum unit pricing of alcohol is not in there, but we understand why that is. We'd very much like to see a public health Bill doing much more to tackle obesity in Wales but, again, I think there is a huge issue around childhood obesity and what we can do to deal with it and, possibly, it's too much for a Bill like this. It needs a bespoke piece of legislation, which looks at it in the light of the well-being of future generations and so on. But as it stands, I think this Bill takes us a long way forward.

[167] **Julie Morgan:** Right, thank you. So, on the issue of childhood obesity, you think that could be dealt with elsewhere.

[168] **Ms Barratt:** I think it should be dealt with elsewhere. I think there's such a lot to do with childhood obesity. There are so many players involved in it that aren't involved in parts of this Bill, like the education service and the health service, that it probably needs a bespoke piece of legislation to which all those parties can contribute.

[169] **Julie Morgan:** Right. Thank you. What about the level of resources that are needed for this Bill, bearing in mind that local authorities will have to deliver some of it? What do you feel about the level of resources?

[170] **Ms Barratt:** We have consistently said—I think probably every time we've appeared in front of the committee—that there should be no further functions passed to local authorities without the finance to deliver them. I am quite heartened by this Bill. We've done a lot of work with the chief environmental health adviser looking at the structure of the Bill. From what we can see, the licensing conditions that are in this are entirely consistent with the Hemming judgment, which means that local authorities will be able to get enough resource through the process of licensing to allow them to do enforcement, which also means I think that this Bill will not be subject to challenge around the issue of resources, and that's extremely important. So, we are content that, as it stands, this Bill will generate enough income for local authorities to deliver the functions that are in it.

[171] **Julie Morgan:** Right. Well, thank you very much. On the costs and benefits that are set out in the regulatory impact assessment, do you think those accurately reflect the financial needs of the Bill?

[172] **Ms Barratt:** Yes, I think they do. I think that they're fair representation of where we are. Clearly, if, through regulation, more special procedures were to be added into the Bill, which we would also support, those special procedures would bring with them their own finance stream through licensing in any event. So, I think this is a Bill that has provision in it to allow a generation of income to cover the functions that would flow through it.

[173] **Julie Morgan:** Thank you. Very positive answers to those questions.

[174] **Dai Lloyd:** Diolch yn fawr, Julie. **Dai Lloyd:** Thank you, Julie. We'll now Mi wnawn ni symud ymlaen i move on to specific sections within adrannau penodol o fewn i Bil yma ac this Bill and smoking is the first one. ysmysgu ydy'r un cyntaf. Jayne. Jayne.

[175] **Jayne Bryant:** Diolch, Chair. Just moving on to smoke-free premises to start with and the Bill's definition of school grounds, hospital grounds and public playgrounds. In your view, do you feel that these are adequately made clear and are they comprehensive enough for people to understand those definitions?

11:30

[176] **Ms Barratt:** We have expressed in our evidence that we think the

definition of 'play area' should be extended. I think it's an anomaly that you see small children playing football or playing rugby and parents standing on the touchline having a cigarette—it seems, to me, ridiculous. There's a mixed message there that needs to be dealt with. We would like to see the definition of 'play area' expanded so that it includes an area around playing fields, which can just be fields with goal posts or rugby posts in them. So, perhaps we need to be looking at a boundary, say, within 10 metres, or something of that sort to bring that very much into the ambit of the Bill.

[177] We also think we need to be looking at things like preschool playgroups—smoking outside the gates and so on—because children learn from what adults do and we need to remove that visual signal from smoking, as well as the inhaling of second-hand smoke.

[178] **Jayne Bryant:** You've given a couple of examples there. Are there any others that you think should be smoke free?

[179] **Ms Barratt:** As we've said in our evidence, we're looking at the grounds of hospitals and medical facilities like clinics. They should certainly be smoke free. It sends an absurd message when you see members of staff in the national health service standing outside hospitals smoking. You go past, for instance, the Royal Gwent, and see entrances clustered with workmen and with medical staff having a cigarette. Really, that is a very poor message to be sending and it would be helpful if that was stopped.

[180] **Jayne Bryant:** I think even outside of the grounds—it's not just outside the main entrance, is it? I certainly see that. What about your views on enforcement issues relating to the ban on smoking in outdoor areas? Do you think that that's sufficient?

[181] **Ms Barratt:** I think so. Local authorities in Wales now have considerable experience of enforcing a ban on smoking. We started with a ban on smoking in public places and we've moved on to a ban on smoking in cars. There is considerable experience there and it's been done well on the whole. So, I would suggest that the provisions there are right, they don't need to be tweaked and we can trust local authorities to deliver on them.

[182] **Jayne Bryant:** Okay, thank you. Just moving on now, still on tobacco, but on to the tobacco retailers register. We've had evidence from a number of witnesses around this. How do you feel that the creation of a retailers register would strengthen the tobacco control agenda?

[183] **Ms Barratt:** I think it's extremely important, from an enforcement point of view, that we know who the retailers are who, lawfully, are retailing tobacco. Then, you can say, by exception, 'If you're not on the register, you're not a lawful retailer of tobacco'. And we need that really hard line so that we can look at places where tobacco is being sold from garages in residential areas and say, 'Look, you can't be doing this, you're not a lawful retailer of tobacco and therefore you are committing an offence'.

[184] The one concern we have is that we don't think that the wording of the Act covers sufficiently well online retail sale in Wales from outside Wales. We have covered that previously in the sunbed legislation that was enacted by the Assembly. There is coverage for sunbeds being sold into Wales by retailers from outside Wales and sunbeds being hired into Wales from hirers outside Wales. I think we need to replicate that provision so that we don't find that online retailers in Wales are covered by the legislation and online retailers outside Wales are not.

[185] **Jayne Bryant:** That's a very good point, actually. A good point, well made, there. So, do you think that the Bill will do enough to tackle this illegal trade that you've mentioned?

[186] **Ms Barratt:** It will certainly make a contribution to tackling the illegal trade. It will give enforcement officers another weapon in their toolkit, if you like, and it will throw into very sharp relief those who are acting lawfully and those who are not. I think that clear boundary is very important.

[187] **Jayne Bryant:** Do you have any views on the fit-and-proper-person test, as suggested by some witnesses that we've had, and do you think that could be strengthened with legislation?

[188] **Ms Barratt:** I would like to—when I say 'I', what I mean is that the chartered institute that I represent would very much like to see a fit-and-proper-person test. There are individuals who have convictions that mean, to our mind, they shouldn't be selling tobacco, particularly where they've sold tobacco or alcohol or other age-restricted products in breach of that legislation—they shouldn't be selling cigarettes to children. We've seen that the removal of alcohol licenses from certain premises for breaches of legislation has been an extremely effective way of dealing with sales to underage people. I think that a replication of that sort of test would be very useful.

[189] **Jayne Bryant:** Thank you. We've had evidence from ASH and Directors of Public Protection Wales, who suggest that the register should apply to manufacturers and distributors of tobacco and nicotine products. Do you think that would be a practical suggestion as an addition to the Bill?

[190] **Ms Barratt:** Yes, we would support that. We would particularly support wholesalers being included, places like cash-and-carries, where they do sell to retailers for onward retail sale, but there is also a provision for people who have a card, if you like, to buy for their own personal use. We're very anxious that they shouldn't fall through the gap. So, we would entirely support what the directors of public protection say, yes.

[191] **Jayne Bryant:** We've heard evidence this morning, as well, from a number of witnesses about the registration fees. I think it's a £30 one-off fee, and then £10. Do you think that—? What are your views on that proposed registration fee, and do you think that it would be recoverable for retailers?

[192] **Ms Barratt:** In the great scheme of things, it's a fairly small amount of money. I think the issue is: can the local authorities run a registration scheme for £30 and then a £10 ongoing annual fee? The directors of public protection are probably in a better position to answer that. But if £30 is enough to stop an individual selling tobacco, I think that their business is in more difficulty than, possibly, this committee can address.

[193] **Jayne Bryant:** Thank you for that. Just finally on the handing over of tobacco to persons under 18: you've given evidence to the committee on that. Do you have any further comments that you would like to add?

[194] **Ms Barratt:** I think the point I made about online retail from outside Wales is important. What we need is the retailers who are selling tobacco online and having it delivered to persons—there needs to be that duty to ensure that it's not delivered to persons under 18. Again, I would point to the sunbed legislation, where we picked this up and covered it very effectively. So, we do know how to do it, but we do need to make sure that sales remotely are not made to individuals under the age of 18.

[195] **Jayne Bryant:** Thank you. That's very helpful, thanks.

[196] **Dai Lloyd:** Diolch yn fawr. **Dai Lloyd:** Thank you very much.

Symud ymlaen i'r adran nesaf, nawr, Moving on to the next session, with a hynny ydy: triniaethau arbennig, fel regard to special procedures such as tatwio ac aciwbigo, a phob math o tattooing and acupuncture, and all bethau eraill yr ydym ni wedi bod yn kinds of other things that we've been clywed amdanyn nhw dros yr hearing about over the past few wythnosau diwethaf. Mae Angela weeks. Angela has been an expert in wedi bod yn arbenigol yn y maes. this field.

[197] **Angela Burns:** A reluctant expert, I have to say. Good morning and thank you very much for your evidence. I found it really comprehensive and very interesting. I just wanted to test you on a couple of the areas that you raise. In your response to the committee, you started off with—or we started off with—a question asking you about your views on creating a national compulsory licensing system. So my first question to you, actually, is going to be on practitioners. You said that you thought that it was okay to have the exemptions for, say, doctors, nurses, physios, I think it is—I can't remember quite that clearly. But we have, in fact, received evidence that says that that probably is not, in other people's views, the way to go, and that we should have a blanket: anybody who wants to do any of these nominated procedures must have a licence. Because, I think it might have been the British Medical Association who made the very strong point that you might have a doctor or a physiotherapist who is very competent in their particular area. It doesn't mean to say that they're going to suddenly become an expert in one of the other procedures. And we can't rely upon their national bodies in regulating them, and I just wanted to get your take on that.

[198] **Ms Barratt:** It's an interesting view that they feel that their national bodies aren't competent to deal with someone, and I think the evidential question is important: how do you know who's doing, and what they're doing, and are they acting within the scope of their competence? I would have expected their professional bodies to be able to deal with them. I think, it's not—

[199] **Angela Burns:** Sorry, just to clarify my point slightly. I think it was more a case of, for example—I'm going to pick on the physiotherapist, so physiotherapists out there, please don't think you're being hard done by—the chartered institute of physiotherapy may not actually be aware that physiotherapists might take up a more unusual body-modification procedure, and therefore wouldn't actually as a matter of writ have within their standards something pertaining to that particular body-modification procedure. There's nothing to stop that person, at the moment, from just

picking it up and doing it, because they're one of the exempted persons on the Bill.

[200] **Ms Barratt:** I take your point, and it's not a point—I have it say—that the Chartered Institute of Environmental Health would die in a ditch over.

[201] **Ms Barratt:** If there are professionals who can prove their competence—so, they will be able to do it through their professional body, they will have some sort of accreditation that says that they can do it—well, fine. They can be issued with a licence just like everybody else. They may baulk at the expense at a personal level, but there's no reason not to do it. What we are more concerned about are those practitioners who have no skills at all who are doing this sort of thing. They are the group of people, I think, who we need to think about bringing into some level of competence. So, fine, if there is a view that people who I would have considered could and should be exempt—that's not a problem, and I don't think it would be a problem for them either, other than the financial implication, clearly. So far as we are concerned, we're more keen to get the more unregulated end of the profession into a licensing scheme.

[202] **Angela Burns:** If I could just flip that question on its head then and ask you: if we were to keep the list of exempted bodies, do you feel that there are other bodies, such as, for example, acupuncturists, who are regulated—would they be able to be exempt as well or are you just happy with the ones who've been nominated so far?

[203] **Ms Barratt:** I think that the ones who have been nominated are a good starting point and if there are other professional bodies that want to come forward and say, 'Our members are competent; this is how we can demonstrate the competence of our members', well, fine, they can be included on the list; it can be a moveable feast. As people come forward and say, 'Look, we are appropriate', they can be included, but I do think that the benefit of having a list is that if you're not on it, you are clearly off it and therefore subject to control.

[204] **Angela Burns:** Can I then ask you if you have a view on whether local authorities will have the resources to be able to manage and police this kind of list and be able to get out there in the field and actually see who is and isn't being illegal in their practice?

[205] **Ms Barratt:** I think the advantage of the way that this legislation is set

out is that we are currently looking at just four procedures: electrolysis, tattooing, acupuncture and piercing, which are already controlled by local government. Local government already registers these premises. We know where they are and we know who's doing what. Therefore, that expertise is there. The officers who are going out and doing it already have an expertise. They know what they should be looking for and how people should be practising because they've had that engagement already. That, I think, is important because it allows us to transfer very quickly from the situation where we are to the situation where we want to be: where we take the practitioners, check them and then issue licences. I think the value of this is that there is a provision for adding more procedures or more techniques, if you like, because I would advocate that sunbeds should be included in this legislation by regulation, as we make sure that we have the competence at practitioner level and the capacity to go out and do the work. At the moment, as it stands, I think we do have that.

[206] **Angela Burns:** You referred to techniques or practices and some are variations on a theme and some are entirely new. So, could I ask you what you think of the view that, actually, we should perhaps have a more cover-all clause rather than identifying different processes as they become fashionable, or whatever it may be? I read, for example, about tashing, which is something that I hadn't been hugely aware of before, and things do ebb and flow in terms of fashion. There are some witnesses who've actually suggested that we should have a far more cover-all statement that says, 'Any procedure that pierces either the skin or a mucus membrane'. I would be interested about your take on that.

[207] **Ms Barratt:** I think that what you have at the moment is quite a sophisticated tool: it identifies a procedure; it defines what the procedure is and it says that if you're carrying out this procedure, you are subject to the regulation. If you go for a rather more blunt instrument, for want of a better word, some of the things that do concern us, loosely, would not be in there. I'll give you an example of cupping. Cupping is where you heat a glass and put it on someone's skin and it draws blood out through the skin. That wouldn't be caught by a skin-piercing definition because the skin is not pierced—blood is drawn through the skin by vacuum. I would still be concerned about it as a process because clearly there is all the blood-borne infection risk that goes with it, but that definition doesn't add it.

[208] I also think that you're in danger of catching things that you don't want to catch at all, like the use of EpiPens by teachers on children who

might be suffering from an anaphylactic fit. That's piercing the skin, but you don't want to be catching something like that in a blunt instrument like a cover-all. I think there's always a danger of a blunt instrument that then generates exceptions, which is nothing like as sophisticated as a targeted instrument, which captures things as the need arises?

11:45

[209] **Angela Burns:** I think that's really interesting and I entirely take your point, but one of the reservations, perhaps, we might have is that we've got the four identified procedures, and there is capacity within the Bill to add other procedures as they come along. And there are procedures already out there now that are obviously very detrimental to public health—and I'll use the tashing one, because you have that in your evidence—but there does appear to be reluctance by the Minister to add procedures on the basis that, by adding a procedure, you therefore are starting to exempt it, which gives it a certain kudos and might, therefore, make it more popular. And we had this discussion with her quite a lot over things like tongue splitting, because I personally couldn't understand why that's not part of it, because that's obviously an enormously invasive procedure on a person. But the view was that, if you ban it, more people will want to do it. But from the evidence that I read of yours, I kind of got the impression that there's an awful lot of stuff going on anyway that we just simply don't know about, underground. So, do you think that, by not having a cover-all, we might have difficulty in adding more procedures quickly enough, as and when they become a danger to public health?

[210] **Ms Barratt:** I don't think that's the case. I think the danger is, if we just go for a blanket ban on everything, I know that environmental health officers, whose competence is assured by CIEH, can deal with the four that we've identified. They can certainly deal with sunbeds, because we've dealt with that as part of the regulation. I would baulk at saying that they could deal with tongue splitting, and I would baulk at saying that they could deal with some of the other procedures that we know go on in an underground kind of way. And I also think that, if we start talking about piercing the skin, anything that pierces the skin, you start introducing grey areas. At what point does piercing the skin for therapeutic reasons become an assault? And who then is responsible for dealing with it? I think it's a bit of a challenge for the magistrates' court when you start coming up with stuff like this and saying it's part of a global definition of just about everything; that's not particularly helpful. Local authority enforcement people need certainty, the

courts need certainty, and practitioners who are doing things need certainty, because the lawful practitioners who want to operate properly will want to know where the boundaries are and that they are inside them. A whitewash, a very broad description of just about anything, I think, leads to too much uncertainty.

[211] **Angela Burns:** I take your point. So, in that case—I know you've referred to some of it in the paper, but perhaps for the record—would there be other procedures you would like to see added now? You mentioned cupping, and it had never even occurred to me that that might be a procedure that could lead to danger; I had just thought of it as one of those film-star fashion things that they all seem to do. So, are there other procedures today—you mentioned tashing in your paper?

[212] **Ms Barratt:** Tashing is one that concerns us, certainly, where you're introducing inert, or maybe not inert, material into a tattoo. We've also grave reservations about sunbeds, so I would like very much to see sunbeds, or use of artificial tanning equipment, as I think the regulations would describe it, but 'sunbeds', I think, is a more generally accepted definition. There has been a recent report, which has said there is no safe non-therapeutic level of exposure to ultraviolet. That being the case, I would very much like to see sunbeds in here, and we know we have the capacity, and we know we have the skillset, because we've done it with the sunbed regulations.

[213] There are other procedures coming along, and I think we need to look at the evidence base and say, 'Does this procedure actually pose a risk to public health, or do we just think it does?' There was a recent report in the health protection report published by Public Health England, which talks about needle-stick injuries to practitioners who are doing microdermal rolling of skin, which I think I talked about on the last occasion; it's sort of like a Carmen roller that you rub up and down your face and you get spots of blood coming out of it. And it's actually the practitioners who are being injured by that, taking them apart to clean them, post treatment.

[214] I would also like to see control of lasers brought within these regulations. They are currently controlled by Healthcare Inspectorate Wales. They are appearing more frequently in tattoo parlours, where people go in to have tattoos that they either don't like removed or to have tattoos taken off to make space for more. They're not being used therapeutically, they're being used purely for aesthetic purposes, and I'd like to see those included in this Bill. Whether it should be done now or whether we should get the Bill

up and running and then add, by regulation, more things, I think that's a question that's open to debate. But as we are satisfied, I think, that there is the need and the capacity to deal with them, that's when they should be introduced. And they can be introduced quite quickly, because those are the stumbling blocks—need and capacity.

[215] **Angela Burns:** Yes, I was very taken by the arguments in your paper, actually, about the laser removal stuff. Earlier on, in your evidence just now, you said about the four that are currently on the face of the Bill. You've already got public health officials who are able and willing to take those on, and have got the training. So, would something, for example, like lasers—would they be able to be incorporated really quickly into the current remit?

[216] **Ms Barratt:** They would be able to be included fairly quickly, because we as a professional body are capable of providing training for our members, and those officers working in local government who would be the enforcement officers, and there is training for laser users out there. What is required is for enforcement officers to make sure that those people in the non-therapeutic theatre who are using them are trained to a level of competence. That training is out there as well. So, it's making sure that we can cover all the bases before we create a criminal offence and find that people are in a position of not being able to do something because they can't make themselves competent, and therefore will commit an offence. We need to close that circle before we include stuff in regulation.

[217] **Angela Burns:** My last question on this particular section, actually, is about your evidence here about your being specifically concerned that a person who may have convictions of sexual offences would not be precluded from having a practitioner's licence and would be free to carry out intimate piercings. Could you expand on that slightly?

[218] **Ms Barratt:** Yes. Intimate piercings by their nature are very invasive and we know that children under 16—16-year-olds, certainly, but Operation Seren tells us that children under 16 were having intimate piercings. If you go to a doctor for an intimate examination, you're entitled to have a chaperone there, and the doctor, or whoever is involved, will have had a criminal record check at some point. We have practitioners who have had no checks at all around sexual offences that they may have carried out, or assaults that they may have carried out. But people are putting themselves, and children are putting themselves, in an extremely vulnerable position. Whilst I accept that the offences that are in the regulations are important,

they are about breaches of technical legislation, if you like—the need to register and so on. We need to make sure that the people who are carrying out these procedures are actually fit to be carrying them out, and don't pose a risk to individuals in doing so. So, we think that we should be having a data-barring check to ensure that people who are doing intimate piercing have been checked to make sure they have no relevant convictions of the type that I've alluded to.

[219] **Angela Burns:** And do you have a riposte, then, for the Government, whose view is that it is an infringement or an abrogation of the rights, if you like, of a convicted person who could possibly be on the register for a conviction that may not, for example, pertain to young women. That was the kind of feedback we were getting back from the lawyer in the session we had with the Government.

[220] **Ms Barratt:** Well, it's not just young women who have intimate piercings. Young men have intimate piercings as well.

[221] **Angela Burns:** We were told very strongly, and I think it took all the committee aback slightly, that this was a Bill about public health and not about safeguarding. Do you have a view that you'd like to express about how much, or not, you think safeguarding is part of public health protection?

[222] **Ms Barratt:** Safeguarding is very much part of public health protection. We don't just say that intimate piercing is about the infections you might get from it. We talk about the decision to have an intimate piercing made by someone who is competent to make that decision, and who can ask themselves the right sort of questions and can be relied upon to deliver the right sort of aftercare when they've had that sort of piercing, and that it should be done properly, by someone who is capable of doing it properly. To my mind, if you are talking about someone who has a conviction of the sort that we've talked about—assault or a sexual offence—that sort of person may not be doing it for decorative, aesthetic reasons. They may be doing it for all sorts of other less, what can I say, desirable reasons? You know, for reasons that are nothing to do with what we're here for. Therefore, I think that it is very much a public health issue that those sorts of individuals with those sorts of convictions should not be involved in this sort of procedure.

[223] **Angela Burns:** Therefore, leading on to my last little bundle of questions, which really is the one that is about appropriate age—of course, the Government has very firmly put forward in the Bill that the age of consent

should be 16, and they cite the UN—I always get it round the wrong way, but the children’s rights Bill in the United Nations, and also the freedom of expression, and they say that tattooing, which apparently has an age 18 break-off, is a leftover from an old-fashioned era. But, in your paper, you seem to be quite clear that you’d like to see it as 18—there’d be no confusion between tattooing and intimate piercings, because, very often, it might be the same kind of establishments that offer both and, I believe I’ve written this down correctly, because I don’t think it was from another piece of evidence, but I think you also make the point that 16-year-olds are still growing physically. We did have a witness who said, ‘Oh, don’t worry, if they don’t want a piercing, they can just remove it,’ but I think your point is that, actually, you can remove a piercing, but you can’t always remove the damage. So, I’d really like to give the floor to you to tell us why you think it should be 18, because, to be frank, I’m kind of with you on this one, but I think we need to marshal all the arguments we possibly can in order to make a change to this Bill.

[224] **Ms Barratt:** We think it should be 18, because, for the rest of the procedures that we’re looking at, the public health procedures, buying alcohol, smoking and having a tattoo, 18 is the cut-off age. It would be an absurdity, in my view, that you could walk into a tattoo parlour that also does piercing as a 16-year-old, and say, ‘Can I have a tattoo?’ ‘No, you can’t, you’re not 18.’ ‘Right, I’ll have an intimate piercing then.’ That’s a complete nonsense. It throws the whole system into confusion. It makes enforcement extremely difficult.

[225] The point about tattoos is, I think, you can see them. Even through Operation Seren, we know that people had tattoos and their parents didn’t know, but nobody knows you’ve had an intimate piercing. So, you’re not going to find out about it until you’re extremely ill. So, I would question the ability of 16-year-olds to properly look after, to keep clean, and to maintain in a healthy condition, an intimate piercing.

[226] You are right to say that 16-year-olds are still growing, and some of the places where intimate piercings take place will do damage that’s permanent. The fact that you can take out and throw away the piercing is neither here nor there. If you’ve got scar tissue that will affect your response to various stimuli for the rest of your life, that is highly detrimental. So, I would argue that 16 is not old enough to make that decision—to make the decision to do what you propose to do and then to look after it properly—and I think to draw intimate piercing into line with tattooing and the other

procedures of this sort is the right and sensible thing to do.

[227] **Angela Burns:** Do you have any further evidence that you might be able to submit to us as a written paper for us to marshal our argument on this? You've talked in terms of the underground procedures that aren't very well known about, and we had very powerful evidence last week from Dr Olwen Williams about the coercive control elements, about the fact that if you're 16 and you're asking for these kinds of procedures—basically, where have you been for the previous few years to have got to that point? In your role as marshalling, if you like, public health, if you have any other evidence there that you think would be of benefit for us to have a look at about the fact that young people asking for this are actually also in psychological and mental danger, perhaps under the coercive control of older people, et cetera, then it would be really useful, because I think this is a big persuade we need to do.

[228] **Ms Barratt:** I don't have any evidence about coercive control, but I would point you to the outbreak control team report on Operation Seren, which was the Newport tattooing and piercing outbreak back last year, where the majority of the people who were tattooed and pierced were children, by definition. They were children who were looked after, which is another concern, and they were having tattooing and piercing done at what we would consider under age. So, that is very powerful, because it shows an individual who offered cheap tattoos, two for a tenner, effectively—tattoos and piercings—was a magnet for children who wanted to have the procedures done for whatever reason, and that individual focused his attention on these children because they went there with no parental control, but very much peer group pressure, Facebook group messaging and social media messaging, which generated their downfall.

[229] If I could just go back to the point you were talking about about licensing, I think one of the points we'd want to make that's extremely important is, when the licensing regime comes in, as we very much hope it will, there must be no grandfather rights. Everybody, current practitioners and new people, must all be subject to the procedure, because what we want to make sure is that those people out there practising now, but practising badly, aren't included on the register. They've either got to up their game, improve their competence before they go on the register, or else they stop practising. But what we don't want to see is the transfer of bad practitioners straight onto a register. That becomes very difficult.

12:00

[230] **Angela Burns:** Thank you.

[231] **Dai Lloyd:** Symudwn ymlaen i'r adran nesaf, a hynny ydy asesiadau effaith ar iechyd, ac mae gan Rhun gwestiynau fan hyn.

Dai Lloyd: We move on to the next section with regard to health impact assessments, and Rhun has questions.

[232] **Rhun ap Iorwerth:** Rydw i'n gwybod, yn amlwg, mi ydych chi'n cefnogi'r elfen o'r Bil yma sy'n mynnu y bydd yna ragor o asesiadau effaith iechyd yn cael eu gwneud. Ond ydy'r Bil a'r ffordd mae o'n delio â mater yr asesiadau yma yn mynd i sicrhau, ydych chi'n meddwl, bod asesiadau yn fwy na dim ond *tick-box exercise*?

Rhun ap Iorwerth: I know, clearly, that you support the element of this Bill that states that more health impact assessments will be undertaken. But does the Bill and the way it deals with the issues of these assessments ensure that the assessments are more than just a tick-box exercise?

[233] **Ms Barratt:** Yes, I think it does. We are very cognisant with the process of health impact assessment. We've done a lot of work with the Wales health impact assessment support unit, and what we know is that a properly constructed health impact assessment, done by someone who is capable and competent of doing it, will actually inform the decision-making process, subject to the decision maker taking account of it. So, the requirement, I think, is that not only is a health impact assessment done, but that it is a due consideration for the decision maker, in the way that, if you look at planning legislation, it will cite those things to which the planning inspector or the committee making a decision have to pay due regard. And, if they don't give sufficient regard or due regard to the health impact assessment, the decision is flawed. That, I think, is the way to deal with it to make sure that health impact assessments are pulled up to a level where they are considered by decision makers and they're not just a tick-box exercise and everybody goes, 'Well done, splendid; there's a lovely document that someone can look at at some point'—they actually are there to make sure that maximum benefit and minimum detriment arises from whatever it is that they're referring to.

[234] **Rhun ap Iorwerth:** I'm grateful for the information in your written submission about the work that you're doing to make sure that we have the

competencies in the people who are able to conduct these assessments. With an expansion in the requirement for assessments, will there be a capacity issue, either in the short or the longer term?

[235] **Ms Barratt:** I don't think so. As I say, we've got a number of competent practitioners. I can update the figures, actually: as of today, we've got 46 competent environmental health practitioners who can do rapid health impact assessments. There is a bespoke course being run by us for Natural Resources Wales staff, at their request, and we are currently recruiting onto another course. So, we were ahead of the curve, if you like; we could see a need for competent practitioners and we've started getting practitioners into local authorities who are competent.

[236] Wales Heads of Environmental Health Group is very cognisant of the need to upskill their staff and are strongly supporting the training programme we've put together. So, until the point that everybody, or every local authority or every group of local authorities, has a competent practitioner, they'll be sharing this skill set across Wales, as a short-term measure, as we continue to upskill environmental health.

[237] The other thing to point out is that Cardiff Metropolitan University is the university where the environmental health degree is taught, and they are also committed to including carrying out health impact assessments and quality assessing health impact assessments as part of the university degree course. So, we'll be including that for all new practitioners coming through.

[238] **Rhun ap Iorwerth:** We took some interesting evidence earlier today from the older people's commissioner—I'm not sure if you were able to hear any of that.

[239] **Ms Barratt:** No, I was coming here.

[240] **Rhun ap Iorwerth:** Her opinion was that it's time to expand health impact assessments to being health and well-being impact assessments, that there are assessments that need to be made of the effect of developments on the general well-being and the mental well-being of individuals and communities as well. What would your thoughts be on that?

[241] **Ms Barratt:** My thoughts would be that that's what they do. Health, as a concept, is not just physical health, it's physical and mental health and it's well-being. And any environmental practitioner would recognise that as the

definition of health. It's not purely in a national health sense; it's in the wider, global sense. So, all the determinants of health would be included in a health impact assessment. Where, for instance, you're looking at noise from a plant, you wouldn't just look at the effect of noise, you'd look at the effect of sleep deprivation and the effect of that on mental health and well-being and family cohesiveness and the ability to conduct relations and all that sort of stuff. So, it's very much part of a health impact assessment—health in the very global sense is considered. If you wanted to call them 'health and well-being assessments' you could do that without actually having to change anything.

[242] **Rhun ap Iorwerth:** Would you like to see that? Would it be a fairer reflection of what it is? Seeing as well-being has become something that is fairly high on the agenda.

[243] **Ms Barratt:** I think it can be done. There's no reason not to do it, but it wouldn't fundamentally change the process. It would just, perhaps, change the way that they are recognised as being more than just about physical health.

[244] **Rhun ap Iorwerth:** Would it address things like—again, something that came up in the evidence session earlier this morning with the commissioner—loneliness and isolation, which, again, have become recognised health issues, but you could perhaps put under a broader well-being umbrella?

[245] **Ms Barratt:** I think it certainly does. If you look at something like the development of a road that breaks up a community, one of the things you would pick up in a health impact assessment would be the breaks in a community, the inability of the individuals to access things that they've been able to access before, the effect that that has on the community cohesiveness, access to facilities where individuals can go and relax and all the rest of it, to meet up with colleagues, as so on. If you look at, say, closure of a community centre, or a leisure centre, it goes far beyond the detriment of not being able to take physical activity. It goes to looking at the effect on individuals who may have gone there just to socialise, have a cup of coffee, or to a mother and baby club, and the impact it has on them. So, it could be loneliness, it could be failing to access facilities or information, or whatever it is, but that would all be caught in the health impact assessment.

[246] **Rhun ap Iorwerth:** Would it be anything more, in your mind, than

tokenism—something superficial—if this Bill were to include health and well-being impact assessments? Would it be something that you would genuinely be comfortable with, or would it be a complication for the discipline that you're very much involved in? In terms of wanting to have this as a label, would there need to be practical changes?

[247] **Ms Barratt:** No, there wouldn't need to be practical changes. I don't think it's tokenism; I think that belittles well-being. It's not just something we can tag on the end of it and go, 'Well, there you are'. If it helps people who may not be acquainted with the full determinants of health and well-being to realise that what they've got is a document that goes beyond health and also deals with well-being, then all well and good, there is some benefit to doing it. If there is some evidence that suggests that, say, a planning inspector doesn't recognise a health impact assessment as dealing with health and well-being, well, fine, put the name on it.

[248] **Rhun ap Iorwerth:** But there wouldn't be, as the commissioner suggested, the need for another column for well-being—to put it in simple terms—in that assessment?

[249] **Ms Barratt:** I would have said not. Because well-being is integral in the full concept of health.

[250] **Rhun ap Iorwerth:** Thank you.

[251] **Dai Lloyd:** Troi i'r adran olaf rydym ni eisiau cysidro y bore yma, a, gan fod amser yn camu ymlaen, rhai cwestiynau byr a rhai atebion byr efallai. Mae Julie yn mynd i ddechrau, ac wedyn mae Dawn yn mynd i orffen. Julie.

Dai Lloyd: Turning to the last section that we want to discuss this morning, and, because time is against us I would ask for succinct questions and answers. Julie's going to start and then Dawn is going to conclude. Julie.

[252] **Julie Morgan:** Yes, thank you very much, Chair. Could you tell us what your views are about the proposals for the toilets strategy in the Bill?

[253] **Ms Barratt:** Well, as I say in our evidence, we fully support access to public toilets. Having had an elderly mother whose life really was determined by ability to get from one place to another via public toilets, I am fully cognisant of the need for it. I think it's not the strategy that we're interested in, it's how the strategy is delivered that we're interested in. What I am

concerned about is that local authorities will produce strategies that will be marvellous documents and will talk in glowing terms but will actually have no practical impact on the ground. That is the greater concern. I think how we get from strategy to delivery is the important issue.

[254] **Julie Morgan:** Is there anything, do you think, that could be put in the Bill that would help that?

[255] **Ms Barratt:** We would very much like to see a system like occurs in London at the moment, where any public building that has toilets—or anyone like a pub, for instance, who might have toilets—could make those available to members of the public. We know it happens in places, but we also know in other places it certainly doesn't happen, and that toilet provision is available for customers only, which is a difficulty. Wider access to toilets generally would be a good thing. That having been said, there's no reason why that can't be part of a local toilets strategy in any event.

[256] **Julie Morgan:** And what about the resources that local authorities have? Do you think that's going to be a problem in terms of implementing a strategy?

[257] **Ms Barratt:** I need to be clear that we are not a local authority body.

[258] **Julie Morgan:** No, your views.

[259] **Ms Barratt:** My views are that local authorities are having difficulty with resources. We know that. What we need is for them to come up with a strategy that doesn't say that it is in the gift of local authorities only to deliver public toilets, but a strategy that is much wider than that and brings in the private sector, the third sector, and includes all of the toilets that they have available in the provision. That doesn't require local authorities to spend money other than on the generation of the strategy. It requires them to marshal the resources of other people to deliver the strategy.

[260] **Julie Morgan:** Do you think that the provision in this Bill will ensure the involvement of those different groups—the private sector or the other groups you've mentioned?

[261] **Ms Barratt:** Well, it can't ensure it. It requires very much a willingness on the part of the private sector to be involved in a strategy like this and, in some places, they will. In tourist areas, clearly, there is a great desire to have

a provision that means that tourists can be in an area and know that there are toilets. In other areas there's less willingness. I think it comes down to local relationships, building local need, social responsibility—particularly corporate social responsibility, with bigger chains—and playing on that and bringing that into play.

[262] **Julie Morgan:** Thank you.

[263] **Dai Lloyd:** I orffen: Dawn. **Dai Lloyd:** To finish: Dawn.

[264] **Dawn Bowden:** Thank you. Just two quick questions, thank you, Chair, just to finish off. I think you already identified in your evidence that there was a need for specific groups to have access, but do you think there's anything more in the Bill that could be done that would take a more robust approach to ensuring that the specific needs of those identified groups can be recognised as well?

[265] **Ms Barratt:** That's not an area of expertise for me.

[266] **Dawn Bowden:** Okay.

[267] **Ms Barratt:** As it stands, I think the strategy should deal with that rather than the Bill, because that allows for flexibility. The strategy can be what local needs determine that it should be, and every local strategy can be different, one from the other. The one thing I would always say about legislation is that the allowing for flexibility outside of the legislation is more important than having legislation that is a set of extremely tight regulations. It is probably better to divert that desire into the strategy than to have it on the face of the Bill.

[268] **Dawn Bowden:** Yes. So, you'd need some very clear indications within the Bill and then develop that as it goes.

[269] **Ms Barratt:** Yes.

[270] **Dawn Bowden:** Okay, I hear what you're saying. In terms of public information, any thoughts about what we can do to make sure that the public are more—? If we get this strategy, and if it's delivered, and if we've got all these toilets available to people, the key, then, is going to be making sure that people know where they can go. Any thoughts about how that might be developed—that public information?

[271] **Ms Barratt:** I think you've got a committee sitting at the moment that is looking at things like social media and apps and all that sort of thing. You know, a toilet finder. A toilet-finding app is a good starting point. Social media is very good at dealing with issues like that. So, as well as every local authority publishing where toilets are available and having, say, a logo that says, 'Toilet available here for public use', you can look at the use of social media apps, including the provision of toilets in tourist maps and walkers' maps and that sort of thing, just to make sure that they're there and they're being used.

[272] **Dawn Bowden:** Yes. Okay. That's fine. Thank you very much, Chair.

[273] **Dai Lloyd:** Diolch yn fawr, a dyna ddiwedd y sesiwn dystiolaeth. A allaf i ddiolch yn fawr iawn i Julie Barratt, unwaith eto, am gyflwyno ei thystiolaeth? Mae'n bwysig i nodi'r gorffennol a thalu teyrnged unwaith eto i Julie ac i Sefydliad Siartredig Iechyd yr Amgylchedd am eu rôl allweddol nhw 10 mlynedd a mwy yn ôl nawr i gael y ddeddfwriaeth honno a oedd yn gwahardd ysmegu mewn adeiladau cyhoeddus. Gwnaethoch chi a'ch mudiad chwarae rhan blaengar iawn i helpu'r sefydliad yma i ddod â'r ddeddfwriaeth honno i'w lle. Rydym yn dal i adeiladu ar y ddeddfwriaeth honno. Felly, diolch yn fawr iawn i chi am y gorffennol, a hefyd am y presennol. Diolch yn fawr iawn i chi.

Dai Lloyd: Thank you very much, and that brings us to the end of that evidence session. May I thank you very much, Julie Barratt, once again, for giving your evidence? It's important to note the past and pay tribute once again to Julie and to the Chartered Institute of Environmental Health for their key role 10 years and more ago in bringing forward that legislation that prohibited smoking in public buildings. You and your organisation played a vital role in helping this institution to bring that legislation forward. We are still building on that legislation. So, thank you very much for the past, and also for the present contribution. Thank you.

[274] **Ms Barratt:** Thank you.

12:14

Papurau i'w Nodi
Papers to Note

[275] **Dai Lloyd:** Symud ymlaen i'r **Dai Lloyd:** Moving on to the next eitem nesaf—eitem 6: papurau i'w item—item 6: papers to note. Is nodi. Pawb yn hapus? everyone content?

Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd o'r Cyfarfod

Motion under Standing Order 17.42 to Resolve to Exclude the Public from the Meeting

Cynnig:

Motion:

bod y pwyllgor yn penderfynu that the committee resolves to gwahardd y cyhoedd o weddill y exclude the public from the cyfarfod yn unol â Rheol Sefydlog remainder of the meeting in 17.42(vi).

accordance with Standing Order 17.42(vi).

Cynigiwyd y cynnig.

Motion moved.

[276] **Dai Lloyd:** Wedyn, symudwn ni **Dai Lloyd:** Then we'll move on to item i eitem 7 a'r cynnig o dan Reol 7 and the motion under Standing Sefydlog 17.42 i benderfynu Order 17.42 to resolve to exclude the gwahardd y cyhoedd o weddill y public from the remainder of this cyfarfod. A yw pawb yn hapus inni meeting. Is everyone content for us fynd i mewn i sesiwn breifat i drafod to go into private session to discuss y dystiolaeth? Diolch yn fawr. the evidence? Thank you very much.

Derbyniwyd y cynnig.

Motion agreed.

Daeth rhan gyhoeddus y cyfarfod i ben am 12:14.

The public part of the meeting ended at 12:14.