



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

Y Pwyllgor Cymunedau, Cydraddoldeb a **Llywodraeth Leol** **The Communities, Equality and Local Government** **Committee**

Dydd Mercher, 9 Ionawr 2013
Wednesday, 9 January 2013

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

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

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

Peter Black	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Janet Finch-Saunders	Ceidwadwyr Cymreig Welsh Conservatives

Mike Hedges	Llafur Labour
Mark Isherwood	Ceidwadwyr Cymreig Welsh Conservatives
Ann Jones	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Gwyn R. Price	Llafur Labour
Joyce Watson	Llafur Labour
Lindsay Whittle	Plaid Cymru The Party of Wales
Kirsty Williams	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats

Eraill yn bresennol
Others in attendance

Jonathan Baxter	Uwch-arbenigwr Ymchwil, Cynulliad Cenedlaethol Cymru Senior Research Specialist, National Assembly for Wales
Peter Black	Aelod Cynulliad, Democratiaid Rhyddfrydol Cymru (yr Aelod sy'n Gyfrifol) Assembly Member, Welsh Liberal Democrats (Member in Charge)
Frank Cuthbert	Pennaeth y Tîm Craffu, Democratiaeth a Chyfranogi, Llywodraeth Cymru Head of Scrutiny, Democracy and Participation Team, Welsh Government
Lousie Gibson	Cyfreithiwr, Llywodraeth Cymru Lawyer, Welsh Government
Helen Roberts	Cynghorydd Cyfreithiol, Cynulliad Cenedlaethol Cymru Legal Adviser, National Assembly for Wales
Carl Sargeant	Aelod Cynulliad, Llafur (y Gweinidog Llywodraeth Leol a Chymunedau) Assembly Member, Labour (the Minister for Local Government and Communities)

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

Bethan Davies	Clerc Clerc
Helen Finlayson	Clerc Clerc
Claire Griffiths	Dirprwy Glerc Deputy Clerk
Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Leanne Hatcher	Dirprwy Glerc Deputy Clerk
Rhys Iorwerth	Y Gwasanaeth Ymcwhil Research Service
Joanest Jackson	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser

Dechreuodd y cyfarfod am 9.00 a.m.
The meeting began at 9.00 a.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introduction, Apologies and Substitutions

[1] **Ann Jones:** Good morning, everyone and welcome to the Communities, Equality and Local Government Committee. I wish everybody a happy new year as we start our deliberations. We have had apologies from Rhodri Glyn Thomas and Ken Skates. Ken is substituting on another committee. We will also receive apologies from Peter Black for the second half of our public meeting, when we look at Peter's mobile homes Bill. When Peter goes to the other side of the table, Kirsty will join the committee. I just put that on the record.

[2] Before we start, does anybody wish to declare any interests that they have not already declared in the Members' register? I see not.

[3] We move on—actually, I should do the housekeeping. We have had a break, and so I forgot to do the housekeeping. We are not supposed to have our mobile phones on, so if you have them on, please switch them off. We have translation from Welsh to English on channel 1, and channel 0 is for the floor language. We are not expecting the fire alarm to operate, so if it does, we will take our directions from the ushers. I will get back into the swing of things, I promise.

9.02 a.m.

Bil Llywodraeth Leol (Democratiaeth) (Cymru): Sesiwn Dystiolaeth 1 (Cyfnod 1) Local Government (Democracy) (Wales) Bill: Evidence Session 1 (Stage 1)

[4] **Ann Jones:** We move on to item 2 on the agenda, which is the scrutiny of the Local Government (Democracy) (Wales) Bill, Stage 1. The first evidence session this morning will be with the Minister, Carl Sargeant. I thank you for coming to committee, Minister, and I ask you to introduce yourself and your officials for the record.

[5] **The Minister for Local Government and Communities (Carl Sargeant):** Good morning, Chair and committee. I am Carl Sargeant, the Minister for Local Government and Communities. I will ask my team to give their titles and introduce themselves.

[6] **Ms Gibson:** I am Louise Gibson, and I am the lawyer for the Bill.

[7] **Mr Cuthbert:** I am Frank Cuthbert, the head of the scrutiny, democracy and participation team at the Welsh Government.

[8] **Ann Jones:** Thank you. Minister, we have quite a few questions to get through, because this is the first session of our scrutiny. Could we go straight to questions, or do you have an overall comment to make?

[9] **Carl Sargeant:** That is fine, Chair.

[10] **Ann Jones:** The answer to my first question will probably be similar to any overview that you would give. Could you briefly explain the objectives of this Bill and why you felt a Bill of this stature was necessary?

[11] **Carl Sargeant:** First of all, I thank you and the committee for the opportunity to bring legislation forward in the first session of the new year. A happy new year to you, too. On the main provisions of the Bill, you will be aware of the Mathias review of the Local Government Boundary Commission Wales, and the conditions around that. There were

proposals in the Mathias review that enabled us to make some structural and operational changes, and there were recommendations in the review that indicated the legislative competence required to make those significant changes. Broadly, the Bill is based around the Mathias review and its recommendations. We also took this opportunity to introduce some tidying-up exercises around the Local Government (Wales) Measure 2011, and I am sure that the committee is well briefed on that in terms of the composition of the Bill. Broadly, it is Mathias and some tidying-up exercises—that is the main structure of this piece of legislation being brought forward, Chair.

[12] **Peter Black:** In what ways has the outcome of the consultation on the White Paper informed the contents of the Bill?

[13] **Carl Sargeant:** They are broadly the same. The consultation process reiterated what our position was anyway. It was just confirmation of what we needed to do and the process for doing that. The consultation responses are reflected in the Bill, and that was our thinking anyway. It was a case of true democracy through a consultation and, fortunately, the positions were pretty much the same.

[14] **Peter Black:** The White Paper contained some proposals regarding the local government code of conduct and the running of elections, which are not in the Bill. What is the reason for that?

[15] **Carl Sargeant:** The code of conduct element is secondary legislation and we can still do that. I intend to consult, following the successful progression of this Bill, on the code of conduct for local government members, which can be done in secondary legislation, regardless of this Bill and its composition. That is where we are and that is why it is not in this process.

[16] **Peter Black:** Thanks. Looking at the Mathias recommendations, if the Bill progresses in its current form, will all those recommendations come into effect or are there any areas where the approach differs from the original review?

[17] **Carl Sargeant:** No. As I mentioned earlier, there were some operational issues that we could deal with in the process without the legislation. We have done that and this finalises the recommendation. I brought a statement to the Chamber some time back about the progression of Mathias and we believe that the successful passing of this Bill will bring closure to the Mathias report.

[18] **Peter Black:** Are there any recommendations that you are not taking forward?

[19] **Carl Sargeant:** No.

[20] **Peter Black:** Okay. Thanks. In terms of the new structure for the boundary commission, how will that enable it to carry out its functions more effectively and how do you intend to monitor that?

[21] **Carl Sargeant:** What we are trying to do with this Bill is give some stability to the organisation. What we discovered last time and what we are trying to do—you will be aware of the interesting processes we had with the previous boundary commission and how that had to be significantly changed, with personnel too—is put in legislation some structure for the commission so that it fully understands what its operational boundaries are, how it is going to do that, and the timelines around the expectation. Within that, there are monitoring procedures along the way: there is the annual report; my team meets with the commission on a regular basis; and I meet with the commission at least once a year. There is also the opportunity within this process for the audit committee to scrutinise the work. We believe that

this package gives some openness and transparency to the organisation, but also the ability to scrutinise the organisation. We believe that this legislation will lead to the structures that create the opportunity for this to happen. It was probably there in some shape or form before, but it did not work very effectively. In this process, through legislation, we believe that it will be more robust in the way it operates.

[22] **Peter Black:** Okay. One of the changes that you have introduced is that you have removed the requirement that one of the commissioners should be a Welsh speaker. Why have you done that and what steps have you taken to assess the impact that that might have on the commission's understanding of Welsh language issues?

[23] **Carl Sargeant:** It is an interesting point and we pondered for a little while over this. We looked at the old legislation from the 1972 Act, and we believe that this is a unique position. This is the only public body in which it was stipulated that there had to be one Welsh-speaking member. I talked to the team and asked them why. At the time of that legislation, we did not have the Welsh Language Act 1993 and we did not have the Welsh Language (Wales) Measure 2011. I believe that it was regressive because only one member of the organisation had to speak Welsh. Now, the new legislation allows for equality and ensures that the whole organisation in its recruitment policy is covered by the Welsh language Measure and the Welsh Language Act 1993. We are now opening up to the whole organisation, quite rightly, the consideration that Welsh speakers should be considered for the whole organisation, not just one individual within the boundary commission. I believe that we have strengthened this position.

[24] **Peter Black:** How do you ensure that the commission understands and takes account of Welsh language issues in its work?

[25] **Carl Sargeant:** It is absolutely essential in terms of complying with the Welsh Language Act 1993, as Welsh Government bodies have to do in any case. So, it has to make that consideration in the progression of its work anyway.

[26] **Peter Black:** Will you be giving guidance in terms of how it conducts its reviews and what it needs to look to in terms of the reviews as regards the Welsh language.

[27] **Carl Sargeant:** That is already part of the commission's process in terms of the structured approach to being a commissioner?

[28] **Mike Hedges:** Section 14 of the Bill relates to a general power of direction for the commission. Is that the one that allows you to tell the commission that it needs to give preference to single-member wards or multi-member wards?

[29] **Carl Sargeant:** The general power of direction is currently in place. It is an instruction of last resort. A Minister never really wants to make a power of direction to an organisation, but you never know—you cannot predict what may or may not happen in the future. The last commission was one where directions and orders needed to be made. This is the same provision updated for this new Bill. I would hope that I would not have to make direction and that our discussions with the commission would facilitate the necessary changes, but this provides a backstop to make that direction if need be, as is currently available.

[30] **Mike Hedges:** How will the requirement for the commission to conduct electoral reviews of all principal areas once every 10 years be an improvement on the current requirement, which is 10 to 15 years? Historically, there has been a bit of a drift when reviews have taken place; for example, a drift of one to three years has not been unusual. Is there a danger that, if those drifts occur, they will go outside the 10-year cycle?

[31] **Carl Sargeant:** What we are trying to do with the commission is build a structure that it and we understand and, more importantly, that the principal councils and communities fully understand. We have included the time frame so that the commission can then provide a rolling programme rather than the big-bang effect of doing six at once and not being able to deliver on the six. I would be happy for the commission to share with you at some point its electoral timetable—if you do not have that—on when it looks to conduct the reviews. There is structure in the system and a timeline that it fully understands. Again, it is about building up the professional element of the organisation to ensure that everyone knows what to expect and when to expect it along with the delivery element of this. The 10-year cycle fits in quite nicely given that it is around two terms of local government. We believe that that is probably the right time to start thinking about a local area. Fifteen years or beyond is probably too long a timeline.

[32] **Mike Hedges:** I agree with the 10-year cycle, and there has always been that plan to do one or two authorities in order, but it is just that there has been drift and not just a drift of a few months but, in some cases, of two or three years. My concern is that if this has to be done in 10 years, then there may well be problems in terms of that drift. You do not have to address that now; you could go away and talk to others about it, if you wish.

[33] **Carl Sargeant:** If I may address it briefly, that is the whole point of this legislative process. We are saying that this has to be done and I expect the commission to deliver on it. If it does not, then we will need to understand why. This commission is very different from that which the Member possibly recalls from not so long ago in terms of how it used to operate.

[34] **Mike Hedges:** I have followed these issues over the last 30 years and there have been lots of different commissions, and they have all had one thing in common. [*Laughter.*]

[35] **Ann Jones:** That must have been in your childhood, Mike. [*Laughter.*]

[36] **Mike Hedges:** Just about, it was during my early 20s to mid-20s. Moving on to these proposals, I agree with the ability to go across community boundaries in order to get equalisation. You currently have a system where you can join two communities together, so how will this differ from that?

9.15 a.m.

[37] **Carl Sargeant:** The processes that the commission used to follow were based on principally the number of electors versus ward. It used to build communities around that as its primary objective. This gives it some flexibility to also look at the community ties, so it is not always going to be about the number of electors in an area. It is based on that, and, in addition to that, community ties and the way that communities operate. Therefore, it gives the commission some flexibility, as opposed to being prescriptive and saying, 'You must have 1,800 electors, and then you build a community, whether you cross a stream or not'. This gives it more flexibility to develop that community in the way that it operates. Therefore, on the number of electors versus the demographics of the area, it matters, but it matters less.

[38] **Mike Hedges:** Finally, there is a classic example in Swansea, where a stream flowed between Penderry and Cockett wards, which was not a problem, until, all of a sudden, they built an estate there. Therefore, will this legislation allow local authorities, or ask local authorities, to start dealing with these issues immediately, rather than having four houses in a street in one ward, then the next three in another ward, and the next five in a different ward, because they have followed the stream? The stream is in a culvert, so people do not know that it is underneath there, but that is where the boundary is. It was sensible at one time, but, when you put houses there, it creates some confusion. Will this allow the commission to charge

councils to undertake these community reviews? Will that deal with that sort of problem?

[39] **Carl Sargeant:** I am not going to be area-specific on this point, Mike. As I said, this legislation enables the commission to be flexible, and to look at not just the number of electors, but to take into consideration the natural boundaries of communities, so that community ties are equally as important as the number of electors. On the charging that you referred to, in terms of communities and principal authorities for undertaking the reviews of community boundaries, we pay a small amount in the settlement for local authorities to do this. Some do it effectively, and some do it less effectively. When it is not done as effectively, or when it is not done—and local authorities are required to do this—the commission would then do that. In effect, the commission gets reimbursed for doing the job that someone has already been paid for; in other words, I am paying twice for the same job, which is probably not where I would like to be. Therefore, it enables the commission to charge for what has already been paid for, in effect.

[40] **Ann Jones:** Are you happy with that, Mike?

[41] **Mike Hedges:** Yes.

[42] **Ann Jones:** Janet Finch-Saunders has the next questions.

[43] **Janet Finch-Saunders:** Good morning, Minister. The Bill proposes that the commission will be given Order-making powers to change community boundaries. What safeguards are in place should communities object to those changes? How do you prevent communities from feeling disenfranchised from this whole process?

[44] **Carl Sargeant:** The commission will only be able to make those Orders if there are no changes. Currently, the review takes place, the commission then gets the report, and, if there are no changes, it comes to the Minister, and the Minister then consults. In effect, the commission operates as a third-party post person: it has not done anything and is not doing anything; it is just awaiting that process. I think that that is time wasting, and there must be a quicker way to do this. That is why I am seeking powers to give the commission the powers to make the Order where there is no change. When the community reviews take place, where there is to be a change, there is a consultation process within that, which the commission has, and it then comes to the Minister—me in this case—and there is then a consultation process, which we would consider. Therefore, all we are doing is streamlining that process, but making it the same in both cases. Where there is no change, the commission can make the Order, and it takes out that middle section of wait where there is no change, and aligns it up to the way that the community reviews operate now, with change, just with a consultation process.

[45] **Janet Finch-Saunders:** That rather feeds into my next question. What mechanisms can you put in place, and how does the Bill address the situation where the community feels that the consultation process is not effective? That happens far too frequently.

[46] **Carl Sargeant:** I believe that there is in place a period of consultation—a six-week period of consultation. It is very clear that when you change boundaries, or where there are changes to communities, some people like that and some people do not. That is the nature of democracy. Some may not like it for very strange reasons, such as a change of postcode, as council tax bills and the value of a property can be affected by postcodes. That is a fact of life.

[47] However, I would not like to think that people were not being given an opportunity to feed into the process. They may not like the outcome, but it would be unfair to suggest that people do not have the opportunity to take part in the consultation. I believe that the commission's six-week process gives the opportunity to do that, but I cannot predetermine an

outcome on the basis that some people will be happy and some will not. I think that the process is there for consultation. If you suggest that it does not work, I would be happy to hear from the committee how it could work better.

[48] **Janet Finch-Saunders:** Can the Minister explain how the changes to the commission's various consultation procedures for reviews improve the way that reviews are conducted? It harks back to community councils and their programming of their meetings and things. I know that, in past boundary matters, there were concerns about the cycle of meetings for community councils and the fact that they do not have electronic communication methods. How do you feel this addresses that?

[49] **Carl Sargeant:** That is a valid question about how we are trying to move the commission on and about the engagement of its important role in developing communities and operating in them. That is probably the Bill, and that is the encompassing process of the change and the refreshing of the commission and the way in which it operates—the consultation process, what it is expected to do and what it is not expected to do. It fully understands that, and that will be quite clear through this legislation.

[50] We are also addressing some of the issues that the commission cannot be in control of, such as the communication elements of town and community councils. That is part of the Bill as well: web-enabling them in order to have more up-to-date communication methods with the commission and electors. It is opening up local government, in effect, to bring everyone along on the journey into the twenty-first century. I believe that this Bill does that, or goes some way towards bringing local democracy closer.

[51] **Janet Finch-Saunders:** Do you feel that it advantages community councils? We ignore community councils at our peril; there are over 700 of them in Wales, and I want the Bill to shape a way forward. We see so much disenfranchisement in the number of empty seats at community council election time. Do you think that this Bill will seek to improve that?

[52] **Carl Sargeant:** Absolutely.

[53] **Janet Finch-Saunders:** Great. Finally, what discussions has the Minister had with the Home Office and the Wales Office with regard to the provision in section 45 of the Bill, which states that the commission may recommend that the Secretary of State makes consequential changes to police area boundaries as part of a boundary review? Have any issues of competence been raised in any such discussions as regards this Bill?

[54] **Carl Sargeant:** Okay. I was going to say that we have been here before, have we not?

[55] **Janet Finch-Saunders:** Yes.

[56] **Carl Sargeant:** I wrote to the Home Secretary, with a copy to the Secretary of State for Wales, advising her of this Bill. At that point, she responded, saying that she would ask her officials to get in touch with mine to discuss any issues that may or may not arise. I have heard nothing back from the Home Office. I assume from that that they are content with the Bill. I would imagine that they are content with the Bill on the basis that we are replicating the duties that were already in place anyway. So, this is something that was already in statute; we are just repeating that in this process.

[57] Is it ideal? I think that it probably is not, in that police boundaries and the competence are matters for the Home Secretary, and community council boundaries are the responsibility of the Minister in Wales. However, that is where we are, and unless Silk or any other

provisions make changes to that process, it is something that we have to continue with under the legislation that we have in place. I believe that we have competence around this. As I said, the Home Secretary has not indicated that we have not.

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

[59] **Janet Finch-Saunders:** Yes.

[60] **Gwyn R. Price:** What type of matters would be included in direction rather than the guidance issued by the Welsh Ministers under section 48 of the Bill with regard to the reviews of local government areas and electoral arrangements?

[61] **Carl Sargeant:** Again, we are enabling the commission to have a structured approach to the way that it operates the cycle of events, so that everybody would be aware of when procedures would take place within the boundary of the local area that the commission would look at. There may be events that are unique to an area, such as a newly established town or community that may have missed the cycle. On that basis, if it was deemed appropriate by the Minister, the Minister could issue a direction to the commission—again, replicating what happens now—to conduct a new review of a particular area, either because it had not done it or because things had changed significantly in that area, indicating a need for a new boundary review. It replicates where we are now on issuing direction.

[62] **Gwyn R. Price:** On public body membership, on what basis have you decided that the commission should be able to make proposals about the constitution of additional public bodies, other than councils, although including councils, of course? As a supplementary question, what type of bodies does the Welsh Government expect to be covered by these proposals?

[63] **Carl Sargeant:** The commission currently deals with boundaries, and I think that it has an awful lot more to offer. That is partly to be seen in the name change of the organisation: we are talking about democracy. Where there are elements of Welsh Government bodies and the provision of members, the commission has a clear understanding of how a public service operates. This gives it the opportunity, should it be requested or required, to look at organisational structures in Welsh Government bodies. I do not have a list, because, again, this is in the event of our requiring it to look at another body, but, as you can imagine, we could consider health boards or the new body that has been established by the Minister for Environment and Sustainable Development. It could look at the structural make-up of those organisations.

[64] **Mike Hedges:** Would that include fire authorities, because, since they have been set up, nothing has been done, and that goes back to local government reorganisation?

[65] **Carl Sargeant:** Yes, of course it could. I believe it includes anything that involves the local government family being part of an organisation that is Welsh-Government-public-sector organised, including health boards and fire authorities. I believe the commission would have the capacity and the capability, professionally, to look at those organisations and structures.

[66] **Mike Hedges:** For example, if one fire authority's population increased dramatically and another one's dropped, the way that it is set up at the moment is that they would keep the representation that they have now. If that goes on for another 50 years, there are bound to be substantial changes.

[67] **Carl Sargeant:** Of course. That gives us the flexibility within the legislation to do that.

[68] **Peter Black:** I presume that national parks would also come into that, because they have local authority councillors on their authorities. You are talking about reviews of membership. Are you just looking at the membership of those bodies or would you also be looking at the boundaries of those bodies as well? Obviously, that would not include national parks, but you might want to consider fire authorities in particular.

[69] **Carl Sargeant:** The intention is around membership, Peter. I have not given much thought to whether the commission has or should have the ability to change the operational boundaries of those organisations. I will write to the committee after giving that more thought, if that is okay with you.

9.30 a.m.

[70] **Gwyn R. Price:** On financial implications, what assessments have you made to reach the conclusion in the explanatory memorandum that no significant costs will be associated with the proposed changes to the way in which the commission operates? What costs will there be to the Welsh Government of monitoring the impact of the changes to the boundary commission?

[71] **Carl Sargeant:** As the Member quite rightly says, we do not believe that there will be any significant challenges in terms of the additional funding requirements to do this. This has been a tidying-up exercise of how the organisation operates. We have put a structure in place that gives the commission operational boundaries, but no significant additional workload in terms of what it is to do. We and the commission now fully understand how it is supposed to do it, when it is supposed to do it and why. We do not believe that there will be any additional financial burdens on the organisation, and any costs that are already there will be managed within the boundary commission's financial envelope.

[72] **Mark Isherwood:** Good morning, Minister. You propose allowing principal councils to separate the role of the civic head—the chair or mayor—from the person chairing council meetings. What do you believe would be the benefits of doing that?

[73] **Carl Sargeant:** I am quite comfortable with this, on the basis that this request came predominantly from the local government family. This was not a request of mine or my department—this was suggested by local government, given that the task of the civic head—the mayor or mayoress of an authority—can be quite onerous in itself. It was requested that there should be some separation of that role from the chair of the council—in effect, a separation of the business end of the organisation from the civic end. We have responded by giving the opportunity to include that in the legislation. So, the request came from the local government family.

[74] **Ann Jones:** Mark, Janet has a supplementary on this point before you go any further.

[75] **Janet Finch-Saunders:** Will another special responsibility allowance accompany that extra role?

[76] **Carl Sargeant:** The independent remuneration panel deals with the allowances, and there are strict criteria around that. This issue was predominantly about the separation in the operation of what people do in local authorities, and recognising that the civic role of an authority is very different from chairing the business end of the organisation.

[77] **Janet Finch-Saunders:** When you said 'local government family', were you talking about elected members of a local government family or more about its professional arm?

[78] **Carl Sargeant:** I was talking about the member-based local government family.

[79] **Mike Hedges:** One of the problems with the current system is that the mayor can also be leader of the council, which means that they are holding a role which is non-partisan when they start the meeting, but when questions come they hold a partisan position. This is a very sensible suggestion and I would urge you to take it forward.

[80] **Mark Isherwood:** There are potentially a number of risks, and we will be exploring those in our evidence sessions and coming back to you at the end of our scrutiny. You mentioned the independent remuneration panel, but there is a strong possibility that the separate salaries or remuneration of each role together will be greater than what the one person combining the two roles might have had. I presume that in most councils they currently share secretariats, so those secretariats would now have to be split into two separate sets of clerks or secretarial functions. There is also a potential gain where the person engaging with civic society through their ceremonial representative role is also the person chairing meetings and therefore has that personal depth or breadth of understanding that may not be the case otherwise. What risks do you anticipate with this, and how do you believe that they should be mitigated?

[81] **Carl Sargeant:** I do not believe that there are risks in this. I am responding to a request from local government. As Members have suggested, I believe that the non-partisan role which often rotates on an annual basis, often between parties, is an extremely important function of local authorities, and the separation of the civic role from the business role of chairing the organisation is a reasonable request. I do not believe, nor has it been brought to my attention, that such a split will have any significant cost. The civic role is already something that authorities take part in, in that the secretariat is already in place in many authorities. So, the committee might wish to establish whether there is a financial cost to that element. However, again, I do not perceive it to be a risk to democracy or to the process of taking this forward.

[82] **Mark Isherwood:** Do you agree with the current hope that if the anticipated changes come through, the person chairing the meeting, whether mayor, chair or not, would remain entirely impartial in the chairing of that meeting, regardless of any party they may or may not belong to?

[83] **Carl Sargeant:** I can concur with that.

[84] **Mark Isherwood:** I just wanted to clarify that, given your previous answer. On the—

[85] **Ann Jones:** Mark, I have a couple of people who have supplementary questions on that point. I have Peter and Joyce, and then we will come back to you.

[86] **Peter Black:** I noted that the section of the Bill is silent about whether the presiding officer exercises the casting vote, and about what the voting rights of the presiding officer are. Do you intend to leave that to standing orders of individual councils, or will you issue guidance on that matter?

[87] **Carl Sargeant:** I believe that that is already set in the standing orders of each local authority. However, again, I will make sure that we are clear about whether it is in the standing orders of authorities. I am sure that it is, but if it is not, I will issue guidance to accompany that.

[88] **Joyce Watson:** My question is on the same theme. Might this mirror the way that we operate here with our presiding chairs by making the role a truly independent 'independent' role, in that they do not have any votes whatsoever? Have you considered that?

[89] **Carl Sargeant:** I have not considered that, but, again, I will take the views of the committee very seriously.

[90] **Ann Jones:** Thank you. Mark, do you want to carry on?

[91] **Mark Isherwood:** Yes, thank you. We are jumping to a new set of questions. How have you decided on what information town and community councils should and should not be obliged to publish electronically?

[92] **Carl Sargeant:** I recognise that there are some town and community councils that are not as advanced as others in terms of IT and being web-enabled. Some are not advanced at all. I did not want to create something particularly onerous for an authority or town and community councils in introducing this new duty. What I wanted was for this, when we enable it, to be a starting point for an organisation's openness and transparency with regard to where it is based, who the local council member is, what their responsibility is, when the meetings are, what they are about, and how people can access all of this. I think that these are reasonable actions for what should be expected from any council operating in Wales.

[93] Janet alluded to the issue of unfilled seats on councils. If we are honest, in the political bubble we operate in, it is only certain people who are interested in this and who actually understand the process for entering into politics. This just gives us another vehicle for people to ask what their council does, who is operating on their behalf and how they can engage in it. So, it is a starting point and we believe that this is a new opportunity for lifting the face of town and community councils to the front. It is just another vehicle for openness and transparency.

[94] **Peter Black:** I have two quick questions. Why have you set out in detail what a community council is expected to publish electronically but not what is expected from a principal council? Secondly, why have you not included the declarations of members' interests in both cases?

[95] **Carl Sargeant:** The list of what we should and should not do could be endless. I know that the Member has raised the issue of the register of interests and declarations with me in the past. I would be happy to include that on the list if that is what the committee deemed appropriate. I share your view on that.

[96] In terms of the principal councils, the Member will be aware of the Local Government (Wales) Measure 2011 where we introduced the Members' newsletter, or the appropriate posting of notices, about what the council does and who the councillor is, et cetera. Again, I would be happy to issue guidance to the principal councils if councils felt that they were not able to fully understand what is required of them.

[97] **Mark Isherwood:** The explanatory memorandum identifies 350 town and community councils as currently not having websites. What cost assessments have you thus far carried out in relation to setting up and maintaining websites for those, either individually or collaboratively?

[98] **Carl Sargeant:** We have started a piece of work on looking at what the costs of doing this are in terms of town and community councils; the Member, of course, recognises that there are 350 councils that do not have websites. There are many ways in which we could engage with town and community councils. I have already spoken to One Voice Wales about this process. Some councils have councillors who are really savvy in relation to IT and, although I could not do it, I am sure that building a simple website is quite easy and not that costly. If there is a cost to doing this, working collaboratively across the organisations,

perhaps through One Voice Wales, would provide an opportunity to enable councils to become web-based. So, I am seeking to place a duty on councils to become web-based and I will be announcing shortly how I will be able to support town and community councils to do that.

[99] **Joyce Watson:** You state in your explanatory memorandum, Minister, that the maintenance costs of a web presence needs to be weighed against potential savings in removing the need for papers and hard copies. Has any attempt been made to quantify those savings, and how will citizens who do not have IT skills or access be served?

[100] **Carl Sargeant:** I have not made any assessments on what the savings may or may not be, but it is clear that if there is less printed paper and if organisations try to become more paperless there must be an advantage to that. However, on balance, Chair, that is just one element of the opportunities for paperless operation. More importantly and fundamentally to me is ensuring that councils become more open and transparent, making sure that Mr and Mrs Jones, wherever they live, are able to understand what their local council is doing. At the moment, in many cases, you get a huddle of democratically elected people who make decisions on local issues, and Mr and Mrs Jones very rarely get to know about them or are able to access information easily. This way there is an opportunity to open that up. There may be a cost involved in this, but I think that the cost value outweighs the concern that I have in terms of openness.

[101] **Joyce Watson:** Talking of cost, Minister, you also said that it would be the intention of the Welsh Government to work with community councils and organisations to produce the guidance to identify the cost-effective methods of implementation. What would be the estimated cost of providing that support and guidance?

9.45 a.m.

[102] **Carl Sargeant:** Again, this work is ongoing. We are just establishing what would be required to do this. In addition to that, I am looking at how the principal authorities—the 22 local authorities across Wales—are web enabled in order to provide public access to proceedings across Wales. We are currently in discussion with local authorities on that. So, we are hoping to make some interesting announcements in the next few weeks on how we can support authorities to become more open to public viewing, should they so wish.

[103] **Joyce Watson:** Talking about public viewing and the way in which many town and community councils operate, some do so purely through one language, whether English or Cymraeg. Would there be any practical implications in that regard if those councils were obliged to publish material on the web?

[104] **Carl Sargeant:** I do not think so. I think that duty is already in place. If a member of the public or an elected member wishes to have papers or information either in English or Welsh the request has to be complied with anyway. It is do with the Welsh-language policy of the organisation. I do not think that this increases an onerous duty on town and community councils or authorities that they do not already have to comply with anyway.

[105] **Joyce Watson:** You have talked about it from the perspective of English to Welsh, but I want to look at both sides, so from Welsh to English as well, because there are councils in Wales who operate solely through the medium of Welsh. There has to be a balance. It is that balance that we are looking for.

[106] **Carl Sargeant:** I do not see anything that is not in place already that authorities would not have to comply with anyway.

[107] **Peter Black:** I have just been looking at the costs in the explanatory memorandum. You estimate about £2,000 for the set-up cost of a website and about £1,000 a year for maintenance. However, you do not appear to have taken account of bilingualism with regard to those websites. Presumably, all councils would be required to have a bilingual website, which would require substantive translation costs—although most of the new content would be minutes and documents, I would guess. Have you considered those costs?

[108] **Carl Sargeant:** We believe that those costs accurately reflect the provisions that would be required to post what would be requested by a member of the public or what should be in place from the authority. Again, I am not saying that the 700 councils should operate individually; there is no reason why they cannot work very closely with their principal council in terms of how this operates. In some areas, that already happens. This is not about working in isolation; it is about working together to ensure that we have openness in the public sector. I believe that the costs we have indicated are accurate, but, if the committee feels that they are not, I would be interested to understand what your views are.

[109] **Mike Hedges:** I would not expect this to be on the face of the Bill, but will you be considering providing guidance to the main councils on how they can help community councils? Most community councils will have virtually the same structure, and all they have to do is fit things into it. A lot of the translation will be of minutes and agendas, so a lot of the wording will be exactly the same—all they would have to do is slot things in.

[110] **Ann Jones:** You are talking about a template.

[111] **Mike Hedges:** Yes.

[112] **Carl Sargeant:** As an aside, Chair—it might be useful information—I am attempting to ensure a single IT structure provision right across the public sector in Wales, so that health, local government, the police and all of us would operate on the same structure, so that things are interchangeable. It makes sense. It would be foolish for any organisation, if there were capital to be made by offering a service to another authority or town and community council, whether that is a financial benefit or some other gain, not to do that. To be fair, local authorities are responding to working together. I hope that they would also consider working with town and community councils. There are many compacts in place now between town and community councils and primary councils. This is just another example of something that they could explore for the betterment of civic society.

[113] **Peter Black:** Would it be possible for us to have a note on how you worked out the cost in relation to the website?

[114] **Carl Sargeant:** Indeed.

[115] **Peter Black:** It would help us to understand how that came about.

[116] **Ann Jones:** Yes, that would be helpful.

[117] **Lindsay Whittle:** Moving on to the role of democratic services committees, your explanatory memorandum on this paperless organisation tells us that changes to the Bill could be viewed as weakening the focus of that committee and the support that it offers to non-executive councillors. Why are the changes for the operation of this committee being introduced and what benefits and risks do you think that these changes will have?

[118] **Carl Sargeant:** When you put things down on paper—and rightly so—people take it as the word says. If I am right, the wording on the democratic services committee in the Local Government (Wales) Measure 2011 is ‘to provide support and advice’. That appears quite

narrow in terms of what services and advice can be offered to elected members.

[119] When I created this situation, I was very conscious that, when you are in the executive or cabinet of an organisation, you are very well supported by the organisation, but that the backbench element, and elected members within the ruling group who are not in the cabinet, had very limited support and advice structures. So, we created this element, separate from the chief executive's department. It works effectively in most places, but, in some areas, as I said, the words 'support and advice' seems to be have been taken literally and quite narrowly. This legislation gives us the opportunity to open that up to mean support and advice for members in the broadest sense, whether that is on remuneration or other matters. It is not specifically on an issue that is specific to a committee; this is about more general support for members of councils. I think that the way that we are wording this now is better than the way that it has been worded in the past.

[120] **Lindsay Whittle:** I agree, Minister; it is probably common practice that eight, nine or 10 cabinet members have a raft of officers supporting them and possibly half an officer supporting the remaining 60 or so councillors in local authorities. So, it will be interesting. You will be very welcome in future Welsh Local Government Association conferences, I am sure.

[121] **Ann Jones:** That is one of the first requirements. [*Laughter.*]

[122] **Lindsay Whittle:** Yes, that is right. I would like to move on to membership of the audit committees. Prior to the statutory requirement in 2011, it was not meant to be a politically balanced committee. That is not something that I approve of and, clearly, you do not either, because you are now saying that you will introduce this change. What caused that change of mind?

[123] **Carl Sargeant:** We did not pick up on that in the Local Government Measure 2011. Governments often get most things right, but, sometimes, we get things wrong and we just missed this out. This is an opportunity, as I said earlier, to amend the legislation with regard to what we thought was in place, but did not quite work out. This is about making sure that political balance in audit committees is established. I believe that that is right. That is how it operates here. It gives clarity to local government, through the legislation, that this makes sense. This is what I wish to happen. We missed it in the consultation on the Measure in 2011, basically, and we are ensuring that we get it right now.

[124] **Lindsay Whittle:** That is a frank reply and I think that it is a move to be welcomed. This committee should welcome that. Thank you, Minister.

[125] Moving on to the Independent Remuneration Panel for Wales, how will the Bill address the fact that the panel's current practices are 'inconvenient and cumbersome', as described in your memorandum, and what are the risks involved in relaxing the provisions?

[126] **Carl Sargeant:** The IRP does not have an easy job. It is not the most popular of organisations. Politicians are not always popular, but the IRP is never popular with many people, particularly with those whose salaries are being looked at by it. I like the IRP; it does a great job. What I am trying to do is give it some flexibility in the way that it operates. Let me give you a real example of what has happened recently in Anglesey.

[127] **Lindsay Whittle:** Are you sure you want to go there now? [*Laughter.*]

[128] **Carl Sargeant:** Anglesey has moved on tremendously. It is in a very different place from where it was when we had to make direction and changes. I have recently met the auditor general and the commissioners, councillors and so on, and Anglesey is well placed. In

fact, I would place the authority in Anglesey certainly in the top half of the local government family now in terms of delivery. It is in an incredibly different place now from where it was. The issue around that is that when we collectively decided that there should be a change in function at Anglesey and how it operated, I lifted the restrictions on how that operated. On that basis, I had to issue a direction to the IRP to review the salaries of members of the authority; it did the review and it had to consult and present a draft report, by which time I had already lifted the Order as I believed that Anglesey was ready to take control of the operation. Many may have a view on this, but the IRP and the members on the island were not able to receive the salaries that every other councillor in Wales were receiving for doing the same job, because of the restrictions within the Order.

[129] I am saying that, if the IRP says that there is an opportunity to reintroduce backdated pay or salaries that are appropriate for a member or an organisation, then we should give it the flexibility to do that. That is just one real-life example of what is happening and why. Again, this could happen to any authority across Wales and any organisation; what we need to do is give the professional people who are doing this job sufficient flexibility to do it properly.

[130] **Lindsay Whittle:** You mentioned that the panel was not popular, but it is able to prescribe limitations on the number of members in local authorities entitled to certain salaries. Clearly, cabinet members of local authorities receive a certain amount of money, as do chairs of scrutiny committees. However, there was some contention in the last few years with regard to vice-chairs of scrutiny committees who also work very hard but are not allowed to have any extra responsibility money, although, in many cases, they work as hard as the chairs. Why is the current system of assigning a proportion deemed inadequate? Why should this remuneration panel decide this?

[131] **Carl Sargeant:** That is the very point—

[132] **Lindsay Whittle:** It is up to the local authorities, surely.

[133] **Carl Sargeant:** Authorities operate in very different ways. Some have different titles, different operations and different functions. My view is that the IRP should have the flexibility, again, not to just look at an authority in terms of size and say, ‘Only 10 members of an authority should be getting an IRP payment’, because some authorities may have three or four planning committees because of the size and scale of their organisation. That, in essence, causes difficulty with regard to the prescription of just using numbers. If the IRP is able to prescribe the specifics of an organisation that are entitled to remuneration, such as planning, for example, then the four chairs of the planning committees would be eligible for remuneration without there being a conflict in terms of the broader number. The IRP does a difficult job well; I am giving it the tools, where there are conflicts in some of the changes across the 22 organisations, to have the flexibility to operate differently in different organisations should it so wish, although it does not have to.

[134] **Lindsay Whittle:** Do you recognise, with respect, that, in the past, the panel has tended to come down on the side of limiting the number of special responsibility allowances, as opposed to being flexible in areas such as planning in large rural areas or, perhaps, city areas, where licensing of all of the taxis, clubs and pubs et cetera is an enormous task, so that, again, those committees have to be split as well? It is unfair on local authority members to limit that, because many of them are working literally three or four days a week just on that.

10.00 a.m.

[135] **Carl Sargeant:** I recognise that, which is why the limitation for an authority to have an allowance only on a numerical basis is not flexible enough for the IRP to make a decision subject to planning or licensing and so on. If it is based on named position as opposed to

number, it gives the IRP the flexibility to make those changes should it so wish. That is currently not available to it.

[136] **Lindsay Whittle:** Okay. The panel should also be able to determine payments to members of other public bodies. What type of bodies would be covered by those provisions?

[137] **Carl Sargeant:** Going back to what I said earlier about the commission's decision on what it could review, I do not have the list with me, but those bodies would include Welsh Government bodies such as fire authorities, health boards, the new environment body and the national parks. Again, the same principle applies.

[138] **Mike Hedges:** If you added health bodies to that, would you not then hit a legal problem with building a hybrid?

[139] **Carl Sargeant:** We can certainly operate within the local government boundary of that, but we would have to consider it in terms of its broad potential. I will get legal advice on that.

[140] **Ann Jones:** Will you share that with us?

[141] **Carl Sargeant:** Of course.

[142] **Mark Isherwood:** How would that encompass the situation that occurs infrequently but occasionally in councils, where you have another body that a council member will chair, perhaps uniquely in one council compared with all the others?

[143] **Carl Sargeant:** I would expect the commission to consider such issues should we issue that direction. Again, you will be aware of councillors who were chairs of organisations outside the council and who were being remunerated for that. That has changed via the IRP, but there are still organisations where we may wish to consider how that operates outside council boundaries, which will be covered by that provision.

[144] **Mr Cuthbert:** May I just add to that? I know that one issue that the remuneration panel intends to look at seriously over the next year is the implication of collaborative committees covering different local authority areas and who pays a senior salary to the chair of such bodies.

[145] **Mike Hedges:** You have solved that for the fire authority. In other words, you just get the money in on a pro rata basis from the authorities and then share it out among the fire authorities.

[146] **Carl Sargeant:** The IRP will give recommendation to us on that basis.

[147] **Ann Jones:** I think that there is more work to be done on that.

[148] **Joyce Watson:** Moving on to joint committees, you suggest in section 63 that a joint standards committee should be set up. Why do you believe that there is a need to enable local authorities to set up a joint standards committee?

[149] **Carl Sargeant:** There are two parts to the answer. One relates to collaboration across areas and how we can make savings subject to a regional approach to standards. I do not suggest that this will be perfect in all cases, but should neighbouring authorities wish to do that, this enables them to do so. There are benefits to that in addition to the ability to save funding by working together. For example, you also increase your professional base because you may have people in neighbouring authorities who have different skills and you therefore

enable standards to grow in terms of their knowledge base across a particular region, should it be appropriate for that region to create that body.

[150] **Joyce Watson:** I have my own opinions about these matters, but I will keep them to myself. If you are going to provide guidance on the establishment of joint standards committees, will you provide an outline of what that guidance might contain? If you cannot do that now, you could let us know at a later date.

[151] **Carl Sargeant:** I am happy to share that with the committee, as appropriate. What we were trying to encourage is consistency across Wales, in terms of the application of standards that we see, which varies between authorities. Again, it has been suggested to me that, sometimes, internal standards provision could be considered to be tainted in the way it operates. Often, it would be useful, open and transparent if a more regional approach to standards was applied.

[152] **Joyce Watson:** I cannot disagree with that, Minister. Is there a danger that some might think that allowing the setting up of joint standards committees would undermine local democracy?

[153] **Carl Sargeant:** I do not know who might suggest that. Well, actually, I do. [*Laughter.*] However, the issue for me is ensuring that the standards provision is operated effectively and fairly across any organisation. If organisations feel it appropriate, and if it would strengthen their provision around standards, then it would make sense to do so. Does it undermine local democracy? I do not believe that that is the case.

[154] **Ann Jones:** I believe that Peter Black has a supplementary question on this issue.

[155] **Peter Black:** I will let Joyce finish her questioning first.

[156] **Ann Jones:** Okay.

[157] **Joyce Watson:** Is it part of and does it fit within the collaboration agenda that you have mentioned many times, Minister?

[158] **Carl Sargeant:** Yes, I think it does. If authorities were to seek to work together more effectively, that ticks a box on collaboration.

[159] **Peter Black:** Joint standards committees are fairly innovative, and, as has been indicated by Joyce, could cause some controversy. However, I notice that the regulations that you will be using to set those up are subject to negative resolution. Do you not believe that it would be more appropriate to have affirmative resolution, so that Members would have greater oversight of the make-up of those standards committees and actually have some input into them?

[160] **Carl Sargeant:** I am comfortable with the provision that I have set forward. However, the Member raises an interesting point. I would consider that point, but the issue for me is of good intent as regards strengthening the provision for good standards across organisations. I am open-minded in terms of that process, Chair; I will consider the Member's request, should the committee wish to ask me to.

[161] **Ann Jones:** Okay. Joyce Watson has the next question.

[162] **Joyce Watson:** You talk about appointments to standards panels, Minister. Regarding appointments panels, local authorities make senior appointments in their organisations, and I have long held the belief that they are not always effective, for several

reasons. First, there is not always adequate training. Why is it that, just because you are a councillor, you are suddenly an expert in recruiting people? Why is it that you suddenly find yourself—or do not find yourself—aware of the equality advice and behaviour that is appropriate? I have found myself in these settings many times. Why is it that there is no insistence on equality, even within that appointing panel? That could lead to there being an all-male appointing panel, which would be completely unrepresentative of the wider community in which this new appointee would have to work. That has concerned me for many years. I am never one to miss a chance, so I ask you respectfully, Minister, to go back and look at whether you can do anything in this Bill that might cover that as additionality.

[163] **Carl Sargeant:** I note the Member's concern. I will give that serious consideration, and I will write to the committee, if that is appropriate. If appropriate, and if we find the vehicle to do that, it may be at the amendment stage that we could make some provision to be more inclusive, in response to the Member's requests.

[164] **Joyce Watson:** Thank you.

[165] **Ann Jones:** Finally, Minister, in terms of joint standards committees, the explanatory memorandum states that savings are likely. Do you have a guesstimate of those savings?

[166] **Carl Sargeant:** We have estimated some £1,000 per person. These are very broad figures that depend on whether it happens and on the authorities involved and where they are based. Of course, it also depends on how they could operate effectively in the future, Chair, and on how much saving could be made. Hopefully we would not have to use them at all and there would be huge savings. This is just a guesstimate, but we would hope that a new style of standards committee would make savings in the future.

[167] **Ann Jones:** Do Members have any more questions? I see that there are none. I thank you very much, Minister, and your officials, for coming along. There are a number of points on which you are going to send a note back to the committee. The clerking team will liaise with your officials on that. As usual, you will get a copy of the transcript to check for accuracy; you know that because you are a regular attendee. We will see you at the end of the Stage 1 process.

[168] **Carl Sargeant:** Thank you, Chair.

[169] **Ann Jones:** We are ahead of schedule, and because we have a change of committee membership and clerking, we will break until 10.20 a.m. just to give people time to come down here. We will resume at 10.20 a.m.

*Gohiriwyd y cyfarfod rhwng 10.11 a.m. a 10.22 a.m.
The meeting adjourned between 10.11 a.m. and 10.22 a.m.*

Bil Safleoedd Rheoleiddiedig Cartrefi Symudol (Cymru): Sesiwn Dystiolaeth 9 Regulated Mobile Home Sites (Wales) Bill: Evidence Session 9

[170] **Ann Jones:** As I said at the start, I welcome Kirsty in place of Peter Black, but Peter is still in the room, so, welcome Peter—this is a bit like déjà vu. We will move on to the next item on the agenda in public session, which is to have the Member in charge back in for another evidence session on the Regulated Mobile Home Sites (Wales) Bill. It is nice to see Peter here again with us. Do you want to introduce your team for the record?

[171] **Peter Black:** I have with me Helen Roberts, one of the Assembly's legal advisers, and Jonathan Baxter from the Research Service, who are supporting me in this evidence.

[172] **Ann Jones:** Peter, you will know that we have been taking evidence and I know that you will have been watching the proceedings. We now have a set of questions that we want to put to you on what we have heard, which we have themed. Kirsty will take the first set under the heading of 'general principles' and Mike has one question in that set as well. Do you want to go straight to questions or is there anything that you want to add? I see that you are happy to go straight into questions.

[173] **Kirsty Williams:** Peter, you said when you came to the committee on 14 November that you intended to bring forward amendments to include more detail on the face of the Bill. Could you clarify your position with regard to how you feel about that, now that you have seen other evidence come forward? What additions might you include?

[174] **Peter Black:** A number of issues have arisen during the evidence sessions that I am quite interested in looking at. Some issues have arisen that indicate to me that there will be a need for amendments. In addition, we have also had discussions with Welsh Government officials who are very keen to reduce the number of guidance documents that they would have to deal with behind the Bill. We will be working with them to bring forward amendments to give effect to that as well. So, yes, we will be looking to bring some amendments forward.

[175] **Kirsty Williams:** Obviously, you are doing so in response to the Government's evidence that it was anxious about the amount of regulation and subordinate legislation that would be left to it. You have said that you want to address that. Are there any specific areas that those amendments will address? For instance, we have had a lot of evidence about transitional arrangements. Would transitional arrangements be part of those proposals?

[176] **Peter Black:** At the moment, transitional arrangements are dealt with by subordinate legislation and that might still be the case following those amendments. However, if we are able to bring more clarity to the Bill in terms of how it will operate, and look in particular at an issue that has been raised in other evidence, in that we will be putting two licensing regimes in place, it may well be that we will be able to make the transitional arrangements much simpler, as part of those amendments, and make it quicker to bring the Bill into effect.

[177] **Kirsty Williams:** You have anticipated my next question. The committee has received a lot of evidence and, in private session, discussed the situation a great deal, that the Bill as it is currently drafted will create two licensing systems. The evidence that we have received suggests that a dual licensing system with one licence to cover the site and a personal fit-and-proper-person licence that is transferable between sites might improve standards, while protecting residents' security of tenure and streamlining the administrative process. Do you have any views on dual licensing?

[178] **Peter Black:** First, in terms of the security of tenure of the residents, it is not related to the licence, provided that the homeowner's contract has not been terminated by the courts or the site is a protected site under the Mobile Homes Act 1983, then the homeowner's security of tenure would not be affected by this Bill. I think that we need to make that clear, because I know that people will be anxious about that. The discussions that we have had with Government officials have been moving along those lines, and we will explore how we can ensure that we have a much more straightforward and simple regime than would be the result of the Bill as currently drafted.

[179] **Kirsty Williams:** Some concerns have also been raised about the ability of park site owners to finance and raise finance for their business, and how their inability to do so might impact negatively on their ability to maintain their business and, importantly, to invest in the site to ensure that it is of the highest standard for the residents living on it, in terms of infrastructure. The evidence from the British Bankers' Association is concerned that a time-limited licence would negatively impact on the ability of the banking industry to provide

finance to the mobile home sector. I am sure that you have seen that evidence also. Do you have a view on it?

[180] **Peter Black:** I find that evidence quite interesting, because a number of other businesses operate on short-term licences. The last time that I gave evidence I referred, for example, to houses in multiple occupation, which run on a five-year licence, and which the owners use banking finance to acquire and run. There are also issues around entertainment licences and alcohol licences, which are subject to annual renewal in some cases. So, clearly, the banks are well used to financing businesses run on short-term licences. I would hope that, if we are able to simplify the licensing regime and give some assurance in relation to the Caravan Sites and Control of Development Act 1960, the banks would be satisfied that the business is a secure one. I have indicated previously that I am looking at the way that the fit-and-proper-person test operates. If that test does not apply to the owner but to the person running the site, the banks might support that change, because their argument is that if you can take the licence away from the owner, as opposed to the person running the site, that would reduce the security of the business. My view is that the person running the site is the person who should be the fit-and-proper person. If the owner is not the person who is running the site and is not the person who might lose that, the banks would have greater surety as a result.

[181] **Kirsty Williams:** The industry was concerned that the Bill as drafted creates duplication between the 1960 site licences and the new regime. Do you understand that concern, do you share it or do you hold the view that its representatives would say that, would they not, as part of an industry that will be subject to new legislation?

[182] **Peter Black:** I understand that view and I am happy to look at the committee's recommendations on that. I think that we said previously that we will consider unifying the regimes if the committee recommends along those lines.

[183] **Kirsty Williams:** To move on to the issue of the more undesirable elements of the industry looking to avoid being caught by this legislation, the Minister, when he came to the committee, raised the issue that, in order to avoid new licensing regimes, some site owners may seek to change the use of their sites, which would have possible implications for homeowners' rights on those sites and their ability to station their homes. Can we have your comments, please, about how the Bill could be drafted to safeguard against that happening?

10.30 a.m.

[184] **Peter Black:** Any change of use would require a planning consent, so clearly there is that safeguard, but I would be happy to consider a recommendation of the committee that the Bill could be amended to require residents to be consulted before a change of use took place. That might give greater surety to the residents of the site as part of that.

[185] **Kirsty Williams:** This is the final question from me. I am certainly supportive of your attempts within the Bill to ensure that any costs incurred as a result of the Bill being passed would not then fall on the individual homeowners, to protect them, and I am sure that most of the committee would share that view. However, the Minister raised concerns that expecting site operators to absorb all the costs of the Bill could have consequences for the numbers of sites in Wales. How would you respond to the Minister's concerns in this field?

[186] **Peter Black:** I do not believe that the costs, which are referred to in the financial memorandum as we have identified them, are that onerous. They can be accommodated within any well-run business, and I do not think that they would make any of the sites less profitable than they are currently—they may be slightly less profitable, but they would not be unprofitable. It is reasonable therefore to say that these costs should be carried by business

owners as part of the costs of the business and of ensuring that they have a well-regulated, well-run industry, which will benefit them in terms of people wanting to come into it and buying properties.

[187] **Mike Hedges:** Do not take this to be my opinion—

[188] **Peter Black:** I never take you personally, Mike.

[189] **Mike Hedges:** The Minister has stated that the Bill needs to more fully address the issue of licensing costs, rather than just allowing Welsh Ministers to do this. Do you accept that suggestion?

[190] **Peter Black:** Sorry, I did not—

[191] **Mike Hedges:** The Minister has stated that the Bill needs to more fully address the issue of licensing costs, rather than just allowing Welsh Ministers to do this. Do you agree?

[192] **Peter Black:** The Bill does address that cost. We are obviously having ongoing discussions with the Minister's officials as to how the Bill can be amended to meet their needs, and I hope that we will be able to come forward with something on that at Stage 2.

[193] **Ann Jones:** Okay, thank you. We will move on to licensing and administration, which is Part 2, and Mark has the first set of questions on that.

[194] **Mark Isherwood:** Thank you. You will be aware of the evidence that we have received and the conflicting views on your proposed amendments in respect of the application of a fit-and-proper-person test. You have already partially addressed this in your previous answers to us over the last few minutes, but could you further clarify what your intention is with the proposed amendment?

[195] **Peter Black:** Obviously, it is subject to the committee's recommendation, but I thought that the evidence given by the local authorities was quite compelling. In fact, I have the relevant passage here. The Rhondda Cynon Taf County Borough Council's representative stated:

[196] 'I think that it should be the person who has control of the site; so, if the owner is the person that has quite a lot of involvement in the site, in housing terms we would term them the person in control. However, if the day-to-day manager is the person that has control and the owner is very remote, it should be them.'

[197] So, they were saying that those people who are involved in the management of the site are the ones who have the day-to-day running and they are the ones who the residents deal with. How you run the site is what is important in terms of the residents, and it is right and proper therefore that they are the ones who are subject to the fit-and-proper-person test. I noted as well that the Minister made the point that it is difficult to disbar people from owning a property and that is a problem around extending the fit-and-proper-person test to the owner. However, if the committee, having weighed up the evidence, decided that it would rather leave the Bill as it is, then we will consider that when we come to consider amendments at Stage 2.

[198] **Kirsty Williams:** While I understand the point that Rhondda Cynon Taf made, and the difficulties that you have as a private Member trying to get this through, the issue for many people on the parks is the concern that if the fit-and-proper-person test applied only to the day-to-day manager of the site, that individual could well be perfectly reasonable, a pleasure to deal with and cause no problems, but that would not stop a rogue owner coming

on to that site and intimidating individual residents because they were not subject to the fit-and-proper-person test. The named manager, who is a delightful gentleman or lady, would continue to hold that fit-and-proper-person licence. Do your proposed changes to that legislation allow that scenario to happen? For example, you could have a great manager who is a fit-and-proper person and an obnoxious park owner who could go to the site on a daily basis and harass individual residents.

[199] **Peter Black:** I recall that point also being put to the local authorities and the Rhondda Cynon Taf County Borough Council representative responded to that by saying that local authorities have quite a lot of experience in determining who the person with control over the property is. If you have a situation where a rogue owner is acting in that way, then they will consider that person to be in control of the site and would require them to be the fit-and-proper person who would have passed the fit-and-proper-person test. Local authorities have a huge amount of experience in dealing with houses in multiple occupation in particular and in operating a fit-and-proper person test in this regard. Where you can show that someone is effectively putting up a front man and then operating in a way that is not fit and proper, the local authority will be made aware of that and will be able to act according to the legislation. So, it will then be able to say, 'You are the person in control of this site and therefore you are the one who requires that fit-and-proper person test.' So, the daily management of the site is what is important. If the person who nominally has control of the site does not in reality control the site, then the authority can act accordingly.

[200] **Mike Hedges:** I have two points, Peter. First, that puts a lot of power in the hands of local authorities and secondly, as you know because you have also seen the figures, those authorities with the most HMOs tend to be the ones with the least number of these homes. Half of the HMOs in Wales are in Swansea and Cardiff, for example, whereas between them, they have four—

[201] **Peter Black:** Again, there is provision for collaboration here, so local authorities are able to share experience. Without exception, most of the officers are professionals who will be able to pick up the job quite quickly and I am sure that training will be part of that. The local authority officers will be working within a statutory framework and they would have to determine what is in the best interests of the residents on the site in accordance with how the Bill is set out. If the Bill states that they should apply a fit-and-proper-person test to the person in control of the site, then it is a matter for them to determine who is in control of the site and to apply that test accordingly. That is not excessive power; it is a reasonable use of the responsibilities given to them by the Bill. I have confidence that they will be able to do that as part of this.

[202] The danger is that if you say that, without exception, all of the owners have to pass a fit-and-proper-person test, you will create a huge administrative burden and quite a substantial cost, both to the industry and to the local authorities in terms of applying it and it may be difficult to enforce in some instances, particularly where, for example, the owner is an offshore company, although, clearly ownership of land has to have a UK address. If you had an offshore company doing that, it would be very difficult to apply that test. It is much easier in practical terms to apply it to the person in control of the site and to ensure that you have control over the daily management of the site through that mechanism.

[203] **Mark Isherwood:** Section 7(3)(b) as drafted says that local authorities, in considering whether to grant or refuse a licence, should have regard to whether

[204] 'the licence holder is a fit and proper person to be the owner of a regulated site'.

[205] As I am sure that you are aware, the committee has also received advice that there could be an issue with this under the first protocol of the European Convention on Human

Rights, if interpreted as having the effect of interfering with or depriving a person of their possessions or of their right to own property. How do you respond to that?

[206] **Peter Black:** First, this is not about the ownership of property, but about the management of it. However, I will ask my legal adviser, Helen Roberts, to add to that the legal interpretation.

[207] **Ms Roberts:** We are aware that in certain circumstances, taking into account relevant material factors, article 1 of the first protocol of the European Convention on Human Rights may apply. Having said that, as I am sure the committee is fully aware, when the convention is engaged, a lot of complex, involved issues arise. We also have to take into account the developing and emerging case law that comes from the European Court of Human Rights, before reaching our firm view. At the moment, we are working through some of these judgments, some of which are many pages long, to see what, if any, application article 1 of the first protocol of the European Convention on Human Rights has in relation to this. At the moment, we are not able to categorically say what our legal view is, because we are considering emerging case law.

[208] **Peter Black:** I am going to venture a political view that is verging on the legal, which is to say that I am not aware of any court action against a HMO owner who has had a fit-and-proper-person test applied to them under the Human Rights Act 1998. The point is that it is applied under different criteria and a different scenario to this.

[209] **Ms Roberts:** In the context of this Bill, we are looking at what the emerging case law says and at the application, if any, of the protocol. In relation to HMOs, I am sorry, but I do not know what the position is, because I have not had a chance to consider that in any detail. We are more than happy to come back to the committee with our firm and definitive legal view once we have considered all the legal issues.

[210] **Kirsty Williams:** When will that be?

[211] **Ms Roberts:** I would anticipate that it would be within the next two weeks.

[212] **Ann Jones:** We are on a tight schedule to get the report written to allow Stage 1 to proceed within its timescale, so would it be possible to have it sooner than in the next two weeks? What you say will have an effect on whether the committee will make a recommendation one way or the other or accept what has been said. The committee needs that legal view to be provided.

[213] **Ms Roberts:** That is fine, Chair. I appreciate the urgency and the need for the committee to produce its report et cetera. That work will be prioritised and I will ensure that we come back to you within a week. Would that be fine?

[214] **Ann Jones:** That would be really good. Thank you.

[215] **Janet Finch-Saunders:** Peter, evidence gathered so far by the committee suggests that collaboration is the way forward for local authorities to work in terms of streamlining processes, sharing information and costs. However, site owners, Consumer Focus Wales and some local authority witnesses—although we have not had too many local authority witnesses—have said that enforcement should be undertaken on a local level. What do you feel is the way forward?

[216] **Peter Black:** As you know, there is a provision in the Bill for collaboration.

[217] **Janet Finch-Saunders:** Do you feel that we have the expertise and knowledge for

this to work?

[218] **Peter Black:** Yes, I do. I have said so on many occasions. There are some very experienced licensing officers in every local authority who have dealt with a whole range of licensing. The similarity between this and, say, HMO licensing, as was indicated by the evidence that you have received from the local authorities, means that this is not alien to those officers. Collaboration can be important, particularly in sharing information. That is why that provision is in the Bill. Clearly, if you feel that that needs to be strengthened, we are happy to look at it. For example, we could put in a provision for Welsh Ministers to issue guidance on collaboration, which might strengthen it.

[219] **Janet Finch-Saunders:** That helps where site owners have sites in more than one local authority.

[220] **Peter Black:** It does, except that, in many instances, those site owners have sites in England.

[221] **Janet Finch-Saunders:** That was going to be my next point.

[222] **Peter Black:** We can legislate for collaboration in Wales, but we cannot legislate for collaboration with English local authorities. The value of collaboration is limited within Welsh borders.

[223] **Janet Finch-Saunders:** I appreciate that. The evidence that we have received is that site owners, local authorities and some owners favour a central, national database of licences to facilitate information sharing and promote consistency across Wales. What are your views on this?

[224] **Peter Black:** It may be advantageous. Access to information is important. If we were to make provision for that, we would have to take account of cost, and consider a mechanism by which it would be done. It would still be the responsibility of each local authority to manage the regime. You would also have to take account of freedom of information provisions. For example, there are some issues that we have exempted from freedom of information law to prevent, for example, site owners getting details of members of residents' associations. So, you would also have to consider that as part of that amendment. I have to be convinced of the value of a national register of licences. However, there was certainly provision for a local register, and collaboration could lead to a national one if local authorities wished to pursue that.

10.45 a.m.

[225] **Janet Finch-Saunders:** Before I finish, I would like to refer to the point that you touched on earlier about owners having sites in England and some in Wales. While you may feel that this Bill cannot ultimately address that, what are your own thoughts on how we can provide some confidence that there is a way to negotiate and work with authorities across England or the powers that be? That seems to be a big issue, certainly on one site that I have concerns about.

[226] **Peter Black:** There are mechanisms whereby local authorities in Wales work with local authorities in England, mostly through the Local Government Association, of course. The police now have a national lead on mobile home sites, which means that they can co-ordinate activity across the UK through that national lead at the Association of Chief Police Officers level. So, those are some of the mechanisms that could be used to share information. Given that we have a Bill both here in Wales and in England, I do not see any reason why local authorities could not use that new legislation to justify some sort of information-sharing

mechanism or confidence at a UK level on the basis of that. However, that is a matter for them; I do not think that we can legislate for it.

[227] **Janet Finch-Saunders:** No, but I think that the information sharing and database-building strengthens the cause.

[228] **Peter Black:** Absolutely; and I think that that is starting to develop as a result of both these pieces of legislation, here and in England.

[229] **Ann Jones:** Do you have a question on that, Mike?

[230] **Mike Hedges:** What is the possibility of linking databases?

[231] **Peter Black:** Again, that is a matter that local authorities could consider. Obviously there are data protection and freedom of information issues, but they can be overcome.

[232] **Mike Hedges:** If only the public information was linked, there would not be a problem.

[233] **Peter Black:** No. I do not see any reason why the WLGA, for example, could not set up a website that contained that sort of public information. That could be done. Again, it is a matter for it as to how it wants to proceed on that basis.

[234] **Ann Jones:** Are you happy with that response, Mike? Have you finished? I see that you have. We will now move on to licensing enforcement, and I will call on Joyce to ask a question.

[235] **Joyce Watson:** In terms of licensing and enforcement, the key question is: are you confident that local authorities will have the required skills and expertise to deliver their duties under the Bill?

[236] **Peter Black:** Yes. [*Interruption.*]

[237] **Ann Jones:** I left my telephone switched on. I do apologise. I will put £10 in the charity box. I am sorry, Joyce.

[238] **Joyce Watson:** I have asked my question, Chair, and I have had my answer.

[239] **Peter Black:** The answer was 'yes'.

[240] **Mark Isherwood:** Why is your answer 'yes'?

[241] **Peter Black:** Local authorities already have a huge amount of experience in operating licensing systems, in terms of entertainment, alcohol and property through HMOs. There is very little difference between how they would operate those sorts of regimes and the one that we have set out here, given that we have based this Bill on existing legislation. As was evidenced by local authorities, this is the sort of regime that they are used to working with and are able to work with. Therefore, they have the experience, which they can apply to this.

[242] **Mark Isherwood:** How would you respond to the evidence from local authorities that expertise varies greatly across Wales, according to the density of such sites in given areas and the sparsity in others?

[243] **Peter Black:** Again, one of the reasons why we had the collaboration matters in there

is because local authorities are able to share evidence. I would expect that part of the transition would be that the local authorities train up officers and learn from those authorities that have greater experience.

[244] **Mark Isherwood:** You would expect that. Okay. Thank you.

[245] **Ann Jones:** We will move on to look at contractual relationships between site owners and homeowners. Lindsay?

[246] **Lindsay Whittle:** I want to ask about the controversial issue, perhaps, of the veto that some site owners have over new residents arriving on estates. The removal of the veto is possibly welcomed by the residents who live on these sites, but we have heard evidence that that could have significant and dangerous consequences for, perhaps, poorer residents coming on to the sites. Do you think that your Bill takes sufficient account of these potential consequences?

[247] **Peter Black:** When I was considering how we dealt with this particular issue, I considered a number of mechanisms, and they all had unforeseen consequences. For example, one mechanism that I considered was whether or not a prospective purchaser should be interviewed by the site owner in the presence of the vendor. It was pointed out to me that that could still be used for intimidation and putting people off. Every mechanism that I considered had unintended consequences. When we drafted the provisions in relation to the veto, we put in a provision that, effectively, made sure that the commission would be paid before the sale could be concluded, which we think is important.

[248] I think it could be strengthened to deal with unintended consequences and the committee may want to consider a provision in the English Bill, which follows on from a recommendation from the House of Commons Communities and Local Government Committee. It recommended that the Government amend the implied terms in the park home owner's agreement to provide that, before selling his or her park home, the seller must advise the prospective buyer in writing to seek qualified legal assistance to help with transferring and explaining an assignment of the park home and, in addition, that all purchasers must confirm in writing to the seller and the site owner that they have received and read the written statement and site rules. So, there is a clause in the Bill that covers that. It may well be that we might want to consider that as an amendment to strengthen the provision in terms of the veto, but also to give assurance to site owners that not only will they get their compensation, but the prospective purchaser will be fully aware of the site rules before the sale is concluded.

[249] **Lindsay Whittle:** It is for the site owners to ensure that any new residents comply with rules and regulations and, if they do not, they have the powers to take action.

[250] **Peter Black:** Absolutely. That is what the rules are there for. We also have provisions in there in relation to the rules that the residents should have a say if those rules are changed. We have tried to make sure that that is part of that. So, if you wanted to consider an amendment along those lines, that would most probably strengthen the provision and give some assurance to the site owners that new purchasers are aware of the site rules and have read them.

[251] **Lindsay Whittle:** We need to give assurance to responsible site owners. I am not too worried about the irresponsible ones, to be honest.

[252] **Ms Roberts:** To clarify, Peter's reference earlier to 'compensation' should have been to 'commission'.

[253] **Peter Black:** I am sorry, I meant commission.

[254] **Ann Jones:** Thanks. Gwyn has the last question, on the management of sites.

[255] **Gwyn R. Price:** Good morning to you all. Do you consider that both the code of practice under section 28 and the management regulations under section 29 are required? If so, is the Bill sufficiently clear as to the purpose of each?

[256] **Peter Black:** I listened closely to the evidence on this, and we revisited both of these sections. Essentially, when we drafted the Bill, we carried forward a number of provisions from the Housing Act 2004, which provides both for a code of practice and for management regulations. Further investigation found that the reason why there is a code of practice in there was because that applies, and Helen will correct me if I am wrong, to properties owned by universities, which are not subject to management regulations in the same way. That would clearly not be an appropriate carry-forward in this case, so I am happy to consider an amendment to remove section 28 and leave section 29 in relation to the management regulations in the Bill, which I think would clarify things and ensure that everyone understands where they stand.

[257] **Gwyn R. Price:** Yes, I think that that would be a good idea for the local authorities, and site owners have flagged up that there would be duplication and that, perhaps, getting rid of one would suffice.

[258] **Peter Black:** Of course, the code of practice was not mandatory, but it related to a specific issue in relation to HMOs that does not apply in this case. So, I would be quite happy to remove that particular section.

[259] **Ann Jones:** Does anyone else have a question?

[260] **Mark Isherwood:** This goes back to question 5, which related to the danger that site owners might seek to change the use of sites from home parks to holiday parks. The scope of the legislation covers home parks or parks that are home parks and holiday parks, but not holiday parks. For the record, can you restate why you determined that the scope should exclude holiday parks, even where they are being used as people's primary residences?

[261] **Peter Black:** The Bill that is in front of you relates solely to regulated sites under the Mobile Homes Act 1983, which does not refer to holiday parks. Holiday parks are referred to in the 1960 Act, and are regulated on that basis. So, the whole basis of this legislation was around the Mobile Homes Act 1983 and the regulated sites in that regard. That is why holiday sites are not included in this Bill.

[262] **Mark Isherwood:** Could you have decided to broaden this beyond the 1983 legislation?

[263] **Peter Black:** I might have been able to do that, but, of course, the scope of the submission before the ballot would not allow me to do that.

[264] **Mark Isherwood:** I know the feeling.

[265] **Kirsty Williams:** I would just like to put on record that I think mobile home owners welcome the fact that this Bill addresses their concerns, and does not put them under the same legislation as holiday park home owners. It is of great concern to them when they are linked in that way, and, therefore, I think that the scope of the Bill is appropriate and is supported by those people. Mark, you should stick your name in the ballot and do something about the holiday parks.

[266] **Ann Jones:** I was just going to say that I think that there is a big difference between those who reside on a holiday park for the allocated licensed time and park home owners. I think Peter is right in terms of the scope of his Bill, and I would reinforce what Kirsty has said.

[267] **Peter Black:** I would add, of course, that the Bill does deal with mixed sites, so, where you have a site that is part-holiday park and part-residential, the Bill will enable the licensing of the residential part of that site.

[268] **Ann Jones:** I see that there no more questions. Thank you, Peter, for coming back and clarifying the points that committee has raised. As I say, we will go away, deliberate and make our report. Obviously, you will get a copy of that.

[269] **Peter Black:** I look forward to it.

[270] **Ann Jones:** We look forward to Stage 2. I do not think that anyone will not vote this through at Stage 1. We might have some issues that we want to look at, but I am sure that you will be looking at Stage 2 shortly. Thank you for coming and giving evidence. Could we have that note, Helen? I am sorry to push and put pressure on you.

[271] **Ms Roberts:** That is fine.

10.57 a.m.

**Cynnig o dan Reol Sefydlog Rhif 17.42 i Benderfynu Gwahardd y Cyhoedd o'r
Cyfarfod
Motion under Standing Order No. 17.42 to Resolve to Exclude the Public from
the Meeting**

[272] **Ann Jones:** I move that

the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order No. 17.42(vi).

[273] I see that Members are in agreement.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 10.57 a.m.
The public part of the meeting ended at 10.57 a.m.*