



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

Y Pwyllgor Plant a Phobl Ifanc **The Children and Young People Committee**

Dydd Iau, 25 Ebrill 2013
Thursday, 25 April 2013

Cynnwys **Contents**

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introductions, Apologies and Substitutions

Bil Gwasanaethau Cymdeithasol a Llesiant (Cymru)—Sesiwn Dystiolaeth Cyfnod 1
Social Services and Well-being (Wales) Bill—Stage 1 Evidence Session

Bil Gwasanaethau Cymdeithasol a Llesiant (Cymru)—Sesiwn Graffu Cyfnod 1
Social Services and Well-being (Wales) Bill—Stage 1 Scrutiny Session

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

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

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

Angela Burns

Keith Davies

Ceidwadwyr Cymreig

Welsh Conservatives

Llafur

Labour

Rebecca Evans	Llafur Labour
Bethan Jenkins	Plaid Cymru The Party of Wales
Lynne Neagle	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
David Rees	Llafur Labour
Aled Roberts	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Simon Thomas	Plaid Cymru The Party of Wales

**Eraill yn bresennol
Others in attendance**

Albert Heaney	Cyfarwyddwr Gwasanaethau Cymdeithasol, Llywodraeth Cymru Director of Social Services, Welsh Government
Phil Evans	Cyfarwyddwr Gwasanaethau Cymdeithasol, Gwasanaethau Cymdeithasol Cyngor Bro Morgannwg, a Llywydd Cymdeithas Cyfarwyddwyr Gwasanaethau Cymdeithasol Cymru Director of Social Services, Vale of Glamorgan Council Social Services, and President of ADSS Cymru
Amanda Lewis	Pennaeth Gwasanaethau Plant, Cyngor Sir Powys, a Chadeirydd Penaethiaid Gwasanaethau Plant Cymru Gyfan, Cymdeithas Cyfarwyddwyr Gwasanaethau Cymdeithasol Cymru Head of Children's Services, Powys County Council, and Chair of the All Wales Heads of Children's Services, ADSS Cymru
Mike Lubienski	Uwch-gyfreithiwr, Tim Gofal Cymdeithasol, Llywodraeth Cymru Senior Lawyer, Social Care Team, Welsh Government
Martyn Palfreman	Pennaeth y Gyfarwyddiaeth Gwasanaethau Cymdeithasol, Cymdeithas Llywodraeth Leol Cymru Head of Social Services Directorate, Welsh Local Government Association
Julie Rogers	Dirprwy Gyfarwyddwraig yr Is-adran Deddfwriaeth a Polisi Gwasanaethau Cymdeithasol Deputy Director, Social Services Legislation and Policy Division, Welsh Government
Gwenda Thomas	Aelod Cynulliad, Llafur (Y Dirprwy Weinidog Gwasanaethau Cymdeithasol) Assembly Member, Labour (The Deputy Minister for Social Services)
Emily Warren	Arweinydd Polisi, Iechyd a Gwasanaethau Cymdeithasol, Cymdeithas Llywodraeth Leol Cymru Policy Lead, Health and Social Services, Welsh Local Government Association

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

Ffion Emyr Bourton	Dirprwy Glerc Deputy Clerk
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Sian Thomas Gwasanaeth Ymchwil
Research Service
Claire Morris Clerc
Clerk

*Dechreuodd y cyfarfod am 12.50 p.m.
The meeting began at 12.50 p.m.*

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introductions, Apologies and Substitutions

[1] **Lynne Neagle:** Welcome back everyone to our second session of the Children and Young People Committee this afternoon where we are continuing to take evidence on the Social Services and Well-being (Wales) Bill.

*Nid oes recordiad ar gael o'r cyfarfod rhwng 12.51 p.m. a 12.52 p.m.
No recording is available of the meeting between 12.51 p.m. and 12.52 p.m.*

Bil Gwasanaethau Cymdeithasol a Llesiant (Cymru)—Sesiwn Dystiolaeth Cyfnod 1 Social Services and Well-being (Wales) Bill—Stage 1 Evidence Session

[2] **Lynne Neagle:** We will move on now to item 2, where we are going to take evidence from the Welsh Local Government Association and the Association of Directors of Social Services in Wales. I welcome Martyn Palfreman, head of social services directorate at the WLGA; Emily Warren, policy officer, health and social services, WLGA; Phil Evans, who is the director of social services at Vale of Glamorgan Council and president of ADSS Cymru; and, Amanda Lewis, who is head of children's services at Powys County Council and chair of the all-Wales heads of children's services. I thank the witnesses for the written submissions that Members have received. Members will have read the evidence, so if you are happy, we will just go straight into questions because we have a lot of ground to cover. I will begin.

[3] In written evidence, ADSS Cymru said that there was a need for further consideration of how systems for children and adults will align, and that the Bill as it stands appears to pay little attention to the complex interface between needs, problems, risk, capacity and outcomes. What changes do you think there should be to the Bill in order to address your concerns in this area?

[4] **Mr Evans:** I will make a start, Chair. We should commend the Bill in terms of the fact that it is very important within social services that the family context becomes central, and it is exactly right that there should be a very close alignment between children and adult services in order to achieve that. We have paid very careful attention to the written evidence that has been submitted to the committee and there is a strong consensus across agencies that represent children that, in some respects, there has been a loss of focus on children's issues. Amanda might want to expand on that.

[5] **Ms Lewis:** Clearly, there are—*[Inaudible.]*—and for young people in comparison to the delivery model for adults. Issues in relation to the developmental needs of children and the assessment processes that we—*[Inaudible.]*—what might be in the child's—*[Inaudible.]*—brought up within their family setting is of significance to the provision of all children's services. One of the core elements for us is the principle of the best interest decision, and there is a concern—*[Inaudible.]*—issue of decision-making within children's social services is indeed very complex. *[Inaudible.]* That concern around that dilution is something we would want to raise.

[6] **Mr Evans:** Perhaps we could give you some specific examples in that regard. We—*[Inaudible.]*—in terms of the solutions that we find. This is not England, but there has been—

[7] **Lynne Neagle:** I am very sorry, but may I just stop you there? *[Inaudible.]*

*Gohiriwyd y cyfarfod rhwng 12.57 p.m. ac 1.08 p.m.
The meeting adjourned between 12.57 p.m. and 1.08 p.m.*

[8] **Lynne Neagle:** We shall restart. I apologise to everyone for the unexpected disruption. Let us pick up where we left off, with Phil answering my first question.

[9] **Mr Evans:** As I was saying, it is useful to rehearse the fact that this is probably the most comprehensive social services Bill that we have ever had and, therefore, to pick up on some of the challenges in trying to align children and adult services systems. Committee, this is quite an old debate, and I have no wish to go back over history and rehearse the issues of the Seebohm reforms of social services, which brought together unified social services directorates from their component parts, but there were some very serious debates at that time about how far you could have generic systems and generic workers, and I think that we took a long time to reach some conclusions in that regard.

[10] One of the dilemmas for me is around the source of referrals. In children's services, we find that something like 36% of referrals are from the police. They are often in relation to safeguarding issues. That is in complete contrast to the source of referrals for adults, where what happens is that they tend to be either self-referrals or referrals by carers in relation to physical needs. So, it feels like a very different system operating from the very beginning.

[11] There are very serious differences in relation to the responsibilities that fall to different agencies. In children's services, the primary alignment through school age is very much with education. Obviously, with adults, the primary alignment is very much with the health service. That, too, brings a different set of responsibilities to those agencies in terms of how they contribute to the welfare of individuals. I feel that the Bill is struggling to make these distinctions and that is why there seems to be quite a lot of confusion about the issue of repeals, because it relates to legislation that already exists, and we are not sure how far that is transmitted into the current Bill.

[12] One of the areas that we particularly want to talk about, not necessarily now, but during the course of our conversation this afternoon, is transitions, because we think that this Bill should deliver better transitions for young people who are aged between 16 and 24. There is probably a missed opportunity here, and I think that it is because of that confusion about how you bring two systems together.

[13] **Lynne Neagle:** Before I bring in other Members, may I make a plea, because we have lost some time and we have to start the Deputy Minister's session on time, for succinct questions from Members and for witnesses to be as succinct as possible, please? I call Keith Davies.

[14] **Keith Davies:** Good afternoon.

[15] Rwy'n mynd i siarad yn Gymraeg. A allwch ddweud wrthym pam, yn eich papur, rydych yn dweud bod angen nodyn clir yn y Bil am beth yw rôl gwasanaethau cymdeithasol yn gwella llesiant? A allwch esbonio hynny i ni?

[16] I will speak in Welsh. Can you tell us why, in your paper, you say that the role of social services in improving wellbeing needs to be demarcated in the Bill? Can you please explain that to us?

[17] **Mr Palfreman:** I am sorry, Chair. Can the question be repeated? The technology is not currently working for me.

[18] **Keith Davies:** I will repeat it in English, so you can take the headset off.

[19] **Mr Palfreman:** Apologies for that

[20] **Keith Davies:** In your paper, you talk about how we have to make sure that the Bill outlines what your role, as social services, is in improving wellbeing.

[21] **Mr Palfreman:** We very much welcome the emphasis in the Bill on wellbeing. We think that there is a recognition that the improvement of outcomes for individuals in need depends on a whole-public-sector approach and not solely on social services. So, we welcome the principle of wellbeing within the Bill. As our written evidence suggested, we would certainly be looking for a clearer demarcation or definition of what is meant by wellbeing and, within that, as your question suggests, that there is a clear demarcation of what social services' responsibility is within that. Without that, the risk is that the onus and the burden for providing the range of wellbeing services will be laid at the door of social services, with the attendant demand repercussions and financial implications. So, we call for a clear definition of what is meant by wellbeing and, within the Bill, a clearer articulation of what the particular duties are, not just on social services and local government, but the range of other agencies that will necessarily be involved in delivering wellbeing services.

[22] **Mr Evans:** I will make two additional points, quickly. First, there is a risk of a disjointed approach to wellbeing, given that there are other pieces of legislation currently before the Senedd, and we are not sure about the alignment between those. It would be useful to say that I am not sure that the Deputy Minister's recent statement about wellbeing takes us much further forward in resolving some of the questions that have not been answered on the face of the Bill.

[23] **Ms Warren:** Quickly, from our perspective, we have asked for two things in our written evidence. The first is for committee members to consider whether wellbeing, as it is framed in the Bill, is right, given that we now know that it will be in the sustainable development Bill, a potential public health Bill and potentially as part of a domestic violence Bill. The second thing is that, in terms of the contribution of social services to wellbeing, we have asked for a duty of co-ordination to be placed on social services cabinet members and directors and for a similar duty in health to ensure that there is national co-ordination and leadership, otherwise it will become everybody's business, which, as we know, often means nobody's business.

[24] **Rebecca Evans:** To move on to access to services, in your opening remarks, you talked about the best-interest principle. We heard evidence from the children's commissioner this morning, and he expressed serious concerns about sections 13 and 14 of the Bill that, in certain circumstances, would allow children and their parents to refuse an assessment of their needs. He said that that was contrary to that best-interest principle. Is that a concern that you share?

1.15 p.m.

[25] **Ms Lewis:** From a children's social services perspective, the issue is complex. At the heart of what we do is ensuring that the best interests of the child are at the heart of that delivery. In order to consider what is in the child's best interests, we need to closely and effectively listen, to hear the views of the child and to understand that child's needs within the context of the family. Children's social services are geared towards those children who, at the

moment, are in need, who are in need of protection and who may be at risk of significant harm. I think that there is a balance to be struck in terms of the role that the state plays. There are many other agencies, through the third sector and through a broader commissioning approach, that may sometimes be better placed to deliver services to children and young people. In many of the delivery models across Wales that are in progress and are delivering, children and young people and their families can step up and step down, as we call it. There may be other agencies that are better placed to deliver those services before you come under the umbrella of statutory social services, because many agencies and families have some concern about the intervention of children's social services, given all the risks that the powers that we have, through legislation, mean for them. It is about an incremental approach. The concern with children's services directly intervening on the basis of the rights of a child is that it can, potentially, overlook what it means for that child to be brought up within their family, which is a fundamental principle that we are working to.

[26] I hope that I have been able to explain the sort of complexity that sits around that issue. While we share and understand the need to focus on the needs and the best interests of the child, we need to be able to see that within that wider family context, depending upon the issues that we are dealing with.

[27] **Mr Palfreman:** Members alluded to the whole-system approach, which links with the previous question about wellbeing. The evidence from initiatives in place across Wales tells us that that kind of cross-sector, multi-agency, holistic approach is what really delivers the outcomes that we are all seeking for children. I will just draw very briefly the attention of the committee to a conference that the Social Services Improvement Agency is hosting next week. I think that we have around 100 delegates attending the conference, which will focus on transformation and children's services and aim to bring together experience from within Wales, but also more broadly within the UK, around transformed models of service that deliver those outcomes for children. I would be more than happy to leave the programme for the information of the committee and, after the event, to provide further details on some of the outcomes.

[28] **Mr Evans:** This also raises a fundamental issue that this committee may well want to consider. We have a great deal of respect for the children's commissioner and we think that he has made a valuable contribution to this debate in introducing the issue of a rights-based approach. I think that what we suggest is that there are competing discourses here. Having a rights-based approach is perfectly proper within legislation, but it can sometimes lead to a very legalistic response and redress through courts, which we are not sure is necessarily what the children's commissioner will be advocating. We have to balance that against the need also for issues around professional judgment and partnership with parents. Inevitably, we are involved in competing rights and responsibilities. Sometimes, those things are best resolved by negotiation with families, in order to make sure that you get access and can begin the dialogue.

[29] **Aled Roberts:** O ran lles pennaf, a ydych yn deall pam y mae sail wahanol i ymyrraeth o ran plant o dan 16 oed a'r rheini sy'n 16 neu 17 oed, oherwydd mae trothwy ychwanegol o ran y rhai sy'n 16 neu 17 oed? **Aled Roberts:** In terms of best interest, do you understand why there is a different basis for intervention for children under 16 and those who are 16 or 17 years old, because there is an additional threshold for those who are 16 or 17 years old?

[30] **Lynne Neagle:** Do you want the question repeated?

[31] **Mr Palfreman:** Yes, I am sorry.

[32] **Aled Roberts:** On the best interests test, there is a different test applied to 16 and 17-

year-olds compared with those under 16. What is your understanding of the justification for the different approach? Do you believe that there are grounds for a different approach for 16 and 17-year-olds?

[33] **Mr Evans:** In many respects, this might be the opportunity to say that this is a larger debate about transitions from adolescence into adulthood. It is right to make some distinctions at that point. The particular concern that has been raised is around the issue of charging 16 and 17-year olds—

[34] **Aled Roberts:** I am not talking about charging. It is the right of local authorities to override. The test for 16 and 17-year-olds is different to the test for those under 16.

[35] **Mr Evans:** In terms of requesting an assessment, specifically.

[36] **Aled Roberts:** There is actually provision that the local authority can only override if there is a lack of capacity for 16 and 17-year-olds, whereas it can override for those under 16.

[37] **Mr Evans:** Children's legislation has always introduced this principle that you can differentiate. We differentiate in terms of criminal responsibility, for example, with 10-year-olds. It is right that the legislation has proper cognisance of developmental stages. As children develop the opportunities to exercise autonomy, it is right that we should reflect that properly within legislation. Some differentiation is proper for 16 and 17-year-olds, but I would say that it needs to be fitted within a wider framework of how we respond to the needs of 16 to 24-year-olds.

[38] **Lynne Neagle:** Does the WLGA have a comment on this?

[39] **Ms Warren:** Briefly, in terms of the whole discourse around the rights-of-the-child agenda, for a long time, certainly in my role, we have worked really closely with colleagues, and the Children's Commissioner for Wales has a good reputation on advancing the rights of the child. Certainly, the children's commissioner is keen to see that the Bill preserves and enhances that. As part of our previous evidence we said that, in a number of areas, we did not feel that there has been an open discourse about what the Bill wants to achieve. We would support his view that there needs to be more discussion about how we frame the rights of the child in the context of this legislation to make sure that it works for the interests of the children and for the officers of the statutory authorities that have to make those decisions. We would welcome that discussion with Welsh Government.

[40] **Lynne Neagle:** Rebecca Evans, do you want to ask the second question?

[41] **Rebecca Evans:** Yes, please. We have had concerns expressed to us that there is insufficient clarity as to how the definition of a child in need under section 17 of the Children Act 1989 would interface with the provisions in the Bill, and that existing local authority duties might be diluted. What is your response to that?

[42] **Ms Lewis:** The term 'children in need' within the social care professional environment and within the wider sector is very well understood. It clearly differentiates when children's social services need to intervene, and what our responsibilities are. As we spoke about earlier, in terms of some of the transformational worker models, if families can move through the system so that they are able to receive services at the earliest point of need in order to prevent them entering into that statutory arena, that would be our preferred approach. Concern around the dilution or the change also focuses on those children who have a disability, because it is clear within the current legislation that we are working to that children with a disability are defined as children in need, and therefore have a statutory right to a range of services. There are issues that need to be clarified and strengthened if we lose

that focus around the distinct group of children in need.

[43] **Mr Palfreman:** A general point that was made in our written evidence is that one of the tests that we probably all agree could be applied to the Bill is: does it simplify existing legislation? That is one of the stated aims of the Bill. As alluded to by Amanda, the real risk is that, at best, the provisions within the Bill do not advance the agenda very far or facilitate or enable the kind of changes that we are looking for. Even worse, it risks diluting it and causing confusion, which is completely the reverse of the objective intended by the Bill. That is a very real concern.

[44] **Bethan Jenkins:** Mae gennyf gwestiwn am y ffioedd; rydych wedi crybwyll hynny eisoes. O dan ba amgylchiadau y byddech yn codi ffioedd ar bobl ifanc 16 ac 17 oed am wasanaethau awdurdodau lleol? Yn ôl beth rwy'n ei ddeall o'r Bil, bydd llawer o'r penderfyniadau ynglŷn â ffioedd yn cael eu gwneud drwy reoliadau. Felly, nid yw'r manylion am yr hyn sy'n mynd i ddigwydd gennym yn awr. Beth yw eich barn am hynny?

Bethan Jenkins: I have a question about the fees, which you mentioned earlier. Under what circumstances would you envisage charging 16 and 17-year-old young people for local authority services? From my understanding of the Bill, many of the decisions regarding the level of fees will be made through regulations. Therefore, at the moment we do not have the details of what is going to happen. What is your view on that?

[45] **Mr Evans:** We do not think that it would be appropriate to charge the vulnerable young people who come to our attention at 16 and 17. By and large, they come to our attention because they do not have any resources and they need assistance immediately. They often come to us when they are in crisis, so I do not think that it would be appropriate to charge them in those circumstances. It almost strikes me as being against the ethos of the Bill.

[46] **Bethan Jenkins:** Why do you think that it is in there?

[47] **Mr Evans:** It feels to me as if there is no money to fund new models of service within local government. We know that 17 local authorities in the last financial year had overspent, many of them because of children's services costs. If we want new models of service, it is possible to argue that, if you are not going to deal with how you pay for care, charging is a way of generating income to enable those changes to occur. That may be the logic that is emerging. We would have serious concerns that that charging regime undermines what the Bill intends to provide, which is early prevention and early access to information so that people can make their own choices.

[48] **Mr Palfreman:** To echo what Phil said, the principle of charging as possible income generation to meet the costs of the changes required under the Bill is something that we would have very severe reservations about. It links with the more general conversation that we have sought with Welsh Government officials about the assertion that the Bill in its totality is cost-neutral. We have a fair deal of evidence—we have committed to provide further evidence as we get it to the Health and Social Care Committee—that specific elements of the Bill, in relation to children and more generally, will demonstrably incur additional costs on local authorities. The debate that we are calling for is a debate with the Welsh Government about how those additional costs are met. Charging would certainly not be our preferred route for that.

[49] **Bethan Jenkins:** Have you broached that subject with the Welsh Government? It is very worrying if you are saying implicitly that the Welsh Government would be charging so that it could cope with the mechanisms that would enable this change to take place. Is that something that you have raised with it, or is it something that you think this committee can address?

[50] **Ms Warren:** We have called from the outset for an open and honest debate about funding the Bill. We recognise that there are efficiency savings and that there are things that we as local government can do better, but we have said that it is not cost-neutral. We have had no conversations with the Welsh Government about the charging provisions in the Bill; we were not aware that they would be in the Bill as they are. There is concern about this from third sector organisations that have approached us about it. As it stands, our line has to be that, while it is right that authorities have certain powers to raise revenue, we are concerned that the Bill is a way to raise the missing revenue to fund the provisions. We would welcome further consideration by the committee on this issue.

[51] **Simon Thomas:** To follow on from that, we had a debate here last week on the response to the Dilnot report, social care charges and so forth. The Deputy Minister in her response to me in that debate made it very clear that charging in this Bill was seen as addressing adult care in that respect. Clearly, you have not had that discussion with her, which is rather concerning. However, moving down the line to the focus of this committee, which is the 16 and 17-year-olds, is it the case that they are included in this, simply by virtue of there being an all-encompassing bells and whistles plan, preparing for a possible future adult social care charging model?

1.30 p.m.

[52] **Mr Evans:** I would not want to think that it is a conspiracy—

[53] **Simon Thomas:** It is not a conspiracy; it is on the face of the Bill. [*Laughter.*]

[54] **Mr Evans:** I think that the concern within Welsh Government is that it started off with the need for the provision of information and advice.

[55] **Simon Thomas:** Do you agree with the children's commissioner that you cannot charge 16 and 17-year-olds for advice?

[56] **Mr Evans:** We would also argue that it is self-defeating. If that advice and information is not available in a timely way, young people would end up in crisis. Therefore, we would incur additional cost in relation to that. So, it strikes me as being against the overall ethos of the Bill.

[57] **Ms Warren:** I would like to give an example. The Childcare Act 2006 placed a statutory duty around the provision of family information service: every local authority must do it. A specific grant is given to local authorities to run it. As part of the work we have done to model the costs of the Bill, we have looked at the costs of running such services against the grant provided. As you would expect, there is a difference. We wanted to evidence that there will be a cost to these services, but if this is about prevention and increasing access, they need to be free at the point of access and resourced appropriately.

[58] **Aled Roberts:** Rwyf eisiau symud ymlaen at Ran 6 y Bil. Rydym yn ceisio gweld a oes peth o'r drafftio yn y Bil hwyrach yn mynd yn erbyn rhai o egwyddorion y Llywodraeth. Mae pryderon wedi eu mynegi gan y comisiynydd plant fod y Bil ei hun, hwyrach, yn gwanhau sefyllfa plant mewn gofal, a'r rhai sy'n cael llety, ar hyn o bryd.

Aled Roberts: I would like to move on to Part 6 of the Bill. We are endeavouring to discover whether the drafting within the Bill contravenes some of the Government's principles. Concerns have been expressed by the children's commissioner that the Bill itself could weaken the present situation of looked-after and accommodated children. Do you agree with that?

[59] **Ms Lewis:** The point that has been made is around the potential drawing together of a range of different legislative frameworks and legal Acts that we are working to, without providing crisp, clear clarity. We need to go back to the fundamental point around the best-interest decision for children. That includes our responsibilities for looked-after children. The Bill is yet to strengthen existing legislation, moving us to a place of improved outcomes for children and young people. In terms of our current practice and the work that we are trying to do, through the WLGA, the ADSS, Social Services Improvement Agency and our partners, we are striving to do that as part of our transformational work to improve the situation for looked-after children. So, there is a question of what the added value would be. We are already very aware of the increasing numbers of looked-after children in some local authority areas and the costs associated with that. We have jointly commissioned a piece of research on the differences in terms of looked-after children, for example why there are such differences in terms of looked-after children across areas or local authorities with similar profiles of need. Once that has been finalised and completed, we would welcome further discussion on that. However, that demonstrates our collective commitment to addressing some of the areas around improving outcomes for looked-after children. It is part of what we are already committing to do, which would not necessarily be enhanced through legislation.

[60] **Aled Roberts:** There is written evidence from BAAF Cymru, and from some academics at Cardiff University, with regard to some of the terminology applied. You will be aware that there are five categories of care leavers. I think that it is recognised that it is an attempt to clarify responsibilities in terms of different categories under different legislation. Unfortunately, the written evidence suggests that some of the terminology used is more akin to what might be expected within the prison service rather than within the care regime. Do you have any views on that?

[61] **Mr Evans:** I think it is a point that was also made by the NSPCC and it is a very valid point. We do not think it is a simplification because you still have this multiplicity of categories that children are placed within. It is very pejorative terminology that has been introduced. Again, it is one of these areas where the Bill does not reflect best practice; many local authorities are now moving towards 15-plus teams. We need to take away this issue that care leavers are somehow very distinctive from other children in need, and we do look for a much more integrated approach to how you meet their needs. I do not think that the Bill takes us forward very much in that regard.

[62] **Mr Palfreman:** To comment briefly, the policy structure and the legislative structure in relation to children's services in Wales is detailed and complex and the recommendations from the Law Commission, which talked about the opportunity in the Bill of bringing together and consolidating existing legislation, explicitly referred to adult services. The point is being made in the discussion, namely that to do that for children's services is incredibly difficult and complex, and the risk, as we have already mentioned, is that in doing so, you dilute and confuse what is already on the statute book.

[63] **Ms Lewis:** I will make a small point. We need to have at the heart of our planning, shaping and delivery of services, the views, wishes and feelings of children and young people. Children and young people across Wales have been quite clear in their dialogue with the children's commissioner's office, and in local authority areas, that the term 'leaving care' is not, in itself, a helpful term, hence the shift, as Phil has already indicated. They would be expressing very strong views themselves in terms of the language used to describe what are vital services to them.

[64] **Angela Burns:** There has been a lot of talk about the powers in the Bill to merge adult and children's safeguarding boards at a local level, and you have expressed your views. Could you expand on that a little bit?

[65] **Ms Warren:** If I could begin, we have said very clearly in our evidence that we do not understand the rationale for that. I am not aware of a similar model across the UK. What we would put to you as a committee is what value does that provision deliver in the Bill? The Deputy Minister has said that she is not minded to force the merger until, at such point in the future, any risks are mitigated. You have heard today that we, and others, fear that there is already a dilution of the children's perspective. Very simply, child protection and the protection of vulnerable adults are very different things, involving very different agencies. So, if you think about the mechanics of having a joint board, your membership would be huge and the agenda would be difficult. We remain to be convinced as to why this in the Bill, really.

[66] **Angela Burns:** Could I turn it on its head and ask you the question another way around? Given that there seems to be a run of opinion that says that children's safeguarding is actually very good, is it not a good idea to merge the two in an effort to drive up the standards in the care of vulnerable adults, and would it not actually be of benefit to vulnerable adults to have the same level of care and attention and duty of safeguarding that we currently afford to children, which would surely therefore be a positive step?

[67] **Ms Warren:** We absolutely concur with what you are saying. The point is that if you want to use legislation, both can be on a statutory footing. What we are not convinced about is putting them together in one board. That is the point that we are trying to make.

[68] **Mr Evans:** As a chair, both of an area adult protection committee and a local safeguarding children's board, the way the two work is very different, and that is primarily due to history—one has been on a legislative basis far longer than the other. They are at different stages of development and it would be very difficult to merge them at this point without one of the two agendas being somewhat lost. That is not an argument against a unified approach to safeguarding. Within my own local authority, we have a safeguarding unit that has staff who deal with both adult and children's services, and it is right that they should come together. They do not cross boundaries, but they work very closely together and have an understanding of the way in which different systems work and they can think about how to bring about improvements. Therefore, both systems can learn from each other. They are currently at such different stages of development and the adult agenda is going to be so big as regards statutory responsibility that there is a risk that you would have meetings involving considerable numbers of people with quite confused agendas, and therefore there would be a loss of momentum.

[69] **Angela Burns:** It is somewhat tangential but I cannot think of anywhere else I can slot this question in. In this Bill, there is a two-line sentence that places a duty or requests you to provide a befriending service to those who are just leaving care. First, could you explain what a 'befriending service' is? There is no detail on that. Secondly, do you have that duty or responsibility now? Thirdly, do you envisage that becoming something a bit more tangible? It is just two lines.

[70] **Lynne Neagle:** Could your answers be very brief, please, because I want to move on to adoption.

[71] **Ms Lewis:** There is a range of support services and best practice provision for young people who are leaving our care. While the local authority has a statutory duty to deliver a range of those services, through good partnership working and the collaborative approach with different agencies within different local authority boundary areas, a range of different provision is in place. Some of those could be named as befriending services. It is about being alongside a young person and being available. Some areas might call it a kind of mentoring support. As regards what is currently there, it is not necessarily a term that would describe all provision, but because of the nature of the relationships for 16, 17, 18, 19 and 20-year-olds,

the people who they would most like to support them are sometimes described in different ways.

[72] **David Rees:** We have already discussed collaboration and the adoption aspect of section 151 provides the Minister with a power to force bodies to work together. What are your views on that? Is it a good thing in reality? That is an interesting one for the WLGA. [*Laughter.*]

[73] **Ms Warren:** I will be diplomatic on this. We welcome what is in the Bill in relation to adoption. As you will all know, there has been a significant move towards regional adoption services. This puts that good practice on a statutory footing and suggests that collaboration in adoption is the way forward.

[74] **Mr Evans:** I suppose that we live with Ministers' power to direct, but I think that on this occasion it would be redundant, given the fact that we are already committed to regional working, and those steps are being taken with a great deal of speed. Therefore, by the time that the Bill becomes effective, I think that we will have already established a national adoption service within which all local authorities would be obliged to work together.

[75] **Aled Roberts:** It appeared to me this morning that the voluntary sector had been brought into this model on the promise that children's services retained within local authorities would work more effectively if adoption services remained within local government. They were not able to tell us whether the five regional collaborations were based on the same footprint as those for the social services collaboratives as a whole. Can you confirm whether that is the case?

[76] **Mr Palfreman:** I will just say briefly that they align. There are four social services collaboratives at the moment, but I think, and Phil may correct me on this, that in south-east Wales there are two proposed partnerships for adoption. So, while they are not the same, there is coterminosity.

1.45 p.m.

[77] **Angela Burns:** I do not understand why there are five of these adoption consortia when we have heard evidence that clearly states that, when providing adoption services, one of the key areas is the link in with education. We have four education consortia and you have just confirmed that there are four social services consortia. There is a potential change happening, perhaps through local authorities. We have all these different footprints—I cannot remember how many health boards—and it keeps changing, so how do you think that this collaboration agenda will work?

[78] **Mr Palfreman:** In principle, we have been clear right from the time of our response to the White Paper that collaboration for particular service areas needs to be based on a sound financial business case about what will improve services. We would look to retain that flexibility. We certainly need to look at how we build the links with other consortia and work across collaborative areas in relation to social services, but we have been consistent all the way through in that we need to retain a degree of flexibility that enables us to collaborate in particular service areas around boundaries that make sense. To move towards a completely consistent pattern would be fraught with difficulties in itself.

[79] **Mr Evans:** We have gone down a very rocky road to arrive at this solution, but sometimes it is easy to underestimate how radical a proposal this is. The proposal that has been put forward by ADSS Cymru is to create a national adoption service. That is fundamentally the brief that was given to us by the Deputy Minister, and it is the one that we engaged with the expert reference group to produce. It was almost a given. So, this is a

national adoption service that is delivered within different areas. There will be lead authorities within each of the areas acting on behalf of each local authority. To that extent, it is configured in this way because those were seen as being on the right scale.

[80] If I can talk about my own area, which is the south-east Wales improvement collaborative, it would not make sense, from our point of view, to try to operate a national service that brings together 10 local authorities. That is not a scale that is manageable. Five local authorities within the Gwent region makes a great deal of sense and the west of the collaborative will come together, as well. However, we are tasked with delivering a national service to national standards, within a national performance framework, so the issue of the geographical boundaries is the one that make sense for adoption. That is the path that we have taken. Without pre-empting that decision, it was taken purely around issues of what is best for the adoption service.

[81] **Angela Burns:** To be frank, I do not understand your answer. We are looking at collaboration on different footprints, in different services that have the same kind of pressures that you have—in management and financial terms. In my limited experience, as an Assembly Member for the last five, six, seven years—however long it is—all the problems that come across my desk that relate to children are inevitably as the result of different departments in different sections of different consortia or local authorities simply not communicating. The whole point of this adoption service was to provide a national framework that would enable that communication, which is woeful in some areas, to move up a gear. I fail to see how we are going to achieve that if you do not tie education tightly into adoption services with social care supporting it. This will be another go around the mulberry bush with endless consortia; we have to crack this. I will be asking the Deputy Minister this in half an hour as well. I fear that it is a fundamental flaw.

[82] **Lynne Neagle:** Was your point on this issue, Simon?

[83] **Simon Thomas:** Yes, just to tidy up some loose ends. You have explained very well why it might be a national service, but the Bill does not provide for a national service; it provides a rather clumsy collaborative power to direct co-operation. Is that sufficient to deliver what you have just outlined?

[84] **Lynne Neagle:** I will ask Emily to respond first.

[85] **Ms Warren:** I want to address some of your concerns, Angela. We echo what you are saying. There are people who live and breathe the collaborative agenda every day and have to try to navigate it. We have a great deal of sympathy with your perspective.

[86] There are two things. First, this is the beginning of a move to a national adoption service, and you have the framework in front of you. We are at the starting point. It is not set in stone. It will be subject to a lot of negotiation and change as we move towards implementation. Secondly, and again, in terms of reassurance, the five areas that you have do align with the LHB boundaries, the improvement collaboratives within social services, and the education consortia. We might need to make stronger in the paper that you have before you how we intend to strengthen those links and the interface with education. I would be more than happy to do that and bring that paper back, if that would help.

[87] **Simon Thomas:** I would still like to know whether the Bill is strong enough to deliver it. Is this the legislative framework? I know what you are doing in practical terms, but we are looking at the Bill today; so, is this Bill going to deliver it?

[88] **Ms Warren:** The national adoption service was a commitment made by the Welsh Government. We were not aware of it and had not had any kind of discussions up to the point

that it was published. Since then, we have tried to work with it to come up with a model that is workable. If the intention of the Welsh Government is to prescribe a national service, this Bill does not do it. However, that is a question that I would ask the Welsh Government, rather than us.

[89] **Simon Thomas:** Were you consulted on the legislative framework, or have you only been consulted on the practical steps of delivery, if I can put it that way?

[90] **Ms Warren:** No; we were mandated as partners to develop a national framework for the delivery of adoption services. Again, just to reiterate, while the paper before you is the start of this, we are happy that it will give a real national focus and a drive with an independent head, and a board that reports to the Deputy Minister and can report to the committee, I would imagine. However, it is a framework for regional services that will increase the pace of collaboration and improve the efficiency and consistency of services, which was a real concern from the committee report.

[91] **Simon Thomas:** Even within the limited framework of this one clause in the Bill, it talks only of local authorities. Adoptions in Wales are dealt with by a range of providers, including the voluntary bodies that we had in this morning. Would all or any of you have an objection to them being placed on the face of the Bill as providers that need to collaborate and co-operate in this way?

[92] **Lynne Neagle:** Before you answer that question, I will bring Aled in on this point. Perhaps we can then wrap up on this issue and deal with post-adoption support before we close.

[93] **Aled Roberts:** Yes; I would like to understand this. The Bill obviously creates the national element, but as far as service delivery is concerned, it was the regional framework and the local framework that concerned us when we were preparing our report. Just so that I understand it, if it is not a statutory national service, which we had called for, is it open to local authority members, during these periods of negotiation and consultation, to decide, as they have done with other collaborative projects—either for resource reasons or due to the fact that they do not like that they are losing that democratic control—that they do not go into it? We have experience this week of a regional project, which started when I was in local government five or six years ago, that stalled because there was refusal by one authority to enter into it.

[94] **Lynne Neagle:** Could we have brief answers on this, please?

[95] **Ms Warren:** I will answer quickly, Aled, and then I will pass over to Martyn. I think, at the risk of sounding quite progressive, that what we have before us is what leaders agreed last Friday and what the ADSS executive agreed the previous week. The Bill does not have any provision for a national adoption service. That is as it is. If it wanted to make provision for the establishment through regulation of what we have in front of us, on the basis that it was the content of this paper, I do not think that we would have an issue with that.

[96] **Mr Evans:** I have a very quick response. As I say, this has been an interesting road that we have had to tread to come to here. It is a very good example of the ability to co-produce a good solution. This is a solution that was unanimously approved by the expert reference group. All stakeholders were present. It is a radical change. It demonstrates that we are capable of radical change when the need is clearly demonstrated. It does not necessarily require legislation to come up with the best solutions about how you provide services. As I say, by the time that this Bill is enacted, the provision may well be redundant. We will have a national service, national standards and a national director.

[97] **Angela Burns:** During our evidence sessions, we have heard an awful lot from people about the lack of or inconsistency of post-adoption support. I would like to hear your views on whether or not you believe that it should be put on a statutory basis in the Bill, as it is in the English Bill that is going through.

[98] **Ms Lewis:** We share some concerns about the post-adoption support issues. Through the discussion that we had via the expert adoption advisory group, there was agreement to that collaborative and partnership approach that needed to be part of the child's journey throughout their life and so that, at any point, they would be able to come back and receive additional support services. Emily has already referred to the point that, if it is put forward through the legislative process, the requirement about post-adoption support services is absolutely vital to encourage adopters to come forward and to ensure that there is a consistency of response and support and of who will be accountable for the delivery. However, we have sought to address it through the national adoption support service.

[99] **Mr Evans:** However, the Bill could assist us in that regard. We want to provide consistency across Wales, in terms of post-adoption support and, in order to do that, there is a responsibility on the national service to analyse need and to make sure that the services are provided, but on the right scale.

[100] **Angela Burns:** Would you like to see this being statutory or in the regulations that come afterwards?

[101] **Mr Evans:** We have some concerns about the extent to which the Bill is dependent upon secondary legislation, because there are some aspects that should be on the face of the Bill.

[102] **Ms Warren:** I agree with the points that have been made by colleagues, and we certainly talked about it in the advisory group. Often, in the discussions that we have had both on adoption and on other aspects of the Bill, particularly safeguarding, we have hit a brick wall about funding and where that money would come from. If there was to be a requirement on the face of the Bill or in regulations, considerable consideration would be needed about how those services would be funded, and we would be keen to have those discussions with the Welsh Government.

[103] **Angela Burns:** May I ask one wrap-up question? It is on the witnesses' view on fostering to adoption, because we have touched on it with everybody else.

[104] **Lynne Neagle:** I am not sure that we are going to be able to deal with that now. If it is okay with the witnesses, we will write and ask for a response on that, because we have run out of time. I thank all the witnesses for coming this afternoon; we have had an interesting session and managed to get through a lot, notwithstanding the strange disruption in the middle of the meeting. The committee will now break before coming back to hear from the Deputy Minister.

*Gohiriwyd y cyfarfod rhwng 1.58 p.m. a 2.05 p.m.
The meeting adjourned between 1.58 p.m. and 2.05 p.m.*

**Bil Gwasanaethau Cymdeithasol a Llesiant (Cymru)—Sesiwn Graffu Cyfnod 1
Social Services and Well-being (Wales) Bill—Stage 1 Scrutiny Session**

[105] **Lynne Neagle:** I welcome Gwenda Thomas AM, the Deputy Minister for Social Services. We are delighted to have you with us this afternoon, Gwenda. Can I ask—

[106] **The Deputy Minister for Social Services (Gwenda Thomas):** I am looking for a pen. [*Laughter.*]

[107] **Lynne Neagle:** Oh. Shall I introduce your officials while you do that?

[108] **Gwenda Thomas:** Yes, thank you.

[109] **Lynne Neagle:** With Gwenda, we have Julie Rogers, the deputy director of the social services legislation and policy division, Albert Heaney, the director of social services, and Mike Lubienski, a senior lawyer with the social care team. Welcome to all of you and thank you for coming. Would you like to make some opening remarks, Deputy Minister?

[110] **Gwenda Thomas:** Yes, just to say that I am pleased to be with you at the Children and Young People Committee during this scrutiny session of what I believe is a very important Bill, which I think marks a positive step in devolution. I have no doubt that you will want to comment on the children's commissioner's remarks; I would be pleased to respond to that, the national adoption service and whatever else you want to bring up.

[111] I am delighted that we have been able to secure £50,000 to push forward the work on adoption. I think that the proposed national adoption service reflects the wider point of the Bill, in that the Bill has, I think, been built on broad consensus. I look forward to this scrutiny session.

[112] **Lynne Neagle:** Thank you, Deputy Minister. The first question is from me. We have heard some evidence that there are concerns that aligning the duties and functions for children and adults into a single Act could dilute the best-interest principle and not afford the correct level of protection for children. Are you able to give your response to those concerns this afternoon?

[113] **Gwenda Thomas:** Yes, and I am pleased to have the opportunity to do this. I hope that you will let me be very clear about this: the paramountcy principle in section 1 of the Children Act 1989 applies to courts making decisions about individual children. It does not apply to local authorities in the exercise of their duty to children in their areas generally. There is no risk—no risk—that the changes made by the Bill will affect the paramountcy principle as applied by the courts. So, it is the courts, not local authorities.

[114] **Lynne Neagle:** Thank you, Deputy Minister. Simon Thomas is next.

[115] **Simon Thomas:** A gaf ofyn i chi, Ddirprwy Weinidog, am rai o'r manylion ynghylch sut y byddwn yn gwneud yn siŵr bod yr hawliau sydd yn y Bil hwn yn cael eu gweithredu, gan ddechrau gyda'r diffiniad o blentyn mewn angen yn adran 17 o'r Ddeddf Plant 1989 a'r ffordd y mae'n cydreddeg â'r Bil fel y mae gerbron y pwyllgor heddiw a'r darpariaethau ynddo? Nid yw'n glir i mi pa berthynas sydd rhwng y ddau beth, oni bai ei bod yn fwrriad gennyh ddiddymu'r rhannau hynny o'r Ddeddf Plant. Ai dyna'ch bwriad chi? Os ydych yn bwriadu gwneud hynny, ym mha ffordd yr ewch chi ati i daflu mwy o eglurder i'r rhan hon o'r Bil?

Simon Thomas: May I ask you, Deputy Minister, about some of the details to do with how we are going to ensure that the rights in this Bill are implemented, starting with the definition of a child in need in section 17 of the Children Act 1989 and how that corresponds to the Bill as it stands before the committee today and the provisions within it? It is not clear to me what the relationship between the two things is, unless it is your intention to revoke those parts of the Children Act. Is that your intention? If you do intend to do that, how will you go about providing greater clarity on that part of the Bill?

[116] **Gwenda Thomas:** O ran plant mewn **Gwenda Thomas:** With regard to children in

angen, nid ydym yn mynd ymlaen â'r *concept*—

need, we are not progressing that concept—

[117] **Simon Thomas:** Onid ydych?

Simon Thomas: Are you not?

[118] **Gwenda Thomas:** Wel, yr hyn ddywedwn i yw bod yr hyn yr ydym ni'n ei adeiladu yn hyn o beth yn gwneud yn siŵr ein bod yn mynd ymhellach nag yr ydym ar y foment er mwyn trosglwyddo gwasanaethau i blant mewn angen. Bydd hawl gan blant mewn angen i asesiad—nid yw hwnnw'n hawl ar y foment—a lle mae cymhwyster, bydd yn ofynnol i'r plant gael gwasanaeth. Felly, rydym yn mynd ymhellach a gwneir yn siŵr ein bod yn ymateb i anghenion plant a'n bod yn rhoi hawl iddynt i gael yr asesiad hwnnw. Rwy'n meddwl bod hynny'n gam ymlaen. Rydym, wrth gwrs, yn trosglwyddo hynny mewn adran yn y Bil, ac mae'n hollol eglur.

Gwenda Thomas: Well, what I would say is that what we are building on in this regard is endeavouring to ensure that we go further that we do at present in order to provide services to children in need. Children in need will have a right to an assessment—that is not the case at the moment—and, where there is qualification, it will be a requirement for those children to be provided with services. So, we are going further and ensuring that we respond to children's needs and give them a right to that assessment. I think that that is a step forward. We are, of course, providing that in a section in the Bill, and it is quite clear.

[119] **Simon Thomas:** Rwy'n croesawu'r hyn yr ydych yn ei ddweud, ond, oherwydd bod rhannau o hen ddeddfwriaeth yn dal i fod mewn grym ar hyn o bryd, mae posibilrwydd y bydd gwrthdaro neu ddryswch, o leiaf. Felly, gofynnaf unwaith eto a ydych yn bwriadu diddymu rhannau o'r hen ddeddfwriaeth.

Simon Thomas: I welcome what you are saying, but, because parts of older legislation are still being enforced at the moment, there is a possibility of conflict, or at least confusion. Therefore, I will ask once again whether you intend to revoke parts of the older legislation.

[120] **Gwenda Thomas:** Ydym. Bydd adran 17 a Rhan 3 o Ddeddf Plant 1989 yn mynd, ond, ar wyneb y Bil, byddwn yn ei gwneud yn hollol glir ei bod yn ofynnol i lywodraeth leol wneud yr asesiad hwnnw o blant, a lle mae'r asesiad yn cyrraedd cymhwyster, dylid darparu gwasanaeth.

Gwenda Thomas: Yes, we do. Section 17 and Part 3 of the Children Act 1989 will go, but we will make it entirely clear on the face of the Bill that local government will be required to carry out that assessment of children and, where the assessment indicates qualification, a service should be provided.

[121] **Simon Thomas:** Diolch am yr esboniad hwnnw. Felly, cymeraf eich bod yn defnyddio adran 167 y Bil, sy'n rhoi pwerau i chi ddiwygio, diddymu neu ddirymu—nid wyf am ailadrodd y sgwrs a gawsom ddydd Llun—i wneud y newidiadau pwysig i'r Ddeddf Plant presennol. Y cwestiwn yw: pam nad ydych wedi rhoi hynny ar wyneb y Bil fel ei bod yn haws i ni graffu ar yr hyn sy'n digwydd.

Simon Thomas: Thank you for that explanation. I assume, therefore, that you will be using section 167 of the Bill, which gives you powers to amend, repeal or revoke—and I do not want to repeat the conversation that we had on Monday—to make important changes to the current Children Act. The question is: why have you not put that on the face of the Bill so that it is easier for us to scrutinise what is happening?

[122] **Mr Lubienski:** We anticipate presenting the repeals and consequential amendments relating to the Children Act changes as amendments in Part 2 of the Bill. The difficulty, which I explained in the committee earlier in the week, was in relation to the adult social care changes, where there are things going on in England at the same time. So, yes, that repeal would be on the face of the Bill.

[123] **Simon Thomas:** So, to be clear, you would bring the full list of repeals or revocations that you would expect to bring as a Government amendment.

[124] **Mr Lubienski:** In relation to Part 3 of the Children Act, yes.

[125] **Simon Thomas:** For the children stuff?

[126] **Mr Lubienski:** Yes.

[127] **Gwenda Thomas:** Yes, and consequentials.

[128] **Simon Thomas:** Nid yw'r rhan sy'n ymwneud ag oedolion yn rhan o waith y pwyllgor hwn; mae hynny'n yn fater arall.

Simon Thomas: The part that relates to adults is not a part of this committee's work; that is another matter.

[129] **Gwenda Thomas:** Ydy.

Gwenda Thomas: Yes, it is.

[130] **Simon Thomas:** Diolch am hynny; mae'n helpu i esbonio'r rhan honno ac efallai yn tawelu rhai o'r pryderon yr ydym wedi eu clywed yn y dystiolaeth ar y rhan hon.

Simon Thomas: Thank you for that; it helps to explain that part and perhaps alleviates some of the concerns that we have heard in evidence on this part.

[131] Symudaf ymlaen i ofyn cwestiwn arall ar yr hyn a elwir yn 'wasanaethau ataliol'. Hynny yw, y gwasanaethau rhagweithiol sy'n stopio rhywbeth rhag digwydd. Bu ichi roi tystiolaeth i'r Pwyllgor Iechyd a Gofal Cymdeithasol gan roi eich barn ynglŷn â pha fath o wasanaethau a fyddai'r rheini. Fodd bynnag, nid oes unrhyw beth ar wyneb y Bil sy'n esbonio beth yw 'gwasanaethau ataliol' ac ym mha ffordd yr ydych am iddynt gael eu datblygu. A fedrwnch esbonio pam nad ydych wedi rhoi diffiniad o wasanaethau o'r fath neu unrhyw fath o egwyddorion er mwyn iddo fod yn sail i'r rheoliadau wrth iddynt gael eu datblygu?

I will move on to ask another question on services described as 'preventative services'. That is, the proactive services that prevent something from happening. You gave evidence to the Health and Social Care Committee, expressing your opinion regarding what sort of services these would be. However, there is nothing on the face of the Bill that explains what 'preventative services' are and how you would like to see them developed. Will you explain why you have not included a definition of such services or any principles that could be a foundation to regulations as they are developed?

[132] **Gwenda Thomas:** Mae'r gwasanaethau ataliol yn agwedd bwysig iawn o'r Bil. Mae'n rhaid inni ystyried y bydd yn ofynnol i lywodraeth leol edrych ar yr angen sydd yn eu cymunedau ac ymateb i'r angen hwnnw. Mae hwn yn adeiladu ar hynny. Rwy'n meddwl y gallai gwasanaethau ataliol fod yn wahanol o un ardal i'r llall ac o un awdurdod i'r llall wrth iddynt ymateb i ofynion lleol. Mae'n bwysig bod ganddynt y rhyddid i edrych ar anghenion lleol. Fodd bynnag, bydd cod gweithredu—ac mae'n bwysig i ni ystyried y bydd cod gweithredu yn cefnogi'r Bil—a bydd hwn yn well na chael un Gweinidog yn trosglwyddo canllawiau, oherwydd bydd yn rhaid i'r cod

Gwenda Thomas: The preventive services are an important aspect of the Bill. We have to bear in mind local government will be required to look at the need within their communities and to respond to that need. This builds upon that. I believe that preventative services could differ from area to area and from one local authority to another as they respond to local demand. It is important that they have the freedom to consider local need. However, there will be an implementation code—and it is important that we bear in mind that there will be an implementation code to support the Bill—and this will be better than having one Minister providing guidance, because the

gweithredu ddod gerbron y Cynulliad a chael ei drafod yno. Credaf mai'r cod gweithredu yw'r lle gorau i fynd i'r afael ag esbonio a rhoi enghreifftiau o wasanaethau ataliol a, thrwy hynny, gwneud yn siŵr bod gennym ryddid yn lleol hefyd.

implementation code will have to come before, and be discussed by, the Assembly. I believe that the implementation code is the best place to get to grips with explaining and providing examples of preventative services and, through that, to ensure that there is also freedom locally.

[133] **Simon Thomas:** Diolch am hynny. A yw'n bosibl i un ohonoch f'atgoffa a fydd y cod gweithredu'r un peth â chanllawiau statudol? A fydd ganddo'r un grym?

Simon Thomas: Thank you for that. Is it possible for one of you to remind me whether the implementation code will be the same as statutory guidance? Will it have the same force?

[134] **Gwenda Thomas:** Credaf ei fod yn well ac yn gryfach na chanllawiau statudol.

Gwenda Thomas: I believe that it will be better and more robust than statutory guidelines.

[135] **Simon Thomas:** Bydd cyfle i weld drafft yn y Cynulliad.

Simon Thomas: There be an opportunity for the Assembly to see a draft.

[136] **Gwenda Thomas:** Bydd. Bydd yn rhaid i hynny ddod gerbron y Cynulliad. Yn hytrach na bod Gweinidog yn rhoi canllawiau statudol, bydd y cod yn cael ei gyflwyno i gefnogi a gweithredu'r Bil, a hynny ar ôl cael bendith.

Gwenda Thomas: Yes. That will have to come before the Assembly. Rather than a Minister issuing statutory guidance, the code will be introduced to support and implement the Bill, after being approved.

2.15 p.m.

[137] **Simon Thomas:** Felly, rydych yn gysurus fel Dirprwy Weinidog y bydd hynny yn y cod ac nid ar wyneb y Bil.

Simon Thomas: So, you are content as Deputy Minister that that will be in the code and not on the face of the Bill.

[138] **Gwenda Thomas:** Ydw.

Gwenda Thomas: Yes.

[139] **Aled Roberts:** Mae nifer o fudiadau wedi dweud wrthym y bore yma ei fod yn amhosibl iddynt ddweud os ydynt yn gefnogol i'r Bil gan nad ydynt wedi gweld y manylion i'w galluogi i wneud penderfyniad. Rwy'n derbyn yr hyn rydych yn ei ddweud am y cod gweithredol yn rhoi'r manylder hwnnw iddynt. Fodd bynnag, a fydd y cod drafft ar gael er mwyn i'r Cynulliad ddeall yn union beth sy'n cael ei awgrymu cyn i ni basio'r Bil hwn?

Aled Roberts: A number of organisations told us this morning that it is impossible for them to say whether they are supportive of the Bill as they have not seen the detail to enable them to make a decision. I accept what you say about this code giving them that detail. However, will the draft code be available for the Assembly to understand what exactly is being suggested before we pass this Bill?

[140] **Ms Rogers:** The codes will be provided for under the new powers within the Bill. The powers within the Bill require the Deputy Minister to bring forward the code for scrutiny by the Assembly, and the codes themselves are made by the Assembly. So, in terms of transparency, as the Deputy Minister was saying, there is an opportunity for the Assembly to scrutinise and to decide whether or not to make the codes.

[141] In terms of timelines, I guess what you are interested in is when the codes will be

available. The codes will not be available in their complete form before this Bill goes through Stages 3 and 4. However, the Deputy Minister has said in previous scrutiny sessions, particularly to the Health and Social Care Committee, that we will make more detail available about our thinking in some of these key areas as the Bill progresses; certainly before we get to Stage 2, some of the key policy planks will have been articulated for the committee to see and to have some reassurance about where policy is going.

[142] **Angela Burns:** Following on from that, we have talked about some of the things that are not on the face of Bill that people are seeking. One of the areas is about how assessments for care and support are required under Part 3 of the Bill, and how they are aligned with the assessments required under the Mental Health (Wales) Measure 2010, which requires an assessment for children with special educational needs. None of that is on the face of the Bill. Could we have some clarity on that?

[143] **Gwenda Thomas:** I have already made it clear to the Health and Social Care Committee that the Bill at the moment does not include any consequential amendments. However, I will bring forward Government amendments to make any required changes. Furthermore, I anticipate that provision will be made in the code of practice about the interface between assessments on an operational basis. So, there will be a Government amendment to clear that up regarding consequential amendments.

[144] **Rebecca Evans:** I think that we discussed the national eligibility framework in the Health and Social Care Committee, but for the benefit of this committee, could you give us an idea as to why have you not included the details of the framework on the face of the Bill, even though several organisations have suggested that that would be very helpful for them?

[145] **Gwenda Thomas:** On the eligibility criteria, I am very proud that we have got to where we are in Wales with regard to these eligibility criteria. I do not think that this has happened anywhere else in the world. For this Government to get to where we are with this is remarkable. The eligibility framework needs the flexibility of regulation. As we develop it and as we design services, this is a Bill for a generation. In that time, I foresee that some of the principles in the criteria will need to be changed. The flexibility that regulations provide is of utmost importance in this regard. So, we will develop those criteria through regulations, but this will be very much part of the outcomes framework that we are developing. I am being reminded that I will be making a statement on this, and that I will be providing further information on this before the Health and Social Care Committee on 6 June.

[146] **Rebecca Evans:** Why have you decided to include a provision for 16 and 17-year-olds to be charged?

[147] **Gwenda Thomas:** This is not new. This power exists, and nothing changes with regard to existing powers. We have seen some local authorities thinking about charging children. To my knowledge, I do not know that that has happened. The power of discretion is preserved here, so local authorities will have discretion as to whether they want to charge or not. Not only will this allow for charging and allow for the power to exist for charging; it will also give Welsh Ministers the power to restrict any charging if charges are introduced, or to make sure that any charges are proportionate. There are two sides to this, and nothing changes. This is a provision that is being preserved.

[148] **Lynne Neagle:** Would you like to come back on that, Rebecca? I will then bring Angela in.

[149] **Rebecca Evans:** Yes. Deputy Minister, under what kind of circumstances would you imagine that 16 or 17-year-olds might be charged for services?

[150] **Gwenda Thomas:** I cannot imagine any circumstances arising where that would happen. If someone had a great deal of money or was able to pay, who knows how local government would think about that?

[151] **Simon Thomas:** Can you play the lottery at 16?

[152] **Gwenda Thomas:** I am just being asked to think hypothetically about this. The point that I want to make is that you would certainly not want to restrict the right to services because of charging. That is why the power of restriction is very important as well.

[153] **Lynne Neagle:** We will now have Angela Burns and then Bethan on this issue.

[154] **Angela Burns:** Deputy Minister, I was interested to hear you say that you are preserving a current right. We have listened to evidence from the WLGA, associated organisations and the Children's Commissioner for Wales. I certainly got the impression that they were positing that this was a new capability. I know that it has caused some disquiet among some committee members. An awful lot of the young people who will go for help at the age of 16 or 17, especially if they are young carers, are already saving the state a huge amount of money. It would be very unfair to charge them. Would you consider removing this and taking away that already-enshrined right that I did not realise existed, so that we cannot charge children—because they are still children—for services?

[155] **Gwenda Thomas:** I very much agree with the points that you make. This is certainly not a new power. It is an existing power. I am prepared to consider, as I always do after every committee meeting, any observations, comments or suggestions made. We could, because of the development of this through regulations, develop that thinking as we develop the regulations, which will have to be consulted on. This is certainly something that we can think about as we develop the regulations.

[156] **Bethan Jenkins:** Roeddem yn siarad â'r WLGA ac ADSS yn gynharach. Roeddent yn dweud eich bod chi efallai'n rhoi'r ffioedd hyn gerbron er mwyn sicrhau bod y Bil yn *deliverable* ar lawr gwlad. Hynny yw, nid yw'r Bil yn niwtral o ran cost ac felly bydd y ffioedd hynny'n helpu cynghorau i godi arian, oherwydd byddai'r Bil hwn yn eithaf drud i'w weithredu ar lawr gwlad. A ydych yn cytuno â'r asesiad hwnnw, neu a oes gennych farn wahanol yn hynny o beth?

Bethan Jenkins: We were speaking to the WLGA and ADSS earlier. They said that you were perhaps putting these charges forward so that the Bill can be deliverable on the ground. That is, the Bill is not cost-neutral and therefore those fees would assist councils in raising funds, because this Bill would be relatively expensive to deliver on the ground. Do you agree with that assessment, or do you have a different view on that issue?

[157] **Gwenda Thomas:** Nac ydw, ond mae gan y sefydliadau hynny berffaith hawl i'w barn. Byddwn yn edrych ar y mater hwnnw ac yn craffu arno'n fanwl.

Gwenda Thomas: No, but those organisations have every right to their own opinion. We will be looking at that issue and scrutinising it in detail.

[158] **Lynne Neagle:** Thank you. I will now bring in Keith Davies.

[159] **Keith Davies:** Prynawn da, Ddirprwy Weinidog. Mae'r dystiolaeth rydym wedi ei derbyn gan rai pobl yn dweud nad yw'r Bil yn cryfhau llais pobl ifanc. Mae rhai hefyd yn dweud nad ydych wedi cynnwys gwasanaethau eiriolaeth yn Bil, lle caiff rhywun arall siarad ar ran y bobl ifanc

Keith Davies: Good afternoon, Deputy Minister. We have had some evidence from some people saying that the Bill does not strengthen the voice of young people. Some people also say that you have not included advocacy services in the Bill, where someone else can speak on behalf of those young

- hynny. A ydych yn cytuno â'r farn honno? people. Do you agree with that view?
- [160] **Gwenda Thomas:** Pwy ddywedodd hynny ddywedoch chi? **Gwenda Thomas:** Who said that did you say?
- [161] **Keith Davies:** Dyna'r dystiolaeth rydym wedi ei chael. **Keith Davies:** That is the evidence we have had.
- [162] **Gwenda Thomas:** Reit. Yn dweud— **Gwenda Thomas:** Right. Saying—
- [163] **Keith Davies:** Mae'n dweud nad yw'r Bil yn cryfhau llais pobl ifanc fel roedd yn bwriadu'i wneud, ac nad yw'n sôn am wasanaethau eiriolaeth lle gall rhywun siarad ar ran pobl ifanc. **Keith Davies:** It says that the Bill does not strengthen the voice of young people as it was intended, and that it does not talk about advocacy services where someone can speak on behalf of those young people.
- [164] **Gwenda Thomas:** Nid wyf yn credu bod hynny'n iawn. Holl bwyslais y Bil yw ei fod yn cadarnhau hawliau, yn enwedig hawliau plant. Ar eiriolaeth, nid wyf yn hapus ein bod wedi cael hwn yn iawn, ac rwy'n ystyried gwelliant gan y Llywodraeth i edrych yn fwy manwl ar eiriolaeth ac ar sgôp hynny. Rwy'n credu fy mod wedi dweud wrth y Pwyllgor Iechyd a Gofal Cymdeithasol ein bod ni yn ystyried hynny ar y foment, a byddwn yn falch o roi gwybod i'r pwyllgor hwn fel mae'n syniadau ni ar hynny yn datblygu. **Gwenda Thomas:** I do not believe that that is accurate. The whole thrust of the Bill is that it does confirm rights, particularly the rights of children. On advocacy, I am not content that we have got this right, and I am considering a Government amendment to look in more detail at advocacy, and at the scope of that. I believe that I informed the Health and Social Care Committee that we are currently considering that issue, and I would be happy to inform this committee how our thinking develops on that issue.
- [165] **Keith Davies:** Yr ail gwestiwn— **Keith Davies:** The second question—
- [166] **Lynne Neagle:** Before you go on, Keith, Aled Roberts wants to come in on advocacy. **Keith Davies:** Before you go on, Keith, Aled Roberts wants to come in on advocacy.
- [167] **Aled Roberts:** Os mai dyna'ch safbwynt chi, Ddirprwy Weinidog, rydym wedi derbyn tystiolaeth y bore yma ynghylch patrwm newydd yn yr Alban, ac yn bendant roedd gennym ddiddordeb mewn ystyried hynny ymhellach. **Aled Roberts:** If that is your stance, Deputy Minister, we have received evidence this morning about a new pattern in Scotland, and we were certainly interested in considering that further.
- [168] **Gwenda Thomas:** Rydym yn ystyried hynny. **Gwenda Thomas:** We are considering that.
- [169] **Keith Davies:** Mae'r comisiynydd plant wedi dweud wrthym ei fod e'n poeni nad yw Rhan 6 o'r Bil, sy'n ymwneud â phlant sy'n derbyn gofal ac sy'n cael eu lletya, yn cyflawni bwriadau eich polisi chi i gryfhau'r ymagwedd at blant sy'n derbyn gofal. **Keith Davies:** The children's commissioner has told us that he is concerned that Part 6 of the Bill, relating to looked-after and accommodated children, does not fulfil your policy intention to strengthen the approach in relation to looked-after children.
- [170] **Gwenda Thomas:** Mae Rhan 3, **Gwenda Thomas:** Part 3, I think—Mike is

rwy'n meddwl—mae Mike yn edrych arnaf yn awr—o Ddeddf Plant 1989 wedi cael ei throsglwyddo i Ran 6 y Bil yn gyfan gwbl. Felly, rydym yn amddiffyn Rhan 3 y Ddeddf ac yn ei throsglwyddo i'r Bil heb wanhau dim ar y gofynion a'r polisiau sy'n gynwysedig ynddi.

[171] **Bethan Jenkins:** Symudaf ymlaen at ddiogelu. Yn eich tystiolaeth i'r Pwyllgor Iechyd a Gofal Cymdeithasol, dywedoch nad oedd cynlluniau ar hyn o bryd i uno byrddau diogelu oedolion a phlant ar lefel leol. Yn amlwg, mae hynny'n rhywbeth mae llawer o bobl wedi rhoi tystiolaeth i ni yn ei gylch, gan ddweud y byddai gwasanaethau plant yn cael eu hisraddio pe byddai unrhyw uno yn digwydd. Pa dystiolaeth sydd gennych chi fel Dirprwy Weinidog fod angen y pwerau hyn yn y Bil? Rwy'n parchu'r ffaith dy fod wedi esbonio'r ochr gyfreithiol yn y llythyr i ni.

[172] **Gwenda Thomas:** Rwy'n meddwl bod ei angen. Wrth edrych ar ddwy ochr hyn, rydym yn gwybod nad oedd y byrddau amddiffyn plant blaenorol yn effeithiol ac nad oeddent yn gwasanaethu'r system fel y dylent. Rydym yn edrych ar y mater hwn o ddifrif. Rhaid cofio hefyd, ar yr ochr arall, fod Cymru yn arwain y gad eto yn hyn o beth wrth gyflwyno polisiau i amddiffyn oedolion. Nid oes gwlad arall yn y Deyrnas Unedig yn gwneud hyn. Rwyf wedi derbyn tystiolaeth gref bod angen i ni wneud hyn, a bod pobl Cymru yn gyfan gwbl y tu ôl i'r agwedd honno o'r Bil. Felly, rydym yn datblygu diogelu oedolion ac yn gwella diogelu plant.

[173] Roedd 22 o fyrddau lleol amddiffyn plant yn y gorffennol, ac nid oedd hynny yn effeithiol, fel rwyf wedi dweud. Rydym yn gostwng y nifer hwnnw i chwech a'r ôl troed, fel rwyf wedi esbonio yn y datganiad, a bydd byrddau hefyd i oedolion i wneud yr un peth. Gall amser ddod, ond dim ond pan fydd y dystiolaeth yn ddigon cryf i ddweud taw dyna sydd ei eisiau, pan allem ddod â'r ddau fwrdd at ei gilydd. Ond, dim ond bryd hynny bydd hynny'n digwydd; nid ar y foment hon.

[174] Wrth gwrs, bydd sefydlu'r bwrdd cenedlaethol yn hollbwysig. Bydd gan y bwrdd ddannedd—nid siop siarad fydd e—i wneud yn siŵr bod y polisiau rydym yn eu

looking at me now—of the Children Act 1989 is transposed into Part 6 of the Bill in its entirety. Therefore, we are safeguarding Part 3 of the Act and transferring it into the Bill without diluting any of the requirements and policies included therein.

Bethan Jenkins: I will move on to safeguarding. In your evidence to the Health and Social Care Committee, you stated that there are currently no plans to merge adult and children safeguarding boards at a local level. Clearly, that is something on which many people have commented in evidence to us, saying that children's services would be downgraded if there were to be any merger. What evidence do you have as Deputy Minister that these powers are required within the Bill? I respect the fact that you have explained the legalities of that in your letter to us.

Gwenda Thomas: I believe that it is required. In looking at both sides of this, we know that the previous child safeguarding boards were not effective and did not serve the system as they should have done. We are looking at this issue in earnest. We must also bear in mind that Wales is once again in the vanguard here in introducing policies to protect adults. No other country within the UK is doing this. I have received very strong evidence that we need to do this, and that the people of Wales are entirely behind that particular aspect of the Bill. Therefore, we are developing the safeguarding of adults and improving the safeguarding of children.

There were 22 local safeguarding children boards in the past, and that was not effective, as I have said. We are reducing that number to six and the footprint, as I have made clear in the statement, and there will also be boards for adults to do the same thing. A time may come, but only when the evidence is robust enough to inform us that that is what is needed, when we could merge the two boards. However, it will only happen at that point; certainly not now.

Of course, establishing the national board will be crucially important. The board will have real teeth—it will not be a talking shop—to ensure that the policies we develop

datblygu yn effeithiol ac yn gwasanaethu pobl Cymru. Er mwyn cael y cyngor gorau ar ddatblygu'r bwrdd cenedlaethol, rwyf wedi sefydlu grŵp o arbenigwyr, gan gynnwys Phil Hodgson fel cadeirydd, i roi cyngor i fi ynglŷn â'r ffordd orau i ddatblygu'r bwrdd hwnnw er mwyn gwneud yn siŵr ei fod yn gweithredu yn ôl angen y Bil.

are effective and that they serve the people of Wales. In order to get the best advice on developing the national board, I have established a group of experts, including Phil Hodgson as chair, to advise me on the best way of developing that board to ensure that it meets the needs and requirements of the Bill.

2.30 p.m.

[175] Felly, yr hyn sy'n galonogol, cyn belled ag y mae gwasanaethau plant yn y cwestiwn, yw ein bod yn barod wedi gweld tri bwrdd wedi eu sefydlu, heb aros i'r ddeddfwriaeth, ac mae'r pedwerydd bron yn barod. Felly, mae llywodraeth leol, chwarae teg, yn mynd yn ei blaen i sefydlu'r byrddau hyn gyda phartneriaid. Mae eisiau edrych ar ychydig o bethau yn y canolbarth ac yn y gogledd, ond mae swyddogion yn gweithio'n galed gyda phobl yn yr ardaloedd hynny, ac rwy'n siŵr y gallwn ddod i ateb a fydd yn sefydlu byrddau cryf yno hefyd.

It is encouraging, therefore, that, as far as children's services are concerned, we have already seen three boards established, without waiting for the introduction of the legislation, and the fourth is almost ready to go. So, local government, in all fairness, is progressing with this and is establishing these boards with partners. There are a few issues that will need to be reviewed in mid Wales and north Wales, but officials are working extremely hard with people in those areas, and I am sure that we will come to a solution that will establish robust boards there too.

[176] **Aled Roberts:** Rydych wedi nodi nad oeddech yn hollol fodlon ag effeithlonrwydd y byrddau diogelu plant yn y gorffennol. A yw'r grŵp arbenigol hwn yn edrych ar broblemau o ran cyfraniadau o ran adnoddau? Un o'r problemau oedd nad oedd rhai o'r partneriaid yn cyfrannu yn ddigonol, ac rwy'n meddwl bod y problemau ariannol hyn wedi bodoli ers nifer o flynyddoedd erbyn hyn.

Aled Roberts: You have noted that you were not completely content with the effectiveness of the boards in the past. Is this specialist group looking at problems in terms of contributions in terms of resources? One of the problems was that some of the partners were not providing enough resources and I think that these funding problems have been in existence for a number of years.

[177] **Gwenda Thomas:** Mae hynny'n un peth sy'n dal i fod yn ychydig o broblem rhyngom ni a San Steffan. Rydym wedi cael cytundeb ar bopeth arall. Fodd bynnag, mae rhyw gymhlethdod ynglŷn â chael *consents* ar ariannu'r heddlu a'r gwasanaeth prawf, er enghraifft. Mae'n holl bwysig ein bod yn parhau i weithio ar hynny. Fodd bynnag, gallwn ddatblygu ein hatebion ein hunain i'r cwestiwn hwnnw o ariannu'r byrddau, ac mae hynny'n bwysig.

Gwenda Thomas: That is something that continues an issue between ourselves and Westminster. We have reached agreement on everything else. However, there is some complication in terms of getting consents on funding the police and the probation service, for example. It is crucial that we continue to work on that. However, we can develop our own solutions to that issue of funding the boards, and that is important.

[178] **Bethan Jenkins:** O ran plant anabl, cawsom ateb yn gynharach ynglŷn â Deddf Plant 1989 a sut bydd honno'n parhau ar lefel yn y dyfodol gyda'r Bil. Mae adran 3(6) yn galluogi Gweinidogion Cymru i ddiwygio'r categorïau o bobl sy'n cael eu pennu yn anabl. Beth yw'r sail resymegol dros hynny?

Bethan Jenkins: On disabled children, we had a response earlier regarding the Children Act 1989 and how that will continue on a level in the future with the Bill. Section 3(6) allows Welsh Ministers to amend the categories of people who are designated as disabled. What is the reason for that?

[179] **Gwenda Thomas:** Rydym yn defnyddio Deddf Cydraddoldeb 2010 i ddiffinio anabledd, oherwydd dyna'r peth diweddaraf y gallwn ddibynnu arno. Rwy'n meddwl, dros fywyd, bod rhai anableddau sy'n aros yr un fath drwy gydol oes. Fodd bynnag, mae anableddau eraill yn gallu effeithio ar yr un person, ac mae anableddau newydd yn gallu dod i law. Felly, mae'n bwysig ein bod yn gallu edrych ar a oes eisiau newid y diffiniad, ac fe wnawn ni hynny. Byddwn yn gallu gwneud hynny gan edrych ar yr ymylon, os bydd yr angen yn codi. Hefyd, rwyf wastad wedi cefnogi'r cysyniad cymdeithasol o anabledd, ac mae hynny'n holl bwysig. Fodd bynnag, cysyniad yw hynny ac yr oedd yn rhaid i ni gael rhywbeth i'r Bil a oedd yn dibynnu ar ddeddfwriaeth, a dyna'r rheswm rydym wedi defnyddio'r Ddeddf yn hytrach na'r cysyniad. Fodd bynnag, nid oes dim yn ein stopio rhag cynnwys cysyniad y *social model*, ac rwy'n siŵr, wrth i ni fynd ymlaen â thaith y Bil, cawn glywed rhagor am hynny.

[180] **Bethan Jenkins:** Pam nad yw hynny ar wyneb y Bil?

[181] **Gwenda Thomas:** Cysyniad ydyw ac—

[182] **Bethan Jenkins:** Rwy'n cyfeirio at fy nghwestiwn cychwynnol o ran sut mae'n cael ei bennu.

[183] **Gwenda Thomas:** Rwyf wedi ceisio ateb y cwestiwn hwnnw drwy'r hyn a ddywedais. Rwy'n credu y byddai eisiau i ni gael y gallu i newid diffiniad os oes eisiau, a bydd yn llawer haws gwneud hynny drwy reoliadau yn hytrach na cheisio newid deddfwriaeth gynradd.

[184] **Simon Thomas:** A ydych yn awgrymu y bydd gwelliant gan y Llywodraeth o bosibl ar hwn?

[185] **Gwenda Thomas:** Rydym yn ystyried sut byddwn ni'n mynd â hyn ymlaen.

[186] **Aled Roberts:** Rydym wedi cael tystiolaeth gan nifer o'r cyrff sy'n ymwneud â mabwysiadu yn y sector elusennol a'r

Gwenda Thomas: We are using the Equality Act 2010 to define disability, because that is the latest legislation that we can draw on. I believe that certain disabilities remain constant through an individual's life. However, other disabilities can arise that affect the same person, and new disabilities can arise. Therefore, it is important that we should be able to look at whether that definition needs to be changed, and we will do that. We could do that by looking at the periphery, should the need arise. Also, I have always supported the social concept of disability, and it is very important. However, it is a concept, and, therefore, we had to have something on the face of the Bill that depended on legislation, and that is why we have used the Act rather than the concept. However, there is nothing preventing us from drawing on the concept of the social model, and, as we progress with this Bill, I am sure that we will hear more about that.

Bethan Jenkins: Why is that not on the face of the Bill?

Gwenda Thomas: It is a concept and—

Bethan Jenkins: I am referring to my original question on how the designation is made.

Gwenda Thomas: I tried to answer that question in my comments. I think that we need the ability to change definitions if needs be, and it would be far easier to do that through regulations than endeavouring to change primary legislation.

Simon Thomas: Are you suggesting that there may be a Government amendment on this?

Gwenda Thomas: We are considering how we shall proceed on this.

Aled Roberts: We have had evidence from many of the bodies that are involved in adoption in the charitable sector and the

sector preifat ac rydym yn derbyn y model sydd wedi cael ei baratoi gan Gymdeithas Gyfarwyddwyr Gwasanaethau Cymdeithasol a Chymdeithas Llywodraeth Leol Cymru. A ydych yn hollol fodlon bod y model yn cael ei gyfyngu at lywodraeth leol ar lefel ranbarthol a lleol? A ydych yn fodlon â hynny neu a ydych yn teimlo y dylem ystyried cynnwys y mudiadau elusennol ar y lefel leol a rhanbarthol hefyd?

[187] **Gwenda Thomas:** Ydw, rwy'n fodlon â'r model hwn. Rwy'n credu bod Cymdeithas Llywodraeth Leol Cymru, ADSS a phartneriaid yn y sector gwirfoddol wedi gwneud gwaith gwych. Mae'n holl bwysig bod ein partneriaid yn y sector gwirfoddol yn rhan bwysig o'r datblygiad hwn, oherwydd rydym ni'n mynd i edrych ar drosglwyddo rhai gwasanaethau i'r sector gwirfoddol. Rwy'n credu ei bod hefyd yn bwysig bod yr agwedd leol yno oherwydd bydd gwaith o safbwynt yr agwedd leol. Bydd angen cydweithio gyda'r llysoedd—bydd hynny'n parhau ar y lefel leol—ac edrych ar yr adolygiad cyfiawnder teuluol a'r gofynion sydd wedi dod gerbron drwy hynny. Mae lot o newidiadau yn gysylltiedig â hynny.

[188] Clywsom am y cynnig cydsyniad deddfwriaethol yr wythnos cyn yr wythnos diwethaf. Rydym wedi cael y pŵer, fel Gweinidogion, i sicrhau bod adroddiadau i'r llys yn digwydd o fewn 26 wythnos, efallai, os mai dyna fydd y cyfnod o amser y byddwn yn penderfynu arno. Fodd bynnag, mae hawl gennym i wneud yn siŵr na fydd adroddiadau i'r llys yn mynd ymlaen ac ymlaen ac na fydd plant yn aros mor hir ag y maent i gael eu mabwysiadu er mwyn iddynt gael eu cartref parhaol yn gynharach. Mae hynny'n holl bwysig. Rwy'n credu y bydd y model hwn yn gadael inni wella'r system fabwysiadu yn llwyr.

[189] Rwy'n credu eich bod wedi cael y diagram sy'n dangos pwy fydd yn gwneud beth a phryd y bydd yn cael ei wneud. Mae'r diagram yn dangos yn hollol eglur sut yr ydym yn symud ymlaen â'r gwasanaeth mabwysiadu cenedlaethol.

[190] **Aled Roberts:** Heblaw am yr haen genedlaethol, model o gydweithio ar y lefel ranbarthol a lleol yw hwn. Bydd yn dibynnu

private sector and we accept the model that has been prepared by the Association of Directors of Social Services and the WLGA. Are you content that the model is restricted to local government at a regional and local level? Are you content with that or do you feel that we should consider including charitable organisations at the regional and local level too?

Gwenda Thomas: Yes, I am content with this model. I believe that the WLGA, ADSS and partners in the voluntary sector have undertaken excellent work. It is crucial that our partners in the voluntary sector are an important part of this development, because we are going to look at handing over some services to the voluntary sector. I believe that it is also important that there is a local focus because there will be work to be done at the local level. There will need to be collaboration with the courts—that will continue at the local level—and it will be necessary to look at the family justice review and the requirements that have been brought forward as a result of that. There are a lot of changes associated with that.

We heard about the legislative consent motion the week before last. We have been given powers, as Ministers, to ensure that reports to courts are produced within 26 weeks, perhaps, if that is the period of time that we decide upon. However, we have the right to ensure that reports to the court do not go on and on and that children do not have to wait as long to be adopted so that a permanent home can be found for them more quickly. That is crucial. I think that this model will allow us to improve the adoption system no end.

I think that you have received the diagram that shows who will do what and when it will be done. The diagram shows very clearly how we are progressing with a national adoption service.

Aled Roberts: Apart from the national level, this is a model of collaboration at the regional and local level. That will depend upon local

ar awdurdodau unigol yn penderfynu mynd i mewn i'r drefn. Dros y pythefnos diwethaf, rwy'n credu, methodd Blaenau Gwent a Chaerffili â chyrraedd cytundeb ynglŷn â'u gwasanaethau hwy. Os mewn 18 mis neu ddwy flynedd byddwn yn gweld bod awdurdodau unigol yn amharod neu'n tynnu allan o unrhyw drefniadau, ac os na fydd trefniadau'r model hwn yn gweithio, a oes angen i chi ystyried cymryd y gwasanaeth fabwysiadu allan o lywodraeth leol ar wyneb y Bil? Rwy'n siŵr eich bod yn derbyn bod rhwystredigaeth ymysg aelodau'r pwyllgor hwn ynglŷn â safonau mabwysiadu ar hyn o bryd.

[191] **Gwenda Thomas:** Mae cytundeb eang a chafwyd cytundeb gwleidyddol a swyddogol yr wythnos diwethaf ar dderbyn y model hwn. Rwy'n diolch i bawb sydd wedi gweithio mor galed i gyrraedd y pwynt hwn. Pe bai rhyw drafferth, mae pŵer i Weinidogion ei gwneud yn ofynnol bod y model yn cael ei weithredu. Mae ganddynt *power of direction*.

[192] **Aled Roberts:** A ydych yn credu bod y pwerau hynny'n ddigonol i chi?

[193] **Gwenda Thomas:** Ydw, rwy'n credu eu bod yn ddigonol er mwyn sicrhau bod awdurdodau lleol yn ymateb i ofnion y model. Bydd modd i'r bwrdd cenedlaethol ymateb i Weinidogion hefyd yn ôl y system sydd gennym ar waith. Bydd yn rhaid iddynt wneud adroddiad i'r Gweinidog, yn ogystal ag i'r prif weithredwr y byddwn yn ei benodi.

[194] **Angela Burns:** Is that why you are content with the five region collaboration model? One of my concerns is that education, for example, is in four regional consortia and health is in seven, and, when we have taken evidence on why we need to improve adoption services, one of the key issues with regard to children who are about to be adopted and post-adoption support is access to education. I have a concern that, if the footprints of the different collaborations do not fit, there will be greater capacity for children to fall between the gaps. As Assembly Members, I am sure that an awful lot of our cases relate to constituents who cannot access services because one department is not talking to another. I wonder whether you could give an opinion on that, please.

[195] **Gwenda Thomas:** Local government would still have ownership of adoption, of course, and this is a model put forward jointly by ADSS and the WLGA, following a lot of work. They have come up with those footprints and I am happy that they will create an effective national service. After all, we are finding a way of reducing 23 adoption agencies down to one; I think that is a significant achievement.

[196] There will be a requirement to choose a lead authority within those footprints. There

authorities deciding to adopt this regime. In the last fortnight or so, I believe, Blaenau Gwent and Caerphilly failed to come to an agreement about their services. If in 18 months or two years' time we see that local are unwilling or are pulling out of any arrangements, and if the arrangements under the model do not work, do you need to consider taking the adoption service out of local government on the face of the Bill? I am sure that you will accept that there is frustration among committee members regarding current adoption standards.

Gwenda Thomas: There is broad agreement and agreement was reached on a political and official level last week to accept this model. I thank everyone who has worked so hard to reach that agreement. Should there be any difficulties, Ministers have powers to require that the model is implemented. There is that power of direction.

Aled Roberts: Do you think that those powers are adequate?

Gwenda Thomas: Yes, I believe that they are adequate to ensure that local authorities respond to the requirements of the model. There will be a means for the national board to feedback to Ministers too in accordance with the system that we have in place. They will have to report to the Minister, as well as the chief executive whom we will appoint.

will be clear accountability procedures to the national board and the group that will now be set up by the ADSS, with the aid of £50,000, to set up the national board and the whole structure. Those lead authorities and leaders within those footprints will be part of that process and also part of the national board when it is established.

[197] **Angela Burns:** Thank you. Deputy Minister, a number of people have raised with us concerns that post-adoption support is not on the face of the Bill. Would you consider the inclusion of provision for that? When we looked at the whole area of adoption, it was one of the key areas where adoption services in Wales fail.

[198] **Gwenda Thomas:** I am very keen on that. I know that Angela Burns has spoken about this a lot and I respect that. Post-adoption services have not been as good as they should have been. You will see that there is clear accountability for post-adoption services within the proposed model. Again, because of flexibility and the possible need to review these services, I think that regulations are the way to develop these post-adoption services and to make sure that we consult on those.

[199] **Angela Burns:** Will most of the regulations come through the affirmative or the negative procedure?

[200] **Gwenda Thomas:** I hope that policy regulations will be with us by December. I must pay tribute to the officials, whether it embarrasses them or not, as they have worked so hard on this Bill and they are giving me clear timelines. I want Members to have the full power of scrutiny where there may be policy issues; I have mentioned advocacy and the possibility of fostering to adoption. When we look at these regulations, I want the policy issues to be ready by December. There will be a lot of consequential amendments also and we have a timetable for that. I hope to get those by the end of Stage 1, so that Members have as much information as we can possibly prepare in time for Stage 2 scrutiny.

[201] **Angela Burns:** One of the key conclusions of the committee's report into adoption was that we should look at the concurrency model of fostering to adopt children. A number of witnesses have raised concerns with us that section 65 of the Bill does not meet that objective. Could you explain your rationale behind that, please?

2.45 p.m.

[202] **Gwenda Thomas:** I think that I just mentioned it. I believe that that is something that we can do to strengthen that.

[203] **Angela Burns:** I presume that you will confirm that.

[204] **Gwenda Thomas:** I will look at an amendment. I thought that I had mentioned it earlier.

[205] **Angela Burns:** I am sorry; I did not pick that up.

[206] **Gwenda Thomas:** I believe that there is a need to look at fostering for adoption. We will look at the home of a child as soon as we possibly can, and if we can place a child through fostering that child to adopters, I would be more than happy to look at that, as I am doing.

[207] **David Rees:** Deputy Minister, I wish to ask you about something that is not in the Bill perhaps. After the call for evidence when the Bill was placed, 44% of the respondents that had children issues reflected that there should be an inclusion in the Bill to remove the reasonable punishment defence. On top of that, the Welsh Government published 'Getting it

right 2009', and one of the priorities was working to make the physical punishment of children and young people illegal in all situations. The Bill does not have any reference to these aspects. Could you explain perhaps why it does not do so? Will you be giving consideration to views consequently because of the issues raised by the respondents?

[208] **Gwenda Thomas:** Reasonable punishment is not in the Bill. The policy of the Welsh Government at the moment is that we develop parenting policies. We are working hard on that. We have co-opted a lady from Children in Wales to work with us—the name skips my mind at the moment—to develop these policies. I am strongly advised that if there should be an amendment, there will be a challenge. We heard quite openly from Lindsay Whittle in the Health and Social Services Committee that he would bring forward an amendment with others, and that is the right of Members. We will wait to see what happens during the course of the Bill. However, I am very strongly advised that there will be a robust challenge to competence from the Westminster Government if that should happen. That is not to say that we sit down and listen—of course it does not—but there will be a challenge on competence. We have our own lawyers who advise us, and so does the Westminster Government. My real concern is that we do develop these parenting policies, but that we consider seriously the huge improvements to children's lives that the Bill will bring. I do not see that a challenge of that nature would derail the Bill. It would delay it, I believe. To the very best of my knowledge, that is the position at the moment.

[209] **Lynne Neagle:** I see that you have another question, David. Is it on this point?

[210] **David Rees:** Yes.

[211] **Lynne Neagle:** I will then bring in Aled.

[212] **David Rees:** On this point, we have had legal advice, as a committee, that this might slightly be in favour of the competence of the Assembly. So, there is clearly a question on competence and I appreciate that. In terms of those concerns that you mentioned about delaying the Bill—and you said that you have had strong advice—are you sure that it will, as a consequence, delay the Bill? Will they think that the competence is not there or are we simply avoiding the opportunity to take the chance of this Bill to take out that defence?

[213] **Gwenda Thomas:** The position, as I understand it, is as I have already stated. In my view, there would be a challenge. The indications are that the whole issue would end up in court and we would be fighting it out there. We know how long court proceedings can take. That is the best advice that I have.

[214] **Aled Roberts:** I accept the position, but clearly there is a will within the Assembly to introduce this provision. I accept what you say regarding the possibility of challenge, but the advice that we have also been given, as a committee, is that if the matter were referred to the Supreme Court, it is always open to the Assembly to reconsider the Bill and remove any disputed provision, and although there may be a slight delay in Royal Assent, in the general scheme of things, it would not delay implementation as far as the Government is concerned of what we all accept would be a step forward as far as the overall rights of children are concerned, as contained in the Bill.

[215] **Gwenda Thomas:** There is a reconsideration stage in the Bill. I am not competent—I need a lawyer to help me here, but I understand that there is a stage at which an amendment can be taken out. I believe that that is after the point at which the Secretary of State has been handed the Bill and considers its passage for Royal Assent. We have not seen that stage used, but I believe that it is there. However, I am not clear, perhaps Mike can help me, as to whether that would avoid—whether it would be before or after—the challenge in the court.

[216] **Mr Lubienski:** My reading of the Government of Wales Act 2006 is that if a challenge is made, there is no way of avoiding a hearing in the Supreme Court. One cannot put a clause in a Bill, have it challenged and then, because the challenge has come, withdraw that clause before the Supreme Court hearing.

[217] **Lynne Neagle:** Simon, did you want to come in?

[218] **Simon Thomas:** Yes, briefly. You can take it out after the hearing is decided. On this, the Government said, and David referred to this, that it is a Government priority to remove this defence at some stage. If you are not going to use this Bill, but use any other Bill, you will have the same problem, namely that it will still be challenged. As long as we have the powers model that we have, it will always be challenged. So, does that, in effect, mean that the Government will never bring forward a Bill to address this?

[219] **Gwenda Thomas:** What I said in the debate in the Chamber when the vote was taken was that the position of the Welsh Government was that we would not introduce legislation in this Assembly.

[220] **Simon Thomas:** That remains your decision.

[221] **Gwenda Thomas:** That was the position of the Welsh Government.

[222] **Simon Thomas:** Okay, and you have confirmed that now.

[223] **Gwenda Thomas:** Yes.

[224] **David Rees:** This is on a different point, which I think that you have half-answered already, and it is about subordinate legislation, regulations and codes and everything else. I want to ask whether the balance of subordinate legislation is right, because we seem to have an awful lot of Bills coming through that tend to have an emphasis on guidance, regulations and codes of conduct. In the particular case of this legislation, is the balance between the negative and affirmative procedures right?

[225] **Gwenda Thomas:** I believe so. We have considered this for a long time and come to this position. I have explained what I believe is the importance of flexibility. This is an enabling Bill, and we have made that clear from the outset. It is to enable the development of a legislative structure and a single Act for integrated social services in Wales. It is a huge step forward, and by having some regulations intended for the affirmative procedure and some for the negative—some points were made about the superaffirmative, which we agreed on a translation for; I gave in to Simon on that—I believe that the balance is right and we need that flexibility. Of course, I am open to suggestions from committees, which we will always take seriously.

[226] **David Rees:** May I ask one final question on that? The regulations could be used in a positive sense, but it is also possible to use regulations in a negative sense as well. What controls will ensure that there is no negative approach to using regulations? In other words, how are we protecting the future so that regulations cannot be used to cause things that we did not anticipate?

[227] **Gwenda Thomas:** Exactly; I will use your argument to express what I think. It is for the very purpose of futureproofing this Bill that we need the flexibility of regulations. Life changes and there will be a need from time to time to look at charging levels, for example, as we know. So, I think that the flexibility provided is very important. On the issue of the negative/affirmative balance, we are giving very robust reasons as to why we are recommending what we are. I have given in to committee on some issues where I have been

persuaded that, no, it should be the affirmative, or whatever, and I will continue to listen.

[228] **Lynne Neagle:** I will just ask a question on finance. We heard in the previous session with the WLGA that it is querying some of the financial assumptions on which the Bill is based, in particular the assertion that the Bill will be cost-neutral. I wondered if you had any comment on those points that it has raised.

[229] **Gwenda Thomas:** We have made it absolutely clear from the word ‘go’, from the very concept of the Bill, that we cannot buy our way out of this one. That is one of the reasons why we need the Bill. We are facing very challenging times and not only will there be some costs, but there will be benefits. Although they will not be realised overnight—it will not be a cliff-edge thing—there will be new ways of working. We cannot keep on doing the same things in different ways. We have got to do different things. That is why we are moving the way we are on safeguarding. That is why we are developing a national adoption service. That is why, very shortly, I will be making a statement on the integration of health and social services. That is why that is. We have £3 million for the implementation of the Bill. We have got the training budget, which is significant. We have changed the way that that is used to train the workforce, with £8.4 million from the Welsh Government and two-point-something million pounds from local authorities, making a total of £11 million for that budget. We have identified some money for kick-starting processes, but I must be absolutely honest and clear: there is no buying our way out. We have to work in different ways. This is the essence of ‘Sustainable Social Services: a framework for action’, and I was delighted with the response of local government to that, with 22 local authorities filtering through the WLGA. I very much value the WLGA and ADSS, and the private and voluntary sector as partners. This has all been a constant topic in the partnership forum, where we have had all partners together for a long time now developing this Bill. We have got to have sustainable social services. What we are doing at the moment is not sustainable, and the Bill provides a legislative base to work differently and to deliver services that are sustainable into the future.

[230] **Aled Roberts:** I recognise the point that you make, but most of the cost for social services is born out of demand rather than structures. Currently, we do not have eligibility on a level field across the 22 authorities. If there is to be no additional money, and some authorities currently prepare services at a lower level than others, the reality is that eligibility must change because services will not be provided at the same level in those authorities going forward. The alternative has to be that areas that currently do not provide services at the lower level will actually have to find more money to provide those services going forward, if there are to be national criteria.

[231] **Gwenda Thomas:** That is why we have seen the need for national eligibility criteria. I have explained that we will consult and develop that eligibility. I believe that the four levels—low, moderate, something and critical—have got to go. They no longer serve the people of Wales, those four levels of criteria. Are you convinced—because I am not—that we are good enough at looking at low levels of eligibility? I can remember the home help service, and the way that it prevented people from becoming more dependent sooner. I believe that we need a more simple eligibility process that is proportionate to people’s needs when they first need a service and that we develop that thinking.

3.00 p.m.

[232] However, where there is complex and intense need, we have to have meaningful eligibility criteria. We have to have multi-agency assessments, and those assessments must be portable, which the Bill provides for. I have already mentioned the statement that I will make on integration—I think that that is hugely important. That is why the Bill allows us to extend outside local government, into health and other responsibilities. The conversation on the consultation that we have on developing the eligibility criteria is going to be the key to the

success of that. No doubt, the committee will want to be involved in that discussion.

[233] **Aled Roberts:** Has the Government done any modelling with regard to—

[234] **Gwenda Thomas:** Yes. You have seen the wellbeing statement that I published last week. The older people's commissioner has commended that for its simplicity—I think that we had become too complicated in our thinking in some things. The wellbeing statement sets out how we intend to protect the wellbeing of people, and that is at the core of it and includes children just as much as adults. So, the wellbeing statement will underpin the development of the outcomes framework, which will also include the eligibility criteria and ensure that we answer the needs of people who need care and support, and those of carers who need support. We are bringing in for carers the right to an assessment and there are big steps forward, I think, in acknowledging the role of informal carers in the delivery of services and how important that is going to be in the future.

[235] **Lynne Neagle:** We have one final question from Angela Burns.

[236] **Angela Burns:** Actually, I had three or four questions to ask on the Bill in completely different areas. I would be very happy to write you on that, Deputy Minister.

[237] **Lynne Neagle:** That is helpful.

[238] **Gwenda Thomas:** I would like to tell committee that the Social Services Improvement Agency will publish a report on its thinking on eligibility, and I will be issuing a statement on that next month.

[239] **Lynne Neagle:** I thank the Deputy Minister and her officials for attending this afternoon. As you know, you will be sent a transcript of the session, for you to check for accuracy. Thank you very much for coming and answering so many questions. I also thank Members for attending and I close the meeting. Thank you.

*Daeth y cyfarfod i ben am 3.02 p.m.
The meeting ended at 3.02 p.m.*