



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

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

Dydd Iau, 9 Mai 2013
Thursday, 9 May 2013

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Cynnig o dan Reol Sefydlog Rhif 17.42 i Wahardd y Cyhoedd o Weddill y Cyfarfod Motion
under Standing Order No. 17.42 to Exclude the Public for the Remainder of the Meeting

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

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

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Keith Davies	Llafur Labour
Suzy Davies	Ceidwadwyr Cymreig Welsh Conservatives
Rebecca Evans	Llafur Labour
Bethan Jenkins	Plaid Cymru The Party of Wales
Ann Jones	Llafur (Cadeirydd y Pwyllgor) Labour (Chair of the Committee)
Lynne Neagle	Llafur Labour
David Rees	Llafur Labour
Aled Roberts	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Simon Thomas	Plaid Cymru The Party of Wales

Eraill yn bresennol
Others in attendance

Pat Dunmore	Swyddog Polisi Hawliau Plant, Achub y Plant, a Chydgysylltydd y Grŵp Monitro CCUHP Child Rights Policy Officer, Save the Children and Wales UNCRC Monitoring Group Co-ordinator
Dr Simon Hoffman	Ysgol y Gyfraith, Prifysgol Abertawe ac Arsyllfa Cymru ar Hawliau Dynol Plant a Phobl Ifanc School of Law, Swansea University, and Wales Observatory on Human Rights of Children and Young People
Huw Lewis	Aelod Cynulliad (Llafur), y Gweinidog Cymunedau a Threchu Tlodi Assembly Member (Labour), Minister for Communities and Tackling Poverty
Martin Swain	Dirprwy Gyfarwyddwr, Plant, Pobl Ifanc a Theuleoedd, Llywodraeth Cymru Deputy Director, Children, Young People and Families, Welsh Government
Keith Towler	Comisiynydd Plant Cymru Children's Commissioner for Wales

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

Ffion Emyr Bourton	Clerc Clerk
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Rhodri Wyn Jones Dirprwy Glerc
Sian Thomas Deputy Clerk
 Y Gwasanaeth Ymchwil
 Research Service

*Dechreuodd y cyfarfod am 9.30 a.m.
The meeting began at 9.30 a.m.*

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introduction, Apologies and Substitutions

[1] **Ann Jones:** Good morning, everybody, and welcome to the Children and Young People Committee. I ask everybody around the table to switch their phones off, as they interfere with the translation and broadcasting equipment. This is a formal meeting, so we do not have to operate the mikes; they are operated for us. We operate bilingually, so if you need to use the translation equipment, it is channel 1 for simultaneous translation from Welsh to English, and channel 0 for floor language amplification. We are not expecting a fire drill, so if the alarm goes off, we will take our instructions from the ushers, who will take us to the nearest safe exit or, as I always say, you can follow me, because I will be the first out of the building. Angela Burns has sent her apologies for today, and there is no substitution. Do any Members need to declare an interest that they have not already declared on the Members' register of interests? I see that nobody does.

9.32 a.m.

Craffu ar Gydymffurfiaeth Llywodraeth Cymru ag Adran 1 o Fesur Hawliau Plant a Phobl Ifanc (Cymru) 2011 a'r Cynllun Gweithredu Gwneud Pethau'n Iawn Diwygiedig Scrutiny of Welsh Government Compliance with Section 1 of the Rights of Children and Young Persons (Wales) Measure 2011 and the Updated Getting it Right Action Plan

[2] **Ann Jones:** We are pleased to have Keith Towler, the Children's Commissioner for Wales, back with us. Thank you for providing written evidence based on your work on this. As we have quite a few questions, can we go straight into them? Is that all right?

[3] **Mr Towler:** Yes.

[4] **Ann Jones:** Fine. I will start with the first one, Keith. You wrote to the Children and Young People Committee stating that further discussion was needed with regard to the robustness of the compliance report. Do you think that that compliance report is sufficiently robust?

[5] **Mr Towler:** No, I do not. We have to take stock of the fact that we are at the beginning of a process and that we are in a developmental thing, but I am hoping that the scrutiny that this committee is about to engage in and the work that we can do together can improve that robustness. The Minister is right when he says that the eyes of the world are on Wales in relation to the work that it is doing on the United Nations Convention on the Rights of the Child. That is absolutely true; there is no doubt about that. So, getting this working properly with real robustness is important, otherwise the eyes of the world will watch us make a bit of a mess of it. That is my concern.

[6] There are three things that would make it more robust. I was here with you last week talking about the Social Services and Well-being (Wales) Bill and my concerns about child

rights impact assessments. I still have not seen effective child rights impact assessment work happening. There is an issue about clear leadership and there are issues about scrutiny. To pick up the child rights impact assessment first, that process needs to be transparent and consistent. Those are the two key points that I want to make. At the moment, we do not have transparency on that. It makes it difficult for you or me to hold—

[7] **Ann Jones:** May I stop you and ask who ‘we’ is?

[8] **Mr Towler:** Those outside the Welsh Government.

[9] **Ann Jones:** So, it is a large ‘we’.

[10] **Mr Towler:** Yes, it would include scrutiny from this committee and the legislature, scrutiny by the children’s commissioner and the child’s rights community that exists outside. So, the tools that the Welsh Government has to make the child rights impact assessment work are very much within Cathays park and Merthyr. There is no doubt that that is necessary, but if they could publish those things at the point at which they begin to consult on Bills or policy change, a proper child rights impact assessment would show something about what the legislation—if it is a legislative thing—is hoping to do, what articles in the convention would be applied by that and then, critically, some analysis, which we do not have very often, of how this new proposal would either support the convention or deliver better outcomes for children. At the moment, we do not have that analysis. So, it is very difficult, in terms of this being robust, to be able to say, ‘These are the benchmarks that the Welsh Government is setting on a particular issue. This is where we expect to be by this time of the year. We are not there yet; so why are we not there?’ It would also provide the Welsh Government with an opportunity, particularly around legislation—if it published its child rights impact assessment at the point at which it published White Papers and Bills—to inform the consultation process. So the Government could say, ‘We have made an assessment. We think that this supports the best interests of children. Do you agree?’ I think that that would be a really useful process to demonstrate some effective leadership and help the scrutiny process.

[11] **Ann Jones:** There are some questions on the child rights impact assessment. Suzy will start, and then we will move to Simon.

[12] **Suzy Davies:** Hello, Keith. You have indicated that you would like these impact assessments to be made more widely available, particularly to children, I would have thought, because I cannot see anything in the six steps that says that children have input into that in any way. Do you foresee any problems, in that if an impact assessment goes so wide too many people will start to get involved, and it will delay the process of any policy or statute progress?

[13] **Mr Towler:** I do not see problems with that. Since we have had the National Assembly and Welsh Government, in terms of consultative and transparent processes, people will very often look at Wales and say, ‘It is fantastic that you have so many opportunities to consult on things’. I think that this is about how you do it, rather than whether it adds an additional burden. You are absolutely right; in terms of publications, the child rights impact assessment provides a fantastic opportunity for children and young people to get engaged and to get their voices heard in those processes. It allows children and young people to think about the convention and how it is applied in their lives. Those things are positive. There were young people at the Health and Social Care Committee meeting this week talking about the Social Services and Well-being (Wales) Bill. That is brilliant; it is absolutely stunning. I do not think that it is problematic in terms of extending consultation periods, but it is an opportunity for Welsh Government to put out there what its assessment is. There will be times when those assessments will be broadly agreed, and there will be other times when there might be discussion points. I would say that that is what consultation is about, really. It is

about the process. What we do not want, in a year's time, is a further discussion on concern about Welsh Government process in relation to child rights impact assessments. So, if we are critical about the process, that would be a real lost opportunity. We might debate and be critical of the assessments that they make, but that is what the healthy dialogue needs to be. We need to get the process right with Welsh Government so that we deliver something that is achieving good outcomes for children.

[14] **Suzy Davies:** One thing that concerned me—not about your evidence, particularly, but in terms of the stuff that we have had in written evidence to date—is that many assumptions are being made about these impact assessments, because no-one has seen them, effectively. Are you worried that they are tick-box exercises, or do you think that they are being taken seriously, even though the outside world will not necessarily see them?

[15] **Mr Towler:** There is some evidence. I am focusing on the things that need developing, and I think that we need to remember that we are at the beginning of something here. This is a huge learning curve, and a shifting culture for Welsh Government and the civil service. They are not all bad. We have had some really positive examples about where it is very clear that that thinking has taken place. In relation to transparency and enabling us not to leap to conclusions that might not be there, it would help all of us, I think, if the child rights impact assessments were made available. That is about the healthy critique of Government. Very often, what tends to happen— When I think about the Social Services and Well-being (Wales) Bill, I am completely convinced that I understand the vision of the Deputy Minister, and then I get confused when I see the things that formally come out of the Bill without the child rights impact assessment. It does not demonstrate to me the thinking that I know Gwenda Thomas has done in relation to children's rights. I think that that is a missed trick.

[16] **Suzy Davies:** You are not alone in that.

[17] **Mr Towler:** It leads people to conclusions that might not be true, but even if they are true and there is a concern, it is better to get them out there and it is better for us to debate them.

[18] **Suzy Davies:** This has only been going for a year, and the due regard principles have had to apply to a number of Bills in that time. Would it be fair to say that some Bills deserve more concentration than others in terms of due regard? Do you see this as a flexible area?

[19] **Mr Towler:** When we debated the Measure, we said that its impact is on any legislation. The Social Services and Well-being (Wales) Bill is massive in relation to children and young people's services, but other Bills are less so. Child rights impact assessments will be able to make those determinations. The important thing is that they happen across Welsh Government civil service, so that we do not rely on an individual team to do those assessments. We need an individual team to support the civil service in creating such assessments, but there will be times when the child rights impact assessments will be large, with big issues to consider, and other times when they will not.

[20] **Suzy Davies:** So, one size does not fit all.

[21] **Mr Towler:** One size does not fit all. It is much the same as the work on equalities.

[22] **Simon Thomas:** Bore da. Byddwch yn gwybod ein bod wedi gweld yr asesiad o'r effaith ar hawliau plant yn dilyn y Bil diweddar, oherwydd bod y pwyllgor hwn wedi gofyn am ei weld a bod y Dirprwy Weinidog wedi'i ddarparu. Dyna'r unig un **Simon Thomas:** Good morning. You will be aware that we saw the child rights impact assessment following the recent Bill, because this committee asked to see it and the Deputy Minister obliged. That is the only one that I remember seeing publicly. Is that also true in

rwy'n cofio ei weld yn gyhoeddus. A yw hynny'n wir yn eich profiad chi hefyd? A ydych wedi bod ynghlwm â'r gwaith o baratoi unrhyw asesiadau eraill sydd gan y Llywodraeth ar hyn o bryd?

your experience? Have you been involved in preparing any other assessments ongoing by the Government?

[23] **Mr Towler:** No, I have not been involved in the work on any child rights impact assessment. We have not been consulted on them and we have not been asked for advice on any of them. I have also asked to see the one in relation to the Social Services and Well-being (Wales) Bill, but I have not seen it yet.

[24] **Simon Thomas:** I take it that it is publicly available, because it has been provided to the committee.

[25] **Mr Towler:** I have not had a chance to go through it. The publishing of the CRIA on the Active Travel (Wales) Bill was a positive example. I might take a view about some of the issues within it, but I thought that it was a good example of something that had been seriously thought through. There was analysis of the articles affected within the convention, and some analysis about what needed to happen to ensure that children's rights were being protected, safeguarded and promoted. So, it is not all doom and gloom and this is a work in progress. There are some good examples. However, in terms of mainstreaming this culture within the civil service, we have a bit of a way to go.

[26] **Simon Thomas:** Er ei bod yn ddyddiau cynnar, mae gennyf ddi-ddordeb gwybod a yw'r asesiad hwn yn cael unrhyw effaith. Un peth yw mynd drwy broses, peth arall yw gweld bod unrhyw ddilyniant i'r broses honno. A oes gennych unrhyw enghraifft o'r broses hon yn arwain at feddwl o'r newydd mewn cyd-destun polisi neu'n rhoi cyfle i'r gymuned ehangach, fel rydych wedi'i disgrifio, fynd yn ôl a chodi pryderon o bwys gyda'r Llywodraeth? Oni bai bod pethau fel hynny'n digwydd, nid yw'r broses yn werth y papur yr ysgrifennwyd hi arno.

Simon Thomas: Although it is early days, I am interested to know whether this assessment has had any impact. It is one thing to go through a process, but another to see if there is any follow-on to that process. Do you have an example of this process leading to fresh thinking in a policy context or for the wider community, as you described it, to go back to raise significant concerns with the Government? If such things do not happen, the process is not worth the paper that it is written on.

[27] **Mr Towler:** Absolutely. You will remember the 'Together for Mental Health' strategy for mental health and wellbeing. I was very critical about that at the point of publication and during the consultation period.

[28] **Simon Thomas:** From the point of view of child and adolescent mental health services.

[29] **Mr Towler:** Yes, from the point of view of CAMHS, not just in terms of the casework and the blockages to accessing services, but also whether a child rights impact assessment had taken place. Subsequent to that work, I have met with officials and gone through their work on child rights impact assessments. I can see substantive changes in how they have applied some thinking in relation to a mental health strategy directly affecting children and young people services. You can see how that thinking enables clarity in relation to children and young people services to occur. It is challenging stuff for people who have not done this before—such as when the equalities legislation came in—but it focuses people's minds to think about services through the eyes of children and young people. It makes them think 'To what extent will they be able to access those services?' 'To what extent will good child-friendly information be made available?' I have seen that happen with the mental health

work, and I have seen officials enjoy the challenge and actually get to grips with it.

9.45 a.m.

[30] **Simon Thomas:** Do you think that this process is the correct process? What I am trying to get at here is that none of this is on the face of the Measure; this is all process stuff. We have a six-step assessment and a lot of this international stuff is quite difficult, complex and quite high level, and bringing it down to policy delivery is quite difficult for anyone, I think. So, although these are early days, are we using the right tool? Are these child rights impact assessments the right tool, not sitting in a statutory basis as they do, and how do they fit in with other ways—there are international comparisons perhaps—of how this is done? You are quite right to bring to us any concerns that you have, but I am trying to step back and say ‘Well, before we go further down here, have we got the right tool and is this the right way of doing it?’

[31] **Mr Towler:** I think broadly it is. If you look at the general measures of implementation from the UN committee, and you think about the process of the child rights impact assessment model—there is one that has been developed; look at the Scandinavian countries, for example, and their work on child rights impact assessments—you can see the benefits that it brings. The model is good. This is about its application, its transparency and enabling good legislation and policy to happen as a result of that debate and challenge. The difficulty I think, when you do a child rights impact assessment well, is that it throws up challenges and questions that you might not want to see there, because it throws up things you had not thought of, but the discipline of going through it is really important.

[32] **Simon Thomas:** Should not a draft child rights impact assessment form part of the consultation, therefore—right at the start?

[33] **Mr Towler:** Absolutely; it should be there right at the beginning.

[34] **Simon Thomas:** Should it be included even in the White Paper?

[35] **Mr Towler:** Absolutely. That would provide a fantastic opportunity for the Welsh Government to say, ‘We’ve completed a child rights impact assessment; here it is. This raises questions for us. Do you agree with our assessment? Are you happy that this is achieving the right protection or safeguards for children? These are the areas that are quite challenging for us’. It would just provide some focused debate. There is a lot of expertise in Wales on children’s rights—you are going to meet some of those experts later today—and it is about making sure that the Government uses that expertise to help get the best legislation that we can get. The tool is right; it is its application.

[36] **Keith Davies:** Gofynnaf fy **Keith Davies:** I will ask my question in
 nghwestiwn yn Gymraeg. Rydych yn sôn am Welsh. You mention what the Government is
 beth mae’r Llywodraeth yn ei wneud, ac doing, and you say that there is a different
 rydych yn dweud bod dynamig gwahanol i dynamic for the children’s rights scheme
 grŵp monitro’r cynllun hawliau plant, a monitoring group presented in the
 a gyflwynir yn yr adroddiad cydymffurfio, o compliance report, in comparison with the
 o gymharu â’r grŵp llywio gweithredu y implementation steering group referred to in
 cyfeiriwyd ato yn y cynllun gwreiddiol. Beth the original scheme. What is the potential
 yw effaith hynny? impact of that?

[37] **Mr Towler:** The issue about the mechanics of this is quite important, and there is a capacity question that you might want to ask the Minister about later, about the ability to do the work that we are describing here. I do not think that any of us should underestimate the amount of work that is involved in this to get this right for children and young people. The

relationship between the central team and the monitoring group, and the way in which that works, is critical to the delivery of that. It is for the Minister and officials to answer the question about capacity and the way in which those things are working, but the progress report on the action plan, which I have gone through, raises questions for me about the robustness of some of the work that has gone on, including who is quality-assuring some of the work that is coming out, and whether Ministers are comfortable with the quality of this work. Perhaps I will just leave that there. There are some significant questions in terms of the mechanics of it.

[38] **Keith Davies:** Felly, a yw eich **Keith Davies:** Therefore, has your office had swyddfa chi wedi cael unrhyw rôl o ran any role at all in working with officials? gweithio gyda swyddogion?

[39] **Mr Towler:** We have regular meetings with officials and we have discussed with them the way in which the scheme and the action plan are working. We have worked with them on a four-jurisdiction basis, when it is time to think about reporting processes to the UN. We have a good, robust, but professional working relationship that is challenging on both sides; it works quite well, I would say. Nothing that I have said about this will be a surprise to them, because they know that we have some issues with it. However, we are also very keen to offer help and assistance if we can. I would hope that Welsh officials would say that they recognise that.

[40] **Aled Roberts:** Gan droi at **Aled Roberts:** Turning to staff training, your hyfforddiant i staff, mae'ch tystiolaeth yn evidence states that there has been significant dweud bod gweithgarwch sylweddol wedi activity within the Welsh Government over bod yn ystod y naw mis diwethaf o fewn the last nine months in terms of staff training. Llywodraeth Cymru o ran hyfforddi staff. However, it is clear that you still have some Fodd bynnag, mae'n amlwg fod dal gennych concerns about this process. What are those bryderon ynglŷn â'r broses hon. Beth yw'r specific concerns? pryderon penodol hynny?

[41] **Mr Towler:** We should not underestimate the scale of the task and the seriousness with which Welsh Government Ministers and officials have taken this on board. I know that a quite comprehensive programme of training has gone on with staff across the Welsh Government, and that is good. I do not think that it is an issue of identifying or raising concerns about whether the number of hours or sessions on training are sufficient; it is more nuanced than that. There is something about where senior leadership in the civil service is on this. It is about asking where the champions are in the Welsh Government on this issue in relation to each of the responsibilities of the respective directors general, and how they communicate the cultural shift that is required. It is a massive task for them. I have been really impressed by the scale of the work that the Government has undertaken. However, I think that we are at the beginning of this road. In terms of the leadership and the demonstration of practical tasks, I think that it still has some way to go.

[42] **Aled Roberts:** Rydych wedi sôn am **Aled Roberts:** You have mentioned arweinyddiaeth. Mae'r ymateb o fewn leadership. The response from different gwahanol adrannau wedi bod yn eithaf departments has been quite varied. I asked a gwahanol. Gofynnais gwestiwn ym mis question in November and was told that 47% Tachwedd, a chefais wybod bod 47% o staff of staff in the business, enterprise, technology o fewn yr adran busnes, menter, technoleg a and science department had received some gwyddoniaeth wedi cael rhyw fath o sort of training. However, in the education hyfforddiant. Fodd bynnag, yn yr adran department, only 5.1% had received training, addysg, dim ond 5.1% sydd wedi cael which equates to 35 members of staff. In the hyfforddiant, sef 35 aelod o staff. O fewn yr health department, 11% or 84 members of adran iechyd, 11% sydd wedi cael staff have had training. Is that difference a

hyfforddiant, sef 84 aelod o staff. A yw'r reflection of how seriously the directors in gwahaniaeth hwn yn adlewyrchiad o ba mor those departments are taking this situation? ddirifol y mae'r cyfarwyddwyr o fewn yr adrannau hynny yn cymryd y sefyllfa hon?

[43] **Mr Towler:** That is a good question. It is hard for me to answer it directly, but it raises a lot of other questions. I do not think that any of us have had an up-to-date analysis of who is being trained at what levels across what directorates and with what responsibilities—I have not seen that. I recognise that a lot of activity is going on, and I meet officials in areas of the Welsh Government who have come up and talked to me as a result of going through training, so I know that those kinds of things are happening. However, I do not have an up-to-date analysis of where they are at. I know that there is a lot of activity. I am not sure how strategic it is and I am not sure about the extent to which directors general are buying into that cultural change; I cannot answer those questions.

[44] **Aled Roberts:** A yw eich swyddfa **Aled Roberts:** Has your office had any sort wedi cael unrhyw fath o fewnbwn i gynnwys of input into the content of that training? yr hyfforddiant hwn?

[45] **Mr Towler:** No; none. We have not been asked.

[46] **Rebecca Evans:** Turning to section 6 of the Measure, which sets out the circumstances under which Welsh Ministers could amend existing legislation, what processes would you like to see being put in place to ensure that the existing legislation is reviewed on a systematic basis, in line with the UNCRC?

[47] **Mr Towler:** The Welsh Government paper on this issue is not clear. It says that,

[48] ‘At this moment in time there is no requirement to amend the legislation.’

[49] When we were debating the Measure here and elsewhere, we talked quite a lot about the due regard duty and how it could be applied. The provision in the Measure is to amend any piece of legislation—it is not about ‘the’ piece of legislation.

[50] Section 6 allows Ministers to make Orders changing existing legislation if, following a report on compliance, it is decided that it would be desirable to do so and would give greater effect to the UN Convention on the Rights of the Child. I do not think that the Welsh Government has given sufficient thought yet to how it needs to structure that work. Again, it is a big task. We need a proper discussion with Government about how it could undertake that. One option might be to look back at legislation, pre May 2012, and conduct compliance reviews, to bring forward some thoughts on what would need to happen to bring that into place. At the moment, within the scheme, I do not think that we have much clarity on that. More work is required to make that happen. The words need to change from ‘the legislation’ to recognise that this applies to all legislation.

[51] **Rebecca Evans:** Do you have particular concerns about any existing legislation that you think should be prioritised for review or analysis, beyond that which was before 2012?

[52] **Mr Towler:** It is hard at the moment to think beyond the Social Services and Well-being (Wales) Bill, given the scale of it and its impact on children and young people. There are so many areas that you could pick out. To take us back to the discussion that we had earlier about child rights impact assessments, we need real scale to look at the pieces of legislation that we have that have major impacts on children and which need to be prioritised in a review process, to make sure that we do the big-scale ones first. I think that that would make a lot of sense. However, I do not know and I am not aware of officials working on

anything in terms of that review process, and I think that that is something that we need to get right. The capacity and expertise to develop the thinking on that exists in Wales; we could do it. However, we need to give it some real structured thought so that we can project manage it, in a sense.

[53] **Simon Thomas:** I have one specific question, but, first, for me to be clear, is your office part of the Children Are Unbeatable! alliance?

[54] **Mr Towler:** It is not part of it, but I support it.

[55] **Simon Thomas:** You do support it. I just wanted to be clear on the relationship. A piece of legislation that we are constantly faced with here that is not compliant with the UNCRC—it is claimed—is the corporal punishment of children. You look at that as an example of where existing legislation could be amended, in line with this. In ‘The Getting it Right Update 2013’, the Government clearly says that, although the priority is to make it illegal, the action is to make it unacceptable. My question is: can both procedures lead to the same end? In other words, can compliance be achieved by the Government’s policy driver to make corporate punishment unacceptable, rather than the legislative driver, and which is more compliant with the UNCRC?

[56] **Mr Towler:** That is a really complex question. In current UK legislation, as it applies, there is the defence of reasonable punishment. That is the legislative position right now. If you were to apply a child rights impact assessment to the Social Services and Well-being (Wales) Bill, which currently does not have anything in it in relation to that, you would see that the Bill does not take the position further back for children, in law, because the position does not exist. So, in terms of the child rights impact assessment, there is no impact here at all. It is not a retrogressive step because the legislation does not exist. If the legislation were to change or to be amended in terms of giving effect to the UN Convention on the Rights of the Child, which makes it absolutely explicit, then that would be a fantastic demonstration of child rights impact assessments achieving a positive outcome for children. That would be absolutely true. However, the Government is right to say that if it does not legislate, it is not doing children and young people a disservice in legislation because it is not making it worse for children.

[57] **Simon Thomas:** The Government says that it is going further than that, because its policy is to move the agenda along—it is not a legislative agenda, but it is a different agenda. I am trying to test whether the child rights approach is as important for policy as it is for legislation. Sometimes, we lose focus on what we can deliver in two to three years or whenever.

[58] **Mr Towler:** That is absolutely right. The child rights impact assessment process should be applied to policy as well as legislation. In doing that, you come across the same opportunity to remove the reasonable punishment defence through the same route.

10.00 a.m.

[59] **Simon Thomas:** Setting aside the issue of reasonable punishment, what should the legislative priority be for the Government? Should it not be to look at the new legislation being brought forward now? Given the way that we have to deal with things at the moment, the possibility of amending previous legislation—though it should be there—is going to be a back-burner issue, of necessity, while you are trying to deal with a series of changes within public services in Wales.

[60] **Keith Towler:** I would agree with that. Pragmatically, if we could crack the child rights impact assessment and do that well in relation to the Social Service and Well-being

(Wales) Bill, that would be the way to go. We have talked about smacking and advocacy would be another way to go in relation to the impact assessment. What we do not have in the progress report is a route-map. We do not have something that gives us a realistic workload.

[61] **Simon Thomas:** There are no priorities there.

[62] **Mr Towler:** We do not have something that says what the priorities that we will achieve by a certain time are; that we know that the review that we have just been talking about in relation to other legislation might be on the back burner and we will come back to that in two years' time; and that we are going to prioritise certain things. If the Welsh Government had that route-map with priorities and timescales, that would allow effective scrutiny.

[63] **Bethan Jenkins:** Hoffwn i symud ymlaen i'r adran ar gwynion a herio Gweinidogion Cymru. Rydych yn dweud bod materion nad ydynt wedi'u datrys o ran eich rôl fel swyddfa mewn perthynas â dymuniad plant a phobl ifanc i herio'r Llywodraeth. A allwch chi esbonio hynny'n fwy manwl? A oes gennych enghreifftiau o achosion lle mae pobl ifanc wedi dod atoch fel swyddfa a bod y broses wedi bod yn anodd i chi oherwydd y diffyg symllder o fewn y broses fel y mae?

Bethan Jenkins: I would like to move on to the section on complaints and challenging Welsh Ministers. You say that there are some issues that have not been resolved as regards your role as an office in relation to children and young people who want to challenge the Government. Can you explain that in more detail? Do you have examples whereby young people have come to you as an office and the process has been difficult for you because of the lack of simplicity in the process as it stands?

[64] **Mr Towler:** There is a technical point to raise in relation to the role of the Children's Commissioner for Wales legislation in relation to the way in which the commissioner can hold Ministers to account. You will remember that, when the Measure was going through, Welsh Ministers were saying very clearly that the commissioner has the tools in the box to scrutinise Government effectively. I was asking and we were debating whether the tools in the box were sufficient. I can review the exercise of any function of a Welsh Minister. However, if I want to look at reviewing and monitoring the arrangements of Ministers—in other words, if I wanted to compel Ministers to give evidence to me—I can do that only in relation to complaints, whistleblowing and advocacy. I did that with the advocacy review; using the powers of the children's commissioner, I asked Gwenda Thomas, as the responsible Minister, to give evidence to me on behalf of the Welsh Government. It is a technical point. In practice, I know I will have discussions with Huw and Gwenda about the application of children's rights. However, as regards the technical ability to hold them to account and compel them to give evidence, those powers are restricted to complaints, whistleblowing and advocacy.

[65] Previously, in the legislative programme, we had a children's Bill that was going to move forward the work on rights and, within that, there was a commitment to look at the legislation for the children's commissioner. That no longer exists; we do not have that within the legislative programme. It is important to think through—particularly at this time, given the development of the Measure, the scheme and the progress report and holding the Government to account—what tools we want the commissioner to have in the box. I have just under two years left as children's commissioner. We will begin the process of appointing a new commissioner in 2014 to start in 2015. We have lost the legislative opportunity, but we definitely need a discussion about keeping legislation for the commissioner at pace with the work on the rights Measure.

[66] **Bethan Jenkins:** If you have the power over complaints in relation to the due-regard aspect of the UNCRC, does that not already give you the tools? You are saying that you would need wider legislative tools because the current ones do not give you enough scope. Is

that right?

[67] **Mr Towler:** The second part of the original question was whether children and young people come forward with those kinds of complaints, and they do not.

[68] **Bethan Jenkins:** You currently have the powers with regard to complaints.

[69] **Mr Towler:** That is true; if they had the ability to understand that, they could complain about something as technical as a due-regard duty.

[70] **Bethan Jenkins:** Right; okay.

[71] **Mr Towler:** So, getting to the point at which somebody could do that at the age of seven, 12, or 15 is tough.

[72] **Bethan Jenkins:** Was this not the Government putting processes in place to simplify the procedure? Have you had any discussions with the Government regarding how you could help children along those lines? Potentially, you see more children than civil servants do to know how it could be made simpler for young people to approach you. As Rebecca said, it is not about how you could go back and review all that legislation, but how you could bring complaints. Not that you want to have constant complaints, but you could bring some test case complaints. Then you could say, 'Actually, this legislation cannot work for children, because we have too many people who are not receiving the correct services'.

[73] **Mr Towler:** Absolutely. That is why I did the advocacy review, because the starting point of that is that children are not getting their voices heard. For some of the most vulnerable children, such as looked-after children, those in care and those who are currently children in need, who you would expect might want to raise complaints, the advocacy arrangements are not sufficiently well advanced in local communities to enable them to get their voices heard in the first place. To answer your question about whether we are having discussions with Government about how that can be pursued, the answer is 'yes, we are'. Of course, there has been a Cabinet reshuffle and I am meeting with Huw Lewis soon to start that discussion with him, as the new Minister. We will continue to do that.

[74] The other thing to say is—although it is two years away, so it is a long way away—my team is working on the transition from my appointment as commissioner to the next one. Within that, I know that my chief executive is asking for clarity from Welsh Government officials in relation to the inspection and regulation Bill, which will look at the Care Standards Act 2000, under which the commissioner's legislation sits, and asking questions about whether or not there is any scope in relation to legislation for the commissioner. That will be important in planning the transition from one commissioner to the next. To finish that point, if the legislation were to be developed and changed in relation to the role of the Children's Commissioner for Wales, that could have an impact on the person specification for a new commissioner: what kind of skills and experiences would we want?

[75] **Bethan Jenkins:** So, to clarify for the record, have any young people come to you and asked whether they could lodge a complaint regarding any previous policy or legislation of the Welsh Government?

[76] **Mr Towler:** No.

[77] **Bethan Jenkins:** You believe that that is because of the process as it stands, and that that is a discussion that you need to have with the new Minister.

[78] **Mr Towler:** No, I do not believe that either. I think that it is much more complex

than that.

[79] **Bethan Jenkins:** Involving the legislation, and—

[80] **Mr Towler:** The general principle that children do not complain is true. To come back a step, with the work that the Welsh Government is properly doing on raising awareness and providing information for children and young people on the UN Convention on the Rights of the Child, the development of the app, the website, the MEIC service and all of those things, we are coming to a point where children and young people are beginning to get some level of understanding, but it is still not where it needs to be. It should not be about driving complaint, but it should be about children and young people asking good questions about whether they are getting services. The way in which the commissioner's office works when children and young people raise issues with us, is to seek immediate resolution as far as we can. So—

[81] **Bethan Jenkins:** So, you would not record them as complaints.

[82] **Mr Towler:** No, we do not record them as complaints. Hopefully, they would not get that far, because working in the best interests of the child is to make sure that the resolution is secured. So, in a sense, we are not going looking for complaints; we are looking for resolution. It is more likely that adults might get to the point of raising complaints, but again, they want resolution. Looking at accessing services for disabled children, when parents or carers come to my office, it is usually as a result of huge frustration and they are hitting their heads against a brick wall because they cannot get something and what they want is a resolution. So, even they do not make a complaint. What they wonder is whether we can help and advise. We will say, 'Have you gone through the complaints process locally?' They might, or might not have done that and then we will engage in trying to get a resolution. So, it does not get to that point; it is a bit more complex than what you are looking for.

[83] **Bethan Jenkins:** I was not looking for anything specific; it was just in terms of this particular part. Obviously, anybody would want resolution.

[84] **Ann Jones:** We will now move to 'The Getting it Right Update 2013'. David Rees has the next set of questions.

[85] **David Rees:** In the last question, the answer that you gave is that progress is being made. Is the Government going in the right direction with regard to informing and presenting the information to young people, and what type of timescale would you expect to get a wider, better position for young people?

[86] **Mr Towler:** This is a difficult task for all of us because we all have a responsibility in getting information out there about the UN Convention on the Rights of the Child, making sure that children understand about the convention, and indeed that there is a children's commissioner that they can come to if they want to raise issues, whether they are complaints or not. That will never be a tick-box-complete job because the population of children and young people grow up and we need a systematic process in place. Some of that should be driven through education and PSE curricula, as well as information that the Government is putting out on websites. It is developing apps and doing all kinds of stuff. So, in terms of the activity, I think that it is broadly in line and okay, but it is a developmental task.

[87] **David Rees:** Okay. Thank you for that. I will go back to 'The Getting it Right Update 2013'. The end of your submission highlights a couple of points. You state that, in terms of the statement made in January of this year on the updates, you have questions as to whether it is reflected correctly in the document or not. You discuss reflecting the content of the statement, but is it content or intention, because, clearly, they can be different? What raises

those questions with you?

[88] **Mr Towler:** We are talking about this progress report here. I do not know whether you have had an opportunity to go through it in some detail, but my feeling is that this is quite a poor piece of work. I think that it is poor on a number of levels. It undersells what the Welsh Government has achieved. It misses things like the Social Services and Well-being (Wales) Bill and the wellbeing monitor for children and young people, which has developed. We have discussed here the wellbeing monitor and the success of the work that has taken the views of children and young people about their own experiences in relation to wellbeing. There are things in this report that are just underselling what the Welsh Government has achieved. So, there is very little coherence in this document. So, is that intent? I do not think that it is. I think that it is a case of officials working hard to try to get us to a point where we can begin to see work done on progress. Whoever quality-assured the release of this report did not do a robust enough job on making sure that what should be in the report was in there, and that what is included is actually accurate.

[89] What we do not have in the progress report—to come back to the point that Simon raised earlier—is something that tells us where the road is leading next. So, in terms of scrutinising this and holding Government to account on success, where are the benchmarks? What will enable us to say, in a year's time, 'You have achieved this' or 'You have not achieved this'? So, there are a couple of things. I think that the Government has undersold what it has achieved, and it has missed some obvious tricks. There is insufficient detail about what the next steps will be and what the progress needs to look like. I really do not think that that is about intent; I think that that is about capacity and people trying to do the best job that they can. However, there are some problems with that document. If it was me, I would start again on that.

[90] **David Rees:** I take it from your response that you had no involvement in the report whatsoever.

[91] **Mr Towler:** No.

[92] **David Rees:** Have you been asked to be involved in any progress of that report?

[93] **Mr Towler:** We have some discussions coming up with officials on it. I am quite happy to maintain that position with them. Going back to the point that Bethan was making, if we were to take this to children and young people and ask them to make any sense at all about how this would change their lives, I just do not see how any child or young person could be expected to understand it. You could say that the document is not meant for them and that this is a working document, but if this is a live document driving the practice of Welsh Government and is a developmental document, there is nothing in there about reviewing, and enabling people to understand what the Welsh Government is doing. It is a starting point, but I think that a lot more work needs to be done on this.

10.15 a.m.

[94] **David Rees:** I have two questions to ask, therefore. Would it be better for the Government to produce two types of document, in that sense? That is, one that is clearly the technical document, which we need to understand, and the other a working document that can be easily and more simply understood by everybody in the wider world.

[95] **Mr Towler:** Yes, possibly so. When we were talking about the Measure and progress, we were talking about reporting cycles. The starting point for the reporting cycle was to think about the UN committee and the five-year reporting cycles. We were all agreed, I think, that five years was too long for a reporting cycle. We are at the beginning of

something really quite exciting in terms of delivering for children and young people, so I think that the first thing is about reporting cycles.

[96] Personally, I think that we should have—going to the technical document—an annual opportunity for this committee and for the children’s commissioner to hold Government to account on progress in relation to this report. I think that that should happen every year for at least the next five years, to get that kind of momentum going, so that we can help Welsh Government to get to the point we need to be at.

[97] The subsequent answer to your question is that, if we want children and young people to understand how due regard is being applied and what the Welsh Government is doing, then, yes, it would be good, at that annual point, for a document to be produced for children and young people to demonstrate what the commitment is, what progress has been made, and what the Welsh Government is going to do in the next year within this bigger plan. Now, I think that that is the beginning of something, going back to Bethan’s point about getting children and young people to see and understand how their Government is working for them.

[98] **David Rees:** On the second question I was going to ask, I think that you have answered it, but can you just confirm that you believe that the Government is going in the right direction and that progress is being made, but that the document is not giving us sufficient information to make that quite clear in its own right.

[99] **Mr Towler:** Congratulations on producing the document; the momentum is clearly there. I believe—and it is important to place this on record—that the Welsh Government is up for the discussion about getting this moving in the right direction; I think that that is true. However, I think that more work is required to get this progress report into a position that would enable anybody to understand what Welsh Government is doing and to hold it to account to make sure that it delivers in the way that it wants. So, this is about assisting the Welsh Government to deliver its targets.

[100] **David Rees:** Finally, you have stated that:

[101] ‘I would be willing to share the specific concerns I have in committee’.

[102] Are those the concerns that you had?

[103] **Mr Towler:** Yes, those are the concerns. However, I can give you a couple of others. In relation to poverty, for example, some of the indicators in here are different for data comparisons prior to and after 2008. The wellbeing monitor is not being utilised. There is no reference to the child poverty duty under the Children and Families (Wales) Measure 2010. There is no relationship to or analysis of information about what has been introduced for those young people who are not in education, employment or training. On positive outcomes for the most vulnerable children, children’s needs census data could have been used, but are not in here. Looked-after children data are not included in this document. I have a list; I can give you the list.

[104] **David Rees:** That would be helpful.

[105] **Ann Jones:** That would be helpful.

[106] **Mr Towler:** I think that it is really, really, really poor. It is as poor as it could possibly be, and it undersells what was Government has achieved. It is not helping itself with this. As I said, I would start again.

[107] **Ann Jones:** Does anybody else have any more questions for the children’s

commissioner? No? In that case, I thank you for coming before us, as ever.

[108] **Mr Towler:** A pleasure.

[109] **Ann Jones:** As you know, you will get a copy of the transcript to check the accuracy, so that we have not put any words in your mouth—not that anybody would dare. *[Laughter.]* Thanks very much for coming along.

10.18 a.m.

**Craffu ar Gydymffurfiaeth Llywodraeth Cymru ag Adran 1 o Fesur Hawliau
Plant a Phobl Ifanc (Cymru) 2011 a'r Cynllun Gweithredu Gwneud Pethau'n
Iawn Diwygiedig
Scrutiny of Welsh Government Compliance with Section 1 of the Rights of
Children and Young Persons (Wales) Measure 2011 and the Updated Getting it
Right Action Plan**

[110] **Ann Jones:** We will move straight on to continue our scrutiny of the Rights of Children and Young Persons (Wales) Measure. Joining us at the table for this session will be Pat Dunmore, who is a member of the Wales UNCRC monitoring group—in fact, she is the co-ordinator—and with her is Dr Simon Hoffman, who is also a member of the group. I will just give you a moment to settle in.

[111] Thank you very much for your written evidence. If it is all right with you, we will move straight into questions. I think that you heard the back end of the session with the children's commissioner, if not all of it. Lynne, do you want to take the first question?

[112] **Lynne Neagle:** Good morning. The Minister has told us in his written evidence that he feels that the Welsh Government is making good progress against the due regard duty. Do you share that view?

[113] **Ms Dunmore:** It is almost impossible to tell. It may well be making good progress, but without transparency, and without the CRIAs, and the consultations on those CRIAs, being made public, it is impossible for us to tell whether the due regard duty is being implemented or not—or being implemented well.

[114] **Dr Hoffman:** I agree with that. The important point about CRIAs is that they should be transparent, because until CRIAs are in the public domain, we cannot possibly know what progress is being made.

[115] **Suzy Davies:** When you say 'CRIA', do you mean the child rights impact assessment?

[116] **Dr Hoffman:** Yes. Sorry.

[117] **Suzy Davies:** That is just for the record—thank you. We note what you say about making these more public, so that the contents are more transparent, but you will have heard the children's commissioner say earlier that, as a tool, he thinks they are probably fine. It is just perhaps the detail of them, and the way that they are implemented. Do you agree with him? Do you think that they are fit for purpose?

[118] **Dr Hoffman:** CRIAs as a tool are generally fit for purpose. Whether they are achieving what they are meant to achieve in the processes of policy deliberation and consideration of legislation within Welsh Government, again, we cannot possibly know,

because, until we have some idea of what use is being made of CRIAs, and whether CRIA processes are being gone through properly and rigorously, then we are not really in a position to comment. That is a problem in itself. We cannot say, ‘Yes, they are an effective tool within the Welsh Government’, or, ‘No, they are not an effective tool within the Welsh Government’, because we do not know how they are being used and whether they are being used properly. In general, I would say that CRIAs are an appropriate tool.

[119] **Suzy Davies:** May I develop that a little further? You have seen the six steps; I do not know whether it is a bit mean to ask you which steps you think are missing. That would be my first question. Secondly, you are the monitoring group; are you saying that you are unable to monitor because you are not getting to see how these are being devised?

[120] **Ms Dunmore:** Yes.

[121] **Dr Hoffman:** The simple answer to the second part of your question is ‘yes’. We simply cannot tell. As far as what steps may or may not be missing from the six-step process, the process is an attempt at a CRIA. It may be improved, but it may well be an effective tool. We simply do not know, because we do not know what kind of rigour is being applied in its use in the policy and legislative processes within Welsh Government.

[122] **Ms Dunmore:** It all comes back to the CRIAs. If they were made transparent it would answer a lot of other questions—for example, around the quality of staff training. We cannot answer whether or not staff training is of good quality or is adequate. If we were able to see the product, the CRIAs, we would then be able to comment on that. It all comes back to the CRIAs.

[123] **Suzy Davies:** I see your problem. You are clearly not involved in the process at all, and the children’s commissioner said that he is not. Are you aware of any external bodies that are involved in using the CRIAs? Or is it all very much in-house and in the dark?

[124] **Ms Dunmore:** Yes.

[125] **Dr Hoffman:** There is a point within the six-step process—I cannot quite remember whether it is step 2 or step 3—which assumes a considerable degree of reflection on the convention. We are not aware of what reflective processes are undertaken within the Welsh Government to consider, for example, what the convention means, what the obligations are and what the expectations are, and how those expectations may be met within policy and legislation, what the challenges to meeting those expectations are, and what reflective judgments and decisions have been made in relation to those obligations. I say this flippantly from time to time, but there comes a step in the six-step process that requires you to immediately acquire 25 years’ experience of the UNCRC. I think the commissioner indicated that a lot of that experience lies outside of the Welsh Government. The way the CRIA process operates at the moment, there is nothing that allows that kind of experience to engage with Welsh Government, and for the Welsh Government to engage with that kind of experience, and that is a real deficit in the existing process.

[126] **Ms Dunmore:** One of the concerns that we had when we initially saw the CRIA process or the six-step process was that step 2—I think it is that step—asks you a question about whether the piece of legislation or the policy is helping to support children’s rights. It does it as part of a positive framework, and we were concerned that it might not lead people to look at where a piece of legislation obstructs children’s rights. I have had discussions with officials, as have other members of the monitoring group, and they have assured us that that is happening. However, again, without seeing the CRIAs, it is impossible to say.

[127] **Suzy Davies:** As a final question, is the Minister aware of your concerns that you are

unable to fulfil your role properly, because you do not have access to this information? Have you made it known to him?

[128] **Ms Dunmore:** We have not yet had a chance to talk to the Minister. We have certainly made it known to senior officials.

[129] **Simon Thomas:** Byddaf yn gofyn fy nghwestiwn yn Gymraeg. Mae'n amlwg y byddech yn dadlau— **Simon Thomas:** I will ask my question in Welsh. It is clear that you would argue—

[130] **Ann Jones:** The translation is on channel 1.

[131] **Simon Thomas:** Mae'n amlwg y byddech yn dadlau dros gyhoeddi, neu o leiaf gwneud yn gyhoeddus, yr asesiadau effaith ar hawliau plant hyn wrth i'r Llywodraeth weithredu polisi neu ddeddfwriaeth, fel ein bod yn gallu eu hasesu. Rydym wedi gweld enghraifft ddiweddar o'r asesiad yn cael ei wneud yn gyhoeddus—drwy'r pwyllgor hwn, o leiaf, cyhoeddwyd asesiad effaith ar hawliau plant y Bil Gwasanaethau Cymdeithasol a Llesiant. A oes modd i chi, o'r ychydig sydd wedi cael ei gyhoeddi, fynegi unrhyw farn ynglŷn â'r broses? **Simon Thomas:** It is clear that you would argue in favour of publishing, or at least placing in the public domain, these child rights impact assessments as the Government implements policy or legislation, so that we can assess them. We have seen a recent example of the assessment being placed in the public domain—through this committee, at least, the child rights impact assessment of the Social Services and Well-being Bill was published. From the little that has been published, can you give us an opinion on the process?

[132] **Ms Dunmore:** The full CRIA to the Social Services and Well-being (Wales) Bill has not been published. I have asked for a copy of it and have been told that that request will be considered.

[133] **Simon Thomas:** So, what has been published through this committee is not the full CRIA, is it?

[134] **Ms Dunmore:** No. What is in the explanatory memorandum to the Bill is the summary of the CRIA, not the full CRIA. So, we have not seen that.

[135] **Simon Thomas:** We received as a committee paper what I assume is the full assessment.

[136] **Ms Dunmore:** We have not. We have requested it and have been told that the request will be considered.

[137] **Simon Thomas:** That is interesting, because, as we have received it as a committee, I would assume that that is now a public document. That clearly means that you are not being sought out for your views on the process. I think that would be a fair assessment.

[138] A gaf i ofyn ymhellach—rwy'n gwybod mai grŵp monitro Cymru ydych, ond sut mae'r broses hon yn cymharu â'r rhai yng ngwledydd eraill Prydain? Yn y pen draw, monitro aelod-wladwriaeth a wneir, felly'r Deyrnas Gyfunol sy'n cael ei monitro ar y lefel ryngwladol. A oes modd gweld sut mae'r ychydig o'r broses rydych yn ei weld yng Nghymru yn cymharu â'r hyn a welir **Simon Thomas:** May I ask further—I know that you are the Wales monitoring group, but how does this process compare with those in other countries in the UK? Ultimately, it is the member state that is monitored, so it is the UK that is monitored at an international level. Is it possible to see how the little of the process that you see in Wales compares with that seen in England, Scotland and so on?

Lloegr, yr Alban ac ati?

[139] **Ms Dunmore:** Wales is far ahead of the rest of the countries in the UK in furthering the cause of children's rights and implementing the UNCRRC. We are very pleased about that and support the Welsh Government in that.

[140] **Simon Thomas:** What about the specific tool that is being used at the moment, the CRIA?

[141] **Dr Hoffman:** It is difficult to make a comparison, because Wales has taken a step forward with the due regard duty, which differs from what happens in the other nations in the United Kingdom. It seems to me that the CRIA process that we have in Wales, particularly the six-step process, is directly related to the due regard duty. It is a process that is there to ensure that there is compliance, at the very least, with the due regard duty. So, it is difficult to make comparisons with what takes place elsewhere. I know, from some work that I have done in relation to countries outside of the UK, that the CRIA process is seen as being a very effective process for introducing the culture of children's rights and for thinking about children's rights when thinking of policy and legislative processes. It is difficult to make a comparison with other UK nations because we are the only UK nation that has the due regard duty.

10.30 a.m.

[142] **Simon Thomas:** So, our process reflects that; it demonstrates that the Minister is meeting his or her duties in that respect. You have just explained that you have not received the detailed one on the Social Services and Well-being (Wales) Bill. Nevertheless, there is reference in the monitoring report to several children's rights impact assessments that have been carried out on various Bills, such as the Human Transplantation (Wales) Bill and so on. I take it that you have not seen them.

[143] **Dr Hoffman:** No.

[144] **Simon Thomas:** Have you been able at all to assess what effect that they have had on the legislative process?

[145] **Dr Hoffman:** I have not seen any CRIAs myself. I am aware that some of them are in the public domain, such as the one on the Active Travel (Wales) Bill.

[146] **Simon Thomas:** Yes, the children's commissioner made reference to that.

[147] **Dr Hoffman:** The difficulty is that you very often get statements of outcomes of a CRIA, which says that something 'will promote' or 'give better effect' to children's rights in a particular area. It is difficult to gauge whether or not that is the end result of a CRIA process or just an assumption that is being made. It is also difficult to gauge whether or not something else was considered during the process that would have given further or better effect to children's rights.

[148] A more difficult situation is to know whether or not a CRIA would have established something that was retrogressive in relation to children's rights. If that were an outcome, how could that outcome be justified?

[149] **Simon Thomas:** What you have just outlined there are considerations during the Green Paper and White Paper stage, which take place well before legislation is produced. Are you advocating that this process should be part of the public consultation on a White Paper, for example?

[150] **Dr Hoffman:** Most definitely. I think that there is a degree of putting the cart before the horse, if that is the right analogy. However, there seems to be an assumption that if—

[151] **Simon Thomas:** It is a bolt-on.

[152] **Dr Hoffman:** Yes. If a CRIA is going to be published, it comes before the consultation stage. It seems to me that that is thinking about it the wrong way around, because a CRIA will need to take account of stakeholder opinion and children's opinions to arrive at the reflective judgment that is required within the CRIA process.

[153] I also think that it is not a one-off event. I do not think that it is a case of: when do we publish a CRIA? If there is going to be one of them, there needs to be consultation before and after. So, it needs to be done after consultation has taken place, but those processes need to begin when the legislation is being thought about during the White Paper and Green Paper stages. It needs to be a process—that is the point, I think—and you need to return to it from time to time to check whether the judgments that you have made as part of the process are confirmed or challenged by the consultation responses that you receive.

[154] **Simon Thomas:** So, any CRIA done on policy or legislation should have expected outcomes, and a way of going back, two years down the line, to say, 'These are the expected outcomes, and we did or did not meet them', so that there is some type of working process there.

[155] **Dr Hoffman:** Yes. There is a degree of intensity when the legislation policies are being thought about. You may need to think about CRIA as a process within that intense period when legislation is being thought about. However, there also need to be opportunities to go back to it at a later stage. In fact, that is pretty much what the case law on due regard tells us.

[156] **Simon Thomas:** So, it is the right tool but it is not being used in the right way?

[157] **Dr Hoffman:** That is right.

[158] **Rebecca Evans:** I am really concerned about—[*Inaudible.*]—and I have some questions on this. With regard to the Social Services and Well-being (Wales) Bill, when did you ask for a copy of the CRIA in relation to it? If you only asked for it last week, for example, it is understandable that your request would still be under consideration.

[159] **Dr Hoffman:** It was not only last week—

[160] **Rebecca Evans:** How many other CRIAs have you asked for as a group, and what was the response? Have you ever been refused one or been told that there is not one? Dr Hoffman, you said that there are already CRIAs in the public domain. As a monitoring group, why have you not studied them?

[161] **Ms Dunmore:** With regard to the first part of your question, we have consistently asked for access to all of the CRIAs. We have not named specific CRIAs; we have asked, as the monitoring group and as members of the Getting it Right group within the Welsh Government, to see CRIAs, even on a confidential basis initially, so that we could advise the Welsh Government on how it was coming along in the early stages, because we could understand that there would be some anxiety with the first ones to come out. We have consistently come up against a brick wall.

[162] **Dr Hoffman:** I would like to reiterate that. I do not think that we are so concerned

with particular CRIAs, although there are certain bits of legislation that we would like to see the CRIAs for. The concern is more that this should be a matter of routine. We should not have to ask for them; these documents should be in the public domain so that they can be open to scrutiny. That would be beneficial to the Welsh Government, as it would to the non-governmental organisations community. As for the ones that I mentioned that are in the public domain, I am simply aware from other people who are working in a particular field that there is a CRIA in relation to a particular Bill and I wonder why that is the case for one Bill, but not another.

[163] **Ms Dunmore:** As a monitoring group, we focus on specific areas. We cannot cover everything that the Welsh Government is putting out there. So, we have become aware, as Simon said, that certain CRIAs have been made public, but we have not been told that officially.

[164] **Ann Jones:** We will move on to implementation and raising awareness. Keith?

[165] **Keith Davies:** Rwyf am ofyn fy nghwestiwn yn Gymraeg. Mae'r Llywodraeth wedi newid y grŵp llywio gweithredu i'r grŵp monitro'r cynllun hawliau plant. Rydych yn pryderu nad yw nifer o bethau yn digwydd nawr. A oes gennych dystiolaeth ynghylch y pethau rydych yn meddwl y dylent fod yn digwydd ond nad ydynt yn digwydd?

Keith Davies: I will ask my question in Welsh. The Government has changed the implementation steering group to the children's rights scheme monitoring group. You are concerned that a number of things are not happening at present. Do you have evidence of things that you think should be happening but are not happening?

[166] **Dr Hoffman:** The only evidence that we have in relation to the arrangements for the children's scheme is the information that appeared in the compliance report. The concern that we raise is that, if due regard is to be done properly, it will require leadership. From what we have read in the compliance report, it seems that that notion of leadership and, in particular, the notion of champions has been somewhat lost. It is even reflected, I think, in the change of name to the children's rights scheme monitoring group, which suggests a much more passive role. Questions need to be asked regarding where the leadership is within the Welsh Government and where are the champions for children's rights? That can then, perhaps, take you to the issue of training. Where is that training being taken up, and what is the impact of that training in relation to senior members of staff and their cascading of their knowledge and awareness of the convention to the people for whom they have responsibility? Where is the leadership?

[167] **Keith Davies:** Felly, a ydych yn dweud nad yw'r grŵp newydd yn cynnwys uwch swyddogion o'r gwasanaeth sifil—y bobl sy'n gallu gwneud penderfyniadau a llywio pethau?

Keith Davies: So, are you saying that the new group does not contain senior civil servants—the people who can make decisions and steer things?

[168] **Ms Dunmore:** We do not know.

[169] **Dr Hoffman:** No, we do not know. We do not know the precise role of that group. It was clear with the implementation group that it was about implementation and steering, and there was a notion of champions. That gave you some idea that the purpose of that group was to champion children's rights within the Welsh Government. The children's rights scheme monitoring group suggests a much more passive function. There may be a degree of sharing good practice, for example, but the notion of implementation or steering suggests not just sharing good practice, but insisting on good practice and taking a much more proactive role and saying, 'This is what you should be doing; we are telling you that you should be doing

that because we are the champions for children's rights in this particular department'.

[170] **Keith Davies:** Felly, nid oes cyfle i chi neu unrhyw gorff allanol arall fynd i'r grŵp hwnnw? **Keith Davies:** So, there is no opportunity for you or any other external organisation to go to that group?

[171] **Ms Dunmore:** We sit on the Getting it Right group, but we are unclear as to the relationship between the steering/monitoring group, the Getting it Right group and the Measure implementation team. Those roles are confusing. We do not input into the Welsh Government monitoring group.

[172] **Ann Jones:** We will now move on to staff training. Aled?

[173] **Aled Roberts:** Rwyf am ofyn cwestiwn yn Gymraeg. Rydych wedi sôn am y grŵp monitro a'r grŵp Gwneud Pethau'n Iawn. A yw'r grwpiau hynny'n monitro hyfforddiant staff o fewn y Llywodraeth o gwbl, neu a ydynt yn trafod hyfforddiant staff? Mae eich tystiolaeth yn codi cwestiynau ynglŷn â'r wybodaeth o fewn yr adroddiad cydymffurfio o ran nifer y staff sydd wedi derbyn hyfforddiant a pha staff sydd wedi derbyn hyfforddiant—er enghraifft, a yw uwch swyddogion wedi derbyn hyfforddiant neu beidio. A oes trafodaeth o fewn y grwpiau ar hyfforddi staff? **Aled Roberts:** I will ask my question in Welsh. You have mentioned the monitoring group and the Getting it Right group. Do those groups monitor staff training within the Government at all, or do they discuss staff training? Your evidence raises questions regarding the information within the compliance report in terms of how many of the staff have received training and which staff have received that training—for example, whether senior officials have received training or not. Is there a discussion within the groups on staff training?

[174] **Ms Dunmore:** No. The first I heard of any statistics about who had been trained was when I was listening to the previous session with the children's commissioner when you quoted some statistics. We have been given no information at all as to who is receiving the training, whether they are doing the 10-minute e-learning training or the 90-minute e-learning training, or whether there is other, more substantive training that they are undertaking. On who is having that training, which departments are involved and the seniority of staff receiving that training, we have had none of that information.

[175] **Aled Roberts:** Ymddengys fod cyfreithwyr yn benodol yn cael hyfforddiant eithaf eang. Fodd bynnag, mewn adrannau eraill, gan fod y *champions* wedi diflannu, rwy'n cymryd nad oes unrhyw un o fewn yr adrannau hynny yn monitro nifer y staff sy'n cael hyfforddiant a pha fath o hyfforddiant maent yn ei gael. **Aled Roberts:** It appears that lawyers specifically receive a wide range of training. However, in other departments, given that the champions have disappeared, I assume that there is nobody in those departments monitoring how many staff undertake training and the type of training they undertake.

[176] **Ms Dunmore:** We do not know.

[177] **Dr Hoffman:** There is another thing that we do not know. It is one thing to know how many staff are participating, which we do not know, or their seniority, which, again, we do not know, but it is another thing to know what the impact of that training is. Within the compliance report, there is no reflection of whether the training that has been undertaken has impacted on raising the understanding of staff. I think that awareness and understanding are conflated within the report. There may have been a raising of awareness of the UNCRC, although we do not know to what degree, but whether there was a raising of an understanding

of the UNCRC is completely different. I do not want to hark back to where we started, but one of the ways in which we might find out about that would be if we had CRIAs in the public domain. The reflective judgments taking place in those CRIAs would indicate the degree of awareness of obligations and practices in relation to giving better effect to the UNCRC.

[178] **Ms Dunmore:** We feel that it is a good thing that all staff are able to undertake the 10-minute e-learning training, but that simply raises awareness of the fact that there is a UN Convention on the Rights of the Child and that there is a Rights of Children and Young Persons (Wales) Measure 2011. It goes no further than that. However, for many staff, that is all that they will need. It is the more complex training on which we simply do not have any information.

[179] **Aled Roberts:** Yn bersonol, ni fyddwn i'n dysgu llawer mewn 10 munud. Eliesha sy'n darparu'r hyfforddiant. A gawsoch chi neu unrhyw asiantaeth allanol arall rôl o ran datblygu natur yr hyfforddiant neu ddarparu'r hyfforddiant hwnnw?

Aled Roberts: Personally, I would not learn a lot in 10 minutes. Eliesha is the training provider. Did you or any other external agency have a role in developing the nature of the training or in the provision of that training?

10.45 a.m.

[180] **Ms Dunmore:** Yes. The monitoring group has provided training to this committee. Save the Children also developed a whole range of training materials for various professionals, including politicians and civil servants. There are a lot of organisations out there that can give training. There is access to training, but we do not know to what extent it is being taken up by the Welsh Government.

[181] **Aled Roberts:** Can you say whether those agencies that have prepared training for others have had any input into the training that is provided to Government officials?

[182] **Ms Dunmore:** No; in terms of input, we were consulted on the content of the 10-minute training. Originally, it was a 90-minute e-learning programme, which was then cut down to 10 minutes. We were consulted on the content of that and we provided some comments, some of which were taken on board. However, as I said, that is simply awareness-raising training. We have had no input into any other type of training.

[183] **Aled Roberts:** Is the 90-minute training available if somebody has the 10-minute training and thinks that they need to know a bit more about the topic? Is the 90-minute training available as an option?

[184] **Ms Dunmore:** As far as I am aware it is available through the Welsh Government intranet, but we do not have access to that. However, the link that we have been sent gives you the option of going on to the 90-minute training.

[185] **Suzy Davies:** I want to take you back to the fact that you did not know about the statistics on training until you heard them in the last session. I appreciate what you said about careers—that you have asked for information and that it has not been given. However, you are a monitoring group; have you asked for this information?

[186] **Ms Dunmore:** Yes; we have.

[187] **Suzy Davies:** Have you been denied it?

[188] **Ms Dunmore:** We ask for a regular update on the implementation of section 5 of the

Measure, which is about knowledge and understanding of the UNCRC. We get updates that are fairly sketchy and do not go into detail.

[189] **Suzy Davies:** Do you then push the matter and say, ‘These updates are anodyne—give us more information’?

[190] **Ms Dunmore:** We try. Obviously, we want to try to maintain a good relationship with civil servants, so we do not want to push too hard. We ask for information, and we are either told that it is not currently available or that it is being collected. However, the information is available, and that is why we do not understand why it is not in the compliance report. It would be very simple to put it in there, and it would, possibly, demonstrate that a lot of training has been done.

[191] **Ann Jones:** We will move on to amending the existing legislation, and I turn to Rebecca Evans for her questions.

[192] **Rebecca Evans:** What discussions have you had, as a monitoring group, with Welsh Government officials about their plans to review existing legislation? As a group, are there particular pieces of legislation that you think should be prioritised if there was a review? Do you have concerns about any particular legislation?

[193] **Ms Dunmore:** I only came into this role in February, but I was a member of the monitoring group before that. As far as I am aware, we have not been part of any discussions about reviewing existing legislation. Our main concern in this is what the process would be for reviewing existing legislation and whether or not it is possible for the monitoring group, or other external bodies, to request that a piece of legislation be reviewed. It is not something that we have looked at yet, because we do not know what the process is; it has not been made clear to us.

[194] **Dr Hoffman:** When legislation is in the line of sight of Ministers, if you like, where something has to be taken into consideration because a new piece of legislation, or a new policy, is being considered in Wales, it is quite obvious how the due regard duty then applies. There has, of course, been a lot of legislation made in Wales since devolution, but there is also a lot of legislation that applies in Wales. There is no systematic process for dealing with that, because legislation prior to May 2012 has not gone through the due regard process. There is no systematic process for dealing with that.

[195] **Ms Dunmore:** We accept that that could be an awful lot of legislation, and that is why we are looking for a system that allows us to highlight particular pieces of legislation that might be looked at.

[196] **Simon Thomas:** Something that has just struck me is that Welsh Ministers also directly acquire legislation from Westminster without it really going through this place. One of those executive functions that springs to mind might be the council tax benefit regulations, which have an effect on families and children. How does that go through this process? That is an example of legislation made in Westminster, but definitely used executively by Welsh Ministers. Are you aware of any process for that kind of legislation, which is not subject to our scrutiny?

[197] **Dr Hoffman:** I am not sure that there would be, because section 6 applies to legislation for which the National Assembly for Wales has legislative competence. It focuses attention—

[198] **Simon Thomas:** So, it is only in the 20 fields.

[199] **Dr Hoffman:** Yes.

[200] **Simon Thomas:** Welsh Ministers have powers directly from Westminster for areas that are outside our competence as an Assembly, but this does not apply, does it?

[201] **Dr Hoffman:** It is within the legislative competence.

[202] **Simon Thomas:** Thank you for clarifying that.

[203] **Ms Dunmore:** The due regard duty would apply, if it was a function of the Minister, from next May.

[204] **Simon Thomas:** So, from next May, we should be looking for Ministers, if they acquire executive functions outside the competence of the Assembly, to show how they are exercising due regard.

[205] **Dr Hoffman:** Correct.

[206] **Bethan Jenkins:** Mae fy nghwestiwn i ar gwynion, a herio Gweinidogion Cymru. Sylwais eich bod yn gwranddo ar yr hyn yr oedd y comisiynydd plant yn ei ddweud yn gynharach ynglŷn â'r ffaith nad oedd wedi derbyn cwynion gan bobl ifanc ynglŷn â'r system, a hefyd bod y Llywodraeth yn mynd i symleiddio'r broses honno. Fe'm trawyd gan y ffaith ei bod yn anodd profi effeithiolrwydd y Mesur heb fod unrhyw gwynion neu bryderon wedi dod gerbron. A ydych yn cydsynio â hynny? A ydych yn gallu asesu'r hyn sy'n digwydd heb fod cwynion yn dod gerbron?

Bethan Jenkins: My question is on complaints, and challenging Welsh Ministers. I noticed that you were listening to what the children's commissioner said earlier about the fact that he had not received complaints from young people about the system, and that the Government is going to simplify the process. I was struck by the fact that it is difficult to prove the effectiveness of the Measure without there being any complaints or concerns raised. Is that something that you agree with? Can you assess what is happening without there being any complaints?

[207] **Ms Dunmore:** As the commissioner said, it is very difficult for children and young people to bring forward complaints, or to understand that they are able to bring forward complaints about how the due regard duty has been applied, because it is not something that would come across their radar and they simply would not understand that it is a way in for them. Often, it is far too complex. So, there needs to be some form of system to allow them to make complaints. Our main concern around complaints is that, without there being transparency over what is happening, the Welsh Government is more likely to get complaints about the process rather than about the substance of what is happening, because children and young people will not be clear that the due regard duty has been applied without being able to see the CRIAs. So, the lack of transparency is more likely to generate complaints, but not about actual substance.

[208] **Dr Hoffman:** I think that children and young people are in the same position as everyone else when it comes to challenging the Welsh Government about the due regard process. If they do not have access to the child rights impact assessments, they are in no better position than anyone else to assess whether or not the correct processes have been gone through. So, if it is a challenge to the actual due regard process, children and young people are in the same position as everyone else. However, they are also further negatively impacted, if you like, because those who might be in a position to challenge on their behalf are also unaware of what processes have been gone through. We need to recall that the due regard process is an administrative process, which will be challenged in administrative law, and in order to do that, you need to be fully aware of what has taken place within that process. If you

are not aware of that, you cannot challenge that as a young person or as a representative organisation.

[209] **Bethan Jenkins:** Yng nghyd-destun y broses gwynion, oni fyddai'n bosibl wedyn i berson ifanc roi sialens gerbron y Llywodraeth oherwydd nad oedd y prosesau hyn wedi'u dilyn? Deallaf yr hyn rydych yn ei ddweud o ran *due regard*, a bod hynny'n wahanol, ond os yw rhywun wedi ceisio cael gafael ar wybodaeth ynglŷn â CRIA a'r asesiadau eraill a heb gael mynediad atynt, onid yw o fewn eu gallu nhw i weithredu gan nad yw un elfen o'r broses wedi ei dilyn gan y Llywodraeth?

Bethan Jenkins: In the context of the complaints procedure, would it not be possible then for a young person to challenge the Government because these processes were not followed? I understand what you are saying about the *due regard*, and that that is different, but if someone has tried to get hold of information about the CRIAs and the other assessments and have not had access to those, is it not within their ability to take action, because one element of the process has not been followed by the Government?

[210] **Dr Hoffman:** Yes—

[211] **Bethan Jenkins:** Do you know what I am saying? If they cannot access any of the information, surely that would be justification in itself for taking some sort of action.

[212] **Dr Hoffman:** We have to see this in the context of how a challenge to a failure to have *due regard* takes place. From a lawyer's perspective, it would take place via judicial review. If a child or young person had sufficient interest, they would be in a position to take a judicial review forward, probably through a representative organisation. As part of that judicial review process, you might challenge an actual decision. That is how I imagine it would arise in relation to a child or young person—they would feel that a decision had been taken to implement a policy or withdraw a policy that was adverse to their interests. They would begin to question the process by which that policy had been implemented, and then they would begin to think about where their interests were taken into account. That is how the challenge would arise. There is no obvious mechanism at the moment to allow that complicated and interwoven process to take place.

[213] **Bethan Jenkins:** I have one last question: have you had any involvement in the simplified process that the Government is talking about? We will be scrutinising the Minister later, so it would be helpful if you have had access to any information so that you feel that you had some empowerment in this process. I asked the children's commissioner this, too.

[214] **Ms Dunmore:** We have not been involved in the process. We have seen the simplified version of the complaints mechanism and, having had a quick look, it looks okay, but we have not been involved in the process at all.

[215] **Bethan Jenkins:** Will you be sending comments on to the Government?

[216] **Ms Dunmore:** Yes, we will be looking at it in more detail.

[217] **David Rees:** In your separate paper on the Getting it Right update, you have come to a conclusion in your statement that, four years on, the concerns about the report, which have been raised by the group repeatedly since 2009, do not appear to have been addressed. In fact, you even say that the plan may have, in some ways, gone backwards. Do you want to expand on that?

[218] **Ms Dunmore:** Yes. The update is poorly written; it cannot really be described as an action plan any more, because it lacks any substantive actions. I will go further into those issues in a moment but, first of all, I would like to talk about why a national action plan is

important. The need for a national action plan comes from article 4 of the convention, which states:

[219] ‘States parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present convention.’

[220] The UN committee issues general comments, giving guidance on how to interpret and implement the UNCRC, looking at specific articles or issues. In general comment number 5, the committee clearly sets out that administrative and other measures include developing an action plan. Within that general comment, it says:

[221] ‘If Government as a whole and at all levels is to promote and respect the rights of the child, it needs to work on the basis of a unifying, comprehensive and rights-based national strategy, rooted in the convention.’

[222] It also says:

[223] ‘The committee commends the development of a comprehensive national strategy or national plan of action for children, built on the framework of the convention. The committee expects states parties to take account of the recommendations in its concluding observations on their periodic reports when developing and/or reviewing their national strategies.’

[224] This update makes no mention of the concluding observations, other than in one sentence on the front page. It does not explain which priority refers to which concluding observation or what the concluding observations said. It certainly does not explain how what is contained in the update relates to what the United Nations said needed to be addressed in 2008. The general comment goes on to say:

[225] ‘If such a strategy is to be effective, it needs to relate to the situation of all children, and to all the rights in the convention. It will need to be developed through a process of consultation, including with children and young people and those living and working with them.’

[226] It also says:

[227] ‘The strategy must not be simply a list of good intentions; it must include a description of a sustainable process for realizing the rights of children.’

[228] It accepts that the strategy will contain set objectives, but these must not be the full content. The strategy needs to be adequately resourced in terms of human and financial resources. This update was not developed through a process of consultation. It is not a sustainable process for realising children’s rights, and it does not set out what human and financial resources are to be made available, even in the very little that it does say in terms of actions.

11.00 a.m.

[229] The update is written, not as the five-year rolling report that it claimed to be in 2009, when we understood that it would continually be looking five years ahead, but as a short-term document that is about to come to an end with no structure in place for reviewing or updating it. As I said at the start, it is poorly written and difficult to understand. It is impossible to understand the relationship or differences between column 2, which is about what has been introduced, and column 3, which is entitled ‘Post 2008’, and items are often duplicated across both or in the same column. There is no correlation between the statistics quoted in column 1 and those in column 3, which you would assume are meant to update what is in column 1.

The fourth column, which is headed 'Analysis', contains almost no analysis whatsoever and does not even relate to the priority of the heading under which it sits—

[230] **Ann Jones:** May I stop you there? Members have some questions that they want to ask you. I think that you have prepared responses that you have gone through—

[231] **Ms Dunmore:** Sorry; yes, I have my notes.

[232] **Ann Jones:** Members have to pick all this out. Lynne, I think that you have a question before David comes back.

[233] **Lynne Neagle:** I have a question about the composition of the group. In the paper, it says that observers include the Welsh Government. How does that work in practical terms? Who attends from the Welsh Government? Do they always come? Do they speak? What happens?

[234] **Ms Dunmore:** Nick Keating from the implementation team is an observer on the UNCRC monitoring group. He does not always attend—obviously, he does have other obligations— but he does attend fairly regularly. We have a reasonable relationship with him. He is under an awful lot of pressure in terms of the amount of work that he has to do and in terms of us. However, we do have a reasonable working relationship with Mr Keating.

[235] **Lynne Neagle:** Presumably, when he has come to the meetings, he will have heard you saying, 'We cannot get this CRIA or that CRIA and nobody is talking to us'. Has there ever been any feedback from him, when he has taken that back to the Welsh Government?

[236] **Ms Dunmore:** He says that he takes it back to the Welsh Government and that, as far as he is aware, it is the decision of each individual department, or almost each individual, as to whether or not CRIAs are made public, and that there is no process for making that happen.

[237] **Dr Hoffman:** The perceived benefits of making CRIAs public documents have been made clear by the monitoring group. I think that there is some acceptance of that, at the level at which we communicate with the Welsh Government. On whether that is a shared view internally, it seems that it is not.

[238] **Ann Jones:** Okay. Suzy, Keith and Simon have some quick questions.

[239] **Suzy Davies:** My question is short. To go back to Lynne's specific question to you, you said that Nick Keating is on the group. When I asked you earlier about whether you had told the Minister about your concerns, you said that you had spoken to his officials. Is that who you meant or have you spoken to somebody else as well?

[240] **Ms Dunmore:** Elin Gwynedd also chairs the Getting it Right group, so she is aware of the concerns that we have around the compliance report and our concerns in general.

[241] **Keith Davies:** It says in this report that,

[242] 'The Welsh Government has worked in partnership with numerous external stakeholders in developing the action plan.'

[243] Do we know which stakeholders were involved?

[244] **Ms Dunmore:** No, and we are not quite clear what the Welsh Government means by 'worked in partnership'.

[245] **Ann Jones:** That might be something for the Minister later.

[246] **Simon Thomas:** Taking up Keith's point, I am aware of one stakeholder who says that they do not agree with the content of this action plan. I think that that will all come out in the wash, but it is certainly one thing that seems strange to me. The children's commissioner described 'The Getting it Right Update 2013' as 'poor' and went on to say that it was 'very, very poor'. You had a very complex analysis there that suggested that you thought it was very, very, very poor. [*Laughter.*] You concur with the children's commissioner's conclusions, I assume.

[247] **Ms Dunmore:** Yes.

[248] **Ann Jones:** Perhaps you would like to send us the critique that you have there, so that Members can see it.

[249] **Ms Dunmore:** Yes.

[250] **Ann Jones:** David, do you want to carry on?

[251] **David Rees:** I think that they have answered both questions.

[252] **Ann Jones:** All right. Thanks. Do Members have any more questions?

[253] **David Rees:** May I ask something else?

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

[255] **David Rees:** From what I have heard this morning, I am not sure, but are you able to monitor anything? [*Laughter.*]

[256] **Ms Dunmore:** We monitor what is happening with the implementation of children's rights in Wales. At the moment, I know that the committee is aware that we are just about to publish an interim report that looks at how the concluding observations have been taken forward since 2008 across a number of areas. That is a detailed analysis of the state of children's rights in Wales, as at March this year, looking at a whole range of issues to do with child poverty, health, trafficking, youth justice, et cetera. We are continuing the process by holding a series of rolling reporting sessions—there is one coming up later this month, looking at the position of Gypsy/Traveller children and young people. However, it is about the implementation—that is, what is actually happening on the ground and what comes out as a result of policy.

[257] **Dr Hoffman:** We are also monitoring the response of the Welsh Government to the due regard duty, which is indicated in the compliance report. We have some concerns about that, which we have expressed to you.

[258] **Ann Jones:** The very last question is from Bethan.

[259] **Bethan Jenkins:** We are talking to one of the Ministers afterwards. Are you confident, now that there is a new Minister who is wholly responsible, that he will be responsible across the board and for what is enacted in other departments? You will have heard what Aled Roberts said earlier with regard to staff training across other departments. Have you had the chance to understand whether that ministerial position will be ultimately responsible for the dissemination of good practice across the board?

[260] **Ms Dunmore:** We are about to ask the Minister for a meeting, so that we can discuss

those issues. As I understand it, the due regard duty falls on all Ministers. The section 5 duty to raise knowledge and understanding also falls on all Ministers. So, it does not come down to just one Minister.

[261] **Dr Hoffman:** You might look to the Minister for leadership—

[262] **Bethan Jenkins:** That is what I meant, really.

[263] **Dr Hoffman:** But, you would hope for leadership from all Ministers and all senior officials.

[264] **Ann Jones:** Thanks very much for that. Thank you for giving evidence today. You will get a copy of the transcript to check the accuracy. We look forward to receiving your further evidence in writing. With that, the committee will break until 11.15 a.m..

*Gohiriwyd y cyfarfod rhwng 11.08 a.m. a 11.17 a.m.
The meeting adjourned between 11.08 a.m. and 11.17 a.m.*

**Craffu ar Gydfymffurfiaeth Llywodraeth Cymru ag Adran 1 o Fesur Hawliau
Plant a Phobl Ifanc (Cymru) 2011 a'r Cynllun Gweithredu Gwneud Pethau'n
Iawn Diwygiedig
Scrutiny of Welsh Government Compliance with Section 1 of the Rights of
Children and Young Persons (Wales) Measure 2011 and the Updated Getting it
Right Action Plan**

[265] **Ann Jones:** We will reconvene as the Children and Young People Committee. If you switched your mobile phone on during that short break, please make sure that you have switched it off. This is our last scrutiny session of the meeting. We are delighted to have the Minister for Communities and Tackling Poverty, Huw Lewis, with us. We know that you are fairly new in post, although you were responsible for taking the Rights of Children and Young Persons (Wales) Measure 2011 through. So, hopefully, we will be able to have a good scrutiny session with you. We have some questions, and thank you for your written evidence. I am sorry, but I should have said that joining you at the table is Martin Swain, deputy director for the children, young people and families division. You are both very welcome.

[266] We will move straight into questions. Is that all right, Minister?

[267] **The Minister for Communities and Tackling Poverty (Huw Lewis):** Of course.

[268] **Ann Jones:** Thank you. Lynne, you have the first question.

[269] **Lynne Neagle:** We have just taken evidence from the children's commissioner and the monitoring group, all of whom were pretty critical about the report that the Welsh Government has published.

[270] **Huw Lewis:** Do you mean the compliance report?

[271] **Lynne Neagle:** Yes. They were pretty critical. The children's commissioner described it as being 'very, very poor', although he did say that he did not feel that it did justice to the progress that the Welsh Government had made. How would you respond to his criticisms?

[272] **Huw Lewis:** With some degree of bewilderment, I suppose. It is worth bearing in mind that the compliance report covers just nine months of efforts since the provisions of the

Measure came into force. The children's commissioner, among others, has been closely involved with the work that led to the writing of the report through his external monitoring role.

[273] We are entering a phase where, rather than describing children's rights, we are embedding those rights in the actions of Government. So, we are into delivery now. The compliance report describes a short period of nine months, but there have been a number of key successes within that work. We in Wales are held up internationally and recognised by UNICEF, for instance, as an exemplar in terms of the way in which we are embedding children's rights within our day-to-day work, and making a reality of that duty on Ministers that was described in the Measure.

[274] **Lynne Neagle:** You have said that there have been some key successes. Could you give us some examples of what you feel those are?

[275] **Huw Lewis:** The spread of understanding, I think, is very important across the Welsh Government as an organisation and, of course, throughout the community of partners alongside whom we work. Training within the civil service, in particular, is a notable example of success. I think that upwards of 2,000 officials have been formally trained in terms of children's rights and what that means in terms of governmental activity and, of course, in terms of policy development and the impact that the duty upon Ministers is having upon things like the development of legislation. I could hold up the Active Travel (Wales) Bill as an example, where the impact of children's rights has had a fundamental effect on the way that the Bill is taking shape.

[276] I would say that the key successes are the spread and implementation across the organisation; the training that is now part and parcel of induction, for instance—and I think that I am right in saying that—in terms of us as an organisation; and the direct impact on policy development and law making. So, those are just a few. As I say, we are also spreading the word and are being used as an example internationally as a result of the work that has taken place in Wales.

[277] **Suzy Davies:** Minister, I wish to ask you a few questions about child rights impact assessments—the CRIAs. First, are these done just in connection with legislation or with policy development as well? It was not clear from earlier evidence.

[278] **Huw Lewis:** No, it is not just legislation. I think that we have upwards of 50 CRIAs so far that are being put together. Perhaps I could turn to Martin on the trigger for a CRIA.

[279] **Mr Swain:** Essentially, it is required where we are complying with the Measure. So, if it is new policy, new legislation or changes to existing policy and legislation, we would require a CRIA to be completed.

[280] **Suzy Davies:** That is what I would have hoped. It just was not clear from the evidence that we had had earlier. I do not know whether you heard the children's commissioner's evidence—

[281] **Huw Lewis:** No, I did not.

[282] **Suzy Davies:** He and the monitoring group have said that they thought that these CRIAs were a good tool for assessment, but that there might be issues with the detail of them, and certainly with the application of them. Are you aware of those views, and how would you respond to them?

[283] **Huw Lewis:** Yes. We have constant feedback, obviously, from our partners and

stakeholders on all of these issues. It has to be remembered, again, that we are at a relatively early stage when it comes to the usage of CRIAs. In terms of the lack of detailed criticism, I anticipate that, as we evolve this process, that issue will be addressed. So, we are certainly listening on that one.

[284] **Suzy Davies:** I am interested to hear you say that you are getting a lot of feedback about this because, when we heard the UNCRC monitoring group's evidence earlier, it explained that the group had made requests for CRIAs that have not been met. The group had a similar issue with regard to staff training, but I will leave that question to someone else. The group said that it had not had the chance to speak to you—and I understand that you are new in post, Minister, so I accept that—but had spoken to ministerial officials about this; we have two named individuals. Are you concerned to hear that requests for these CRIAs are not being met readily, and do you think that if they were in the public domain in any case, that would solve an awful lot of problems?

[285] **Huw Lewis:** They are not routinely made public. CRIAs were intended as a tool for use within the organisation. I cannot see any impediment, in principle, as to why they should not be made public, and I would be happy to take a look at that. However, I am surprised if the UNCRC is saying that it is short of information, because there is constant contact, particularly between officials and the UNCRC. Of course, my door is open at any time. I have not met with it as yet, but there are many organisations with which I have not yet met.

[286] **Rebecca Evans:** Just to follow up on this, the group told us this morning—and I think that I am right in saying this—that every time that it has asked for a copy of a CRIA, it has not received it. The group referred to banging its head against a brick wall in terms of accessing information from officials. Is this something that you will endeavour to look at so that the monitoring group can actually do some monitoring?

[287] **Huw Lewis:** Yes. That is an overly dramatic way of putting things. As I said, CRIAs were not intended to be public documents, as such. They are a means by which to get a job done. However, if partners feel that strongly about it, then I will certainly take a look at the public release of the CRIAs.

[288] **Suzy Davies:** I am very pleased to hear that, Minister. We would love to take your word for it that the CRIAs are doing their job, but it would be great if we could apply some scrutiny to that. The group went as far as to say that it was unable to monitor because of this lack of information, so perhaps I can urge you to look at the transcript of its evidence.

[289] **Huw Lewis:** I will.

[290] **Simon Thomas:** Hoffwn barhau i ofyn am yr un pwnc, sef yr asesiadau hawliau plant. Rydych wedi sôn bod rhyw 50 ohonynt wedi cael eu gwneud, ond rwyf yn ymwybodol am ddim ond dau sydd wedi cael eu cyhoeddi. Rwy'n falch, felly, y byddwch yn edrych ar y posibilrwydd, o leiaf, o'u rhannu â rhanddeiliaid ehangach fel bod craffu yn gallu digwydd. A ydych yn ymwybodol o'r broses y tu mewn i Lywodraeth Cymru? Er enghraifft, a oes modd i chi sôn wrth y pwyllgor am unrhyw bolisi neu ddeddfwriaeth, neu unrhyw newid sydd wedi digwydd oherwydd y broses asesu hon yn fewnol? Hynny yw, a ydych wedi

Simon Thomas: I would like to ask about the same subject, namely the children's rights assessments. You have said that some 50 have been carried out, but I am aware of only two that have been published. I am pleased, therefore, that you are going to look at the possibility, at least, of sharing them with wider stakeholders so that scrutiny can take place. Are you aware of an internal process within the Welsh Government? For example, can you tell the committee whether there is any policy, legislation, or whether any change has taken place as a result of this internal assessment process? That is, have you seen that this process has been of benefit

gweld bod y broses hon o fudd o ran in relation to the Government's decisions?
penderfyniadau'r Llywodraeth?

[291] **Huw Lewis:** As I said, I am very happy, if people need that detail and need to look at those CRIAs, I cannot see any impediment in principle to our doing that. There are very few outfits in the world that operate with such a system and that could even ask for a CRIA to be made public, because people do not use them. Certainly, within the United Kingdom, as far as I am aware, Wales is unique in that.

[292] **Simon Thomas:** The monitoring group confirmed that to us.

[293] **Huw Lewis:** So, this is work in progress. We are only talking about the first anniversary, so far, of this being implemented. It was on 1 May last year that this way of working was instituted. I am sorry, Simon, I have forgotten the second part of your question.

[294] **Simon Thomas:** I was asking really—albeit that it is early days—whether you could point to any ways in which this process has changed Government decisions, informed Cabinet discussions or led to something that has enriched the way in which the Government has dealt with children's rights.

[295] **Huw Lewis:** It would probably be best if I wrote to you with a list that you could take a look at.

[296] **Simon Thomas:** That would be useful.

[297] **Huw Lewis:** Certainly, the Active Travel (Wales) Bill has been held up to me as an example of something where the influence was quite fundamental in terms of the way in which the Bill developed. I will get a list of examples.

[298] **Simon Thomas:** Further to that—and, once again, accepting that it is nine months, or whatever, into the process—are you able to pick up some of the lessons that are emerging from this process, both in terms of obligations for staff training or, at least, for internal staff arrangements and the way in which the Government itself acts leading up to some kind of assessment of how effective this process will be? The evidence that we have heard this morning has been that these are the right tools. People have said that, perhaps, the Government is not using the tools in the correct way, and you might disagree with that, but, nevertheless, you can always perfect the way in which you use tools. What evidence is emerging already about how this process can be even more refined within Government?

[299] **Huw Lewis:** As I have said, we are at a very practical stage of making sure that we deliver across the organisation. So, we are not theorising about children's rights anymore; we are doing the day-to-day stuff of making sure that, when Government is developing policy and making law, this is part and parcel of our everyday way of going about things. We will have an action plan update later this year. I am looking to Martin on that one.

[300] **Mr Swain:** We have published it.

11.30 a.m.

[301] **Huw Lewis:** We have published the action plan update. I am sorry—I am still learning the jargon, Chair. It gives us a snapshot of where we are—

[302] **Simon Thomas:** That is 'The Getting it Right Update 2013' document.

[303] **Huw Lewis:** Yes, the update document. The United Nations committee would be the

final judge of these matters, and when the UK, as the nation state body, with that contribution from Wales, goes to the United Nations, we will get the feedback from there, which will be absolutely impartial in terms of how we are progressing. I see the process that we are in now as not really being about large documents that theorise upon what children's rights are, and how they are used—it is a very practical, nuts-and-bolts exercise that we are involved with now. This is part of the way that we turn the machinery of Government. I cannot help thinking that perhaps there are commentators who have not quite caught up with that. We are not in the business of producing reams of detail now about the importance of children's rights. It is done; it is decided. We are getting on with the delivery mechanism, which is much more practical, down to earth, and maybe not quite what people are used to.

[304] **Bethan Jenkins:** I have to leave early, and that is why I want to come in now. You say that you do not want to theorise, but I have to appreciate the evidence from the two organisations in the previous sessions. For them, I do not think that it is about theoretical arguments; they feel that they cannot assess the situation fully because they do not have the detail. The children's commissioner's words rang true for me when he said that it is so hard for young people to understand the due-regard process that they physically cannot take part in the process. If that is the case—and it comes from the children's commissioner—then I urge you to engage with those organisations as soon as possible. I do not think that they want to theorise any more than you do, but the practicalities of the situation do not allow for them to assess it as it stands.

[305] **Huw Lewis:** This is curious stuff coming from the children's commissioner. The child rights scheme monitoring group, on which the children's commissioner sits, is attended by Welsh Government officials. So, every time it gets together, they are sitting alongside external organisations such as the commissioner's office. Hundreds of young people have been involved at every stage of the development of our work on children's rights. We are also in the business of making sure that there is child-and-young-person-friendly literature describing the work of the Assembly and what we are about as part and parcel of what we are doing. There is also an online avenue for children and young people, specifically designed for them and with them, for this kind of feedback to come through. I do not want to dismiss constructive criticism at all, and I have not yet got together with the children's commissioner to discuss these issues—I will be doing that within the next couple of weeks and these are issues that I will want to thrash out with him—but I do not readily recognise these gloom-and-doom reports that you are getting as a committee here.

[306] **Simon Thomas:** Just to conclude on how Government is approaching this, you have set out what you are not doing, which is fair enough, but what is the current state of play and what is your role, Minister? I appreciate that it is a new role, and no doubt you know what you want to do. We have a Measure that puts a due-regard obligation on all Welsh Ministers, but you have a specific role as regards children here. Can you just clarify for the committee what your role is in promoting the Measure and the children's rights agenda throughout Government using these assessments, or whatever it may be? Are you in effect the champion for this within Government? Are you tasked with delivering that by the First Minister and ensuring that the other Ministers come up to scratch?

[307] **Huw Lewis:** Yes, I suppose you could describe it like that. I do not know if 'champion' is the right word.

[308] **Simon Thomas:** We have had a few champions thrown at us. [*Laughter.*]

[309] **Huw Lewis:** I was described as a tsar yesterday by a journalist—I do not know if it should be 'tsar', 'champion', or whatever. I have the cross-Governmental responsibility for making sure that the engine of children's rights ticks over and is a part and parcel of what every directorate is about. We have champions within those directorates that get together

regularly. They are at deputy director level, so these are senior people. Their job is to learn from each other to make sure that there is consistent application of the Measure and of the duties across Government. The tone is very much about delivery; it is not about discussing the merits of whether children's rights are— It is about delivery through both the policy-making and legislative machinery.

[310] **Simon Thomas:** Minister, have you received the training that your staff undertake?

[311] **Huw Lewis:** No, not yet.

[312] **Simon Thomas:** Will you be doing so?

[313] **Huw Lewis:** Give us a chance, Simon. [*Laughter.*]

[314] **Simon Thomas:** Will you be?

[315] **Bethan Jenkins:** General 90-minute training.

[316] **Huw Lewis:** Well, I will be now, will I not?

[317] **Simon Thomas:** We have, as a committee, Minister.

[318] **Huw Lewis:** Congratulations.

[319] **Ann Jones:** I think that we should revise that. It was the previous committee.

[320] **Aled Roberts:** The old Members did.

[321] **Simon Thomas:** Yes, the previous committee. You are quite right. The new members of this committee may want to—

[322] **Ann Jones:** The previous committee all received it. There are Members who have just been put on this committee, who may want to do it.

[323] **Huw Lewis:** It is worth remembering, Chair, on that issue, that this will never end because of churn. Politics has plenty of churn in it, but there is also a constant churn within the civil service in terms of staffing. The grand total that I mentioned, of around 2,000 officials that have gone through the training procedure thus far, is a goodly total, I think, but it never stands still. You never get to the point when it is finished.

[324] **Ann Jones:** Okay. Keith is next.

[325] **Keith Davies:** The two previous groups that we had in this morning were questioning that there was an implementation steering group, which has now been changed to the children's rights scheme monitoring group. They felt that the steering group had more power perhaps than the monitoring group, and they were questioning the level of civil servants that are on the monitoring group and whether they can actually steer rather than just monitor.

[326] **Huw Lewis:** As I said, we are talking about deputy director level. As far as I know, that seniority situation has not changed.

[327] **Mr Swain:** If anything, it is at more senior level now than when it was a steering group. 'Monitoring' is a broad word; the purpose of the group is to ensure that we effectively implement the Measure. It is a senior group; it has every directorate general area represented on it. I think that it is important to move on from a group that advises on what the Measure

and the scheme contains to one that is ensuring that we are delivering, and that is the purpose of the group.

[328] **Keith Davies:** So, what are the main challenges for members of that group who do not have regular contact with children's rights, but deal with, for example, transport or planning?

[329] **Huw Lewis:** Everyone has an equal responsibility to ensure that the duties within the Measure are implemented. There are no exceptions, and there are no directorates within the Welsh Government that have a lesser role, as such. I have the oversight role to make sure that, across Government, all of this stuff works properly. However, there are no junior and senior members of that group. Everyone has a duty to comply.

[330] **Ann Jones:** You say that it is at a very high level within the civil service. That is always very good because that means that you have set that level, but it is also about the people underneath you. So, it is about how deputy directors cascade it down so that there is the same commitment, I suppose, as it goes down from one tier to another, and so that, when you get to the people who actually implement the Government's programme, they have the same commitment that the deputy directors at the top of the tree have. I just wonder whether that is something that you need to look at.

[331] **Huw Lewis:** That is always the challenge within all large organisations: to make sure that cascading works properly. I think that it is quite right to begin with the senior level and with the deputy directors. Perhaps Martin can describe in a little more detail how the cascading operates.

[332] **Mr Swain:** When we moved to this group we were very keen that we got people within DG areas that had a central operations role; so, it was not necessarily a specific part of a DG. We think that that is really important to drive across the DG areas. We have been quite targeted in getting the right people onto the group, as well as the right level.

[333] **Huw Lewis:** The message that I am sending very clearly is simple: this is about compliance. This is not about discussion and debate; it is about compliance.

[334] **Ann Jones:** The reason why I raised this was that a previous organisation had an issue, where the top senior management were all gung-ho about a certain issue, yet, when you got down to the people who were delivering, it had lost something in the steps down.

[335] **Huw Lewis:** That is something that you always have to guard against. I would say, with regard to the level of penetration of the training programme within the organisation, for instance, the Welsh Government comprises about 5,000 people. Thus far, about 2,000 people have been through the awareness-raising training. I anticipate that that, in itself, will be a powerful means of ensuring that everybody gets it.

[336] **Ann Jones:** Thanks very much. We will move on to questions on staff training.

[337] **Aled Roberts:** Symudaf at hyfforddi staff. Rwy'n derbyn yr hyn yr ydych yn eich ddweud am y ffaith bod 2,000 o staff wedi cael hyfforddiant erbyn hyn, ond pam nad yw'r adroddiad cydymffurfio yn rhoi gwybodaeth fanwl am faint o staff sydd wedi cael hyfforddiant a pha fath o hyfforddiant y maent wedi'i gael?

Aled Roberts: I will move on to staff training. I accept what you say about 2,000 staff having received training by now, but why does the compliance report not provide detailed information about how many staff have received training and the type of training that they have had?

[338] **Huw Lewis:** If people feel that that is an important element of what future reports should contain, I will happily take a look at that. I cannot give you a smart answer as to why it is not currently in there. There are online packages of training that can be used. There is a short and snappy, 10-minute awareness-raising version of the training and there is a more involved 90-minute package, which senior managers, certainly, are expected to do. Perhaps Martin can say a little more about the contents of the compliance report.

[339] **Mr Swain:** The Minister raised the point earlier that it is never a static position, so, by the time the compliance report is published, the situation has changed. If it is helpful for the committee, and the Minister is happy for us to do it, we can provide an up-to-date picture of the training situation now, in terms of what it is, who has done it, and to what level.

[340] **Huw Lewis:** We need a caveat to be attached to this though. We could describe it in elements of delivery, that is, that we have delivered a certain number of training packages, but that does not necessarily translate into numbers of people, because people leave the organisation. So, we would have to be careful about how it is described.

[341] **Aled Roberts:** Rwy'n derbyn eich bod yn newydd i'ch swydd, ond a oes gennych chi neu'ch rhagflaenwyr gyfrifoldeb dros gydlynu ar draws yr adrannau? Cefais dystiolaeth drwy'r Gwasanaeth Ymchwil ym mis Tachwedd—ac rwy'n derbyn bod pethau wedi symud ymlaen ers hynny—ond mae'n ymddangos bod anghysondeb rhwng adrannau o ran faint o staff sydd wedi cael hyfforddiant 10 munud ar-lein. Er enghraifft, yn yr adran busnes, menter, technoleg a gwyddoniaeth, erbyn mis Tachwedd, roedd dros 700 o staff wedi derbyn hyfforddiant. Mae hynny'n 47% o staff yr adran. Yn yr adran addysg, dim ond 35% sydd wedi gwneud hynny. Yn yr adran iechyd a gwasanaethau cymdeithasol, mae 11% wedi gwneud hynny—sef 84 o staff. A oes gennych gyfrifoldeb i sicrhau bod yr isgyfarwyddwyr o fewn yr adrannau yn gwneud yn siŵr bod staff yn derbyn yr hyfforddiant?

Aled Roberts: I accept that you are new to your role, but do you, or your predecessors, have a responsibility for co-ordinating across departments? I received evidence through the Research Service back in November—and I accept that things have moved on since then—but it appears that there are inconsistencies between departments as regards how many staff have received the 10-minute online training. For example, in the business, enterprise, technology and science department, by November, over 700 staff had received training. That is 47% of the department's staff. In the education department, only 35% had done so. In the health and social services department, 11% had received training—84 members of staff. Are you responsible for ensuring that deputy directors within the departments make sure that staff receive the training?

[342] **Huw Lewis:** Yes, I am responsible for that. You make a valid point. I have already asked officials whether they will look at the spread across departmental headings as regards the penetration of the training. If those numbers are correct, even if they were from last November, you have a valid issue that needs to be addressed. That is something that I will be talking to my cabinet colleagues about. It would probably be a good idea if I wrote to them properly about it all and we try to address that issue. Do you know whether things have moved on since November, Martin?

[343] **Mr Swain:** I am fairly sure that they would have, so we can provide up-to-date statistics.

[344] **Aled Roberts:** The position in November was that the information was available for the 10-minute online training. I have to say that I am not convinced. Certainly, lawyers across departments had received very formal training, obviously, but the figures were not available for the lunch-and-learn presentations, or the reception stage 3 online presentation, which I

assume is the 90-minute one. It did not appear, in November anyway, that that information was even being compiled.

11.45 a.m.

[345] **Huw Lewis:** I will make sure you get it.

[346] **Aled Roberts:** Okay. There is obviously an issue regarding quantifying the training that is being undertaken, but there is also the evaluation of staff training. How is that currently evaluated, in terms of how worthwhile the training is and whether it is then having an impact on the way that officials react to these issues within Government?

[347] **Huw Lewis:** As with all training, there is an important emphasis on feedback and acting upon that feedback. The training packages were put together alongside our external stakeholders—I think I am correct in saying that—so offices such as the office of the children’s commissioner were a part of forming that training and shaping it. In terms of the formal monitoring of it, I do not know whether we have anything timetabled for that.

[348] **Mr Swain:** There are two aspects to it. There is the quality of the training itself and the feedback that we get from members of staff, which we do via a staff survey to understand whether it is relevant and detailed enough and that they get their understanding from it. So, that is one part of it we do via a survey. Its impact is a slightly longer-term process, and we will certainly be looking at evaluating the impact of the training in the longer term, and that is a much wider issue in terms of policy and legislation development. Again, this is a very new area of work. There are not many models to follow, so, in a lot of these areas, we are testing the water, as it were, and there are not many other Governments that operate this kind of approach to children’s rights and training for staff. So, there is a lot of learning and action learning that we have to take from this.

[349] **Aled Roberts:** We were also told that there are a number of agencies in Wales that are quite advanced with regard to input into training on an international scale. Yet, we did not hear any evidence that they had input into the nature of the training that has been provided within the Government.

[350] **Huw Lewis:** My understanding was that there was input; I was not around at the time.

[351] **Mr Swain:** We have certainly liaised with the monitoring group and with parties that we work with. If there are others, I am not directly aware of those, so I would be quite happy to follow that up, and, if the evidence comes to the committee, we will follow that up.

[352] **Huw Lewis:** We will get you some clarity on that, Aled.

[353] **Suzy Davies:** On that point, can you also double-check the role of the children’s commissioner there? I may be mistaken, but I thought he said that he had not had any involvement with the training. I might be wrong.

[354] **Huw Lewis:** I will check; I was not in post at the time. My understanding was that he had, but we will get some clarity on that.

[355] **Suzy Davies:** I am happy to be corrected. It is just for clarity.

[356] **Ann Jones:** Are you happy with that, Aled?

[357] **Aled Roberts:** Yes, that is fine.

[358] **Ann Jones:** Rebecca is next, with questions on amending existing legislation.

[359] **Rebecca Evans:** In your written evidence to us, you said with regard to section 6 of the Measure that, at this moment in time, there is no requirement to amend the legislation. By that, do you mean that the Welsh Government has already done an analysis of legislation and has determined that it is compliant, or is it the case, as the children's commissioner suggested to us this morning, that the Welsh Government has not given sufficient thought to this?

[360] **Huw Lewis:** Up until this point in time, we have been required to publish one report under section 4, which relates to the due-regard duty up until the end of January this year. Complying with that has not resulted in any identification of existing legislation that ought to be amended in order to further the children's rights agenda. So, there has not been an invocation of section 6, as you say. I am a little unclear about what the children's commissioner might be expecting the Welsh Government to do here. Is he suggesting that we should take every piece of existing legislation and do a job of work on them as regards this? It is probably the work of many years to get that done.

[361] **Rebecca Evans:** In our discussion with the commissioner this morning, I asked him which particular pieces of legislation he would prioritise. He said that he would prioritise those that affected children particularly, and those that appeared before 2012.

[362] **Huw Lewis:** If there were to be a list of legislation that does not affect children, I think that it would be rather short. I think that this is an unfocused request from the commissioner. I think that I need to drill down and understand more about what exactly he is asking for. I do not have teams of civil servants to go off to trawl through legislation going back to the year dot to check whether we need to invoke section 6. We need to have a much more focused conversation about what is meant here.

[363] **Rebecca Evans:** Do you see a role for the monitoring group in terms of identifying pieces of legislation that it has concerns about?

[364] **Huw Lewis:** It does have a role. The day-to-day contact is constant. The monitoring group is working side by side with my officials on a daily basis. There would not be an impediment, would there?

[365] **Mr Swain:** No. I think that there needs to be some clarity about the role and function of section 6 of the Measure. I think that we need to have a discussion with the commissioner about what we mean by that section. I do not think that section 6 was put in place to allow a retrospective look at all legislation that could possibly relate to children. I think that it allows us to use that primary law-making power where we believe legislation should be changed. The due regard duty would kick in, anyway. Where a Minister was looking to change existing legislation, due regard to the UNCRC would have to be demonstrated. In that case, then, we would have a power, through section 6, to amend that legislation.

[366] **Huw Lewis:** I am sure that the children's commissioner does not mean that we should send a civil servant off to St Stephen's tower in the House of Commons. I do not know whether you know about the tower, which has all the rolls of legislation going back to the Norman conquest or whatever. We have to focus on exactly what is the priority. I do not quite understand, not as a result of your question, what the commissioner might be after here in terms of a result.

[367] **Ann Jones:** Simon and Lynne have additional questions. I will then come back to Rebecca to finish.

[368] **Simon Thomas:** I am not sure that the commissioner's evidence was suggesting that. We were just having a discussion about priority.

[369] **Huw Lewis:** I am sorry, Simon. I was being facetious. That was my fault. I apologise.

[370] **Ann Jones:** No; do not.

[371] **Simon Thomas:** I just want to give you a specific example of where this may suddenly arise. The Government is taking forward the Social Services and Well-being (Wales) Bill, and as you know, there is a concerted effort by many of the organisations involved in the monitoring group and in your 'The Getting it Right Update 2013' document—your stakeholders, in other words—to amend that Bill regarding the removal of the defence of reasonable chastisement. So, here is an example of existing legislation that could be changed by an Assembly Bill. I know what the Government's view is on this, so I do not want to ask you more about that. What I specifically want to say is this: if, as the Bill progresses, there is an amendment to that effect, and if that amendment is carried, then it strikes me that we will have a strange situation. The Bill, as it currently stands, will have been assessed from the point of view of a children's rights impact assessment, but a major amendment to that Bill may be carried in the Chamber. Who knows? Certainly, the vote was carried two years ago. You will not have carried out the children's rights impact assessment on that potential major amendment. Now, everyone would argue that such an amendment would be fantastic for children, but the fact is that all legislation should be assessed in that way.

[372] There is a general question, as well as a specific one. What process do you have in place to deal with changes in legislation going forward? For example, the School Standards and Organisation (Wales) Bill was amended quite substantially in committee. I am not aware of a process that then looked at the children's rights impact assessment aspect of those amendments. You mentioned earlier that these things were active documents, but how active can they be when we are going through legislation, and when legislation in Parliament can make substantial amendments?

[373] **Huw Lewis:** You have to go back, I think, to what the Measure actually states. The Measure states that it imposes duties upon Welsh Government Ministers. There is obviously a democratic process that is wider than the Ministers' sphere of operation in terms of passing a law. However, I do not see any clash or inconsistency in what the Measure is saying, what the job of a Minister is under the duties, with the law-making procedure of the Assembly as we have it.

[374] **Simon Thomas:** What I am asking you, in a way, is whether these are properly aligned. Do you feel that they are?

[375] **Huw Lewis:** I think that they are aligned. You may not feel that that is sufficient, but that is something for the Assembly to pick up and run with if people feel that that state of affairs has to change.

[376] **Simon Thomas:** Can I just ask a supplementary question to that?

[377] **Ann Jones:** A supplementary to a supplementary to a supplementary?

[378] **Simon Thomas:** Yes, if I have permission.

[379] **Ann Jones:** Go on; hurry up.

[380] **Simon Thomas:** Next year, my understanding, and we heard evidence on this earlier,

is that further duties will emerge because Ministers will become liable for this general duty of due regard outside the field of competence of the Assembly as well by means of powers given to them directly by Westminster—in other words, outside our 20 fields—but you will still have to exercise that due regard. Are you making preparations now for how that will be built into your systems?

[381] **Huw Lewis:** That is a good question. I think that I will have to turn to my official. [*Laughter.*]

[382] **Mr Swain:** The simple answer is ‘yes’; we are scoping out what the next scheme will look like. However, it is a much more challenging scheme to write, given the scale of the duties.

[383] **Simon Thomas:** Indeed. And that is under active consideration, is it?

[384] **Mr Swain:** We will be engaging—

[385] **Ann Jones:** So, now it is a supplementary to a supplementary to supplementary to supplementary.

[386] **Mr Swain:** We will engage with all stakeholders in relation to what that scheme looks like.

[387] **Ann Jones:** Do you have any more, Simon?

[388] **Simon Thomas:** No.

[389] **Ann Jones:** Aled is next.

[390] **Aled Roberts:** We had a discussion earlier about whether these CRIAs are living documents—that is, documents that are used, as you say, when the Government Ministers are putting forward proposals. There was a feeling that, if the CRIA is done before the White Paper goes out to consultation, the Government’s own proposals can in fact be affected by the consultation that is undertaken and the response of stakeholders to the consultation, and, as Simon says, even when a Bill is then introduced, that Bill can change. What we do not understand is whether the CRIA has been completed when the first draft comes forward and then has no regard whatsoever to the Government changing its views following consultation, or to the Assembly imposing a different view to the Government’s original proposal. As you say, it is a developing process, but we just think that, perhaps, we need to have an understanding of how live these documents are.

[391] **Huw Lewis:** Sure. Aled, I think that you make a reasonable point; this is about transparency. I think that the future development of CRIAs could perhaps be best served by making sure that everybody understands what they are and how they work, and maybe by taking a look at the limitations of the ones that have been completed thus far. As I say, I cannot see any reason in principle why we should not make these public documents, so that people can see into the box, if you like, of what is going on in policy and law making.

[392] **Ann Jones:** We have come to Simon’s questions. [*Laughter.*]

[393] **Simon Thomas:** Hoffwn ofyn cwpl o gwestiynau ynglŷn â’r ffordd yr ydych yn delio â chwynion am y ddyletswydd sylw dyledus. Yn gyntaf oll, a ydych yn ymwybodol a yw’r Llywodraeth wedi derbyn **Simon Thomas:** I would like to ask a couple of questions about the way in which you deal with complaints about the due regard duty. First of all, are you aware of the Government having received a challenge to or complaint

her neu gŵyn am y ffordd y mae'r about the way in which the duty is being
ddyletswydd yn cael ei gweithredu ar hyn o implemented at the moment?
bryd?

[394] **Huw Lewis:** None—until I got here this morning. [*Laughter.*]

[395] **Ann Jones:** We will find plenty.

[396] **Simon Thomas:** Nid wyf yn siŵr a **Simon Thomas:** I am not sure whether what
oedd yr hyn glywsom y bore yma yn we heard this morning were complaints or
gwynion neu'n fwy o sylwadau. merely comments.

[397] Pe bai cwyn yn cael ei chyflwyno, If a complaint is made, without going into
heb fynd i fanylder, a fyddai proses benodol detail, does the Government have a set
gan y Llywodraeth i ddelio â hi, neu a process for dealing with that, or is it
fyddai'n rhywbeth a fyddai'n mynd drwy something that would go through the usual
ffordd arferol y Llywodraeth o ddelio â Government process of dealing with
chwynion? complaints?

12.00 p.m.

[398] **Huw Lewis:** I think that I am right in saying that the scheme deals with and describes
how complaints and representations are dealt with. That was all part and parcel of the
consultation on the draft scheme, which of course quite a number of key stakeholders had
input into. It is also worth mentioning that there is a particular and special course for children
and young people to make a complaint, and an online route that was specially developed with
and for young people. Is there anything that you want to add, Martin?

[399] **Mr Swain:** It is all set out in the scheme. The fact that we have not received a
complaint means that the system has not been tested. When it is tested, we can obviously look
at how the system works.

[400] **Simon Thomas:** The children's commissioner also said that he had not received any
complaints. It is not necessarily a complaints-based process anyway, is it? It is more of an
iterative process. Nevertheless, one of the questions that arises is whether some of the
information that you are producing is child-friendly. You mentioned an online system, but I
wondered whether you were looking at what you are doing in explaining this duty, and
whether that is as child-friendly as possible—that is, from the point of view of what the
Government is doing.

[401] **Huw Lewis:** I take on board your point. It is fair and true to say that the impact of the
Measure and the change of culture within the Welsh Government is leading us to produce
more and more material that is intended to be child-and-young-person friendly. Perhaps there
is some merit in the idea that we should quality-test that. I do not know whether we have
always involved young people in the development of material.

[402] **Mr Swain:** Prior to your becoming Minister we developed an app with and for
children and young people. It has recently been made available by the App Store.

[403] **Simon Thomas:** What is the name of that app?

[404] **Mr Swain:** Our Rights-Wales. We are advertising it around Wales at the moment. It
has been pretty well received. The emphasis on that is not necessarily about the detail, but
ensuring that children understand what their rights are, and what the UNCRC is. We are
explaining what the due regard duty means, because it is a strange kind of term, so we are

trying to ensure that children and young people know what means, and also then signposting them to where they can go for more advice, help and information about what the scheme says. That is in easy to understand language. We are piloting it at the moment on Apple devices, and hopefully we will move to Android, and whatever my daughter tells me is the most up-to-date device.

[405] **Simon Thomas:** I shall download it on my iPad later this afternoon when I find some Wi-Fi in the Assembly.

[406] **Ann Jones:** You are showing off now because you know how to use it. [*Laughter.*]

[407] **Simon Thomas:** I do not know how to use the app. I will get my son to show me.

[408] The children's commissioner had some technical points about how he dealt with complaints. He said that he needed the legislation that formed his office to keep pace with due regard and the developments in Welsh legislation. I will leave you to look at the transcript to understand that rather than to go over that now. Do you have any intention to bring forward a children's Bill during this Assembly that could address some of the commissioner's concerns about the technical aspects, but also some wider issues that may need addressing?

[409] **Huw Lewis:** First things first: I need to talk to the commissioner. I have a meeting in my diary with the commissioner coming up. I am aware that his office has had concerns about legislation as it relates to the role of the commissioner. That is what we are talking about. I will need to explore that with him and understand precisely what it is about. As you say, I know that it is technical, and I do not have a lawyer with me at the moment. We need to have that discussion first. It would be silly to commit to a chunk of legislation on the basis of my second-hand hearing of reports from the commissioner that there is a concern here. I need to understand this first.

[410] **David Rees:** 'The Getting it Right Update 2013' published in January this year was a progress report on the actions of the Welsh Government over the last few years. However, in this morning's session, the four witnesses were quite damning about that report. What are your views on their concerns?

[411] **Huw Lewis:** I would like to know more. This is a transcript that I am going to spend some time with, I think. I did not hear what our external stakeholders were saying earlier—

[412] **David Rees:** I will simplify it for you, Minister: they said that it was 'very poor' and 'poor quality'.

[413] **Huw Lewis:** They were involved in putting it together. External stakeholders were part and parcel of putting together the update. I need to understand; I have a series of meetings that, hopefully, will get me up to speed with people's concerns on this, the commissioner and others. I can say that there is a deliberate philosophy behind the update, which is intended to be a good thing—that is, that it should be an accessible, brief, to the point and focused piece of work. In other words, because we are moving into this second stage—moving away from the discussion stage and the debate about children's rights, and moving into the implementation phase—the action plan update should be a focused, bang-bang-bang description, accessible to everybody, of what Government is up to in this regard, and how things in the programme for government, for example, relate to this agenda. My hope is that people's discomfort is around the fact that this is not a long description of policy stances and so on. It is intended to be a working document that focuses on delivery. Perhaps some people would like to see something else, but that is very much the intent behind the update, and what it is for. External stakeholders were a part of its compilation.

[414] **Ann Jones:** I think that external stakeholders—certainly the people we heard from previously—vehemently deny that. Perhaps we could have a note on that, because certainly there was a critique of the Getting it Right update, which they are going to send to us, and which we will forward to you as well. Perhaps you would like to go away and—

[415] **Huw Lewis:** Are you saying that they vehemently denied—

[416] **Ann Jones:** They vehemently denied being involved in putting together the actual update—

[417] **Simon Thomas:** May I give an example? One of the stakeholders contacted me yesterday, having seen the report, and said that they disagreed completely with the reference to them in the report. They said that they had contacted the First Minister by letter. I do not want to discuss this openly in committee, because obviously there are communications going on, but what struck me was that there had not been the right level of engagement or maybe communication. Something has been lost, and I do not know whether that is because this document has been, if you like, thrown together quickly to respond to something, or whether there has not been the right engagement, but I would suggest to you, Minister, that there is an issue here that you will need to look at. As a new Minister, you can probably make a clean slate of it, so whatever the antagonism or difficulties that there have been—

[418] **Huw Lewis:** Obviously, I will take people's worries and concerns very seriously, and look into them. That will be done. Perhaps I could bring Martin in to give a bit more background in terms of the role of external stakeholders.

[419] **Mr Swain:** I think that there needs to be a bit of understanding about the role of the monitoring group. It is difficult when we are producing a governmental report that an external stakeholder group will want to scrutinise and challenge. There is a level to which they can be involved. Certainly I will brief the Minister on the role of the monitoring group in terms of that action plan report, but as I say, when you have a scrutiny role you cannot be involved in the drafting. There is a balance. Obviously, I will brief the Minister on that.

[420] **Ann Jones:** Perhaps you will go away and look at that, and when we get the critique from the monitoring group, we will send it on to you.

[421] **Huw Lewis:** Sure. This is obviously something that I should be concerned about.

[422] **David Rees:** I was just thinking that it is important to grasp what being 'involved' actually means, and you have gone some way towards explaining that. It was interesting to hear you talk about how it should be linked to the programme for government, because one of the issues raised this morning was that there is no route-map as to where you will be going with that in future. Will you look at the action plan update to see whether it needs updating again, to ensure that the issues that you have just talked about are identified in it?

[423] **Huw Lewis:** Yes, of course I will. We have to remember that the final judge of all this will be the United Nations committee. You will also have that safeguard, in terms of making sure that we are on the right track. Certainly, if this level of concern has been expressed, it is something that I specifically need to look at.

[424] **David Rees:** Minister, as was again highlighted this morning, you said that it would be simple and easy but there is also need for children to understand the report, so it might need to be in two formats.

[425] **Huw Lewis:** That is a very good point. I will take that on board.

[426] **Ann Jones:** Are there any other questions for the Minster? I see that there are not. I thank the Minister and Mr Swain for coming along. You will be sent a copy of the transcript to check for accuracy. There are three issues on which you are going to come back to us: a list of examples where child rights impact assessments have influenced policy and legislation; an update on the training for staff, with the caveat that that changes; and the issue around the updated action plan. When we get the critique, we will send it on.

12.11 p.m.

**Cynnig o dan Reol Sefydlog Rhif 17.42 i Wahardd y Cyhoedd o Weddill y
Cyfarfod
Motion under Standing Order No. 17.42 to Exclude the Public for the
Remainder of the Meeting**

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

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

[428] I see that the committee is in agreement.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 12.11 p.m.
The public part of the meeting ended at 12.11 p.m.*