



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

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

Dydd Mercher, 9 Mai 2012
Wednesday, 9 May 2012

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cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

These proceedings are reported in the language in which they were spoken in the committee.
In addition, an English translation of Welsh speeches is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Angela Burns	Ceidwadwyr Cymreig Welsh Conservatives
Christine Chapman	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Jocelyn Davies	Plaid Cymru The Party of Wales
Keith Davies	Llafur Labour
Suzy Davies	Ceidwadwyr Cymreig Welsh Conservatives
Julie Morgan	Llafur Labour
Lynne Neagle	Llafur Labour
Jenny Rathbone	Llafur Labour
Aled Roberts	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Simon Thomas	Plaid Cymru The Party of Wales

Eraill yn bresennol
Others in attendance

Leighton Andrews	Aelod Cynulliad, Llafur (y Gweinidog Addysg a Sgiliau) Assembly Member, Labour (Minister for Education and Skills)
Ann Bell	Rheolwr Datblygu, Adoption UK Development Manager, Adoption UK
Maureen Ingham	Rheolwr Contract IRM, Cydlynnydd SWAAC, Ymgynghorydd BAAF IRM Contract Manager, South Wales Adoption Agencies Consortium Co-ordinator, BAAF Consultant
Anthony Jordan	Adran Addysg a Sgiliau, Llywodraeth Cymru Department for Education and Skills, Welsh Government
Wendy Keidan	Cyfarwyddwr, BAAF Cymru Director, BAAF Cymru
Mike Lubienski	Uwch-gyfreithiwr, y Gwasanaethau Cyfreithiol Senior Lawyer, Legal Servies
Steve Milsom	Dirprwy Gyfarwyddwr, Gwasanaethau Cymdeithasol Oedolion Deputy Director, Adult Social Services
Gemma Nye	Pennaeth Sefydlogrwydd Lleoliadau a Pholisi Gwasanaethau Cymdeithasol ar gyfer Plant Anabl Head of Placement Stability and Social Services Policy for Disabled Children
Ceri Planchant	Gwasanaethau Cyfreithiol, Llywodraeth Cymru Legal Services, Welsh Government
Iwan Roberts	Gwasanaethau Cyfreithiol, Llywodraeth Cymru Legal Services, Welsh Government
Chris Stevens	Cynghorydd Polisi, Tîm Polisi Diogelu Policy Adviser, Safeguarding Policy Team

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

Sarah Beasley	Clerc Clerc
Stephen Davies	Cynghorydd Cyfreithiol Legal Adviser
Kayleigh Driscoll	Dirprwy Glerc Deputy Clerk
Claire Morris	Clerc Clerc
Sarah Sargent	Dirprwy Glerc Deputy Clerk
Sian Thomas	Gwasanaeth Ymchwil Research Service

*Dechreuodd y cyfarfod am 9.16 a.m.
The meeting began at 9.16 a.m.*

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introductions, Apologies and Substitutions

[1] **Christine Chapman:** Good morning and welcome to the Children and Young People Committee. I remind everyone to switch off mobile phones, BlackBerrys and pagers. We have not received any apologies today.

Bil Safonau a Threfniadaeth Ysgolion (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 1 School Standards and Organisation (Wales) Bill: Stage 1—Evidence Session 1

[2] **Christine Chapman:** Under this first item, we will scrutinise the Minister for Education and Skills on this Bill. I welcome Leighton Andrews AM, the Minister for Education and Skills. I understand that your officials from the Welsh Government today are Anthony Jordan, from the Department for Education and Skills and Iwan Roberts, from Legal Services. Welcome to you all. I understand that you do not wish to make any initial remarks, so we will go straight to questions.

[3] My first question relates to Part 2 of the Bill. Can you explain how the grounds for intervention in the conduct of maintained schools set out in section 2 differ from those in the Schools Standards and Framework Act 1998? Why do you believe it was necessary to make those changes?

[4] **The Minister for Education and Skills (Leighton Andrews):** Broadly speaking, Chair, we are bringing together all the powers of intervention so that there is more clarity, for us, I guess, for local authorities, for schools and for all those involved in the education process. However, there are specific changes in respect of one or two of the grounds. For example, with ground 1, we have removed the words in the 1998 Act relating to concerns that the low standards may remain unless the authority intervenes because we believe that the trigger should be the existence of low standards. In ground 2, we have removed the words

[5] ‘prejudicing, or likely to prejudice, such standards of performance’.

[6] That is because, again, we think that, if there has been a breakdown, that itself is enough to trigger intervention. Broadly speaking, in many cases, we have transposed the bulk of what was in the existing Act and made some amendments. I can go through each of the grounds if you want or I can supply you with a table that shows precisely what we have done.

That will provide you with the rationale. That might save the committee some time this morning and might be more useful to Members.

[7] **Christine Chapman:** Okay, thank you. It would be good if you could do that, Minister.

[8] **Jocelyn Davies:** I have a supplementary question on that, on 'more clarity'. Have there been disputes over whether intervention is required? Has there been resistance to attempted intervention in the past?

[9] **Leighton Andrews:** I do not think there has been resistance to our involvement as such. I could point to examples of disputes at a local level between an authority and, say, a governing body. We have been aware of that kind of problem. In fact, we have been aware of that kind of problem quite recently in respect of one authority. Sometimes, there will be debates and disputes on this. That is inevitable if you have powers that are, of necessity, tending towards an intervention. One of the problems for us is the feeling that local authorities themselves do not always understand the process or feel that they have sufficient clarity over whether they should intervene. Given the challenges that we face in respect of school improvement, I think that earlier intervention by local authorities would be more helpful. The process of going through discussions with local authorities, now that we have the school standards unit in place, demonstrates the lack of understanding that existed previously.

[10] **Jocelyn Davies:** So, the grounds, as we see them here, do not just codify what goes on; they are giving a different benchmark for intervention.

[11] **Leighton Andrews:** They do both. On the whole, there is a question of codification to make it simpler for local authorities to understand. However, we are raising the bar in one or two respects by changing one or two of the grounds, because we are saying that if this low level of performance exists, put bluntly, that provides grounds for intervention.

[12] **Lynne Neagle:** Minister, can you give us a bit more detail on how local authorities and Ministers will determine whether grounds for intervention exist?

[13] **Leighton Andrews:** The starting point has to be the local authority itself. Local authorities have to determine whether they feel that grounds for intervention exist. Even where such grounds exist, they have to act reasonably in the way in which they subsequently operate. They will have a range of information to look at. For example, they might have a recent inspection report or, through their routine school improvement obligations, they might be comparing the performance of one school with that of another in similar circumstances within the authority area. Conceivably, because we have data on families of schools across Wales, they could be looking at that wider data, which look at the performance of one school in respect of others. We would expect local authorities to draw from a range of data as they look into the issue of failing performance.

[14] **Angela Burns:** Minister, could you give a quick overview of how many schools this kind of new ruling would currently affect? Do you have a feel for how many schools out there should have had interventions that have not?

[15] **Leighton Andrews:** That is a difficult question to answer, in all honesty, because where you have good school improvement services in operation, interventions will be taking place in any case. Some of the interventions may be seen as additional support to schools. Some may be the provision of specialist support in particular subject areas, such as providing additional support in looking at the overall performance of the headteacher and so on. So, that is a genuinely difficult question to answer. If, in essence, you are talking about schools that have failed Estyn inspections, we could give you figures for that on an annual basis, but,

normally, when advice comes to me on whether I should exercise my powers of intervention, I am advised not to do so, because there is an obligation on the local authority to provide an action plan to turn performance around. Clearly, we would prefer these matters to be sorted out at a local level. We can supply you with more data, but I am not sure that we can answer the question quite in the way that you phrased it.

[16] **Angela Burns:** That is fine, thank you.

[17] **Lynne Neagle:** Looking specifically at ground 1, can you give us more information about how the standards of performance set out in ground 1 are to be measured?

[18] **Leighton Andrews:** For us, if performance is unacceptably low, it will have been identified in an Estyn inspection report, for example, which will categorise the school on the basis on certain kinds of grading. There will be clear evidence that pupils are not attaining the standards that we might reasonably expect them to attain, given their age range, the wider background of the school, and comparable standards in other schools, as I said in my answer to your earlier question.

[19] **Aled Roberts:** I ba raddau y mae'r **Aled Roberts:** To what extent are the current pwerau presennol i ymyrryd yn cael eu powers to intervene being used by local defnyddio gan awdurdodau lleol? authorities?

[20] **Leighton Andrews:** Not sufficiently, to be honest with you.

[21] **Aled Roberts:** Deallaf mai'r **Aled Roberts:** I understand that the consortia, i ryw raddau, fydd yn gyfrifol am consortia, to some extent, will be responsible for school improvement services, so do you wasanaethau gwella ysgolion, felly a oes for school improvement services, so do you gennyhch unrhyw bryderon am faint y have any concerns about the size of those gwasanaethau a gallu awdurdodau lleol i services or local authorities' ability to ymyrryd, o ystyried faint o ysgolion fydd yn intervene, given how many schools will fail methu arolygon Estyn? Estyn inspections?

[22] **Leighton Andrews:** No.

[23] **Julie Morgan:** One thing that could be done would be to appoint additional governors. Are there any examples of that happening?

[24] **Leighton Andrews:** There are examples that we could bring to the committee, if that would be helpful to you. The important thing about all of this provision is that a range of interventions might be appropriate, so we want to maintain flexibility for local authorities. When you bring together powers of intervention, people will focus on the powers of the Welsh Ministers, because they are seen as rather more draconian and centralist. However, to put it bluntly, those are backstop powers and it is pretty rare for them to be used. We are actually interested in local authorities carrying out their responsibilities. In bringing the powers together in this Bill, we are looking at the range of responsibilities that they have. Appointing additional governors is a route that is used. There are powers for local authorities to federate governing bodies, which we introduced in previous legislation. We are only really at the piloting stage of that work at present. Local authorities need to understand the range of powers that they have, and we are trying to make it simpler for them to understand that.

[25] **Julie Morgan:** Is it your view that they have not been used enough in the past?

[26] **Leighton Andrews:** You would have to say that that is the case, given the challenges that we face in respect of school improvement overall in Wales.

[27] **Keith Davies:** Rwy'n falch o weld adran 5. O ran eich ateb i Julie Morgan, nid wyf yn gweld sut y gallai penodi llywodraethwyr ychwanegol wneud llawer o wahaniaeth. Yn y pen draw, os yw disgyblion yn tangyflawni, problem gyda thîm rheoli yr ysgol ydyw—y pennaeth, y dirprwyon, y penaethiaid adran ac ati. Yn adran 5, rydych yn rhoi'r pŵer i awdurdodau fynnu bod ysgolion yn cael cyngor o rywle arall neu yn cydlafurio ag eraill. Gallai hynny gryfhau a gwella'r sefyllfa mewn ysgolion.

Keith Davies: I am pleased to see section 5. On your answer to Julie Morgan, I do not see how appointing additional governors could make much of a difference. At the end of the day, if pupils are underachieving, there is a problem with the school management team—the head, the deputies, the heads of department and so on. In section 5, you give local authorities the power to insist that schools seek external advice or collaborate with others. That could strengthen and improve the situation in schools.

[28] **Leighton Andrews:** Yes. We are trying to make it clear to local authorities that there is a range of ways in which they can support schools. As you said, the powers in section 5 would enable schools to contract with other parties to bring in additional assistance. There is an issue here of whether all governing bodies have the requisite levels of skills and experience that they might need, which is why there is a power, in section 6, to appoint additional governors. You are absolutely right to say that the key focus is on the leadership team within a school. However, in the best organisations, the ability to call on support from outside is often an important virtue, and so we are trying to ensure that that is available.

[29] **Angela Burns:** Minister, I want to deal with section 2 again. You have touched on it a little in your previous answers, but I would like to really understand the difference between the existing powers to intervene in the education function of a local authority—as you have recently exercised in some local authorities, including one in my area, for example—and what you believe you cannot do now but that you would seek to do under the provisions of the new Bill?

9.30 a.m.

[30] **Leighton Andrews:** That is not as much a section 2 matter, as one related to a later section. However, what we are introducing here—

[31] **Angela Burns:** I beg your pardon, I meant Chapter 2, section 21; you are absolutely right.

[32] **Leighton Andrews:** Okay. Let us be clear at the start that, as we have gone through the recent inspection process by Estyn, the reality is that we have no local authorities deemed to be excellent; we have a small number deemed to be good; we have a number deemed to be adequate, which, as I have said before, I regard as being barely good enough; and some that have been found to be unsatisfactory. We have taken extensive powers in respect of Blaenau Gwent. We have intervened also in respect of Pembrokeshire because of the issues around safeguarding, which I know you are very familiar with, and there are recent activities that continue to cause us concern.

[33] What we are seeking to do here is to ensure that the powers that we have are as extensive as we need them to be. We rarely intervene in local authorities. Taking powers over Blaenau Gwent in the way that we did was a very rare exercise of ministerial powers essentially to remove the education functions from the authority and place them in the hands of commissioners. It had not been done before and I do not anticipate it being done very often. We have undertaken a different approach in respect of Pembrokeshire. I think that we always have to try to ensure that responsibility is located at the local level for turning these situations around, but we retain what is essentially a backstop power for Ministers to intervene when we think that things have got out of hand. Of course, we would have to do

that reasonably, because we would be under challenge if we were to intervene in a way that was unreasonable. The key thing that we are doing here is putting in place a process for us to go through and the recognised grounds on which we would be able to intervene. Otherwise, we are essentially restating the powers from the previous 1996 Act.

[34] **Angela Burns:** Thank you; I just wanted to be clear on that, because I understand totally the need to do it and I understand that you would hope not to have to do this on a very frequent basis. [*Interruption.*]

[35] **Suzy Davies:** I am sorry. I will turn off my phone.

[36] **Angela Burns:** There are worse tunes that could have been played. [*Laughter.*]

[37] I want to seek absolute clarity, Minister, given that you have already done it with Blaenau Gwent, on whether there are any current barriers that you felt you had to struggle unduly to get over in order to intervene in Blaenau Gwent. However, you have just said that you are simply restating the current process.

[38] **Leighton Andrews:** Yes, and explaining the process better, perhaps. However, I do not think that there are any fundamental changes in respect of powers.

[39] **Suzy Davies:** Obviously, Minister, these backstop powers give Ministers opportunities to intervene in schools on particular grounds. Once that intervention has been made, sections 25 and 26 give Welsh Ministers certain powers. Section 27 seems to extend that a little. Once Welsh Ministers have intervened on particular grounds, section 27 seems to suggest that Welsh Ministers may make different and additional findings on grounds that were not the original cause of the intervention. Is my understanding of that right? Does that give you a foot in the door, allowing you to take additional action on matters that were not the cause of the intervention?

[40] **Leighton Andrews:** These are simply a restatement of existing powers, as it happens. I think that you could identify a situation where your grounds for intervention were that the local authority had failed in one area and, as you delve more deeply into that, you could find that there were other failings allied to it, which might require you to intervene further. So, in a sense, you need that breadth in relation to the power of intervention.

[41] **Suzy Davies:** Will you be self-limiting in that? I appreciate that you have said that the power is already there, but I would not like to think that once you are in you can do what you like.

[42] **Simon Thomas:** He would.

[43] **Leighton Andrews:** Do not tempt me. [*Laughter.*] I think, inevitably, you would be self-limiting, because throughout the entire process you would be governed by a requirement to act reasonably. I do not think that changes in this in any respect. Once Ministers have taken the decision to intervene—and, as I said, we have done it rarely; the Blaenau Gwent example is an exception—you would, clearly, only want to proceed on the basis that you had very strong grounds for doing so. Also, with regard to taking action, in respect of Blaenau Gwent, for example, we have appointed people who are, I think, recognised widely across Wales as having specific skills—including an outstanding headteacher—and who have the confidence of people on the ground. That would, obviously, be the way in which we would wish to proceed.

[44] **Jocelyn Davies:** I have some questions on the school improvement guidance. You mention the school standards unit in the explanatory notes, and I guess that what you want to

achieve is acceleration in improvement. You mention that some schools are reluctant to change, despite the fact that there have been persistent poor results. I suppose that performance on numeracy and literacy would be indications of that. The Bill, of course, puts the guidance that you want to issue on a statutory basis. I get a sense that there is an attempt here to find out what works and what does not work in the classroom—we have certainly had evidence recently from Estyn that there is huge variation. There are some proven techniques, and you are going to attempt to find out what does work and, of course, prevent ineffective techniques from being pursued persistently.

[45] I wonder why, if something does not work, it has been left up to schools until now. When we were questioning representatives from Estyn, they seemed not to be entirely clear about what techniques work and what did not, although teaching children goes back many years. What we want, of course, is for children to get the best possible start. So, even though it is difficult to argue with the thrust of what you are saying, I would question whether this has happened before and this Bill just describes what already happens. You say that Welsh Ministers may issue guidance and even though you have been a very interventionist Minister—you have been hands-on—and are determined to do this, I am not convinced that that would be the case with a different Minister in the future. How would you feel about putting on a statutory basis that the Minister has to have a school improvement unit and has to issue information about the teaching techniques that work?

[46] **Leighton Andrews:** I am clear that we need statutory school improvement guidance. If I am still the Minister by the time that we pass this Bill, in the short life after that, I hope to have published the guidance at least. I think that will be the first time that we have done this. There are clearly areas, particularly in respect of literacy and numeracy, where demonstrating examples of best practice will be important to us. In a sense, I would want to use the phrase that you will have heard in other committees, not just in respect of education, but in respect of public service reform more generally, which is that we expect people to adopt best practice or to justify why not—adopt or justify. We are not being so rigid here that we do not say there is flexibility for schools, or for local authorities, for that matter, if they can demonstrate that they have an alternative way of doing things. However, it is important that we bring to people's attention the best practice that exists. We are doing that through not only the publication of statutory school improvement guidance, but also making best practice case studies available online. We have videos online of some of the best practice in different areas and schools in Wales. Increasingly, digital techniques are making a wider variety of best practice available.

[47] There are proven techniques that have improved performance and the overall tracking and support for pupils. There are a whole series of things that we want to make available and putting it on a statutory footing will put an onus on local authorities' school improvement services and the headteachers themselves to demonstrate that they are looking at this. It will also be clearer for school governors: there will be a resource to which they can turn to support their work. So, it is sensible to do this, and it is the first time that we have done it.

[48] **Jocelyn Davies:** Thank you for clarifying that it is the first time that it has been done. However, we could end up with a more laissez-faire Minister for education, so my question is: why not include in this Bill a duty on the Minister to have to have a school standards improvement unit and, definitely, a duty to issue guidance and so on, rather than having the 'may' that is in the Bill?

[49] **Leighton Andrews:** That is an interesting proposition.

[50] **Jocelyn Davies:** Perhaps you will think about it, Minister.

[51] **Leighton Andrews:** I am very happy to think about it, but I think that you are setting

off alarm bells around the table.

[52] **Angela Burns:** If we had a less reasonable Minister than you to do this task—

[53] **Leighton Andrews:** I am enjoying this. [*Laughter.*]

[54] **Angela Burns:** The thing about guidance is that it works well because it is guidance, but, as soon as you put something in a statutory format, you could easily be in danger of creating a very simplified schooling system, with a set of one-size-fits-all guidance. If we were to go down that road, I would want to see an awful lot of safeguards built in, because we all know of schools that perhaps employ different and unusual techniques that are proven to work exceptionally well in their particular area. You say that they would have to demonstrate and justify why they would not follow best practice, but, if you are going to put that guidance on a statutory footing, I would like it to include a good backstop that enables schools with a more unusual, but winning formula for their children and area to have the opportunity to explain why what they do works. I worry that we might end up with an education system that is created by people who are not necessarily first-rank educators or academics and that, over time, we will end up with a one-size-fits-all approach or one that is cost-driven or driven by the other factors that might arise. So, it is about building in that protection.

[55] **Leighton Andrews:** If we have schools that are doing really well and have developed techniques that are excellent and leading-edge in terms of practice, then we want to learn from them and, secondly, in any case, through the new Estyn inspection framework, they have a responsibility to share that information. That is clearly written into that framework. We have an expectation that those schools will share, and Estyn will look at that as they inspect in future. So, I do not think that people who have undertaken good practice have much to fear from this process. Some schools may have been coasting and our banding system has unveiled one or two that are coasting. There are sometimes people who get into a particular way of teaching that does not necessarily produce results and statutory school guidance will be valuable for them. The work that we have done in collaboration with Estyn, for example, the stocktakes that our school standards unit has undertaken with local authorities and consortia, has demonstrated that there is a real demand for this best practice and for us to put it in a format that is clear for people. If schools wish to opt out of it, then they can do so, if they can demonstrate that they have alternative methods that have paid off.

[56] **Keith Davies:** Ar y canllawiau gwella ysgolion, nid wyf yn glir ynghylch beth yw'r awdurdod ysgol. Ar gyfer pwy y mae'r canllawiau? A ydynt ar gyfer y corff llywodraethu neu ar gyfer yr awdurdod addysg lleol. Ar gyfer pwy fydd y canllawiau hyn?

Keith Davies: On the schools improvement guidance, I am not clear about what the school authority is. Who is the guidance for? Is it for the governing body or for the local education authority? Who will this guidance be for?

[57] **Leighton Andrews:** If you look at section 35 of the Bill, which includes the duty to follow school improvement guidance, you will see that we talk about school authorities and essentially we are talking about local authorities, governing bodies and headteachers. The definition of a school authority is set out in section 32.

9.45 a.m.

[58] **Jocelyn Davies:** I just want you to place something on record, Minister. Would this piece of legislation allow you to intervene where teaching is good?

[59] **Leighton Andrews:** I cannot think of a way in which it would. Section 35(5) of the Bill allows discretion for local authorities to determine that it would be unreasonable to

follow the school improvement guidance. So, there is immense flexibility built in here. What we are trying to do for the first time is to say that there are examples of best practice that we should look at. Anyone in the profession who does not at least look at them, going forward, would be acting foolishly. That is not to say that they must absolutely follow that guidance if they have tried and tested practices that are moving things forward in any case.

[60] **Lynne Neagle:** I will move on to school organisation and the code on school organisation. What is likely to be included in the code?

[61] **Leighton Andrews:** The code will, essentially, set out the requirements for the way in which local authorities have to consult on school organisation proposals and the way in which the local determination panels will operate. We already publish school organisation guidance, which is quite detailed. I am sure that Members will have referred to it from time to time when there have been school organisation proposals in their own local authorities. So, in a sense, we are building on what already exists within current guidance.

[62] **Lynne Neagle:** If local authorities do not comply with the code, what would be the sanctions?

[63] **Leighton Andrews:** We have powers of intervention. If local authorities fail to comply with existing guidance, for example, they can put in jeopardy the school organisation proposals that they have put forward, given that there are clear obligations on them to consult properly with relevant stakeholders. We have had examples in the past of having to go back to local authorities to tell them that they have not complied with the guidance. So, this is a code with which they will have to comply. We would have the powers to intervene, but others would have the ability to legally challenge a local authority as well.

[64] **Jenny Rathbone:** Cardiff Council spent the best part of the past eight years trying to eliminate school places by closing schools, which has taken its attention away from improving the quality of education. How would these proposals improve things, by making the process more transparent and speedy, in order to get a better use of money for educating our children?

[65] **Leighton Andrews:** I will not comment on specific authorities, because I have obligations in respect of proposals that come forward from local authorities. We must start from the position that surplus places in schools are costing local authorities money. Estyn produced a report yesterday that illustrates the challenges that face many local authorities. Every surplus place in a school is a tax on the head of other pupils within the system, and that needs to be recognised. Indeed, we are heading towards 20% surplus places in certain areas, so there are significant challenges that must be addressed by most local authorities, although one or two have already got to grips with this. That money can be released for teaching and into the system for other forms of support as well. Therefore, we expect local authorities to carry out their obligations in this respect. Equally, in terms of planning for the future, making use of surplus capacity can open up opportunities, for example for the development of further Welsh-medium education, where there are surplus places in English-medium schools. So, we must see this as a way of approaching future school organisation in a flexible way.

[66] In terms of the timeliness of proposals, what we are trying to do in this Bill is to ensure that most of the decisions are taken locally. At the present time, around 50% of school organisation decisions come to Ministers for determination. I do not think that the system was ever intended to be like that. It was intended that only a limited number would go to Ministers. Those who have served on local authorities will understand that this introduces significant delay to the system, because my officials have to go back to evaluate all the proposals, read through all the materials, check that the local authority has gone through the appropriate procedures and get the evidence from Estyn and so on. While we try to determine

all the proposals that come to us on the basis of objections within six months, it is often hard to do that. We have exceeded that deadline on a number of occasions.

[67] So, what we are trying to do is to get decisions made locally. It is better, bluntly, for the locality when that happens. There is less uncertainty and more clarity in the system, and people can move on quickly to whatever the new form of organisation is.

[68] **Jenny Rathbone:** On that specific point, you have included in category 1 the appropriate religious body if the school to which the proposals relate has a religious character. The only other two organisations in category 1 are local authorities, either the one affected, or the one adjacent to it. Does that not give a disproportionate influence to schools of a religious character over maintained schools?

[69] **Leighton Andrews:** Schools of a religious character have always had a distinctive space within the legislative framework, and this reflects that.

[70] **Julie Morgan:** We appreciate the cost of surplus spaces, but how will authorities be able to take into account fluctuations in the birth rate? I do not know whether anything can be written in to ensure that they do that. I know that you will not comment on particular situations, but we have a situation in which there are not enough nursery places and places higher up in the system have been closed because they were surplus. That seems to be a key issue for forward planning. I do not know whether you can comment on it.

[71] **Leighton Andrews:** You are right. We would expect local authorities to plan forward on the basis of demographic projections. Already written into, for example, the existing school organisation guidance are requirements to look at things like new housing developments when making calculations of likely future demand. So, we have all those kinds of things built in. At the end of the day, it is a matter for the local authorities to look at all the factors that will bear on the future school population, and we would expect them to do that.

[72] **Christine Chapman:** Have you assessed how well forward planning is happening generally? Do you have any thoughts on that?

[73] **Leighton Andrews:** It is clearly not successful, is it? We have far too many surplus places. We are not saying that you have to eliminate surplus places absolutely. In fact, allowing for a surplus of around 10%, which is what we are suggesting, would give significant flexibility to local authorities as they move forward. The problem is that we have local authorities that are heading towards 20% surplus places in secondary schools and between 15% and 17% in primary schools. So, there is a significant divergence from what should be happening.

[74] **Simon Thomas:** Yn dilyn y pwynt hwnnw, Weinidog, rydym wedi gweld ambell awdurdod lleol yn mynd i'r afael â'r broblem hon ac, dim ond ychydig wythnosau yn ôl, yn dioddef efallai oherwydd rhai o'r materion lleol hyn. Nid oes dim yn gryfach mewn cymuned na'r ysgol leol ac mae unrhyw gynnig i gau neu newid ysgol leol yn cael effaith ar y system o ddemocratiaeth leol. O adran 51 ymlaen, rydych wedi gosod system amgen a fydd, rydych yn gobeithio, yn delio gyda'r cynigion hyn, gyda chategorïau gwahanol o wrthwynebwyr a dulliau gwahanol, felly, o ddelio gyda'r cynigion.

Simon Thomas: Following that point, Minister, we have seen some local authorities addressing this problem and, only a few weeks ago, perhaps suffering because of some of these local issues. There is nothing stronger in a community than the local school and any proposal to close or change a local school has an impact on the local democratic system. From section 51 onwards, you have set out an alternative system that will, you hope, deal with these proposals, with different categories of objectors and different methods, therefore, of dealing with the proposals. Only one category will come to

Dim ond un categori a fydd yn dod atoch a bydd y categorïau eraill yn cael eu trafod yn lleol. Yn gyntaf, a ydych yn credu bod angen rhoi'r fath fanylder ar wyneb y Bil?

you and the other categories will be discussed locally. First, do you believe that you need to put this kind of detail on the face of the Bill?

[75] **Leighton Andrews:** If I had left it out, people would have said that it should be in there.

[76] **Simon Thomas:** Yn ail, felly, a ydych wedi ystyried cynllun peilot, yn wirfoddol o bosibl, gyda rhai awdurdodau sydd eisoes yn mynd drwy'r broses hon?

Simon Thomas: Secondly, therefore, have you considered having a pilot scheme, possibly voluntarily, with some authorities that are already going through this process?

[77] **Leighton Andrews:** It is difficult to pilot it because we already have existing legislation whereby one objector can trigger a reference to Ministers. It would be impossible to pilot because the law is the law. After I came into post, one of the first policy discussions that I had—

[78] **Simon Thomas:** The real question is: where did you get this idea from? What makes you think that this will work?

[79] **Leighton Andrews:** That was what I was about to come to. Fairly shortly after taking over, at the end of 2009, I held a policy discussion within my department that looked at the practice in other parts of the UK and elsewhere, and looked at what was really happening on the ground and the problems that existed. Nobody felt that the situation was satisfactory. It was taking too long, and it was a blight in certain schools, where decisions were simply not being reached in a timely fashion. I do not think that anybody thought it sensible that an objection from anywhere in the world could trigger a reference to a Minister. So it was important that we looked at what might work. What we are trying to do in this legislation is to establish a situation whereby we give appropriate weight to different categories of objector. Clearly, if people are going to object, that is fair enough, but there also needs to be some balance—that is, is there really substantial local support for that objection? You referred to the democratic process and the outcome that we sometimes get over these issues. It is quite hard to get this absolutely right, just as it is quite hard to get planning decisions right. What we are trying to do is to put in place a determination process that allows these decisions to be taken locally, that recognises that there are different categories of objector that may have different issues to raise, and that we need to ensure effective local discussion of proposals such as this. Is what we are proposing perfect? No. However, we have an existing situation that is clearly imperfect and we are trying to rectify that.

[80] **Simon Thomas:** Mae gwahanol gategorïau, ac efallai mai'r drafferth gyda gosod pethau mewn Bil fel hyn yw bod y sefyllfa yn wahanol mewn gwahanol rannau o Gymru. Nid oes cyngor cymuned ym mhob rhan o Gymru—yn y Cymoedd, er enghraifft—felly mae un o'r dulliau ar gyfer galw panel penderfynu lleol wedi cael ei dynnu oddi ar rai cymunedau. Mae llawer o ysgolion cefn gwlad yn ysgolion eglwysig, felly gallech ddadlau bod yr eglwys, yn benodol, yn cael dylanwad cryfach yng nghategori 1 na rhai cyrff pwysig eraill yn y gymuned leol. Mae'n bwysig ein bod yn cael hyn yn iawn yn y cyd-destun hwnnw. A oes

Simon Thomas: There are different categories, and the difficulty, perhaps, with setting things out in a Bill like this is that the situation is different in different parts of Wales. Not every part of Wales has a community council—in the Valleys, for example—so one method of triggering a local determination panel has been taken away from some communities. Many rural schools are church schools, so you could argue that the church, specifically, has stronger influence in category 1 than some other organisations that are important within the community. It is important that we get this right in that context. Is there anything in this

rhywbeth yn y ddeddfwriaeth hon sy'n rhwystro awdurdodau lleol rhag galw panel penderfynu lleol yn wirfoddol? Hynny yw, a oes rhywbeth i'w rhwystro rhag galw panel penderfynu lleol os oes, dyweder, saith o rieni yn gwrthwynebu, fel ffordd o ddangos bod y broses hon mor agored ag y bo modd?

legislation that prevents local authorities from voluntarily convening a local determination panel? That is, is there anything preventing them from convening a local determination panel if seven parents, say, object, as a way of showing that this process is as open as possible?

[81] **Leighton Andrews:** These issues are so sensitive on the ground that you need a clear process to which people are signed up. That is what we are trying to do here. It would be very difficult for local authorities to deviate from the approach that we have set down, and it would be unwise, bluntly. I think that people want clarity as to which factors are to be weighed, and which categories of objector can participate. You are absolutely right about community councils—there are none in my constituency, for example.

10.00 a.m.

[82] One of the difficulties in this process, and you will be familiar with this yourself from your own region, is that the emotive part of it is a decision to close a school, and yet we know that, very often, parents who have been emotionally opposed to a school's closure become very supportive of their children's new school, created as a result of the closure proposals. I know from previous roles that it is sometimes very hard for people to measure their views of what future provision might be like compared with existing provision on a rational, researched basis, whether that is in schools or in broadcasting, speaking bluntly. These things are difficult to balance. That is where the question of leadership at a local authority level comes in. The idea of closing small schools gets people emotional sometimes, and yet I have seen examples in Ceredigion of a far larger primary school, formed from the closure of several smaller schools, producing what is probably a better balanced curriculum and a wider range of extra-curricular activities, be they sporting or artistic, for those pupils. However, those things are often difficult for people to weigh in the balance when they feel emotionally committed to a local school that has been in existence for some time.

[83] **Simon Thomas:** Gwnaethoch sôn am arweinyddiaeth yn lleol, ond mae arweiniad cenedlaethol yn y Bil hefyd. Yn benodol, o adran 58 ymlaen, mae gan y Gweinidog y grym i gyfarwyddo awdurdodau lleol o ran rhesymoli lleoedd mewn ysgolion. A fedwch gadarnhau a yw'r rhain yn bwerau newydd neu a ydynt yn ailddatgan pwerau sydd gennych eisoes?

Simon Thomas: You mentioned local leadership there, but there is a national lead in the Bill, too. Specifically, from section 58 onwards, the Minister has the power to direct local authorities on the rationalisation of school places. Can you confirm whether these are new powers or whether they are a restatement of the powers that you already have?

[84] **Leighton Andrews:** We have some powers in this regard, but I do not think that they have ever been exercised.

[85] **Simon Thomas:** That was to be my next question.

[86] **Leighton Andrews:** I think that we are at the point where they may need to be exercised, and yesterday's Estyn report demonstrates the challenges across Wales.

[87] **Simon Thomas:** A allwch ymhelaethu ychydig ynghylch pam yr ydych yn meddwl nad oes cynnig wedi dod gerbron Gweinidog i ddefnyddio'r pwerau hyn? Fel y dywedwyd gennych, mae adroddiad Estyn

Simon Thomas: Can you expand a little on why you think no efforts have been made to request a Minister to exercise these powers? As you have said, yesterday's Estyn report states that local authorities have not got to

ddoe yn dweud nad yw'r awdurdodau lleol fel y cyfryw wedi mynd i'r afael â hwn go iawn er 1996. Dyna 15 mlynedd gyda rhywfaint o rymoedd ar y llyfr statud, ond nid ydynt wedi'u defnyddio, felly mae'n deg gofyn a ddylid eu cael yn y lle cyntaf. Mae rhai ohonynt yn syrthio'n farw ac nid oes eu hangen bellach, ond os ydych yn ceisio ailddatgan a chryfau'r grymoedd hyn mewn ffordd gyfundrefnol, sut y gallwch eu defnyddio'n briodol wrth fynd ymlaen?

grips with this issue properly since 1996. That means that it has been 15 years with some powers on the statute book, but they have not been used, so it is fair to ask the question of whether you should have these powers in the first place. Some powers are obsolete and are no longer required, but if you are seeking to restate and strengthen these powers in a systematic way, how do you think you could use them appropriately going forward?

[88] **Leighton Andrews:** I suppose that the emphasis has been that these decisions are matters for local authorities to take, and there has therefore been an understandable reluctance from the centre to impose particular conditions on local authorities in doing that. We are just about to start our fourth cycle of local government since devolution and, in that time, we have had an evidence base that has allowed us to look at whether local authorities have been taking their responsibilities in this area sufficiently seriously. I think that Estyn's work, published yesterday, and the previous work undertaken in the review of the structure of education in Wales, under the chairmanship of Viv Thomas, last year has demonstrated some of the challenges there.

[89] If we are looking to efficiently maximise resources locally, addressing surplus places is one issue that we really have to drive forward. I have said before at this and other committees that you do not often see school organisation proposals coming forward in the last 12 months before a local authority election. Given that we have just had local authority elections, I hope that all local authorities will be looking seriously at this issue in the near future.

[90] In respect of the powers here, we are restating the powers that we have. I think that we probably need those powers as a backstop, and local authorities need to understand that they currently have a Minister who might be prepared to use them.

[91] **Christine Chapman:** I want to move on to another area now, Minister, namely special educational needs.

[92] **Aled Roberts:** Yr wyf am droi at adran 65. Mae'r memorandwm esboniadol yn datgan bod y cynigion ar gyfer darpariaeth ranbarthol ym maes anghenion addysgol arbennig yn seiliedig ar Ddeddf Addysg 2002. Wrth edrych yn ôl ar rai o'r cwestiynau blaenorol, a oes unrhyw ffyrdd lle y mae'r cynigion hyn yn wahanol i'r Ddeddf bresennol?

Aled Roberts: I want to turn now to section 65. The explanatory memorandum states that the proposals for regional provision in the area of special educational needs are based on the Education Act 2002. In looking back at some of the previous questions, are there any ways in which these proposals differ from the current Act?

[93] **Leighton Andrews:** There is a minor change. In a sense, this largely restates what is in the 2002 Act and there is no longer any reference to local authorities making proposals before entering into arrangements with one another. There was a feeling that that was simply an unnecessary and possibly ambiguous reference. So, where local authorities are agreeing to work together, we did not feel that there was a need to state a proposal in that regard.

[94] **Aled Roberts:** Nid oedd hynny wedi'i gynnwys yn y cynigion gwreiddiol. A oes gennych unrhyw broblem o ran nad oedd

Aled Roberts: That was not included in the original proposals. Do you have any problem with the fact that there was no consultation

ymgyngoriad ar hynny? Derbyniaf yr hyn a ddywedwch, sef mai gwahaniaeth bach yw hwn, ond a oes gennych unrhyw broblem â hynny?

on that? I accept what you say, which is that it is just a small difference, but do you have any problems with that?

[95] **Leighton Andrews:** I think that it is a very minor change.

[96] **Angela Burns:** I turn now to sections 72 to 78 on the proposals for restructuring sixth-form education. I want to ask two very broad questions. Could you give us the backdrop of why you feel it necessary to take these powers? It appears to be slightly more than just a restatement of anything that currently exists. Having listened to your answers to Simon Thomas I wonder why you do not feel that it may be more appropriate to enable local authorities or perhaps even determination panels to make the decision about sixth-form education, and then to monitor that enablement.

[97] **Leighton Andrews:** This is really a restatement of the powers that already exist under the Learning and Skills Act 2000, so I do not think that there is a significant legislative change here. It is worth saying that post-16 education is centrally funded. The money comes from my department—lots of money comes from my department, as it happens, but this specifically does—so it is not funded through the revenue support grant, as is the case with pre-16 education. Clearly, the dispersal of post-16 education across Wales, institutionally, is uneven. It is not simply delivered through sixth forms; it is also delivered through further education colleges. We need to have an ability to look nationally at the provision of post-16 education, so I think it right that Welsh Ministers, given our funding role and our strategic role, be involved in that.

[98] **Angela Burns:** Will this lead to a policy of no sixth forms in schools?

[99] **Leighton Andrews:** I do not see why it should.

[100] **Angela Burns:** What backstop would there be, if any, to enable local people, local communities, local education authorities, or even consortia to have an input into the decision-making process?

[101] **Leighton Andrews:** They have that now, do they not? There is significant planning of 14-19 education at a local level through the different networks. Local authorities, as they take forward proposals in relation to post-16 education—and, on the whole, they will be the originators of such proposals, not us—will usually look at the relevant FE provision that may exist in partnership with their own sixth-form provision. The onus remains on local authorities for the planning. Traditionally, I suppose that we have exercised influence in the past through the national planning and funding system, which we are currently reviewing, as you are aware. Where proposals are brought forward, there are still opportunities for local stakeholders to engage on those proposals. The ultimate determination will be for us, but the proposals will be brought forward locally.

[102] **Aled Roberts:** Hoffwn symud ymlaen at y cynlluniau strategol Cymraeg mewn addysg. Mae'r Bil yn ystyried a fydd awdurdodau wedi cymryd pob cam rhesymol i roi eu cynlluniau ar waith. Beth yw eich barn chi am 'pob cam rhesymol'?

Aled Roberts: I want to move on to the Welsh in education strategic plans. The Bill considers whether authorities will have taken all reasonable steps to implement their plans. What is your opinion of 'all reasonable steps'?

[103] **Leighton Andrews:** We expect local authorities to look at the future provision that they need locally, to take into account our transformation agenda and their own plans for capital investment in the future under the twenty-first century schools programme, and,

obviously, to measure demand for Welsh-medium education going forward. All those kinds of factors will be part of the planning process.

[104] **Aled Roberts:** Beth fyddai'r canlyniadau pe na baent yn cydymffurfio â'u dyletswyddau o dan y cynlluniau? **Aled Roberts:** What would be the consequences of non-compliance with their duties under the plans?

[105] **Leighton Andrews:** We will have the power to approve or not the plan submitted by the local authority, to seek modifications to it, or to prepare a plan on behalf of a local authority if it fails to do that. So, we will retain the ability to intervene at that level. We expect these plans to operate on a three-year basis, but to be reviewed annually so that there is relevant input. This was a manifesto commitment of the incoming Government, so it is important to us to see this being implemented. It will complement what we have already done in respect of the Welsh-medium education strategy, and, broadly speaking, I think that it has been widely welcomed.

[106] **Simon Thomas:** Sut mae'r rhan hwn o'r Bil yn cydblethu â'r rhannau eraill y buom yn eu trafod y bore yma? Credaf eich bod chi wedi cyfeirio at y mater hwn, sef bod prinder lleoedd ar yr ochr Gymraeg weithiau, a gormod o leoedd ar yr ochr Saesneg, efallai. Mae modd dychmygu y gallai'r gwrthwyneb ddigwydd mewn manau hefyd. Sut y gallwch sicrhau cysondeb rhwng yr agweddau gwahanol? Mae gennych gynlluniau tair blynedd sy'n cael eu hadolygu bob blwyddyn, ond mae'r gwaith o edrych ar y boblogaeth a thueddiadau poblogaeth yn dueddol o fod yn fwy hirdymor—dros ddegawd, efallai. Sut y gallwch wneud yn siŵr y bydd y ddau'n cydblethu mewn ffordd sy'n gwneud synnwyr i ddewisiadau rhieni yn eu cymunedau? **Simon Thomas:** How does this part of the Bill dovetail with the other parts that we have been discussing this morning? I believe that you have already referred to this issue, namely that there is a shortage of places on the Welsh-medium side sometimes, and too many places on the English-medium side, perhaps. One could imagine a scenario in which the opposite could arise in some areas, too. How can you ensure that there is consistency between the various aspects? You have three-year plans that are reviewed annually, but the work of looking at the population and population trends tends to be more long term—over a decade, perhaps. How can you ensure that both things integrate in a way that makes sense for parents' choices within their communities?

[107] **Leighton Andrews:** There is a range of data for local authorities to draw on, and there will be updated census data shortly, for example. That is one factor. Local authorities will be familiar within their local development plan process of likely changes to new housing, for example. There is a range of factors that they will be able to take into account. They will have a sense of progression from Welsh-medium nurseries right the way through, and they will be able to build their projections on that basis. It is not rocket science, to put it bluntly, and it is perfectly capable of being dealt with locally. Going back to best practice, as we were discussing earlier, we have some local authorities that have been very good at assessing future demand for Welsh-medium places, and some less so. That best practice needs to be operated, and the fact that these plans will now be on a statutory basis will give us stronger grounds for ensuring their quality.

[108] **Julie Morgan:** Minister, I am going to ask some questions about section 5, starting with primary school breakfasts, which are a big boost to my constituents. It says in the legislation that the duty for the local authority to supply free school breakfasts will not apply if the local authority has decided that it would be unreasonable to do so. Could you give us some of the possible reasons why it would be considered unreasonable? To what is that referring?

10.15 a.m.

[109] **Leighton Andrews:** We have set down the duties of local authorities in section 89 of the Bill. We have specified a number of factors on the basis of which local authorities will decide whether breakfast will be provided. There will be an obligation on local authorities to act reasonably in this process. They will understand the test that they have to make to satisfy that sort of judgment. Over a period of time, we have provided financial support to local authorities to support the provision of free breakfasts, and most have taken up those opportunities. I do not think that we need to go further than we have in the Bill in terms of specifications.

[110] **Julie Morgan:** So, the definition of what would be unreasonable is something that will be worked out as this goes along.

[111] **Leighton Andrews:** No, there is a legal process. For example, you could say that a lack of demand, disproportionate costs and staffing issues are factors that would affect the decision by a local authority. It is on that basis that the test of reasonableness would be made.

[112] **Julie Morgan:** Some schools provide a breakfast scheme that parents have to pay for as an alternative to taking on free school breakfasts. That obviously causes some problems to individual parents who would like to take advantage of free school breakfasts. Is there anything in this legislation that would address that issue?

[113] **Leighton Andrews:** Not specifically. We have set down the criteria for the operation of the free school breakfast scheme in the past. When it was developed, local authorities made their applications to the department to participate. We have obviously seen growth in the number of people taking up the free breakfast scheme. There will probably always be situations where additional provision may be put in place on a paid-for basis. It is very hard for us to rule that out.

[114] **Julie Morgan:** It does happen and it causes difficulties for some parents.

[115] **Leighton Andrews:** In the course of preparing this legislation, we have budgeted for further modest growth in the free school breakfast scheme going forward on the basis of what we have seen in the past.

[116] **Julie Morgan:** Thank you. My next question relates to section 92, which repeals the requirement that any charge made for the provision of milk, meals and other refreshments in a school must be the same for every person for the same quantity of the same item. What evidence is there that these provisions are necessary and how will they change the way things are done at the moment?

[117] **Leighton Andrews:** What we are trying to do overall in the provisions in relation to school meals is ensure that there is an opportunity for flexible charging, but that local authorities are not able to charge above the cost of the provision of the meals or milk.

[118] **Julie Morgan:** Does that happen at the moment?

[119] **Leighton Andrews:** We think it does in some places. [1]

[120] **Julie Morgan:** I was not aware of that. Turning to the school-based counselling service, which is obviously a very important and valued service, the evaluation said that it should be extended in an age-appropriate form to all pupils receiving primary education. Do you intend to extend it to all pupils in primary school?

[121] **Leighton Andrews:** The Bill extends counselling to year 6 primary pupils, which

reflects current arrangements under the current grant. We have given our support to school-based counselling services in primary schools through the pilot scheme, which finished just a month or two ago. That has given us an insight into the different approaches that could be adopted at primary level. We are now considering how we might support local authorities to extend counselling services to years 5 and below in primary schools. It is not something that we are going to be able to implement overnight. Inevitably, there are cost implications. Nevertheless, the Bill makes provision for us to be able to extend it further.

[122] **Julie Morgan:** So, the intention may be to do that.

[123] **Leighton Andrews:** There is a famous phrase: 'should finances allow'. [*Laughter.*]

[124] **Julie Morgan:** Yes.

[125] **Christine Chapman:** We have nine minutes left, and we have a few other key areas to cover. I ask Members to be as brief as possible.

[126] **Keith Davies:** Rwy'n falch i weld nad oes raid i ysgolion gynnal cyfarfodydd rhieni. Rwyf wedi bod i nifer o gyfarfodydd o'r fath mewn ysgolion gyda 1,000 o blant a gweld dim ond 30 rhiant yn y cyfarfod, sy'n wastraff amser llwyr. Hoffwn weld cyfarfodydd rhieni yn sôn am waith y plant. Rydym yn cael gwared ar y cyfarfod ffurfiol hwn, ond buaswn yn gobeithio y bydd Estyn neu rywun, wrth edrych ar ysgolion, yn sicrhau bod cyfarfodydd cyson rhwng yr ysgolion a'r rhieni er mwyn trafod gwaith y plant. Rwy'n gobeithio y bydd modd sicrhau hynny mewn rhyw ffordd.

Keith Davies: I am pleased to see that schools do not have to hold parents meetings. I have been to many such meetings in schools that have 1,000 pupils and found only 30 parents there, which is a complete waste of time. I would like to see parent meetings about the children's work. We are doing away with this formal meeting, but I would hope that Estyn or someone, when looking at schools, could ensure that there are regular meetings between parents and the schools to discuss the children's work. I hope that, one way or another, we can ensure that.

[127] **Leighton Andrews:** You may recall that I made it clear that no school would pass an Estyn inspection unless the governing body had discussed the school performance data. That is essential. I would hope that governing bodies would seek opportunities to share that information with parents, whether through a meeting, the circulation of material directly to parents or its provision on a website and so on. There are a variety of ways in which they can do that. In general terms in respect of the annual meeting, it has become apparent that the process is not working currently. There are examples of primary schools setting out arrangements for annual meetings and getting virtually nobody turning up. We are trying to give more flexibility to governing bodies while, at the same time, creating a trigger mechanism whereby parents can ask for a meeting if they need it.

[128] **Suzy Davies:** Minister, many of the powers conferred on you in this Bill can be exercised by means of secondary legislation in the usual way. That would give Assembly Members the chance to scrutinise what you are doing subsequent to the Bill. However, there are three notable exceptions to that. Two of those are likely to be controversial, namely section 58(2), which relates to Orders in connection with school places, and section 67, which deals with proposals to secure regional provision for special educational needs, which you did not address in your answer to Aled Roberts. Why are those two particular sections excluded from the need to proceed by way of statutory instruments so that the rest of the Assembly can see what you are doing?

[129] **Leighton Andrews:** In general terms, I am perfectly happy to be scrutinised on the decisions I make and am happy to debate them through. In a sense, an Order-making power is

being specified here. In respect of decisions that impact on local authorities, there are going to be times when Ministers will need to issue Orders outside the period when the Assembly is in session, for example, and it is important that we retain the ability to act when we need to do so. In respect of the clauses on regional provision, this is specifically in respect of special education, and what we are trying to do is to encourage local authorities to work together. We know that there are significant challenges with young people often having to enter special education provision outside their counties. There are difficulties with the way in which some special educational needs provision is organised across Wales. We have not seen sufficient regional planning by local authorities and that is probably costing individual local authorities money. There are also certain kinds of special education provision that we are unable to provide in Wales. Again, I think that there has been a lack of planning. We have evidence that collective planning by local authorities has not worked and, therefore, there may be a need in future for Ministers to propel local authorities to work together in this area. I could be wrong, but I am not sure that the Assembly wants a Minister to bring every decision to it, and I think—

[130] **Suzy Davies:** Would you accept the principle that all Members should always have the opportunity to see or check whether your intervention is reasonable?

[131] **Leighton Andrews:** Well, everybody does—

[132] **Suzy Davies:** Not on these.

[133] **Leighton Andrews:** If I make a decision, that decision is clearly published and it will have been made on the basis of a submission to me as a Minister. It will be open to scrutiny subsequently and will be held open to legal process if it is unreasonable.

[134] **Suzy Davies:** That is not the same. However, you have answered the question, so thank you, Minister.

[135] **Jocelyn Davies:** On finance, I know that we have a cost-benefit analysis, but I would like to address the overall costs. I appreciate from the evidence that you have given today that some of this will be difficult to quantify because some of the Bill is the consolidation of existing legislation. As you have pointed out on a number of occasions, they have been largely unused powers, but it is a consolidation nonetheless. So, the overall costs for the Government would be one-off costs and perhaps your ongoing costs. Could you tell us about the costs that are likely to fall on others and whether those organisations have been consulted on the likely cost that will fall on them as a result of this Bill?

[136] **Leighton Andrews:** Certain costs are recurrent, such as the transfers to the revenue support grant; I think that around £14.7 million is budgeted for school breakfasts and £4.5 million for counselling services. That takes us to £19.2 million. Our rough assessment is that the overall cost is therefore around £20 million. On specific organisations, we have set out in some of the background papers the likely costs that will fall on others, for example, the cost of carrying out surveys for Welsh education strategic plans is around £15,000 per survey, but those will probably only be undertaken every three years, therefore the annual cost of a survey will be around £5,000. So, we have identified a number of costs within this. I would be surprised if a cost could be found that did not arise as a result of something on which we have consulted.

[137] **Jocelyn Davies:** Much of this is the consolidation of existing legislation, but as I mentioned, you have already pointed out that this legislation has not been used, so it has not been costing anything up to now. However, you would not bring forward such legislation unless you imagined that you might need to use it. So, what about the costs in terms of an intervention that might be a one-off in one local authority, say, over the next five years?

[138] **Leighton Andrews:** That is a good question. If it were helpful, we could provide the committee with some of the costs underpinning the interventions in Blaenau Gwent and Pembrokeshire, for example.

[139] **Jocelyn Davies:** I am not expecting you to predict how often you will have to intervene. It will be there, but because these powers have not been used in the past even though they exist, it will be useful for us to have a handle on what it costs to intervene.

[140] **Leighton Andrews:** We can certainly give you those costs in respect of those two local authorities.

[141] **Angela Burns:** On Jocelyn Davies's point, in the school standards Bill, local authorities will be picking up some costs. Of course, we also have the social services Bill coming through. Is there any mechanism in Government that looks at the cumulative impact on organisations of Bills that have been passed and the additional costs that are being incurred by specific organisations, because some organisations get disproportionately affected by legislation that comes through?

[142] **Leighton Andrews:** Clearly, legislative proposals that come through will have gone through Cabinet, so there will have been an opportunity to consider these matters there. The central finance department will have looked at the implications of each piece of legislation that is being brought forward and whether or not we would cost it. There are also discussions on a regular basis with the Welsh Local Government Association in respect of burdens that fall on local authorities and the Minister for local government will have a view of those. So, those issues will be dealt with. However, I do not think they will be dealt with by all of us sitting around a table and totting up the cost of each piece of legislation; I cannot think of a forum that does that and I think that there are other ways in which that work is done.

[143] **Christine Chapman:** I thank the Minister and his officials for attending this morning. We will send you a transcript of the meeting.

[144] I wish to inform Members that the next evidence-taking session on the Bill will be on Thursday, 31 May. The clerking team will provide you with details of the witnesses nearer the date.

[145] We will now have a short break.

*Gohiriwyd y cyfarfod rhwng 10.30 a.m. a 10.45 a.m.
The meeting adjourned between 10.30 a.m. and 10.45 a.m.*

Ymchwiliad i Fabwysiadu—Sesiwn Dystiolaeth 1 Inquiry into Adoption—Evidence Session 1

[146] **Christine Chapman:** Today we will hear evidence from Adoption UK and the British Association for Adoption and Fostering Cymru. I welcome the witnesses to the meeting. Could you please introduce yourselves for the record?

[147] **Ms Bell:** I am Ann Bell from Adoption UK.

[148] **Ms Keidan:** I am Wendy Keidan from BAAF Cymru.

[149] **Ms Ingham:** I am Maureen Ingham from BAAF Cymru.

[150] **Christine Chapman:** You have submitted written papers and Members will have read them. I will start with the first question. Is there a shortage of adopters in Wales? If you think that there is, what are the main reasons for that?

[151] **Ms Bell:** Clearly, there is an extreme shortage at the moment. I have heard figures recently of 106 children waiting in the south Wales adoption agencies consortium and only six approved adoptive families, so that is an indication of some of the scale of it. That is probably at the extreme end, but there certainly is a shortage. There are many reasons. The economy does not help. People feel that they cannot cut back on their jobs, because they are at risk and money is tight. That makes it difficult. Some of the realities about adoption have been at the forefront of the news recently, so that will have made people think twice about coming forward. There is still a general lack of understanding about adoption and what it really is.

[152] **Ms Ingham:** In addition to my role in BAAF Cymru, I am also co-ordinator of the south Wales adoption agencies consortium. This is a consortium of nine local authorities and the two voluntary adoption agencies in Wales in which they pool their adopters and children to match them. During the last year, up to the end of March 2012, we had a 30.5% increase in the number of children referred as needing adoptive families. At the same time, we had a 27.3% decrease in the number of adopters referred. The current situation, as at 1 May 2012, in the consortium is that we have 168 children waiting to be linked with adoptive families. We have 34 adoptive families, but, of those families, seven are on hold for various reasons. In some cases, it is because progress has broken down during the introductions to the child. In some cases, issues have arisen with the adoptive families and circumstances have changed. Of the other 27 adoptive families that are not currently on hold and are available for matching, several have been approved and have been waiting for a long time—in some cases, it has been a matter of years—because they are restricted in the children they can consider. They may want children of a specific ethnicity to match their own or, in some cases, it is because of special circumstances. Although they are repeatedly offered as a potential match for a child, the social workers, on meeting with them and looking at the circumstances, have felt that they could not meet the needs of that child. So, it is not just a numbers game; it is about getting the adopters who can meet the needs of the children. However, there has been an increase throughout the last couple of years.

[153] **Aled Roberts:** Rydym wedi clywed tystiolaeth fel pwyllgor bod problemau ymysg rhai awdurdodau lleol yng Nghymru o ran ymateb yn wael i'r ymholiadau cychwynnol. A ydych yn meddwl bod hon yn broblem gyffredin?

Aled Roberts: We have heard evidence as a committee that there are problems with some Welsh local authorities in responding poorly to the initial enquiries. Do you think that this is a common problem?

[154] **Ms Keidan:** The picture across Wales is varied. I would like to make a couple of general statements. First, we need to think about adoption in the broader context of planning for permanency. Also, adoption is a service for children. It is crucial to remember that. What we need for adopters coming forward is a fair and responsive service and we need a consistent service across Wales. It is a varying picture. We have pockets where we know that there is some very good practice and pockets where local authorities struggle for a myriad of reasons in respect of their organisations. Local authorities are currently trying to collaborate and they are starting to form some level of service between themselves so that they recognise some of the delays and difficulties. It is varied and inconsistent, and we need to get to a stage where, if you are enquiring about adoption, it is not a postcode lottery, dependent on where you live. It should be dependent on the service that you provide. We need to get to that stage.

[155] Therefore, in answer to your question, I think that it is varied and inconsistent, and there are areas where we could respond more positively, but also remembering that it is a

service for children. Everyone who comes forward, who wants to adopt, may not be right for the children. We need professionals who are competent and confident in working through those initial enquiries. As Maureen said, we must also remember that it is about the needs of the children and do that robust matching.

[156] **Aled Roberts:** Rwy'n derbyn mai gwasanaeth ar gyfer plant y dylai mabwysiadu fod, ond mae'n anodd credu'r dystiolaeth nad yw 13% o'r ymholiadau yn cael galwad yn ôl, hyd yn oed. Mae'r arfer yn amrywio o un sir i'r llall; lle mae'r arfer yn wael, a yw'r sefyllfa honno wedi bodoli ers llawer o flynyddoedd? Pam na wnaed unrhyw beth yn yr awdurdodau hynny i fynd i'r afael â'r problemau?

Aled Roberts: I accept that adoption should be a service for children, but it is difficult to believe the evidence that 13% of enquiries do not even get a call back. You say that the practice varies from one county to another; where the practice is poor, has that situation existed for a number of years? Why has nothing been done in those authorities to address the problems?

[157] **Ms Keidan:** I do not have those specific details before me. Ann deals directly with prospective adopters and gets that feedback. In respect of why they have not moved forward on this in a proactive way, it is difficult for me to say what the inner workings are. I can only make general statements on whether adoption has been at the forefront of the planning process for children. Going back to my earlier point, it needs to be seen in a broader context. Children need to be in a family where they feel that they belong: a safe, secure family where they belong permanently—their forever family. You can do that in a myriad of ways, from special guardianship to permanent fostering, residence orders or adoption. If adoption is the plan, it must be pursued with rigorously and urgency, because children need to be placed as soon as possible in their family. If local authorities have not been doing that and have not been responding to adopters, it is possibly because they do not have a recruitment strategy or the personnel to respond to the enquiries promptly. Once people have enquired about adoption and it is felt that it is appropriate to pursue it, there should be strategies in place so that people are not left waiting. I can fully understand and empathise with prospective adopters. Everyone has a right to have that responsive service. To comment individually on local authorities, I do not have that level of detailed information. The data and the statistics to be able to say how long someone has been waiting, from the point of enquiry to being approved as an adopter, are missing. We need those data.

[158] **Jenny Rathbone:** We have heard from several families that have adopted that they were initially told by their local authority that it was full and that it would, therefore, not be possible for the family to be interviewed. Are you saying that that is no longer happening?

[159] **Ms Keidan:** No, I am certainly not saying that. I am saying that there is an inconsistent service across Wales, and that we need to get to a point where there is more consistency. In local authorities, there has been recognition—particularly latterly—that there is a huge shortage of adopters. There has been a significant increase in the number of children who need adoption as a permanent plan. We have seen an increase in the looked-after children population, so you will get an increase in the number of children who require adoption. Some local authorities are now trying to join together. There is some joint training going on, so adopters are not waiting as long for training. However, the story across Wales is inconsistent. We need to get to a stage where the service that you receive is not dependent on where you live. People should not be told that they cannot receive the service. People should be signposted somewhere else, so that they can get a responsive service. For people to be told that a service is full and to be told to go away is not good enough.

[160] **Jenny Rathbone:** Okay, but, as far as you are concerned, it is still happening. There are still local authorities that are saying, 'Sorry, not today, we haven't got the personnel. We are full'.

[161] **Ms Bell:** From our helpline's perspective—and we get a significant number of calls—about a year ago, a substantial proportion of calls were along the lines of 'I've tried this local authority and it said that it won't even start looking for a year'. However, we have not had any of those calls over the past six months. So, I think that things have improved—although I would not say that they are perfect by any means—partly because there has been such a big focus on adoption in the news. So, I think that local authorities feel like the spotlight is on them a little bit. Adoptive parents have also suddenly become much more of a commodity that is even more valuable than before, because there are so many children waiting to be adopted. Therefore, things have improved but they are not ideal, and the situation could quite easily slip back if we do not do something different.

[162] **Aled Roberts:** A yw'r wybodaeth ynglŷn â pha mor hir mae'n cymryd o fewn gwahanol ardaloedd yn cael ei chasglu ar hyn o bryd yng Nghymru? **Aled Roberts:** Is the information about how long it takes within various areas being collected at present in Wales?

[163] **Ms Keidan:** No.

[164] **Aled Roberts:** A yw'r wybodaeth yn cael ei chasglu yn Lloegr? **Aled Roberts:** Is the information collected in England?

[165] **Ms Keidan:** They are better at collecting data in England and, as you know, there has been a huge push there in respect of not just producing guidance, but also legislation, which will mean that local authorities have to carry out data collection. The data collection in Wales to date has not been as rigorous as it could be and there are also levels of interpretation with the data. For example, the measure used for deciding whether an application by prospective adopters should be pursued is different in different local authorities. So, for example, one local authority could decide that an adoption application will be pursued once the applicants have finished their training, but another could decide that, once the initial visit and the initial counselling session has been done, it will give the applicants an application, they will be allocated an assessment worker and they will then go on the training as part of that assessment process, which is when the clock starts ticking.

[166] We need to get better at data collection, because what we are currently getting is anecdotal information. One agency—St David's Children Society, from which I know you will be hearing evidence—has told me that, from the point of inquiry to the point of placement, the process normally takes about seven to eight months. However, we are not getting that level of information from local authorities, and it is something that we need to do, because, without the data, we cannot track or monitor. In addition, prospective adopters should be told at the outset that an application will generally take around six months, if everything goes well.

[167] **Aled Roberts:** Yn eich barn chi, a fydd y cynigion ar gyfer gwasanaeth mabwysiadu cenedlaethol yn mynd i'r afael â'r problemau hyn? **Aled Roberts:** In your view, will the proposals for a national adoption service address these problems?

[168] **Ms Ingham:** Yes, I think that they would. This statutory guidance details how long the process should take—which is six months in Wales—from the time that the formal application begins until the presentation to panel. That could then be picked up in the inspection of adoption agencies. As Wendy said, what has never been consistent is that starting point—when the six months formally starts—because there is initial counselling around whether people are likely to be suitable for a full application to be taken up. It is my view that if the recruitment assessment process—the whole system—was collated on a wider,

say national, basis, there is certainly the computer software available to monitor the whole process. Within the south Wales consortium, which is our largest, we have a computer programme that is already used widely throughout the UK that can monitor from the initial point of contact with foster carers or adopters, right through assessment, training, approval, post-approval and post-training. It can all be tracked quite easily from one central point, which would help with monitoring.

11.00 a.m.

[169] One other crucial thing, which I have heard about frequently from local authorities in recent years, is the resource issue. Local authorities have had to say to possible applicants that they do not have anyone to assess, recruit and train people. Across the 22 authorities, so many of the adoption teams are so small and their resources are being diverted into supporting the children's social workers who are dealing with adoption cases, family-finding and helping them to progress plans. They have not had the resources to recruit the adopters needed.

[170] **Jocelyn Davies:** Some of my points have already been covered. You seem very optimistic that a national scheme will produce the best practice rather than the lowest common denominator being spread. Perhaps you can have a think about that and tell us at some point during this session why you think that would be the case. Some parents have told us that they feel that, during the assessment process and so on, there is an imbalance of power between them and the social workers and that the value systems of individual social workers have a huge influence. Do you think that there is any evidence that social workers favour certain adopters—perhaps the ones they like over the ones they do not like?

[171] **Christine Chapman:** Ann, do you want to answer that?

[172] **Ms Bell:** That is bound to be the case occasionally, is it not? There are bound to be individuals who have individual views that override their professional views. You will get that in any situation. The fact that there are many local authorities, some with very small teams, where adoption is by no means the top of their list of priorities for that social services department means that, inevitably, sometimes, you will get poorer practice. So, I suppose that the answer is 'yes'. The reason why I am slightly optimistic that a national service will be better than the individual ones is that, at the moment, there is almost the idea that authorities will assess and approve these adopters if they need them for their children, which is understandable. Once they have assessed them they see them almost as their commodity. They feel that they have put a lot into them and that they therefore want to get something out of them for their children. Obviously, that means that there are mismatches between different authorities because the balance of children and adopters coming forward does not match. Hopefully, that will be improved with a national service.

[173] I just wish to go back to the point about the length of time it takes to get an assessment. I would hate to see us going down the route of saying that it must be done within a certain period of time because people come to adoption from very different places. Some people are really grieving the fact that they cannot have birth children and need time to work through that. For other people, that was never their intention in the first place and they are starting from a different place. Therefore, we need to be careful. We need to progress things at the speed that is good for a good assessment.

[174] **Ms Keidan:** What you said about prospective adopters feeling that imbalance of power is important. What we need—and this is absolutely critical; it is one of the key messages—is a competent and skilled workforce with the necessary skills to carry out assessments in an appropriate way. Again, we need to be able to support social workers to carry out their duties in a way that minimises some of the inconsistencies that can arise from assessments. Thinking about England, they are looking at a social work reform board—

[175] **Christine Chapman:** Wendy, we are coming on to that later, so I wonder whether you could hold that thought for the moment.

[176] **Ms Keidan:** Sorry, yes of course. I will do. No problem.

[177] **Julie Morgan:** You have referred to local authorities with very small adoption teams. There may be only one or two people working on it and very little work is done. Should those local authorities continue to do that work if they have such a small team and do not have the chance of building up the expertise or getting the necessary support? Should that carry on?

[178] **Ms Bell:** Actually, I think that they have now all formed some kind of consortium, so they have moved on, to a degree. However, as long as the money is split up between separate local authorities then there will always be a tendency to think, 'We have put this much in, so we want this much out'. There will always be that sense.

[179] **Julie Morgan:** However, the consortia are addressing that, to some extent.

[180] **Ms Bell:** To some extent, but some of them are still saying, 'We put x amount in to the consortium, so we want x number of parents out'. There is still that sense out there.

[181] **Ms Keidan:** Some of the local authorities have joined together to form services, so in north Wales you have an adoption service that is made up of the six north Wales local authorities, and in south-east Wales we have three at the moment, with a view to further collaboration. We also have a consortium, which Maureen has referred to, which is SWAAC, the south Wales adoption agencies consortium—that is slightly different from the one in north Wales, because that is a service. As I said earlier, some local authorities have also joined together to do training, to try to minimise delays in that regard. Joining together is obviously a way forward and is one of the ideas for the national adoption service, so that certain functions will be discharged—particularly those looking at prospective adopters—by the 22 local authorities into this national service. It is obviously thought that this will be a better way of managing delays, particularly with prospective adopters, and increasing the number of adopters who are able to meet the needs of the children requiring adoption.

[182] **Christine Chapman:** Jocelyn, do you have anything else to ask?

[183] **Jocelyn Davies:** Well, you wanted me to ask about matching as well. I take the point that we do not want undue delays in assessment, but sometimes it might be perfectly appropriate for some to take longer than others. On matching, it seems that some local authorities take four months on average, and others take over a year. I wonder whether you have a view on what causes such variation in the average time between the local authorities. There does seem to be a huge difference, even when you take into consideration that some children need a special family to adopt them, and not all families will be able to meet their needs.

[184] **Ms Ingham:** If I could perhaps give you some information from the largest consortium, to give you some idea how long children have been waiting, of the 168 children currently waiting to be matched within our consortium, 50 have been waiting up to six months from the time when they went to adoption panel to have their decision on whether they should be placed. Seventy-one of the 168, which is over 57%, have been waiting between seven and 12 months and are still looking, 24 have been waiting 13 to 18 months, 15 have been waiting up to two years, and a few have been waiting up to nearly three years. There is no one reason. Some of those children are individual children, some are sibling groups of two, and a minority are sibling groups of three. We have no approved adopters within the consortium currently who can accept sibling groups of three, so, in putting them

forward, there is nobody in the pot to be matched with them. Virtually all the children have special needs, but, with the change over the last couple of years, increasingly we have children on referral who have no great needs other than those arising from the fact that they have been separated from their birth family, which is a huge thing in itself, and have been looked after. We do not have sufficient adopters even for the straightforward, quite young children, but the majority of children have at least one or a number of special needs. The most prevalent of those needs by far are those arising from neglect. The majority of those children have developmental uncertainty and delay. A significant number have parents who have misused drugs or alcohol. There is a range of other problems, both physical and mental, but those are the key ones. Matching is a matter of having sufficient numbers of adopters who can accommodate those sibling groups, the age range of the children and the special needs that they present.

[185] **Jocelyn Davies:** Are you satisfied with the effectiveness of the adoption panel?

[186] **Ms Ingham:** On the effectiveness of the adoption panel, you would have to be a bit more specific, because it has different roles: matching, approving the adoptive parents and making the initial recommendation that a child should be placed for adoption—what used to be known as the adoption best interest decision. So, the panel has different roles.

[187] **Christine Chapman:** We are looking specifically at matching and how effective it is in terms of helping to find appropriate matches.

[188] **Ms Ingham:** The adoption panels within the local authority approve those matches. There are other matching meetings. The family finding is done by the child's social worker, supported by the adoption teams. They have their matching meetings and present the evidence to support the suitable match to the panel. There is no evidence that they are not good at that. I suppose that that could be picked up where it does not work out. Unfortunately, in both England and Wales, there is no collation of disruption statistics. That is a huge gap. We hear about the disruptions within the consortium—at BAAF, we chair disruption meetings—and there is a huge learning opportunity there. However, there is no consistency; in England and Wales, there is no agreement about the point at which an adoption has disrupted. Sometimes, it is during the introductions. We have had a couple of those recently in the consortium—one broke down after a week and the other after a month. Sometimes it is after a child has been placed for adoption, but before it gets finalised in court. That could be anything up to one or two years.

[189] **Jocelyn Davies:** I want to ask a supplementary question, because of the evidence that we have received from families. Is there always an assumption that siblings must stay together?

[190] **Ms Ingham:** No, there is never an assumption.

[191] **Jocelyn Davies:** During the assessment of the children's needs, is it a question that is considered, whether the children should stay together?

[192] **Ms Ingham:** Yes, that should always be part of the assessment. It should not be an assumption. It is an assessment of their individual needs as well as their needs as a sibling group.

[193] **Christine Chapman:** We will move on now to Simon's questions. We want to ask about the placement obstruction issues.

[194] **Simon Thomas:** I want to clarify a few things around the timescale for the adoption process. We have seen the Ofsted report in England, which points to the court process as

being one of the major causes of delay in that process. We cannot look at the courts as a committee because that is not a devolved issue. In your experience, is the situation as seen in England replicated in Wales, or are there differences in the way that the courts in Wales are working?

[195] **Ms Keidan:** Statistics were produced in January 2012 that indicated that it takes around 55 weeks for care proceedings to be finalised. There are certainly concerns in the Welsh courts about the processing of care proceedings; there are delays in that. The family justice review was an England and Wales review of services, and we have welcomed some of its recommendations in terms of putting timescales in place. Adoption is a service for children and a care planning decision in the life of a very young child who may be six months old is significant. At two years of age, they have formed attachments and relationships. Huge difficulties arise with young children if they move on from a primary carer that they are very attached to, and then have to settle with a permanent family. There is that whole issue around permanency. Court processes need to be speeded up. I would also make a case, with my colleagues who are sitting either side of me, for training for some of the legal profession on issues around attachment and child development. That would be very helpful. Expert witnesses should not be used as opposed to social workers. When it comes to their professional judgment, expert witnesses seem to be more the norm as opposed to the exception. Of course, as the family justice review has noted, there are issues with panels.

11.15 a.m.

[196] **Simon Thomas:** Why do you think that training for the legal profession on attachment would be useful?

[197] **Ms Keidan:** When it comes to very young children, the whole issue is to do with asking whose need is being met and who the service is for. I hope that I am not being patronising in saying this, but for us, as adults, a few months is not a huge length of time and we can forget that, in the life of a child who has already suffered significant trauma in being removed from their birth family, it is huge. There are real concerns to do with young children being with foster carers and then, at two or three years old, moving on to a forever family. We also know that the older the children are, the more difficult it is to find families for them.

[198] **Simon Thomas:** Moving on from the courts—

[199] **Jocelyn Davies:** Before we do, may I just ask a supplementary question on the courts? Something that we heard in talking to families was that lawyers will have their own clients, and the client will not always be the child. Their interest is in their client, and that is something that training certainly could address. We heard that the rights of the birth parents trump those of the child to have a long-term placement as soon as possible.

[200] **Ms Keidan:** I am glad that you brought up the issue of birth parents because, when we saw the questions, we noted that birth parents need to be considered very carefully in terms of the lifelong implications for the child. When you are in care proceedings, it can get very adversarial, and if there is a good lawyer or barrister, it can feel as if they are advocating for the rights of the birth parents and their rights to family life, which is part of the Human Rights Act 1998. That has unintended consequences for the rights of the child to family life. So, you have that mismatch there.

[201] We need to have people who can work with birth parents, so that they get to a point where they can accept that they cannot look after their children—again, it has to be done in the timeline of the child. We recognise that removing a child from his or her birth family is the most extreme measure, so it does need to be done with sensitivity. However, if we do not get those bits right, when we get into that adversarial relationship with birth parents, we can

lose huge seams of information that would be helpful for the adopted children, as they could go on to have other birth children. We get issues—I am sure that Ann would comment on this—in terms of contact down the line if that work has not been done. If we are looking at a national adoption service, this work with birth parents has to be on the agenda.

[202] **Christine Chapman:** I am conscious of the fact that we do not have an awful lot of time and that we have quite specific questions, so I ask Members to try to keep their questions as brief as possible.

[203] **Simon Thomas:** If I have understood it correctly, there will be something in the Queen's Speech today about a Bill that will set targets for local authorities in England along the whole process. Do you have a view on how that proposal would work in a Welsh context? Would you welcome that, or do have a different take on how it might work?

[204] **Ms Bell:** Personally, I do not think that targets are often effective in that way. They can speed people up for a little while, but things slip back or people find different ways of expressing those targets. I think that there are better answers than that.

[205] **Simon Thomas:** However, would you agree with the intention, which is to speed up the process?

[206] **Ms Bell:** Yes, and I think that you do that by creating a workforce that knows what it is doing. You take away this idea of what is almost a separate market for each local authority, and you try to get people to work together in a much more collaborative way.

[207] **Simon Thomas:** So, although you might not foresee targets in Wales, some sense of standards or expectations needs to be there, does it not?

[208] **Ms Bell:** Oh, yes; certainly.

[209] **Ms Keidan:** Absolutely.

[210] **Ms Ingham:** I would say that quality is more important than speed. Certainly, that is true if you are looking at speeding up the placement of children. Again, in over 30 years' experience in adoption, I have seen that where introductions have been speedy, it comes back to bite you later. You have to be very careful in managing the process of the child moving from one family to another.

[211] **Ms Keidan:** Adoption is an incredibly complex process. We need to get it right. Target setting can, sometimes, have the opposite effect. It becomes numbers as opposed to quality. In adoption, it is important to get the quality right. However, we need to be better with our data collection so that we can understand more about trends, variances and inconsistencies and why that is happening.

[212] **Christine Chapman:** Aled, you have a brief question on this.

[213] **Aled Roberts:** I want to develop that point. While accepting what you say regarding targets, surely it is the case—given the variation in performance that we have been looking at—that to date, at least, it appears that there has not been sufficient monitoring and understanding of why there have been delays due to living in a certain area.

[214] **Ms Bell:** It has been very low on everyone's agenda for some time.

[215] **Ms Ingham:** I think that we need to keep coming back to Wendy's point about seeing this within the broader context of permanence. Certainly, a lot of the children who are

currently on referral to this consortium have been waiting a long time and there is very little chance of them finding permanence through adoption. We need to be mindful of the fact that research and experience have shown that permanence within their foster placement can be a very good option. Foster carers who want to put themselves forward as prospective adopters have to be assessed within four months, according to the statutory guidance. This is a quicker period than for stranger adoptions. Of course, that raises issues about depleting the foster care resource and about support for carers, and financial support in particular. However, the most important questions concern what constitutes permanence and what is best for the child. A lot of these children have been in a foster home for maybe up to two years. They have become very attached and settled in the community. Although adoption is a legal permanent option, there are considerations such as what is permanent for the child and what the child feels is permanent.

[216] I feel that we need to look more at those foster carers who are willing to commit themselves to permanence for the child. One great advantage is that they already know and have realistic expectations. A key factor that we see in adoption breakdowns is that things have broken down because the expectations have not matched up to the reality, whereas the foster carers already know, often, the reality involved.

[217] **Aled Roberts:** Turning to the 15 children in your consortium who have been waiting more than two years, what would be their level of understanding of their situation? Are they just left in limbo in the belief that, sometime, an adopter will come along or do you get to a stage where there is a discussion with them—I suppose that it depends on their age—and they come to have an understanding that, in reality, the chances of them being adopted are relatively slim?

[218] **Ms Ingham:** It is very difficult. Ongoing life journey work is done with all young children. Ideally, it should be from the time they become looked after, because even where the initial plan is that they go back home, we never know if that will happen, and in many cases it does not. The longer they are looked after the chances of them going back lessen. So, preparation work has always got to be done with them towards their permanence option, be it long-term foster care or adoption. The difficulty with any child, regardless of their age, is that social workers can only prepare them so far, because we can never guarantee that we are going to get them the family they want or the location where they want to be. It is a fine balancing act. Also, what needs to be taken into account is their age and their level of understanding and so on. That is difficult for any child.

[219] **Julie Morgan:** On the point that you just made about the expectations of adopted parents being one of the reasons why things do not always work out, in the discussions that we have had with adoptive parents, there were a few examples where they felt that they were not given the full history of the children who were placed with them. I wondered if you felt that was a widespread issue, because in the anecdotal evidence that we have had it appears to be a significant point.

[220] **Ms Ingham:** I do not feel that it is widespread. Certainly, over the years, it has got better, but it comes up at times at disruption meetings when the information comes to light and, in retrospect, all parties can see that information that would have been helpful had the adopters known it at the time was there.

[221] **Ms Bell:** Part of it is also people's understanding, and their interpretation of what is in the child's records. Some people will see that a child is only two years old and has had only one move and think that that is not likely to cause any difficulties, but someone else looking at that, who perhaps has a greater understanding of attachment, will see that the move happened at a crucial time in the child's development and that it may well have quite a big impact on how the child develops attachments in the future. So, some of it is about our

understanding of brain development, which is growing all the time. It is also about more training. Child social workers will often play things down because they want these children to be adopted and want to present them in the best light they can, quite understandably.

[222] **Ms Keidan:** There is also that critical relationship between the child's social worker, the family finding unit and the adoption social worker, so there is that real sharing of information. However, again, it comes back to the point that having a competent, skilled and experienced workforce to deal with this complex work is absolutely crucial. We are talking about lifelong decisions here.

[223] **Julie Morgan:** I have to declare an interest, having worked in adoption and fostering in the past. If the families who we interviewed had a good, strong relationship with the social worker, it came over strongly that there was a firm bond between them. How can we make that more likely, because one thing that people complained about was changing social worker, which happened frequently? Is there anything in the national adoption plan that can address that? Why do social workers get changed so much, which is disruptive to this process, which is so delicate, as you have said?

[224] **Ms Ingham:** The problem seems to lie with the children's social workers. There is greater consistency within the adoption team. The adoption services and often adopter families will report that that is where they get the bulk of their support. The changes are more with the child's social worker. It is partly related to how the social services departments are structured. From the point at which a child becomes looked after, there are different team arrangements. There could be an intake team, an assessment team, and a long-term or permanence team, so the case responsibility moves from one team to another and from one worker to another. Within that, there has been for a number of years a frequent turnover of childcare staff. Within that again, adoption is quite a small part of the workload relating to looked-after children, so not a great deal of experience is built up among some of the local authority children's workers. Where there is, however, you get a greater consistency.

[225] **Ms Bell:** There is a lot of movement even now between one adoption team and another. We try to keep records of who is working in what team, and we cannot keep up because they move around like chess pieces. So, that is an issue. Some of that may be about job satisfaction. If you are trying to do a job and do not have the resources to do it properly, I would imagine that you get quite fed up and try to find a place where you can do that job better. You are more likely to get social workers who will stay the course if you have a system that has sufficient resources—or as near as possible—to meet the needs of adopter families, I would have thought.

[226] **Jenny Rathbone:** My question is about concurrent planning. More than a decade after Coram pioneered this process, why is it that we do not have a single example in Wales, as far as we are aware, of that when we are supposed to be running a child-focused service? Why is it not the norm?

[227] **Ms Bell:** I wish that I knew the answer to that, because I have been banging on about it for ages.

11.30 a.m.

[228] **Ms Keidan:** That is a valid question on concurrent planning. My understanding of concurrent planning in England is that, at the moment, it is for a relatively small cohort of children and is about getting potential carers who can either rehabilitate a child back home or take them through and adopt them lifelong. When I worked in the north-west, Manchester Adoption Society did a lot of work on concurrent planning and getting recruitment right. Why has that not been taken up in Wales? As Ann said, I do not have the answer to that. We need

to look at opportunities, however. Hopefully, with the idea of a national adoption service, we can embrace some of these ideas. In England, they are looking not only at concurrent planning, but also at the possibility of speeding up the process so that foster carers are encouraged to adopt, if it is right for the child. For a time, it was frowned upon because it was seen as adoption by the back door, but if it is right for the child, it should be encouraged.

[229] So, there are two things: concurrent planning and having a team that knows what it is doing, recruiting exceptional people who can create an emotional relationship with a child and prepare the child, if necessary, to move back to the birth family or offer a lifelong family. Many people who apply to adopt will not quite suit, because, understandably, they want to adopt children who they know will be theirs in every sense of the word. So, we also need to look at foster carers becoming adopters. They are pushing that in England.

[230] **Jenny Rathbone:** I am not at all arguing against foster parents becoming adoptive parents. We have heard some fairly horrific examples of foster parents being told that they cannot adopt a child—and without talking to the foster parents, we do not know the full story. Despite our increased understanding of the importance of attachment, we are still finding the wilful idea that that cannot be allowed because it is pre-judging the situation. From the information that we have, it seems as though the child is not paramount in the decision-making process at the moment.

[231] **Ms Keidan:** From the evidence and from what we know, it comes back to workforces that fully understand the needs of children and what happens to children when they are moved and have multiple moves. The outcomes for children are diminished by multiple moves. That comes back to whether our court processes are right, to the expectations of birth parents that their children will be returned to them, and to having the child as the focus. Sometimes, the child's voice can get lost when it should be singing. It is concerning when you hear stories about a child's voice being lost in the myriad voices of the adults making decisions. We do not need a one-size-fits-all, blanket approach of saying that something is not right because it is always done another way; it is about looking at individual cases and at what is right for the individual child.

[232] **Christine Chapman:** We are touching on some of the issues that Angela wants to raise.

[233] **Angela Burns:** Yes, indeed. I have two questions about post-adoption support for you, Ann, because they arise from your evidence. Can you comment on the fact that adopted children get an assessment of their support needs but their support needs are not met? How often does that happen? I was so surprised to read that because I would have thought that if you assess somebody as needing help, you then go and help them.

[234] **Ms Bell:** Sadly, that is not the case, and I do not think that it is the case for children who have special needs, either, to be fair. It is a similar situation. The assessment is statutory, but what comes out of that assessment is not. People try. They genuinely do try their best in most cases, but these things cost money. Adoption team managers throw up their hands at the idea of spending £10,000 on a parent mentoring programme, for example. That may well keep a family together and make all the difference for those children, but their total adoption support budget is £10,000 and there is no way that they are going to spend it all on one family.

[235] **Angela Burns:** So, there is no correlation in the head of a local authority between the long-term savings to the authority, to the state, and the emotional and mental wellbeing of the child being best served by—

[236] **Ms Bell:** No matter how often you say it, they still say that they are separate budgets,

and that seems to be the end of the story.

[237] **Angela Burns:** I just want to make a quick comment about your idea of each new adoptive family being offered a place on an intensive parenting course between six and 12 months after placement, allowing parents to increase their knowledge, skill and confidence in parenting their new child. You make the very good point that parents should be given these skills before the child's parenting style takes precedence in the family and the parents find themselves following what might be a fairly disruptive pattern. We took evidence at one session, from Alan or perhaps Keith, about a couple who had adopted quite a young child who had very disruptive behaviour. They adopted her here in Wales but from a county council in England. The county council ran a programme of training them and her simultaneously before and after they met, and they were supported. That was deemed to be a successful placement for someone who might otherwise have been quite tricky to place. We are nearly out of time, but could you say a brief word on that idea, because I think that it has real merit?

[238] **Ms Bell:** I think that I know the case that you are talking about. That is the only time that I have heard of that happening, but it seems to me to be immensely sensible. I am sure that there is a lot more scope for that. However, you have to get adoptive parents to understand right from the start that what they are doing is not exactly the same as having birth children. They have to get their heads around that and they have to be helped to get their heads around that. They have to understand that they will almost certainly need some kind of support. At the moment, there is a sense of, 'I am sure you'll be fine', and then people feel as though they have failed if they need to ask for support. So, we have to change it and say that every adopted child will have some kind of additional need and every adoptive family will therefore need some support to meet it.

[239] **Angela Burns:** I know that Lynne has some other questions on post-adoption help.

[240] **Christine Chapman:** We have around six or seven minutes left. I apologise to Members and witnesses, but the time is unfortunately compressed. However, we will move on to cover some other important areas.

[241] **Lynne Neagle:** I want to ask about CAMHS, child and adolescent mental health services, because we have had powerful evidence from adoptive parents about problems with the support that they have received. The Government is proposing to try to address that by including adoption support as part of the national service. How confident are you that taking that step will translate into the improvements in access to CAMHS that we would all like to see for adopted children?

[242] **Ms Bell:** I have done quite a lot of work with CAMHS teams, going in to talk to them about adoption. They often tell me that they are forced to follow a medical model of mental health, and so the things that are treated first are attention-deficit hyperactivity disorder and some of the things for which you can provide drugs. They are much less likely to have people with family therapy experience on their teams and, when they do, there is not enough resource for the amount of need. So, I would not guarantee, by any means, that even just giving access to CAMHS teams will mean that families get what they need. Either we need to change the make-up of the CAMHS teams—and that is quite a big challenge—or we need some separate therapeutic provision that is based on attachment therapies, to understand specifically the needs that adopted and looked-after children have.

[243] **Suzy Davies:** I have another question for Ann, as it relates primarily to her evidence. I want to take you back to disruption. Bearing in mind the point that Wendy has already made, that we have no centrally collated stats on why and when disruption takes place, we have conflicting evidence about the levels of disruption. You have said that it occurs in up to

a third of placements and yet the WLGA says that there is barely any. Why do you think there is a difference in the evidence?

[244] **Ms Bell:** It is partly because no-one has to collect it and there is no standardised way of collecting it. When I saw the WLGA figure and showed it to others, the response was one of incredulity, because they could instantly count at least five without even thinking about it. So, I am sorry, but I really do not think that what it has said is true.

[245] **Suzy Davies:** You think that it might be taking a slightly defensive position.

[246] **Ms Bell:** That is possible, yes.

[247] **Ms Keidan:** It is also about the understanding of when a placement disrupts. In England, the Hadley Centre for Adoption and Foster Care Studies is going to do some research into disruption and measure that. Again, in Wales, we need to have data that are centrally collected. Coming back to an earlier point on variations, while the target issue is something different, it is about ensuring that local authorities are clear about what and when they are measuring, because we then get a better understanding of what is happening nationally in Wales.

[248] **Suzy Davies:** You mentioned the Hadley centre research. Do you think that the Welsh Government is the best body to undertake that research in Wales, or should we be relying on organisations like the Hadley centre?

[249] **Ms Keidan:** I do not think that it has the resources.

[250] **Ms Ingham:** In the consortium, we have discussed that we need to commission someone and get funding to undertake that as a piece of work, because it certainly needs doing. I was also extremely surprised about the figures that you referred to. It is my understanding that those figures related to the number of children who became looked-after again as a result of disruption. So, that does not accurately reflect the numbers that we hear about where children have been disrupted.

[251] **Julie Morgan:** I have a big question about contact with birth families. How much of an issue is this for adoptive parents? Does it affect the chances of some children to be adopted if it is deemed to be in their best interests to maintain contact with their birth parents?

[252] **Ms Bell:** I think that it does. Contact is a difficult issue to manage. It is one of those issues that sounds okay until it is your child who is affected and you see them being upset by contact. The natural reaction then is to try to protect your adopted child from that upset. It is difficult. There are assumptions about what is good and what is bad for children in terms of contact that are not necessarily proven in the research. People have taken small pieces of research and extrapolated them and said that every child must always have contact, which is not necessarily the case. We need to learn a lot more about contact and understand it better before we can manage it better.

[253] **Ms Keidan:** Sometimes it will be set up, as part of the overall adoption plan when the child is very young, but contact can change over the years. Coming back to the point about adopters, they should get post-approval training to understand and manage expectations, from the child's point of view, and also in terms of the child's need to know more as they get older. Such contact is a moving feast. What might have been set up as part of the adoption plan might not be appropriate in a few years' time. So this is about managing expectations and helping adopters to understand the purpose of contact for their child and how that might help or not. Again, no one size fits all.

[254] **Ms Ingham:** The reality is that most adoptive parents would prefer not to have direct contact. Most of them accept now that there will be some form of indirect contact such as an annual letter and exchange of information. Where there is contact, it has to be well prepared, planned for and supported, and reviewed regularly—that has to be built in, because the wishes and views of the adoptive parents, depending on how things are working out, will change. In my experience, where adopters have been forced into accepting contact, which they did not really sign up to, things have not worked out. So, their feelings and views must be taken on board.

[255] **Christine Chapman:** Thank you all for attending. This has been a valuable session; many interesting comments have been put on the record. Thank you for your time. We will send you a transcript of the meeting so that you can check it for any factual inaccuracies, but we hope that it will be accurate. There may be a few other questions that Members wanted to ask, so if you are happy to answer those, I will send them on to you.

11.45 a.m.

Bil Gwasanaethau Cymdeithasol (Cymru) Dogfen Ymgynghori: Briff Technegol Social Services (Wales) Bill Consultation Document: Technical Briefing

[256] **Christine Chapman:** I welcome our witnesses; thank you all for coming today. Could you please introduce yourselves for the record?

[257] **Ms Nye:** I am Gemma Nye, head of placement stability and social services policy for disabled children.

[258] **Mr Lubienski:** I am Mike Lubienski. I am a lawyer and the team leader of the social care team in Legal Services.

[259] **Mr Stevens:** Good morning. My name is Chris Stevens, a policy adviser in the safeguarding policy team.

[260] **Mr Milsom:** Good morning. I am Steve Milsom. I am deputy director of adult social services and I am a last-minute substitute for Rob Pickford, director of social services, who is, unfortunately, ill today.

[261] **Christine Chapman:** Thank you and welcome to you all. Could you start by doing your presentation? As it is in three parts, we could take questions at the end of each section. So, would you like to do the first part of the presentation?

[262] **Mr Milsom:** I will give a brief introduction on the broad nature of the Bill and how it fits in with the reform of social services in Wales more generally. I will only take five minutes, because I know that you want to talk more about the detail of protection, adoption and disabled children. So, I will just set the scene.

[263] Why are we having a social services Bill? We know that social care is in the headlines most days of the week, because of the changing social context in which we live, particularly the demography around older people, but increasingly the growing number of people with learning disabilities who are living longer and increased referrals of children. So, the demand for the services is significant and there are resource constraints around how services are run. One of the main themes that the Deputy Minister has identified is that we are building from a strong foundation. There is much that is good about social services in Wales, but we find from the evidence of the inspectorate, in particular, a lack of consistency as to how those social services are delivered.

[264] So, where does the Bill fit in to that? The Independent Commission on Social Services in Wales was established back in 2010 and consulted widely with stakeholders and members of the public. There were other important pieces of work around that, particularly on the workforce, leading to the White Paper, ‘Sustainable Social Services for Wales: A Framework for Action’ in February 2011. Subsequently, the programme for government identified the key drivers within that programme of reform. The message is that, without change and new models of service delivery, social services will become unsustainable.

[265] Some parts of the reform programme relate to the legislation and some do not. There is a national outcomes framework, a drive towards citizen-centred services, a need to ensure that services are integrated, particularly across health and social services, but also more generally across public services, a need to reduce the complexity in the system, and a need to recognise that the workforce is at the centre of high-quality delivery and plays a vital role—not just social work professionals but all those who deliver social care. There is also the importance of safeguarding and promoting the wellbeing of citizens and the need for an improvement framework. That is the broad picture as to why we need a Bill. The First Minister says that the Bill will

[266] ‘provide, for the first time, a coherent Welsh legal framework for social services that is based on the principles that we hold dear in Wales. It will ensure a strong voice and real control for people, of whatever age, enabling them to maximise their wellbeing.’

[267] There will be six areas in the Bill. The first relates to maintaining and enhancing the wellbeing of people in need. That deconstructs the service from being age-based to a service that responds to people of all ages equally, shifting the adult provision from just dealing with the highest level of need and complexity to a broader model of wellbeing. In other terms, it relates to promoting early intervention and prevention.

[268] The Bill will also propose a stronger voice and real control. There is also reference to putting information, advice and assistance on a statutory basis, ensuring that the systems around assessment, eligibility and care planning are put on a more consistent, national basis, but recognising the democratic role of councils in detailed delivery. It also refers to work around safeguarding and protection, adoption and young people, and the regulation and inspection framework. It will be a wide-ranging Bill. The Law Commission identified that the role of regulations and a code of practice on the detail will be important. We published the consultation on the Bill in March and we are going through the consultation process, which finishes on 1 June, and we are looking at introducing the Bill in the autumn. That is a general overview.

[269] **Jenny Rathbone:** I would like to interrogate you further about the Government’s intention to maintain integrated social services—that is, adult and children’s services together—whereas, in England, children’s social services are integrated with education, which is where children spend much of their time, and adult social services are much more integrated with health. Given that this is the Children and Young People Committee, I wonder how merging your six boards with adult protection boards is going to improve the situation for children. At the moment, when teachers raise concerns about the wellbeing of children, it is so difficult to get the attention of children’s social services. How are these mergers going to improve things for children?

[270] **Mr Milsom:** I think that you start from the basis that the structures in England do not pertain to Wales.

[271] **Jenny Rathbone:** There is no reason why they cannot pertain to Wales. What is the argument in favour?

[272] **Mr Milsom:** Social services structures in Wales include a director of social services across both areas and that is underpinned by statutory guidance stating that the director of social services holds the reins across the professional piste, for all clients. The key policy in Wales is very much about integrated, family-based social care services, but with the proper engagement of education and other important agencies.

[273] **Christine Chapman:** I would like to remind Members that this is a practical session. Obviously, we do not have the Deputy Minister here, so it would not be appropriate for officials to answer certain questions. I would like Members to keep this at a practical level. I will bring Aled in next, followed by Keith.

[274] **Aled Roberts:** With reference to paragraph 2.1 of the technical briefing that we have received, could you expand on the issue of merging safeguarding children boards with adult protection boards? There is a reference to these boards merging, and the words used are, 'in time'. Is there a timetable set out for that? There are also concerns in north Wales regarding the proposal. The Deputy Minister, in discussing the Bill in Plenary, accepted that there might be difficulties with regard to having one board cover six authorities and dealing with a population of about 700,000 people. As things stands at the moment, one of these areas would be north Wales, which is somewhat different from what was indicated. So, is it the case that it will be set out in the Bill that one of the areas will be north Wales?

[275] **Mr Stevens:** Yes, that is the case. No timetable has been set out for the proposed merger of children's safeguarding boards and adult protection boards. The Bill will give Welsh Ministers the power to merge them in the future, if that is deemed appropriate and helpful. The Deputy Minister has been very clear that she has no timescale for when she wants to carry out the merger, and that that would only follow a full consultation and evaluation on whether that would be practicable and helpful. In relation to the size of the boards, the Bill proposes establishing safeguarding children's boards in accordance with public services delivery footprints. Currently, north Wales is one of those footprints. Obviously, consultation on that is ongoing, but it is proposed at present that one of the boards will be established on a north Wales basis.

[276] **Keith Davies:** Credaf mai awdurdod Sir y Fflint a ddechreuodd yr arfer o benodi cyfarwyddwr addysg gyda chyfrifoldeb dros wasanaethau plant. [Torri ar draws.] Ymddiheuraf i Aled Roberts: mae'n debyg mai Wrecsam, yn wir, oedd yr awdurdod cyntaf i wneud hyn. Mae nifer o awdurdodau wedi dilyn y trywydd hwn. Wrth ddarllen yr hyn y soniasoch amdano eisoes, fodd bynnag, mae'n ymddangos y bydd y cyfrifoldeb dros wasanaethau plant yn cael ei ddychwelyd i'r cyfarwyddwr gwasanaethau cymdeithasol. A yw hynny'n wir?

Keith Davies: I believe that Flintshire authority started the practice of appointing an education director with responsibility for children's services. [Interruption.] I apologise to Aled Roberts: apparently Wrexham was the first authority to do this. Many authorities have followed suit. In reading what you mentioned previously, however, it appears that responsibility for children's services will be returned to the director of social services. Is that true?

[277] **Mr Milsom:** Children's social services have always been the responsibility of the director of social services. In some areas, there were structural changes made so that, operationally, the education department and the children's social services department were conjoined. However, those were fairly few in number in Wales, compared to England. An integrated social services system has been one of the key policy planks that the Deputy Minister has pursued for a number of years, indeed since the 2007 sustainable social services strategy. That is seen as the most effective way to ensure that safeguarding, protection and services are delivered in a way that is not fragmented so that transitions can be dealt with more effectively. The question of integration is at the centre of integrated services within

councils and connected to their broader responsibilities around wellbeing, and with the health service and other agencies. It is a crucial element of how this will be taken forward.

12.00 p.m.

[278] **Jenny Rathbone:** I still have a question about the integration with the education service. I believe that the Minister for Education and Skills's idea is to have four education regions and here you are proposing six children's boards. I am really struggling to understand how these things are going to properly marry up so that children do not get lost in the cracks.

[279] **Mr Milsom:** The six boards reflect the public service delivery footprints. That is what social services and the adult protection boards are fitting into.

[280] **Jenny Rathbone:** There are four education regions and six child protection boards. It sounds as though children will get lost in the system.

[281] **Mr Milsom:** That is probably a political question.

[282] **Christine Chapman:** May I remind—

[283] **Jenny Rathbone:** There must be some technical argument behind this.

[284] **Christine Chapman:** The relevant officials are not here and the Deputy Minister is not here. This session is to discuss how the process will work. I think that that question is for the Deputy Minister to answer. I know that certain Members want to come in on particular questions. Do you want to say something about the different parts of this? I think that you have a presentation.

[285] I am sorry that there seems to be a buzzing sound in the room. I am not sure what it is but we are looking into it.

[286] **Jocelyn Davies:** We cannot blame Suzy—she is not here.

[287] **Lynne Neagle:** No, it is not Suzy's phone. [*Laughter.*]

[288] **Mr Stevens:** Safeguarding and protection will be a key theme in the Bill. Provision of safeguarding and protection can be broken down into three separate strands. One of the main things that the Bill will do is to establish a national independent safeguarding board, which will be funded by the Welsh Government. That board will be independent of Government and will advise on all elements of policy and practice in relation to safeguarding and protection. It will provide advice in relation to child safeguarding and adult protection. It will have an expert membership and our intention is to establish a shadow board shortly to start thinking about the roles and responsibilities of the board.

[289] The second strand of the legislation will relate to local safeguarding children boards. The Deputy Minister has said that she does not consider 22 LSCBs to be sustainable. Based on the public service delivery footprints, as proposed by Carl Sargeant, the Minister for Local Government and Communities, we propose to move to a framework of six safeguarding children boards and, for the first time, we will implement adult protection boards on a statutory basis. Currently, adult protection boards are not statutory. They do not have to exist; they are just good practice, but we are going to place them on a statutory basis. The Deputy Minister will have the power in future to merge adult and child protection boards together if it is deemed appropriate and practicable. However, as I have already stated, there is no timescale for when we are looking to do that.

[290] The final strand of the safeguarding and protection policy is in relation to establishing for the first time a coherent framework for adult protection. Our intention here is to ensure that there is a coherent multi-agency response to adult protection issues as there is with the response to child protection issues so that it is co-ordinated and robust and so that the multi-agency framework is embedded in that. There are various strands to that within the adult protection legal framework. First and most importantly, we will define in the legislation what constitutes an adult at risk. We are moving away from the term 'vulnerable adult' because we feel that it has negative connotations, so there will be a definition of an adult at risk. That definition will be the gateway to the entire legal framework, in that if you are defined as being an adult at risk, then there will be duties and responsibilities placed on a range of agencies to carry out actions to protect you. So, within that legal framework, a duty to investigate will be placed on all agencies, once a suspicion of abuse is raised with them, and there will be a duty to co-operate and, as stated in the consultation, our intention is to have an enhanced duty to co-operate, whereby social services will lead on investigations but will be able to request the co-operation of other services in carrying out their investigative work.

[291] There will be a duty to share information. Although that is complicated and will have to be within the terms of the Wales accord on the sharing of personal information, we are keen in the legislation to establish the principle that agencies need to share information. For effective adult protection to take place, people need to know what other agencies have found out so that they can make a decision based on the best available evidence.

[292] Finally, within the legal framework, there will be a duty to report. The exact nature of that duty to report is still being discussed and established, but we are keen that all staff working in areas with those who could be defined as adults at risk will have a duty placed upon them to report any allegations of abuse to the authorities.

[293] **Christine Chapman:** Would one of you like to say something about adoption and the third section? We will take the questions at the end, because we are getting a bit pressed for time.

[294] **Ms Nye:** The Welsh Government has said that it wants to transform adoption services in Wales to prevent unnecessary delay and duplication, which have such a negative impact on the outcomes for our looked-after children. The proposal is that the social services Bill will include provisions that will enable Welsh Ministers to require all local authorities and adoption agencies to come together to form a single national adoption service for the purpose of discharging certain functions. The Bill would also provide Welsh Ministers with powers to determine the details of the arrangements. However, our current thinking is that the national adoption service could be responsible for providing national leadership and an overview of adoption services—linking to standards, performance and improvement—recruitment, training and assessment of prospective adopters; a framework for adoption approval, including panels; the promotion of adoption and building capacity in terms of prospective adopters and also specialist workforce skills; and the commissioning of an adoption support service.

[295] Each individual local authority would continue to be an adoption agency, maintaining the responsibilities for the child in their care, applying to a court for placement and adoption orders and responsible for the preparation and maintenance of the adoption plan. They will carry out the very important life story work, prepare children for adoption and make all of the placement arrangements for the child. The pooling of certain activities within the national service should not affect these processes. We are working with key stakeholders, including the WLGA and voluntary adoption agencies, including St David's Children Society, as well as other voluntary organisations to develop thinking around the new framework and to identify what is best done nationally and what should continue to be done locally.

[296] On transitions for disabled children and young people, the Welsh Government recognises that the transition to adulthood can be challenging, particularly for children and young people with the most complex needs. It has said that it wants to ensure that the transition is both seamless and supported. There are proposals in the social services Bill that will benefit disabled children and young people. The people-in-need principle is intended to bring a common approach to the delivery of social care services and not to determine the need for services by age. Portable assessments should improve consistency of access and the development of a national eligibility framework will bring coherence across Wales in the way in which social care services are accessed and delivered.

[297] ‘Sustainable Social Services: A Framework for Action’ contained a commitment to consult upon extending the entitlements of disabled children with assessed complex needs beyond the age of 18 and up to the age of 21. The Bill consultation fulfils, in part, that commitment to engage on this issue. As presently described, the proposals would, first, allow the Ministers to make regulations specifying categories of disabled children to whom any new provisions might apply and, secondly, the services and assistance that might be provided through regulations. These could include requiring local authorities to appoint a personal adviser or transition key worker from the age of 17 to 18, for example. Through the Bill consultation, we are seeking views on what is needed over and above for those children and young people with the most complex needs.

[298] The second part of the commitment was to work with stakeholders to determine appropriate arrangements to assist young people towards independent living and to take advantage of opportunities for education and for work. The feedback from the consultation and this further direct engagement will inform the development of the requirements in this area. So, within the Bill, we are seeking an enabling power that will allow us to make regulations to specify categories of disabled children within the new ‘people in need’ definition and to specify the transitional services and assistance that local authorities must provide to those in the higher categories of need beyond the age of 18 and up to the age of 21.

[299] **Christine Chapman:** I invite Members to ask questions, which I remind them should be technical questions. We do not have the Deputy Minister with us. I know that she will be with us at some stage, so can you confine your non-technical questions for her? I am asking for technical questions.

[300] **Simon Thomas:** I want to ask about the national safeguarding board. The description in the paper says that it will have executive functions, which suggests that it could appoint staff, and I presume that the chair would be remunerated for his or her work. You also have the new configuration of six safeguarding boards at the level that has already been outlined. Where do you propose to make the demarcation between the responsibilities of those boards? Is the national board simply to advise Ministers or is it to drive best practice throughout Wales? What happens if there is a conflict, for example, between a regional board and the national board? Who resolves a disagreement about the best approach for a vulnerable adult or whatever it might be?

[301] **Mr Stevens:** We recognise that there has to be a clear relationship between the national board and the footprint model of the six boards below that. The exact role of the national board is still being established, so it is difficult to say specifically what the difference will be. However, we envisage that the national board will have a much more strategic overlook of policy and practice, so it will set general directions. Where there is a need for national co-ordination, it will provide it. We all recognise that there will be a need to establish clearly, in the subsequent regulations, exactly how the relationship between the regional boards and the national board works in practice.

[302] **Simon Thomas:** So, there will be further regulations on this.

[303] **Mr Stevens:** Yes, there will, I am sure.

[304] **Simon Thomas:** Is it proposed to put on the face of the Bill something about, not the regulations themselves, obviously, but the principles? You have outlined a little about its strategic role, but once you get to six regional boards, some of those will be big regional boards. The one for north Wales will almost be as big as the national board. How do you think that you will try to address that through the Bill or through further regulation?

[305] **Mr Stevens:** I am not sure exactly how it will be expressed in the Bill, and I have to look to legal colleagues as to how we might set that out, but I am confident that we intend to set out that there will be a difference in roles and responsibilities. The Bill will, most likely, have to set out that there is a relationship between them and roughly describe what the nature of that relationship will be.

[306] **Lynne Neagle:** I wanted to ask about the consultation process, if that is okay, Chair. Can you tell us a little more about how this is being taken forward and, in particular, how the views of service users will be included in this whole process?

[307] **Mr Milsom:** By that, do you mean the general Bill rather than the particulars around adult protection?

[308] **Lynne Neagle:** Yes.

[309] **Mr Milsom:** A thorough and robust approach has been taken. The social services Bill was launched at the independent living centre in Pontypridd, which involved a large number of service users who are receiving direct payments. We held three national conferences across Wales in the Millennium Stadium, Parc y Scarlets and in Llandudno. Over 400 people came to those events and they were a mixture of social care professionals, senior social services managers, health managers and user representatives.

12.15 p.m.

[310] Since those events in March, we have worked with a wide range of organisations to clarify the intentions in the Bill at particular events, and a number of those have involved users directly. This is an ongoing process that will be taken forward right up to the deadline for responses on 1 June. We also have the website as well as paper-based consultation, and we have responded to queries from people more informally as well. We try to make it an engaging and helpful exercise for people to respond fully, taking into account that the Bill is at a general level of principle, and there will be further consultation as we implement this, when the regulations and the code of practice are drafted. Consultation is built in to how we formulate and roll out this set of reforms.

[311] **Ms Nye:** In addition, Children in Wales has hosted a day's event around the Bill, and the Welsh Council for Voluntary Action has an event next week. We have also commissioned some specific work around consulting with particularly vulnerable children and young people, so Voices From Care is consulting looked-after children for us, and we have commissioned some work with disabled children and young people, as well as young carers.

[312] **Christine Chapman:** Simon has a very brief question. I remind Members that we have just 10 minutes left and everybody needs to get away for Plenary.

[313] **Simon Thomas:** Specifically on the proposed adoption service, I have just been looking at the new powers there and I do not see anything there in reference to any way of ensuring that local authorities pool prospective adopters and adoptive children, as it were. Is

that proposed at all? As you know, we are doing an inquiry, and it is clear that this matching is not happening across local authority boundaries.

[314] **Ms Nye:** Absolutely. What we are proposing is that the local authority adoption agencies will maintain responsibilities around the child, and the national adoption service will provide the recruitment, training and assessment of adopters. At the Bill consultation events, that is what we have been finding, that the real difficulty when you are doing things 22 times across authorities is around the recruitment and assessment, and therefore the delay in getting adopters approved and ready to be matched with children. That is very much what we are considering. The powers are intended to allow us to identify and develop the things that are best done nationally, and those will then be done through the regulation-making powers that will follow. That is where the detail will be.

[315] **Jenny Rathbone:** Will the Bill allow local authorities to outsource their adoption responsibilities to another agency, if they thought that was a more effective way of doing it?

[316] **Ms Nye:** No, the local authorities' duties with regard to operating an adoption agency will remain theirs. The national adoption service will be a way of discharging some of their functions, and the functions that we are looking at are broadly around the recruitment, training and assessment of adopters.

[317] **Jenny Rathbone:** However, if they wanted to outsource to another agency the responsibilities that they would retain, would they be able to do that under the Bill as drafted?

[318] **Ms Nye:** What do you mean by 'another agency'?

[319] **Jenny Rathbone:** Well, it could be another local authority, or it could be a voluntary agency.

[320] **Ms Nye:** Yes, absolutely.

[321] **Christine Chapman:** Aled, do you have a specific question on this bit of it?

[322] **Aled Roberts:** On adoption?

[323] **Christine Chapman:** Yes, and then Jocelyn can come in.

[324] **Aled Roberts:** A lot of the evidence that we have heard is that no data have been compiled in Wales with regard to performance. Will there be any requirement on the national service to compile such data, in order that some of the issues regarding variation in performance can be tackled?

[325] **Ms Nye:** Absolutely. As you will know, the national statistics that we have are collated annually. When we get them, they are about 18 months old and they are just high-level statistics for the number of children adopted. We are working with all the key stakeholders at the moment to look at what information the individual consortia have and what it is that we could ask the national adoption service to do nationally, so that we have a much better handle on performance, successes and where we need to pay attention.

[326] **Aled Roberts:** I have a couple of other questions on adoption.

[327] **Christine Chapman:** Jocelyn needs to go soon.

[328] **Jocelyn Davies:** It is all right.

[329] **Aled Roberts:** On this issue of the extension of entitlements to the age of 21, has any work been done on the potential cost consequences of that? Also, you mentioned transition key workers being employed in each authority. Given Jenny's point about the interrelationship between social services and education, and the fact that many of the complex needs cases involve residential placements, for which the Department for Education and Skills picks up part of the bill, what discussions have you had, not only with regard to differences of criteria between children and adult services, but also with regard to differences of criteria between social services and education with regard to funding?

[330] Finally, on the national eligibility criteria, will the Bill set the level? Given that 15 of the 22 authorities currently set the level at 'substantial', what will happen if it is decided to set the level at 'moderate'? Has any work been done on the cost consequences to the authority? Also, what powers would the Minister have, given that in England some 7% of authorities have now moved it up further, to 'critical'?

[331] **Ms Nye:** With regard to the first point about work on the cost of extending entitlements, the Bill is at the very early stages of development and we are seeking views on what entitlements should be extended and to whom they should be extended. So, when we have the feedback from that, we shall develop secondary, subordinate legislation that will look at exactly what the costs will be, along with all the implications and consequential of doing that, including the impact of non-devolved welfare reform and the benefits that young people would be entitled to as adults. So, all that work will happen, but it will be at the next stage.

[332] **Mr Milsom:** On the eligibility criteria, where we are following recommendations, they are from the Law Commission and from the Dilnot commission, and are about a single national threshold. Some of the issues are connected with the wider debate about paying for care, of course, but you must also look at Part 1 of the Bill, where we are talking about early intervention, prevention services and wellbeing services in the round. One way of looking at it is that, currently, the 'moderate' and 'low' classifications of services would fit into this broader set of services and, as of now, the 'substantial' and 'critical' classifications would fit into the comprehensive, fully assessed service that the Bill talks about for those with higher level needs.

[333] There is a lot of detail around this issue to be looked at, and we will start that process in July with a multistakeholder workshop, because there is a range of complexities, both within adult services and within children services, that we need to bring together and resolve. So, what will be quite a technical discussion to pave the way for this work will get under way shortly.

[334] **Jocelyn Davies:** I have a question about the mergers, which we heard about earlier. I see that, over time, it is the intention to merge when it is safe to do so. Will the Bill set out how that can happen? It will become safe to do so at different speeds in different local service board areas. So, I assume that there will be variable geometry on that. Or, will it be done when it is safe to do so all over Wales? Will you be able to do it in Gwent next year if it is safe to do so there, but it might be done a bit later elsewhere in Wales?

[335] **Mr Stevens:** The honest answer is that I do not think that we have made a decision on that yet. It is a fair point to say that it would be variable in different parts of Wales. However, the Minister will have the power to merge them. The detail of how that merger will take place will be in the subsequent regulations. So, the detail of how and where it could happen, whether it is done in stages or in one big bang, would be set out in subsequent regulations.

[336] **Jocelyn Davies:** I think that it would be fair to say, Chair, that the committee takes a

dim view of regulations and prefers statutory instruments. I just thought that I would mention that for the record.

[337] **Christine Chapman:** I have one final question. The consultation document mentions the commissioning of an adoption support service. Will you tell us which agencies that would involve and whether it would provide long-term support?

[338] **Ms Nye:** We are setting up an expert advisory group on adoption that will include the voluntary adoption agency St David's Children Society, local authorities and voluntary organisations. In working out that detail, it has to be recognised that many adoption support services are currently commissioned, and we need to consider how we could more effectively use a national model to do that better. We will use the expert group as our vehicle for working out the detail.

[339] **Christine Chapman:** Okay. I thank you all for attending this morning and giving us the technical briefing. We will send you a transcript of the meeting, which you can check for any factual inaccuracies.

[340] I remind Members that the next meeting is scheduled for Thursday, 17 May, when we will be discussing neonatal care with local health boards. I now close this morning's meeting.

*Daeth y cyfarfod i ben am 12.28 p.m.
The meeting ended at 12.28 p.m.*

[1] *Mae'r tyst wedi anfon y cywiriad canlynol:
The witness has issued the following correction:*

We are not aware that local authorities currently charge pupils more than the cost of providing a meal. However, under existing legislation they may do so provided that they charge every pupil the same price for the same quantity of the same meal. We therefore want to ensure that in the future where discounts are provided to a particular group or groups, the cost of offering these discounts is not covered by increasing the cost to others in excess of the cost of providing the meal.