



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

## **Y Pwyllgor Materion Cyfansoddiadol a** **Deddfwriaethol** **The Constitutional and Legislative Affairs Committee**

**Dydd Llun, 14 Ionawr 2013**  
**Monday, 14 January 2013**

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

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

**Aelodau'r pwyllgor yn bresennol**

**Committee members in attendance**

Suzy Davies	Ceidwadwyr Cymreig Welsh Conservatives
Vaughan Gething	Llafur (yn dirprwyo ar ran Julie James) Labour (substitute for Julie James)
David Melding	Y Dirprwy Lywydd a Chadeirydd y Pwyllgor The Deputy Presiding Officer and Committee Chair
Eluned Parrott	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Simon Thomas	Plaid Cymru The Party of Wales

**Eraill yn bresennol**

**Others in attendance**

Peter Black	Aelod Cynulliad, Democratiaid Rhyddfrydol Cymru Assembly Member, Welsh Liberal Democrats
Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol, Cynulliad Cenedlaethol Cymru Senior Legal Adviser, National Assembly Wales
Helen Kellaway	Gwasanaethau Cyfreithiol, Llywodraeth Cymru Legal Services, Welsh Government
Huw Lewis	Aelod Cynulliad, Llafur (Y Gweinidog Tai, Adfywio a Threftadaeth) Assembly Member, Labour (Minister for Housing, Regeneration and Heritage)
Huw McLean	Swyddog Adfywio ac Adnewyddu, Llywodraeth Cymru, Llywodraeth Cymru Regeneration and Renewal Policy Officer, Welsh Government

**Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol**

**National Assembly for Wales officials in attendance**

Leanne Hatcher	Dirprwy Glerc Deputy Clerk
Joanest Jackson	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Siân Richards	Gwasanaeth Ymchwil Research Service
Owain Roberts	Gwasanaeth Ymchwil Research Service
Gareth Williams	Clerc Clerk

*Dechreuodd y cyfarfod am 2.32 p.m.*

*The meeting began at 2.32 p.m.*

**Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datganiadau o Fuddiant  
Introduction, Apologies, Substitutions and Declarations of Interest**

[1] **David Melding:** Good afternoon, and welcome to this meeting of the Constitutional

and Legislative Affairs Committee. We have received an apology from Julie James and Vaughan Gething is her substitute today. Welcome to this meeting, Vaughan. I will make the usual housekeeping announcements: we do not expect a routine fire drill, so, if we hear the fire alarm, please follow the instructions of the ushers. Switch off all electronic equipment completely, as, even if they are on silent, they will interfere with our broadcasting equipment. These proceedings will be conducted in Welsh and English. When Welsh is spoken, there is a translation on channel 1, and channel 0 will amplify our proceedings.

**Offerynnau nad ydynt yn Cynnwys unrhyw Faterion i'w Codi o dan Reolau  
Sefydlog Rhif 21.2 neu 21.3  
Instruments that Raise no Reporting Issues under Standing Order Nos. 21.2 or  
21.3**

[2] **David Melding:** These are listed on the agenda and there are two negative resolution instruments. Are we content? I see that we are. There are also two affirmative resolution instruments.

2.33 p.m.

**Offerynnau sy'n Cynnwys Materion i Gyflwyno Adroddiad Arnynt i'r Cynulliad  
o dan Reolau Sefydlog Rhif 21.2 neu 21.3  
Instruments that Raise Issues to be Reported to the Assembly under Standing  
Order Nos. 21.2 or 21.3**

[3] **David Melding:** There is just one; it is a negative resolution instrument on the Welsh Language Schemes (Public Bodies) Order 2012. There is a report and we just need to agree that, or does anyone have any questions?

[4] **Suzy Davies:** Bearing in mind the merits scrutiny note that we have received, in terms of our advice here, do we have any concerns about the length of time it could potentially take for standards to be introduced? We obviously have the situation now where a scheme will need to be introduced for the new body. Are we minded to write to the Minister to ask him to give us an idea of how long he is likely to be in considering changes to Schedule 6 to the existing Act and making this appropriate for standards, or even if he is considering a sunset clause to this?

[5] **Simon Thomas:** Mae gennyf bwynt tebyg. Holais y Gweinidog yr wythnos diwethaf pryd yr oedd am gyflwyno'r safonau, ond ni chefais ateb o gwbl. Mae'n amlwg yn y cyfamser bod yr hen gynlluniau yn symud ymlaen. Mae'n ymddangos bach yn od bod gennym ddeddfwriaeth ffres, a basiwyd ddwy flynedd yn ôl, ond nid oes dim yn digwydd o dan y ddeddfwriaeth honno, ond yn hytrach o dan ddeddfwriaeth sy'n 20 mlwydd oed. Mae hwn yn gorff cwbl newydd a byddai wedi bod yn berffaith i gorff newydd feddu ar safonau newydd. Rwy'n meddwl y byddai'n briodol i ni fel pwyllgor ysgrifennu at y Gweinidog yn gofyn am amserlen i gyflwyno'r safonau hyn, gan ei fod wedi'u derbyn gan Gomisiynydd y Gymraeg a'u bod nawr yn barod i gael eu

**Simon Thomas:** I have a similar point. I asked the Minister last week when the standards were to be introduced, but I did not receive any sort of answer. It is clear that, in the meantime, the old language schemes have been retained. It seems a little odd that we have new legislation, which was passed two years ago, but that nothing is happening under that legislation, but it is happening under legislation that has been around for 20 years. This is an entirely new body and it would have been perfect for such a new body to have the new standards. It would be appropriate therefore for us as a committee to write to the Minister, asking for a timetable for the introduction of these standards, as he has now received them from the Welsh Language Commissioner and they are now

gwneud, am wn i, yn rheoliadau i ni eu ready, I suppose, to be made into regulations  
hystyried fel pwyllgor, ac wedyn fel for our consideration as a committee, and  
Cynulliad. then as an Assembly.

[6] **David Melding:** I do not see any reason why we cannot write to the Minister to urge a speedy response on this issue about when they will use the mechanisms in the Welsh Language (Wales) Measure 2011 and the timetable. We will do that separately. Are Members content with the report? I see that you are.

2.35 p.m.

**Tystiolaeth yn ymwneud â'r Bil Safleoedd Rheoleiddiedig  
Cartrefi Symudol (Cymru)  
Evidence in relation to the Regulated Mobile Homes Sites (Wales) Bill**

[7] **David Melding:** This Bill is a Member-proposed Bill, which has been sponsored by Peter Black. Good afternoon, Peter, and welcome to committee. I believe that this is the first Member-proposed Bill that we have dealt with, so we are particularly pleased to see you this afternoon. The work of this committee is to scrutinise the issue of delegated powers in the Bill. We have a series of questions that we would like to put to you. You will be followed this afternoon by the Minister for Housing, Regeneration and Heritage. We expect to do an extensive amount of work on this important Bill this afternoon in terms of how it is likely to operate. I do not need to really go into how we will conduct this session: all Members will ask questions, and there may be cause for supplementary questions. If you want to clarify anything in addition, at any point, Peter, just indicate that you wish to do so. I am also pleased to welcome Gwyn Griffiths this afternoon. He is well known to us as he is one of our legal advisers, but, in this instance, he is the legal adviser to the Member in charge of the Bill.

[8] I will ask the first question. How have you sought to strike a balance between what is on the face of the Bill and what will be left to subordinate legislation?

[9] **Peter Black:** Thank you for the welcome, Chair. I enjoy being a guinea pig in terms of Member-proposed Bills.

[10] **David Melding:** I avoided using that term. [*Laughter.*]

[11] **Peter Black:** I thought that I would say it for you. [*Laughter.*]

[12] It is always difficult to strike the correct balance because, as you know, this is a Member-proposed Bill, as opposed to a Government Bill. Often, in the interests of a Bill—you can sense this around the Bill—it is helpful not to seek to advance the objectives in ways that the Government might consider impractical. A lot of the secondary legislation that is associated with the Bill deals with administrative matters that I would normally expect the Minister and his officials to have a view on. I do not think that it is my job to pre-empt that. However, we have had detailed discussions with the Government and we are likely to bring forward amendments at Stage 2 that we hope will reflect my view, and the Government's view, that there should be less secondary legislation and more on the face of the Bill. That work is ongoing, and I cannot give you any detailed undertakings at this stage on that.

[13] **David Melding:** Would you say, therefore, that you have had extensive discussions with the Minister? Are these a precursor to some fairly major changes that are likely to be introduced at Stage 2?

[14] **Peter Black:** We have had meetings with the Minister, and I have also had a number of meetings with officials. We are due to have another meeting with officials, probably by the

end of this month. I hope that we will be able to come back to the relevant committee with the outcome of that meeting, which I hope will make things much clearer in terms of how the Bill is presented and how it will be brought into force.

[15] **David Melding:** Have you had any cause to have negotiations with UK Ministers in terms of what is contained in the Bill?

[16] **Peter Black:** Welsh Government officials have raised no concerns regarding competence. A copy of the Bill was sent to the Wales Office, as a matter of courtesy, but we have not had a response to that letter. Therefore, at this stage, we have had no indication from the UK Government that it has an issue around the competence for this Bill.

[17] **David Melding:** Thank you; that was helpful. Suzy Davies has the next questions.

[18] **Suzy Davies:** One thing that leaps off the page with the draft, as we have seen it, is the fact that all the powers—with one or two exceptions—that are to be given to Welsh Ministers to make regulations in future are to be introduced via the negative procedure. Bearing in mind that there are so many of them, compared to what is on the face of the Bill, that gives me some level of concern, particularly when you are talking about exemptions from needing a licence and the revocation of licences, for example. How has that come about? Why are there not more affirmative procedure elements to this, so that we would have a chance to scrutinise them in more detail?

[19] **Peter Black:** In general terms, we have gone through each of the relevant powers in the Bill in some detail, and we have effectively applied what we consider to be the appropriate procedure to each one. There are obviously individual reasons for each regulation, Order or guidance in terms of how they are dealt with. You mentioned exemptions, which are referred to in section 5. They could be used, for example, to exclude sites with fewer than a certain number of pitches to facilitate a gradual implementation. They could also be used for temporary sites while the licensed site is being refurbished in some way. In that particular instance, we felt that that was the sort of detail that it was best for Ministers to determine, because it is basically an administrative issue that you would bring into play as you learn from the enactment of the Bill and how it is being applied across Wales. Again, I am open to committee members' views on this. No doubt, when the report comes out, we will discuss and look at any recommendations if Members feel that that procedure is inappropriate.

[20] **Suzy Davies:** You have given us one example from section 5 of the level of regulation that you are anticipating. Let us stick with that particular section to make it easier. Do you have any concerns that by giving power wholesale to Welsh Ministers to make the detailed regulation on this, they might use the opportunity to use that section to extend the class of reasons for exemption beyond what you are initially anticipating?

[21] **Peter Black:** The section on exemption and licensing is fairly detailed in terms of what sites should and should not be licensed, and how that applies. The number of exemptions that you could apply to that is fairly limited. I do not have any huge concerns that the Minister will take that to an extreme. I cannot really see any circumstances in which he would abuse that position, simply because the sites that should be licensed, and why, are set out on the face of the Bill. I would envisage that the exemptions would be administrative in nature, based on lessons learned from having a temporary licence while a site is being refurbished, for example. I think that that particular example might be one reason why the Minister might introduce an exemption.

[22] **Suzy Davies:** However, that principle applies throughout many sections of the Bill, does it not? Whatever your initial intention may be with the Bill—it has cross-party support, of course—it might open the door a little bit too widely for the Government to do what it likes

with your Bill.

[23] **Peter Black:** I have had an interesting experience with the Bill, in that I have redrafted the Bill in which we produced a lot of secondary legislation and now the Government is saying to us that we have too much secondary legislation—in my experience, the opposite has always been true of Government Bills. I am happy to go through each section and try to explain why a particular procedure has been chosen in each individual case.

[24] **Suzy Davies:** Rather than do that, shall we just take section 6 as a random example, as it is next, if you are content for us to do so, Chair? Will you take us through that section, Peter?

[25] **Peter Black:** Do you mean the section on the licensing procedure, section 6(8)?

[26] **Suzy Davies:** Yes. Perhaps you can finish by saying why you think the negative procedure is strong enough protection.

[27] **Peter Black:** Sub-section (8) contains the powers to make regulations dealing with the licensing procedure. Sub-section (9) lists matters that must be included, including a maximum licence fee that provides flexibility for local authorities. Sub-section (9)(e) refers to exemptions and refunds. Those could be relevant, for example, if an applicant were already the holder of another licence, so that enquiries under the fit-and-proper-person test would be unnecessary or much less work would be carried out. Similarly, it could take account of the smaller amount of work involved if another licence for the same site had been granted for a short time previously. We have set out on the face of the Bill what those regulations should address. In my view, those are administrative arrangements.

2.45 p.m.

[28] They are considered appropriate regulations for that reason. Nevertheless, consideration by the Government of issues relating to implementation may involve amendments at Stage 2, but because they are administrative arrangements, they were not matters that I could set out on the face of the Bill. The normal procedure with Bills, as I understood it, is that when you have administrative arrangements dealing with the implementation of a part of a Bill, the negative procedure would apply. So, we are following the guidance that we were given as part of the drafting of the Bill.

[29] **Suzy Davies:** Finally, we need to be confident that, when this happens, the Assembly has a chance to look at the changes and the regulations that the Government may make and satisfy ourselves that they do not overstep the mark that you have laid down in the draft Bill. That is difficult for us to do via the negative procedure. However, I was reassured by your earlier remarks that there is still quite a lot of discussion going on about the negative or the affirmative procedure and whether provisions may appear on the face of the Bill in the end, so perhaps that is something that we could see at the next Stage.

[30] **David Melding:** So that we can get a grip on this, did you start with the assumption that the affirmative procedure would be used if something was not written on the face of the Bill and work from that, determining perhaps that these are more administrative, exceptional or de minimis issues? What methodology did you have?

[31] **Peter Black:** I did not personally draft the Bill, of course, but there is guidance, which Government officials brought to our attention during the drafting of the Bill, as to how you apply the negative or affirmative procedure in each instance, which we tried to follow. Given that this Bill is very much based on the licensing procedure for houses in multiple occupation, a lot of it has been brought forward from the Housing Act 2004. It is in similar

terms to those set out in that Act, and a lot of regulations arose from that Act as well. So, that is another reason why some things have been set out in this way.

[32] **David Melding:** The reason I ask is because this committee has regularly asked Ministers to set out the methodology and why they choose one particular procedure over another, and I am not sure that we have been referred to this guidance before, Gwyn, or how revealing and useful it was.

[33] **Mr Griffiths:** I think that we were told that it had been prepared, but I am not sure whether it has been referred to by Ministers giving evidence to the committee. However, it certainly exists and shows the issues that they consider in each case, but, in this case, unless there was a good reason for doing something differently, the precedent used for the HMO legislation was followed in relation to these administrative matters.

[34] **Simon Thomas:** Gan ddilyn trywydd tebyg, ond edrych yn benodol ar adran 13 o'r Bil fel y mae, mae hwnnw'n glir ynglŷn â'r amgylchiadau lle mae modd dirymu trwydded, ond mae hefyd hawl gan Weinidogion Cymru i wneud rheoliadau ychwanegol i ddirymu. A fedrwch chi esbonio pam rydych yn meddwl bod hynny yn briodol? Mae gennych rywbeth ar wyneb y Bil ynghyd â'r peth ychwanegol hwn sy'n grymuso Gweinidogion Cymru.

**Simon Thomas:** Along similar lines, but looking specifically at section 13 of the Bill as it stands, this section is clear about the circumstances under which it is possible to revoke a licence, but Welsh Ministers also have the right to make additional regulations for revocation. Can you explain why you think that is appropriate? You have something on the face of the Bill along with this additional thing that empowers Welsh Ministers.

[35] **Peter Black:** The process that I have gone through with this is that every time I have been discussing it with people, people have said to me that there are all sorts of unintended consequences and that, 'Someone's going to get around this like this' or 'Someone's going to find a way around this particular prohibition'. So, section 13(1)(d) allows Welsh Ministers to prescribe additional circumstances because we are trying to learn. If we found that a minority of site owners found a way around the safeguards introduced by the Bill, the Minister would have the power to intervene quickly to close that loophole. That was the intention of that particular provision, and the reason why we went for the negative procedure rather than the affirmative procedure was because the Minister might need to act quickly.

[36] **Simon Thomas:** Felly, gallai rhywbeth ddigwydd yn glou wrth i'r Gweinidog ymyrryd. Mae cam pellach. Rydych yn sôn am ganlyniadau annisgwyl. Pa mor saff yr ydych nad oes modd i rywbeth ddigwydd yn ôl-weithredol yn y fan hon? Mae'n eithaf pwysig, onid ydyw, nad oes ymgais i ddirymu neu dynnu trwydded oddi ar rywun am rywbeth a ddigwyddodd bum mlynedd yn ôl a'r person hwnnw wedi bod yn ddeiliad trwydded priodol am gyfnod?

**Simon Thomas:** So, something could happen quickly should the Minister be able to intervene. There is a further step. You talk about unintended consequences. How sure are you that it would not be possible for something to happen retrospectively here? It is quite important, is it not, that there is no attempt to revoke or withdraw a licence from someone for something that happened five years ago previously when that person has been a suitable licence holder for a certain period?

[37] Mae'n ymddangos bod twll o ryw fath yn hyn, sef bod modd i bethau ddigwydd yn ôl-weithredol, yn yr ystyr nad oes efallai amddiffyniad ar sail cyfiawnder naturiol.

There appears to be some sort of a gap here, in that things could happen retrospectively, in the sense that there is perhaps no defence on the grounds of natural justice.

[38] **Peter Black:** I am not a lawyer, obviously, but my understanding is that Ministers

have to act reasonably. If a Minister was to take a decision under this provision that meant that it was considered unreasonable to revoke a licence retrospectively, I am sure that the courts would have something to say about it. Reasonableness is the safeguard that would apply in that particular circumstance.

[39] **Simon Thomas:** Rwy'n derbyn y pwynt hwnnw ynglŷn â Gweinidogion, ond mae rhywbeth y mae'n werth edrych arno yn hyn o beth. Beth bynnag, fe symudwn ymlaen i holi yn benodol ynglŷn â'r gweithdrefnau trwyddedu yn adran 15 o'r Bil. Unwaith eto, dyma adran lle gadewir y cyfan i reoliadau, ac nid oes dim ar wyneb y Bil sy'n egluro sut y bydd y gyfundrefn drwyddedu'n digwydd. Yn sgîl eich sylwadau agoriadol, a fedrwch chi gadarnhau a yw hynny'n rhan o'r Bil sydd efallai o dan ystyriaeth bellach o ran y cydbwysedd hwn rhwng yr hyn sydd yn y Bil a'r hyn a fydd mewn rheoliadau?

**Simon Thomas:** I accept that point regarding Ministers, but there is something here that needs to be looked at. Nevertheless, we shall move on to address further questions, specifically with regard to the licensing procedures under section 15 of the Bill. Once again, we have a section in which everything is left to regulations, and there is nothing on the face of the Bill to set out how the licensing system will function. In the light of your opening remarks, can you confirm that this part of the Bill is perhaps undergoing further consideration in terms of the balance between what is on the face of the Bill and what is left to regulations?

[40] **Peter Black:** I can confirm that this is under consideration, but I cannot say what the outcome of the consideration will be. Certainly, the sort of thing required on the face of the Bill would be quite detailed, administrative matters, and I cannot second-guess the Minister in how he would envisage that being rolled out, and I have not tried to do so. If the Government is happy to put forward amendments that do that, then we will certainly work with it to try to do away with sections such as that, if that is possible.

[41] **Simon Thomas:** Diolch, achos mae'n ymddangos drwy'r Bil yn gyffredinol fod manau lle yr ydych yn gadael i reoliadau benderfynu ond yn gosod egwyddorion, a bod manau eraill lle yr ydych yn gadael y rheoliadau heb osod yr egwyddorion, a dyma un ohonynt—nid oes llawer ar wyneb y Bil sy'n gyfyngu neu'n cynnig canllaw i Weinidogion yn y ffordd y maent yn gwneud rheoliadau. Mae anghysonder drwy'r Bil yn gyffredinol, a pheth da fyddai cael cysondeb.

**Simon Thomas:** Thank you, because it appears that the Bill generally has areas where you leave it to regulations to decide, but have set principles, and that there are other areas where you have left it to regulations without setting principles, and this is such an area—there is not much on the face of the Bill to restrict or guide Ministers in the way that they make regulations. There is inconsistency throughout the Bill generally, and it would be good to have consistency.

[42] Gan symud ymlaen, ar drywydd tebyg, mae adran 16 yn esbonio sut ac ar ba sail y mae gan berchnogion yr hawl i apelio. Yn wahanol i'r hyn yr ydym newydd ei drafod parthed rhan 13, nid oes modd gwella neu newid hwn drwy offeryn statudol. Felly, nid oes hyblygrwydd yn hyn o beth. Unwaith eto, a ydych chi wedi ystyried gwneud hyn yn gyson â gweddill y Bil?

Moving on, in a similar vein, section 16 explains how and on what basis owners have the right to appeal. In contrast to what we have just discussed with regard to part 13, there is no means of amending or changing this by statutory instrument. Therefore, there is no flexibility in this. Once again, have you considered making this consistent with the rest of the Bill?

[43] **Peter Black:** Obviously, the criterion that you set out is one of the problems with a Member-proposed Bill, in that you do not always have the same level of resources as a Minister. With regard to section 16, we have set out in some detail the various scenarios in which we feel an appeal could be taken to the Residential Property Tribunal. We think that it



is a fairly full list. If you think that there are other situations, we would have no objection to including a power for Welsh Ministers to add to the list by Order.

[44] **Simon Thomas:** Would that be under the negative procedure?

[45] **Peter Black:** Well, we would argue that it would be an affirmative process, actually, because it would be a substantial change to the Bill. The regulations, however, are purely about the process by which appeals are made, and are again administrative.

[46] **Simon Thomas:** But the appeals procedure as such is not set out on the face of the Bill, is it?

[47] **Peter Black:** No, we have left that—I think it is guidance or an Order—to the Minister, because that, too, requires quite a lot of detail for which we did not have the resources, and we did not want to second-guess the Minister.

[48] **Simon Thomas:** I understand those points. At this stage, personally, you would be content that that is still an administrative procedure and that it should be dealt with by regulations.

[49] **Peter Black:** At this point, yes, but again, we are discussing the Bill.

[50] **David Melding:** Before you move on, Simon, I think that Vaughan might have a question on this.

[51] **Vaughan Gething:** On the point about appeals, I am interested in how you are structuring the Bill. Taking the example of the food standards regulations coming forward, the Government has set out on the face of the Bill areas around timetable in terms of times for appeals to be made. Also, I wonder whether you have considered that. In terms of the fact that the appeal goes to the residential property tribunal, is there any current practice in terms of timescales and how that runs? Is it effectively going to transpose current bodies of appeal that already go there, or do you envisage them holding a new form of appeal rather than taking on, if you like, established rules or procedure?

[52] My third point is on cost, as we are on the point about appeal. Nothing in this refers to the costs of appeal. So, do you envisage that every party bears its own costs when going to that tribunal, and is the calculation of cost part of the explanatory memorandum? Do you have a figure in there for an assumption on the cost to businesses of running it, or a cost to the taxpayer for running the appeal process?

[53] **Peter Black:** The cost issue is dealt with by the explanatory memorandum, on pages 60 and 61. We have tried to set out in some detail the costs that we would envisage to be involved in that, including a section on the residential property tribunal. We stated,

[54] ‘Over the first five years of the Bill this would equate to around £40,000.’

[55] Again, many assumptions are made in those costings in terms of the number and types of appeals that will go before it and so forth. However, we have made an effort to estimate costs. I am not sure whether the residential property tribunal gave evidence to the Communities, Equality and Local Government Committee. I cannot recollect what it said about the costs, but I do not think that there was any great disagreement on the cost. I may be wrong and I will need to check the transcript on that particular issue.

[56] I am sorry, what was the other issue?

[57] **Vaughan Gething:** It was the procedure to be adopted. I know that you said that it gave evidence, but, in terms of the cost figure, does that come from each side bearing its own cost? So, if the person who is subject to a licence or a licence holder appeals do they pay for their own legal costs?

[58] **Peter Black:** We have estimated that, in terms of the cost falling on site owners, we have put in £1,500 per year. So, we do envisage that there will be some cost to site owners in terms of going to residential property tribunals. With local authorities, again, we have put an estimate for what local authorities may well end up with. We have actually provided estimates for costs in relation to all of the relevant parties that might have to go to a residential property tribunal. Obviously, the outcome of the appeal may determine how those costs are allocated. They may award costs to a particular party as a result of that appeal process; so, you cannot determine who will eventually meet those costs. Clearly, there was a cost to the residential property tribunal for administering the additional number of appeals going before it.

[59] In terms of the procedures of a residential property tribunal, it was only last year that the Government actually passed the secondary legislation to bring residential property tribunals into this field of work in Wales. There has been some experience in England of a number of mobile homes sites coming to residential property tribunals, but there has been no such experience in Wales as yet, as far as I am aware. So, there was very little experience to go on in terms of the sort of tribunals in Wales, simply because the Welsh Government took some time, after the English Government, in bringing the relevant secondary legislation to Plenary. So, there is not a great deal to go on in terms of how that process works. Clearly, we have a bit of a blank sheet. However, the previous secondary legislation may be helpful in terms of the processes to be followed which, from recollection, I think, was made in February last year, but I would need to check on that.

[60] **Vaughan Gething:** Finally, on the point of it being a bit of a blank sheet in terms of process, I would expect that local authorities, as licencing authorities, and the businesses or owners of sites would be interested in seeing some of this laid out. I do not think that this has come up in your conversations, but would you expect that part to be set out in draft so that people know in advance what is happening, or just in the ordinary regulation-making process? It is fairly open in terms of what Welsh Ministers could do on the point of appeal.

3.00 p.m.

[61] **Peter Black:** Yes. I would prefer it to be set out on the face of the Bill. If we are able to put together amendments to that effect, we will do so. I am reliant on the Welsh Government to do that. Local authorities have experience of dealing with the residential property tribunal. They have jurisdiction under the HMO legislation. When local authorities gave evidence to the Communities, Equality and Local Government Committee, they seemed to be very familiar indeed with a lot of the processes in this Bill, simply because it has been carried forward from the Housing Act 2004. So, I would not expect any huge surprises in the regulations that the Welsh Ministers bring forward, because, again, it is largely administrative and it would be around the process, as opposed to the substance of an appeal and what can and cannot be appealed, because that is set out on the face of the Bill.

[62] **Simon Thomas:** Peter, hoffwn ofyn am adran 17 ar orfodi, sy'n trafod sut y mae'r awdurdod trwyddedi yn defnyddio'r trefniadau gorfodi. Yn benodol, mae is-adran 2 yn nodi bod yn rhaid i'r awdurdod roi sylw i unrhyw ganllawiau ysgrifenedig a roddir gan Weinidogion Cymru. A wnewch esbonio pam yr ydych yn meddwl bod angen yr adran **Simon Thomas:** Peter, I would like to ask about section 17 on enforcement, which discusses the way in which the licensing authority uses these enforcement arrangements. Specifically, subsection 2 notes that the authority has to give regard to any written guidelines set out by Welsh Ministers. Will you explain why you think

hwynnw er mwyn rhoi sylw i ganllawiau ysgrifenedig? Hefyd, os bydd y fath canllawiau yn bodoli—sy'n ymylu ar fod yn ganllawiau statudol—pam nad oes gweithdrefn negyddol neu gadarnhaol yn ei lle er mwyn goruchwyllo'r canllawiau hynny?

there is a need for that section to give regard to written guidelines? Further to that, if such guidelines are going to exist—which border on being statutory guidance—why is there no negative or affirmative procedure in place to oversee those guidelines?

[63] **Peter Black:** There is, of course, a duty in the Bill for collaboration. The guidance in section 17(2) does not have to be done; it is something that the Welsh Government can do if it wishes, but the intention is to share best practice. So, the Welsh Government can take account of what is being done elsewhere in Wales and issue guidance that shares best practice, which would then complement the provision in terms of collaboration.

[64] **Simon Thomas:** Would it help to be more specific there and say that it is guidance on best practice? I know that the overarching bit of the Bill states that, but—

[65] **Peter Black:** I would be reluctant to tie the Bill down in that way. In relation to any written guidance, other issues might arise. I would envisage it being there to share best practice, but other issues might arise in terms of enforcement, on which the Government might wish to issue regulations.

[66] **David Melding:** Okay. Could we just check that with the legal adviser, because my understanding of guidance is that statutory guidance has to be followed unless you have a very good reason not to follow it? It is more than just sharing good practice, is it not?

[67] **Mr Griffiths:** Yes, but it depends on how the guidance is worded, of course. If the guidance is worded in terms of, 'This is best practice, so and so is doing it in this way and you may find that it is useful to follow that practice', then that is very different from guidance that says, 'You should do it in this way unless you have a very good reason for doing it in a different way'.

[68] **David Melding:** Thank you. Eluned is next.

[69] **Eluned Parrott:** I would like to stay with enforcement for a moment, if I may. Sections 23 and 24 of the Bill deal with the use of fixed penalties as an enforcement measure. Generally speaking, as we have discussed, it is the negative procedure that has been chosen largely, and you said a little earlier that this is due to their being administrative arrangements dealing with the implementation of the Bill. Will you explain to us why 24(2) is subject to the affirmative procedure? This deals with changing the amount of the fixed penalty, so it is quite a small administrative issue as well.

[70] **Peter Black:** First, I will just say that the fixed penalty is an option for local authorities. They only need to go down that route if they feel that they have agreement to implement it. The alternative is prosecution. In many instances, an authority may decide that prosecution is the best way forward. However, it is because the fixed penalty is an alternative to prosecution that we felt it was appropriate for it to be subject to the affirmative procedure. We felt that the Assembly should be able to express a view on the appropriateness of the level of the penalty, simply because the alternative is prosecution.

[71] **Simon Thomas:** On that point, how did you arrive at the sum of £100? It is not a huge amount and it might soon be amended. Would it not be better to futureproof the legislation?

[72] **David Melding:** Yes, that is what we are concerned about, rather than the policy of it

being £100: that it may be quickly amended.

[73] **Peter Black:** We based this on the Local Government Byelaws (Wales) Act 2012, which has a fixed penalty of £80 in it. We upped it a bit because we considered that there might be greater administrative issues around applying a fixed penalty on this one, so we rounded it up to £100 to cover that. That is what the figure is based on, but, of course, we have put the provision in there to be amended because it may well be that experience indicates it is an inappropriate amount. Also, they may want to increase it simply because of inflation. If you put a figure on the face of the Bill, you need to have provision to change that at some stage in the future.

[74] **Eluned Parrott:** Moving on to section 27, which deals largely with the sale of mobile homes and any commission that may be charged by a site owner, why is the power in the Schedule to the Bill to set the rate of commission for site owners subject to the negative procedure, particularly when, in contrast, another financial issue in section 24 is subject to the affirmative procedure?

[75] **Peter Black:** It is not a new provision. This is carrying forward an existing provision from the previous Act. The law already provides for the commission to be changed by negative procedure, so all we did was carry that forward.

[76] **David Melding:** Why have you preserved that? It does seem contradictory. I do not want to be drawn into the policy of this, but some site owners might go a long way to improve the environment of their sites, and may feel that should be reflected in the commission rate.

[77] **Peter Black:** They would be looking to reflect that in the pitch fee, which is the monthly or annual fee that is payable by each home owner for keeping their mobile home on the site. They would be looking to reflect that, and the Bill makes provision for that, because, if a major improvement is made to the site, they are able to reflect that in changes to the pitch fee. The commission is a long-standing matter of controversy. The previous UK Government carried out a consultation on mobile homes and found that all the home owners wanted to get rid of the commission and all the site owners wanted to keep it. It is an important part of the economics of the mobile home industry. If, for example, we were to do away with the commission, we would envisage substantial increases in the pitch fees to compensate for that. We were concerned that, given that a lot of the home owners are basically of pensionable age and have fixed incomes, that would unduly penalise them. We obviously left it in there, but we also left the same provision that was in there before. I did not want to tamper too much with the previous Act and how it set out the way to change the commission.

[78] **David Melding:** Obviously, relying on the status quo is a response, but it also indicates that you did not have a particular rationale for forming a judgment on whether to use the affirmative or negative procedure in this instance.

[79] **Peter Black:** I was trying to avoid addressing the commission issue. I wanted to put that to one side—I did not want to address that issue in this Bill. We carried it forward as it was set out in the previous Act purely for tidiness and neatness.

[80] **Eluned Parrott:** One area that may introduce some uncertainty, again, is that the Bill enables Welsh Ministers to make different provisions for different areas or for sales of different prices.

[81] **Simon Thomas:** Regional rates.

[82] **Eluned Parrott:** I was just wondering why you have chosen to do that, and whether you feel that there is any risk of that being used to undermine the policy objectives of the Bill.

[83] **Peter Black:** Which part of the Bill are you referring to?

[84] **Eluned Parrott:** That is under paragraph 4 of the Schedule.

[85] **Peter Black:** Bear with me a second. I think that is just carried forward from the previous Act. That whole section is just carried forward from the previous Act.

[86] **Eluned Parrott:** In which case, the question would again be: do you not have any concerns that carrying it forward and not making a change to it might undermine some of your policy intentions?

[87] **Peter Black:** No, because I am trying to avoid addressing the commission issue, which I do not think is really an issue that I want to address in this Bill, for the reasons that I have set out. What we have done is to carry forward the whole issue around the commission and assignment forward from the previous Act.

[88] **Eluned Parrott:** Okay. Moving forward to section 28, which was the code of conduct and standards of practice and so on for management, in giving evidence to the Communities, Equality and Local Government Committee earlier this month, you indicated that you were minded to remove section 28 from the Bill. Is that still your intention, and why is that?

[89] **Peter Black:** Yes, that is still my intention. We carried forward both sections 28 and 29 from the Housing Act 2004 as they applied to houses in multiple occupation without fully understanding that the reason why there was a code of practice and regulations in that Act is that the code of practice applies to university-owned accommodation, which, of course, could not be subject to regulations. Having now looked into that, we have decided that section 28 is not appropriate in this particular instance. Therefore, we are happy to remove that from the Bill and rely on the management regulations.

[90] **Eluned Parrott:** Okay. Thank you very much. In section 29, you intend to empower Welsh Ministers to make regulations to ensure that satisfactory management arrangements for sites are in place and, again, such regulations are subject to the negative procedure. Why do you think it is necessary for those management standards to be exercised through regulation rather than guidance? I wonder whether that is contradictory to how you have organised this in another part of the Bill.

[91] **Peter Black:** Any breach of those standards would be an offence under section 29(3), so we felt it was appropriate for them to be contained in regulations, which are subject to an Assembly procedure. That is the reason why they are set out in that particular way.

[92] **Suzy Davies:** On that point, about the creation of a criminal offence here, do you think it appropriate that any regulations made under this section should be subject to the negative procedure when we are talking about something that could give somebody a criminal record? Is this not something where either the affirmative procedure should be used, at least, or something more specific should be put on the face of the Bill about what constitutes the offence?

[93] **Peter Black:** Again, we set them out in relation to the guidance that we were offered, but I am happy to consider the views of the committee on that particular issue.

[94] **David Melding:** It is the view of this committee that, for anything that involves a criminal offence or a level of penalties, we like to see the affirmative procedure used.

[95] **Peter Black:** I am happy to consider the committee's view on that.

[96] **Eluned Parrott:** One of the things that we were concerned about was that people who are subject to those regulations should have an opportunity to see them scrutinised and understand them before they are implemented. So, that would be the reasoning there. Finally, I note that the commencement of the Bill is conferred on Welsh Ministers rather than included on the face of the Bill. Why is that, and are you content for that to be the case?

[97] **Peter Black:** This is a Member-proposed Bill writ large, because this is quite a complex Bill, which, as you have highlighted for me, contains huge numbers of regulations. You cannot commence the Bill until a number of those regulations or Orders are in place, and it is not for me to decide on behalf of the Welsh Ministers when the Bill should be commenced in advance of the work that their civil servants would have to carry out.

[98] **Eluned Parrott:** Have you discussed a timetable with the Minister for the implementation of the items that would allow for the commencement of the Bill?

[99] **Peter Black:** We have discussed the need for a quick implementation and the need to put in place regulations to do that. However, I have not entered into a detailed discussion on that because we are still reviewing what is going to be implemented through regulation and what is not.

[100] **Vaughan Gething:** For my own benefit, in order to properly understand the structure of the Bill, is it the case that this, essentially, does not give new rights to individual mobile home owners but seeks to create a more consistent level of duty in the licensing regime for people that operate the sites, with enforcement being done through local authorities? That is, essentially, the basic structure. Is that fair? For my own understanding—

[101] **Peter Black:** Yes. It introduces a licensing regime, which, because it is a five-year licensing regime with fees attached, will provide resources. It places duties on local authorities that do not currently exist under the Caravan Sites and Control of Development Act 1960, under which the original licensing scheme is set out. Also, there are a number of new rights for mobile home owners in the Bill, which I would have to turn to the detail for, but, for example, there is the right to carry out modifications to the home. So, there are a number of new rights for mobile home owners in the Bill as part of that. Essentially, this Bill is trying to introduce a modern licensing system that is workable, enforceable and which can be properly resourced.

3.15 p.m.

[102] **Vaughan Gething:** And enforcement is a matter for local authority?

[103] **Peter Black:** Yes.

[104] **Vaughan Gething:** So, apart from their current legal rights in terms of their conditions of being on site, this Bill does not give local authorities any new powers to try to enforce conditions for individual mobile home owners?

[105] **Peter Black:** I think that there is provision in here to take certain matters to a residential property tribunal. Gwyn might remember where it is in here; I was looking for this section earlier on.

[106] **Mr Griffiths:** The general thrust is that mobile home owners will be able to refer any problem to the licensing authority, with rather more confidence than currently and that the licensing authority will do something about it, because it will have the resources to do so.

[107] **Vaughan Gething:** I understand that. So, contractual rights remain, but it is essentially about the right to go to the local authority to say, 'The conditions you've imposed aren't being met and managed'. It is then a matter for the local authority to deal with the enforcement action and measures, rather than an individual mobile home owner going to the property tribunal to say, 'These are the conditions—the site operator isn't operating to their license, so I suffer a detriment as a result that I want you to resolve'.

[108] **Peter Black:** In terms of licensing matters, the local authority will be the one who determines that. There are some issues there where mobile home owners can go to a property tribunal as well.

[109] **Mr Griffiths:** If it is a contractual dispute between the site owner and the home owner, that would still be a matter that they would take to the tribunal or the courts. If it is to do with the licensing conditions, it would be a matter for the local authority to enforce those conditions.

[110] **Vaughan Gething:** Okay. I just wanted to be clear in my own mind about the structure of the Bill that you are proposing.

[111] Moving on to cross-border and transitional arrangements, the explanatory memorandum talks about regulations or guidance being required to address cross-border issues, in particular this point about whether you are going to need to think about site owners or operators who are resident in England but operate sites in Wales. All the sites that you regulate have to be in Wales. Can you clarify what types of issues that that would enclose, and whether there is anything in addition to what you set out in general terms in the explanatory memorandum? On that point about the regulation or guidance, I assume that it would be the role of the Welsh Government. However, if you are generally talking about cross-border issues, I would be interested to know whether you think there would be a role for the UK Government, and whether there would be a duty to consult, or whether the UK Government would need to be involved in drafting that guidance or regulation.

[112] **Peter Black:** There is a Bill going through the UK Parliament at the same time in relation to England that is slightly different to this Bill. Most of the cross-border issues that I would envisage will be ones of sharing information, simply because we have situations whereby site owners operate mobile home sites in England and Wales. So, we would envisage that the Minister would be advising local authorities to co-operate on an England and Wales basis to share information, particularly about site owners and the fit-and-proper-person test. That is how we would envisage that applying. In that respect, I would expect the Minister to be advising Welsh authorities. I would hope that the English authorities would co-operate, although we obviously cannot pass regulations in relation to English local authorities.

[113] **Vaughan Gething:** That is interesting. For example, if you were looking to get information about the fit-and-proper-person test, and about whether someone operates a site in England and Wales, would you require guidance about providing or sharing information or would it not be part of a fit-and-proper-person test for a Welsh licensing authority to obtain that information if it was not provided or if permission was not given and someone was being obstructive or unhelpful? Would that not be part of satisfying that test? So, essentially, if they do not agree to have that information disclosed, they know that they will fail the test. Authorities will not be required to co-operate in the same way if someone has already agreed for that information to be disclosed.

[114] **Peter Black:** Absolutely. The local authority would expect that an applicant who is subject to a fit-and-proper-person test would provide all the information that they require of them. If someone withheld information and was later found to be doing so, the local authority

may take the view that they are no longer a fit-and-proper person because they have withheld information from that authority.

[115] A number of organisations have given evidence to the Communities, Equality and Local Government Committee on trying to set up a national register of mobile homes in Wales and sharing information across Wales. There is a duty to collaborate in the Bill, so it is right that we take account of those cross-border issues as a part of that. It is reasonable that we ask the Minister to provide guidance or regulations to local authorities on sharing information across the border as well as between them. So, the provision is there and whether the Minister wishes to take it up is a matter for him or her.

[116] **Vaughan Gething:** Would you envisage that being in place—

[117] **David Melding:** I am keen to bring Simon in on this particular point. I do not want us to be too narrow in our focus, but we have to relate all our questions and grilling to the use of subordinate powers. Some of these things are, inevitably, slightly more policy focused, which I am sure is something the Stage 2 committee will be very interested in. However, that is not our focus.

[118] **Simon Thomas:** Mae gennyf gwestiwn bach ond difrifol. Mae nifer o'r safleoedd hyn ym Mhowys, fel y byddwch yn gwybod. A oes unrhyw safle yn croesi'r ffin—hanner yng Nghymru a hanner yn Lloegr? Hyd yn oed os nad oes ar hyn o bryd, sut y byddai'r Bil hwn yn gweithio mewn sefyllfa o'r fath?

**Simon Thomas:** I have a brief but serious question. There are a number of these sites in Powys, as you will know. Are there any sites that straddle the border—half in Wales and half in England? Even if there are not at present, how would this Bill work in such a situation?

[119] **Peter Black:** I am not aware of any site that straddles the border.

[120] **Simon Thomas:** It is quite possible, though, is it not?

[121] **Peter Black:** It is possible, yes. I would envisage that the two sides of the site would be subject to different Bills. That is the consequence of devolution, is it not? They would be in the same situation as Chester City Football Club. [*Laughter.*]

[122] **David Melding:** I envisage that the Stage 2 committee might be very interested in that particular eventuality.

[123] **Vaughan Gething:** I want to move on to transitional provisions. You state that these would be required to explain how holders of licences under the current regime will be transferred. That goes back to Eluned's point on commencement provisions. You have partly answered this by saying that there is lots of subordinate legislation, and that there is not a commencement date on the face of the Bill because you want that dealt with, but, would you be able to give any idea about when you would expect sections of the Bill to come in? Would different sections come in at different points, or would you expect the whole Bill to come in as a single regime? How do you expect transitional arrangements to be set out for both the licensing authorities, who will have new duties, as well as the people holding the licences, who will have new duties and obligations themselves?

[124] **Peter Black:** Given that the Bill creates a single licensing regime, I expect that it would have to be commenced as a whole. That is how I would envisage it being done. Any necessary regulations or Orders would have to be in place before you could do that. That is how I understand that it would operate. The need for transitional arrangements is another reason why we do not have a commencement date on the face of the Bill. The Ministers will



determine how the transitional arrangements have to be put in place. One of the transitional arrangements that needs to be put in place is a possible financial resolution by the Government in terms of doing everything necessary in relation to finances to fund the implementation of this Bill. We are discussing with the Government, particularly around transitional arrangements. I am hoping that further meetings will lead to some changes. Ultimately, that will be a matter for the Minister. The Minister will have to determine what transitional arrangements he would like to see. I am not in a position to determine Government policy on that particular aspect.

[125] **Vaughan Gething:** This goes back to the balance of the Bill, which we dealt with earlier on—how much should be on the face of the Bill and how much should be in legislation. In the Communities, Equality and Local Government Committee, I know that the Member for Brecon and Radnorshire, whom you might know, made some points about this—

[126] **David Melding:** We all know that Member. [*Laughter.*]

[127] **Vaughan Gething:** Indeed. The Minister set out that he thought that there should be more on the face of the Bill and he made comments about transitional arrangements being on the face of the Bill. Are you able to tell us anything about the state of your discussions with the Welsh Government about the balance of what is on the face of the Bill and how and where you expect to get to those transitional arrangements? It is in everyone's interest to have a clear idea. We may have a better idea as this Bill progresses. Is this part of the conversations that you are already having, especially given what the Minister said in evidence to the committee?

[128] **Peter Black:** All I can say is that I anticipate that Government officials will come back at the next meeting with some concrete amendments for Stage 2 that will take forward and put into effect the Minister's desire to have more on the face of the Bill. Until I see those amendments, I cannot comment on what they contain.

3.25 p.m.

[129] **David Melding:** You touched on an important point at the end. Obviously, we are a legislative process and things change—there are amendments and discussions. However, it is important to the work of our committee that we pass some sort of judgment on a definitive version before it is discussed at Plenary and any final amendments are debated at that stage, so we would like to be kept informed, particularly of significant changes in the way that something that is not on the face of the Bill is put on to the face of the Bill. I suspect that it will not happen in reverse, so that something on the face of the Bill will be removed and put into a regulatory power. However, we would be interested to follow any change that you make to the use of the affirmative and negative procedures. We note that, on one or two areas, you have indicated that you are minded to move to the affirmative procedure, and as I said, generally, for the reasons that we have outlined, we welcome that when we discuss these matters, usually with Ministers, but with you, in this case, as a private Member—

[130] **Peter Black:** I will be happy to take note of the committee's report, and I will want to look at the recommendations closely. I do not want to alienate the committee as part of that.

[131] **David Melding:** Are there any further questions?

[132] **Suzy Davies:** I have one, if you will indulge me, Chair. I think that it is a merits question, so I hope that I can ask it—

[133] **David Melding:** You can ask it, but how relevant I will say it is to our report and the work of the committee is unknown.

[134] **Suzy Davies:** It follows on from a question that Vaughan asked earlier about the purpose of this, which is to create a licensing regime that is for the benefit of the mobile home owners as much as anything. Yet my understanding is that it creates a legal relationship between the local authority and the licensee, namely the site owner. What happens if you have a situation in which a mobile home owner goes to the local authority to complain that the licence has been broken, but the local authority is either dilatory or not particularly interested? There is no covenant arrangement in here that obliges the local authority to take enforcement action when the complaint has come from a mobile home owner rather than it being something that it has discovered is amiss.

[135] **David Melding:** You may want to answer to improve our general knowledge of the context—

[136] **Suzy Davies:** There are powers to enforce, I see that, but what if the local authority does not do so?

[137] **Peter Black:** I refer you back to section 17(2), under which Welsh Ministers can give guidance to local authorities on enforcement. However, in general terms, this Bill creates duties on the part of local authorities to administer a licensing regime, and I would expect them to do so in a fair and equitable manner. There are maladministration issues if a local authority fails to act in that way and fails to deal with a valid complaint in that way. So, a mobile home owner could also have recourse to the ombudsman if they felt that the local authority was acting in breach of its administrative duties.

[138] **Suzy Davies:** Okay. It is just that we come across it in planning occasionally, and it would be nice to know that it does not happen here.

[139] **David Melding:** Thank you, Peter. I do not know whether you want to add anything finally, but I think that we have had a good session. We are grateful that you were so well prepared and answered our points in a lucid and concise manner. Do you want to add anything now?

[140] **Peter Black:** No, that is fine. Thank you.

[141] **David Melding:** You are grateful to be making an exit, probably, after 50 minutes of questions. I thank you very much and I thank Gwyn as well. We will have a break before the Minister comes in for the second evidence session.

*Gohiriwyd y cyfarfod rhwng 3.29 p.m. a 3.36 p.m.  
The meeting adjourned between 3.29 p.m. and 3.36 p.m.*

[142] **David Melding:** I welcome everyone back to this meeting of the Constitutional and Legislative Affairs Committee and the second part of our evidence session on the Regulated Mobile Homes Sites (Wales) Bill. I am very grateful to the Minister for Housing, Regeneration and Heritage, Huw Lewis, for his attendance, as this Bill relates to the work of his department.

[143] Huw, I want to start on this whole issue of your having put us in a slightly surprising situation, in that you feel that the balance perhaps is a bit too much in favour of regulation, Order and guidance powers, rather than what is on the face of the Bill. Could you explain your thinking there and, perhaps, how you are working to put that balance right? That sort of judgment about where the balance lies is one that our committee often makes.

[144] **The Minister for Housing, Regeneration and Heritage (Huw Lewis):** Thank you,

Chair. First of all, it is worth reiterating that the Government's position is that we see Peter Black's Bill as potentially having a very good and necessary effect overall, and we are keen at all points to be as constructive a partner as is possible in terms of getting good legislation in this regard onto the statute book. Having said that, there has been a recurring theme in discussions between my officials and Peter Black concerning the issue of what appears on the face of the Bill and what ends up as subordinate legislation. To give a 'for instance' that might help to clarify exactly what I am saying, Part 4 of the Bill covers the management of regulated sites, and sections 28 and 29 are a case in point. Section 28 provides a discretionary power for Ministers to approve a code of practice by Order, laying down standards of conduct and practice. On the other hand, section 29 places a duty on Welsh Ministers to make regulations to ensure that, in respect of every regulated site, there are satisfactory management arrangements and that satisfactory standards of management are observed. You could therefore ask yourself: could we not craft management regulations to cover what is needed there, and is that not a case of over-egging the regulation?

[145] There have been very positive discussions of this and related issues, however. I know that you heard from Peter Black just a little while ago, but the Welsh Government has suggested that we change our approach slightly in terms of how this legislation is drawn up. In doing so, we could mitigate quite a number of issues with regard to statutory instruments and regulations and so on being overly onerous. I could run through—

[146] **David Melding:** We will go into the detail. You are obviously minded to see the balance shifted a bit. We will be probing whether that balance is likely to result in strengthening what is on the face of the Bill or using more affirmative procedures. That generally tends to be a view that we welcome more than giving too much power to Ministers. As I said, we are in a situation in which we are scrutinising a Minister who seems to be in keeping with the natural prejudice of this committee—I use 'prejudice' in a Burkean sense, not in a derogatory sense.

[147] **Huw Lewis:** I was not quite sure how to take that. [*Laughter.*]

[148] **David Melding:** I want to ask about a technical issue that relates to discussions that you or your officials have had with the UK Government and any questions of competency. I think that you will understand why we are asking that. Perhaps the officials would like to contribute on that.

[149] **Huw Lewis:** Yes. I will ask my officials to respond in terms of the specifics around contact with UK Government officials. The Presiding Officer agrees that there are no competence issues here and no outside body has raised any qualms regarding competence. As regards the UK Government specifically, Huw?

[150] **Mr McLean:** No. We have not had any representations to date.

[151] **David Melding:** I like short answers. How very emphatic; we do not need to elaborate.

[152] **Simon Thomas:** I would like to ask a couple of questions in Welsh. While you are tuning into the translation channel, Minister, I would like to say, Chair, that I have a holiday caravan, but, from my examination of this legislation, it is clear that it does not refer to holiday sites, only residential sites. I just wanted to be clear on that for the avoidance of doubt and so forth.

[153] Mae gennyf gwestiwn ar y Bil. I have a question on the Bill. You have Rydych eisoes wedi dweud eich bod am already said that you would like to change the newid y pwyslais yn y Bil o ran yr hyn sydd emphasis of the Bill in terms of what is on

ar wyneb y Bil a'r hyn sy'n cael ei ddelifro drwy reoliadau ac offerynnau statudol ac ati. O edrych ar y Bil cyfan, a ydych yn hapus ei fod yn cynnwys yr holl rymoedd y dymunwch eu gweld ar gyfer gweithredu pwrpas y Bil? A yw pob grym y dymunwch ei gael, fel Gweinidog, ynddo?

the face of it and what will be delivered through regulation and statutory instruments et cetera. Looking at the whole Bill, are you content that it includes all the powers that you would like to see in order to enact its purpose? Are all the powers that you would like to have, as a Minister, within it?

[154] **Huw Lewis:** Yes. Coming back to this issue of competence, I cannot see anything in the Bill that is beyond the competence of devolved legislation and nothing that is insufficient either.

[155] **Simon Thomas:** That is what I was really asking about: insufficiency, more than going beyond competence.

[156] **Huw Lewis:** Yes. It seems that we can complement very well what is going on across the border in England, where there are developments, and we can institute a regime that is even more thorough and that should not cause any problems in terms of cross-border issues, for instance. So, no.

[157] **Simon Thomas:** A yw'r Bil, fel y mae yn awr, yn rhoi pwerau i chi, fel y Gweinidogion ar hyn o bryd, nad oes angen ar Weinidogion, yn eich barn chi? Yr un cwestiwn yw, ond wedi'i ofyn mewn ffordd wahanol. Rwyf am wneud yn siŵr eich bod yn hapus gyda siâp y grymoedd sydd yn y Bil: nid cymaint gyda'r ffordd y mae'r Bil yn dyrannu'r grymoedd, ond yr holl becyn o rymoedd sydd gennych ynddo.

**Simon Thomas:** Does the Bill, as it stands, give you, as the Ministers at present, powers that Ministers do not need, in your opinion? That is the same question, but put in a different way. I want to be sure that you are happy with the shape of the powers provided in the Bill: not so much with the way in which the Bill apportions the powers, but the whole package of powers provided to you within it.

[158] **Huw Lewis:** Yes. I do not think that there is any danger of over-empowering Welsh Ministers and that causing any issues here. We are dealing with specifics. It is probably worth mentioning our intention to work alongside Peter Black on a slightly different approach as regards the licensing regime. I do not know whether Peter Black has mentioned this to the committee.

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

[160] **Huw Lewis:** The Bill as originally drafted talked about two licensing regimes existing simultaneously. Our proposal to Peter Black is that we would like to get hold of and preserve the Caravan Sites and Control of Development Act 1960, but create new provisions within it around the fit-and-proper-person test that would sit alongside the current site licensing legislation. In other words, we would continue with the current site licensing regime instead of setting up a wholly new one, and we would amend existing legislation to implement the new fit-and-proper-person test so that we would have a Welsh fit-and-proper-person test running alongside an England-and-Wales licensing regime for sites. So, we would avoid a lot of the legislative burden, if you like, of having a wholly separate Welsh site licensing regime alongside the original Act.

3.45 p.m.

[161] **Simon Thomas:** So, you may need to derive your powers from a different place.

[162] **Huw Lewis:** Yes, from the 1960 Act.

[163] **Simon Thomas:** You said earlier, with regard to discussions with Westminster, that there had been no representations to date, but does this change in tactic mean that you will now approach Westminster? Does it mean that you will need that more in-depth discussion now, because you are going in an England-and-Wales direction? I appreciate why, but it is going into a slightly different direction, is it not?

[164] **Huw Lewis:** This is a matter of practicality, in that it should be simpler and it should give us less of an issue around the burden of supplementary legislation, Orders and so on. We would see the thrust of the Bill on the face of the Bill to a much greater extent and it would also institute a fit-and-proper-person test for Wales that can fit snugly and run in parallel with the England-and-Wales licensing regime for the sites.

[165] **Simon Thomas:** This would mean that you would need less regulation.

[166] **Huw Lewis:** Yes.

[167] **Simon Thomas:** You would be able to derive more direct primary powers and there would be less need for regulations, in effect.

[168] **Huw Lewis:** Quite so, and it should defeat a lot of the issues that have been ongoing in discussions between ourselves and Peter Black in terms of that imbalance between what is on the face of the Bill and what is not.

[169] **David Melding:** So, this would become an amending Act, would it? I am slightly lost here.

[170] **Huw Lewis:** I will ask Helen to explain.

[171] **Ms Kellaway:** As there are some provisions in Peter Black's Bill that are already in existing legislation, what we might do is put the fit-and-proper-person test in existing legislation to run alongside that rather than implement it in the Bill with the fit-and-proper-person test. So, we would be amending that legislation.

[172] **David Melding:** Would the amending be done in this legislation? That is what I am a bit confused about, or would you have to bring in an amending Bill?

[173] **Ms Kellaway:** It will be done in Peter Black's Bill.

[174] **David Melding:** Okay.

[175] **Huw Lewis:** I must underline that discussions are ongoing with Peter as far as I am concerned.

[176] **David Melding:** We will cover some of this by asking you to keep us informed of changes as this Bill is taken through the system, but I do not want to anticipate other questions. Suzy is next.

[177] **Suzy Davies:** Both you, Minister, and Peter Black have indicated that discussions are ongoing. I do not think that we were aware that they were ongoing in quite this particular direction; it is news to us. In terms of what you have just said in particular, can you give us some reassurance here that any changes will come before this committee in plenty of time for us to consider them thoroughly and that we are not put in a position where we have to look at things at very short notice? Not just us, but the subject committee that will be dealing with this as well.

[178] **Huw Lewis:** I understand. This is not my Bill, and that is worth reiterating at every stage, but I would obviously want to keep the committee informed of any amendments at the appropriate stage, so that there would be no barrier there. The reason why I mention these ongoing conversations with you today is to do just that, to ensure that the committee is not dealing with a situation that is out of time or passed.

[179] **Suzy Davies:** Exactly.

[180] **David Melding:** We would think it important that, by the time we reach Stage 3 and this issue is being discussed in Plenary, we have been able to pass a robust judgment on the balance in terms of delegated powers. We naturally realise that this is a legislative process and so we do not have a fixed point now, but the situation that emerges after Stage 2 is a significant one and that is why we would want to perhaps return to this and reflect on the changes that have been made and on what our judgment would be about the balance that has been struck.

[181] **Huw Lewis:** Of course, Chair, and I can see why.

[182] **Suzy Davies:** You mentioned earlier, Minister, that you cannot envisage Welsh Ministers being over-empowered. However, I have a question about the number of negative procedure elements to the Bill, as it is currently drafted. I take on board what you said earlier, that it might look quite different in some time. However, I am particularly worried about the areas of exemption, revocation, and where a potential criminal offence is involved. How open are you to changing the emphasis of a lot of this regulation from negative to affirmative, in terms of procedure? Is it an open door?

[183] **Huw Lewis:** As far as I am concerned, yes, it is; however, you must remember that it is not my Bill. As I say, a large amount of this could be mitigated by moving towards the use of the 1960 Act. Things such as the majority of statutory instrument making would follow a negative procedure and we can move away from that problem to a large extent.

[184] **Suzy Davies:** Can you clarify that? Are you saying that the existing 1960s legislation favours the negative procedure?

[185] **Huw Lewis:** No, I did not say that.

[186] **Suzy Davies:** All right. I am sorry; I am trying to work out what you said.

[187] **Huw Lewis:** We would not be making, and we will not be relying on, statutory instruments and regulations as much as we would have done under the original set of proposals. Therefore, that swathe of making powers under negative procedures should fall by the wayside. I am right in saying that, am I?

[188] **Mr McLean:** Yes, you are.

[189] **Suzy Davies:** So, they just fall away from the picture altogether.

[190] **Mr McLean:** Yes, probably.

[191] **Huw Lewis:** So, we would lose a chunk of that. Anything that amends an Act of Parliament, or an Act of the Assembly, would have to be made by the affirmative procedure anyway.

[192] **Ms Kellaway:** Yes, that is usually the case, in line with the Welsh Government

guidelines that were referred to in the previous meeting. The guidelines usually set out when affirmative and when negative SIs are to be used; it depends on the nature of the SI-making powers as to what procedure is used. Those are the guidelines that the Welsh Government would follow.

[193] **Suzy Davies:** However, as you say, this is not a Welsh Government Bill.

[194] **Ms Kellaway:** No, but I believe that those guidelines are available to the committee as well.

[195] **Suzy Davies:** That is all I wished to ask, Chair.

[196] **David Melding:** I believe that part of the issue is that, if we are relying more on the 1960 Act, which may set firmer parameters for the regulatory powers—or it may just be more constricted in what it allows you to do—and they are currently negative, in terms of the procedure, you could tweak that so that they become affirmative, in our version. Is that not the case? We would be interested to know whether you might be minded to strengthen the way that the delegated powers are scrutinised. It is an answer in principle that we are after.

[197] **Huw Lewis:** In principle, yes, of course. Government amendments could be a way of getting this right, obviously. I have no objection, in principle, at all.

[198] **David Melding:** Okay. Eluned has the next questions.

[199] **Eluned Parrott:** I want to talk about the timetable and the schedule by which we could achieve the policy objectives that are set out in this Bill. I note that the commencement powers are conferred on you by the Bill. Can you give us an idea of when you would intend to commence the Bill?

[200] **Huw Lewis:** This is tied up with the passage of the Bill through the Assembly, and the timetable that that will dictate to a large extent. I would say again that if we can decrease the amount of subordinate legislation that is required, the timescale would speed up considerably. Therefore, our pitch to Peter Black, and to you, would be that that amendment of the 1960 Act would make the timetable considerably shorter in any case. I would like to see the whole thing commencing as soon as we possibly could manage. However, I hope that you will understand—particularly as this is not a Government Bill—that I cannot give dates with any kind of reliability at all.

[201] **Eluned Parrott:** I wish to ask, therefore, about the subordinate legislation that remains in the Bill; if it is amended in the way that you suggest, the need for some of it will be removed, but there will still be a significant amount of subordinate legislation to be implemented. Therefore, what kind of work are you currently doing to ensure that that can be moved forward in a timely fashion?

[202] **Huw Lewis:** That has been looked at. Could you fill us in on that, Helen?

[203] **Ms Kellaway:** We are looking at what is in the 1960 Act at the moment. In the First Schedule, exemptions have been set out, so we are looking at whether we need the SI-making power in terms of exemptions, for example, where a site licence would not be required, to avoid any duplication between the two licensing schemes.

[204] **Eluned Parrott:** In the explanatory memorandum, with the current burden of subordinate legislation, it suggests that 12 to 24 months could be viewed as a reasonable time frame. Do you think that making more significant amendments to the Bill at this point in time, rather than shortening the overall time frame, risks shortening the time frame for

commencement once the Bill is passed, but actually lengthening the time frame for deliberation of the Bill and getting it passed in the first place?

[205] **Huw Lewis:** Much of that depends on Peter Black's attitude towards a slightly different tactical approach, if you like, which is aimed at the same result. Then again, I think I need a lawyer here. Would you anticipate that the timescale would be stretched out at this—

[206] **Ms Kellaway:** No. If we are not duplicating provisions, I would say that it is more likely to be quicker rather than longer. However, we need to get the amendments right because we need a system that can work and we do not need duplication on the statute book, either. We do not need two licensing schemes to be in operation at the same time. So, there is an argument for getting it right first time.

[207] **Huw Lewis:** This legislation would be with us for keeps. To get the simplest legal route towards an agreed result would be worth the effort and worth co-operating upon, because this piece of legislation will be there for some considerable time. Making good law is better than making quick law, obviously, although we are all interested in commencement being as soon as possible.

[208] **David Melding:** Simon, do you want to follow that up?

[209] **Simon Thomas:** Hearing what you have just said, Minister, and having looked—briefly, for the last 20 minutes as we have been talking—at the present Bill as presented to us, I struggle to see how you can amend this Bill and achieve your objectives. I can see you achieving your objectives by nicely asking Mr Black to withdraw his Bill in favour of your much improved Government version; is that something that is being considered?

[210] **Huw Lewis:** This is Peter Black's and will remain Peter Black's legislation. What we are very keen to do—

[211] **Simon Thomas:** However, with regard to the way in which it is presented, you have to gut this and fill it with your own suggested way forward. You may have the virtue of several of the concerns of the committee here regarding the balance between regulatory powers, SIs and primary legislation, and you may be able to address those concerns very well in your proposals, but that is quite a significant amendment to this Bill.

[212] **Huw Lewis:** You could call it 'significant'; I think you could also call it 'efficient' and even 'elegant'. I know from discussions with Peter Black that these are avenues that he has considered. The Welsh Government did not come up with this in glorious isolation. I know that there were simultaneous thoughts passing through Peter Black's mind as well. So, we obviously need to work through the discussions with Peter to ensure that everyone understands each other's position. However, it is quite a substantive change in tactic in terms of how we can more efficiently—

[213] **Simon Thomas:** The legislative approach is different, is it not?

[214] **Huw Lewis:** Yes.

[215] **Simon Thomas:** I accept that the aim is the same, but the legislative approach, from what you have told us today, is different to the one that is set out in the present Bill.

[216] **Huw Lewis:** Yes, absolutely, but I would not see that as a game of one-upmanship with a Member who is trying to do something good here, which we all agree is a good thing to do. It really is just about co-operative working to ensure that we get there as efficiently and as quickly as we can and, crucially, to address that imbalance problem with regulations on the



face of the Bill, and so on.

4.00 p.m.

[217] **David Melding:** It is back with you, Eluned.

[218] **Eluned Parrott:** I wish to confirm that you have discussed this very significant change with the Member in charge of the Bill, and that he is happy to proceed and to discuss this with you.

[219] **Huw Lewis:** Officially, my officials have done so. I think I am right in saying that.

[220] **Mr McLean:** Yes, we had extensive discussions with Peter Black only last week, and we have had regular meetings with the Minister all along.

[221] **Huw Lewis:** I have also had indirect political discussions with Peter, but that is probably not a matter for reporting to committees. I am reasonably content that the goodwill and close co-operation that has evidenced itself throughout this process is continuing.

[222] **Eluned Parrott:** I want to move on to discuss some of the specific issues to do with cross-border provisions in the Bill. Obviously, the explanatory memorandum refers to there being a need for regulations and guidance to address matters such as the exchange of information with local authorities outside Wales regarding site owners and managers who operate sites not only in Wales, but in other parts of the UK, and how that might work in practice. What discussions have you had with your officials to determine how that might be implemented?

[223] **Huw Lewis:** Obviously, these things have been discussed. Again, the situation could change. I was going to say that it could change markedly for the better, but it is not so much for the better as to put us in a much simpler situation if we were to go down the route of amending the 1960 Act. Essentially, we would continue with a site-licensing regime that was England-and-Wales based. So, we would have additional safeguards within Wales, but we would not have an interpretation problem in terms of the existing regime, which would continue across the border.

[224] **Eluned Parrott:** One of the critical things in that, obviously, is a fit-and-proper-person test, which may be highly dependent on the information being shared across borders. How, do you think, will that be resolved if you are not setting up a licensing procedure that is specific to Wales? Is that fit-and-proper-person test the same in Wales as it is in the England and Wales regulations that you are referring to? I am afraid that I do not know the 1960 Act that you refer to.

[225] **Huw Lewis:** I could not say that I could recite it back to you, Eluned. There is no fit-and-proper-person test in the England and Wales regime as it currently exists; so, as far as that goes, we are setting up an entirely new safeguard within the boundaries of Wales.

[226] **Eluned Parrott:** So, there is a cross-border issue in terms of looking at people who are operating sites both in England and Wales, because they will not need to have a fit-and-proper-person test in England. However, there may be issues as to whether or not they are a fit-and-proper person, which will be information kept by English authorities rather than Welsh ones.

[227] **Huw Lewis:** That is why we need very careful thinking in terms of the test being a good one. We must make sure that cross-border issues, particularly as regards owners of multiple sites and so on, are compatible with the tests, and that we do not have a situation

where someone can wriggle out of elements of the test because they already happen to be running sites across the border. They would need to satisfy our test, within our parameters, within Wales, regardless of whether they happen to have multiple sites, wherever they may be. So, the test has to be watertight. Other than that, it is hard to see what more you could do in law to make that situation any better. That is as far as you could go and as watertight as you could get.

[228] **Ms Kellaway:** The fit-and-proper-person test would be on the face of the Bill rather than left to regulations, as it is in England. So, whatever we need to include in that test will, hopefully, be in the Bill itself.

[229] **Eluned Parrott:** What implications are there for that, in terms of requiring authorities outside Wales to respond to requests for information and things along those lines? Are you content that that will be possible?

[230] **Huw Lewis:** That is a more tricky question. The requirements are upon the person in the first instance—the individual concerned has to provide guarantees, information and so on. In terms of local authorities, I assume that you mean the English local authorities. I do not think that we can legislate for that, literally.

[231] **Ms Kellaway:** That is something we can give support to as we propose Government amendments—the sharing of information in terms of that.

[232] **David Melding:** It may be followed up by the scrutiny committee, anyway, because it is a bit more policy-related than our role, strictly speaking, but it is a relevant issue.

[233] **Huw Lewis:** It is an important question and will need to be explored.

[234] **David Melding:** Which is why I allowed it, sir. [*Laughter.*] Vaughan is next.

[235] **Vaughan Gething:** Good afternoon, Minister. A number of the questions that I was going to ask about transitional provisions appear to have been slightly pushed to one side given your statement about the Welsh Government's suggestion about how the scheme of the Bill should work in any event. I guess some of this is hypothetical, but if the current scheme were to continue as laid out by the Member, would you able to give us any idea, or to expand on your previous statement, about transitional arrangements needing to be on the face of the Bill? I appreciate that the scheme that you are proposing, or suggesting that your officials have been talking to the Member in charge about, would essentially change the transitional nature of the arrangements and make it much quicker, but there would still, nevertheless, be transitional arrangements. I would be grateful if you could give us an idea of how you would see those working if the scheme that you are talking about is adopted, and how that contrasts with the current draft that the Member has placed in front of us?

[236] **Huw Lewis:** I realise that we are in a slightly odd situation here. It is not ideal for the committee to be exposed to a semi-evolved negotiation at this point in time. You are right: there will still be transitional arrangements. I think that, again, there is a streamlining effect if we take the Welsh Government's suggestion here in good faith. Perhaps, for the detail of this, I need you again, Helen.

[237] **Ms Kellaway:** If we introduce a fit-and-proper-person test into the 1960 Act, there may be fewer transitional provisions than if we move from one system to another system where you would have detailed transitional provisions, which have not been worked up yet. We would be looking at that during the formation of the Government amendments.

[238] **Vaughan Gething:** Is it your position that you expect to table amendments to set out

that alternative scheme, including a fit-and-proper-person test that might be on the face of the Bill, in Stage 2 amendments? I know that your official was talking about Government amendments, or is it the case that you expect or hope to be able to seek agreement on that alternative scheme for the legislation?

[239] **Huw Lewis:** Agreement is good. I want to underline here that there is no sense of competition over the legislation between the Welsh Government and Peter Black. This is Peter Black's legislation, and the Welsh Government wants it to work. So, from my perspective, whatever works most efficiently and quickly would be the best thing to do. This is still the property of Peter Black; it is a Member-proposed Bill, so I feel a little uncomfortable answering that question. It is a question that primarily should be put to him. Either avenue would be workable, would it not? I would welcome a discussion on which is more efficient, not just workable. That is all that really matters.

[240] **Ms Kellaway:** I do not think that you can ignore the 1960 Act in this Bill. You need to consider what we already have in legislative terms, and where this is going. The Bill did not deal with the 1960 Act, so we are trying to work our way forward to where we can introduce a fit-and-proper-person test that will work with the existing legislation.

[241] **Vaughan Gething:** My final question is on the discussions about how you would see the scheme of this Bill moving forward. Just to be clear, you would want a fit-and-proper-person test with conditions laid out on the face of the Bill that this Assembly would be asked to pass.

[242] **Huw Lewis:** Yes.

[243] **Vaughan Gething:** In terms of that test, would you see there being any accompanying regulation-making power or a requirement for additional regulation, or will all the necessary terms be on the face of the Bill, including what applicants who wish to hold licences and licensing authorities will need to do to apply that test?

[244] **Huw Lewis:** That is a bit too technical for me. Helen?

[245] **Ms Kellaway:** It depends on what form the amendments take. It is a little early to say what that will be at this stage. We can look at some of the statutory instrument-making powers in Peter Black's Bill to see whether there is any duplication with existing legislation as we look at the amendments.

[246] **David Melding:** If the fit-and-proper-person test will be on the face of the Bill, for example, and if there are any SI powers to add, amend or change the definition, as the primary definition would be on the face of the Bill, would you accept that the delegated powers ought to have the affirmative procedure under those circumstances?

[247] **Huw Lewis:** Yes, they would need to be, I think.

[248] **David Melding:** Thank you; that is very clear. Simon and Suzy, you indicated that you still have issues that you wish to raise.

[249] **Simon Thomas:** I have one small question following Vaughan's question about transitional arrangements. It is hypothetical at the moment because it is not in this Bill, but this Bill does not deal with the transitional arrangements either—it pushes them down into regulations. If you are going to use the 1960 Act and bring in a test, this Act is a registration or licensing regime in itself. Therefore, would it be the intention to bring everyone from day one on board, or would holders of current licences have to end their licence period before they stood a fit-and-proper-person test? Are there elements of transitional arrangements that you

have to make in that regard?

[250] **Huw Lewis:** Again, this has been talked through. Huw, you have had discussions with Peter Black about this, have you not?

[251] **Mr McLean:** Yes. There will have to be some type of transitional arrangements, as there were with the change between houses in multiple occupation registration and the HMO licensing scheme, an element of which was on the face of the 2004 Act.

[252] **Simon Thomas:** That is what I wanted to ask you—it is not so much about the detail of that but whether you would put it on the face of the Bill or rely on regulations.

[253] **Mr McLean:** Yes, I think that you would have to put that on the face of the Bill.

[254] **David Melding:** Suzy?

[255] **Suzy Davies:** That was my question, Chair.

[256] **David Melding:** Do we have any further points before we close? I see not. I will just say what I said to Peter Black. There are obvious indications that there will be quite a lot of work for the Stage 2 committee, and some changes, amendments or even a new legislative approach, as Simon called it. So, I think that we will want to say something before Stage 3 so that we can have a definitive look at what emerges from Stage 2 by way of delegated powers. Anything that you can do to aid in that and keep us abreast of the thinking and changes being made would be appreciated. I said to Peter that we are particularly keen to see where the Bill could be strengthened by putting things on the face of the Bill, and, well, you have a very radical way of doing that, if I may put it that way. However, where delegated powers are used, there is a presumption to do significant work by the affirmative procedure and restrict technical administrative matters broadly to be done by the negative procedure. We are always keen to see the scrutiny procedure strengthened by those in charge of Bills—usually Ministers, but, in this case, the Member. The main element of our work is to look at how delegated powers are given and used by the responsible agents, usually Ministers.

[257] I do not think that we have anything further to add, unless you have, Minister, at this stage.

[258] **Huw Lewis:** No, Chair, except to say that any further assistance that can be given will be extended. I will underline my apologies for enforcing the timing of my appearance before committee before we have a complete resolution about some of the tactical ways in which we could deliver the legislation most efficiently. However, I am confident that we can get that agreement very soon.

[259] **David Melding:** Thank you. I am very grateful for your attendance and that of your officials this afternoon.

4.15 p.m.

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

[260] **David Melding:** I move that

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

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

*Derbyniwyd y cynnig.  
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 4.15 p.m.  
The public part of the meeting ended at 4.15 p.m.*