



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

**Y Pwyllgor Iechyd a Gofal Cymdeithasol  
The Health and Social Care Committee**

**Dydd Mercher, 27 Tachwedd 2013  
Wednesday, 27 November 2013**

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Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynnddi 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**

Leighton Andrews	Llafur Labour
Rebecca Evans	Llafur Labour
William Graham	Ceidwadwyr Cymreig Welsh Conservatives
Elin Jones	Plaid Cymru The Party of Wales

Darren Millar	Ceidwadwyr Cymreig Welsh Conservatives
Lynne Neagle	Llafur Labour
Gwyn R. Price	Llafur Labour
David Rees	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Lindsay Whittle	Plaid Cymru The Party of Wales
Kirsty Williams	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats

**Eraill yn bresennol  
Others in attendance**

Mike Lubienski	Uwch-gyfreithiwr, y Tîm Gofal Cymdeithasol, Llywodraeth Cymru Senior Lawyer, Social Care Team, Welsh Government
Julie Rogers	Dirprwy Gyfarwyddwr yr Is-adran Deddfwriaeth a Pholisi Gwasanaethau Cymdeithasol, Llywodraeth Cymru Deputy Director Social Services Legislation and Policy Division, Welsh Government
Gwenda Thomas	Aelod Cynulliad, Llafur, Y Dirprwy Weinidog Gwasanaethau Cymdeithasol Assembly Member, Labour, The Deputy Minister for Social Services

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

Helen Finlayson	Second Clerk Ail Glerc
Joanest Jackson	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Llinos Madeley	Clerc Clerc
Lisa Salkeld	Cynghorydd Cyfreithiol Legal Adviser
Sarah Sargent	Dirprwy Glerc Deputy Clerk

*Dechreuodd y cyfarfod am 09:16.  
The meeting began at 09:16.*

**Cyflwyniad, Ymddiheuriadau a Dirprwyon  
Introductions, Apologies and Substitutions**

[1] **David Rees:** Good morning. I welcome Members to this morning's session of the Health and Social Care Committee. This morning, we will continue the Stage 2 scrutiny of the Social Services and Well-being (Wales) Bill. I remind Members that the meeting is bilingual and that headphones can be used for simultaneous translation from Welsh to English on channel 1, or for amplification of the sound on channel 0. Please turn off your mobile phones and any other electronic equipment that may interfere with the broadcasting equipment. I

have just noticed that mine is not off. There is no scheduled fire alarm today, so if the fire alarm goes off, please follow the directions of the ushers. We have not received any apologies.

09:16

**Y Bil Gwasanaethau Cymdeithasol a Llesiant (Cymru): Cyfnod 2—Trafod y  
gwelliannau  
Social Services and Well-being (Wales) Bill: Stage 2—Consideration of  
amendments**

[2] **David Rees:** I welcome the Deputy Minister for Social Services to this morning's meeting. With her, she has Julie Rogers, the senior responsible officer for the Bill, and Mike Lubienski, who is a lawyer. I remind you that only the Deputy Minister will be speaking in this Stage.

[3] Stage 2 proceedings of the Social Services and Well-being (Wales) Bill began on 13 November. During that meeting, we debated groups 1 to 12 and completed sections 2 to 17 of the Bill. They were therefore deemed to be agreed. Members will be aware that further amendments have been tabled since 13 November, and that the marshalled list and groupings list have been revised and reissued.

[4] Today's proceedings will follow the same structure as the previous meeting. The order in which amendments will be called and moved for decision will be determined by the marshalled list. Amendments have been grouped for debate, and there will be one debate on each group. At the start of each debate, I will call the proposer of the group's lead amendment who should move the lead amendment and speak to all amendments in that group. I will then call other Members who wish to speak to any amendments in that group. I will particularly call Members who have submitted amendments in that group.

[5] The Member with the lead amendment will then be called to reply to the debate. In those groups where the Deputy Minister does not have the lead amendment, I will call her as the penultimate speaker. Following each debate, I will ask the Member who moved the lead amendment to confirm whether they wish to proceed to a vote on the amendment. If not, the Member may seek agreement to withdraw the amendment. If it is not withdrawn, I will put the question on the amendment and ask whether any Member objects to the amendment being agreed. If no Member objects, the amendment will be deemed agreed in accordance with Standing Order 17.34. If any Member objects, I will call for a vote by a show of hands. The vote will be recorded in the minutes. In accordance with Standing Orders, if there is a tied vote, as Chair, I will exercise the casting vote against the amendment.

[6] For the record, only committee members can move the amendments. In accordance with the convention agreed by the Business Committee, as Chair, I will move the amendments tabled in the name of the Deputy Minister. Thank you very much. We have gone through that formal process, so let us get on with the business.

09:19

**Grŵp 13: Rheoliadau ynghylch Asesu (Gwelliannau 93, 22, 94, 113, 96, 181 a 408)  
Group 13: Regulations about Assessment (Amendments 93, 22, 94, 113, 96, 181 and 408)**

[7] **David Rees:** The lead amendment in the group is amendment 93, and I call on William Graham to move amendment 93 and to speak to the amendments in this group.

[8] **William Graham:** I move amendment 93 in my name.

[9] This amendment will change the wording of the Bill so that regulations must have further provision about carrying out needs assessments. The intention is to make this section of the Bill stronger, and provide a legal duty on the authority.

[10] Amendment 94 leaves out the regulation that may provide for who may carry out an assessment, because we are inserting amendment 96, which places a duty on a local authority to specify a person with the necessary skills to undertake an assessment. The Bill, as currently drafted, only states that regulations 'may...provide for'. We feel that regulations must provide details as to who will be eligible to carry out an assessment.

[11] Amendment 113 will ensure that regulations may provide for,

[12] 'the steps that a local authority must take for the purpose of ensuring that an assessment is carried out in an appropriate and proportionate manner.'

[13] Amendment 96 will ensure that the,

[14] 'Regulations must specify the persons or descriptions of persons who have the necessary skills to carry out an assessment.'

[15] Amendment 181 will ensure that regulations,

[16] 'must provide for the carrying out of needs assessments by the most appropriate person.'

[17] **Leighton Andrews:** On a point of order, Chair, may I ask Members to speak up, because this is a very cavernous room? I would not want to miss the opportunity to be persuaded by William's rhetoric. [*Laughter.*]

[18] **David Rees:** I am sure that Members have heard that.

[19] **William Graham:** I think that you can use the amplification if you cannot hear.

[20] **David Rees:** Well done, William. Lindsay, do you wish to speak to amendment 408?

[21] **Lindsay Whittle:** Yes, Chair, thank you very much. I will speak to amendment 408, which is tabled in my name, and grouped with William Graham's amendments. I feel that, unless there is a right of appeal, decisions will remain at the top in this particular Bill. If the Bill is truly about putting people who need help and support at the heart of decision making, then they must have the right to appeal against the outcome of an assessment. Without this right to appeal, the whole process of developing care plans will remain very much a top-down approach, where the decision will be the one that the professionals want and not the person who is receiving the care. The amendment also strengthens the wording by changing 'regulations may' to 'regulations must'. What I am proposing is that the Bill does not allow discretion on the part of the Government to make provisions about appeals against assessment decisions, but that the right to make such appeals should be an essential part of the decision-making process.

[22] **David Rees:** Does any other Member wish to speak? I see that you do not. I therefore call on the Deputy Minister.

[23] **The Deputy Minister for Social Services (Gwenda Thomas):** Thank you, Chair. The way in which local authorities and their partners carry out assessments will be essential to

the success of this Bill and the quality of care and support that people in Wales receive. It is only right, therefore, that the Welsh Ministers have the power to set out clearly further detailed provision about carrying out needs assessments. This is what section 18 does. For this reason, I welcome and support amendment 93, tabled by William Graham. The result will be that the Welsh Ministers must make regulations in this area when the Bill comes into effect.

[24] Section 18(2)(f) provides that the regulations made by the Welsh Ministers may include provision regarding the review of assessments. This is included because it is important for people to have the ability to question decisions that are made in relation to their assessments. It is my expectation that regulations will be clear on how people can go about requesting a review and what the local authority must do in response. Amendment 408, tabled by Lindsay Whittle, seeks to strengthen this further by amending section 18 to include powers to make provision regarding appeals against assessment decisions.

[25] While I think that the spirit of these amendments is close to my own position, there is, I feel, a difference between a review of a decision and an appeal against it. In my view, the latter indicates a more formal official process, which may need to be adjudicated by a third party. While this is not something that I necessarily disagree with, what does give me pause for thought is that we are already creating a complaints process through Part 10 of the Bill. I do not consider that a two-tier complaints process would be helpful.

[26] There is also the matter of the regulations regarding the review of care and support plans provided for in section 39(g). This makes clear that any such regulations may specify the particular circumstances in which those plans must be reviewed. I think that any argument for an appeal process would apply equally to this area, and considering assessment decisions in isolation now would, perhaps, only be improving half of the picture. Instinctively, I think that the most important outcome is that we make clear the right of an individual—or indeed their family—to request a review of their assessment or care plan. That is the right way to proceed, rather than to introduce a new tier. What I am saying is that I would like more time to think about how we deal with this particular issue. I will consider these matters further so that I may return to this at Stage 3. I would be grateful if Lindsay Whittle would consider not moving this amendment 408 today.

[27] Turning now to amendments 94, 96, 113 and 181, these seek to add further and more-detailed provisions that must be made under regulations in section 18 in respect of who can carry out assessments. The amendments would include a requirement to specify the persons, or descriptions of persons, who have the necessary skills to carry out an assessment, to make sure that that person is an appropriate person, and to set out the steps that a local authority must take to ensure that an assessment is carried out in an appropriate and proportionate manner.

[28] I am clear that the ability for a local authority to arrange for another person to carry out aspects of an assessment is a useful way of freeing up social-worker time in the system. I also agree that the assessment should be undertaken by the most appropriate person. This will be someone who is best placed to understand the person's needs and the care and support opportunities available to them; for example, I see there being a greater role for primary care and, in some cases, secondary care professionals to carry out low-level assessments.

[29] We will, nevertheless, need to set out clearly the skills and any professional qualifications that we may require of people who undertake assessments. I consider that the powers in section 18 are already broad enough to provide for this to happen. I draw Members' particular attention to section 18(2)(b), which makes provision about the way in which an assessment is to be carried out, by whom and when. Also, section 18(2)(d) makes provision about the consideration to which a local authority is to have regard in carrying out an

assessment. I ask Members, therefore, to reject amendments 94, 96 and 181.

[30] Moving now to amendment 113, this amendment also proposes an additional example to be added to the list of matters to be dealt with in assessment regulations, namely that the steps that the local authority takes to carry out an assessment are appropriate and proportionate. It is my view that this is unnecessary and duplicates, to some extent, the example at section 18(2)(d). The existing provision refers to considerations to which a local authority is to have regard in carrying out an assessment, whereas amendment 113 introduces the steps that a local authority must take and so on.

[31] I concede that amendment 113's formulation, which, I must point out, is taken directly from the UK Care Bill, helpfully includes the concept of proportionality. As Members will be aware, I have said before that this will be a core feature of our new system. Indeed, the ability to undertake an assessment based on an individual's needs and circumstances, rather than on a standard and lengthy document, is central to making social services more efficient. The detail of what is meant by proportionate assessment will already be set out in the regulations on the code of practice. This is a commitment that I gave to the Health and Social Care Committee in response to its recommendation in this area.

[32] Ahead of this, the new integrated assessment for older people, which will be issued in the winter following a recent consultation, will provide a clear framework on proportionality in the assessment process. The consultation paper included a clear indication of intent by setting out a guiding statement that:

[33] 'The depth and detail of the assessment and care and support planning process should be proportionate to the individual's needs.'

[34] Provision in sections 10, 12 and 15 already make clear on the face of the Bill that assessment should be proportionate, and regulations under section 18 can make further provision about the way in which assessments are carried out and the considerations to which the local authority should have regard.

09:30

[35] Finally, and with my thanks to you, Chair, for allowing me expand at length on this important issue, I turn to my amendment 22 to section 18. This amendment has been brought forward to achieve consistency of drafting as a consequence of amendment 11, 15 and 21, which we considered in group 11 at the last committee session. They dealt with the involvement of the person with needs or their carer in the assessment process. At that time, I explained that this amendment ensured that individuals were involved in the assessment process and not only consulted.

[36] **William Graham:** Once again, I pay tribute to the Deputy Minister's charming spirit with which she responds to the rejection of our amendments. We are coming at this with a common purpose, but the emphasis is not always the same. We also have concerns, as did the committee originally, with regard to the potential wait for the regulations and code of practice. No doubt, many of these amendments will recur in Stage 3, Chair.

[37] **David Rees:** William, do you wish to proceed to a vote on amendment 93?

[38] **William Graham:** Yes, please.

[39] **David Rees:** The question is that amendment 93 be agreed to. Does any Member object? There are no objections, therefore amendment 93 is agreed.

*Derbyniwyd gwelliant 93 yn unol â Rheol Sefydlog 17.34.  
Amendment 93 agreed in accordance with Standing Order 17.34.*

[40] **David Rees:** We will now move on to deal with the other amendments.

*Cynigiwyd gwelliant 22.  
Amendment 22 moved.*

[41] The question is that amendment 22 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections, therefore amendment 22 is agreed.

*Derbyniwyd gwelliant 22 yn unol â Rheol Sefydlog 17.34.  
Amendment 22 agreed in accordance with Standing Order 17.34.*

[42] **David Rees:** William, would you like to move amendment 94?

[43] **William Graham:** I move amendment 94 in my name.

[44] **David Rees:** The question is that amendment 94 be agreed to. Does any Member object? There is objection, therefore we will move to a vote.

*Gwelliant 94: O blaid 5, Ymatal 0, Yn erbyn 5.  
Amendment 94: For 5, Abstain 0, Against 5.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Graham, William  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Pleidleisiodd yr Aelodau canlynol yn erbyn:  
The following Members voted against:

Andrews, Leighton  
Evans, Rebecca  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).  
As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 94.  
Amendment 94 not agreed.*

[45] **David Rees:** William, would you like to move amendment 113?

[46] **William Graham:** I move amendment 113 in my name.

[47] **David Rees:** The question is that amendment 113 be agreed to. Does any Member object? There is objection, therefore we will move to a vote.

*Gwelliant 113: O blaid 5, Ymatal 0, Yn erbyn 5.  
Amendment 113: For 5, Abstain 0, Against 5.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Graham, William  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay

Pleidleisiodd yr Aelodau canlynol yn erbyn:  
The following Members voted against:

Andrews, Leighton  
Evans, Rebecca  
Neagle, Lynne  
Price, Gwyn R.



Williams, Kirsty

Rees, David

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).*

*As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 113.  
Amendment 113 not agreed.*

[48] **David Rees:** William, would you like to move amendment 96?

[49] **William Graham:** I move amendment 96 in my name.

[50] **David Rees:** The question is that amendment 96 be agreed to. Does any Member object? There is objection, therefore we will move to a vote.

*Gwelliant 96: O blaid 5, Ymatal 0, Yn erbyn 5.  
Amendment 96: For 5, Abstain 0, Against 5.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Graham, William  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Pleidleisiodd yr Aelodau canlynol yn erbyn:  
The following Members voted against:

Andrews, Leighton  
Evans, Rebecca  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).*

*As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 96.  
Amendment 96 not agreed.*

[51] **David Rees:** William, would you like to move amendment 181?

[52] **William Graham:** I move amendment 181 in my name.

[53] **David Rees:** The question is that amendment 181 be agreed to. Does any Member object? There is objection, therefore we will move to a vote by show of hands.

*Gwelliant 181: O blaid 5, Ymatal 0, Yn erbyn 5.  
Amendment 181: For 5, Abstain 0, Against 5.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Graham, William  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Pleidleisiodd yr Aelodau canlynol yn erbyn:  
The following Members voted against:

Andrews, Leighton  
Evans, Rebecca  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).*

*As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 181.  
Amendment 181 not agreed.*

[54] **David Rees:** Lindsay, would you like to move amendment 408?

[55] **Lindsay Whittle:** In view of the Deputy Minister's commitment to revisit this at Stage 3, and given that her thinking is very close to mine, I will not move amendment 408 in my name supported by William Graham.

[56] **David Rees:** I am required to ask whether any other Members wish to move amendment 408. I see not.

*Ni chynigiwyd gwelliant 408.  
Amendment 408 not moved.*

**Grŵp 14: Dehongli (Rhan 3 o'r Bil) (Gwelliant 23)  
Group 14: Interpretation (Part 3 of the Bill) (Amendment 23)**

[57] **David Rees:** The lead and only amendment in this group is amendment 23. I move the amendment in the name of the Deputy Minister and call on the Deputy Minister to speak to amendment 23.

[58] **Gwenda Thomas:** This is a small, but nonetheless important group. Amendment 23 inserts a new section into the Bill on interpretation for the purpose of Part 3. This new section will provide clarity in relation to the meaning of 'information, advice and assistance' and 'preventative services'. The new section will put beyond doubt that wherever the term 'information, advice and assistance' is used in Part 3, it means such information, advice or assistance provided under section 8. Similarly, where the term 'preventative services' is used, it is to be read as those services provided under section 6 of the Bill. Members will recall that, during Stage 1, some witnesses sought clarity on the definition of 'preventative services'. The advisory group to this committee commented that it would not wish to see a prescriptive list of preventative services. Therefore, I have followed the recommendation of this committee to give greater clarity and I have done so by this new section on interpretation. I hope that Members will be able to support this amendment.

[59] **David Rees:** Are there any Members who wish to speak? I see that there are none. Therefore, Deputy Minister, unless you want to reply to nothing, I ask you whether you wish to move to a vote on amendment 23.

[60] **Gwenda Thomas:** Yes, please.

[61] **David Rees:** The question is that amendment 23 be agreed to. Does any Member object? There are no objections, therefore, in accordance with Standing Order 17.34, amendment 23 is agreed.

*Derbyniwyd gwelliant 23 yn unol â Rheol Sefydlog 17.34.  
Amendment 23 agreed in accordance with Standing Order 17.34.*

**Grŵp 15: Dyfarnu Cymhwysra ac Ystyried Diwallu Anghenion (Gwelliannau 119, 242, 120, 243, 244, 24, 121, 245, 499, 25, 26, 97, 60, 63, 27, 504, 122A, 122, 123, 124, 505 a 537)**  
**Group 15: Eligibility and Consideration of Meeting Needs (Amendments 119, 242, 120, 243, 244, 24, 121, 245, 499, 25, 26, 97, 60, 63, 27, 504, 122A, 122, 123, 124, 505 and 537)**

[62] **David Rees:** The lead amendment in this group is amendment 119. I call on Kirsty Williams to move amendment 119 and speak to all amendments in this group.

[63] **Kirsty Williams:** I move amendment 119 in my name supported by William Graham.

[64] I have a number of amendments in this group and I will try to deal with them in logical sections. Amendments 119, 120 and 121 seek to give effect to the recommendations that this committee made to the Deputy Minister with regard to the rights of disabled children. Recommendations 45 and 46 of the committee's report expressed the concerns that the committee had regarding the repeal of section 17 of the Children Act 1989, and that such a repeal could lead to disabled children having fewer rights under this new legislation than they had under the previous Act. These amendments seek to ensure that disabled children are passported into the system, to have their needs met by the appropriate local authority.

[65] I will turn to amendment 499 with regard to eligibility. For me, eligibility has been the key to this piece of legislation. Knowing how this legislation will affect my constituents and who will be eligible for a service following the passing of this legislation is, for me, fundamental. I am not willing to vote for a piece of legislation unless I have a clear understanding as to its effect on individuals in my constituency and across the whole of Wales. Given the nature of the drafting, it has been impossible to make a judgment on who will be eligible for social services and social care in the way that the Bill is currently drafted. I appreciate that it is nigh on impossible to spell out eligibility criteria on the face of the Bill and that that is, on balance, best left to regulations. In the case of other pieces of legislation that have come past this committee, we have been in a position as committee members to see draft regulations and to consider them alongside the main body of the Bill. However, in this instance, that is not the case.

[66] The committee made a recommendation with regard to eligibility that the Deputy Minister should make an oral statement prior to this stage so that we had a clearer understanding of that eligibility. I note that a statement has been published, although it is regrettable that that was a written statement and not a statement to the Chamber, where Members could have questioned the Deputy Minister on the content of that statement. What the statement clearly sets out is the expectation that the new national eligibility criteria—I have no objection to setting national criteria—will be set at the current level of 'substantial'. I have grave concerns that those individuals in our communities that have 'moderate' needs, as currently classed under the system, will no longer be entitled to a service. I acknowledge that the vast majority of local authorities only currently provide services at a substantial level, but there are local authorities that do provide services at a moderate level. I am concerned that those individuals will no longer be entitled to a service under this legislation if it is passed. Of course, there could be debate as to what constitutes 'moderate', but I know that there are many in the third sector outside of the Chamber who have grave concerns that those people who require assistance with feeding themselves, washing and those very basic tasks, will no longer be eligible for support under this system. Amendment 499 looks to ensure that those people who have moderate levels of need and above will have an opportunity to be eligible for social care in the future.

[67] I move on to amendments 60 and 63. As I said previously, recommendation 20, agreed by all of us on this committee, asked the Deputy Minister to bring forward a statement on eligibility and that written statement was made. As I said, I understand why it is

impossible to include, on the face of the Bill, the details of eligibility criteria. Therefore, I would like to suggest, via these amendments, a superaffirmative procedure for dealing with regulations that deal with eligibility at a later date. Amendments 60 and 63 give rise to that superaffirmative procedure.

[68] Superaffirmative procedures are strange creatures at the National Assembly for Wales. There is no set procedure and each one of them can be devised. Amendment 63 suggests that the consultation list would apply to consultation on subsequent regulations and is based on membership of the advisory group. These regulations are too important to be left to any procedure that does not expose them to the widest level of consultation and scrutiny.

[69] If I am correct, my last amendment in this group is amendment 122 with regard to aids and adaptations. In recommendation 59 of the committee's report, we are concerned about how the legislation would provide for aids and adaptations, given that the Deputy Minister had confirmed that sections 1, 2 and 28A of the Chronically Sick and Disabled Persons Act 1970 were to be repealed in Wales. We also noted, as a committee, that that legislation made specific recommendations with regard to aids and adaptations, but that this legislation did not, and we are seeking to capture the rights to aids and adaptations, which are vital services to help people to maintain their independence and to act as a preventative service, and they should be explicitly mentioned on the face of the Bill.

[70] **David Rees:** Thank you. I will call other Members who have amendments first. William?

[71] **William Graham:** I wish to speak to amendment 242. This amendment inserts new subsections to section 19, which refer to the determination of eligibility in the consideration of what to do to meet needs. It provides greater clarity for local authorities by listing reasons whereby it would be necessary to provide care and support. My amendment 243 is consequential to that and amendment 244 removes section 19(1)(b), as that section will have been addressed in the provision in amendment 242. My amendment 245 is consequential to 242. Amendment 97 inserts a requirement on local authorities to provide information to an individual, even if they do not meet the eligibility criteria, to receive support from the local authority. Amendments 123 and 124 are consequential.

[72] **David Rees:** Thank you, William. Elin, do you wish to speak?

[73] **Elin Jones:** Diolch, Gadeirydd. Fe wnafl siarad am welliant 537 yn fy enw. Bydd Aelodau yn cofio o'r cyfarfod diwethaf fy mod i wedi cyflwyno nifer o welliannau i'r Bil hwn i gryfhau'r hawl i dderbyn gwasanaethau trwy gyfrwng y Gymraeg. Wrth drafod y gwelliannau yn y cyfarfod diwethaf, gwelsom eu bod wedi eu geirio mewn ffordd a oedd yn gosod hawl ar wyneb y Bil i unigolion gael gwasanaethau yn eu dewis iaith. Fodd bynnag, yn dilyn rhywfaint o adborth gan Aelodau a oedd yn bryderus y gallai hynny olygu unrhyw iaith sy'n cael ei siarad yng Nghymru, tynnais welliant 478 yn ôl, a oedd wedi cael ei ddrafftio yn y modd hwnnw, a chyflwyno gwelliant 537, sydd yn fwy *specific* o ran diwallu anghenion.

**Elin Jones:** Thank you, Chair. I will speak to amendment 537 in my name. Members will recall from the previous meeting that I tabled a number of amendments to this Bill that seek to strengthen the right to services through the medium of Welsh. When discussing these amendments during the previous meeting, we saw that they were worded in a way that would set on the face of the Bill the right of individuals to receive services in their language of choice. However, following some feedback from Members who were concerned that that could mean any language that is spoken in Wales, I withdrew amendment 478, which had been drafted in that way, and put forward amendment 537, which is more specific in terms of meeting needs.

09:45

[74] Os oes cais yn cael ei wneud gan oedolyn, plentyn neu ofalwr am wasanaethau drwy gyfrwng y Gymraeg, bydd rheidrwydd ar yr awdurdod lleol, wrth asesu'r angen hwnnw, i ddarparu gwasanaeth drwy gyfrwng y Gymraeg. Felly, rwy'n credu, yn yr adran hon, yn benodol, fod gosod hynny ar wyneb y Bil yn bwysig iawn o ran sicrhau bod unigolion bregus ag arnynt angen cefnogaeth a gofal yn medru eu derbyn yn eu dewis iaith—hynny yw, yn y Gymraeg os ydynt yn gwneud cais am hynny.

If an application is made by an adult, child or carer for services through the medium of Welsh, there is a requirement on the local authority, in assessing that need, to provide that service through the medium of Welsh. Therefore, I believe that, in this section specifically, placing that on the face of the Bill is extremely important in terms of ensuring that vulnerable individuals who need care and support can receive that care and support in their language of choice—that is, through the medium of Welsh if they request it.

[75] **David Rees:** Thank you, Elin. Lynne, do you wish to speak?

[76] **Lynne Neagle:** Yes, please, Chair. I wanted to speak to amendment 119 from Kirsty, in a similar vein to what I said last week, really. I have been very anxious to ensure that, as we take this Bill forward, we do not do anything that diminishes the position of disabled children. I am mindful that Kirsty withdrew her amendment last week following a commitment from the Deputy Minister to work with her on this issue. I would just want to flag up that I understand that the Government is looking at automatic eligibility for people with complex disabilities, which is welcome, but I would also say that, in relation to children, I would have some concerns about it just being children with complex disabilities, because that calls into question issues of definition, and I do not think that it would provide the same kind of protection that they have under section 17 of the Children Act 1989.

[77] In relation to the issues of eligibility, in particular amendment 60 from Kirsty Williams, again, I have a lot of sympathy for this amendment, having raised many concerns throughout Stage 1 about the need for further clarity on the eligibility criteria. I understand that the Deputy Minister is giving an assurance that the committee will play a full role in scrutinising the regulations as well as the normal list of consultees, and I would be grateful if the Deputy Minister could give some more detail about that today, because I think that it is very important, as we go forward, that we have those kinds of safeguards in place.

[78] **David Rees:** Does any other Member wish to speak?

[79] **Lindsay Whittle:** Through you, Chair, on amendment 63. We have a list provided for us of consultees for the purpose of that amendment. It is a lengthy list, as you would expect, but it is not exhaustive, I assume. The danger of writing organisations down on a list is that you will exclude, perhaps, an important organisation that we may have missed—it could even be a local organisation that is dealing with individual cases that need help. So I am unhappy about listing organisations, and I am wondering whether the mover of the amendment can advise us how we can overcome that problem.

[80] **David Rees:** I am sure that Kirsty will take the opportunity in her reply to answer that. Do any other Members wish to speak? No. I call on the Deputy Minister.

[81] **Gwenda Thomas:** Thank you, Chair. I will pick up, briefly, three points here to be absolutely clear as to what I have said in the meetings that we have had between Stages, and to reiterate that. I have said that I have asked lawyers to look at the passporting of complex disabilities, and I would want to continue to work with you in that regard. That will be done through regulations, and I would say that those definitions will be designed by stakeholder

groups as well. I hope that we can work with them in getting to that definition of complex disabilities; it is something that I believe in very strongly.

[82] With regard to moderate levels of service, these will be picked up in preventative services. I have tried to explain this, and it will be made clear in a statement. Also, on Kirsty's point on draft regulations being available, I have said, of course, that I will ask the committee to scrutinise these thoroughly, and I have also said that I will be issuing a policy statement before Stage 3 on what is intended to be included and on the policy intention of the Welsh Government. I am grateful to Kirsty Williams, William Graham and Elin Jones for bringing forward amendments to this important area. I will deal with each of these in turn before I set out the action that the Government is already looking to take as regards eligibility.

[83] In respect of amendment 60, tabled by Kirsty Williams, as I understand it the purpose of this amendment is to place conditions on Welsh Ministers' powers in relation to the making of regulations on the determination of eligibility and consideration of what to do to meet the needs in section 19. The key effects of this amendment would be to require Welsh Ministers to consult with a range of partners before laying regulations before the National Assembly, which explain the proposals, and to also meet with a number of other requirements in terms of the laying and the production of the draft regulations.

[84] Amendment 63 gives effect to recommendation 20, as Kirsty has said—the committee Stage 1 report—to provide the superaffirmative procedure. Amendment 63 seeks to place a list, as Lindsay Whittle has also said, of specific organisations with which Welsh Ministers must consult when undertaking consultation. Of course, I respect the wish to see that there is full stakeholder engagement in the development of eligibility criteria so that there is clarity and transparency on the circumstances where a person is deemed to be eligible. It is simply not in the interests of this Government to implement legislation without consulting. It is an important part of ensuring that those concerned know of any changes, can contribute to them and are ready to make the changes required to their business or other activities. Any Government has a clear stake in successful implementation of its policies, and consultation is an important part of successful implementation.

[85] In terms of how such consultation takes place, however, the Government of Wales Act 2006 already requires the Welsh Government to consult local authorities and the business and voluntary sectors. In addition, the practice of consulting with interested parties prior to making secondary legislation is well established.

[86] As regards the specific list, suggested by amendment 63—and I also take Lindsay Whittle's point—I think that including such a list in primary legislation is over-restrictive. There are many more organisations that we work with that will need to be involved. This approach would run the risk of missing key stakeholders and would not take account of any new organisations that emerge over time. It is for this reason, which I have just set out, that I would ask Members to oppose amendments 60 and 63.

[87] I will turn next to amendment 97, tabled by William Graham. I recognise the intention of this amendment and I believe that such a proposal could complement the duties that the Bill will place on local authorities in respect of preventive services. However, I have some concern that the amendment, as drafted, may be too prescriptive and would not allow sufficient flexibility to meet the range of circumstances that might apply. I will give this matter some consideration and would hope to return with a proposal at Stage 3. On that basis I would ask William Graham to withdraw that amendment.

[88] Turning to amendments 119, 120 and 121, tabled by Kirsty Williams, our policy is that all children will be supported where they have a need for care and support. There is a wide spectrum of disability, and many parents do not want their children to be stereotyped

automatically. Each child should be considered on their own unique circumstances. Our policy is to ensure that all disabled children have equal opportunity and are supported to be independent to live a good quality of life. For disabled children who require an additional level of protection, we feel that the system will offer a number of safeguards to ensure that we support them to maximise their wellbeing and achieve outcomes that are important to them. I therefore ask Members to reject amendments 119, 120 and 121 bearing in mind what I said at the beginning with regard to the definitions and to dealing with amendment 116. In respect of amendment 122, tabled by Kirsty Williams, the Government has tabled amendment 122A. This would amend Kirsty Williams's amendment to include reference to 'aids' in place of 'provision of equipment', which, if accepted, will result in aids and adaptations being included with the illustrative list of examples of what may be provided to meet needs for care and support under the Bill. This would maintain the language that has been used by stakeholders and the committee in requesting that this be included following the repeal of the Chronically Sick and Disabled Act 1970. I therefore ask Members to support amendment 122A and to support 122 as amended.

[89] With regards to amendment 123, proposed by William Graham, I welcome the proposed amendment and I am happy to agree to it. The Government is seeking to address a similar issue through amendment 27, which I will set out shortly, and which, if accepted, would further extend the ways in which a local authority may meet the needs. I would ask therefore that committee members support amendment 123.

[90] As regards amendment 124, also proposed by William Graham, I do not consider that this is necessary. The whole Bill is aimed at securing people's care and wellbeing, and supports greater independence. I do not believe, therefore, that amendment 124 adds anything, and I would ask Members to reject it.

[91] Turning to William Graham's amendments 242, 243, 244 and 245, these refer in part to new ways to describe categories of persons who are eligible for assessment. They tie in with amendments 234 and 238, which were rejected as part of group 11 at the previous committee meeting. They would have cut across the intention of the Bill, because they would fundamentally prejudice the intention to set eligibility for service through the eligibility framework. Insofar as the amendments seek to passport groups that are risk, this is already achieved by the provisions in sections 20, 21 and 23. The proposal does not fit with our vision for a consistent approach to national eligibility criteria that place a duty on local authorities to respond to needs for care and support. We feel, however, that the Bill will provide people with greater support to achieve reasonable standards of health or wellbeing. Any test of reasonableness in this context would run the risk of being subjective, and would vary significantly between individuals. Our policy is to pursue a needs-led approach. For these reasons, I ask that Members oppose amendments 242, 243, 244 and 245.

[92] Elin Jones's amendment, 537, seeks to place a new duty on local authorities to undertake any functions under Part 4 through the medium of Welsh, should that be the preference of the child, adult or carer. The strategic framework for Welsh language services in health, social services and social care, 'Mwy na Geiriau/More than Just Words', is based on language being a need rather than a choice, and this is deliberate, and a concept that I very much passionately support. It would therefore satisfy the needs of Welsh speakers, their families and carers by ensuring that they are actively offered services in their language of need, through the care process. It would also enable people to communicate their needs effectively and, as a result, receive the best possible care. As I set out during a previous committee session, the amendments that I have brought forward in relation to the meaning of wellbeing at section 4 include a new, overarching duty that includes a specific reference to language. This amendment will apply to all those exercising any functions under any section or Part of the whole Act. It will also apply to any language spoken in Wales rather than Welsh alone, which is the focus of Elin Jones's amendment. In addition, the arrangements for the

way in which assessments are to be undertaken will be specified in regulations and underpinned by the code of practice.

10:00

[93] These will reiterate the importance of language need and the ability to communicate with the individual during the assessment process. I feel, therefore, that the amendments to section 4 will not only address the Member's concerns, but are stronger and go further.

[94] Supporting amendment 537, tabled by Elin Jones, also has the potential to confuse the duties in relation to language under the Bill. I therefore request that Members oppose amendment 537—I still have some way to go, I am afraid.

[95] **David Rees:** Are you stopping there, Deputy Minister, or are you continuing?

[96] **Gwenda Thomas:** No, I still have amendments, and I intend to deal with each one.

[97] **David Rees:** Well, we do have a tight schedule, so—. Please continue.

[98] **Gwenda Thomas:** I feel that I have to explain my reasons.

[99] **David Rees:** Go ahead, Deputy Minister.

[100] **Gwenda Thomas:** Amendment 499, proposed by Kirsty Williams, seeks to place on the face of the Bill the circumstances in which the eligibility criteria are met. My statement of November 5 set out why it is important to set the eligibility criteria in regulations and the need to ensure that the criteria for each of the categories of 'child', 'adult' or 'carer' have a differing emphasis and focus, in line with what is important to enable them to achieve wellbeing. I have committed to develop the regulations and the regulatory impact assessment with stakeholders, and to invite the Health and Social Care Committee to comment on the regulations over the formal consultation period, before they are submitted for approval. I have confirmed that again this morning. Adopting this amendment would undermine the ability to progress the work of developing eligibility in close consultation with relevant stakeholders. I therefore ask Members to oppose amendment 499.

[101] I have already spoken about amendment 122A, which I brought forward in response to amendment 122. Amendment 24, as I mentioned as part of the discussions on group 11, ensures links between the assessment and eligibility provisions and the provision of information, advice and assistance and preventative services under sections 6 and 8. This amendment ensures that following the assessment and the determination of eligibility, local authorities have ongoing responsibility to consider whether individuals may benefit from support services from elsewhere, and to do so regardless of the determination of eligibility. This will ensure that those with needs for care and support may be supported in other ways. This is in keeping with my statement of 5 November, which explained how the assessment and eligibility framework supports a whole-system change towards preventing needs of caring.

[102] Amendments 25 and 26 need to be considered together, as they allow regulations to specify criteria based on a description of need, but also, by a combination of needs, the effect that those needs have on an individual and the individual's circumstances. The effect of these amendments is to allow an approach to eligibility that is more varied than merely setting a level on a ranking system.

[103] Amendment 27 is a technical amendment to ensure clarity of drafting. Amendment 505 is also a technical amendment to remove an incorrect reference to immigration control.



Taken together, the amendments that I have put forward here strengthen eligibility provisions considerably. Therefore, once again, I strongly urge Members here today to support the amendments that I have set out so far.

[104] The final amendment in this group relates to how local authorities may meet needs. Amendment 504 seeks to include in the range of examples under section 22 an explicit reference to direct payments. This amendment has been tabled in response to amendment 75, tabled by William Graham, which will be discussed in group 24, when I will also be setting out what other actions I am taking as regards direct payments. Without wishing to rehearse that discussion now, it is my view that amending section 22 in this way will help to make it clear that direct payments are an example of what local authorities may provide, or arrange to be provided, to meet needs. I think that this strikes the right balance between being clear that direct payments are an option for anyone who is to have their needs met under sections 21 to 29 of the Bill, while ensuring that we do not give any indication that this should become the default method of service delivery.

[105] I must refer here, once again, to Mark Isherwood, as this responds to a recent discussion that I have had with him, when, in response to the above point, he asked what could be done to bring greater equality treatment of direct payments with other methods of delivery. That is intended to refer to amendment 504, which I fully discussed with Mark Isherwood.

[106] **David Rees:** Thank you, Deputy Minister. I am sure that Members appreciate your full response to the amendments, so do not worry about that matter.

[107] I call on Kirsty to reply to the debate.

[108] **Kirsty Williams:** Thank you very much, Chair, and I thank the Deputy Minister. It is absolutely crucial, Chair, that the Deputy Minister has the opportunity to provide the fullest responses, because what is said in this committee and the record of what the Deputy Minister says here could potentially be used in a court of law to aid the interpretation of the legislation. So, it is really important that the Deputy Minister has as much time as she needs to establish on the record her intentions, because that could later be used by practitioners and lawyers to interpret the law.

[109] On amendment 122, I will be supporting the Deputy Minister's amendment 122A to change the wording to include a specific mention of 'aids'. My amendment talked about equipment on the basis of the legal advice that I had received that this was the most appropriate terminology, but I am happy, if the Deputy Minister is happy, to use the established term of 'aids'.

[110] On amendments 119, 120 and 121 with regard to disabled children, I have had discussions outside committee with the Deputy Minister on how we can ensure that the rights of disabled children are not diminished by this legislation and will continue those discussions with the caveat that, if I am not convinced that the Deputy Minister's policy goes far enough, I will bring them back at Stage 3. Therefore, I will withdraw and not move these amendments today.

[111] With regard to amendment 499 on eligibility, I am afraid that the Deputy Minister's statement today has gone no further towards clarifying the ability of those with moderate needs to obtain a service. Therefore, my concerns remain.

[112] With regard to amendments 60 and 63, it was the unanimous finding of this committee—and recommendation 20 of our report—that any regulations relating to eligibility arising from this legislation should be subject to the superaffirmative procedure. We did that

on the basis of the evidence that we have heard. I have not received any evidence between the drafting of that committee report and now to suggest that we should change our minds. It is a matter of wonderment to me that Members who sat and heard exactly that same evidence as I did, no longer feel that the superaffirmative procedure is the best course of action. Let us be absolutely clear: without insisting on the superaffirmative procedure, we hand over, as the National Assembly for Wales, the power over who receives social care to Welsh Ministers, forever—not just this Deputy Minister, who has given assurances on her desire to consult with this committee, but to Welsh Ministers, forever. We are handing powers to this Deputy Minister, subsequent Ministers within this Government, or perhaps an absolutely different Government altogether in the future. I regard that handing over of power by Members of the National Assembly for Wales to the Welsh Government as nothing short of reckless. There will be nothing in law that specifically says that consultation is needed. In the future, any changes to who can or cannot get social care in Wales will be a matter for the Minister, without a specific reference in this legislation to the need to consult not only with the National Assembly, but outside it. As I said, I regard that as being nothing short of reckless, because we simply do not know who will be the Minister for social care in years to come. Once this is on the statute book, it will be very difficult to get it off it.

[113] As for the issue with regard to the list, I appreciate that the list is limited. The list of consultees is required in the superaffirmative process—there is a requirement to list somebody—but it is not exhaustive and it does not mean that no-one else can be consulted as part of that superaffirmative procedure; it just lists those organisations that must be consulted. The list is based on the current advisory group. I appreciate that Members may or may not want to support that specific list, but the principle of having a superaffirmative process that enshrines the right of outside organisations and Members of the National Assembly for Wales to have a say in future over who does or who does not require or deserve social care is one that I am not willing to hand over to a Welsh Minister, regardless of the intentions of this Deputy Minister, noble as they are. I am not prepared to hand that over to Ministers who may not share that particular outlook and commitment to consultation.

[114] **David Rees:** Thank you, Kirsty. You have indicated that you wish to withdraw the amendment. Do you wish to withdraw amendment 119?

[115] **Kirsty Williams:** Yes.

[116] **David Rees:** In that case, does any other Member object to the withdrawal of the amendment? I see that there are no objections, therefore the amendment is withdrawn.

*Tynnwyd gwelliant 119 yn ôl gyda chaniatâd y pwyllgor.  
Amendment 119 withdrawn by leave of the committee.*

[117] **David Rees:** We move on now to the next—

[118] **Gwenda Thomas:** Chair, if you will allow me, I will rethink and concede on the superaffirmative process. I have got the message, and I feel that it would be a way of listening to all Members. Having listened to the discussion this morning, I feel that we were possibly doing a lot already, and perhaps it would have turned out better, but I will concede to the committee and consider that.

[119] **David Rees:** I assume that you are talking about considering it for Stage 3.

[120] **Gwenda Thomas:** Sorry?

[121] **David Rees:** Do you intend to consider that now or for Stage 3?

[122] **Gwenda Thomas:** The regulations were already subject to the affirmative procedure and I will bring that in. I do not know what process I have just set in motion. [*Laughter.*]

[123] **Kirsty Williams:** We do not know either.

[124] **Gwenda Thomas:** We will have the officials deal with the process. I do feel that—

[125] **Kirsty Williams:** It is on the record; you cannot take it back now.

[126] **Gwenda Thomas:** I feel that that will be sorted. A solution will be found so that there is full scrutiny of that process.

[127] **David Rees:** That will be at Stage 3. That is what I wanted to clarify, because you had put on record your objection, and I wanted to make sure that we were talking about Stage 3.

[128] We will move on, therefore. We move on to amendment 242. Before we move to a vote on amendment 242, I remind Members that if amendment 242 is not agreed, amendments 243, 244 and 245 will fall. William, would you like to move amendment 242?

[129] **William Graham:** I move amendment 242 in my name.

[130] **David Rees:** The question is that amendment 242 be agreed to. Does any Member object? There is objection, so we will move to a vote by show of hands.

*Gwelliant 242: O blaid 5, Ymatal 0, Yn erbyn 5.*

*Amendment 242: For 5, Abstain 0, Against 5.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Graham, William  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Pleidleisiodd yr Aelodau canlynol yn erbyn:  
The following Members voted against:

Andrews, Leighton  
Evans, Rebecca  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).*

*As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 242.*

*Amendment 242 not agreed.*

[131] **David Rees:** As we move on through the list, I remind you that as amendment 119 was withdrawn, amendments 120 and 121 have fallen. As amendment 242 was not agreed, amendments 243, 244 and 245 have fallen.

*Methodd gwelliannau 120, 243 a 244.*

*Amendments 120, 243 and 244 fell.*

10:13

**Grŵp 16: Gwelliannau Technegol (Rhannau 4 a 5 o'r Bil) (Gwelliannau 502, 503, 425, 28, 35, 36, 131, 134, 137, 506, 138, 140, 513, 514, 515, 516, 293, 431, 432 a 433)**  
**Group 16: Technical Amendments (Parts 4 and 5 of the Bill) (Amendments 502, 503, 425, 28, 35, 36, 131, 134, 137, 506, 138, 140, 513, 514, 515, 516, 293, 431, 432 and 433)**

[132] **David Rees:** The lead amendment in the group is amendment 502. I move amendment 502 in the name of the Deputy Minister. I call on the Deputy Minister to speak to the amendments in this group.

[133] **Gwenda Thomas:** Thank you, Chair. In particular, I wish to draw Members' attention to amendments 137 and 138, the effect of which is to make clear that the requirements set out in section 37 apply to regulations made under sections 34, 35 or 36, whether the regulations are made under all or any of those sections. Amendments 425, 28 and 432 affect the Welsh text only, and ensure clarity and consistency of drafting.

10:15

[134] Similarly, amendments 502, 503, 35, 36, 131, 134, 506, 513, 514, 515, 516, 293, 431 and 433 are all required to ensure the clarity and consistency of the drafting, but amend both the English and the Welsh texts. Amendment 140 corrects a drafting error in section 37. I ask the committee to support these amendments.

[135] **David Rees:** Are there any other Members who wish to speak to these amendments? No? We will therefore proceed to a vote on amendment 502.

[136] The question is that amendment 502 be agreed to. Does any Member object? There are no objections. Amendment 502 is therefore agreed.

*Derbyniwyd gwelliant 502 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 502 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 24.*  
*Amendment 24 moved.*

[137] **David Rees:** The question is that amendment 24 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections. Amendment 24 is therefore agreed.

*Derbyniwyd gwelliant 24 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 24 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 503.*  
*Amendment 503 moved.*

[138] **David Rees:** The question is that amendment 503 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections. Amendment 503 is therefore agreed.

*Derbyniwyd gwelliant 503 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 503 agreed in accordance with Standing Order 17.34.*

[139] **David Rees:** Amendment 121 has fallen.

*Methodd gwelliant 121.*  
*Amendment 121 fell.*

[140] **David Rees:** Amendment 245 has fallen.

*Methodd gwelliant 245.*

*Amendment 245 fell.*

[141] **David Rees:** Before I ask Kirsty to move amendment 499, I remind Members that, if amendment 499 is agreed, then amendment 25 will fall. Kirsty, do you wish to move amendment 499?

[142] **Kirsty Williams:** I move amendment 499 in my name, supported by Lindsay Whittle and William Graham.

[143] **David Rees:** The question is that amendment 499 be agreed to. Does any Member object? We have an objection, therefore we will have a vote by show of hands.

*Gwelliant 499: O blaid 5, Ymatal 0, Yn erbyn 5.*

*Amendment 499: For 5, Abstain 0, Against 5.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Graham, William  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Pleidleisiodd yr Aelodau canlynol yn erbyn:  
The following Members voted against:

Andrews, Leighton  
Evans, Rebecca  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).*

*As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 499  
Amendment 499 not agreed.*

*Cynigiwyd gwelliant 25.  
Amendment 25 moved.*

[144] **David Rees:** We now move on to amendment 25. The question is that amendment 25 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections. Amendment 25 is therefore agreed.

*Derbyniwyd gwelliant 25 yn unol â Rheol Sefydlog 17.34.  
Amendment 25 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 26.  
Amendment 26 moved.*

[145] **David Rees:** The question is that amendment 26 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections. Amendment 26 is therefore agreed.

*Derbyniwyd gwelliant 26 yn unol â Rheol Sefydlog 17.34.  
Amendment 26 agreed in accordance with Standing Order 17.34.*

[146] **David Rees:** William, would you like to move amendment 97?

[147] **William Graham:** I do not wish to move it, if I may not, Chair.

[148] **David Rees:** Does any Member object to that and wish to propose it? I see that no-one does. Therefore, amendment 97 is not moved.

*Ni chynigiwyd gwelliant 97.  
Amendment 97 not moved.*

[149] **David Rees:** Before we move on to amendment 60, Members will wish to be aware that, if amendment 60 is not agreed, then amendments 63, 61 and 62, which were in group 73, and amendments 58 and 59, in group 75, will fall.

[150] Kirsty, do you wish to move amendment 60?

[151] **Kirsty Williams:** On the basis that the Minister has said that she has conceded the principle of establishing a superaffirmative procedure, I am willing not to move amendment 60 today, given that that commitment is on the record.

[152] **David Rees:** Does any other Member wish to move amendment 60? No? Then amendment 60 is not moved.

*Ni chynigiwyd gwelliant 60.  
Amendment 60 not moved.*

[153] **David Rees:** Amendment 63 falls, as amendment 60 has not been moved.

*Methodd gwelliant 63.  
Amendment 63 fell.*

[154] **David Rees:** We now move on to amendment 27.

*Cynigiwyd gwelliant 27.  
Amendment 27 moved.*

[155] **David Rees:** The question is that amendment 27 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections. Amendment 27 is therefore agreed.

*Derbyniwyd gwelliant 27 yn unol â Rheol Sefydlog 17.34.  
Amendment 27 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 425.  
Amendment 425 moved.*

[156] **David Rees:** The question is that amendment 425 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections. Amendment 425 is therefore agreed.

*Derbyniwyd gwelliant 425 yn unol â Rheol Sefydlog 17.34.  
Amendment 425 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 28.  
Amendment 28 moved.*

[157] **David Rees:** The question is that amendment 28 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections. Amendment 28 is therefore agreed.

*Derbyniwyd gwelliant 28 yn unol â Rheol Sefydlog 17.34.  
Amendment 28 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 504.  
Amendment 504 moved.*

[158] **David Rees:** The question is that amendment 504 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections. Amendment 504 is therefore agreed.

*Derbyniwyd gwelliant 504 yn unol â Rheol Sefydlog 17.34.  
Amendment 504 agreed in accordance with Standing Order 17.34.*

[159] **David Rees:** We will deal with amendment 122A first, because it is an amendment to an amendment.

*Cynigiwyd gwelliant 122A.  
Amendment 122A moved.*

[160] **David Rees:** The question is that amendment 122A in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections. Amendment 122A is therefore agreed.

*Derbyniwyd gwelliant 122A yn unol â Rheol Sefydlog 17.34.  
Amendment 122A agreed in accordance with Standing Order 17.34.*

[161] **David Rees:** Kirsty, would you like to move amendment 122?

[162] **Kirsty Williams:** I move amendment 122 in my name.

[163] **David Rees:** The question is that amendment 122 as amended be agreed to. Does any Member object? There are no objections. Amendment 122 as amended is therefore agreed.

*Derbyniwyd gwelliant 122 fel y'i diwygiwyd yn unol â Rheol Sefydlog 17.34.  
Amendment 122, as amended, agreed in accordance with Standing Order 17.34.*

[164] **David Rees:** William, would you like to move amendment 123?

[165] **William Graham:** I move amendment 123 in my name.

[166] **David Rees:** The question is that amendment 123 be agreed to. Does any Member object? There are no objections. Amendment 123 is therefore agreed.

[167] **David Rees:** William, would you like to move amendment 124?

[168] **William Graham:** I move amendment 124 in my name.

[169] **David Rees:** The question is that amendment 124 be agreed to. Does any Member object? We have an objection, therefore we will have a vote by show of hands.

*Gwelliant 124: O blaid 5, Ymatal 0, Yn erbyn 5.  
Amendment 124: For 5, Abstain 0, Against 5.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Graham, William  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Pleidleisiodd yr Aelodau canlynol yn erbyn:  
The following Members voted against:

Andrews, Leighton  
Evans, Rebecca  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).*

*As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 124.  
Amendment 124 not agreed.*

*Cynigiwyd gwelliant 505.  
Amendment 505 moved.*

[170] **David Rees:** The question is that amendment 505 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections. Amendment 505 is agreed.

*Derbyniwyd gwelliant 505 yn unol â Rheol Sefydlog 17.34.  
Amendment 505 agreed in accordance with Standing Order 17.34.*

**Grŵp 17: Cydweithredu Rhwng Awdurdodau Lleol (Gwelliannau 101, 461, 462, 463, 464 a 465)**

**Group 17: Intra-authority Co-operation (Amendments 101, 461, 462, 463, 464 and 465)**

[171] **David Rees:** We will move on to group 17, and after this group we will take a break. Group 17 has a long gap in the voting on certain elements of it; I want to make Members aware of that. Voting on some of the amendments may not take place until next week. It will be important, therefore, to look at the transcript to ensure that we know what was debated. The lead amendment in the group is amendment 101, and I call on Kirsty Williams to move amendment 101 and speak to the amendments in this group.

[172] **Kirsty Williams:** Thank you very much, Chair. I move amendment 101 in my name, supported by Lindsay Whittle and William Graham.

[173] Throughout the earlier consideration of the Bill, concern was expressed about the role of housing and the role that housing plays in establishing wellbeing for individuals. I regard housing as intrinsically linked to achieving health and wellbeing outcomes for individuals, and it should, therefore, be within the remit of the Bill.

[174] Under the Chronically Sick and Disabled Persons Act 1970, there is a clear duty to provide practical assistance in the home and to take housing into consideration. What this amendment seeks to achieve is a requirement to work across authorities to include housing as part of the mix that the local authority has in achieving wellbeing outcomes for its citizens.

[175] **David Rees:** Thank you. Are there any other Members who wish to speak on this group of amendments?



[176] **Lindsay Whittle:** I think that this amendment is worth supporting. It ensures co-operation between departments, and between housing and social services in particular. Speaking as a former housing professional, I think that we have to end silo thinking. Housing, in my opinion, is a crucial part of securing wellbeing for our citizens. I think that the Government's amendments later on, which I doubt that we will debate today, are, perhaps, designed to achieve similar co-operation.

[177] **David Rees:** We will discuss those, but we will not vote on them today.

[178] **Lindsay Whittle:** Okay. Thank you. I fully support this amendment, Chair.

[179] **David Rees:** Do any other Members wish to speak? No? Then I call on the Deputy Minister.

[180] **Gwenda Thomas:** Thank you, Chair. The purpose of amendment 462, tabled in my name, is to insert a new subsection into section 143 of the Bill, which concerns co-operation between officers of a local authority. The effect of this amendment would be to clarify and strengthen the duty on local authorities to make arrangements to promote co-operation between internal officers when exercising any of their functions under the Bill in relation to adults or carers. This is for the purpose of achieving the aims under section 143(2), namely to improve the wellbeing of adults and carers with needs for care and support, to improve the quality of care and support and to protect those who are experiencing, or are at risk of, abuse and neglect.

[181] Government amendment 464 seeks to make the same changes, but this time in relation to subsection 144(2) and arrangements to promote co-operation in relation to children. In so doing, this amendment achieves the aims under subsection 25(2) of the Children Act 2004, as amended by subsection 144(3) of the Bill. In both cases, these amendments specifically relate to co-operation and communication between social services and other key departments within local authorities, including, but not limited to, housing departments and housing officers. Amendments 461, 463 and 465 are consequential to amendments 462 and 464, and ensure the accuracy of the drafting.

[182] In light of the amendments that I am bringing forward in this area, it is my view that amendment 101, tabled by Kirsty Williams, is unnecessary. The purpose of amendment 101 is also to place a duty on the social services function of a local authority to co-operate with a local authority's housing function. However, it does not extend the duty to co-operate to other departments in the local authority. This duty already exists in section 143(1) and is being strengthened by my amendments. Members may also wish to note that amendment 101 addresses co-operation in respect of adults only and does not include children, which is contrary to the people model that is central to the Bill. I ask Members to support Government amendments 461, 462, 463, 464 and 465 and to resist amendment 101.

[183] **David Rees:** Kirsty, do you wish to reply to the debate?

[184] **Kirsty Williams:** No.

[185] **David Rees:** Do you wish to proceed to a vote on amendment 101?

[186] **Kirsty Williams:** Yes.

[187] **David Rees:** The question is that amendment 101 be agreed to. Does any Member object? There are objections, therefore we will go to a vote.

*Gwelliant 101: O blaid 5, Ymatal 0, Yn erbyn 5.*

*Amendment 101: For 5, Abstain 0, Against 5.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Graham, William  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Pleidleisiodd yr Aelodau canlynol yn erbyn:  
The following Members voted against:

Andrews, Leighton  
Evans, Rebecca  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog Rhif 6.20(ii).*

*As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order No. 6.20(ii).*

*Gwrthodwyd gwelliant 101.  
Amendment 101 not agreed.*

[188] **David Rees:** At this point, I think that we should have a break before we move on to the next group.

*Gohiriwyd y cyfarfod rhwng 10:26 a 10:37.  
The meeting adjourned between 10:26 and 10:37*

**Grŵp 18: Dyletswydd i Ddiwallu Anghenion Gofal a Chymorth Oedolyn (Gwelliannau 29 a 30)**

**Group 18: Duty to Meet Care and Support Needs of an Adult (Amendments 29 and 30)**

[189] **David Rees:** Welcome back. Let us move on to the next group. The lead amendment in this group is amendment 29. I move amendment 29 in the name of the Deputy Minister, and I call on the Deputy Minister to speak to the amendments in this group.

[190] **Gwenda Thomas:** Having considered carefully amendments relating to assessment and eligibility, we now move to the first of two groups regarding meeting the care and support needs of individuals—in this case, the needs of adults. Section 21 of the Bill places a duty on a local authority to meet the care and support needs of an adult if conditions 1, 2 and 3, as set out in that section, are met. These conditions include: the adult is ordinarily resident in the authority's area or is of no settled residence and within that area; the adult meets the eligibility criteria; or the authority considers it necessary to meet those needs in order to protect the individual from abuse or neglect or the risk of the same. Condition 3 relates to charges for care and support in relation to adults. The purpose of amendments 29 and 30 is to disapply the duty on a local authority to meet the care and support needs of an adult where that authority is satisfied that a carer is already meeting the adult's needs. The result is that existing provision of care by a carer is taken into account by a local authority when considering whether it must meet specific care and support needs of adults in its area. This amendment is necessary in order to clarify the law and prevent the possibility of making local authorities responsible for meeting an adult's needs where they are already being met through existing relationships with carers. The committee took evidence that clearly upheld the important role that carers play in meeting needs. The potential for these ways of meeting needs being overridden, if local authorities become the default option for meeting care and support needs in all instances, is not one that I think would be welcomed by those in need of care and support, their families or their carers.

[191] It is important to make two further points with regard to these amendments. First, the changes proposed do not mean that an adult with care and support needs cannot have any of

those needs met by the local authority just because they have a carer. Rather, it means that those particular needs that have already been met by a carer do not have to be met instead by a local authority. Secondly, this does not mean that a person who has a carer will not in future be able to have those needs met by a local authority instead. Where the circumstances of an adult or their carers change, the local authority will have to reconsider whether it ought to meet those needs when reviewing the person's care and support plan. Where circumstances change quickly, and perhaps the carer is no longer able to care for the adult's needs, there is already a power in the Bill at section 22(3) to deal with this. A local authority has the power to meet needs without having to complete a needs assessment. On this basis, I look to the committee to support these amendments.

[192] **David Rees:** Are there any Members who wish to speak on these amendments? There are not. In that case, Deputy Minister, do you wish to proceed to a vote on amendment 29?

[193] **Gwenda Thomas:** Yes, please.

[194] **David Rees:** The question is that amendment 29 be agreed to. Does any Member object? There is no objection. Therefore, amendment 29 is agreed.

*Derbyniwyd gwelliant 29 yn unol â Rheol Sefydlog 17.34.  
Amendment 29 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 30.  
Amendment 30 moved.*

[195] **David Rees:** The question is that amendment 30 in the name of the Deputy Minister be agreed to. Does any Member object? There is no objection. Therefore, amendment 30 is agreed.

*Derbyniwyd gwelliant 30 yn unol â Rheol Sefydlog 17.34.  
Amendment 30 agreed in accordance with Standing Order 17.34.*

### **Grŵp 19: Diwallu Anghenion Gofal a Chymorth Plentyn (Gwelliannau 31, 125, 32, 33 a 34)**

#### **Group 19: Meeting Care and Support Needs of a Child (Amendments 31, 125, 32, 33 and 34)**

[196] **David Rees:** The lead amendment in this group is amendment 31.

[197] I move amendment 31 in the name of the Deputy Minister, and I call on the Deputy Minister to speak to the amendments in this group.

[198] **Gwenda Thomas:** The amendments that I have tabled in this group are similar in nature to the two that I have just spoken to in group 18. The amendments in this group are to section 23 of the Bill. Although amendment 31 is the lead amendment in this group, as it is partly consequential to amendment 32, I will start with that amendment. Section 23 sets out the conditions that must be met for a local authority to be under a duty to meet the care and support needs of a child in its area. The first condition is that a child is within the local authority's area. When a local authority is notified under section 98(2) that a child from another area is being accommodated in its area, then the duty to meet needs under section 23 applies. This is currently provided for in section 23(5). However, amendment 33 removes that, and the first part of amendment 32 reinstates that, but within a different part of section 23. This is a technical change for coherence.

[199] Moving to the substantive change brought about by amendment 32, the second part

disapplies the duty on a local authority to meet the care and support needs of a child under section 23(1) in cases where the local authority is satisfied that a child's family or a carer is already meeting those needs. Amendments 31, 33 and 34 are then consequential on the second part of amendment 32 and serve to signpost the disapplication of this power to the relevant places in the Bill and ensure that section 23 reads in a coherent and logical way. The result of these amendments is that existing provision of care by a carer or a child's family can be taken into account by a local authority when considering whether the duty to meet the specific care and support needs of a child applies. This amendment is necessary in order to clarify the law and prevent the possibility of making local authorities responsible for meeting a child's needs where they are already being met by a child's carer or family. This does not mean that a child with care and support needs cannot have any of those needs met by the local authority. Rather, it means that those particular needs that are already being met by the child's family or a carer do not have to be met by a local authority. Neither does the amendment mean that a child's need could not be met by a local authority in the future. When circumstances change, the local authority will have to reconsider whether it ought to begin meeting the child's needs when it refused a care and support plan. In addition, there is already a power in the Bill at section 24(3) to deal with this, through which a local authority has the power to meet needs without having to complete a needs assessment.

[200] I will now turn to speak to William Graham's amendment 125. As I understand it, the purpose of this amendment is to allow for the scope of the conditions under which a local authority may meet the child's needs for care and support to be widened by including,

[201] 'such other acts or omissions as may be specified in regulations'.

10:45

[202] I will listen carefully to William Graham's views on why he is seeking this change. However, section 19, which deals with eligibility, already allows for regulations to be made to explain the cases or circumstances in which a person's needs are to be regarded as meeting the eligibility criteria. It allows for this to be done for an adult, a carer or a child. Therefore, other acts or omissions can already be taken into consideration when a child's needs are to be regarded as meeting the eligibility criteria.

[203] **David Rees:** Thank you, Deputy Minister. William, I call on you to speak.

[204] **William Graham:** In view of what the Deputy Minister just said, I will seek to not move that amendment in due course and negotiate further for Stage 3.

[205] **David Rees:** Thank you. Kirsty, do you wish to speak?

[206] **Kirsty Williams:** Yes. With regard to Government amendment 32, I have some concerns and would seek clarity from the Deputy Minister about how, in practice, the ability of a parent or carer to meet a child's needs will be ascertained. It says here that the local authority would not have to meet the child's needs if those needs are being met by a parent or carer. The issue is, as we know, that parents and carers will always strive to do the very best that they can, and are often very reluctant to admit that they are struggling to provide for their children, because they are frightened of what the consequences may be for them as a family if they admit that. I am concerned that you could end up in a situation, as a result of this amendment, where local authorities are relinquishing their responsibility to provide for a child, because they are able to point to a family that is providing for those needs, regardless of the fact that that family is perhaps very stressed and is struggling to meet those needs, which has a very negative consequence on those carers and the other members of that family.

[207] I would seek clarification as to how a local authority, in interpreting this amendment,

would set about establishing whether those care needs were being met by parents and carers, in a way that demonstrated the free will and the ability of those parents and carers to meet those obligations, rather than naturally assuming, ‘Well, they are doing it, therefore, they must be okay’. I am very concerned that this amendment could lead to a situation where local authorities absolve themselves of responsibility and put additional pressure on families and carers who may be trying as hard as they can, are putting on a brave face and are demonstrating to the council that they can cope, when, really, they should be receiving support from the local authority to do what they are doing. That is my concern about amendment 32.

[208] **David Rees:** Thank you. Do any other Members wish to speak? They do not. Therefore, I call on the Deputy Minister to reply.

[209] **Gwenda Thomas:** All of the needs will be identified at the needs assessment stage, and that will be the judgment of a professional social worker. When it comes to meeting needs, we do not want local authorities to override parents or families—that is the point—and their right to provide care. However, it does not absolve the local authority of its responsibilities or duties. As part of meeting the needs—. I have a note here and I will not pretend that I am not reading it. [*Laughter.*]

[210] **David Rees:** That is okay, Deputy Minister. You can read it; no problem.

[211] **Gwenda Thomas:** Part of meeting needs can be providing care or support for the person caring for a child—a parent, for example—and that is in section 21(e). So, I hope that that is helpful.

[212] **David Rees:** Thank you, Deputy Minister. Do you wish to proceed to a vote on amendment 31?

[213] **Gwenda Thomas:** Yes, please.

[214] **David Rees:** The question is that amendment 31 be agreed to. Does any Member object? There is no objection. Therefore, amendment 31 is agreed.

*Derbyniwyd gwelliant 31 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 31 agreed in accordance with Standing Order 17.34*

[215] **David Rees:** William, you indicated that you do not wish to move amendment 125.

[216] **William Graham:** No, Chair.

[217] **David Rees:** Does any other Member wish to move amendment 125? I see that no-one does. Therefore, amendment 125 is not moved.

*Ni chynigiwyd gwelliant 125.*  
*Amendment 125 not moved.*

[218] **David Rees:** Before we move on to a vote on amendment 32, Members may wish to be aware that if amendment 32 is not agreed, amendment 33 will fall.

*Cynigiwyd gwelliant 32.*  
*Amendment 32 moved.*

[219] **David Rees:** The question is that amendment 32 in the name of the Deputy Minister be agreed to. Does any Member object? There are objections. Therefore, we move to a vote.

*Gwelliant 32: O blaid 9, Ymatal 0, Yn erbyn 1.*

*Amendment 32: For 9, Abstain 0, Against 1.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Andrews, Leighton  
Evans, Rebecca  
Graham, William  
Jones, Elin  
Millar, Darren  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay

Pleidleisiodd yr Aelodau canlynol yn erbyn:  
The following Members voted against:

Williams, Kirsty

*Derbyniwyd gwelliant 32.  
Amendment 32 agreed.*

**Grŵp 20: Dehongli ‘Awdurdod Lleol’ at Ddibenion y Ddeddf (Rhan 4 o’r Bil)  
(Gwelliannau 291 a 292)**

**Group 20: Interpretation of ‘Local Authority’ for the Purposes of the Act (Part 4 of the Bill) (Amendments 291 and 292)**

[220] **David Rees:** This group is in relation to the interpretation of ‘local authority’ for the purposes of Part 4 of the Bill. The lead amendment in the group is amendment 291. I move amendment 291 in the name of the Deputy Minister. I call upon the Deputy Minister to speak to the amendments in this group.

[221] **Gwenda Thomas:** These are technical amendments that seek to provide greater clarity as to the position of children who are looked after by local authorities. Earlier this morning, we considered group 12, which dealt with interpretation of ‘local authority’ for the purpose of the Act in relation to Part 3 of the Bill. This group deals with the same matter but in relation to Part 4 of the Bill. Amendments 291 and 292 ensure that the duty of a local authority in Wales in sections 23 and 24 to meet the needs of a child for care and support does not apply to children looked after by any local authority in Wales, England or Scotland, or by a health and social care trust in Northern Ireland. The duties on local authorities to meet the care and support needs of looked-after children are set out in Part 6 of the Bill. I trust that Members will be able to support these amendments.

[222] **David Rees:** Do any other Members wish to speak? I see that no-one wishes to speak. Deputy Minister, do you wish to proceed to a vote on amendment 291?

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

[224] **David Rees:** The question is that amendment 291 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections; therefore, amendment 291 is agreed.

*Derbyniwyd gwelliant 291 yn unol â Rheol Sefydlog 17.34.  
Amendment 291 agreed in accordance with Standing Order 17.34.*

[225] **David Rees:** We will continue according to the marshalled list.

*Cynigiwyd gwelliant 33.  
Amendment 33 moved.*

[226] **David Rees:** The question is that amendment 33 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections; therefore, amendment 33 is agreed.

*Derbyniwyd gwelliant 33 yn unol â Rheol Sefydlog 17.34.  
Amendment 33 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 34.  
Amendment 34 moved.*

[227] **David Rees:** The question is that amendment 34 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections; therefore, amendment 34 is agreed.

*Derbyniwyd gwelliant 34 yn unol â Rheol Sefydlog 17.34.  
Amendment 34 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 292.  
Amendment 292 moved.*

[228] **David Rees:** The question is that amendment 292 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections; therefore, amendment 292 is agreed.

*Derbyniwyd gwelliant 292 yn unol â Rheol Sefydlog 17.34.  
Amendment 292 agreed in accordance with Standing Order 17.34.*

**Grŵp 21: Gofalwyr (Gwelliannau 253 a 37)  
Group 21: Carers (Amendments 253 and 37)**

[229] **David Rees:** This group of amendments is in relation to carers. The lead amendment in the group is amendment 253. I call on William Graham to move amendment 253 and to speak to the amendments in this group.

[230] **William Graham:** I move amendment 253 in my name.

[231] This amendment inserts a new section to the Bill and places a duty on local authorities, along with health boards, to publish a carers strategy. Respondents raised concerns during committee evidence about support for carers. The Wales Carers Alliance stated its extreme disappointment at the Deputy Minister's plans to repeal the Carers Strategies (Wales) Measure 2010. It is not convinced, although the strategy provides for joint working between health and social services, that health will continue this work at the same momentum if it no longer leads on the work to prepare and publish the strategies. It firmly stated that, for carers, being identified in the first instance is the key to knowing how to find the practical financial help that is critical to reducing carers' stress. It is vital that carers have access to the information and services that they need to help to care in order to protect their own physical and mental health. We feel that requiring local authorities and health boards to publish a strategy for carers will help to address concerns and to ensure that carers are provided with the support that they deserve. I note the comments made by the Deputy Minister on 20 November.

[232] **David Rees:** Thank you, William. Lindsay, do you wish to speak?

[233] **Lindsay Whittle:** I do support this and I congratulate William Graham for bringing

this amendment forward. I think that the Carers Strategies (Wales) Measure, currently in force, has ensured much more enthusiasm and commitment. It is important that it is not lost when this Bill comes into force. It requires duties placed on health boards to not only continue with the regulations but, hopefully, be strengthened. As we all know, in austerity local authorities may not otherwise consider the needs of carers separately, but this strategy will promote services to carers. I fully support it and I am jealous that Bill Graham has got this in before me.

[234] **David Rees:** Lynne, do you wish to speak?

[235] **Lynne Neagle:** I very much welcome the enhancements that are in the Bill for support for carers, but I do have continued concerns about the repeal of the carers Measure. I understand the Deputy Minister's position in relation to local authorities needing to take a clear lead on assessing carers. I also know that, quite often, carers will not come into contact with social services in any case, but they do come into contact with health services and GPs. I would just ask the Deputy Minister to have a look at this ahead of Stage 3, so that we can see whether we can replicate that duty on health to be fully involved in identifying and supporting carers.

[236] **David Rees:** Leighton, do you wish to speak?

[237] **Leighton Andrews:** Yes. May I echo the comments of my colleague Lynne Neagle on this issue? I think that there has been good evidence supplied to us by carers in Wales about their concerns about the link with local health boards. I welcome what the Deputy Minister has said in respect of what she has put on the face of the Bill, but, like Lynne Neagle, I wonder whether the Deputy Minister could take another look at the issue of carers' relationships with local health boards before Stage 3, to try to ensure that the protections that were offered within the carers Measure are fully reflected within this legislation. There may be alternate routes to ensuring that health boards give commitments in respect of their obligations to carers going forward.

[238] **David Rees:** Does any other Member wish to speak? No. I call on the Deputy Minister.

[239] **Gwenda Thomas:** Thank you, Chair. I would like to say quite clearly that health is fully involved in identifying carers under the Bill and that this is a joint function. I want to make that absolutely clear, before I move to what else I need to say.

[240] Ahead of this meeting, Members will have received my letter, which sets out how the Carers Strategies (Wales) Measure 2010 will be overtaken by the provisions set out in this Bill. Attached to the letter was a table, which set out a detailed comparison of the existing provisions in the Measure with the new provisions in the Bill. I hope that Members have found that letter of use. I do not intend to set out the contents of the letter, but I do want to take the opportunity to reiterate my view that I do not believe that my decision to repeal the Measure will, in any way, dilute the focus on carers that the Measure sought to develop. Rather, the intent of the Bill is to strengthen that focus and the attention devoted to carers in service planning and delivery. I am fully committed to working with stakeholders in drafting regulations that secure and extend the provisions in the Measure, and hope that they will respond positively to that offer. The Bill sets out an enhanced system of entitlement for carers. For the first time, carers will be treated in the same way as the people they care for. They will have an unequivocal right to assessment. Most significantly, as set out in sections 26 and 27, a local authority will be under a duty to meet the needs of carers who themselves have eligibility needs. That duty does not exist in any of the current legislation.

[241] I am listening to the concerns that have been raised this morning with regard to health



boards. I have given you an assurance that health is fully involved and that it will be a joint responsibility between local authorities and health, and I hope that there is no ambiguity now about that shared responsibility to work together to identify and respond to the needs of carers. Local health boards are also required to exercise their function to support the purposes of preventative services, including how these cater for carers under section 6. I think that it is important for me to stress that the collaborative working arrangements that are already in place to implement the Measure are being facilitated to continue under the Bill, and I believe that I have set out some examples during our meetings of that. I think that what is being said this morning is that the role of the LHBS is being seen to be diminished; it is not in any way. I am clear about that in my mind. It was a joint responsibility before, and, indeed, it was not prescriptive in the Measure—it turned out that local health boards led, and I know that that has been successful.

[242] I do not know whether we can look at whether there is any ambiguity. Do we need to be saying more clearly that this is a joint responsibility? We are saying this quite clearly, I know, but some outside bodies are raising this concern, and I wonder whether we should do more to be absolutely clear that there is no diminishing of the role of local health boards and, indeed, that local authorities will have the same joint responsibility. I am aware that I want a focus on the need to assess carers now under these new, enhanced requirements, and I think that what we all want is to get to the best place that we possibly can. I am satisfied that the Bill does provide for health to be fully involved, and that a joint responsibility is the way forward.

11:00

[243] **David Rees:** William, do you wish to reply to the debate?

[244] **William Graham:** Thank you, Chair; yes, indeed. Nobody doubts the Deputy Minister's sincerity in bringing forward these enhanced measures, and, certainly, sections 26 and 27 illustrate exactly what she says. However, the points raised, by Lynne Neagle in particular with regard to the contact with primary care, are really essential. I would like to think that, by the time we come to Stage 3, the Deputy Minister will have thought about this once again and will listen to representation and perhaps bring forward something a bit stronger that we can all accept.

[245] **David Rees:** Do you wish to proceed to a vote on amendment 253?

[246] **William Graham:** Yes, please.

[247] **David Rees:** The question is that amendment 253 be agreed to. Does any Member object? We have an objection. Therefore we will now take a show of hands.

*Gwelliant 253: O blaid 5, Ymatal 0, Yn erbyn 5.  
Amendment 253: For 5, Abstain 0, Against 5.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Graham, William  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Pleidleisiodd yr Aelodau canlynol yn erbyn:  
The following Members voted against:

Andrews, Leighton  
Evans, Rebecca  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).*

*As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 253.  
Amendment 253 not agreed.*

*Cynigiwyd gwelliant 35.  
Amendment 35 moved.*

[248] **David Rees:** Continuing along the marshalled list, the question is that amendment 35 in the name of the Deputy Minister be agreed to. Does any Member object? There is no objection, therefore amendment 35 is agreed.

*Derbyniwyd gwelliant 35 yn unol â Rheol Sefydlog 17.34.  
Amendment 35 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 36.  
Amendment 36 moved.*

[249] **David Rees:** The question is that amendment 36 in the name of the Deputy Minister be agreed to. Does any Member object? There is no objection, therefore amendment 36 is agreed.

*Derbyniwyd gwelliant 36 yn unol â Rheol Sefydlog 17.34.  
Amendment 36 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 37.  
Amendment 37 moved.*

[250] **David Rees:** The question is that amendment 37 in the name of the Deputy Minister be agreed to. Does any Member object? There is no objection, therefore amendment 37 is agreed.

*Derbyniwyd gwelliant 37 yn unol â Rheol Sefydlog 17.34.  
Amendment 37 agreed in accordance with Standing Order 17.34.*

[251] **David Rees:** Elin, would you like to move amendment 537?

[252] **Elin Jones:** I move amendment 537 in my name.

[253] **David Rees:** The question is that amendment 537 be agreed to. Does any Member object? There is an objection. Therefore, we move to a vote.

*Gwelliant 537: O blaid 3, Ymatal 0, Yn erbyn 7.  
Amendment 537: For 3, Abstain 0, Against 7.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Jones, Elin  
Whittle, Lindsay  
Williams, Kirsty

Pleidleisiodd yr Aelodau canlynol yn erbyn:  
The following Members voted against:

Andrews, Leighton  
Evans, Rebecca  
Graham, William  
Millar, Darren  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gwrthodwyd gwelliant 537.  
Amendment 537 not agreed.*

**Grŵp 22: Darparu Gwasanaethau Iechyd i Ddiwallu Anghenion (Gwelliannau 479 a 480)**

**Group 22: Provision of Health Services to Meet Needs (Amendments 479 and 480)**

[254] **David Rees:** This group of amendments is in relation to the provision of health services to meet needs. The lead amendment in the group is amendment 479, and I call on Elin Jones to move amendment 479 and to speak to the amendments in this group.

[255] **Elin Jones:** Cynigiau welliant 479 yn fy enw i gyda chefnogaeth William Graham. **Elin Jones:** I move amendment 479 in my name supported by William Graham.

[256] Mae'r ddau welliant hyn yn cyflawni'r angen i ddefnyddio'r Bil hwn i gryfhau integreiddio'r gwasanaethau iechyd a gofal cymdeithasol rhwng awdurdodau lleol a byrddau iechyd ac, yn benodol, i waredu unrhyw rwystr sy'n golygu bod awdurdodau lleol a byrddau iechyd yn methu ag integreiddio'r gwasanaethau. These two amendments achieve the need to use this Bill to achieve the integration of the health and social care services between local authorities and health boards and, specifically, to get rid of any barriers that exist that would mean that local authorities and health boards cannot integrate the services.

[257] Mae'r Bil, fel y'i drafftwyd ar hyn o bryd, yn gwahardd awdurdodau lleol o dan adran 31 rhag ymgymryd â gwasanaethau o dan Ddeddf y Gwasanaeth Iechyd Gwladol 2006, ac yn gwahardd hefyd awdurdodau lleol rhag ymgymryd â gwasanaethau ataliol o dan yr un Ddeddf. Os yw'r Cynulliad Cenedlaethol a'r Llywodraeth o ddifrif o blaid integreiddio gwasanaethau iechyd a gofal cymdeithasol, mae'n bwysig caniatáu hyblygrwydd i awdurdodau lleol a byrddau iechyd drefnu darpariaeth a gweithredu gwasanaethau mewn ffordd integredig ar lawr gwlad. Felly, mae'n gam yn ôl, yn fy marn i, i osod ar wyneb y Bil hwn waharddiadau penodol ar awdurdodau lleol rhag ymgymryd ag elfennau o wasanaethau iechyd a gwasanaethau ataliol hefyd. The Bill, as drafted currently, prohibits local authorities under section 31 from undertaking services under the National Health Service Act 2006, and it also prohibits local authorities from undertaking preventative services under the same Act. If the National Assembly for Wales and the Government are serious about integrating health services and social care, then it is important that flexibility is allowed for local authorities and health boards to arrange provision and operate services in an integrated fashion at the grass-roots level. It is a retrograde step, therefore, in my opinion, to place specific restrictions on the face of this Bill on local authorities' ability to undertake aspects of health services and preventative services also.

[258] Nid wyf yn disgwyl y byddai awdurdod lleol yn symud i ddarparu gwaith iechyd prif ffrwd, ond rydym i gyd yn ymwybodol bod gwasanaethau integredig, megis y *reablement* newydd, sy'n cael eu darparu ar eu gorau pan maent yn cael eu darparu mewn cydweithrediad rhwng awdurdodau lleol a byrddau iechyd. Felly, ar yr adeg hwn, mae gosod rhywbeth ar wyneb Bil sy'n ei wneud yn anghyfreithlon i awdurdod lleol ymgymryd ag elfennau o wasanaethau iechyd yn gam yn ôl. Felly, I do not expect that the local authority would move towards providing mainstream health activities, but we are all aware that there are integrated services, such as the new reablement, which are best provided when they are provided in collaboration between local authorities and health boards. Therefore, at this time, to be placing something on the face of the Bill that makes it illegal for a local authority to undertake elements of health services is a step backwards. Therefore, the intention of these

bwriad y ddau welliant yn fy enw i yw rhoi'r hawl iddynt ymgymryd â gwasanaethau, yn hytrach na gwahardd awdurdodau lleol rhag ymgymryd â gwasanaethau.

two amendments in my name is to give them the right to deliver these services, rather than preventing a local authority from undertaking services.

[259] Mae'n bosibl y bydd y Llywodraeth yn anghytuno â'r geiriad a'r dull yr wyf wedi eu defnyddio i osod y gwelliant hwn, ond byddwn yn gobeithio, os yw'r Llywodraeth yn derbyn yr egwyddor yr wyf yn trio ei gyflawni, sef i beidio â gosod rhywbeth sy'n gwahardd awdurdodau lleol ar wyneb y Bil, y byddai'n barod i edrych ar sut y gellir gosod gwelliant i'r Bil hwn sy'n tynnu'r gwaharddiad—o bosibl, nid yn defnyddio'r geiriad yr wyf wedi ei gyflwyno yn y gwelliannau hyn—ond ein bod ni'n sicrhau nad yw'r Bil hwn yn gosod mewn cyfraith gwaharddiad ar awdurdodau lleol rhag ymgymryd â rhai gwasanaethau integredig a fydd yn datblygu dros y blynyddoedd nesaf.

It is possible that the Government will disagree with the wording and the method that I have used to set out this amendment, but I would hope that, if the Government accepts the principle that I am trying to achieve, namely not to include something on the face of the Bill that prevents local authorities, it would be prepared to consider how an amendment to this Bill can be tabled in order to remove that prohibition—possibly not using the wording that I have used for these amendments—but that we ensure that this Bill does not, in law, prevent local authorities from undertaking some integrated services that will develop over the coming years.

[260] **David Rees:** Thank you, Elin. Does any other Member wish to speak? I see not. Therefore, I call on the Deputy Minister.

[261] **Gwenda Thomas:** Rwy'n ddiolchgar i Elin Jones am esbonio ei gwelliannau 479 a 480.

**Gwenda Thomas:** I am grateful to Elin Jones for explaining her amendments 479 and 480.

[262] Elin has set out the aim as being to remove any potential barriers that local authorities may face in employing registered nurses to meet a person's need for care and support. The amendments, however, are to sections 31(1) and 31(2), which make no reference to registered nurses. The effect of the amendments would be to maintain the power for local authorities to provide health services where they are incidental or ancillary to the provision of other services that they have powers to provide, but to remove the clear prohibition on local authorities providing any other health services. While these appear to mark a change in emphasis to those subsections that do not alter the intended outcome, it could be perceived as signalling that local authorities have more responsibility for providing health services than intended. They also do not change the arrangements for employing registered nurses.

[263] Section 31 prevents a local authority from meeting an individual's needs under sections 21 to 29 by providing services or facilities required to be provided under relevant health enactments, unless it is incidental or ancillary to the provision of other services that the local authority has the power to provide. Even where a local authority does have the power to provide healthcare services, it is still prohibited from providing or arranging the provision of nursing care by a registered nurse. 'Nursing care' is defined in section 31(10). This prohibition is an essential part of the arrangements for people in nursing homes to have their nursing needs funded by the health service, even where their accommodation and social care needs are met by the local authority.

[264] I ask the committee to consider my comments here and not to agree to these amendments.

[265] **David Rees:** Thank you, Deputy Minister. Elin, would you like to reply to the debate?

[266] **Elin Jones:** No.

[267] **David Rees:** Do you wish to move to a vote on amendment 479?

[268] **Elin Jones:** Yes.

[269] **David Rees:** Before we move to a vote on amendment 479, Members may wish to be aware that, if amendment 479 is not agreed, amendment 480 will fall. The question is that amendment 479 be agreed to. Does any Member object? I see that there is objection. Therefore, we will move to a vote.

*Gwelliant 479: O blaid 5, Ymatal 0, Yn erbyn 5.  
Amendment 479: For 5, Abstain 0, Against 5.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Graham, William  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Pleidleisiodd yr Aelodau canlynol yn erbyn:  
The following Members voted against:

Andrews, Leighton  
Evans, Rebecca  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).*

*As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 479.  
Amendment 479 not agreed.*

**Grwp 23: Dehongli ‘Corff Iechyd’ a ‘Deddfiad Iechyd’ at Ddibenion Adran 31  
(Gwelliannau 129, 130, 132, 133, 135 a 136)**

**Group 23: Interpretation of ‘Health Body’ and ‘Health Enactment’ for the Purposes of  
Section 31 (Amendments 129, 130, 132, 133, 135 and 136)**

[270] **David Rees:** Following the marshalled list, we move on to the next group, group 23, in relation to the interpretation of ‘health body’ and ‘health enactment’ for the purposes of section 31. The lead amendment in the group is amendment 129. I move amendment 129 in the name of the Deputy Minister. I call on the Deputy Minister to speak to the amendments in this group.

[271] **Gwenda Thomas:** Thank you, Chair. The amendments in this group provide clarity to the key definition of ‘health body’ and ‘health enactment’ for section 31 of the Bill. Amendments 129, 130 and 135 are important to ensure that all relevant health legislation enacted post devolution is in the view of this Bill. It is a necessary extension beyond England and Wales to include Scotland and Northern Ireland, to seek to ensure that the prohibition on local authorities providing health services applies not only to services provided under the health legislation of England and Wales, but also to services provided under the health legislation of Scotland and Northern Ireland. We did agree the legislative competence motion yesterday on this issue.

[272] Amendment 132 will enable the Welsh Ministers to make regulations to determine the relevant health body that should give consent to arrangements by local authorities for accommodation that includes nursing care. This will facilitate cross-border placements by

Welsh local authorities to nursing homes in any part of the United Kingdom. Amendment 133 maintains the consistency and clarity that I am trying to achieve with section 31, by replacing 'local health board' or 'NHS trust' with 'the health body', for the purpose of regulations relating to disputes under section 31(d). Such disputes relate to whether or not the particular service or facility is one that is required to be provided by the health service. Again, this would apply to health bodies in any of the countries of the United Kingdom.

[273] Amendment 136 provides the necessary definitions of 'health body' and 'health enactment', and it is clear that these definitions apply across the countries of the United Kingdom. I therefore ask Members to support amendments 129, 130, 132, 133, 135 and 136.

[274] **David Rees:** Does any Member wish to speak on this group? I see not. Deputy Minister, do you wish to proceed to a vote on amendment 129?

[275] **Gwenda Thomas:** Yes, please.

[276] **David Rees:** The question is that amendment 129 be agreed to. Does any Member object? There is no objection, therefore amendment 129 is agreed.

*Derbyniwyd gwelliant 129 yn unol â Rheol Sefydlog 17.34.  
Amendment 129 agreed in accordance with Standing Order 17.34.*

[277] **David Rees:** As amendment 479 was not agreed, amendment 480 falls.

*Methodd gwelliant 480.  
Amendment 480 fell.*

*Cynigiwyd gwelliant 130.  
Amendment 130 moved.*

[278] **David Rees:** The question is that amendment 130 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections, therefore amendment 130 is agreed.

*Derbyniwyd gwelliant 130 yn unol â Rheol Sefydlog 17.34.  
Amendment 130 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 131.  
Amendment 131 moved.*

[279] **David Rees:** The question is that amendment 131 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections, therefore amendment 131 is agreed.

*Derbyniwyd gwelliant 131 yn unol â Rheol Sefydlog 17.34.  
Amendment 131 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 132.  
Amendment 132 moved.*

[280] **David Rees:** The question is that amendment 132 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections, therefore amendment 132 is agreed.

*Derbyniwyd gwelliant 132 yn unol â Rheol Sefydlog 17.34.*

*Amendment 132 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 133.  
Amendment 133 moved.*

[281] **David Rees:** The question is that amendment 133 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections, therefore amendment 133 is agreed.

*Derbyniwyd gwelliant 133 yn unol â Rheol Sefydlog 17.34.  
Amendment 133 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 134.  
Amendment 134 moved.*

[282] **David Rees:** The question is that amendment 134 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections, therefore amendment 134 is agreed.

*Derbyniwyd gwelliant 134 yn unol â Rheol Sefydlog 17.34.  
Amendment 134 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 135.  
Amendment 135 moved.*

[283] **David Rees:** The question is that amendment 135 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections, therefore amendment 135 is agreed.

*Derbyniwyd gwelliant 135 yn unol â Rheol Sefydlog 17.34.  
Amendment 135 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 136.  
Amendment 136 moved.*

[284] **David Rees:** The question is that amendment 136 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections, therefore amendment 136 is agreed.

*Derbyniwyd gwelliant 136 yn unol â Rheol Sefydlog 17.34.  
Amendment 136 agreed in accordance with Standing Order 17.34.*

**Grŵp 24: Taliadau Uniongyrchol (Gwelliannau 75, 468, 76, 77, 469, 139, 38, 141 a 142)  
Group 24: Direct Payments (Amendments 75, 468, 76, 77, 469, 139, 38, 141 and 142)**

[285] **David Rees:** The lead amendment in this group is amendment 75. I call on William to move amendment 75 and speak to the amendments in this group.

[286] **William Graham:** I move amendment 75 in my name.

[287] I will also speak to amendments 76 and 77. Amendment 75 will insert a new section into the Bill that places a duty on local authorities to promote direct payments. The social services and well-being Bill advisory group stated that promoting direct payments will improve low take-up and make people aware of their options. The health committee found that direct payments have been poorly promoted by local authorities in Wales, denying

service users genuine opportunity for greater voice and control. A joint response by Sense Cymru, RNIB Cymru, Action on Hearing Loss Cymru, Vision in Wales and Guide Dogs Cymru stated:

[288] ‘Research by Sense (2008) suggested that almost a third of deafblind people surveyed (31%) in England and Wales did not even know what direct payments were. ... We think the direct payments sections must require minimum standards to promote awareness of the options that people have and ensure that local authorities offer a full breakdown and indication of the rationale behind the amount offered as a direct payment.’

[289] This formed part of the committee’s report, on page 100.

11.15

[290] The committee itself recommended that the Deputy Minister consider amending the Bill to place a duty on local authorities to promote direct payments. This amendment will ensure that the local authority promotes direct payments so that the service user is fully made aware of the options available to them. This will enable them to make an informed choice about how they receive care.

[291] Amendment 76 will remove local discretion to decide whether to provide direct payments. Amendment 77 will remove local discretion to decide whether to provide direct payments again.

[292] **David Rees:** Thank you, William. Lindsay, do you wish to speak?

[293] **Lindsay Whittle:** Thank you, Chair. I was not expecting to be called; out of the corner of my eye I could see Kirsty Williams signalling. I want to speak to amendments 468 and 469. Our amendments are designed to ensure that direct payments are not the sole option on the table, and are designed to ensure that public services remain available. The Government amendments clarify how regulations must ensure that local authorities make information about direct payments available to people. The amendment will ensure that local authorities meet the total cost of whatever care and support is needed if the local authority is offering the method of direct payment to the individual. Our amendment is intended to avoid the possibility of a person or carer in need assuming that an offer of direct payment is intended to cover all of the costs of the care or support, whereas the local authority, in practice, is making an offer of an amount that will meet only part of the care and support.

[294] Amendment 469 makes provision for direct payment not to be the default method, but that direct payment may be offered as an option to cover the costs of a person or carer’s needs.

[295] **Kirsty Williams:** I want to make specific comments on amendments 76 and 77. My concern from the outset has been that the way that the legislation is currently drafted would still allow councils to decide whether direct payment was appropriate, and that could be against the wishes of an individual client. Under the legislation as currently drafted, the local authority would have to be satisfied that making the payment was an appropriate way of meeting needs. That gives far too much flexibility to local authorities to deny people the opportunity for a direct payment when they feel that it is appropriate for their needs. As has already been referenced, take-up of direct payment has been particularly low, and I am aware of evidence where local authorities have been very reluctant to empower people to have the freedom of choice to choose this method of organising their support. The deletion of lines 20 and 30 would ensure that the power is wrested back to the individual, rather than to the local authority.



[296] **David Rees:** Thank you. Does any other Member wish to speak? I see not. I call on the Deputy Minister.

[297] **Gwenda Thomas:** The committee will be aware that I wrote to it on the matter of direct payments recently, as a result of the commitment that I gave in response to the Stage 1 committee report. Like the committee, I am keen to increase the uptake of direct payments in Wales. For this reason, I established the direct payments overview group a number of years ago to help advise me on policy issues, and to monitor direct payment arrangements across Wales. I have just received and shared with the committee the group's draft principles to underpin future arrangements for direct payments. These principles make clear that every person who receives care and support who desires a direct payment should be offered the opportunity to receive one.

[298] I am broadly in agreement with this principle, and it is my view that the best way to do this is to ensure that anyone in need of care and support is fully informed on what direct payments can offer them, so that they can make an informed choice about whether it is a good solution for them. The information, advice and assistance provision in the Bill, including advocacy where appropriate, will be key to ensuring that people are able to make this informed choice.

[299] I have already made reference to amendment 75 tabled by William Graham when we discussed group 15 earlier this morning. As William said, this amendment seeks to place a duty on the face of the Bill for local authorities to promote direct payments. Although this amendment is aimed at achieving a result that we have all signed up to—that is, increasing the uptake of direct payments—it has the potential to take us down a different path to the one that I have just laid out. I am concerned that placing a duty on authorities to promote direct payments could be misinterpreted, resulting in direct payments being promoted over other ways of meeting care and support needs, thereby becoming the default way in which such needs are met. While, for many, direct payments offer real choice in the way that a person's care and support are met, and are therefore appropriate, for others—as Lindsay Whittle has said—direct payments are not the answer. It is just as important that people can choose not to have a direct payment. This is something that the overview group has included in its principles.

[300] As I mentioned earlier, the committee's majority view was also that it did not want to see direct payments becoming the default way in which care and support was provided in Wales. As a result of these issues, we have already agreed amendment 504, during our discussion of group 15. The result of this amendment is that an explicit reference to direct payments will now be included in the range of examples under section 22. This makes it clear that direct payment is an example of what local authorities may provide or arrange to be provided to meet needs. Given the concerns about direct payments potentially becoming a default method of delivery, and the acceptance of amendment 504 by this committee earlier today, I would now ask that Members oppose amendment 75.

[301] I have said that I believe that the emphasis needs to be on creating the conditions that inform choices and on enabling individuals to decide what is genuinely best for them. This is why I have brought forward amendment 139. This amendment will require the Welsh Ministers to make regulations, so that they must specify the steps that a local authority must take to ensure that those who are able to receive a direct payment can make an informed choice as to whether it is right for them. In this way, we can ensure that those able to receive a direct payment are not only informed of this option, but receive key information in order to consider this without undue influence from their local authority. Such information would include, for example, what their direct payment would entail, what support they would receive if they chose to have one, and other core data required to make an informed choice.

[302] Members will also recall amendment 424, which I brought forward to amend William Graham's amendments 73 and 74 when we discussed group 8 in our last committee session. That amendment was agreed, with the result that a new subsection will be inserted into section 8 to clarify the meaning of 'information', in the context of information, advice and assistance, and specifically that such information should include that which relates to financial information and direct payments. William Graham has mentioned that this morning. Amendment 139 complements that amendment and I would ask that Members support it today. Amendment 139 will require local authorities to take specific steps to enable relevant persons to make informed choices about the use of direct payments. The intention of this amendment is to help ensure that those individuals who want direct payments may have them. I believe that the emphasis needs to be on creating the conditions to allow informed choices and to enable the individual to decide what is genuinely best for them.

[303] In relation to amendments 76 and 77, I do not wish to remove these elements of conditions 1 and 2 as set out in section 34. I consider that this would unduly fetter a local authority's discretion to decide whether direct payments are an appropriate way of meeting an individual's needs. Even when direct payments are made, the local authority retains its responsibility for ensuring that an individual's assessed needs for care and support are met. If local authorities are to retain this responsibility, they need the discretion to make judgments—there could be issues of financial abuse or other issues of that nature—where this discretion is of key importance in terms of the wellbeing and protection of an individual.

[304] Amendments 468 and 469 have been brought forward by Lindsay Whittle. The effects of the first of these amendments, 468, would be to prevent an individual from being asked to contribute to the cost of meeting their needs if they elect to have a direct payment. The amendment removes the reference in section 34(1) to 'towards the cost of meeting' an adult's needs for care and support. Hence, it would appear to remove the intention that a direct payment is a contribution towards that cost. Presumably, it is this idea that a direct payment is a financial contribution, and not the whole amount needed to meet the adult's support needs, that this amendment is seeking to remove. The amount that an individual might reasonably be expected to contribute towards the cost of meeting their care and support needs is covered in the charging provisions in Part 5 of the Bill. Charging will apply regardless of whether the individual chooses to receive a directly arranged service, direct payments or a mixed package. I wish to be clear to the committee that it is not our intention that those who opt for direct payments are exempt from the charging regime.

[305] In relation to amendment 469, unfortunately, I believe that this amendment could be open to differing interpretations. This would be unhelpful to the individual and the practitioner. It could be read as seeking to ensure that local authorities are prevented from making direct payments the sole way of meeting the costs of meeting an adult's care and support needs; or, it might be seeking to ensure that direct payments are not made the only way of meeting an adult's care and support needs. Neither of these interpretations would, in my view, be acceptable. If agreed, the amendment would only add ambiguity to the provision of section 34.

[306] Moving now to my amendments in this group, amendment 139 will place a duty on local authorities to take specified steps to enable relevant persons to make informed choices about the use of direct payments. As I set out earlier, the intention of this amendment is to help to ensure that those individuals who want direct payments may have them. In relation to amendment 38, this is part of a wider suite of changes achieved through a number of statutes. It removes a regulation-making power relating to the interface between direct payments under the Bill and aftercare services provided under section 117 of the Mental Health Act 1983—you may recall that this was discussed yesterday in Plenary. Members will note that, on 9 October, I tabled a supplementary legislative memorandum in relation to the provision in the UK.

[307] In relation to amendments 141 and 142, these will ensure that carers, like those persons who need care and support, are able to purchase support from any person they see fit, subject to any regulations under sections 35 to 37, in cases where they have chosen to receive direct payments to meet their support needs. In summary, therefore, I ask Members to support my amendments 38, 139, 141 and 142 in this group for the improvements that they will bring in relation to direct payments. In the same way, I urge Members not to support the other amendments in this group for the reasons that I have set out.

[308] **David Rees:** Thank you, Deputy Minister. I confirm that we have received your correspondence and that it has been circulated to Members. It is not in the papers because, unfortunately, the timing meant that we could not get it in the papers for today; however, it will be in the public papers for next week.

[309] We have been asked for legal advice.

[310] **Kirsty Williams:** Before moving to a vote, I would like to have some legal advice from Joaneest about the status of some of these amendments.

[311] **David Rees:** As such, I would like to propose that we have a short break for that legal advice to be sought and reconvene in five minutes.

[312] **Kirsty Williams:** Thank you.

*Gohiriwyd y cyfarfod rhwng 11:28 ac 11:39.  
The meeting adjourned between 11:28 and 11:39.*

[313] **David Rees:** I will give the public a couple of seconds to come back in so that the public can have the full proceedings. Okay, William: we are at the point where I now call you to reply to the debate.

[314] **William Graham:** Clearly, I much regret what the Deputy Minister has said today despite the advice given by so many organisations. I accept that we agreed amendment 514 to section 22. Today we will be agreeing amendment 139.

[315] **David Rees:** Do you wish to move to a vote on amendment 75?

[316] **William Graham:** Yes, please.

[317] **David Rees:** The question is that amendment 75 be agreed to. Does any Member object? There is objection. Therefore, we will move to a vote.

*Gwelliant 75: O blaid 3, Ymatal 0, Yn erbyn 7.  
Amendment 75: For 3, Abstain 0, Against 7.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Graham, William  
Millar, Darren  
Williams, Kirsty

Pleidleisiodd yr Aelodau canlynol yn erbyn:  
The following Members voted against:

Andrews, Leighton  
Evans, Rebecca  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay

*Gwrthodwyd gwelliant 75.*

*Amendment 75 not agreed.*

[318] **David Rees:** Lindsay, would you like to move amendment 468?

[319] **Lindsay Whittle:** Chair, during our five-minute interlude for legal advice I have been advised to seek further legal advice and clarification. I would in fact not wish to move amendment 468 at this time, nor 469.

[320] **David Rees:** Does any Member wish to move amendment 468? I see not. Therefore, amendment 468 is not moved.

*Ni chynigiwyd gwelliant 468.  
Amendment 468 not moved.*

[321] **David Rees:** William, do you wish to move amendment 76?

[322] **William Graham:** I move amendment 76 in my name supported by Kirsty Williams.

[323] **David Rees:** The question is that amendment 76 be agreed to. Does any Member object? There is objection, so we will move to a vote.

*Gwelliant 76: O blaid 5, Ymatal 0, Yn erbyn 5.  
Amendment 76: For 5, Abstain 0, Against 5.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Graham, William  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Pleidleisiodd yr Aelodau canlynol yn erbyn:  
The following Members voted against:

Andrews, Leighton  
Evans, Rebecca  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).*

*As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 76.  
Amendment 76 not agreed.*

[324] **David Rees:** William, would you like to move amendment 77?

[325] **William Graham:** I move amendment 77 in my name supported by Kirsty Williams and Lindsay Whittle.

[326] **David Rees:** The question is that amendment 77 be agreed to. Does any Member object? There is objection, so we will move to a vote.

*Gwelliant 77: O blaid 5, Ymatal 0, Yn erbyn 5.  
Amendment 77: For 5, Abstain 0, Against 5.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Graham, William  
Jones, Elin

Pleidleisiodd yr Aelodau canlynol yn erbyn:  
The following Members voted against:

Andrews, Leighton  
Evans, Rebecca

Millar, Darren  
Williams, Kirsty  
Whittle, Lindsay

Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).*  
*As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 77.*  
*Amendment 77 not agreed.*

[327] **David Rees:** On amendment 469, Lindsay Whittle indicated in earlier comments that it was not to be moved. Does any other Member wish to move amendment 469? I see that no-one does.

*Ni chynigiwyd gwelliant 469.*  
*Amendment 469 not moved.*

*Cynigiwyd gwelliant 137.*  
*Amendment 137 moved.*

[328] **David Rees:** The question is that amendment 137 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections. Therefore, amendment 137 is agreed.

*Derbyniwyd gwelliant 137 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 137 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 506.*  
*Amendment 506 moved.*

[329] **David Rees:** The question is that amendment 506 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections. Therefore, amendment 506 is agreed.

*Derbyniwyd gwelliant 506 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 506 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 138.*  
*Amendment 138 moved.*

[330] **David Rees:** The question is that amendment 138 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections. Therefore, amendment 138 is agreed.

*Derbyniwyd gwelliant 138 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 138 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 139.*  
*Amendment 139 moved.*

[331] **David Rees:** The question is that amendment 139 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections. Therefore, amendment 139 is agreed.

*Derbyniwyd gwelliant 139 yn unol â Rheol Sefydlog 17.34.  
Amendment 139 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 38.  
Amendment 38 moved.*

[332] **David Rees:** The question is that amendment 38 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections. Therefore, amendment 38 is agreed.

*Derbyniwyd gwelliant 38 yn unol â Rheol Sefydlog 17.34.  
Amendment 38 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 140.  
Amendment 140 moved.*

[333] **David Rees:** The question is that amendment 140 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections. Therefore, amendment 140 is agreed.

*Derbyniwyd gwelliant 140 yn unol â Rheol Sefydlog 17.34.  
Amendment 140 agreed in accordance with Standing Order 17.34.*

[334] **David Rees:** Before we move on to a vote on amendment 141, Members will wish to be aware that if amendment 141 is not agreed, then amendment 142 will fall.

*Cynigiwyd gwelliant 141.  
Amendment 141 moved.*

[335] **David Rees:** The question is that amendment 141 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections. Therefore, amendment 141 is agreed.

*Derbyniwyd gwelliant 141 yn unol â Rheol Sefydlog 17.34.  
Amendment 141 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 142.  
Amendment 142 moved.*

[336] **David Rees:** The question is that amendment 142 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections. Therefore, amendment 142 is agreed.

*Derbyniwyd gwelliant 142 yn unol â Rheol Sefydlog 17.34.  
Amendment 142 agreed in accordance with Standing Order 17.34.*

**Grŵp 25: Taliadau Uniongyrchol ar gyfer Iechyd (Gwelliannau 232 a 233)  
Group 25: Direct Payments for Health (Amendments 232 and 233)**

[337] **David Rees:** The lead amendment in the group is amendment 232. I call on Elin Jones to move amendment 232 and to speak to the amendments in the group.

[338] **Elin Jones:** Rwy'n cynnig gwelliant **Elin Jones:** I move amendment 232 in my name.  
232 yn fy enw i.

[339] Byddaf hefyd yn siarad ar welliant 233 yn y grŵp hwn. Mae gwelliant 232 yn cyflwyno adran newydd i'r Mesur yn esbonio taliadau uniongyrchol ar gyfer gofal iechyd. Mae gwelliant 233 yn rhoi pwerau i Weinidogion Cymru i greu rheoliadau a fyddai'n amlinellu hawl i fwrdd iechyd wneud y taliad uniongyrchol iechyd.

I will also speak to amendment 233 in this group. Amendment 232 introduces a new section to the Bill explaining direct payments for healthcare. Amendment 233 gives powers to Welsh Ministers to create regulations that would outline the right of a health board to make a direct payment for health.

11:45

[340] Cytunodd y pwyllgor yn argymhelliaid 33 o'i adroddiad y byddai'n fanteisiol i ddefnyddio'r ddeddfwriaeth hon ar gyfer caniatáu taliadau uniongyrchol ar gyfer gofal iechyd, yn ogystal â thaliadau uniongyrchol ar gyfer gofal cymdeithasol. Clywsom dystiolaeth yn ystod ein cyfnod ymgynghori gan fyrddau iechyd am eu rhwystredigaeth ar adegau o ran delio ag achosion unigol cymhleth, lle mae pecyn gofal iechyd a gwasanaethau cymdeithasol yn integredig, ac nad oes ganddynt bwerau ar hyn o bryd fel byrddau iechyd i ddarparu'r gofal iechyd drwy gyfundrefn taliad uniongyrchol. Mae achosion yn bodoli lle mae dymuniad clir gan deulu ac unigolion i weld system taliad uniongyrchol ar gyfer gofal iechyd, yn ogystal â gofal cymdeithasol.

The committee agreed in recommendation 33 of its report that it would be beneficial to use this legislation to allow direct payments for healthcare, as well as direct payments for social care. We heard evidence during our consultation from health boards of their frustration on occasion in dealing with complex individual cases, whereby a health and social services package is integrated, and they currently as health boards have no powers to provide the healthcare through a regime of direct payment. Cases have arisen where there is a clear desire from families and individuals to see a direct payments system for healthcare in addition to for social care.

[341] Yn fy nghyfnod i fel Aelod Cynulliad dros Geredigion, rwyf wedi delio â dau achos cymhleth iawn, a dau achos a fyddai wedi elwa o daliadau uniongyrchol, lle yr oedd yr awdurdodau dan sylw o blaid yr egwyddor o wneud taliadau uniongyrchol ar gyfer gofal iechyd. Felly, rwy'n meddwl dylid defnyddio'r cyfle a roddir gan y ddeddfwriaeth hon i roi pwerau i Weinidogion i fedru, drwy reoliadau, creu cyfundrefn yng Nghymru a fyddai'n darparu mewn achosion unigol yr hawl i fwrdd iechyd wneud penderfyniad i wneud taliadau uniongyrchol ar gyfer gofal iechyd, yn ogystal â gofal cymdeithasol.

In my time as Assembly Member for Ceredigion, I have dealt with two very complex cases, and two cases that would have benefited from direct payments, where the authorities in question were in favour of the principle of making direct payments for healthcare. Therefore, I believe that we should take the opportunity afforded by this legislation to give powers to Ministers for them to be able, through regulations, to create a regime in Wales that would provide in individual cases the right for a health board to make a decision to make direct payments for healthcare, in addition to direct payments for social care.

[342] **David Rees:** Thank you, Elin. Does any other Member wish to speak?

[343] **Kirsty Williams:** I would like to take the opportunity to support Elin in her amendments. There are instances where someone with complex health and social care needs can have the flexibility of a direct payment to provide for social care, but is constrained because of a lack of provision to be able to do that for the healthcare side of their needs. It can be particularly prevalent in people who have mental health issues, and the ability to be able to

have a direct payment to address mental health care needs alongside social care needs would be very beneficial to those individuals.

[344] Like Elin, I have come across cases where there is an agreement on the part of the local health board that the best way for the local health board to meet that person's needs would be to be able to exercise such flexibility, but health boards are currently constrained by the law, which prevents them from doing so.

[345] This Bill, quite rightly, has all been about the person and the individual, and the ability to put the service user at the centre of care planning and establishing what their needs and services should be. I think that this would be a very important—and, indeed, radical—step forward in achieving that.

[346] **David Rees:** Thank you. Does any other Member wish to speak? No? I call on the Deputy Minister.

[347] **Gwenda Thomas:** Rwyf wedi gwranddo'n ofalus ac yn fanwl ar yr hyn sydd wedi cael ei ddweud y bore yma, ac wedi ystyried y ddau welliant yn enw Elin Jones yn ofalus. **Gwenda Thomas:** I have listened carefully and in detail to what has been said this morning, and I have considered carefully the two amendments in the name of Elin Jones.

[348] Members will know that I have tabled amendments to the Bill so as to strengthen expectations on local government as regards ensuring that individuals can make informed choices about whether direct payments would help to meet their needs. I recognise, therefore, the part that direct payments can play in empowering individuals and facilitating control.

[349] Elin Jones's amendments seek to use the Bill to introduce a new kind of direct payment—a direct payment in lieu of healthcare provision. I was interested to hear the rationale for these amendments, which, if approved, would require a substantial shift in the Welsh Government's underpinning philosophy and policy for the provision of health services in Wales. Extending direct payments in the way proposed by amendments 232 and 233 would be a fundamental change to the legislation that governs the national health service in Wales.

[350] Aside from the fact that these amendments run counter to Welsh Government policy, I also have concerns about the scope of the amendments. My view is that such a significant change would necessitate the establishment of a new legal framework to enable this to happen. The Bill is primarily about social services, not health services, and, as such, I do not believe that it is the appropriate vehicle for such a change. I therefore ask Members not to support these amendments.

[351] **David Rees:** Thank you, Deputy Minister. I call on Elin to reply to the debate.

[352] **Elin Jones:** Thank you for the debate and for the ministerial response. I would just like to reiterate what Kirsty has said, which is that we always need to remind ourselves of the individual whose care is being identified and provided for, and to keep that person in mind at all times when we go through this legislation. There are individuals with complex health needs who currently have the ability in law for direct payments to meet their social needs to be made, but not direct payments to meet their health needs. We heard evidence from local health boards requesting that this legal base be given to them to make payments in what may well be very exceptional individual cases. In fact, one of the health boards did tell us that it was aware of one example of direct payments being made for healthcare by a local health board and that that was very probably without a legal basis. It said that to us with a degree of nervousness about telling us that. So, this is not putting the power on the face of the Bill, but it is making it a possibility for the Welsh Government to make regulations, and to bring



forward the potential for—it was called ‘radical’; you believe that it is also quite a step away from where your thinking is at this point. However, this legislation needs to be futureproofed. I can tell you about, and I am sure that others here may know of, individuals who have these complex needs who would benefit from direct payments being made for healthcare as well as social care, where health boards are keen for that, even, to happen. I think that this legislation is an opportunity to make that a realistic option in the future for individuals in need of both health and social care.

[353] **David Rees:** Elin, do you wish to proceed to a vote on amendment 232?

[354] **Elin Jones:** Yes.

[355] **David Rees:** Before we move to a vote on amendment 232, Members may wish to be aware that if amendment 232 is not agreed, amendment 233 will fall.

[356] The question is that amendment 232 be agreed to. Does any Member object? We have objection, therefore we move to a vote by show of hands.

*Gwelliant 232: O blaid 3, Ymatal 0, Yn erbyn 7.  
Amendment 232: For 3, Abstain 0, Against 7.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Jones, Elin  
Whittle, Lindsay  
Williams, Kirsty

Pleidleisiodd yr Aelodau canlynol yn erbyn:  
The following Members voted against:

Andrews, Leighton  
Evans, Rebecca  
Graham, William  
Millar, Darren  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gwrthodwyd gwelliant 232  
Amendment 232 not agreed.*

[357] **David Rees:** As amendment 232 is not agreed, amendment 233 falls.

*Methodd gwelliant 233.  
Amendment 233 fell.*

**Grŵp 26: Cynlluniau Gofal a Chymorth a Chynlluniau Cymorth (Rhan 4 o'r Bil)  
(Gwelliannau 409, 410, 426, 411, 412, 427, 182, 413, 428, 429 a 430)  
Group 26: Care and Support Plans and Support Plans (Part 4 of the Bill) (Amendments  
409, 410, 426, 411, 412, 427, 182, 413, 428, 429 and 430)**

[358] **David Rees:** I am conscious of the time. We have scheduled the meeting to continue until 12.30 p.m. I intend to keep going if that is okay with Members, unless you really want a break. The lead amendment in the group is amendment 409. I call on Lindsay Whittle to move amendment 409 and to speak to the amendments in the group.

[359] **Lindsay Whittle:** Thank you, Chair. I move amendment 409 in my name supported by William Graham.

[360] I hope that this group of amendments will not be as controversial as my last, but you never know. Really, this is to ensure that the person or carer is central to the development of the care and support plan. We hear a lot about input and output, but the important word to focus on here is ‘outcome’. I will deal with amendment 409 first, Chair. This amendment is

designed to ensure that the person for whom a care or support plan is being prepared will be at the heart of the process of decision making. We have heard a great deal—it is very well-intentioned rhetoric—about putting people at the heart of decision making, but we need to put this policy into action, I believe, by approving this amendment, which ties in very nicely with amendment 410.

[361] Amendment 410 makes provision for how a person or carer is to be involved in the development of their care plan. It is intended to make clear that the individual must be fully involved with the process by which a care plan is drawn up, and not merely consulted on the desired outcomes of the plan. It provides an example of true co-production, which the Bill seeks to promote, and the amendment is designed to ensure that the eventual care plan will contain a clear statement of how and to what extent the intended beneficiary of the care plan was involved in the whole process.

[362] Moving on to amendment 411, it is a clear and consistent message. This amendment sets out to achieve two things: first, that the regulations must make provision for appeals against plans as a right of the person or carer, and, secondly, that part or the whole substance of an appeal can be about the failure of the local authority to adequately involve the individual in the preparation of the plan. It does not rule out the possible situation where, for good reason, a person or carer is not able to participate fully in the process of designing an appropriate care or support plan. I cover that contingency in the next amendment, which is 412. There is a clear, consistent and welcome message from the Deputy Minister about advocacy services. This amendment aims to make advocacy services an essential service that would be available to everyone in need of care and support who is unable to make representations by themselves with regard to appeals, complaints or reviews. The general principle of including advocacy as an essential option for certain people in need of care and support, has, I believe and hope, the general support of this committee, and this amendment aims to make that general expression of support a reality in terms of the Bill.

[363] On amendment 413, Chair, this relates to the previous amendment about advocacy. It is not contentious; it ensures that the advocate can take part in the review of the care plan and I believe that it defines the term ‘advocacy services’ as it appears in the amendment. I commend those amendments in my name. If I may refer briefly to the other amendments in this group, they are very largely Government amendments, largely technical, and they will have the support of my party, at least.

[364] **David Rees:** Thank you. William, do you wish to speak?

[365] **William Graham:** We certainly strongly support the provision of advocacy services. Our amendment 182 introduces a new subsection to section 38. It expands the criteria regarding which individuals should be involved in the preparation of care and support plans. The effect of the amendment is to place duties on local authorities when preparing care and support plans and means that local authorities must involve the adult, carer and any person whom the adult asks to be involved. This will ensure that service users have greater involvement and control over their care and support plans.

[366] **David Rees:** Are there any other Members who wish to speak? No? I call on the Deputy Minister.

[367] **Gwenda Thomas:** Thank you, Chair. I have listened carefully to this and the rationale for amending section 38 by William Graham and Lindsay Whittle. I will speak first to amendments 409 and 410, which seek to clarify the local authority’s duties as regards engagement of the person or carer and the link to outcomes that they wish to achieve. These are matters that could be addressed through the existing regulation-making power in section 39.

[368] I also remind committee members that section 4(2) requires professionals and agencies, in discharging their functions under the Bill—general or specific—to have regard to the individual’s wishes and feelings. In addition, section 10(4) states that, in carrying out a needs assessment under that section, the local authority must

[369] ‘seek to identify the outcomes that the adult wishes to achieve in day-to-day life,’

[370] and,

[371] ‘assess whether, and to what extent, the provision of care and support could contribute to the achievement of those outcomes.’

[372] Section 12(5) and section 15(5) make similar provisions in relation to children and carers, so there is provision for this already within the Bill.

[373] However, I am minded to agree with William Graham and Lindsay Whittle that there is benefit in achieving greater transparency of the expectations in this regard in relation to the care and support plan provisions. For that reason, I would like to take both amendments away with a view to returning to this at the next stage. I want to ensure that the drafting of the amendments catches all of the relevant aspects and that the drafting is consistent with other elements of the Bill.

12:00

[374] Amendment 411 seeks to insert within the list of matters to be covered in regulations a new requirement relating to appeals against plans. I welcome the intent behind this amendment, which is similar to amendment 408, tabled by Lindsay Whittle, which we considered in group 13 earlier this morning. There is, however, as I said earlier, a difference between a review of a decision and an appeal against it, and I spoke about the two-tier process that could develop. I acknowledge, however, that there could be merit in clarifying expectations, and for that reason, and the reasons that I set out in response to amendment 408 earlier, I would like to consider this further, alongside amendment 408, with a view to the Government returning to this at Stage 3.

[375] I have considered amendments 412 and 413 tabled by Lindsay Whittle carefully. I understand the importance of advocacy in ensuring that individuals are enabled to have their voice, and Lindsay Whittle has referred to the statement that I made. We will be considering the Government’s amendments on advocacy in due course. Members will be aware that I have tabled amendment 52 to insert a substantial new section about the provision of advocacy services. However, the purpose of section 38 is to place a duty on local authorities to prepare and maintain a care and support plan. Subsection 38(4) specifies those matters that will be contained within the regulations covering care and support plans for individuals. It would be inappropriate to include a reference to a particular service within this section, as the section is not concerned with services. Types of services are more appropriate to be included in the section on meeting needs. For this reason, I am unable to support amendment 412 and amendment 413, which is consequential to amendment 412.

[376] Turning to amendment 182, I do not believe that this amendment is absolutely necessary. The existing regulation-making powers are broad enough to achieve what is proposed in this amendment. Amendment 428 in this group will extend this power to include consultation in connection with the review and revision of plans. However, I have listened to what William Graham said in support of his amendment and I am prepared to reflect further, and I will return to this at Stage 3 as well.

[377] **Government amendment 427** is a technical amendment to section 38 regarding care and support plans to clarify drafting intent and make clear that regulations must make provision about the revision of plans, as well as about the review of plans. Amendments 426, 428, 429 and 430 are consequential to amendment 427.

[378] **David Rees:** Thank you, Deputy Minister. I call on Lindsay to reply to the debate.

[379] **Lindsay Whittle:** I thank the Deputy Minister for her comprehensive reply, and I am delighted that she is taking on board some of the amendments. However, in the excitement of this Bill, I missed exactly which ones she was going to re-examine for Stage 3. I wonder whether she could repeat them, because I would like to proceed to a vote on amendments 412 and 413, but I am unclear as to which—

[380] **Gwenda Thomas:** I want to consider amendments 411 and 182, tabled by you and William Graham, with a view to returning to those, and amendment 408, with a view to the Government returning at—

[381] **David Rees:** No, amendment 408 is another one. It was amendments 409 and 410—

[382] **Gwenda Thomas:** I am sorry?

[383] **David Rees:** Amendments 409 and 410 are in this group.

[384] **Gwenda Thomas:** I beg your pardon?

[385] **David Rees:** Amendments 409 and 410 are in this group. We have dealt with amendment 408.

[386] **Gwenda Thomas:** Yes, and amendment 182.

[387] **David Rees:** Did you say that you were coming back to amendments 409 and 410 as well?

[388] **Gwenda Thomas:** To amendments 409 and 410, yes.

[389] **Lindsay Whittle:** In view of that, I will withdraw amendment 409. I do not wish to proceed with amendments 410 and 411, but I wish to proceed with amendments 412 and 413.

[390] **David Rees:** Okay. Thank you, Lindsay. Lindsay has already indicated that he is prepared to withdraw amendment 409. Does another Member wish to move to a vote on amendment 409? I see not, therefore amendment 409 is withdrawn.

*Tynnwyd gwelliant 409 yn ôl gyda chaniatâd y pwyllgor.  
Amendment 409 withdrawn by leave of the committee.*

[391] **David Rees:** Lindsay has also said that he wishes not to proceed with amendment 410. Does any other Member wish to move amendment 410? I see that no Member does.

*Ni chynigiwyd gwelliant 410.  
Amendment 410 not moved.*

*Cynigiwyd gwelliant 426.  
Amendment 426 moved.*

[392] **David Rees:** The question is that amendment 426 in the name of the Deputy Minister

be agreed to. Does any Member object? There are no objections, therefore amendment 426 is agreed.

*Derbyniwyd gwelliant 426 yn unol â Rheol Sefydlog 17.34.  
Amendment 426 agreed in accordance with Standing Order 17.34.*

[393] **David Rees:** Lindsay, you also indicated that you do not wish to proceed with amendment 411.

[394] **Lindsay Whittle:** That is correct, Chair.

[395] **David Rees:** Does any other Member wish to move amendment 411 in the name of Lindsay Whittle supported by William Graham? I see that no-one does.

*Ni chynigiwyd gwelliant 411.  
Amendment 411 not moved.*

[396] **David Rees:** Before we move to vote on amendment 412, Members will wish to be aware that if amendment 412 is not agreed, amendment 413 falls. You did say that you would like to move amendment 412, did you not?

[397] **Lindsay Whittle:** Yes, please. Thank you, Chair. I move amendment 412 in my name supported by William Graham.

[398] **David Rees:** The question is that amendment 412 be agreed to. Does any Member object? There is an objection, so we will have a show of hands.

*Gwelliant 412: O blaid 4, Ymatal 0, Yn erbyn 4.  
Amendment 412: For 4, Abstain 0, Against 4.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Graham, William  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Pleidleisiodd yr Aelodau canlynol yn erbyn:  
The following Members voted against:

Andrews, Leighton  
Evans, Rebecca  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).  
As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 412.  
Amendment 412 not agreed.*

*Cynigiwyd gwelliant 427.  
Amendment 427 moved.*

[399] **David Rees:** The question is that amendment 427 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections, therefore amendment 427 is agreed.

*Derbyniwyd gwelliant 427 yn unol â Rheol Sefydlog 17.34.  
Amendment 427 agreed in accordance with Standing Order 17.34.*

[400] **David Rees:** William, would you like to move amendment 182?

[401] **William Graham:** No, thank you, Chair.

[402] **David Rees:** Does any other Member wish to move amendment 182 in the name of William Graham? I see that nobody does.

*Ni chynigiwyd gwelliant 182.  
Amendment 182 not moved.*

*Methodd gwelliant 413.  
Amendment 413 fell.*

*Cynigiwyd gwelliant 428.  
Amendment 428 moved.*

[403] **David Rees:** The question is that amendment 428 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections, therefore amendment 428 is agreed.

*Derbyniwyd gwelliant 428 yn unol â Rheol Sefydlog 17.34.  
Amendment 428 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 429.  
Amendment 429 moved.*

[404] **David Rees:** The question is that amendment 429 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections, therefore amendment 429 is agreed.

*Derbyniwyd gwelliant 429 yn unol â Rheol Sefydlog 17.34.  
Amendment 429 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 430.  
Amendment 430 moved.*

[405] **David Rees:** The question is that amendment 430 in the name of the Deputy Minister be agreed to. Does any Member object? There are no objections, therefore amendment 430 is agreed.

*Derbyniwyd gwelliant 430 yn unol â Rheol Sefydlog 17.34.  
Amendment 430 agreed in accordance with Standing Order 17.34.*

**Grŵp 27: Hygludedd Cynlluniau Gofal a Chymorth a Chynlluniau Cymorth  
(Gwelliannau 507, 508A, 508, 509, 108, 109, 510, 511, 512, 126 a 110)  
Group 27: Portability of Care and Support Plans and Support Plans (507, 508A, 508,  
509, 108, 109, 510, 511, 512, 126 and 110)**

[406] **David Rees:** I think that we have time for one last group. This, the twenty-seventh grouping of amendments, gives consideration to the portability of care and support plans. The lead amendment in the group is amendment 507. I move amendment 507 in the name of the Deputy Minister, and I call on the Deputy Minister to speak to the amendments in this group.

[407] **Gwenda Thomas:** Thank you, Chair. I will speak to my amendments 507 to 512 in

this group, and I will also speak to amendments 108, 109, 110 and 126, brought forward by William Graham. The group is concerned, as you say, with the portability of care and support plans and support plans. I know that this is something that the committee received evidence on and considered fully during its Stage 1 scrutiny.

[408] Amendments 508 and 510 are technical amendments to achieve clarity and consistency of drafting throughout the Bill. As such, they do not add any further duties that are not already contained within the provisions under this section.

[409] Amendments 507 and 509 are consequential to amendment 508. Amendment 511 is a technical amendment to clarify that an assessment reference under section 40(2)(d) means an assessment of a child or adult under sections 10 and 12 of the Bill. Amendment 512 is consequential to amendment 511.

[410] Turning now to the other amendments in this group, I consider that there are two key matters that William Graham's amendments are seeking to address: timescales for the transfer of information between authorities, and the portability of support plans for carers.

[411] I will speak to amendments 108, 109, and 508A, which deal with timescales, first. The regulations and the code of practice, which will underpin section 40, will specify our expectations of local authorities as to how they should discharge their duties, to ensure the portability of care and support for people and support for those who care for them when both parties are moving across local authority areas of Wales. When this happens, the receiving local authority will have to consider the continuity of care and support for both parties, including consideration of the provision of other services, including preventative services, information, advice and assistance, and wider community support. The effect of William Graham's amendments 108 and 109 would be to impose on the face of the Bill a time limit on a local authority as the sending authority within which it must notify and provide information to the receiving authority in relation to the portability of care and support plans.

[412] William Graham has also tabled an amendment to my amendment 508, which seeks to achieve the same aim of putting in a timescale. I am concerned that the 30 days proposed in these amendments would be too long in many cases, particularly where there are protection concerns. In order to protect individuals and ensure continuity, information should be shared in advance of a person or family moving, wherever possible, as soon as intentions are known. Setting the timescale in primary legislation restricts flexibility and could lead to practice that means that this becomes the norm or default, which would, in my opinion, be risky.

[413] Turning to amendment 126, it is important to remember that care and support needs may be met differently in the receiving authority to the experience in the sending authority. The onus should be on finding flexible and innovative ways to meet people's care and support needs, not just to provide what was there before. I also draw Members' attention to section 40(2)(d), which provides for a local authority to have regard in particular to any change in the person's need for care and support arising from the move. It could be argued, therefore, that the portability provisions in section 40 of the Bill already provide adequately for the responsibilities of the receiving authority. However, I see some merit in making more explicit the duty on the receiving local authority to have regard to the care and support plan provided by the sending authority when it carries out its own assessment of the individual who has moved. However, I am advised that amendment 126 needs further consideration from a technical drafting aspect, and therefore I ask William Graham to allow me to return to this at a later stage.

[414] Recommendation 19 of this committee's Stage 1 report recognised my commitment to consider whether anything further was required in respect of the portability of plans for carers. Amendment 110 from William Graham arises from recommendation 19. I want to

clarify for the committee that the responsibility for the support provided to carers rests with the authority in which—and this is very important—the person being cared for resides. It does not rest with the authority in the area in which the carer lives. As such, if a carer moves and the local authority in which they reside changes, there is no need for the Bill to provide for this. It is the cared-for person's location that determines which authority carries the responsibility for providing support. The Bill already sets out arrangements governing portability when the cared-for person moves. I will listen carefully to William Graham's reasoning for bringing forward his amendment, but at this time, I do not support this as I believe that it is unnecessary and based on the misunderstanding of the construct of the Bill.

[415] **David Rees:** William, do you wish to speak?

[416] **William Graham:** Yes, thank you very much, Chair. Having listened to and noted what the Deputy Minister has said, I would stress that our amendment 508A provides for a maximum of 30 days, and arises from practicalities in reality. Amendments 108 and 109 arise from similar considerations.

[417] In terms of amendment 126, I have listened to what the Deputy Minister has said and I am quite happy to not proceed with that amendment, on the basis of her undertaking to look at it further and come back with a better amendment at Stage 3.

[418] Amendment 110 is, in our opinion, a very important additional amendment. It follows the recommendation of the committee and that of the Dilnot commission, and Age Cymru has suggested it. We and members of the Wales Carers Alliance welcome the move towards equality for carers, but we strongly feel that there is no sufficient justification for excluding them from the right to a portable assessment and support plan. This move will undermine the policy intention to extend the same entitlements to carers as the people for whom they care. We believe that this must be rectified and that the Bill should also make care assessments portable and linked to service-user assessments to give them the same rights and facilitate a streamlined process. Carers Wales commented that one quite clearly stated aim of the Bill is that carers are treated in the same way as the person cared for. This is the case throughout the Bill, but then carers are explicitly exempted from the portability section. We recommend that carers are fully included in that section. This amendment will ensure that carers have the same rights as service users and are not disadvantaged in any way.

[419] **David Rees:** Does any other Member wish to speak? I see not. Therefore, I call on the Deputy Minister to reply to the debate.

[420] **Gwenda Thomas:** I just wish to refer to the letter that I have sent on the subject of carers, which explains clearly the position with regard to the Bill and carers. I know that committee members will want to read that carefully.

[421] **David Rees:** Thank you, Deputy Minister. Do you wish to proceed to a vote on amendment 507?

[422] **Gwenda Thomas:** Yes, please.

12:15

[423] **David Rees:** The question is that amendment 507 be agreed to. Does any Member object? There is no objection; therefore, amendment 507 is agreed.

*Derbyniwyd gwelliant 507 yn unol â Rheol Sefydlog 17.34.  
Amendment 507 agreed in accordance with Standing Order 17.34.*



[424] **David Rees:** We will now dispose of amendments 508A and 508—the amendment to the amendment first.

[425] William, would you like to move amendment 508A?

[426] **William Graham:** I move amendment 508A in my name.

[427] **David Rees:** Before we move to the vote on amendment 508A, Members will wish to be aware that if amendment 508A is agreed, and amendment 508, as amended, is agreed, amendments 108 and 109 will fall.

[428] The question is that amendment 508A be agreed to. Does any Member object? I see that there is objection; therefore, we will take a vote by show of hands.

*Gwelliant 508A: O blaid 5, Ymatal 0, Yn erbyn 5.  
Amendment 508A: For 5, Abstain 0, Against 5.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Graham, William  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Pleidleisiodd yr Aelodau canlynol yn erbyn:  
The following Members voted against:

Andrews, Leighton  
Evans, Rebecca  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).*

*As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 508A.  
Amendment 508A not agreed.*

*Cynigiwyd gwelliant 508.  
Amendment 508 moved.*

[429] **David Rees:** The question is that amendment 508 in the name of the Deputy Minister be agreed to. Does any Member object? There is no objection; therefore, amendment 508 is agreed.

*Derbyniwyd gwelliant 508 yn unol â Rheol Sefydlog 17.34.  
Amendment 508 agreed in accordance with Standing Order 17.34.*

[430] **David Rees:** Before we move to a vote on amendment 509, Members may wish to be aware that, if amendment 509 is agreed, amendments 108 and 109 will fall.

*Cynigiwyd gwelliant 509.  
Amendment 509 moved.*

[431] **David Rees:** The question is that amendment 509 in the name of the Deputy Minister be agreed to. Does any Member object? There is objection; therefore, we will have a vote by show of hands.

*Gwelliant 509: O blaid 8, Ymatal 0, Yn erbyn 2.  
Amendment 509: For 8, Abstain 0, Against 2.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Andrews, Leighton  
Evans, Rebecca  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay  
Williams, Kirsty

Pleidleisiodd yr Aelodau canlynol yn erbyn:  
The following Members voted against:

Graham, William  
Millar, Darren

*Derbyniwyd gwelliant 509.  
Amendment 509 agreed.*

[432] **David Rees:** As amendment 509 was agreed, amendments 108 and 109 fall.

*Methodd gwelliannau 108 ac 109.  
Amendments 108 and 109 fell.*

*Cynigiwyd gwelliant 510.  
Amendment 510 moved.*

[433] **David Rees:** We will now move to dispose of amendment 510. The question is that amendment 510 in the name of the Deputy Minister be agreed to. Does any Member object? There is no objection; therefore, amendment 510 is agreed.

*Derbyniwyd gwelliant 510 yn unol â Rheol Sefydlog 17.34.  
Amendment 510 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 511.  
Amendment 511 moved.*

[434] **David Rees:** The question is that amendment 511 in the name of the Deputy Minister be agreed to. Does any Member object? There is no objection; therefore, amendment 511 is agreed.

*Derbyniwyd gwelliant 511 yn unol â Rheol Sefydlog 17.34.  
Amendment 511 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 512.  
Amendment 512 moved.*

[435] **David Rees:** The question is that amendment 512 in the name of the Deputy Minister be agreed to. Does any Member object? There is no objection; therefore, amendment 512 is agreed.

*Derbyniwyd gwelliant 512 yn unol â Rheol Sefydlog 17.34.  
Amendment 512 agreed in accordance with Standing Order 17.34.*

[436] **David Rees:** William, would you like to move amendment 126?

[437] **William Graham:** In view of the Deputy Minister's undertaking, I do not wish to move the amendment.

[438] **David Rees:** Does any other Member wish to move amendment 126? No; therefore,

amendment 126 is not moved.

*Ni chynigiwyd gwelliant 126.  
Amendment 126 not moved.*

*Cynigiwyd gwelliant 513.  
Amendment 513 moved.*

[439] **David Rees:** The question is that amendment 513 in the name of the Deputy Minister be agreed to. Does any Member object? There is no objection; therefore, amendment 513 is agreed.

*Derbyniwyd gwelliant 513 yn unol â Rheol Sefydlog 17.34.  
Amendment 513 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 514.  
Amendment 514 moved.*

[440] **David Rees:** The question is that amendment 514 in the name of the Deputy Minister be agreed to. Does any Member object? There is no objection; therefore amendment 514 is agreed.

*Derbyniwyd gwelliant 514 yn unol â Rheol Sefydlog 17.34.  
Amendment 514 agreed in accordance with Standing Order 17.34.*

[441] **David Rees:** William, would you like to move amendment 110?

[442] **William Graham:** I move amendment 110 in my name.

[443] **David Rees:** The question is that amendment 110 be agreed to. Does any Member object? We have an objection; therefore, we will go to a vote by show of hands.

*Gwelliant 110: O blaid 5, Ymatal 0, Yn erbyn 5.  
Amendment 110: For 5, Abstain 0, Against 5.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Graham, William  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Pleidleisiodd yr Aelodau canlynol yn erbyn:  
The following Members voted against:

Andrews, Leighton  
Evans, Rebecca  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).  
As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 110.  
Amendment 110 not agreed.*

*Cynigiwyd gwelliant 515.  
Amendment 515 moved.*

[444] **David Rees:** The question is that amendment 515 in the name of the Deputy Minister

be agreed to. Does any Member object? There is no objection; therefore, amendment 515 is agreed.

*Derbyniwyd gwelliant 515 yn unol â Rheol Sefydlog 17.34.  
Amendment 515 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 516.  
Amendment 516 moved.*

[445] **David Rees:** The question is that amendment 516 in the name of the Deputy Minister be agreed to. Does any Member object? There is no objection; therefore, amendment 516 is agreed.

*Derbyniwyd gwelliant 516 yn unol â Rheol Sefydlog 17.34.  
Amendment 516 agreed in accordance with Standing Order 17.34.*

[446] **David Rees:** It is my intention to stop at this point. If we move on to the next amendment in the marshalled list, we open up a new section, which will create some complexities if people wish to table amendments. I wish to stop at this point. I do not believe that we have appropriate time to debate group 28, so I propose that we stop these Stage 2 discussions at this point.

[447] For the record, sections 2 to 42 have been deemed to be agreed. The next meeting to dispose of the amendments will be held on Thursday, 5 December. In accordance with Standing Orders, amendments must be tabled no fewer than five working days before they are considered. There is, therefore, a further opportunity to table amendments to those sections of and Schedules to the Bill that have not yet been deemed to be agreed. In accordance with Standing Order 26.61, amendments will only be admissible if they are not inconsistent with decisions already taken at the Stage at which they are due to be considered. The clerks can provide advice on admissibility as required. The deadline for tabling any further amendments is 5 p.m. on Thursday 28 November—tomorrow. If Members wish to table any further amendments, please contact the clerks.

12:20

### **Papurau i'w Nodi Papers to Note**

[448] **David Rees:** Before we leave, we still have item 3 on the agenda. I invite Members to note the letter from the Minister for Health and Social Services relating to the implementation of the recommendation of the Greenaway report; the letter from the Deputy Minister for Social Services relating to the supplementary legislative consent memorandum on the care Bill, which we discussed yesterday in Plenary; and the letter from the Deputy Minister for Social Services relating to the Social Services and Well-being (Wales) Bill and the repeal of the Carers Strategies (Wales) Measure 2010. They are in your papers. I see that those are all noted.

[449] Thank you very much for your attendance and for the long session this morning. I will see you a week tomorrow.

*Daeth y cyfarfod i ben am 12:20.  
The meeting ended at 12:20.*