



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

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

**Dydd Mercher, 8 Hydref 2014  
Wednesday, 8 October 2014**

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Cynnig o dan Reol Sefydlog 17.42(vi) a (ix) i benderfynu Gwahardd y Cyhoedd o Weddill y  
Cyfarfod ac o Eitem 1 y Cyfarfod ar 16 Hydref 2014  
Motion under Standing Orders 17.42(vi) and (ix) to resolve to Exclude the Public from the  
Remainder of the Meeting and for Item 1 of the Meeting on 16 October 2014

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

Alun Davies

Llafur

Labour

Janet Finch-Saunders

Ceidwadwyr Cymreig

Welsh Conservatives

John Griffiths	Llafur Labour
Elin Jones	Plaid Cymru The Party of Wales
Darren Millar	Ceidwadwyr Cymreig Welsh Conservatives
Gwyn R. Price	Llafur Labour
David Rees	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Lindsay Whittle	Plaid Cymru The Party of Wales

**Eraill yn bresennol  
Others in attendance**

Sue Bowker	Pennaeth Cangen Polisi Tybaco Head of Tobacco Policy Branch
Tracey Breheny	Dirprwy Gyfarwyddwr, Polisi Camddefnyddio Sylweddau, Busnes y Llywodraeth a Chorfforaethol Deputy Director of Substance Misuse Policy, Government and Corporate Business
Dr Ruth Hussey	Prif Swyddog Meddygol Cymru Chief Medical Officer for Wales
Chris Tudor-Smith	Uwch-swyddog Cyfrifol Senior Responsible Officer

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

Amy Clifton	Gwasanaeth Ymchwil Research Service
Helen Finlayson	Clerc Clerk
Sian Giddins	Dirprwy Glerc Deputy Clerk

*Dechreuodd y cyfarfod am 09:32.  
The meeting began at 09:32.*

**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. The meeting is bilingual and headphones are available for everyone to use. The simultaneous translation from Welsh to English is on channel 1 and the amplification of sound is on channel 0. Could you please make sure that any mobile devices, which may interfere with the broadcasting equipment, are either turned off or put on silent mode? There is no scheduled fire alarm for this morning, so if one does sound, please follow the directions of the ushers. We have had apologies from Kirsty Williams this morning, but there is no substitute attending on her behalf.

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

[2] **David Rees:** There are the minutes of the meetings of 18 and 24 September to note. Is everyone happy to note those? Yes. Thank you very much for that.

**Sesiwn Frifffio Ffeithiol ar y Papur Gwyn ar Iechyd y Cyhoedd  
Factual Briefing on the Public Health White Paper**

[3] **David Rees:** I welcome Dr Ruth Hussey, Chief Medical Officer for Wales. She has with her Chris Tudor-Smith, senior responsible officer for the White Paper, Tracey Breheny, deputy director of substance misuse policy, and Sue Bowker, head of the tobacco policy branch. I welcome you all this morning. Obviously, this is an opportunity for us to have a briefing on the technicalities of the White Paper. This was scheduled for last July, but, unfortunately, we had to postpone it. We understand that the consultation has now been completed and that the responses are being analysed. So, in one sense, there is a bit more for you to give to us in this session. The Minister also made a statement yesterday, and we recognise that as well. If anything arises, you could perhaps clarify the committee on that.

[4] I would like to start by handing over to you, Dr Hussey, to give us an outline.

[5] **Dr Hussey:** Bore da. Good morning. Thank you very much for the opportunity to talk about this. It is obviously a very important landmark opportunity for those of us committed to improving the health of the public. The information that we can cover is, obviously, limited, because we are just concluding the analysis of the consultation responses. As you rightly say, the Minister did provide a statement yesterday. So, what I thought I would do is just set out what we have been doing and highlight the content of the proposals and take it from there.

[6] We did actually start the conversation about what we should do about the health of the public way back in late 2012, and a Green Paper was published then, which drew a lot of interest. It is fair to say that there were two very strong, clear messages that came back to us at that point. One was from a group that wanted the legislation to codify health in all policies in Wales—putting health considerations at the heart of policy making. Then, another set of responses contained very practical, specific topics to be considered, which people were seeking action on. So, simplifying what came back, they were the broad sort of areas that we saw.

[7] The public health White Paper attempted to clarify and propose a way forward, having listened to the feedback from the Green Paper. As you know, the Well-being of Future Generations (Wales) Bill is currently with committees and part of the consideration of that is attempting to address, I think, the wider consideration of how health and wellbeing is central to policy making in Wales. So, I was personally very pleased to see health as one of the goals in there. I am certainly aware from people who have approached me that the health-in-all-policy perspective is one that they see as important through that legislation. So, that is one element of what came back.

[8] The second part was an opportunity to look at the very specific practical things that could be done to address the concerns that people have in Wales about things that are harmful to health. So, the White Paper drew on that and looked at evidence of what we were hearing about, things that people had talked about, new trends and new issues that were coming forward to formulate a package of practical things that would focus on prevention. As you know, I am due to come to committee shortly to talk about my annual report and I hope that what has come across already since its publication last week is the scale of preventable poor health that we have in Wales. It is an enormous agenda for us.

[9] So, the question, therefore, is: what can legislation do? Some of this is not within the gift of legislation to influence. However, some of it could be, so the White Paper was about trying to tease that out. I will quickly remind everyone of the proposals. What came forward in the White Paper for discussion included a national tobacco retailers' register, requiring retailers selling tobacco products to register; the aim to make it easier for trading standards and colleagues to enforce current legislation; a proposal to consider whether the bans around hospital grounds, school grounds and so on should be placed on a statutory footing; and, looking at the way that we are changing our society, the online sales aspect of tobacco, particularly the issue of delivering tobacco products to people under 18. So, there is a package of things. Tobacco control has been something that we have been focused on for many decades in Wales, and the tobacco control plan has wanted to push in a whole range of areas. So, that was about trying to take some of these forward. You will also know that the White Paper included a proposal to look at e-cigarettes and I am sure that we will be discussing that. Just to emphasise, the proposal is not to ban e-cigarettes but to align e-cigarettes with the current arrangements for conventional smoking in indoor spaces.

[10] We then moved on to alcohol misuse and, building on the evidence base and the literature that has been growing for some time, and the recognition that health harm related to alcohol has been growing, contrary to many of the other health indicators, the need to really pay attention to the impact of that on the health of the population. Again, the minimum unit price proposal was in there, which I am sure we will pick up.

[11] There were then a range of other areas where the intention was trying to create the conditions for good health in local communities. So, first, there was the community pharmacy proposal, looking at the requirement to do pharmaceutical needs assessments. The idea here is to recognise the important role that primary care plays in our communities. You will, again, know from my report last week that I have devoted a whole section in there to primary healthcare in its broader sense and the need to try to match services to the needs of the population. So, by doing a needs assessment for this particular service, we can fill gaps or encourage the more flexible deployment of services according to the needs of the population.

[12] Then we looked at public toilet facilities, and you will know very well from the work that has already gone on about the concerns that people have about access to facilities in communities. The Commissioner for Older People in Wales is very clear about the importance of enabling older people, particularly, to be a full part of society. I do not need to rehearse with you that part of that is being able to go about daily life in local communities without fear of not having access to public toilets. So, the proposal is very much trying to address the important aspect of addressing about a third of the population who are now the older generation in Wales. We have to make sure that they feel able and confident in going about their daily lives and are not trapped in their homes, frightened of not having access to services. So, that was an important consideration, building on the work that you and others have talked about for some time.

[13] On the proposal around looking at the special procedures register, again, this is building up concerns around different types of procedures—again, a growing trend of people being subject to a whole range of things and known risks with infection or other harms, allergies and so on. So, the idea was developed that a special procedures register would enable people to at least have some basic level of awareness and requirements put upon them—again, we can talk about that—to protect the public's health.

[14] What did we do in the consultation? In the White Paper consultation, and colleagues may want to add the detail—I know that some colleagues went to a number of the events that we had—we drew over 700 responses. A fair number of those were on one issue and from individuals, but we drew responses from a wide range of organisations in Wales. We have

been considering them over the summer and have received a wide range of very helpful suggestions and different perspectives on each of the proposals. So, it is quite a detailed analysis of all the different elements. Some people only commented on a few issues, but some commented on the whole range. That work has been going on and my colleagues can delve into that with you. As the Minister said, we are at the stage now of coming to the point when he will consider all the evidence in the round and publish the consultation responses—we think that that will probably be later this month or shortly after recess—and take the considerations on from there.

[15] So, that is broadly where we are. The other aspect of the work going forward will of course be a detailed regulatory impact assessment, which will be part of the normal process of taking forward the considerations. So, we will then have an intense period of work and, as the proposal is before us, the schedule would suggest that the Bill, depending on the Minister's decisions, would be introduced before summer recess next year. There is detailed work going on around all of that at this point in time. I am very happy to delve into any elements of that. I do not know if colleagues want to add anything on the consultation specifically and the events that we had, and so on. Chris, you went to some of them, did you not?

[16] **Mr Tudor-Smith:** We held three events with the public and a number of events with particular stakeholders. The events that we held with the public were really quite lively occasions. People often came to talk about one particular issue, but we arranged it so that they could talk about a whole range of issues. People were very willing in the suggestions that they made and we are very grateful to the people who attended. On all the issues, there were really some very lively debates and we got some really rich information from those events.

[17] **David Rees:** Just before I move on to some questions, you mentioned the future generations Bill at the very start, so what discussions did you have with those putting that Bill forward to ensure that this Bill fits in with their objectives? I am thinking in particular about the health impact assessments and areas like that.

[18] **Dr Hussey:** I will make a comment and I know that Chris will want to come in. At official level, we have had very close engagements. Obviously the health sector more generally is one of the sectors that would be drawn into the requirements of that legislation, so we have been generally working alongside them as officials, but also specifically starting to think through what the proposed goal that people would be healthier actually means in practice. I know that there are further engagement opportunities ongoing. Do you want to say any more about conversations, Chris?

[19] **Mr Tudor-Smith:** The public health Bill team is on the future generations Bill team, and vice versa, so we have very close relationships with the officials working on the development of the Bill. We have put in a lot of joint work with them on developing the health goal and its definition, so there has been very good close working between the two Bill teams.

[20] **David Rees:** Elin, is your question on this point?

[21] **Elin Jones:** Yes. In terms of the health impact assessments, they are likely to be in the future generations Bill rather than there being anything in this Bill at this stage. Does the timetable allow, should the future generations Bill fail in the Assembly, for health impact work to be placed in this Bill at some point in the future?

09:45

[22] **Dr Hussey:** That is a complex timing question for me. Certainly, we are closely engaged with the future generations team, looking at how we can best take forward the health

goals. The proposed public health Bill would be quite a bit behind that one.

[23] **Elin Jones:** My preference would be for health impact work to be undertaken in this piece of legislation. I think that one of the responses that you have had to the consultation has been on physical activity and the lack of any clear reference or any clear work to promote physical activity. Health impact assessments come into that in terms of where planning decisions are taken by local authorities to take away green spaces and all of those issues. So, I would see that the health impact work would fit best with this Bill rather than the Well-being of Future Generations (Wales) Bill.

[24] **Dr Hussey:** May I respond to that? I take the point, and I want to pick up the whole question of physical activity, because I have had feedback on that that I would like to share with the committee. As to the question of whether we try to codify health in the round across all Government policy making, our thinking around it being part of the wellbeing of future generations Bill, with the very clear goal that people will be healthier as part of that proposal, was that health would always be at the table and the consideration would always be there in the round of those conversations. The risk, I guess, if it is seen as something separate and if public health is a separate consideration, is that we lose the opportunity to influence. However, I understand your point. I think that the timetabling is such that the wellbeing of future generations Bill is quite significantly ahead. So, there is time for the White Paper and the proposed public health Bill to reflect on the debates that are had during that process to consider that. However, that would be for the Minister to consider—it is not for me—although I share the general ambition, which is to make sure that all policies look at the impact on health and wellbeing in everything that we do. The question is how best to secure that in policy making.

[25] May I pick up the question of physical activity? One piece of feedback that I have had—and quite a large group of people came to see me expressing concerns about this—is that the White Paper did not say enough about physical activity. I was disappointed that that was the perception that had come across, but the reality was that the White Paper was not a public health strategy paper; it was a package of proposals, very specific proposals, about legislation. So, the question we had and the debate that we got into with colleagues was the role that legislation can play in making us more physically active. What else can the Assembly consider to do that? Obviously, the Active Travel (Wales) Act 2013 is well regarded from outside Wales. People look at that and say ‘This is creating the conditions and the environment to help people to be physically active’. So what else can we do? The conversation that we had related to whether health in all policies can make sure that health is considered in the round, as well as the benefits. That is where we focused on the future generations considerations, and I was very open to that.

[26] However, what I do want to say is that I am absolutely clear that physical activity is a key area for us to work on; the debate, if you like, was what legislation adds to that and what more we can do, through services, initiatives and other aspects of our work, to promote physical activity. A physical activity group is looking at a range of proposals, which we are going through at the moment, to try to keep the message uppermost in people’s minds. It is pertinent to everything we do. The evidence base is growing day by day and, perhaps, when I come back to talk about the annual report, we can come back to this issue. It is of real concern to me that a third of the population is inactive. Only this week, we have seen more evidence to show that, if you are fitter going in for operations, you have a much better clinical outcome. The benefits are multiple, whether in relation to mental health or good physical health. So, it is an area of concern, but it comes back to what legislation can offer us in this field.

[27] **David Rees:** I have a series of questions from colleagues. We will start with Gwyn and then Alun.

[28] **Gwyn R. Price:** Good morning, everybody. Once you have gathered all of this analysis—and we have been reading about the consultation that has been going on—do you have an end date when all of this will finally be brought before us?

[29] **Dr Hussey:** We hope—and the Minister alluded to this yesterday—that the consultation report would be brought forward towards the end of the month, probably just after half-term. Then the current timetable, depending on the Minister's decisions, means that it will be presented as a proposed Bill before the summer recess next year. There is then a timetable of procedure after that.

[30] **David Rees:** We are aware that the timetable is coming to us.

[31] **Alun Davies:** I am interested in the conversation about the relationship between this and other pieces of legislation and also regarding the purpose of this legislation. You have just replied by saying that it is not necessarily a comprehensive public health strategy, but a collection of proposals; the danger with that, of course, is that it becomes a bit of a rag-bag and the things that you cannot slot into other pieces of legislation, you put in this, and you call it a public health strategy, or a public health Bill. I am concerned to know what the impact is of all of this. I have listened to civil servants saying that we want health impacts, in this case, to be included in all pieces of Government work, and I have heard sustainability, for argument's sake, put in exactly the same context. The danger is, of course, that it becomes a box-ticking exercise, whereby everybody says, 'All right, we have done this and therefore we have covered the health issue', when in fact, what they have done will have absolutely no impact at all on the population at large and my constituents in Blaenau Gwent will see no impact on their lives at all. So, how will my constituents in Blaenau Gwent benefit from this, and how are you going to set objectives, not for each individual proposal, but for your overarching objective, which I guess is improving health over the life course, which is your first field?

[32] **Dr Hussey:** We do have overarching health strategies. What this proposal does it to take the ones that require a legislative basis to them and bring them together, but they do track back to some of the key health issues that we have been concerned about for many years. Particularly referring to your communities, health inequality is a profound and deep strand of concern. We have the 'Fairer Health Outcomes For All' policy documents, and a general 'Together for Health' vision, as you know. So, we can track some of these back to some of the health concerns.

[33] If I pick one, alcohol, we have seen the harm from that develop over the years. About 500 people die each year of alcohol-related harm. We know that there is a social gradient. We know that the poorest communities are heavily affected by that. So, if you look at this particular proposal, you see that it does bring benefits to those communities. From all the evidence we have seen, it will have an impact on alcohol consumption. So, you can take each of the proposals and relate them to the overall strategy to see how they fit. The same is true with tobacco control. We have had a tobacco control action plan for some time. These are strands that cannot be done through services or through partnership working; these are things that specifically require regulation and policy making to help them.

[34] As we bring this forward, perhaps we need to do more to explain how all of the strands connect to the wider strategy. However, the basic principles are: prevent the preventable and redress the health inequalities that people experience. There are pharmaceutical needs assessments and the question of whether services match needs. We are very familiar with the inverse care law; are we confident that we have the right services, to the right level, in the right communities? So, for all of these, you can start to say that they are doing that.

[35] To come back to health impact assessments, I have had experience of using these over many years, since they were first developed, which is going back a very long time. What I am keen to see is the use of health impact assessments at an early stage. What I would not like it to become is something where initiatives are done and things are done, but then, at the end, perhaps as you are suggesting, we get to a tick-box exercise where people can say, 'We've done that; it is sorted'. Actually, we should be using health impact assessments at the beginning of a process to ask how we can get the most health benefit from whatever proposals, policies or services we are developing, and to ask whether we can get added value. I have seen it work very well in certain large capital projects, where because, upfront, people thought about it, they were able to think about labour and environmental issues, and they took the issues in the round—and transport policy also came into that consideration. So, I hope that we can see it more as a dynamic tool, rather than as a tick-box at the end. I think that we will have missed the point if we do that.

[36] **Alun Davies:** I accept what you are saying on individual issues and individual matters, but my concern is how we know whether you have achieved your first objective of improving health over the life course, and how do we hold you to account, or hold the Minister or the Government to account? My concern is that we will provide a whole raft of legislation—and on some of the individual items, I do not have any political or policy issues, actually; I think they are all worthwhile items—and, going back to the conversation earlier about the future generations Bill, whenever we talk to civil servants now, we are told that, 'That is in the future generations Bill'. I do not know if there is a civil service briefing doing the rounds at the moment saying that, but it appears to me that what we are not seeing from Government at the moment is a clear stated objective of what it wants to achieve, a description of what it wants to achieve, and the targets that will enable us to know whether it has achieved it or not, and the timescale for doing so.

[37] **Dr Hussey:** Once again, I will pick up the alcohol example. We have modelling work coming in, and I would expect, if we roll forward a year or two, to start to see the evidence accruing. So, we would be able to say, 'The modelling suggested it might have this impact; how are we doing, and is it having the desired impact that we thought?' We could then reflect on that. So, as we go through the process, we should be able to have a clearer sense of the scale of the impact. I know that Tracey might want to come in on this point. There is international research that suggests that we can be reasonably confident as to the sort of scale to expect.

[38] **Alun Davies:** May I stop you there, as I do not want to carry on with this? Can we see, from the Government, clear targets, clear objectives and a clear timescale for achieving those targets and those objectives, and having that related to the real world?

[39] **Dr Hussey:** Thank you.

[40] **David Rees:** Elin, do you want to come in on this question?

[41] **Elin Jones:** It is not on this; I am on the list.

[42] **David Rees:** I have questions from Lindsay, Janet, John and Elin.

[43] **Lindsay Whittle:** I think that the Bill is okay, but I am a bit concerned that the issue of obesity is a little bit weak, in particular tackling obesity among children. There is very little mention of mental health issues here, and I wonder why that is.

[44] **Dr Hussey:** Thank you very much. I share the desire to see more impact with regard to a healthy weight for children and adults. Once again, my report sets out the concerns that



we have to make progress in that regard. When we looked at the possible legislative tools that could be used, the ones we have are very much for the pre-school setting that look at whether we can help children to have opportunities for a healthy diet in the pre-school setting, which is in the proposal, and, at the other end of the life scale, in terms of care home settings.

[45] Once again, in my annual report, I make reference to the other legislative devices that we might need to try to shift the pattern of dietary consumption that we have. Some of those are not in the gift of the Welsh Government, or indeed that of the UK Government, as some are European-level issues. There is a growing interest in what curbs can be put on sugar consumption. The scientific advisory committee on nutrition is currently looking at this issue and looking at the guidelines. It is an area that we need to keep close to. The question was: in Wales, what can we do now that would have an impact on that? As I have said, these are some of the areas that we are looking at. The promotion of junk food to children is another area that people have raised as a concern and, once again, that is not within our gift to deal with. However, I would certainly be keen for us to continue to raise a debate about this because it is an urgent area for action.

[46] On the mental health question, once again, Tracey might want to comment on mental health issues, but this is a matter once again of looking at the role of legislation. We have the Mental Health (Wales) Measure 2010 that was introduced not that long ago; what else can we look at? We have had a wide range of contributions. I hesitate to say this, but I know that in the conversations on the Well-being of Future Generations (Wales) Bill mental health has been a consideration in that as well. So, we are very mindful of this. The task is to look at the specific things that could be considered and to go through the comments to try to work out whether there is anything else that could be helpful at this point in time that is within the competence of the Welsh Government.

[47] **Ms Breheny:** I would just like to reiterate what has been said. Obviously, the White Paper proposals need to sit alongside the 'Together for Mental Health' delivery plan, with the range of commitments that are in there specifically to improve mental health.

10:00

[48] All I would say with regard to the proposal in the White Paper on alcohol minimum unit pricing is that we know that there is a correlation between alcohol misuse and mental ill-health. So, some of the proposals within the White Paper certainly will have a benefit for those with mental health issues. However, as the chief medical officer has said, this is a set of legislative proposals and they are specific things that we think will have an impact.

[49] **Lindsay Whittle:** May I just mention, Chair, some evidence from Scotland? I was coming out of a theatre there at 10.10 p.m. one evening, but I could not purchase a bottle of wine to take back to my caravan anywhere at all, so it must be working in Scotland. *[Laughter.]*

[50] Will the austerity cuts affect some of your proposals? I note that you want greater access, for example, to public toilets, but these are closing down faster than chapels at the moment. So, there is an issue there, is there not?

[51] **Dr Hussey:** I fully recognise the difficult economic environment that people are having to make choices within. The proposal as it stands is very much to have a strategy about it. I would hope that there would be imaginative solutions. It is not about building new public toilets provided by local authorities, necessarily, but about looking at what is available in a community, publicising it and making sure that we have easy access in a whole range of different places. I know from the consultation discussions that some places had made access available through other outlets, if you like, or through private companies, but people did not

know about it. So, we need to look at it in the round. I think that what we are asking is whether we are paying attention to this, do we have a plan and how best can we do it, recognising the economic environment that we are in.

[52] **Janet Finch-Saunders:** My question is a lot more basic. I am very concerned—and I do not feel that this is actually tackled—regarding nutrition and hydration. I know that there are mandatory requirements at the moment as regards schools and hospitals, although Age Cymru has picked up on the fact that they are not ideal. However, in care homes, there is no mandatory requirement. Too often, we hear stories and I am concerned, really. We talk about various other things, such as improving health and education in health, but we need to have the basics. We should be writing into legislation now mandatory requirements for older people in care home settings. I wonder why we do not do that. The Royal College of Physicians supports that, Age Cymru has picked up on it, as has the older people's commissioner; these are people who are known in their field. Sadly, we hear of far too many people who otherwise would be healthy, but their basic requirements are not met. How will this address that?

[53] **Dr Hussey:** Thank you very much for raising the issue. Clearly, I am very concerned about the whole context of care and compassion for older people, particularly in care home settings, but also in other facilities. There is a growing awareness of the importance of basic hydration, but also good nutrition. The proposal does talk about nutritional standards in care homes, and I guess that we take your comments and will look at how that is addressed. I do not know whether Chris wants to add anything as to how we could reflect your concerns.

[54] **Janet Finch-Saunders:** May I come back on that point? My question is: if it is okay for schools and hospitals, then we still need that support to go right through to care homes, because that is when people could be quite vulnerable.

[55] **Dr Hussey:** I take your point.

[56] **Janet Finch-Saunders:** May I have a response? Can somebody say why it has not been included?

[57] **Dr Hussey:** Chris, do you want to comment on the proposals so far?

[58] **Mr Tudor-Smith:** We are not at the stage of developing the detail of what the regulations might look like in terms of nutritional standards for care homes, so it is very valuable that you have raised this point at this particular time, because we can consider that in developing the regulations as we move forward.

[59] **Janet Finch-Saunders:** I hope you do. Thank you.

[60] **David Rees:** However, the concept of nutritional standards within care homes is within this Bill.

[61] **Janet Finch-Saunders:** It is not, however, a mandatory requirement.

[62] **David Rees:** John is next.

[63] **John Griffiths:** I was pleased to hear what you said, Ruth, in terms of physical activity and the need to make sure that there is quite a strong focus and emphasis on that. I know that there is a great deal of frustration in terms of organisations like Sport Wales and local authorities, because they feel that what they offer in terms of local authority leisure services, and what sport governing bodies and sports clubs do up and down Wales, is not valued enough in terms of its impact on health and its importance to the preventative agenda.

I think that there has been a longstanding concern that, when decisions are made and budgets are allocated, the role of physical activity is not central enough and has not had the focus that it should. So, I was very pleased to hear what you had to say about that, because it is so important to obesity, which is quite a strong part of the exercise that you have gone through. In general, it is extremely important to health and wellbeing, so I hope that we will see some important developments from that, particularly at a time when local authorities are under incredible pressure in terms of their budgets and there is so much concern about local authority leisure services and the impact on them.

[64] What I wanted to ask specifically, Chair, was on alcohol, which is a massive issue in health and wellbeing. I think that minimum unit pricing is a very good approach and I am very pleased that that is part of the proposals. Could you say a little about the impact that that is likely to have? Will it be mainly supermarkets, for example, and their loss-leader approach to alcohol pricing, that will be impacted? What will be the scale of the price increase that we are likely to see? How does it compare with the approach taken in England, which is about not selling alcohol below cost price? What would be our added value above that, in terms of minimum pricing by unit?

[65] My other question, Chair, is about tobacco control—

[66] **David Rees:** I will ask for answers to those questions, and then you can come back—

[67] **John Griffiths:** Sure.

[68] **Dr Hussey:** There are quite a few elements to those questions. I will bring Tracey in, because she is aware of the detail. The first thing is that there is modelling evidence that we can take, and we can learn from other countries that have implemented changes to get a sense of how accurate the modelling is. On the specific question of the comparison between selling below cost price and minimum unit price, there was research published last week—. Do you want to comment on that, Tracey?

[69] **Ms Breheny:** Yes, sure. In last week's *BMJ*, the researchers from the University of Sheffield who have been working on the Sheffield alcohol model published new research that had looked at the comparison between the original UK Government proposals around introducing a minimum unit pricing of 45p per unit as compared to the confirmed proposal not to sell alcohol below VAT. What that showed, in summary, was that the unit price proposal, even at 45p a unit, was 40 to 50 times greater in terms of impact than the below-cost sales proposal. That was published on 1 October.

[70] Shall I pick up on the point about how it will apply to supermarkets? A minimum unit price will apply across the board. It may well be that the impact on pubs, for instance, will be quite minimal, because of the price issues, but it is the very cheap alcohol sold in some supermarkets that it is specifically designed to address.

[71] **John Griffiths:** Moving on to tobacco control, which is, again, a massive issue for public health and long and well understood in those terms, there has been a lively debate around tobacco control areas for quite some time in terms of how we might go further from the restrictions that we currently have. We have seen developments around children's playgrounds in parks, for example, and the Minister mentioned beaches yesterday in the debate as one area that is being discussed. I know a lot of people who are concerned about city centres, for example, and a lot of people who are very happy that they can now eat and drink in restaurants and cafes indoors without breathing in smoke. It is very important for people with particular health conditions, obviously, as well as for a general sense of comfort. However, they are unhappy that, in the summer, when they would like to sit outside, they are often unable to eat and drink outside cafes and restaurants without breathing other people's

smoke. As I say, if they have particular health conditions, that is a real problem for them, as well as in terms of the general ambience and comfort. I just wondered to what extent, in the exercise that you have gone through and the exercise that is yet to be gone through, there will be the opportunity to consider what extensions different organisations and people would like to see, and whether there is that possibility.

[72] **Dr Hussey:** I will bring Sue in on this one. The fundamental issue is that there are some natural commodities, if you like, in our lives—water and air being very basic ones—where our general goal is not to be harmed. Air pollution is a concern. Rather than just looking at the tobacco issue, my report this year mentions the importance of air pollution and the risks to health. If we have a shared understanding that reducing exposure to air pollution is a fundamental target or goal that we strive towards, then the question is how best we can secure that. We have heard a range of views about how many other settings could be included and what we could look at. I do not know whether Sue specifically wants to look at what sorts of responses we are having.

[73] **Ms Bowker:** The proposals that went into the White Paper were based on measures that would protect children and young people, so you have playgrounds, school grounds and areas with current voluntary bans where there were difficulties with enforcement. That is particularly with regard to the health boards that are asking us about enforcement in hospitals. So, that was the way that we identified the ones that went into the original White Paper. We have had a variety of responses suggesting other areas, and so we will look in detail at all of those and see where it may be appropriate. However, as the Minister said yesterday, he is not committing himself yet.

[74] **Elin Jones:** I have a general point on the White Paper—the legislation. There is a danger with something such as this, where you have quite standalone components to it—I think that Alun Davies referred to it almost as ‘rag-bag’—

[75] **Alun Davies:** Do not quote me on that. [*Laughter.*]

[76] **Elin Jones:** It stuck in my mind for some reason.

[77] Of course, some of the components I agree with completely, such as minimum unit pricing of alcohol—I am completely convinced of the evidence on that. Electronic cigarettes are a new component. In this place, in this committee possibly and in the Assembly certainly, there are different views on that and there is a danger that, in putting a piece of legislation together that has lots of standalone components, one issue may jeopardise some of the other issues in there when we come to vote on it finally. Anyway, that is a point and maybe it is an issue for the Minister more than the audience here.

[78] On those two issues, I turn to minimum unit pricing of alcohol first. There is reference in the paper—I am not sure whether this is our paper or the Government’s paper.

[79] **David Rees:** It is a Research Service paper.

[80] **Elin Jones:** There is reference to the judicial challenge in Scotland, and I wonder whether you could update us on where they are with that and how much information it allows you to have in being able to draft the legislation in a way that is not as challengeable.

[81] On the issue of electronic cigarettes, I thought that the Minister, quite usefully yesterday in his statement, outlined three tests of evidence that needed to be proved in order to justify the banning of e-cigarettes in public places. I do not have the statement with me, but I remember that two of them were the re-normalisation of smoking and the gateway issue—that it would be a gateway into cigarette smoking—and there was a third that I cannot recall.

My question to you is: how have the responses to the White Paper reflected or answered some of those issues around the evidence that is available? How are you working to bring evidence on those three tests to us, as Members, for our consideration in advance of the legislation?

[82] **Dr Hussey:** Thank you very much. Shall we look at the alcohol issue and the Scottish situation, Tracey?

[83] **Ms Breheny:** Yes, sure. In terms of the Scottish proposals, as the committee will be aware, legislation was passed by the Scottish Parliament and has been referred to the European Court of Justice. So, that is still going through that rather long process at the moment.

10:15

[84] In terms of timing, it could take 12 to 15 months to have a decision on that, but the Minister's position on this in Wales is that, given the scale of alcohol-related deaths, at 504 deaths per annum, and the fact that, in Wales, we have a higher rate of alcohol-related deaths than in England, for instance, this is not an area where we can wait. So, that is the rationale, really, for moving ahead in Wales. Sorry, the timing was one question about the European—

[85] **Elin Jones:** May I just ask, on the European Court of Justice, how it has ended up in that court rather than being decided in UK or Scottish courts?

[86] **Ms Breheny:** It has been through the Scottish courts. What has happened is that the Scotch Whisky Association has challenged the legislation on the basis of free movement of trade and a couple of other areas. So, what has happened is that it has been through the court process in Scotland and has now been referred to the European Court of Justice, which is why it has taken such a long time.

[87] **Elin Jones:** It is because of the free movement of trade—that is the European aspect of it.

[88] **Ms Breheny:** Absolutely, yes. Just to pick up a question that you raised around the Scottish Government and the legislation, we are working very closely with the officials who have developed the proposals in Scotland, so we have been very fortunate, really. Obviously, we share, through the British-Irish Council, for instance, good practice and information around that. I think that you asked about that liaison.

[89] **David Rees:** Dr Hussey, would you come in on the other issue of e-cigarettes?

[90] **Dr Hussey:** On e-cigarettes, I think that it is fair to say that it drew a lot of attention when the proposal was put forward, and, to clarify, it is not a proposal to ban them; it is a proposal to restrict their use in indoor spaces. On the question of the three areas of concern, I think that we need to look at the evidence in terms of the role that e-cigarettes might play. On the first, which is children and young people, we know that the majority of smokers begin smoking in childhood and adolescence, and that is a key part of our considerations—what impact are we having on that population? There is a separate question around the role of e-cigarettes in potentially helping those who are smokers to quit.

[91] On the three areas that the Minister talked about, the pace at which the evidence is growing and becoming known is phenomenal. Literally day by day there is new research coming out and starting to give us a sense of where the trends in evidence might be starting to take us, but it is early days; these are fairly new products that are coming forward. On the question of whether young people are taking them up, they are. Different countries have different experiences, and we have a sense of how quickly that is changing over the years. On

the question of whether it is becoming a gateway into conventional smoking, there is a little bit of evidence emerging that suggests that those who have tried e-cigarettes express an intent to consider going on to smoking, but we are so early in the curve, if you like, of their lifetimes, that it will take time to see how that works out—Sue might want to comment on that.

[92] On the normalisation issue, there is quite a lot of evidence around conventional smoking that seeing cigarettes around, being familiar with them and their being readily accessible—all of those things—creates an environment in which people think that it is a normal thing to do. Again, Sue might want to comment on any specific strands of research that are coming through. The third area that we are looking at is whether it is hindering the enforcement of the current policy that we have on conventional smoking. We have some work in train looking at what policies employers are adopting and what the impact is in schools, so there will be some work coming forward around that element in particular.

[93] Do you want to pick up on any of the specific research patterns, Sue?

[94] **Ms Bowker:** I think that it is true to say that, although evidence is emerging, people are still relying on a small number of studies, and what we are getting now is tentative evidence about young people using e-cigarettes. However, as the chief medical officer said, it will take a while to have any longitudinal evidence. These things have not been around that long, so we cannot expect the evidence to be there.

[95] **Dr Hussey:** The salutary lesson for us, I guess, in the long-term preventive field, is to see the research coming through on cannabis this week—a 20-year follow-up study confirming some of the concerns that people had had a while ago. We are able now, finally, to demonstrate some of those things. So, it is a balance of how we can find the evidence and see what is emerging, and it is then a matter of time, and of waiting to see how some of these things unfold.

[96] It was very significant that the World Health Organization issued its evidence report not that long ago, and I believe that it is meeting to consider that.

[97] **Ms Bowker:** Yes, it is meeting next week.

[98] **Dr Hussey:** We are watching all this very closely, as you would expect.

[99] **Alun Davies:** It seems to me that what you are saying, Dr Hussey, is that a key driver for you is the policy objective of not renormalising conventional smoking, rather than the harm that e-cigarettes may potentially do.

[100] **Dr Hussey:** Again, there are different sets of considerations. The first one is that we do not want to return to the days where smoking and its harms are re-installed, if you like. We have made huge progress, although we have a long way to go, still. Then, there is the question of what we know about e-cigarettes as a product anyway. They are very different. I think that there are over 7,000 flavours, and there is all sorts of knowledge coming out about the products, the formulations and the impacts, and it will take some time to understand what the impact might be of the different products. The third question is: do they play a role in helping some people to quit smoking, and is there a place, a licensed, regulated place, where they would have a contribution to make? It is a matter of weighing up all those different issues, trying to make sense of the evidence as it comes forward, and being open to understanding what the products are, what role they play and what harms are there, or not, and what benefits are there, or not. However, the ultimate goal is not to create another generation of tobacco smokers, so we need to watch very carefully what is happening with young people in particular as to the impact this is having and how the products are being promoted to them,

and so on.

[101] **Alun Davies:** I get that argument and, as it happens, I think that the legislation is quite proportionate in what it seeks to do—certainly what is in the legislative proposals. However, your argument this morning that we simply do not know enough about this product is an argument not for this legislation, but for no legislation, because if we do not know enough about a product, we should not be legislating on it.

[102] **Dr Hussey:** What I am saying is that we know a certain amount, and the evidence is emerging very quickly that there are some concerns out there. So, the question is whether it will undermine the current legislation; hence, the research on the impact that it is actually having in the settings where we have got clear legislation on conventional smoking, and not watching as any of that legislation is weakened, potentially. So, again, we have commissioned work to understand what is happening in that situation.

[103] **Alun Davies:** I get all of that, but being concerned about something does not mean that you rush to legislate over it. You have the evidence—not a concern, but hard evidence—and then you legislate on the basis of that. As I said, I do not necessarily disagree with the proposals that are in the White Paper, but your argument this morning does seem to be undermining that legislative proposal.

[104] **Dr Hussey:** Not at all. I would refer you to the World Health Organization evidence paper. This is global leadership on this topic.

[105] **Alun Davies:** Yes, but global leadership without knowledge is no leadership at all.

[106] **Dr Hussey:** Well, it has brought together the evidence that there is and set out a cautionary, sensible approach to recognise issues that are emerging, to recognise the evidence that we have accrued so far, and to be careful in thinking through how these products are introduced. This is not a ban on e-cigarettes. I have to emphasise that. This is a cautious approach, ensuring that we are not walking into a situation where we have undermined our current approach to tobacco policy.

[107] **Alun Davies:** If a state is going to encroach upon the liberty of an individual, then the state has to have a reason to do so.

[108] **Dr Hussey:** I would suggest that there is sufficient evidence emerging that we have to consider this very carefully; hence, the reason for its inclusion.

[109] **David Rees:** I think that we have come to an impasse. Elin, have you finished?

[110] **Elin Jones:** I just wanted to ask something quickly on e-cigarettes.

[111] **David Rees:** One very quick question, because Darren is coming in next.

[112] **Elin Jones:** Quite a bit of what you have explained there is not really about needing to ban or restrict their use in public places, but about the regulation of the e-cigarette itself, the marketing of the e-cigarette, and the content of the e-cigarette. So, I wanted to know what work you are doing on those issues in order to restrict their take-up in the first place and regulate their content, rather than just banning their use in public places, which is only a small part of the e-cigarette story.

[113] **Dr Hussey:** I will ask Sue to comment on the other aspects of this, but I would just come back to the point that I think it is really important that we recognise how quickly these products have come into use, and in a wide range of settings. I am very concerned to see the

evidence that comes back from businesses, that they have taken steps themselves to restrict their use already. Some of the major organisations have done that. So, I think that there is some very concerning evidence already that we have to really pay attention to. I will look at what else is happening, but I do think that there is some significant concern there. Sue, do you want to comment on this?

[114] **Ms Bowker:** What we are looking at is a range of ways of trying to make sure that we do not introduce a new generation of young people to nicotine and tobacco. So, we are looking at how this will link to other legislation. As a result of a legislative consent motion passed by this Assembly in January, the Children and Families Act 2014 contains a regulation-making power to look at the age of sale and at the proxy purchase of e-cigarettes. We expect a consultation on that shortly, and that will cover England and Wales. You also have the European tobacco products directive, article 20 of which looks specifically at some issues in relation to e-cigarettes, looking particularly at safety and labelling them with health warnings, saying that nicotine is dangerous. If all goes according to plan, this will come into force in May 2016, and we are working with England, Scotland and Northern Ireland, so that it is transposed across the UK as a whole. There are, of course, judicial reviews of the tobacco products directive and, on Monday, an e-cigarette company was given leave to go to Europe with a review of article 20, the e-cigarette part of the directive. However, we will continue to work on the transposition of this while that is going ahead, so we will not wait to see how that goes, as it is likely to take 16 months to reach a conclusion.

[115] **Darren Millar:** Should you not wait to see the outcome of the other legislative measures that have already been agreed and are going to be taking forward in terms of marketing and sales to young people? If that is the area of concern, as it certainly appears to be, should you not wait for that? Also, how does this chime with the previous policy direction of the Government, which has all been about reduction in harm from smoking, when you are actually going to push people who are using e-cigarettes in enclosed public places out into places where they will be exposed more readily to second-hand smoke and where the habit of smoking will be much easier to reinitiate alongside smoking friends and colleagues? What research have you done into the impact of that in places where people have voluntarily banned the smoking of e-cigarettes in enclosed public places? Have you done any?

[116] **Dr Hussey:** I will ask Sue to comment on the second point. On the first point, on this question of whether we should just wait, I think that the speed with which this is changing and the figures for young children starting to use these products are quite significant to me, and—

[117] **Darren Millar:** What are the figures that you have?

[118] **Dr Hussey:** We have a range of surveys from different countries and with different patterns emerging—

[119] **Darren Millar:** And what are they, as a proportion of the population?

[120] **Dr Hussey:** Well, what we have, for instance, is 10 and 11-year-olds reporting that they would—. Here we are: in Wales, a recent report showed a new form of childhood experiment with nicotine was more prevalent among 10 and 11-year-olds, with 6% reported to have used an e-cigarette.

[121] **Darren Millar:** And what percentage had used normal tobacco?

[122] **Dr Hussey:** I do not have that figure with me, but we could—

[123] **Ms Bowker:** I think that it was slightly lower.



[124] **Darren Millar:** Yes, because I suspect that those people would have tried tobacco had they not tried e-cigarettes and, therefore, they would have been exposed to greater harm.

[125] **Dr Hussey:** Well, what this study is also suggesting is the ones that have, and it may be part of what you are saying—

[126] **Darren Millar:** It is 0.2% in the most recent study that I have seen.

[127] **Dr Hussey:** Of the ones who had tried e-cigarettes, a proportion suggested that they would consider going on to cigarettes. Now, you may say that that is an early introduction then, and you are maybe just enabling the group who are going to be risk takers anyway to start earlier, which would be a concern, because nicotine is a highly addictive product. So, any suggestion that that was actually bringing forward the opportunity to experiment would be of concern.

10:30

[128] **Darren Millar:** But of course, Dr Hussey, there is action already being taken, as you have already said, on an England and Wales basis in terms of marketing and the sale of these products to young people, which will likely have an impact, or else it would not be pursued, in terms of the availability of these products to young people. I just do not understand this if the evidence is not necessarily there. I think that it is a bit of a knee-jerk reaction, you see. I think that there needs to be more research about the harm that e-cigarette users will be exposed to if they are excluded from being able to smoke them—or ‘vape’ them, rather—in enclosed public places. I think that you said that Sue would pick up on the second point.

[129] **David Rees:** Before Darren asks the next question, do you want to answer the point on the research into the impact it has?

[130] **Ms Bowker:** What we are looking at the moment are workplaces in Wales and schools that have existing policies in place, and what difficulties there have been or what issues have been raised by workers as a result of that. So, we will have evidence. I think that, at the moment, we have had about 600 responses, but our online survey is still going on.

[131] **Darren Millar:** I have to be honest that I would not like to see people ‘vaping’ on e-cigarettes in here. I think that having no addiction to nicotine is much better than having any sort of addiction, whether it is e-cigarettes or smoking. However, if there is harm reduction to be had outside of the workplace, if you like, we should grasp that, particularly given the very strong evidence that e-cigarettes are helping people to quit and to continue to abstain from smoking—

[132] **Dr Hussey:** May I just—

[133] **Darren Millar:** May I ask you about the issue of enforcement, if I may?

[134] Is enforcement not easier if the Welsh Government and the UK Government perhaps work together to say, ‘We need to be prescriptive about how an e-cigarette should look, whether there is a light at the end or not?’ It appears to me that some look very like cigarettes. Others look completely different to cigarettes, and they are very easy to enforce against, I would imagine. For an enforcement officer who is trying to enforce the tobacco smoking ban in enclosed public spaces, it is easier to differentiate. Should we not be pursuing the issue of ‘This is what your product must look like’ or ‘There must be something about your product that makes it easy to distinguish’ rather than simply saying, ‘Let’s ban these in enclosed public spaces’?

[135] **Dr Hussey:** We will come back to the design of the products, but may I just come back on one point, which is the role of e-cigarettes in helping people to quit smoking? Again, looking at the trends and patterns, trying to understand what role these products play, about two thirds are actually dual users. Again, we need to better understand what is happening with that, because, clearly, they are not getting the benefit of quitting smoking; they are maintaining nicotine use and still accruing the harm from conventional smoking. So, what role is it—

[136] **Darren Millar:** But it—

[137] **Dr Hussey:** What is it adding?

[138] **Darren Millar:** But the—

[139] **David Rees:** Darren—*[Inaudible.]*

[140] **Darren Millar:** I am just taking up the point, because I agree with you—some people are dual users. They tend to reduce their smoking of tobacco, according to the research that I have seen. However, also, the use of e-cigarettes seems to be a far more effective method of nicotine replacement therapy, shall we say, than some of the other products that are marketed and licensed out there in the public domain. So, I just think that this is a knee-jerk reaction without collating more evidence—and I fully support the Government in trying to collate more evidence on these things because I just do not think that it is strong enough at the moment. Of course, there is a disagreement—let us be honest about this—in terms of the research. You have a huge slab of research on the harm reduction front, in that it supports people quitting smoking and there are far fewer toxins in these products than in the tars in tobacco. Then you have got people who, like the Minister, appear to have an issue with it being a gateway and with it renormalising smoking and with it causing us an enforcement problem. I just do not think that the balance of the evidence swings particularly heavily in that direction at the moment.

[141] May I ask you about the competency issue as well? Oh, sorry. First, just in terms of the response of the Minister yesterday in his statement, he referred to lots of standard letters, which were very much the same. They were template letters. I seem to remember that there was a heavy dose of standardised responses to the proposals for the Bill that became the Human Transplantation (Wales) Act 2013. They were trumpeted as ‘This is great because there’s lots of support’. Is there any reason why there is a different approach in terms of the way the Government perceives standardised template responses?

[142] **David Rees:** I think that that is a question for the Minister.

[143] **Dr Hussey:** I was going to say that we will be publishing the report in due course, which I referred to earlier, so you will be able to see the analysis of the responses in the detail.

[144] **David Rees:** It is a question for the Minister. You can ask the Minister.

[145] **Elin Jones:** No, I do not think that it is a question for the Minister. It is about how the analysis of the response to the consultation happened. That is an issue for officers as well as the Minister.

[146] **Darren Millar:** I have one final question on competence, if I may.

[147] **David Rees:** I will come back to you in a minute.

[148] **John Griffiths:** Getting back to the issue of the role of e-cigarettes in terms of getting people off smoking tobacco, the chief medical officer has been quite clear in saying that this is not about banning e-cigarettes completely; it is about bringing them in line with the current restrictions in terms of not smoking in enclosed public spaces. So, they would still have a role to play, and I think that we have got to see it in that context. I would like to hear from the chief medical officer a confirmation, Chair, that there will still be a role for e-cigarettes in terms of people being able to use them to get off smoking tobacco if these proposals go ahead.

[149] **Dr Hussey:** It is clear that this proposal is not about banning them. There is a whole machinery of licensing considerations and developing—. The point that you raised earlier about the design of the product and all that sort of stuff will start to emerge through that process. So, again, we need to find where they play a part. The studies have compared no support with using these. How do they compare with the current package of behavioural support with other products as well? So, there is a whole set of research that will emerge, and we will get clarity about what role they can play in quitting. However, I was concerned that we also acknowledge that harm accrues from conventional smoking, and that is a cumulative harm. So, I am concerned to watch what happens around this dual-use process and understand why people are using both and whether they are really getting the benefits that we really want, which is to quit smoking.

[150] **David Rees:** I am conscious of the time as well. Darren has a question on competence.

[151] **Darren Millar:** I have just one question on the alcohol pricing issue. Would it not be easier, in terms of alcohol pricing, to put the competency issue to bed and take the opportunity that there may be in the Wales Bill to be able to address this issue once and for all? What discussions have you had, as Welsh Government officials, with the UK Government about addressing this issue, so that there is no legal challenge that causes us problems as a nation in the future?

[152] **Dr Hussey:** Clearly, the concern, as officials, is bringing forward legislation that is within Welsh Government competence. I am hesitating, because I suspect that we are getting into legal territory that probably is not appropriate. Tracey, can you add anything to this?

[153] **Ms Breheny:** Normally, there would be two aspects here. As the chief medical officer said, and as the Minister said yesterday, the White Paper proposals are developed on the basis of having the competence to proceed on minimum unit pricing. Separately, on licensing, the Welsh Government has long pressured the UK Government for devolution of licensing to the National Assembly, and that is still something that is being pursued.

[154] **Darren Millar:** However, may I ask one question specifically? On what basis does the Welsh Government feel that you have legal competence to be able to deal with this issue, because it seems to me to be pretty clear that there is not, currently, legal competence, but there is an opportunity to pursue legal competence through discussions with the UK Government if they happen immediately?

[155] **Ms Breheny:** As has been said, legal issues are, primarily, matters for the Minister, but the position is that the proposals would not be in the White Paper unless the Government—

[156] **David Rees:** So, you are confident that the Assembly has the competence?

[157] **Ms Breheny:** That is the basis on which we are proceeding, yes.

[158] **David Rees:** You have been informed of that. Okay. We will ask the Minister and his legal advisers—

[159] **Darren Millar:** I am sorry, but I have asked two specific questions: what discussions have you had with the UK Government around competence? That is the first question. ‘Some,’ ‘none’ or ‘we will’ would be helpful answers. Secondly, can you tell us the basis of the legal advice? Could you copy the committee into the legal advice that demonstrates why you feel—

[160] **David Rees:** I think that we will write to the Minister to ask the competence question.

[161] **Darren Millar:** I think that it is a perfectly legitimate—*[Interruption.]*

[162] **David Rees:** We will write to the Minister—

[163] **Darren Millar:** I asked questions about discussions with the UK Government. Perhaps you could answer those questions.

[164] **David Rees:** Have you had discussions with any officials in the UK Government?

[165] **Ms Breheny:** In terms of licensing, there have been exchanges of correspondence involving the Minister for health and previous Ministers for health around devolution of competence around licensing.

[166] **Darren Millar:** But what about pricing?

[167] **John Griffiths:** Those are matters for the Minister.

[168] **Darren Millar:** No, no, no. I am sorry; Chair, this is—

[169] **David Rees:** Darren, just a minute now.

[170] **Darren Millar:** I have asked a question—

[171] **David Rees:** You have asked a question and I—.

[172] **Darren Millar:** I have asked a specific question and I—

[173] **David Rees:** Darren, quiet. I have asked the question, and it is: have you had discussions with UK Government officials—

[174] **Darren Millar:** About minimum pricing.

[175] **David Rees:** ‘Yes’ or ‘no’—just ‘yes’ or ‘no’.

[176] **Ms Breheny:** I do not think that I am in a position to—

[177] **David Rees:** That is fair enough. If this is not—

[178] **Darren Millar:** Come on; that is a ridiculous response.

[179] **David Rees:** I am happy to write to the Minister to ask the question as to what he has had or what other officials in his department have had.

[180] **Darren Millar:** Surely, the chief medical officer is able to answer that question. If

you have not, then fine—*[Interruption.]*

[181] **David Rees:** No, John and Darren, the decision has been taken; we will write to the Minister.

[182] **Darren Millar:** Chair, I have asked a very specific question. These are questions that would normally be answered in other contexts when they have been asked in these sorts of briefing sessions before. We have the chief medical officer of the Welsh Government in front of us. It is a perfectly legitimate question to ask and it would be helpful if there could be an answer.

[183] **David Rees:** This is a factual briefing as well.

[184] **Darren Millar:** Yes, and it is a fact that I would like on the record.

[185] **David Rees:** I have made the decision as Chair—the decision has been made. We will write to the Minister.

[186] **Darren Millar:** Come on, Chair—

[187] **David Rees:** Thank you very much.

[188] **Darren Millar:** Chair—

[189] **David Rees:** No, Darren—

[190] **Darren Millar:** Chair, I would like to ask the chief medical officer whether she would like to respond to the question.

[191] **David Rees:** She has indicated that she does not wish to respond.

[192] **Darren Millar:** Do you wish to respond, Dr Hussey? She did not indicate that. I am sorry, Chair, but she has not indicated that. Would the chief medical officer like to respond to the question?

[193] **David Rees:** I now intend to have a break.

*Gohiriwyd y cyfarfod rhwng 10:41 ac 10:45  
The meeting adjourned between 10:41 and 10:45.*

[194] **David Rees:** We will come back to the final question. Dr Hussey, will you want to answer the final question as to any discussions that you have had with officials in the UK Government in relation to the legal competency aspects of the Bill?

[195] **Dr Hussey:** My role as medical adviser is to look at the scientific professional issues with the policy area. I personally have not entered into what I would consider to be legal considerations—that is a matter on which other officials provide advice. My concern is to work with my colleagues on wider considerations of a range of policy issues.

[196] **David Rees:** Thank you. For the record, we will write to the Minister asking what discussions he has had on that aspect.

[197] **Darren Millar:** May I suggest that we also write to the UK Government asking what its consideration of this matter has been?

[198] **David Rees:** Our response is to write to the Minister to ask what discussions he has had. Darren, that is enough.

[199] **Elin Jones:** That is enough to start with.

[200] **David Rees:** Thank you very much, Dr Hussey, and I thank your officials as well for your attendance this morning, and for the briefing that you have given us. It is very much appreciated. There will be other questions that will come up in later times. Thank you very much.

[201] **Dr Hussey:** Diolch yn fawr.

**Dr Hussey:** Thank you very much.

10:46

**Cynnig o dan Reol Sefydlog 17.42(vi) a (ix) i benderfynu Gwahardd y Cyhoedd o  
Weddill y Cyfarfod ac o Eitem 1 y Cyfarfod ar 16 Hydref 2014  
Motion under Standing Orders 17.42(vi) and (ix) to resolve to Exclude the Public  
from the Remainder of the Meeting and for Item 1 of the Meeting on 16 October  
2014**

[202] **David Rees:** I move that

*the committee resolves to exclude the public from the remainder of the meeting and for item 1 of the meeting on 16 October 2014 in accordance with Standing Orders 17.42(vi) and (ix).*

[203] Are all Members content? I see that you are. Thank you very much. We will go into private session.

*Derbyniwyd y cynnig.  
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 10:47.  
The public part of the meeting ended at 10:47.*