



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

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

Dydd Mercher, 26 Tachwedd 2014
Wednesday, 26 November 2014

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

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

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

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
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

Tracey Breheny	Dirprwy Gyfarwyddwr Camddefnyddio Sylweddau, Is-adran Busnes y Llywodraeth a Busnes Corfforaethol, Llywodraeth Cymru Deputy Director of Substance Misuse, Government & Corporate Business, Welsh Government
Mark Drakeford	Aelod Cynulliad, Llafur (y Gweinidog Iechyd a Gwasanaethau Cymdeithasol) Assembly Member, Labour (Minister for Health and Social Services)
Sarah Rochira	Comisiynydd Pobl Hŷn Cymru The Older People's Commissioner for Wales
Dr Sarah Watkins	Is-adran Grwpiau Iechyd Meddwl ac Agored i Niwed/Uwch Swyddog Meddygol, Llywodraeth Cymru Head of Mental Health & Vulnerable Groups Division/Senior Medical Officer, Welsh Government

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

Amy Clifton	Y Gwasanaeth Ymchwil Research Service
Llinos Madeley	Dirprwy Glerc Deputy Clerk
Rhys Morgan	Clerc Clerk

*Dechreuodd rhan gyhoeddus y cyfarfod am 09:52.
The public part of the meeting began at 09:52.*

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introductions, Apologies and Substitutions

[1] **David Rees:** Good morning, and I welcome Members to this morning's meeting of the Health and Social Care Committee. This morning's session will be split into two, where we have the commissioner for older persons in the first session of general scrutiny, and then we will follow that with an evidence session from the Minister for Health and Social Services on our inquiry into new psychoactive substances. May I remind Members to please turn phones off or to put them on silent, including your iPads and any other electronic equipment that may interfere with the broadcasting equipment? For those who wish to receive translation from Welsh to English, there is simultaneous translation on channel 1, and there is amplification on channel 0. There is no scheduled fire alarm this morning, so if one goes off, please follow the directions of the ushers. We have received no apologies this morning, so let us move on to the next item.

09:53

Sesiwn Graffu Gyffredinol ar Waith Comisiynydd Pobl Hŷn Cymru General Scrutiny of the Commissioner for Older People in Wales

[2] **David Rees:** May I welcome Sarah Rochira, the Commissioner for Older People in Wales? Good morning.

[3] **Ms Rochira:** Bore da. **Ms Rochira:** Good morning.

[4] **David Rees:** I also thank you for the reports that you have produced recently, which we will build upon. I was very interested, when I saw the recent report, that some of the work linked closely into the committee's earlier work on residential care. So, we will go into a general scrutiny session that will cover all areas, including your annual report, possibly, but I am sure that Members will also want to focus upon the recent report. So, we will start with questions from Gwyn Price.

[5] **Gwyn R. Price:** Good morning. The review raises a large number of issues about the quality of care in care homes. What were the particular issues that struck you most and how do you intend to drive change forward?

[6] **Ms Rochira:** I chose the focus of my review very carefully. It is the quality of life of older people in the place that they should be able to call home, and I wanted to focus on that because it is what older people have really shared with me. So, of course, they should be safe and they should be physically well cared for, but it is more than that—it is about life. It is about life as it is lived by people on a day-to-day basis, from when they get up in the morning to when they go to bed at night. Regardless of age, life should have value, meaning and purpose to it, and that is different for individuals. So, I chose that focus very carefully.

[7] I took extensive evidence behind that and I looked for the issues that came across as the big themes, and there were a number for me. The first is that, overall, we have just set the bar too low as a nation. This is not particular to Wales; this is across the United Kingdom, I suspect, as well. If you look at the Care Quality Commission reports, they talk about similar issues. We have set the bar too low. It is not enough to be safe and well cared for. You must have quality of life in that place you call home as well, whatever that looks like and however big or small that is for you. One of the big messages behind the review is that the absence of

abuse or neglect does not equate to good enough. It is not. That is the bar that we have to lift across Wales.

[8] Many of the issues that came up in the review are in danger, in a system that likes to count things, as being seen as softer issues, but nothing was too small for us to look at. So, the issues that came up from me were: people who had lost their sense of identity and become institutionalised—they had almost become a number—and the language that was indicative of that, such as ‘toileting’ and ‘feeding’. I said that I never, ever want to be toileted or fed in the place that I should be able to call home. There was also the lack of choice that people had over their day-to-day lives: what they did, where they went, who they spoke to, when they got up, when they went to bed, what they had to eat and when they ate. These things actually matter enormously to people because they are indicative of the amount of self-determination we have over our lives in that place that we should be able to call home. So, there was a whole range of issues that were about the person, the loss of identity, the depersonalisation and, often, the dehumanisation of people, and lack of choice and control.

[9] Then there were big issues that came up in terms of where we need to focus more in Wales. I wanted to give it some structure, so I spoke in my key conclusions about three key areas. One was about professionalising and investing in the workforce that we have. Again, I have spoken about this many times. Wherever we found great care, we found great people, but sometimes people need more support and more investment and opportunities to become as good as they can be. We need to get a consistent approach through the system that has quality of life that is consistent across commissioning, regulation, inspection and provision. It is hugely variable at the moment. The third thing we need to do is make sure that we have enough of the right types of homes in the right places with the right staff—forward planning for what we need to see. Fundamentally, underpinning it all is that we have set the bar too low; the absence of abuse and neglect does not make for good care. Life is precious. It does not matter how old you are or where you call home, it should have some quality of life to it. There are huge variations. In our best homes—and I tried very hard in the report to be balanced—this is happening, but in too many homes it is not happening. The challenge, of course, is that if we can get it right in some, why are we not getting it right in all of them? That is what the action is designed to address.

[10] In terms of the action, I have always been very clear that the report’s findings are important, but they are the beginning of the process. When I launched it, I said, ‘This is where the hard work now begins’. Requirements for action are that they are based in no small part on good practice across Wales. So, if some are doing it, again, why can we not make that standard practice across Wales? I have been, I think, very careful to locate that action within the current financial climate that I know public bodies operate within, without losing the ambition that we should have for older people across Wales. I have made it clear that, during what is now a two-and-a-half-month process, where public bodies have an opportunity to review this and respond to me, I will continue to work with them to discuss with them what action they take. However, I will publish in March or April of next year the assurance framework that I will use now over the medium and long term to make sure that the action has been delivered on. So, this, actually, is the beginning point in many ways for me.

[11] The other thing I would say I was very careful to do when I structured the report—and I thought very carefully about this—was to link all the actions back to outcomes, because ultimately it is about those outcomes. I just want to meet people who have got glasses; I just want to meet people who have got hearing aids so that they can hear properly; I just want to meet people who tell me that they are still able to do the things that mattered to them a month before they went into the home. It is those outcomes. So, I have said to all the public bodies, ‘I am open to conversations with you in terms of the action, but you must have eyes on those outcomes’. Also—and I did this deliberately—I painted very clearly the picture of what it will look like, the price that will be paid, if we do not deliver this action. Again, my line on this

has been consistently, publicly clear. A price will always be paid, but the price we will pay for failure will always be higher than the price we will pay for getting it right, particularly when there is good practice, and the price that the system or those who work within the system will pay will never be anything like the price that the individual will pay. So, this is the beginning of the hard work. The hard work now is to make that good practice standard practice across Wales and raise the bar for all older people.

[12] **David Rees:** Is your question on this, John?

[13] **John Griffiths:** On the general points, it is common experience for those of us who have visited care homes regularly because we have members of our family there that many of the points that you mention are very prevalent.

10:00

[14] The activities and the normality of life that are available in care homes, compared to the experience that people had before they went into those care homes, is very different. So, I very much recognise the points that you make and, indeed, the points that this committee and others have found in their own inquiries in the past. It seems to me that there is not enough of a focus on the needs of a particular individual, and there is quite a variety, very often, in care homes in terms of the physical and mental capabilities of those in the home. If people are particularly mentally sharp, compared to the other residents, then their needs will be very different. Often, they can feel very isolated and socially isolated within the home if their mental capabilities, for example, are that much greater than the generality within the home. So, the needs of particular individuals very much have to be accommodated in those care homes, rather than there being a one-size-fits-all approach. So, I very much recognise these issues.

[15] In terms of advocacy, some care home residents are particularly isolated if they do not have family and friends in the local area, and their needs are very different in terms of advocacy services.

[16] **David Rees:** Lindsay is going to talk about advocacy shortly.

[17] **John Griffiths:** Right. I wonder, in terms of the legislation that we passed here in the Assembly and, indeed, the inspection Bill that is also progressing, to what extent you think they will deal with these issues, or should deal with these issues. The other point is just in terms of the fees that are paid to care homes. If we are really going to improve the quality as you would like to see, and as we would all like to see—obviously, you have just spoken about a price for success as well as the price of failure—do you have any views in terms of those care home fees and what would be necessary to achieve success?

[18] **Ms Rochira:** Okay, thank you. I will pick up on the opportunities, first of all. I structured my requirements for action in a way that would feed over to what I knew were opportunities coming up. So, if we take the regulation and inspection Bill, for example, there is much in there that, in principle, I have welcomed, and many of my requirements for action can be lifted up, particularly into the regulations that sit behind it. I did that deliberately, not to create a new infrastructure or requirement for infrastructure, but to be able to link into, feed into, or embed within that which I knew was coming.

[19] What I would say about the regulation and inspection Bill—and it will be interesting to see the Welsh Government's response to my review—is that I look forward to seeing the evidence, particularly as it goes into detail in things like regulations, that the changes that I am requiring will be delivered. Older people have a great phrase about the proof of the pudding; at the moment, I am waiting to see and I will continue to work with, but I will want

to see evidence that that impact is being delivered through the use of those mechanisms. So, I think that we have some really important tools, if you like, at our disposal at the moment. We are in a period of massive opportunity and change, but like any good commissioner, really, I want to see the evidence, the other side of it. I will continue to work with.

[20] It is the same in relation to all of these requirements for action. I suspect that many people will come back and say, ‘We are doing much of this already’. That is great, but when will, consistently, the impact be achieved for all older people across Wales? I am going to be, over the next year, I suspect, increasingly public in my commentary on whether I believe that that impact is being delivered or not. So, in short, I think that there are huge opportunities and I will work with, but I absolutely want and expect to see, on behalf of a vulnerable group of older people, real delivery behind the intent.

[21] In relation to the fees issues, because this is the big challenge about what we can afford, my challenge back, in short, to that is that we cannot afford not to do this. I do not think that there is much in my review that is primarily about money. That is in no small part because of the good practice that I have highlighted through it. Many people are doing it already; we are just inconsistent in our approach to it. There are some areas where we have to have that debate, and we have to have it as a country, regarding the price that we are prepared to pay. Staffing levels, for example, would be one of those issues. There are other areas where there may well be an investment issue, but it is there at a national, strategic level. For example, to what extent are we prepared to invest in a national improvement service for care homes that are struggling? That is something that we are going to have to debate as we go forward, but, fundamentally, there has to be a discussion about what prices we are prepared to pay. There is an issue about fees across Wales—they are hugely variable and different approaches are taken across Wales. There is a wider debate that we need to have as part of the requirement for action around a national plan, which is what sort of market we want. Do we want a market where small and medium-sized enterprises are supported to thrive and where we are comfortable with the idea of profit? Do we want a not-for-profit sector to grow? Is there a role for registered social landlords, for example, in the future? We have never had that really big strategic debate.

[22] One of the reasons why we have so many examples of care that should be, as we go forward, considered unacceptable is that in no small part there is no alternative anyway. We need this big debate as to what sort of market we want, what are the barriers to it, how do we create incentives for people to move into the market, and the fee structure as part of that, but it is only part of that. Many really good people I have spoken to have left the sector because they say, ‘It’s just too hard’. They actually did not talk about the fee structure. So, I think there are two sides to it. There is a bigger issue about what sort of market we want. Regarding things like staffing levels, we may well have to bite that bullet, but there are other phrases we could use around not biting that bullet. There are things like adult practice review. There are things like civil litigation. So, that price is going to be paid, and probably in cash terms as well.

[23] **David Rees:** Since John has mentioned advocacy, we will have Lindsay next and then Janet.

[24] **Lindsay Whittle:** Thank you for the report, Sarah. It is a very wide-ranging report with 2,000 replies and 100 unannounced visits to homes and to 93 organisations. Your views on independent advocacy are well known; they are very strong views—you are not a shrinking violet. I think you would be the last person in Wales I would describe as a shrinking violet. That is a positive comment, and I hope you will take it in the spirit that it is meant. I too believe in independent advocacy. You will know that for the Social Services and Well-being (Wales) Act 2014 the regulations are currently being developed. How would you advise us, as politicians, to look at the appointment, training, registration and monitoring of

independent advocates?

[25] **Ms Rochira:** In short, my advice to you and to anybody I speak to is to see independent advocacy as one of the most important ways that we safeguard and protect individuals. The new social services Act places safeguarding on a much stronger statutory footing. However, it is not just about individuals; it is also about the public purse and public bodies in financial terms and in terms of their reputation. There are many forms of advocacy and I have always recognised that, from peer support to professional support and through people such as social workers. However, in some circumstances, independent advocacy must be the offering to individuals. I know this through my own casework and the work of independent advocates across Wales.

[26] I was asked by Gwenda Thomas when she was Deputy Minister to advise on the business case for advocacy that should sit in the regulation. I have done that, and that is now with Welsh Government. I clearly expect it to listen very seriously to my advice to it. I have been pragmatic and prudent in putting that advice forward, and I have focused on those areas where independent advocacy must be the offering, because the risk to the individual and the public body is too great if we do not make that offering. I clearly expect it to listen. More than that, I expect it to accept my advice. I took soundings from many, including Welsh Government, when I developed that advice. So, it is one of the areas where I am now waiting to see what the regulations will be when they come out. I hope, anticipate and expect that my advice will be taken seriously enough to be reflected in that.

[27] I would say to all Assembly Members that when we get to regulation stage, it is important to remember the phrase ‘the devil is in the detail’. It is absolutely crucial that people in situations of vulnerability have an offer—they might not want it—of independent advocacy. If that is not the case when those regulations are published, I will be very clear on my view in relation to that. It is good for the individual, it is good for the public body and it is good for the public purse. It is one of those areas that we must get right as we go forward, particularly given how difficult the climate is out there. I was asked as the independent commissioner to advise; I did that and I expect my advice to be listened to seriously. Does that answer your—

[28] **Lindsay Whittle:** It certainly does; it was no less than I expected. Thank you for that. I look forward to you coming back to this committee to advise us further on the probing questions that we need to ask as well. Personally, I think you are a marvellous independent advocate for older people in Wales, and I congratulate you. Thank you.

[29] **Ms Rochira:** Diolch.

[30] **Janet Finch-Saunders:** Good morning, Sarah. Clearly, this is a wide-ranging report, but it is not the first report of yours that I have read and reviewed previously. For me, it sort of bears witness to many reports that come before us. How confident are you that this will influence and actually shape future policy and legislation from the Welsh Government?

[31] Also, while you have concentrated on care homes, which is, again, a really good initiative, I do have concerns about people living alone, who are completely dependent on care workers going in. I am concerned about the lack of regulation and the lack of training and support for those care workers, who can be suddenly faced with going into a home of someone who may have dementia, a terminal illness and a disability, as well. They will sometimes not know until they actually present, you know. It is those kinds of concerns I have. How do we ensure with something like this, with all the fundamentals that you expect for people living in care homes and those rights, that people living alone can be entitled to those, as well?

[32] **Ms Rochira:** Okay, I will just say a small bit about how confident I am that it will deliver the change, because, in part, I think that I touched on that in terms of my next steps in relation to Gwyn's question. I am very clear. This is a statutory review. I took a very collaborative and open approach throughout the whole process, because I wanted us as a country to say, 'Actually, how do we do business in Wales—what is the devolved way, and where do we place older people in terms of our priorities, our respect and our willingness to graft for their dignity in Wales?' So, it was a very open process, but also it has been strongly welcomed—and I am actually really pleased by that—by all of the bodies that came under the review. It was a statutory review of those bodies, and of the discharge of their statutory function, but they have welcomed it. I think that that is in no small part because of the approach that I have adopted throughout it.

[33] Also, of course, in relation to much of the action, it is what people have told me that they wanted to see. This is giving a voice, not just to older people, but to many of the parts of the system that want to see change as well. So, there has been buy-in early on in the process, and I have deliberately made sure that that has continued. However, ultimately, it is a statutory review. People either do what I am looking for in this review or they do not. Then, there will be another public debate further down the line, if they do not do it, about the impact on individuals. That is public accountability. If people choose not to do something, they have to be held to account in the public domain for the impact on vulnerable individuals, but I hope that I will never be in that position. I expect not to have to be in that position, because, I think, of that inclusive approach that I have taken. I think that that was reflected in all the public statements of support from the bodies.

[34] Just jumping onto your point about other areas, you are absolutely right. You know, I represent almost 800,000 older people, and there is almost not an issue now that does not impact upon them in some way. One of the challenges that I have is deciding what I focus on and what I do not focus on. I have wanted for some time to do some work around domiciliary care. I absolutely am aware of the issues. I see them on home visits all the time. I have just done night visits in Carmarthenshire with domiciliary carers. I have seen great care, and I have seen people in tears, telling me in their own homes about how it has changed and how they feel vulnerable. They value their carers enormously. They call them 'angels' and 'heroes'. The language people use is indicative of how much—and it is an awful phrase, 'domiciliary carers', is it not?—people who support other people in their own homes matter to them. They talk about things like reduced time, a huge variation in terms of the carers who are coming out to different people every week, and they talk about the impact that that has on them. However, I have made a decision that I am going to support Care and Social Services Inspectorate Wales in a piece of work that it will be doing. I think that that is right and proper. It is the regulator and inspector of domiciliary care, and I will support it and feed in to that, to make sure that issues that older people raise with me are reflected fully in that piece of work. It is a more collaborative approach, and it is also a better use of resources. It still enables me to make sure that older people's voices are heard and they, of course, as a regulator and inspector, I am sure, will identify issues that will need to change as a result of that.

[35] Just touching very briefly on your point, which is, in a sense, all about people's rights, is it not? But it is also about what is the right thing to do. What is morally right, and what do we consider to be right in Wales? One thing that I am really pleased about this year is that we did have Welsh Government publish a declaration of the rights of older people. It is only a beginning, but a beginning is important in taking more of a rights-based approach for older people.

10:15

[36] It is not what, if we can afford it, some lucky people might have; it is actually what people should have a right, in Wales, to have, and what the right thing to do is. As you know,

that was developed using older people, and their voices. I have always been really clear. The Human Rights Act 1998, it was said, brought human rights home. Actually, the declaration of rights is the beginning of bringing rights back into people's own front rooms. It is about making it meaningful in Wales. There is still lots more work to do. How will we do that? Well, we are going to have to work out how we will do that. There is no easy road-map on that, but it is important and it is important that all of us stand up for a rights-based approach for older people. Actually, in law, they have a much weaker rights-based approach than, for example, children have. So, it is a beginning, but it is important sometimes to begin.

[37] **Janet Finch Saunders:** Thank you for the work that you are doing.

[38] **David Rees:** Okay. The next question is from Lynne, followed by Darren and Alun.

[39] **Lynne Neagle:** Thank you, Sarah. I did think it was a genuinely excellent report. Every word resonated with what my experience has been, and I think that it is a really welcome piece of work, which I hope will enable us to make genuine change. I just have a few questions.

[40] You have talked a lot about quality of life, which I think is really fundamental. Obviously, we are going to be looking at regulation and inspection with the Government's legislation. What kind of changes would you like to see made in that framework in order to take into account the fact that we need to be looking at quality of life, not just whether people are individually safe, and have eaten et cetera?

[41] I wanted to ask about the points that you made in your opening remarks to Gwyn about the market. As you know, it is a concern for me that we have a very market-driven residential care sector, and as you know, we have seen care homes close at a moment's notice in my constituency. Do you think that the Government is doing enough in that area to plan for those kinds of changes, and did you pick up any differences, as part of your work and consultation, in terms of the kind of provision that was offered by the public sector and the private sector? May I also ask two more questions?

[42] **David Rees:** I will come back to you, do not worry.

[43] **Lynne Neagle:** Okay, shall I do it all in one go, or not?

[44] **David Rees:** No, I will make sure that you ask the two questions.

[45] **Ms Rochira:** Okay, perhaps I will just take it in reverse order. On the differences across the public and private sector, I am often asked this question, actually, and that has never struck me. I have seen good and really unacceptable, I would say, across all sectors—and not just in terms of the review, as I must have visited 20 or 25 homes before undertaking the review, as well. That has never jumped out at me, really. I guess the one thing I would say, though, is that local authorities—and there are not many local authority-run homes anymore—perhaps, in a sense, have more control over those. That, perhaps, is the issue: to what extent do we have control to change that which needs to be changed, either to require or to support? I have never spoken about it, because it has never really struck me, that difference across them, and because of the fact that I have seen great care across all sectors.

[46] The issue that you raise about the market—I was thinking about this this morning—is really about guaranteeing, is it not, the supply chain? We talk about it in other areas. So, with food, for example, and energy supply, we know that there is an imperative to manage and ensure that we will always have a guaranteed supply chain in those two essential areas. It is almost the same approach that we need to take in terms of residential care. It is going to continue to be a crucial part of the way that we support vulnerable people. While there is

much that we are doing to keep them in their own homes, actually residential and nursing care is going to be even more important in years to come, because of frailty and dependence growing.

[47] Do I think that we are doing enough in Wales at the moment? I think that we are doing some ‘stuff’ in Wales at the moment. I know that the local authorities will be developing market positions, and I know that there is a new commissioning provider board, for example, and I am sure that those are important. However, if I were to say to Welsh Government or a local authority at the moment, ‘How many beds will you need in five years’ time, of what type, and where, and where do you have specific staff shortages, and what are your level of assurances that you will have particularly the specialist staff that you need?’, I suspect that they are not yet in a position to answer that. It is why I talk about the national plan. We should not be doing this 22 times over; we should not be doing it eight times over. We are a small country. We talk about how good we are at working in partnership. We have a population the size of Birmingham. We need—and I do not particularly want to use this phrase—but a national plan. How many beds do we need and where? Who wants to come into the market? Who is likely to come into the market? Are there areas and parts of Wales where small and medium-sized enterprises will thrive, and the right kind? There probably are. Are there other areas, particularly rural areas, which are never going to be particularly attractive? We should have other debates around the roles of registered social landlords, for example. We have seen them make a phenomenal difference in extra care. Is there a role for them in future, moving into the role of co-operatives, for example? We will only have the market we decide we want and we make. I do not think we yet have that overall strategic vision in Wales of what that looks like. We have to develop that and then take action to make it happen.

[48] Going back to your point, John, one size will not fit all. We may well have to have different approaches. There are things happening at the moment. I would like a higher level of assurance that they are going to lead to answers to these simple questions. How many homes? Where? Where are the shortages? Are we assured that we will meet those, particularly in terms of specialist nursing?

[49] I just want to say a quick word about specialist nursing staff. It seems to me that there is an irony when we have health boards saying they cannot commission places in parts of Wales because they do not have the specialist nursing staff to open the beds, and yet it is the NHS that recruits and trains staff. If they took a different approach to recruitment, training and integration across residential care in the NHS, regardless of whether it is private or public sector, we might start to deal with these supply issues in terms of specialist nurses.

[50] Just going back to the regulation and inspection Bill, I think there is a whole range of opportunities within the R&I Bill to lift up what I have required and put it into regulations. There are two important areas. One is around a standard model in relation to quality. The only time I really specify something in detail in the requirements action is what the model of quality should be. I have based it on the model used in the collaborative in the north. It is already being used in parts of Wales. On the seven domains, I want to see those sit within commissioning, regulation, inspection and provision. There needs to be one model, based on safe, effective but also quality-of-life care. We are already doing it in parts of Wales. I want to see that in the R&I Bill.

[51] The other one is about reporting arrangements. I am huge proponent of openness and transparency across health and social care, in a way that people can understand and has meaning, use and value to them. I talk a lot in here about reporting by directors of social services and by safeguarding boards, but also by providers themselves. It is nigh on impossible for many older people to work out which home they should go to, because the information that is in the public domain is often difficult to understand, is often tardy, and is often too generic. Those are the two particular areas.

[52] I would be very happy, if Members would find it helpful, to do a short—and by ‘short’ I mean two sides—paper on the key areas in the R&I Bill that I think my review feeds over to.

[53] **David Rees:** That Bill will probably be coming towards the committee at some point, so that would be very helpful.

[54] **Ms Rochira:** If you would like to me come back in as part of that, I would be very happy to give further evidence.

[55] **David Rees:** I am sure that the clerking team will look at that opportunity. Lynne—those other two questions.

[56] **Lynne Neagle:** I very much recognise what you have said about nursing care. I do think it is very odd to have NHS-funded beds that are not subject to the same kind of regulation and monitoring as a bed in the hospital. Can I ask about these beds that are specifically for people with dementia? It strikes me that there are particular problems with nursing provision for people with dementia. I understand that, often, those nurses are not adequately qualified. They are not always RMNs, registered mental nurses, for instance. I also want to ask about dementia more generally, because you have picked up quite a few issues that I can relate to in terms of dementia. You indicated in your general report that you are going to look more widely at the issue of support for people with dementia. I wonder whether you can say a bit about that.

[57] **Ms Rochira:** I will pick up on dementia first of all. I have a phrase that I use, and I use it every time I speak across public service,: ‘Dementia is the game changer’—for almost everyone in public service. For people who have not worked out how it is a game changer, they really have not considered what a hugely important issue it is. Linking it back to your question, Gwyn, one of the big findings behind this is that dementia is hugely the game changer in terms of residential nursing care, as is sensory loss, which is way, way off-radar at the moment. If we configured most of our care and support around the needs of people with dementia, we would just get it better for everybody. It should be the default position now. It really should be.

[58] In relation to further work around dementia, you are absolutely right, and I have made clear that I want to do some further formal work around dementia. I am currently discussing with dementia organisations like the Alzheimer’s Society what that should look like. I do not want to say too much now, because we are genuinely right in the middle of those conversations. However, it is another piece of work that I will do alongside some further work for carers in my last year, which will be towards the end of this year and then next year as well. It just is the game changer for everyone in public service and dementia in so many ways. I think that the really interesting approach for public services to take is not how we deal with this crisis and this challenge, but it is actually about the opportunities that it presents, because, at its heart, good dementia care is just basic, good care. Getting those basics right is what older people talk about all of the time. You get so much right for other people—how you communicate with people, for example. It is the big issue that everyone raises: it is how public bodies communicate, particularly when they are in a time of crisis. The simpler we get it, the better we get it. I think that dementia holds the key.

[59] Very briefly on the point about regulating the inspection of nursing homes, that is absolutely right. I was surprised—although that phrase does not quite do justice to it—to realise that, actually, nursing homes in no small part are, in a statutory way, off radar. That is not to take away the fact that there are many health boards across Wales that do an enormous amount of work to go into nursing homes to look at the quality of care and to support staff

there. I have visited matrons fora, for example, where they have done this kind of work, but that is different from having it on a formal statutory footing. That is what we have to do. We have to bring nursing homes in, particularly as those levels of acuity and frailty go up, so that they are afforded the same statutory protection and the same statutory framework, and so that it is not a discretionary approach based on good practice. Good practice and discretion should not sit alongside the phrase ‘most vulnerable’. That is where our statutory systems, processes and regulations should be at their tightest. Again, an enormous amount of work is going under way, and pilots are beginning. Those are right and proper. That is not the same as getting it right for everyone on a standardised, consistent basis across Wales. It is a different level of assurance.

[60] **Darren Millar:** Thank you, commissioner, for what is an excellent report. I hope that it will deliver significant change in the quality of life for residents in care homes across the country. I wish to ask you about the professionalisation of the social care workforce. You have obviously drawn attention to the fact that sometimes not even the mandatory training is being undertaken by individuals who are out there working and caring for older people in Wales. Of course, the report that this committee produced on residential care suggested that the status of social care and the social care workforce needed to be more recognised and professionalised in the future. I know that that is something that you agree with. One of the challenges, I think, that the social care sector faces is that many people join the sector later in life, in terms of getting involved in the workforce. There do not tend to be many younger people, particularly those under 25, who start a career in social care. It has been suggested to me by domiciliary care providers and care home owners that the withdrawal of the support or funding for training and apprenticeships for under-25s by the Welsh Government recently will have an impact on their ability to meet the challenges posed by the need to professionalise their workforce and raise the standards of care in the sector. Is that something that you have concerns about?

[61] **Ms Rochira:** It is not something that I have picked up, to date, in terms of linking apprenticeships over to the workforce that we need, but that may well just be because it is not something that I have particularly looked at as part of the review. I think that sitting behind that is a very simple, in a sense, but really crucial question, which is: how many people will we need and in what parts of Wales will we need them? Issues of rurality, for example, are particularly important, or where you see outward migration from areas. So, it is a question of how many staff we will need and what kind of skills they should have to enable them to provide appropriate care and support to older people. That is almost a national planning piece of work that we need to look at. I have to say that I am a huge advocate of older people staying in the workforce because we know that there are huge issues, which is a debate perhaps for another forum, about older people being able to stay productive members of their communities and the economy. However, it is not an issue that I picked up in detail in relation to apprenticeships. However, there is absolutely something about the training that we provide to people.

10:30

[62] Again, I was really surprised, actually, at how low the bar is. For some of our most vulnerable people in the place that is their home it should be far tighter than that. We need to redefine what ‘mandatory’ is, and it is not just about the functional aspects of care either—it is about the competencies and the value-based approach we have as well. I talk a lot about that. If we really want great care, one of the things we have to do is make sure that we both professionalise and incentivise working in care—domiciliary and residential care—as an aspirational profession, and in oh so many ways at the moment we do not do that. Do you want come back to me on the apprenticeship bit because I am not sure—

[63] **Darren Millar:** Yes. It is an issue that has been recently raised with me in

constituency surgeries by domiciliary care providers and care home providers in recent fora. I just want to ask to what extent you were able to identify the barriers to people being able to access training. You estimate that about 40% of the workforce has not even completed the mandatory training. What were the reasons for that? Was it simply access to courses? Was it the unavailability of finance? Was it the fact that they had to attend outside their normal working day? What were the issues, primarily, that you found were causing those barriers to the training taking place?

[64] **Ms Rochira:** I think that there were a number. They were variable across Wales and sometimes cumulative. One was about being able to access the training locally. I do not just mean functional health and safety training, but, for example, training about what really good value-based dementia care would look like. So, one is about being able to access it and to know where to go to secure it and being able to have something local. Another issue that came up quite a bit was being released, so there is an issue about staffing levels there. We are not talking about two hours' worth of training. You would not expect someone to go on a ward with two hours' worth of training. Nor should you expect them to go into a care home with that. It is actually quite time-intensive. So, how do you backfill and cover within those homes? The third issue was just one of variability. For many providers, particularly larger providers, they have enough capacity to be able to provide that support in-house and to develop it and make sure that it is ongoing as part of a continuous process, because we should think about continual professional development in relation to the care sector. With others, they just have to buy it in. It is not a do-and-then-finish sort of process. So, there is a whole range of reasons.

[65] What I clearly talk about in the review is having a standardised approach. There are some phenomenal examples of good practice out there. We should just standardise those across Wales and make sure that people can easily access them. Those, I think, should be a free good. That is my view on it. Why would they not be a free good? They so massively upskill the workforce. It is the type of investment we should be making strategically in Wales. One thing that providers often said to me was, 'When we're struggling, it's really difficult to know where to go. We can look at websites, we can be signposted, but actually we're struggling and we need more than that—we need more intensive support'.

[66] **Darren Millar:** May I just ask finally about the Welsh declaration of rights for older people? Obviously, it was fantastic that the Welsh Government asked you to undertake some work on that and that that has been published now. You make reference in your report to the need to disseminate that information to new residents of care homes when they arrive at the homes so that they know what their rights are. Some of those rights relate to people's spiritual lives and, of course, the ability of people to engage in holistic care. To have their needs met, including their spiritual care needs, is obviously very important. You also made reference to that in the report. How do you think that can be best achieved, particularly in terms of the spiritual care element? There is clear guidance in our NHS in terms of the need to deliver spiritual care. There is no such guidance for social care settings. Should there be?

[67] **Ms Rochira:** I think that it is a bit sad, actually, if you have to write guidance on something as fundamentally basic and as important as that. There is a danger that there is a world full of guidance. That is one of the things that providers will say to you—there is guidance galore. I would rather see it as that rights-based approach, because it is not discretionary then. It is something that you cannot take away from somebody. As part of the review, I saw many homes where, absolutely, their spiritual needs were being met in so many ways because they were in and part of their communities still. I think that therein lies the key to it. We need to stop homes being almost in these invisible bubbles. Some of them were so isolated, although they were in busy, bustling places. If they continue to be part of their communities with people coming in and out and so that they are able to come in and out at free will as well, they can continue to engage in that local life with the things that they were

able to do before, or their pastors or whoever can come in to see them. That is why I think that that rights-based approach is so important. It has to just then be the given. It is the starting point. You should not need to write guidance around it, not for the most basic of things.

[68] The challenge now, I think, for all of us in Wales is how we start to use that declaration of rights as a really practical tool. Again, that is why I wanted to locate it in the information that people should have in that welcome pack. This is not what, if you are lucky, you might have; this is what you have a fundamental right to. There will be big questions for us down the line about how we support people who have not had those rights upheld and how the courts are prepared to support people who have not had those rights upheld. It is about reclaiming and holding on quite dearly to those rights, because we all lose them at our peril. If guidance is what is required, so be it, but I would rather that we took an approach that saw it as being fundamentally about the way that care is provided—like glasses and hearing aids. Seriously, we should not be having these conversations in Wales; we just should not be having these conversations.

[69] **David Rees:** I call on Alun and then Elin.

[70] **Alun Davies:** However, the fact that we are having those conversations, commissioner, and the fact that you have written a report that is, probably, the starkest and most depressing description of life for many people indicates to me that we need not only guidance of the sort that Darren has indicated, but a far greater review than you are calling for the moment. I disagree with you when you said in a reply earlier that we need to look at supply chains such as food or energy and to understand how they work in terms of understanding how we provide care. I am not convinced that commoditising care delivers the sort of approach that you have just described as one that you would like to see. When I look at your report, what I do not see is a system that is fundamentally working, with issues and problems that need resolving and that can be fixed. What you seem to be describing in this is systemic failure and fundamental failure, and not in a number of homes, but in the system that delivers those homes in the first place. The conclusion that I draw from your report—you do not say this, I think, or you do not say it clearly, and perhaps you have a reason why you do not want to do that—is that we need to do all the things that you describe and we have discussed this morning in terms of advocacy and ensuring that people feel able to complain and find solutions to individual problems, but, really, that is moving the deckchairs when, if you look at the demography of Wales and where we are in terms of health and the rest of it, what we need is a more fundamental review of the delivery of care for older people and that the market, as currently constituted, is incapable of delivering the care that meets the standards that you have described and that I think that we would all agree with.

[71] **Ms Rochira:** Just to make a point about commodifying care, to be very clear—because I have just produced a report on the back of a review all about quality of life—I do not, in any shape or form, make comparisons with those other sectors in terms of seeing it as a commodity, other than the essential nature. They are so important that what we must do is ensure that, for years to come, we are not in crisis mode, but that we can guarantee and have high assurance levels that the right type of homes will be in the right places. So, I do not want anyone to think for one minute that I am trying to commodify care; I am trying to do exactly the opposite.

[72] You actually describe quite well, in a sense, what my review does. It does two things. It says, ‘Look, there are things that need to change’. I am sorry that it was a depressing read; I called it a ‘hard read’, but the fact that there is so much good practice should energise us and encourage us to know that we can get it right. So, there are things that have to change within that, but when you pull back—. This is my point about how the absence of abuse or neglect does not equate to the right type of care in Wales. It is a fundamental reboot of what we think

residential and nursing care is about. It is about seeing it as somebody's home, and that has to be the starting point. It is about lifting the bar and putting the life that is lived by people from when they get up in the morning to when they go to bed at night at the heart of that.

[73] I think that my first requirement for action is about what I call the 'national plan'. That is what I see that conversation as being. What kind of provider base do we want in Wales and what kind of provider base are we likely to have? There is a huge difference between aspiration and reality. There is a huge difference between what we might like it to be and what it is in practice likely to be. So, in some parts of Wales, there may well be a role for encouraging and incentivising small and medium-sized enterprises to come in. In other parts of Wales, as I said earlier, there might not be a role for them at all. It just seems to me that, if we do not get to grips with what kind of provider base we want, and where, and look at what we can feasibly create in Wales, we will always be on the wrong foot, we will always be in danger of saying, 'But there isn't an alternative locally', and we will always, in no small sense, be firefighting. I wanted it to be a root-and-branch review of what the point of residential care is and what residential care in Wales looks like, and, when you tally that with our Welsh values, what it should be in years to come. It is one of the most important things that we need to do. We need to work out what we want Wales to look like in 10 years' time. We just need to have that conversation, one way or another, because I think that, at the moment, we are all over the place in relation to that.

[74] **Alun Davies:** We are. I do not disagree with you, commissioner, on those points, but your criticisms are fundamental; they are not superficial. On nutrition, the vast majority of residents disagreed or strongly disagreed with the statement that the food and drink available is of good quality. Having decent food and drink available on a daily basis is a fundamental human right and a fundamental basic right that we talk about in any hierarchy of rights. You say that, too often, care homes are seen as places of irreversible decline, and you say that too many older people become institutionalised and lose personal identity and individuality. Again, that is absolutely fundamental and not something that can be addressed by simply changing the way that one home works or one manager works, or by putting right quite minor issues. These are issues about the system of care at its most fundamental. To me, the report goes a long way in making the case not for incremental reform, but for fundamental change. Are you of that view? You seem, sometimes, commissioner, to be pulling your punches on this, saying, yes, we need these things, but then—. I know that we need the debate that you have described, and I do not have any issues with that, but to me it is difficult to say these things in a report and then not say that, actually, there is systemic failure here, not individual weaknesses.

[75] **Ms Rochira:** I think that the issues that I raise and the required action do require fundamental change—yes, absolutely. In writing them, I think that is what I am writing. These are not necessarily easy things, sometimes, and they are not small issues, either, if we want to see the best practice as standard practice across Wales. It is a fundamental root-and-branch review of how we approach residential care and what we expect as well. I nearly entitled the review 'Low Expectations', actually, because it said something about the fact that we have set the bar too low. The action in the report is systemic action, and I have tried to tailor it in that way, to identify those areas that would have a high impact, which would push the best practice out as standard practice across Wales. Some of them are short-term issues, but some of them are longer term issues that we need to focus on.

[76] It is root-and-branch change that I am calling for through this. It is something that I think we are capable of in Wales. However, the one thing that it is going to require, I think—. Some of this we can just do, and some of it will be challenging and difficult, but the one thing that we are going to have to do in Wales if we are going to do this is, fundamentally, as you have described, to set that bar at a different place on behalf of the people we all represent, in different ways. We have to fundamentally lift that bar on their behalf. It is going to take

leadership, determination, tenacity, and it will take passion by all of us to make this change happen. That is the one ingredient that everybody in Wales has to put in behind this review. I am really clear in this: we can do this. We can make these fundamental changes happen, but we are going to have to really, really want, on behalf of the people we represent, to make them happen, because some of them are fundamentally systemic changes and are big issues to deal with. I hope that I have not produced a tinkering report. I have tried very hard to focus on those areas that will drive change. If we get this right, in 10 years' time, we will look back and we will be able to say, 'That is how we do business in Wales. That is how we support vulnerable people.' If we do not, we will see shades of the same issues coming through again and again and again, and older people will rightly be critical of us.

10:45

[77] **David Rees:** Time-wise we are limited, and I want to bring Elin in, if I can.

[78] **Alun Davies:** Okay. May I just finish with this: do you believe the system of regulation is working adequately at the moment?

[79] **Ms Rochira:** I think that regulation and inspection is important. I think that there have been some significant improvements in it. I think there are still further things to do, and there is action in the report for the regulatory inspector of social care in Wales. However, I think it is important to recognise that it is only one part of the solution and of the different approach that we need to have. I will just give you an example. I will say to commissioners across Wales: 'If you are just relying on the annual report of the regulatory inspector, you are failing in your duty. You should be in and out of the care homes that you are commissioning for. If you're a commissioner and you have not spent a night in a care home, you should. You should have eyes continually on how you are discharging your duty as the state on behalf of often voiceless and vulnerable people.' So, I think they have made significant changes. I know that they are moving, for example, to a quality of life framework, which, of course, I strongly endorse. However, like with all things, I look forward to seeing the evidence that those changes have delivered for people across Wales.

[80] **Elin Jones:** I agree with you entirely about needing to plan for the care sector of the next 10 to 15 years in Wales. However, I want to ask you specifically about the people in homes now and what your expectation is of those providers of homes if those homes are going to close. We have discussed quite a bit in this committee the sudden and immediate closures of private sector homes and those implications, but we are going through a period of public sector cutbacks and local authority cuts, and I can well imagine that there are local authorities out there who are planning this year or next year to reduce the numbers of care homes they may have. For the public sector and local authorities, what would be your expectation of how they work with people who live in those homes, whose homes are in those homes, and a council has a plan to shut that home? How do you discuss with local authorities and how do you engage them in knowing that those decisions have the interests of those older people who are currently in those homes right at the centre of their thinking?

[81] **Ms Rochira:** Members may know—well, some of you will know, because I have worked with you on constituency cases—that I often provide case support to individuals who are in homes that are closing. Homes close for a range of reasons, but often at what feels like very short notice to the residents. It is often an incredibly frightening experience for many people to go through. I have a two-fold approach. One is to continue to provide that support to individuals, and also, where appropriate—and Lynne and I did this quite effectively together, I thought, in terms of a home that was closing—scrutinising the actions of the local authority and the health board to make sure that they act in the interests of the older people. I made it very clear that I would intervene if I thought that was not the case. So, there is individual support in the short term.

[82] However, for the longer term, I have been clear that the guidance we have in Wales around what is called ‘escalating concerns’ as to how the closure process is managed needs to be updated. I was asked to advise on what that should look like, I have done that, and that is now with the Minister. I look forward to the consultation on what that revised guidance will be in relation to how homes are closed. There will have to be a period of consultation, I understand, in respect of that. So, what I have done in a number of instances in the interim is to issue the revised guidance that I sent to the Minister as good practice out to local authorities to use as a tool, if you like, to support people through that process. However, I have also made it very clear that, if I need to, I will issue emergency section 12 guidance to do that as well.

[83] **Elin Jones:** Is your guidance different for or is your expectation different of local authority-run homes as compared with local authority-commissioned services in the private sector?

[84] **Ms Rochira:** No, it is the same across the two. The practice should be practice that safeguards and represents the interests and the vulnerabilities of the people within those homes. So, I do not see a difference between the types of home.

[85] **Elin Jones:** Even though a local authority, the public sector, takes the decision on one and reacts to the decision on the other.

[86] **Ms Rochira:** To me, the issue is about how people are supported through what is often a very frightening experience that places them in a vulnerable position when moving from one home to the other. There are all sorts of reasons why local authorities say they close homes on behalf of people. My focus and interest around that is to safeguard the individual through that process.

[87] **David Rees:** Thank you for that, commissioner. Time is catching up with us. I have two simple questions if that is okay. One is on—we have not touched on it—the Carers Strategies (Wales) Measure 2010, which was an issue that arose in the Social Services and Well-being (Wales) Bill that was passed. The Well-being of Future Generations (Wales) Bill clearly has a possible impact on the decision in the social services Bill. Do you have any views on that particular issue?

[88] **Ms Rochira:** I will have shortly. The reason I say that is that I have had extensive representation from carers’ bodies about concerns, as I am sure many of you have as well, primarily around whether the protection, rights and duties surrounding carers in the Measure are sufficiently reflected, protected and passported over between the social services Act and the future generations Bill. I have had significant representation from them. I have seen, of course, the correspondence from the Deputy Minister, Gwenda Thomas, when she was in post, and Carl Sargeant recently published in relation to this. I have now made a decision, because the representation was so extensive from carers, that I will seek legal advice as commissioner under the Act on whether I believe that the passporting is sufficient and appropriate or not. I have a meeting coming up with Carl Sargeant shortly and I have put that on the agenda. It is or it is not. I have to say that the concerns from people are significant, and I think that we should listen to those very seriously. So, that is why I say, ‘I will have shortly’. I have just asked for legal advice to help inform my view on that and I will take a view on that under the Act as commissioner. I think that is what I was created to do: to advise and have a view on these issues.

[89] I will just pull back from that very slightly though, just to put it in context. In no small part, the carers Measure was important because it made a promise to carers. It made a promise, again, to some of our most vulnerable people that we will support them, protect

them, make things better and improve things for them around specific areas. Promises are important. Carers have a right to see, to feel and to be assured that they are still a focus in terms of that passporting over into legislation. So, I think that it is really important, it is crucially important, for carers, because they are such a vulnerable group, that we do not lose, in the generality of drawing things together, a focus on people who too often are voiceless.

[90] **David Rees:** I have one final question. Clearly, you responded to Alun Davies's question that you are not tinkering on the edges and that these are fundamental issues that you are talking about. However, the committee did hold an inquiry of its own in the early part of its existence. What I want to know is whether you have seen any progress on the recommendations from that committee, and does that give you confidence that progress will continue to be made, particularly on your recommendations?

[91] **Ms Rochira:** You are absolutely right. We spoke the last time I was here, I think, about starting to line up and join up scrutiny in all sorts of different ways. In no small part, my review picked up on—. Forgive me, I forget, but I think it was recommendation 10 in the committee's report, which, as you know, I thought was an excellent report, and, in no small part, I lifted that up and went into much more detail around that, that passing of the baton. I have not looked back and I have not scrutinised whether Welsh Government has done, or to what extent it has implemented, its response to the committee's report, partly because it is not my function to do that. You know, because I was public about it at the time, that there were areas of the Welsh Government's response with which I was disappointed, and which I thought needed to be far stronger in relation to that. However, in short, no, I have not, because I, in a sense, lifted up one of the recommendations and did not really feel that it was my role to go back and ask about that. However, I hope that this is an example of what we spoke about at the last committee. There are other examples; I have done some work recently with the Wales Audit Office and with the other commissioners, and we talk extensively about the areas that join us up and how we work better together in public service to secure the outcomes for older people and work better together.

[92] **David Rees:** Thank you for that and thank you for your evidence this morning; it has been very interesting. You will receive a copy of the transcript, as you know, to check for factual inaccuracies. Please let us know if there are any. Once again, thank you very much and we look forward to seeing you, I am sure, in future inquiries.

[93] **Ms Rochira:** Thank you. Diolch yn fawr.

[94] **David Rees:** Thank you very much. I now suggest that we have a break for 10 minutes and reconvene at 11.05 a.m.

*Gohiriwyd y cyfarfod rhwng 10:54 ac 11:05.
The meeting adjourned between 10:54 and 11:05.*

**Ymchwiliad i Sylweddau Seicoweithredol Newydd ('Cyffuriau Penfeddwol
Cyfreithlon'): Sesiwn Dystiolaeth 7
Inquiry into New Psychoactive Substances ('Legal Highs'): Evidence Session 7**

[95] **David Rees:** I welcome Members back to this morning's session of the Health and Social Care Committee and we move on to the next item on the agenda, which is the continuation of our inquiry into new psychoactive substances. May I welcome the Minister for Health and Social Services, Professor Mark Drakeford, to this morning's session, who will give evidence in that area? Minister, would you like to introduce your colleagues?

[96] **The Minister for Health and Social Services (Mark Drakeford):** Thank you, Chair. I have Dr Sarah Watkins with me, who is the professional lead in mental health and

allied matters in the Welsh Government, and Tracey Breheny, who is the policy lead as far as these issues are concerned.

[97] **David Rees:** Thank you very much, Minister, and thank you for your paper in advance of the meeting. May I also point out that, obviously some of the areas that we have come across are very much related to the Home Office? We understand that and we have contact with the Home Office and an opportunity to have a discussion with its officials; we are still awaiting its response on that matter. We do recognise that there may be issues that you may want to link into that aspect.

[98] We will therefore move on to questions this morning and we will start with Gwyn Price.

[99] **Gwyn R. Price:** Thank you, Chair. Good morning. Could you give an update on the progress on the actions identified in the substance misuse delivery plan that relate specifically to NPSs, referred to in the delivery plan as new and emerging drugs?

[100] **Mark Drakeford:** Thank you for that question, Gwyn. The substance misuse delivery plan in relation to new psychoactive substances, I think, attempted to do a number of things of which awareness raising is probably the most significant, but it does so within the general approach that we try to take to the whole of substance misuse in Wales, which is a harm-reduction approach to the topic.

[101] In terms of raising awareness, I will try to identify a few things. Colleagues may have other things that they could add, but obviously the Dan 24-hour, seven-day-a-week helpline is one of the main ways in which we attempt to make sure that there is readily available information for members of the public and for individuals themselves, their families and others who are concerned for them. Using the Dan platform, we have had a series of public campaigns in this area in 2013 and we have another one planned for next year. I think that Dan is a really important part of the landscape in Wales; it is quite well recognised; it is available bilingually; it has around 4,500 direct contacts through calls and text messages; and it has a website, which has seen a very steep growth in the number of hits on it. It operates out of north Wales. I visited it earlier in the year. I do not know if other Members have had the chance, but I think that it is quite impressive when you go there to see the way in which the people who operate the system have access to very up-to-date and quickly relevant information that they are able to pass to people. They talked to me while I was there quite a lot about the calls that they take from family members who are anxious that someone in their family is using substances that they are just not sure about—they do not know anything about them and they are just looking for some help and reassurance as to how to raise the topic sometimes with that person: what is the best way to try to have a conversation that is well-informed?

[102] Dan is only one of a number of things that we do in the awareness-raising field. We commissioned, through Public Health Wales, a health and wellbeing compendium, which was published last year. That is a comprehensive, bringing together of resources that can be available, both to people who provide services in this field, but also to those people who commission those services, namely the area planning boards, so that they are aware of the need in their area and what can be done to provide for it.

[103] We have also developed and published handbooks for workers in the substance misuse field around NPS particularly, and then workbooks that can be used by family members and carers to give them a better insight into what they may be seeing. I think that there are other strands in the work programme from the delivery plan, but those are just some examples of the way that we have tried to shape services to improve awareness in this field.

[104] **Gwyn R. Price:** Minister, do you see that NPSs are becoming a problem, or do your officers see them becoming a problem that we will need to tackle in future?

[105] **Mark Drakeford:** I think that the way to try to describe it is that it is a bit of a tightrope, I think, and you do not want to fall off on one side of it or the other. In one way, the answer is, 'Definitely, yes'. We are sure that there is greater use of these substances; we see it in some of the figures that we have. On the other hand, it is important not to overbalance into thinking that this is some major new phenomenon, because, actually, the figures that we have—and the views of the expert panel's report for the Home Office reflect this—say that it continues, on the whole, to be relatively low use with relatively low harms occurring from it. So, it is about trying to get the balance between recognising it, because it is a real phenomenon and a growing phenomenon, without exaggerating the significance that it has in the substance misuse field. Two per cent of injecting drug users in Wales inject drugs because of new psychoactive substances. There were two deaths in Wales last year where a new psychoactive substance was identified on the death certificate as being the primary cause of death. That is two too many, of course, but in the bigger picture of the number of deaths that occur through drug poisoning that is still a very small number of the total picture.

[106] **Gwyn R. Price:** Thank you.

[107] **Alun Davies:** Minister, it does not reflect the impact of these sorts of substances on young people. You are right in terms of what appears on the death certificate, but it is also the case that a number of these substances have very significant impacts on young people—'users' rather than 'young people'—that can lead either to significant hospitalisation or psychiatric illnesses that may lead to death by another cause, which would not necessarily be identified on the death certificate. So, while I accept the point that you make, do you not recognise a danger that we might be underestimating the real impact on users by simply looking at those numbers?

[108] **Mark Drakeford:** There are two slightly different points there, Chair. The point that you are making, Alun, exactly illustrates the thing that I said at the beginning about walking a bit of a tightrope here between wanting to recognise the seriousness of it and making sure that there are proper services in place and ways of identifying people without allowing the wider agenda of substance misuse to be distorted in a disproportionate way by the issue. You are absolutely right, of course: the two cases where new psychoactive substances were identified as the primary cause of death do not in any way represent the wider harm that can be done at much lower levels, but still significant levels, in people's lives. So, it is about trying to get a way of talking about the subject that reflects its significance without distorting the wider discussion around substance misuse. I think that that is what the expert panel's report certainly said to the Home Office.

[109] **Lynne Neagle:** I have a couple of questions. The first is in relation to the legal framework. We have taken a lot of evidence expressing frustration that the existing legal framework does not allow agencies—the police or trading standards—to tackle the problems of NPS effectively. Minister, your paper reports on the work of the expert panel. I wonder whether you can give an update on where you think that the Home Office is at, particularly in relation to a change in the law in the same vein as in Ireland, and what input the Welsh Government is having in those discussions.

11:15

[110] **Mark Drakeford:** Thank you, Lynne. You will have seen the expert panel's report. It rehearses a number of different regimes that have been tried elsewhere across the world—probably three of them were in the final frame for consideration. So, they look at the American experience, which is what they call the analogue experience, in which any drug that

looks like a drug that is banned can automatically be banned without having to go through a whole process to make that happen. In the end, they say that the downsides of that system outweigh its positives, so they put that to one side.

[111] They look at the New Zealand experiment, which is a licensed market, or a regulated-market approach, where it is up to the supplier to demonstrate that the substance is not harmful, and if it not harmful, it can be licensed. Although the New Zealand experiment got off to a fairly brisk start with 41 substances identified as being in the non-harmful category, they pulled back from that fairly rapidly. They have now withdrawn the licence from all 41 of those products and there is no single product on the list to be licensed as safe. So, they look at the New Zealand experiment and say that it is an interesting experiment, and that we should continue to learn from it, but that it is immature and we cannot draw direct lessons for this country.

[112] Then they look at the Irish experience. In the United Kingdom, the system is that if a drug is not in the classification of the Misuse of Drugs Act 1971, then it is not illegal. The Irish approach is to turn that the opposite way around. They identify substances that are legal, and if they are not on the list of legal substances, they are illegal. That is the one that the expert panel says is most promising, as far as the United Kingdom is concerned. The Home Office response to the panel says that it agrees with that and that is prepared to look to see whether we could move to that approach in the United Kingdom.

[113] We all have to recognise that there is no single change in the law that simply eliminates the problem. I attended, on behalf of the Welsh Government, the British-Irish Council back in June, where this was a major agenda item. The council was held in Dublin, so it was hosted by the Irish Minister responsible for this law. I think that they are positive about it, but they recognise that if you make things illegal, you shift some of the activity into other parts of the system. So, on street trading, there is a major problem in Ireland with prescription drugs—the misuse of prescription drugs. They are positive about what they have done and they think that it has helped a lot. It does not mean that there is no problem of new psychoactive substances in Ireland. It is just on a different part of the spectrum.

[114] **David Rees:** The committee has written to the Irish Government to seek information as to what it has used.

[115] **Mark Drakeford:** It will be very interesting to hear directly from it.

[116] **Lynne Neagle:** Thanks, Mark. We have not been able to get the Home Office to agree to come to the committee, which is a pity. Do you have a sense that the Home Office is going to act with some urgency to look at change in the law along the lines of the Irish model?

[117] **Mark Drakeford:** At the British-Irish Council, the UK Government sent a Home Office Minister, not a Department of Health Minister, to that council, and it was Norman Baker, who was the Minister who had commissioned the work. Of course, he is no longer the Minister, but I have written to Lynne Featherstone, who is his successor, urging the UK Government to act quickly in relation to some of the recommendations where it had been positive in its original response. What I am saying to them is that we need to move, in that case; if we think that these are the right ideas, we need a bit of sense of urgency in turning them into practical policy ideas. We are inevitably in a bit of a difficult period at Westminster, with a general election pending. There are some issues on which it is probably not as easy to make quick progress as it would be in a different part of the electoral cycle. If I was guessing, rather than anything else, I would say that this is probably in that part of the spectrum.

[118] **Lynne Neagle:** Okay. I just have one other question on the health service's role in all this. My experience, locally, is that there have been issues with the health service being a little reluctant to engage, particularly with the police. That is something that is improving through multi-agency working, but do you think there is more that the Welsh Government can be doing to drive that change in the health service? Particularly, do you think the Welsh Government has a role in raising awareness? We have found that people like GPs are asking young people, 'Have you taken something?', to which the answer is 'no', but they are not sufficiently aware of these new substances to know about the perceptions of legality.

[119] **Mark Drakeford:** I am sure that it is an agenda that you have to keep working away at. There is more that the health service can do in terms of making sure its own staff are properly alert to these substances. At the strategic level, there are very good links between the police and the health service. They sit at senior level on the area planning boards together. Some of them are chaired by senior police officers; some of them are chaired by senior public health figures or others. At the operational level, I am sure there is more we can do to make sure that all the different players involved are working together on a difficult agenda, where there are challenges for all those involved in it.

[120] **David Rees:** I have questions now from Lindsay, Darren then Kirsty.

[121] **Lindsay Whittle:** Good morning, Minister. I want to ask about the awareness, really, and some of the Members have touched on some of the issues I wanted to raise. Sometimes, raising awareness among young people creates an interest as well, and that is clearly a worry. I wonder how much the awareness raising is emphasising the dangers. While we need more for teachers, youth workers, the police and, so it seems, A&E and ambulance staff, I wonder what we can do to concentrate on the dangers of taking these substances. Perhaps we do not yet have enough evidence of the long-term effects of these substances, but we have certainly heard enough evidence. I know that there are questions later on mephedrone, and I did not know the difference between methadone and mephedrone until we went on these things. Again, that is raising awareness. I wonder whether we are doing enough, as £3 million across the whole of Wales is not a huge amount. There is lots of other substance misuse that they are probably talking about as well.

[122] **Mark Drakeford:** I will begin by agreeing very much with the first point that you made. I have seen it come through in the evidence that the committee has had. There is very compelling evidence more widely in the drug education field that, if you go about this the wrong way, what you do is put ideas into the heads of young and impressionable people at a time in their lives when experimentation and risk taking is just part of what is going on. With all the best intentions, you can think that what you are doing is putting people off and giving them all the reasons why they should not be doing something, but what you end up doing is introducing them to ideas and possibilities that they may otherwise never have heard of.

[123] In some of the evidence that I have read, which the committee has taken, you can see an attempt to divide the issue into a number of different categories. There is a need for general information—that is what Dan 24/7 does. So, it is important that that is there. At the other absolute opposite end of the spectrum, you have people who are regular users of illicit drugs, who simply add new psychoactive substances to their repertoire. They supplement; they do not supplant. They are 'as well as' and not 'instead of'. You need a very different sort of message for the people at that end of the spectrum. The really tricky people are the people who were described to you by earlier witnesses as 'contemplators' and 'dabblers'—people who are on the fringe of it, who are thinking about things and might want to have a go. How do you get messages over to those people about the dangers that they will be running?

[124] The message is that you have to have targeted information and properly worked out information. You must do it in a way that is not condemnatory—because if young people

think that they are just being preached at, it turns them away from the message and they will not listen—and in a way that is not judgmental, so that is not saying, ‘If you do this, you will be a very bad person indeed’, because again, that does not work. You need to have conversations that are properly informed and non-alarmist, but honest about the risk that someone will be taking if they were to move from being a contemplator to an active user. That is a skilled thing, and you have to prepare that wide range of professional workers who might have an opportunity to have that sort of conversation with a young person, to be able to have it in the right way. Do it wrong, even with the best of intentions, and you might end up making things worse, not better.

[125] **Lindsay Whittle:** Thank you for that, Minister. During our evidence, some of the most positive issues that came forward were from the young people themselves, who did not want to experiment, and who are trying to impress upon their friends who were that that is not the road to go down. That was really positive.

[126] **David Rees:** Kirsty is next, on this particular issue.

[127] **Kirsty Williams:** Given what you have just said about the complexity of giving messages to young people, what discussions have you had with the Minister for education about the quality of information being given to young people in schools and colleges, and the training for teachers to be able to address these issues in a way that would be appropriate? Have you had any discussions with the Minister about the quality of information that is being given to young people via the teaching profession?

[128] **Mark Drakeford:** I have had general discussions. I could not say that I have had a very specific discussion with him around this particular issue. I was slightly surprised at some of the evidence that you received on that point, because the £3 million that we invest in the—Tracey, perhaps you could get the title right for me now—the all-Wales—?

[129] **Ms Breheny:** It is the all-Wales school liaison core programme, which is jointly funded with the police.

[130] **Mark Drakeford:** Yes. So, the lessons that are delivered on new psychoactive substances and on a range of other allied things are delivered by specially trained police officers. They are not delivered by teachers. They are delivered by police officers who have had special training in the educational side of things, to make sure that they are skilled at doing the job that I just mentioned. I saw some of the evidence that you had had about personal and social education being delivered by people whose skills were not necessarily in that area and therefore not having the impact on young people that we would like to see. However, in this area, those people are not doing the teaching. We are doing it through people who have been specially prepared and have the right backgrounds in order to do it.

[131] When I have more general discussions with the Minister for education, you will understand that his response is often that, for every social ill and issue there is, there are people who want to make a case for saying that it should be dealt with in schools and dealt with through the PSE curriculum. The pressure on the curriculum to be able to cover everything that could be covered is very significant indeed; hence his review.

[132] **Kirsty Williams:** Some of the evidence that we also heard was frustration on behalf of professionals working in the field in sometimes getting access to schools, and a reluctance on the part of headteachers or governing bodies to really engage with this agenda for fear of sending a signal that there was a problem in a particular school. Therefore, the children there were not having the opportunity to receive information and to talk about their concerns, because of a reluctance by the authorities to engage. Do you perceive that that could be a barrier to what you would want to achieve in giving children the information they need to

make choices about their lives?

[133] **Mark Drakeford:** I will ask Tracey to say a bit more about that in a second, but 99% of schools in Wales do participate in the programme that I have just described and will have the new psychoactive substances special bit of that programme delivered in the school. However, I did read the evidence that you had had of others feeling that schools are sometimes reluctant to open up this area, partly because they do not feel that the ground is firm under their feet, with the legalities of it and all that sort of thing, but also because of the pressures on school reputation and league table type things. Do you want your school to be known as a school that has a problem that it has to work on, and so on? I will ask Tracey whether she can think of anything more general.

11:30

[134] **Ms Breheny:** I understand the point. I think, though, that we would suggest that the almost universal nature of that schools programme in primary and secondary schools across Wales takes away some of that stigma that could be there. Our experience, through the co-ordinator for the schools programme, is that there are very good links with schools themselves and very good feedback from headteachers and the teaching staff who work with the police officers who deliver the programme.

[135] The only other thing that I would add is that the Welsh Government did issue guidance to all schools in July 2013 on substance misuse. Obviously, that was disseminated to every school in Wales as well as the schools programme.

[136] **Darren Millar:** Minister, can I ask about education for parents? Obviously, parents have a role in educating their children. One thing that we have received evidence on is the effectiveness of parental education in reducing the incidence, if you like, or the propensity for young people to dabble in some of the substances, and indeed in some of the illegal substances that are out there. Our attention has been drawn by a number of health boards and other professionals to the How to Drug Proof Your Kids programme, which has been developed by Care for the Family—a charity that is based in Wales, of course. What sort of role do you see for parental education, and is it something that has been an emphasis or a focus of your work to combat these new psychoactive substances and their use in Wales?

[137] **Mark Drakeford:** Chair, as I said, I have followed the evidence that the committee has taken on that point, and I think it has been very helpful. Maybe this is the moment just to say more generally, really, that this is one of those areas where I think the committee's report and the work that the committee has done is especially helpful, because it is not an area where anyone feels that they have a set of pre-prepared policies that you know you can apply in the area. I think that the discussion that you had around the role of parents and how best to equip parents to discharge the care of young people that they would want to discharge has been really interesting. I have been interested in some of the arguments that you have heard about the sort of curve during adolescence, and how an 11-year-old will be very open to parental influence, but later on other factors will probably be playing a better part. I think that there are a number of ways in which help for parents is available through the organisation that you mentioned, through a school-based website that has lots of information, through the carers work, work through Dan 24/7 and everything like that. If the question is whether we could do more, and whether we should be thinking sharper about how we can help parents to be well prepared in this area, I am sure that the answer is 'yes'. I think that some of the things that the committee may say in your report will be really helpful in that way.

[138] **Darren Millar:** What work has the Welsh Government done perhaps to identify those young people in particular who are at highest risk of exposure to NPSs and the dangers that they might bring, in order perhaps that education can be targeted to parents in those

areas? Has any work been done?

[139] **Mark Drakeford:** The only work that I am aware of is work that is part of a bigger sort of look at the way that young people are vulnerable to not just new psychoactive substances but substance misuse in a general sense. In many ways, it would follow patterns that you would not be surprised to know—you know, what vulnerability is associated with. It is associated with social stress, with family patterns and with other things that make young people vulnerable to it. I am not aware, but colleagues may be, of whether there is any separate work on whether there is any difference in the profile of vulnerability for new psychoactive substances.

[140] **Ms Breheny:** That is right, Minister. We have quite detailed data, through the substance misuse database, on patterns of substance misuse and geographic areas, concentrations and so on. What we do not have, because of the underreporting and issues around NPS, is the drilling down on specific—. We have an understanding, but I would not want to portray it as being in line with what you just described there.

[141] **Darren Millar:** May I ask also about the WEDINOS website, which, of course, most witnesses to the committee have said has been a very useful tool, particularly for criminal justice professionals and health professionals, in helping to identify some of the substances that have been taken by people? Of course, it has also been acknowledged that the site has been open to abuse in the past, and I know that some action has been taken to try to address that abuse, particularly among steroid users historically. What further actions and steps are you taking to perhaps think about whether the site ought to continue to be public facing, versus being a private site for professionals, to stamp out abuse?

[142] **Mark Drakeford:** On this specific point, Chair, I have followed the debate and have seen the views that the committee has taken, and I do not have any difficulty myself in coming down on the side of the need for WEDINOS to be a public-facing site. That is its purpose. Its purpose is in harm reduction and, therefore, it needs to be able to get the information that it is then able to supply to those people who need it in that way.

[143] On the issue of action to make sure that the site is not vulnerable to being used for purposes for which it was not intended, that is an ongoing piece of work. I think Public Health Wales is very alert to it. WEDINOS is not, at the moment, taking any steroid substances; this is, in part, while it is looking at whether there is anything else it can do to safeguard the way that it provides information. However, Darren is absolutely right to say that, as a result of the Public Health Wales review back in July, some changes have already been made. I think that the very senior people who have oversight of it are as confident as they can be that the site does the right job and is doing everything it can to reduce any vulnerabilities that it might have had to being used in the wrong way.

[144] **Darren Millar:** May I just take that issue a bit further? One of the issues or concerns that I have about the site is that we have been told that substances that are labelled as one substance can very often contain very different ingredients to the next substance, which appears to be labelled in exactly the same way, because of inconsistencies in terms of the contents of batches and the producers of different products. Do you think that there is potential for the site to give false assurances to people who might want to consume or dabble in some of these products, particularly when the impact of taking a product is openly advertised on the site, as it were, in terms of euphoria, feelings of elation, or whatever else might be used to describe a particular substance that has been taken?

[145] **Mark Drakeford:** It is a serious point. You are absolutely right that, just because one batch is labelled in a particular way, it does not mean that the next batch with the same label will contain the same thing. I think the site is very clear in providing exactly that message to

people. It is very explicit in saying, ‘Don’t assume that because what we have just analysed contains this that something else will be the same’. There is a bit of ‘buyer beware’; the person using the site has to take the precautionary messages that it provides alongside anything else that they get from it. I think that the people who run it are very alert to the point that Darren is making; they would recognise it as a proper point and try to do everything they can to make sure that someone using the site would not fall into the trap that he has identified.

[146] **David Rees:** Kirsty, did you want to come back in?

[147] **Kirsty Williams:** Yes. Your opening gambit, it seemed to me, was that we should not get overexcited about the impact of these particular substances, when you look at the totality of substance misuse. That seems, to be honest, to be at odds with what we have heard throughout this review from those people working in the field. I am just wondering whether you anticipate any change at all in your overall policy towards drug misuse or substance misuse to reflect the emergence of these items in the market. Or do you still believe that traditional opioid misuse, prescription drug misuse and alcohol will continue to be the main focus for your Government when it comes to substance misuse policy?

[148] **Mark Drakeford:** Chair, may I maybe use a quotation from the expert panel to try to source the point I was trying to make in the beginning without the danger of being misunderstood? This is what the expert panel concluded at the end of its report: use of new psychoactive substances is generally low compared to illicit drugs—they are both less used and associated with less harm than illicit drugs.

[149] So, that was the context in which I made my opening remarks. I am just trying to get a proportionate sense of the topic we are talking about. The point that Kirsty is making more generally, though, is, I think, that we have to—. This is an area in which you have got to remain very agile all the time, because patterns change so very fast in front of you. If you think of mephedrone, its use went sharply up and is now sharply down. If you had just followed the mephedrone, you would have ended up changing the whole way you provided a service just at the point when the problem was going into decline. So, I think that the answer to the problem that you pose is about being agile and about trying to keep alert to aligning the services that you provide to the need that is there, without allowing them to be distorted by the latest thing that happens to be—

[150] **Kirsty Williams:** Doing the rounds.

[151] **Mark Drakeford:** Well, yes, passing the scene in the way that happens. I think that the chances are that, into the future, the bulk of work that our substance misuse services respond to will continue to be the illicit drugs in the opiate and cannabis field that they are used to, and in alcohol, but that they will need to stay alert to the new patterns that are emerging and find ways of accommodating themselves to those new demands without becoming derailed by them.

[152] **Kirsty Williams:** I take your point that you are quoting from the expert panel, but the consistent evidence that we have received is that, actually, in terms of harm, these substances are often shunned by traditional drug users because they are so much stronger, because they are so much more unknown—an unknown quantity; you just simply do not know what you are going to get and what is going to happen to you if you take them. Actually, they are going back to using heroin and their traditional cannabis because this stuff is too scary for them. I am just wondering how, on the basis of the evidence we have heard from people who were dealing with people face-to-face in communities about the social impact this use is having on communities, we reconcile this with this idea that, actually, we should not be worrying about this so much but continue to focus our efforts and resources on more traditional illegal

substances.

[153] **Mark Drakeford:** I have seen that evidence and it is real and it is very concerning. As these substances are new and unknown, and because they are often very, very strong, people taking them in an unaware way get very bad reactions to them. The expert panel looked at this issue in particular and came to a conclusion that I will report to you, because this is what it found. What it said was that the more harmful forms of new psychoactive substances only last on the market for very short periods of time. They are there, and when they are there, they are very harmful, but they disappear very fast because their reputation gets known very fast and the manufacturers of them take them off very fast. So, that poses very particular problems for services because you are chasing such a rapidly changing picture. However, in some ways, the panel suggests that it is slightly self-correcting.

11:45

[154] **David Rees:** On that particular point, before I call Alun in, one of the things that we have identified is that because the chemicals change dramatically, a product may come off, but then it is replaced by a new product, which people do not always recognise as the same thing. Is that, therefore, an issue? As you say, one might come up, they recognise it and it is taken off, but something will come in its place.

[155] **Mark Drakeford:** The Irish model is designed to address exactly that issue. I saw in Public Health Wales's evidence to you two particular synthetic cannabis-based drugs that were made subject to temporary classification under the 1971 Act and, within six months, there were drugs that were almost identical to them that were circulating. The Irish model would prevent that from happening, because unless it is on the list of legal substances, everything is illegal—lookalikes and everything are all captured by it. So, you are absolutely right to point to the way in which drug substitution happens in the system that we currently have, but the Irish model, if it were adopted, would be a significant response to that problem.

[156] **Alun Davies:** It is curious, Minister, because we are hearing something quite different from you from what we heard from other witnesses and particularly, possibly, the police, who have taken a very different view on these matters. I presume that your expert panel is having conversations with the police and local authorities, as they have been dealing with these issues. Perhaps it would be useful for us to understand the linkages between your department, health boards and other agencies that are dealing with these issues. The other theme that I think has come up in our evidence is a lack of co-ordination in approaches between different agencies. Are you confident that you are getting there in terms of co-ordination, particularly from a health board point of view?

[157] **Mark Drakeford:** There are three things to say there, Chair. First of all, let us be clear that it is not my expert panel. I am talking about the Home Office's expert panel. It had very senior police officers and all the people you have referred to as members of the panel. You have taken evidence from Mr Shapiro, who was himself a senior member of that panel, and I just do not accept that what I am saying to you this morning is significantly different from the evidence that you have heard from other witnesses. I think that that is a fairly major misrepresentation of what I have said to you. I think that what I have said to you recognises all the things that you have heard from other witnesses while putting it in the broader context that the expert panel has brought to this consideration. You have been asking people, every time they have been in front of you, about new psychoactive substances. That is the purpose of your inquiry. It is therefore not surprising that they talk to you about that topic. What the expert panel tried to do was to put that topic in the wider context, and that is what I have tried to do in reflecting its views.

[158] The third point that Alun raises is a different one. Would we be confident that we

have everything right in terms of liaison between health services, police services, youth services and housing services—that very broad range of organisations that you need to bring around the table in this area? I think that we have the right structures in Wales through the area panels. I think that we have some good liaison at local level. I am quite sure that it does not work in the way that we would like it to everywhere and that it is a topic that you just have to keep working away at. You have to keep, all the time, trying to make sure that you animate the local fora that are there to get the people you need to be sharing information, thinking of new ways of responding to problems as they see them on the ground. I am sure that there is always more that could be done to make that more effective.

[159] **David Rees:** Is that okay, Alun? I see that it is. Do other Members have any questions? I see that you do not. I will finish off with two points. Minister, you have talked about the British-Irish Council, where you met your counterparts and, in fact, Norman Baker from the Home Office, but did you also discuss the EU regulations regarding NPS that are possibly being introduced and the UK Government's position in relation to that?

[160] **Mark Drakeford:** It was raised at the British-Irish Council as part of a general discussion that we had on these matters. I do not think that we had anything more than an update from the Minister who was there from the Home Office, which was that the UK Government is working on this agenda and is looking to see whether the regulatory regime that is now proposed at the European level can be of the most help to the UK effort in this area. It was no more specific than that, really.

[161] **David Rees:** The other question I have relates to justice. We have had questions as to the usage of NPS, perhaps, within the prison system. Have you had discussions with the Ministry of Justice to look at how you can support individuals as part of your health provision for prison services, but also those who are leaving the prison service?

[162] **Mark Drakeford:** Tracey will give you some detail on that. It was interesting that, at the British-Irish Council, of the four UK home nations and the Irish Republic, three jurisdictions sent Ministers who were primarily in the justice field and then I and the Northern Ireland Ministers for health were there. However, it was absolutely common between all of the different Ministers that a criminalisation approach to new psychoactive substances was not the answer. To criminalise the users would be a step that would not get you to where you wanted to be. The focus has to be on supply and how you deal with the way in which the supply enters the market. Part of the reason for that, given by other colleagues there, were the stories about the extent to which these substances circulate in prisons. People who are drawn into the criminal justice system are actually more at risk, in many ways, of being drawn into these habits as a result of the criminalising process. So, I feel very comfortable that we in Wales would be aligned with that agenda. We do not think that the answer to new psychoactive substances is to focus on the user and to use the criminal justice system to—

[163] **David Rees:** I was not getting at criminalisation; I was getting at the support.

[164] **Mark Drakeford:** I did not think that was the point that you were making, but that is the general background to it, is it not? There are essentially three ways of addressing new psychoactive substances: you do it through the medicines arm, you do it through the criminal justice arm, or you do it through the sort of measures that we have been talking about this morning. Tracey will know more about the extent to which we have direct liaison between our services and those prisons in Wales where we have responsibility.

[165] **Ms Breheny:** We have very strong links with the criminal justice agencies in Wales. For example, our national partnership board on substance misuse has National Offender Management Service representation. At the area planning board level, certainly this year, as we saw the drug intervention programme come under the control now of the police and crime

commissioners, we have ensured that that representation of the PCCs is on our area planning boards. In addition to that, on our advisory panel on substance misuse, which is the Minister's independent group, akin to the advisory council on the misuse of drugs, we have police and prison service representation. So, at every level, we have that formal relationship, but also then the informal relationship that happens in Wales.

[166] **Dr Watkins:** May I add something? Last year, we issued policy guidance on substance misuse in the prison setting, and because the Welsh Government is responsible for prison healthcare, we have very close contact with the prisons, so that we have formal criminal justice liaison. We also meet on a three-monthly basis with our offender health lead with prisons, where we discuss all of these issues very closely indeed. We have very good arrangements when a prisoner who may be misusing substances is discharged. Normally, it is for those offenders who are misusing opiates, but the prison is very clear that it does need advice and support, and that work is ongoing with the prison health staff, because substance misuse is, as you well know, a huge issue within all of the prisons in Wales.

[167] **Darren Millar:** I have a follow-up question. Obviously, the devolution of responsibility for healthcare is something that happened some time ago. Do you think that the Welsh Government is adequately resourced to be able to deliver against that responsibility, particularly given the higher prevalence of substance misuse problems among the prison population? To what extent will the new super prison in north Wales have a potentially adverse impact on the finances of the health board in that region?

[168] **David Rees:** There were a lot of questions, obviously.

[169] **Darren Millar:** It is in relation to substance misuse issues.

[170] **Mark Drakeford:** I understand the question, Chair. Were we adequately funded to take on the job of providing NHS services in public prisons? Well, probably the facts speak for themselves in that we have had to spend money from the Welsh block more generally to top up the amount of money that was transferred to us when taking on that responsibility in order to provide an adequate service. That means that our negotiations over the prison intended in north Wales will have to be a bit tougher, maybe, than they were last time to make sure that, with the health needs of a very large number of people now needing to be attended to in north Wales, the money comes with that to make sure that it does not end up having to take money away from services that already exist. We are very alert to that.

[171] **Darren Millar:** Would it be possible to have a note as to the additional or estimated costs to provide those services?

[172] **Mark Drakeford:** I have seen a figure, so I am sure that we could do that.

[173] **David Rees:** Thank you, Minister. If there are no further questions, thank you for your evidence this morning. You will receive a copy of the transcript to check for any factual inaccuracies. Once again, thank you very much, Minister.

[174] **Mark Drakeford:** Thank you.

[175] **David Rees:** And to your officials, of course.

11:57

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

[176] **David Rees:** We have some papers to note. They are the minutes of the previous meetings on 6 and 12 November 2014. There is additional information from the First Minister regarding the change of duties of the Deputy Minister for Health. There is additional information from the chief medical officer regarding the mortality case note review and the reconfiguration of health board services. There is additional information from the Minister for Health and Social Services regarding the national smoking cessation service review. There is correspondence from the Finance Committee regarding the committee's forward work programme following its scrutiny of the Welsh Government's draft budget for 2015-16. On that particular point, we will come back to that on 10 December when we will have some clarification on some of the points that we received only this morning. Are Members happy to note those? I see that you are. Thank you very much.

**Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd
Motion under Standing Order 17.42 to Resolve to Exclude the Public**

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

in accordance with Standing Orders 17.42(vi), the committee resolves to exclude the public from the remainder of this meeting.

[178] Are all Members content with that? I see that you are. Therefore, we will move into private session. Thank you very much. We will ask the public therefore to leave.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 11:58.
The public part of the meeting ended at 11:58.*