



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

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

**Dydd Mercher 13 Mai 2015**  
**Wednesday 13 May 2015**

**Cynnwys**  
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Motion under Standing Order 17.42(vi) to Resolve to Exclude the Public from the Remainder of the Meeting and for Item 1 of the Meeting on 21 May 2015

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

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

**Aelodau'r pwyllgor yn bresennol**  
**Committee members in attendance**

Alun Davies	Llafur Labour
Janet Finch-Saunders	Ceidwadwyr Cymreig Welsh Conservatives
John Griffiths	Llafur Labour
Elin Jones	Plaid Cymru The Party of Wales
Darren Millar	Ceidwadwyr Cymreig Welsh Conservatives
Gwyn R. Price	Llafur Labour
David Rees	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Lindsay Whittle	Plaid Cymru The Party of Wales
Kirsty Williams	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats

**Eraill yn bresennol**  
**Others in attendance**

Lorraine Brannan	Grŵp Ymgyrchu 'Cyfiawnder i Jasmine' 'Justice for Jasmine' Campaign Group
Pamela Cook	Grŵp Ymgyrchu 'Cyfiawnder i Jasmine' 'Justice for Jasmine' Campaign Group
Nicola Evans	Arweinydd Deddfwriaethol, Comisiynydd Pobl Hŷn Cymru Legislative Lead, Older People's Commissioner for Wales
John Moore	Fy Mywyd Mewn Cartref Cymru My Home Life Cymru
Kelvyn Morris	Grŵp Ymgyrchu 'Cyfiawnder i Jasmine' 'Justice for Jasmine' Campaign Group
Robin Moulster	Cymdeithas Gweithwyr Cymdeithasol Prydain, Cymru British Association of Social Workers Cymru
Dr Rosanne Palmer	Cyngrhair Henoed Cymru Age Alliance Wales
Sarah Rochira	Comisiynydd Pobl Hŷn Cymru Older People's Commissioner for Wales

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

Helen Finlayson	Clerc Clerk
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Amy Clifton	Gwasanaeth Ymchwil Research Service
Sian Giddins	Dirprwy Glerc Deputy Clerk
Gareth Howells	Cynghorydd Cyfreithiol Legal Adviser
Rhys Morgan	Dirprwy Glerc Deputy Clerk

*Dechreuodd y cyfarfod am 09:18.  
The meeting began at 09:18.*

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

[1] **David Rees:** Good morning, and can I welcome members of the committee to this morning's session of the Health and Social Care Committee of the National Assembly for Wales? Can I also welcome the members of the public? We will be continuing our evidence gathering for Stage 1 of the Regulation and Inspection of Social Care (Wales) Bill. Before we start, I remind Members that, if you have mobile phones or electronic equipment, you should please ensure that they are either on silent or switched off. If you need translation from Welsh to English simultaneously, please use the headphones on channel 1. If you wish to have amplification, then it's channel 2 on the headphones. There are no scheduled fire alarms this morning, and, therefore, if one does go off, please follow the directions of the ushers. The meeting point is by the Pierhead, I believe. We've received apologies from Lynne Neagle, but we have no substitution this morning.

09:19

### **Y Bil Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru): Sesiwn Dystiolaeth 9 Regulation and Inspection of Social Care (Wales) Bill: Evidence Session 9**

[2] **David Rees:** Therefore, I'd like to go now into our first evidence session. Can I welcome the Commissioner for Older People in Wales? Would you like to introduce yourself and your colleagues?

[3] **Ms Rochira:** Thank you. Bore da. Diolch yn fawr. I'm Sarah Rochira, the older people's commissioner for Wales, and this is Nicola Evans who works with me and leads with me on my review of legislation in Wales.

[4] **David Rees:** Thank you very much. Thank you for your written evidence to the evidence sessions. I'll just go straight into questions if that's okay with you.

[5] **Ms Rochira:** Yes.

[6] **David Rees:** We'll start with Gwyn Price.

[7] **Gwyn R. Price:** Thank you, Chair. Good morning.

[8] **Ms Rochira:** Morning.

[9] **Gwyn R. Price:** The last time you came in front of the committee, you spoke about wanting to see two key areas in the Bill: the standard model in relation to quality and clear reporting arrangements with better public information. Having now seen the Bill, how do you

feel about these areas? Do you think they've been sufficiently covered in the Bill?

[10] **Ms Rochira:** Okay, thank you. You're absolutely right to refer back to my last attendance here, and that was specifically in relation to the quality of life and care of people in care homes in Wales. When I published my report and the requirements for action, I wrote it in such a way that it could passport into the R&I Bill because, of course, I was cognisant that we had that opportunity ahead of us. There were actually three particular areas that were highlighted within my report that could be passported across, and a range of others where there was opportunity and potential to do so.

[11] So, in relation to the three areas that I highlighted, you are absolutely right that there were areas in relation to clear reporting arrangements and a consistent approach to quality that was focused around wellbeing, but also one in relation to registration. In relation to those three areas, I would say that, in relation to the reporting arrangements, some of what I want to see has been partially met, but only partially met. It is a beginning, if you like. There are two particular issues with regard to why, at the moment, I only consider it to be partially met. One is that a lot of the detail will, of course, sit behind regulations, and there is a wider issue about the amount of detail that will sit behind regulations in the Bill. The second is about wanting to see the focus on that phrase 'quality of life' reflected alongside the reporting. It's partial, again, and only partial, in relation to a single outcomes framework, if you like, as I talk about. And, whilst I welcome the reference to the word 'wellbeing' in the Act, when I spoke about it in my review, I spoke about that being consistent across the whole sector.

[12] Perhaps we'll have an opportunity to talk a little bit later about one of the omissions from the proposed Bill, which is in relation to commissioning. So, it's not enough for that to sit under the new wellbeing standards that will sit just for the regulatory inspector. That has to be consistent across the whole system. That is lacking. So, that does not yet give me the full assurance I want that those two issues have been picked up.

[13] The third issue was, of course, in relation to registration, and I'm sure we'll probably speak about that later. I would consider that not yet to have been met in relation to those requirements for action. So, it's a beginning, but only a beginning. There's still much more that I would want to see in terms of assurance that the very, I thought, pragmatic action I wanted to see taking place will be embedded within the R&I Bill.

[14] I should just say that there were a number of other opportunities as well that the R&I Bill had to pick up on—much of the action in my report. Whilst there is much intent within it that I welcome, I think there are a number of significant omissions still from the proposed Bill.

[15] **Gwyn R. Price:** So, still work to do, in your opinion.

[16] **Ms Rochira:** I think still a significant amount of work to do to ensure that the reality of the intent is made real and felt to be real by older people.

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

[18] **David Rees:** Okay. Thank you. I've got—

[19] **John Griffiths:** Can I just ask, at this point, Chair—. I'm just wondering whether, in terms of that further work then, Sarah, how much of that—. I mean, do you want to see all of that in this legislation or are some of these matters for other vehicles, other means of achieving what you'd like to see happen?

[20] **Ms Rochira:** Well, I think, where possible, I'd like to see consolidating legislation. I

think probably we all do as well, and I think that's probably been the approach of Welsh Government, certainly in terms of the Social Services and Well-being (Wales) Act 2014, for example—to see it consolidated together. I would clearly like to see all of the issues that I highlighted in my 'A Place to Call Home?' report, where appropriate for the R&I Bill, reflected in that R&I Bill. I mentioned the omissions. I think there are seven key omissions at the moment from the Bill that are needed and that would be appropriate for this piece of legislation. I think the more we simplify and the more we integrate our overall approach to legislation, actually, the easier we make it for policy and practice to follow.

[21] **David Rees:** Alun also has a point on this. Alun.

[22] **Alun Davies:** Thank you. I was reading through your evidence, your written evidence, on this matter. You seem to have gone a bit further than in your written evidence this morning in terms of what you're saying. You seem to be saying that the Bill—I'm paraphrasing you—is a good start but that it needs to go much, much further. If I'm right about the evidence you're giving to us this morning, it's that this Bill, as it stands, will not address the issues that you raised in your report 'A Place to Call Home?' Is that your view?

[23] **Ms Rochira:** I recognise that the Bill is still in its very early stages, hence the point of and importance of scrutiny and wanting the voice of older people to be heard. But, you're right that, as it stands at the moment, I do not believe it will fully yet address all of the issues I've raised in my residential care review and the expectations older people have. Now, I would hope that, through the scrutiny process, through my involvement and the commentary from many others, the Bill will be strengthened and that it will get us to that position. But it is why I structured my evidence in the way that I did when I wrote, talking about what older people are looking for, and that is the ultimate test behind it. Somewhere in my evidence I say that this should be a Bill about people. Of course, we talk about systems, but it's really about people, and one of the things that I'm going to do is actually take some of the people that we've met and that we've supported and use their real-life examples and run them through the Bill, if you like. I'm very happy to share that with you as the scrutiny goes on, because that's got to be the ultimate test. It's a beginning. As it stands at the moment, it does not have everything that I think needs to be in there to deliver on the outcomes that people have a right to. But this, I think, is the point of scrutiny, and I'm sure Welsh Government would want to be a listening Government that takes on board the points that, I'm sure, not only I am going to make in terms of the key changes and some of the key omissions from the Bill.

[24] **Alun Davies:** Sure, I accept that, but this isn't an early stage, as it happens. You know, the Bill has been published, so this should be the end of a policy development stage and the beginning of scrutiny as to whether the Bill puts into law the policy. So, can I ask you, commissioner, have you met the Government in order to make these points to them, prior to the publication of the Bill?

[25] **Ms Rochira:** Just so people are very clear, there is still much more that I would want to see included within this Bill to ensure that it meets those requirements, and that's not taking away from the intent or the start behind it at all. We have ongoing conversations with Welsh Government. At the moment, many of my conversations are running through the residential care review process. I have written to Welsh Government to ask for further information in relation to their initial response to me. That is due in this Friday. I've had further conversations with Welsh Government officials in relation to that, and I will be writing again, for a second time, to the Minister after Friday, once I've had a chance to look at their second submission to me, because, in a sense, it's that submission to me plus the Bill that I have to look at in their totality to see whether I've got the assurances that I want and need behind that. So, those discussions will continue, as they have done. Throughout all of that, I will just be looking for the simple assurance that the intent is going to be delivered on in a way that feels real for older people.

[26] **Alun Davies:** Sure, but we are discussing law now, not policy, of course. So, what is actually on the face of the Bill is what will be on the statute book, so it isn't simply a matter of policy development and the ongoing iterative relationship. On page 49 of our pack—I don't know what page that refers to in your papers—you've got an analysis of the sections of the Bill. You go through, on a number of different pages there, different areas of the Bill outlining some of your concerns. Now, my presumption is that, since you've been very clear—and it is a very useful analysis, actually, for us to have; it does crystallise lots of the conversation and our thoughts—does this mean that you are seeking significant amendment in the sections that you have outlined in this part of your written evidence?

[27] **Ms Rochira:** In short, 'yes'.

[28] **David Rees:** That's fine.

[29] **Ms Rochira:** But, just to say, one of the other things that I will be doing, and it is just, I think, courtesy of the timing of this, following my evidence from here today—and I was keen to hear from other people giving evidence as well because there are many people who are giving evidence whose views I respect very much—I will be writing to the Minister with, if you like, a stock take of my assessment of the Bill, as it stands, being very clear, trying to be clear, in terms of what I think would strengthen it and the impact of not making those changes on older people. I will also—and I said this in relation to the Social Services and Well-being (Wales) Act 2014—at some point, make a public statement on whether I think that which has become law is sufficient. I do that because it is one of the four statutory functions given to me by Welsh Government under the Act that established me. I have, at some stage, to stand up and say whether it's good enough, and I will do that.

[30] **David Rees:** Can I ask therefore—it would be helpful for us as well, as we form our report, and if you have the ability—that you actually send us a copy of that set of views?

[31] **Ms Rochira:** Yes, of course I would.

[32] **David Rees:** Thank you. Okay. I want to move on. I've got Lindsay and then Janet, who want to come in. Lindsay.

09:30

[33] **Lindsay Whittle:** Thank you, Chair. Good morning.

[34] **Ms Rochira:** Good morning.

[35] **Lindsay Whittle:** In part of your evidence, you're concerned about the commissioning of both residential and domiciliary care. You tell us that you believe it's currently inconsistent and variable in respect of balance between cost and quality. I'm particularly interested in whether you think the Bill should address the issue of 15-minute care visits by domiciliary care staff. How should the Bill address that issue, please? And then I have another question later on.

[36] **Ms Rochira:** Okay, thank you. So, commissioning is a really important issue. I spoke earlier about those, if you like, seven areas that I would've wanted to see in the Bill, which are missing. Commissioning is absolutely one of them. In terms of the vital parts of the sector that make a difference to people's lives, commissioning is one of them. For older people, in no small part, commissioning feels like, and is, the state really placing people often at short notice and with little choice. It is absolutely crucial to get it right, so I think it is a significant omission, and I would want to see it consolidated into this piece of legislation. The other issue

linked to—and I will come back to the 15-minute point—commissioning, because it is so important, is the consistent approach. This was one of the big messages from my care home review: yes, we should have a model based around quality of life and wellbeing around regulation and inspection, and we are moving towards that, however, we need to see that within reporting and we need to see that within commissioning as well, so that we all have eyes on the same thing and so that commissioning, regulation and inspection and provision are consistent.

[37] One of the concerns I have, and I think this comes back to the commissioning and the 15-minute point, is the definition of ‘care’ within the Bill, and I doubt that I will be the only person who will be talking about this. It feels like an old-fashioned, functional approach to the provision of care, and I speak a lot about the importance of emotional care and the need for care and support of the people. I’m also not really sure I understand what the second part really talks about in terms of mental processes. If you get that definition right, actually, what people should have a duty to provide is that which is needed by people, and they should have the time that is needed to provide that support. Now, in some instances—and this goes to the heart of your question, but it’s within this hugely important area of commissioning—for example, if someone’s just having medicine given to them then, maybe, a very quick visit will be fine. But, actually, the majority of people that we support in the home now are very frail and very vulnerable. I think it’s wrong to specify a time limit, but the duty absolutely must be on meeting their needs, and we will only get that right if we get that definition of ‘care’ right within the Bill, and I do not think that’s right at the moment.

[38] **Lindsay Whittle:** Okay. Thanks for that. You believe that Healthcare Inspectorate Wales and the Care and Social Services Inspectorate Wales should carry out and publish joint inspections. Do you think those two bodies should be merged?

[39] **Ms Rochira:** Well, there are other commentators who will have views on this, and, of course, there was the review undertaken by Ruth Marks in relation to that. I could probably make cases for merging and not merging that were equally valid. I think the issue around merging is that the structural change takes time and takes resources away from the front line and away from just getting on and providing the job. I think the real focus, and this would be the second of my seven areas, is about an integrated approach. Again, for me, it’s something that feels missing from the Bill and that needs to be significantly strengthened. I talk about it; others talk about it—an integrated approach to assessing whether people’s care and support is good enough and whether their overall quality of life is good enough, particularly for people in nursing homes, but, of course, people have healthcare needs in residential care as well. So, I would want to see a much, much stronger approach within the Bill to that integrated approach.

[40] In fact, it doesn’t feel to me, at the moment, as though the Bill, as it stands, matches the intent—and, more than intent, action from Welsh Government in relation to integration. There are huge policy drivers across Wales in relation to this, and yet it seems to be far from strong. In fact, it’s missing from the Bill.

[41] **Lindsay Whittle:** Okay. Thanks for that. We know that there will be a Green Paper coming out later this year, and the Minister has actually told this committee that there are new duties on CSSIW to collaborate with HIW. I just don’t think that new duties to collaborate are strong enough, and I was just merely interested in your opinions. It doesn’t go far enough as far as I’m concerned.

[42] **Ms Rochira:** This is one of the issues about what you have on the face of the Bill and what you have supporting it. So, we will talk about a lot of intent. Actually, what we need to do is make sure—. I’m very clear in my residential care review, because I go into the detail, about what a ‘job well done’ would look like. So, what would a really good, robust, effective,

integrated approach to inspection look like? How would we know that that's taking place, and what impact would that have on older people's lives? It's that level of detail that you have to get to because that's where the answer will sit.

[43] **Lindsay Whittle:** Okay. Thank you for that. Thank you, Chair.

[44] **David Rees:** Okay. Before we move on, we'll go back to commissioning for a second. The Minister clearly gave evidence that he felt that the Bill actually gave a bit more grit to the commissioning process. On the definition of 'care'—and you're not alone in concerning yourself about the definition of 'care' in the Bill—does the Bill actually give that commissioning process more strength, from what it is now, and are we talking about it actually needing to go further?

[45] **Ms Rochira:** I think I'd like to see much more grit and much more accountability placed on commissioners as well, because the duties they discharge on behalf of older people are very, very significant. People place their trust in commissioners, in no small part, in times of huge, huge vulnerability. That's why I the phrase that it feels sometimes like the state 'placing' people. I'll give you a recent example of one lady who had 72 hours to find a new home to go to, and she was completely reliant on her commissioner. So, I would like to see far more grit and I would like to see that far more strongly reflected through the Bill. But, I also go back to this crucial point about integration across the system. Every single bit of the system should have the same focus on wellbeing, the same focus on what 'good' looks like. So, I welcome the focus on wellbeing in the Bill and I welcome the focus on the new operational care and support standards. But, again, we need to see what is in those, and I'm always concerned about the amount that's left to regulation and the difficulty we have then in bringing really good, tight scrutiny to bear on that. But, 'yes' is the short answer.

[46] **David Rees:** Thank you. Janet.

[47] **Janet Finch-Saunders:** Thank you, Chair. Good morning. As regards your own input, I think you've been very clear thus far in terms of concerns you've raised as regards workforce registration and the fact that the Bill's replicating what was already in place. Although it doesn't extend a list of staff, it gives the power to add or exclude staff through regulations, and the Welsh Government has said that it does not intend to do so at present. You've made it quite clear that registration of the social care workforce should be extended to domiciliary and residential care workers. Do you feel—and I think it's fair to say that all of us sitting around this table know the work that you've done in terms of looking to protect the older and the more vulnerable members of our society—that the Bill, as it is, incorporates many of the concerns you've raised? And do you think there is a void, in that you can have a different level of regulation and registration for children and younger people, which is not carried through to the elderly, who themselves are equally as vulnerable?

[48] **Ms Rochira:** Regardless of age, if you find yourself in a position of vulnerability, with little voice and huge difficulty in standing up for your own rights, you should be afforded the same level of safeguarding protection and care around you. I know many colleagues share my view, and my view is, as commissioner, that the way to discharge that duty—and more than that; that moral duty as well to people—is to go down the registration route. And more than that again, I think older people would generally really struggle to understand why, as it currently stands, there is no strong proposal to register those who work within domiciliary care and also within the residential care sector. I think they would expect that to be in place. I know there are different models that can be adopted. It is my view, as it is I know of many others, that registration should be the approach that we take.

[49] The other thing I would say about the importance of registration is that it becomes a gateway as well. So, if you are a registered worker, then you have a mandatory code of



practice, and that is right. If you have a mandatory code of practice, then you have mandatory training that comes in. So, with it comes that whole focus on upskilling, upknowledging and professionalising. So, it's not just in its own right; it has a function in its own right, but it's what it passports into, and, again, one of the areas that I would want to see much stronger within the Bill is in relation to mandatory training and mandatory skills—an issue I keep talking about. I just don't see how we can have it both ways. We choose maybe at some future stage to think about doing it. Well, I'm not sure when that will be or what it will take for us to think about that, and at the same time, not bring in really strong mandatory training or powers to the new Social Care Wales to lay down what those are now.

[50] **Janet Finch-Saunders:** Well, in committee, of course, the Minister gave the following explanation. He thinks there is:

[51] 'a different distinction to be drawn between children's homes and adult social care... the sad history tells us that children's homes tend to attract people to work there whose conduct in the discharge of their duties isn't what we would like it to be. So, you know, there's a vulnerable group of people'.

[52] And it says about them trading. But it says:

[53] 'There's no real evidence that the adult care home sector attracts people who have abuse as part of their purpose in being there.'

[54] Would you agree with him on that?

[55] **Ms Rochira:** I think I would agree with the point that there is not an overwhelming body of evidence that the residential care sector attracts people who want to abuse older people. Nonetheless, it is absolutely crucial that we have mechanisms to ensure that only those who are able to develop the skills and competencies can work within the sector, and that those people, albeit few, who should not work within the sector, are unable to work within the sector. As it works at the moment, if you are providing poor, unacceptable, negligent care to an individual, you can leave that home and work somewhere else. I just don't think that's appropriate. I think older people would struggle with that. So, it's not for me about intent; it's about the signal that we send to people. It's about the level of protection, for a wide range of reasons, and crucially important, that passporting in, as well, to all those other things that come alongside registration. I think it's not about intent. It is about parity and equality as well though, and we shouldn't underestimate how vulnerable, how voiceless, how powerless older people in care homes can be.

[56] **Janet Finch-Saunders:** Can I just also ask you about behind closed doors, when people are, sort of, buying in their own care and support, the elderly, in their own home—do you think that this Bill protects them?

[57] **Ms Rochira:** I think it doesn't go far enough, which is why I'd like to see registration—

[58] **Janet Finch-Saunders:** I notice you've said here that registration:

[59] 'of the residential and domiciliary care workforce must be addressed as an urgent priority.'

[60] **Ms Rochira:** And, when you pare it all back—you really pare it back, and you talk to older people; that is what they would think as well. That is what they would expect of us on their behalf. If I'm one of the one in three people who've developed a form of dementia and live my last years in a care home, that's what I will want, need and expect as well. The best,

strongest eyes should be on our most vulnerable. One of the most important ways to do that is through registration—as well as the passporting. It begs the question: if not now, when?

[61] **Janet Finch-Saunders:** Thank you.

[62] **David Rees:** Thank you. We've now got questions from John and then Elin.

[63] **John Griffiths:** Just getting back to how we achieve quality of care and consistent quality of care, and this provision you would like to see added in terms of fitness to own a home, could you say a little bit more about that, and what you think the practical effect would be if that provision was to be included?

[64] **Ms Rochira:** Well, I think it's just an extension of, in a sense, what is in the Bill. It obviously talks about registered individuals, and you've seen my points about registered individuals in my written evidence, but there's something for me about what tests we use to allow people to own homes. You know, to own and run and work in a home is in many ways—can be—one of the most rewarding jobs you will ever do, and it's a huge privilege to have as well. But, we need the right type of people owning homes. I won't go into detail, because it would be inappropriate. I'll share one example of an individual that we supported whose parent received truly unacceptable care. We are still involved in relation to this, which is why I will keep the detail fairly sketchy. When we looked into it, the individual who owned the home had owned a home in England, and that home had been closed, yet they were just able to open a home here. I'm not saying it's easy, but there should be a conversation around what the test is. What sort of qualities must you have? It can't just be about being financially viable, although that's really important. Actually I think we're about more than that: what kind of people should be allowed to be in this business and in the provision of care? It just seems to me that it's an obvious conversation that we're not having here. It's not always easy, but nor is it easy living in a home that's not providing you with the care and support and quality of life you should have either. It's worth, at least, a conversation around what fitness to own looks like.

[65] **David Rees:** Okay, John?

[66] **John Griffiths:** Okay. Thank you.

[67] **David Rees:** Elin.

09:45

[68] **Elin Jones:** I wanted to go back to integration, if that's okay. Obviously, the Minister has decided not to use this legislation to more fully integrate inspection and regulation between health and social care, and that will be delayed until the Green Paper, or left until the Green Paper, and it feels, to some extent, that the legislation is running behind the policy, that it's playing catch-up with policy and failing to catch up with policy and practice in local authority and local health board work. So, I wanted to just explore a bit further with you how you think the legislation can be strengthened to meet some of the weaknesses that you've identified, and one of the obvious weaknesses is the increasing use of residential and nursing care homes to provide healthcare, which used to be in community hospitals to an extent, and is now in joint care beds and in residential or nursing homes. I wouldn't want to see a position where we continue to have CSSIW inspecting on its own in those places, and unable to inspect the healthcare provision in a residential home, but neither would I want Health Inspectorate Wales to come in independently and just inspect the joint care beds there, that may be full or not at any point in time. So, how do you think the legislation can play a more practical role in ensuring that both these bodies don't only have a duty to co-operate at a strategic level, but actually do inspections in an integrated way in a residential home,

providing joint care health beds at any place in Wales at any point in time?

[69] **Ms Rochira:** I think that the simple answer is to place a joint duty upon them, and an equal duty upon them. And in a sense, you don't need to have one organisation to do that, which addresses the structural issues within the system, and to produce joint inspection reports as well. Both bodies should be signed up to it, to do it together, and to do it on a timely basis together as well. That does require, of course, HIW and CSSIW to have a consistent approach to what 'good' looks like, or certainly one that they can map together in terms of the impact of some of the vital aspects of healthcare, particularly upon your overall quality of life. So you need to make sure that the link between those two standards works very effectively, and it's one of the reasons I've said that I want to see the national outcomes framework used very strongly to support how we develop those, because I think national outcomes programme is actually quite a good piece of work. So, one is around joint duty.

[70] The second is in relation to the things that they focus on, and I'm quite clear in terms of my 'A Place to Call Home?' review, what I think those nine things should be. I didn't pluck those out of thin air. I looked at much of what was going on across Wales, and I picked one that I thought was outstanding, using Flintshire and across much of the north—a model that we could adopt quite easily in terms of bringing that consistency. So a joint duty to act together, report together around a consistent approach to what 'good' would look like. If not my definition, there were others, but I thought this was, by far, the best. I thought that this was really very good. So, for me, that is fundamentally where it comes in. I understand the point about different legislation and Green Papers, but it seems to be an opportunity that's missed in terms of consolidating. If you put it in one place, you make it far easier to be able to track what you are required and supposed to be doing.

[71] Just two other issues, if I might just mention, in relation to that, to make that really work effectively, not just from the perspective of the system, because it's important that the system doesn't say, 'Well, we are now integrated', because that wasn't the point. It was about getting a robust overview of how good health and social care is, and the link between the two. There are two other issues I think are really crucial. One is about securing the voice of service users within all inspection processes, and really making sure that their views are sought and used to verify what the inspection processes are identifying. The second one, linked to that, is the use of lay assessors. I am a strong proponent, as you know, for the use of lay assessors. We have community health councils that already go into hospitals, they're trained, they are—based on my conversations with them—ready, willing and able to go into the care home sector. I think that they should be doing that. And the point that you make about our care homes being hospitals and long-term-care-of-the-elderly wards of the past, they would've been able to go in. Now, because we've changed the definition and the title of what they are, they're unable to go in. It is a real missed opportunity in bringing together, not just an integrated voice, but also one that resonates with people who are living there.

[72] Just a very quick point on that point, I was thinking about the barriers to the Bill, and I think it was one of the questions you asked when you wrote out. I think one of the barriers to the Bill is the way we think about cost, because there is a cost in not doing much of what is in here, but also I looked back again at some of the supporting documents for the Bill. So, for example, with lay assessors going into care homes, if we look at the details that underpin it, the figure that was identified for the cost not just for homes but across domiciliary care as well, I think, was £46,000. Now, £46,000, weighed against the benefit of doing that and the cost of not doing it—. I'm not sure we've got our approach to how we think about cost right behind it. I don't think that's a lot to pay for a significant benefit.

[73] **David Rees:** Can I ask a question, Elin, and then I'll come back to you?

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

[75] **David Rees:** Clearly, CSSIW have indicated their concern over the use of lay inspectors, partly because they feel that they don't remain lay for long, because they become more professionalised, but also the involvement and the need to train, and the resources they have. In fact, they actually say that, rather than the routine use of lay inspectors, they'd prefer to maximise engagement and feedback from the natural communities. Is it your view that lay inspectors are more important and we should be using them whenever we can, or do you agree with CSSIW, which, in fact, doesn't want to use them; it just wants to have better public engagement with the communities?

[76] **Ms Rochira:** I don't think it should be either/or; I think all commissioners, all regulators, all inspectors should have good engagement with wider communities and ensure that the public voice is part of what they do. It's a good challenge to all of us in public service to be open to that kind of challenge. But, I do hold the view, and I have for a long time, that it is crucially important that we build lay assessors into the scrutiny of residential care and also domiciliary care as well. They bring a perspective to it that none of us working within the system will ever bring to it. In response to the point that they quickly become, if you like, part of the system, well, new people can come in as well. I really don't see that as an issue, particularly given the low costs that have been identified with it and the fact that we have community health councils across Wales that are doing a sterling job in relation to hospitals, in no small part, and could easily do that in relation to this other sector. I don't think there are robust financial reasons for not doing it, and I think the benefits of doing it are very significant. Any system, any part of it, should be brave enough to open itself up to that challenge, both from the community and individuals. The only way we will ever really know how good things are is when we put people's voices right at the heart of it.

[77] **David Rees:** Thank you. Elin, back to you.

[78] **Elin Jones:** Just on whether you think that the Bill has enough structure and ability within it to properly ensure that care that's provided at home, either health, nursing, or general care, social care—. Does the Bill provide the ability to ensure that that care, an increasing amount of care, is regulated and inspected?

[79] **Ms Rochira:** I think there are three areas where I would like to see change or things being much stronger, and one is the definition of 'care'. That's almost like the operating system that sits at the heart of it all. That's not right at the moment. It's too functional and, as I said, it feels quite old-fashioned. It is my view that needs to change. On the two standards that will come in, one in relation to wellbeing and one in relation to the operational care and support standards, we have to get those right, because if we don't get those right, again, it's going to put our focus in the wrong place. The third area is in relation to registration, as well. We have to get those three areas right. At the moment, it doesn't feel to me that we're nearly strong enough in relation to those. But, if I could pick one area out of all of those, for me, it would be about getting that definition of 'care' right. That drives almost everything. It defines what the purpose of what we do is.

[80] Just in relation to that, if I may, just to use that as a hook for a general commentary in relation to the Bill, it still feels to me as if it's a piece of legislation—and somebody mentioned it—running behind policy intent. We had, I think, and I've said this before, a towering piece of legislation in the Social Services and Well-being (Wales) Act 2014. There were issues I had within it. The intent and the ambition behind that was really, really significant. This is a sister Act. I do not feel that sense of real ambition, the fundamental radical change coming behind that sister piece of legislation, for a whole range of reasons. But one of them, and this, I think, is a really, really important point, is that it still feels like a piece of legislation that is doing unto people. This should be a piece of legislation that is upholding people's rights. It's a fundamentally different starting position. These rights that

we have are inalienable; they start from then, and our duty in public service is to uphold them and to make sure that they are met. And even just ‘the assessment of need’, as a phrase, is quite paternalistic in approach. We need to put that right based approach through it. We had UN principles on the face of the Social Services and Well-Being (Wales) Act 2014. This is a sister piece of legislation; we should have them on the face of that Act as well. I would want to see all public bodies that have to take forward action, have duties, have to do so with due regard to the UN principles for older people. If we in Wales are not about a rights-based approach, then who is? It will fundamentally drive better care, better support and better outcomes through the system. And Welsh Government, of course, welcomed my work on the declaration of rights, took it for its own and published it. I guess that is my challenge to Welsh Government: make real your policy intent of a rights-based approach. This could be rights-based legislation, and I think that would fundamentally strengthen it.

[81] **David Rees:** Okay, Elin?

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

[83] **David Rees:** Alun.

[84] **Alun Davies:** That’s very powerful evidence, commissioner; I think we’re very grateful to you for that. You said at the beginning of your evidence that you felt that the Bill was good, broadly, but I think you said that there were seven areas where you needed significant amendment. In the last 40 minutes, your evidence has been, I would say, pretty devastating in terms of what the Bill is about. Is there an element of those seven areas of concern that you believe is a showstopper in the sense of, unless we actually get this right, then this Bill could potentially do more harm than good?

[85] **Ms Rochira:** I don’t think I would ever go down the Bill could do more harm than good route. The way I look at it is in relation to opportunity. So, where I am critical is because I think we have more opportunity to deliver on our aspiration here in Wales, and the aspiration I think in Wales is very simple: it’s to do the right thing by those who are most vulnerable, and to do so in a way that has values such as social justice, fairness and equality at its heart. So, I always strip it right back to, ‘Are we maximising the opportunities that we have?’ And I say that because it’s really important. I am very supportive of the intent behind this. Most of the areas that I would want to see are in there. Are they in there to the extent of picking up on every ounce of opportunity? That’s where my commentary comes in in relation to that.

[86] Most of the seven areas we’ve touched on, in terms of I would like to see, either stronger or reflected in there, commissioning, an integrated approach, lay assessors, the definition of ‘care’, the issue around mandatory training, fitness to own and registration behind that. I guess if I could pick on—. It’s really difficult out of that to pick one showstopper because the whole point is that it’s the cumulative impact of all the bits together that make the difference, and that, in a sense, has always been my point. It’s like a jigsaw; all the bits have to be there and they have to be in the right place. And only when everything is there does it become a wider system. I think if I had to pick one—I’m sorry, I’m going to cheat, I’m going to pick two; it would be the definition of care and support—that’s the operating system that sits at the heart of it—and the other one is about a rights-based approach. A rights-based approach fundamentally governs the way we do business and changes everything fundamentally. It seems, I think, sometimes so difficult for people to grasp, but actually so easy to do. We’ve done it on the Social Services and Well-Being Act 2014. We could do it in relation to this Bill, and in doing so, it starts to become, I think then, an actual radical piece of work.

[87] I will just give an example of another piece of work that the Welsh Government did,

which I thought was a radically good piece of work, which was that national outcomes framework. I don't say this very often, but I thought that was actually an outstanding piece of work. It read directly back to what older people talk to me about. It says things in there, such as an outcome, 'I am happy'.

10:00

[88] Actually, that's really radical when you're talking about systems. That's what people want to see. People also want and need to see a rights-based approach, and we will all want and need to see a rights-based approach if we become voiceless as well. So, it's a missed opportunity.

[89] **David Rees:** Time has come upon us now. So, I suppose that, in a sense, the impression that I get is, if it's like a school report, it's 'making progress but could do better', effectively, as far as the Bill is concerned.

[90] **Ms Rochira:** Let us not miss any opportunity we have to make real our Welsh values for our most vulnerable people. That's what I would say.

[91] **David Rees:** Thank you. Time is now up. Thank you very much for your evidence this morning.

[92] **Ms Rochira:** Thank you.

[93] **David Rees:** It's been very helpful for Members. You will receive a copy of the transcript for any factual inaccuracies you may identify. Please let us know if there are any. So, once again, thank you, both, for coming in this morning.

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

[95] **David Rees:** Obviously, once you submit through the Welsh Government, we'd be very grateful if we have a copy of that.

[96] **Ms Rochira:** Yes, and I will share those case studies that I will work through with you as well.

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

[98] **Ms Rochira:** Diolch yn fawr.

10:01

**Y Bil Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru):  
Sesiwn Dystiolaeth 10  
Regulation and Inspection of Social Care (Wales) Bill: Evidence Session 10**

[99] **David Rees:** We will now move into the next evidence session, where we will have representatives of Age Alliance Wales and the Age Cymru project, My Home Life Cymru.

[100] Good morning and welcome. Just to reiterate, if there's a need for simultaneous translation, because we are bilingual, the translation from Welsh to English is available via the headphones, on channel 1. If you need amplification, it's on channel 2. The microphones will come on automatically, so you haven't got to touch anything.

[101] I welcome our next two witnesses to our session this morning. If you don't mind

introducing yourselves and the organisation that you represent.

[102] **Mr Moore:** Ladies first.

[103] **Dr Palmer:** Good morning. I'm Dr Rosanne Palmer. I'm a policy adviser at Age Cymru, and I'm here representing Age Alliance Wales.

[104] **Mr Moore:** Good morning. Bore da. I'm John Moore. I'm the My Home Life Cymru programme manager for Age Cymru, which works with care homes throughout Wales.

[105] **David Rees:** Thank you. Thank you very much for the written evidence we've received as well. We will hopefully go straight to the questions if that is all right with you. We have the first question from Gwyn Price.

[106] **Gwyn R. Price:** Thank you, Chair. Good morning, both. Could we have your views on the workforce registration? In your written evidence you say there's extension for registration to cover domiciliary care staff and workers in adult residential homes. Are there any other groups of social workers that you believe should be registered as well?

[107] **Dr Palmer:** I would like to say that there are other groups we would like to see the register extended to, but in terms of our priorities we are focusing upon the domiciliary care workforce and upon social care workers who work in adult residential care homes because of the way in which they work with the most vulnerable older people in our society. I'm thinking, especially there, of domiciliary care workers. We do think that that is a gap in the current provision. I would like to state, on behalf of Age Alliance Wales, although the alliance is in favour of the principle of extending registration to the domiciliary care workforce, we do have one member who has some concerns about the way in which that might be implemented. If the committee would like us to do that, I'm happy to ask them to provide a note to you about those concerns. But, certainly in principle, because you often have members of the workforce operating individually, who are going in and providing care to older people who are vulnerable—we are talking about the most frail and vulnerable in our society—in their own home, then that would be a priority area for us. But also—and I think the older people's commissioner will have mentioned this during her evidence—there's priority around the fact that there seems to be a lack of equality and parity in the way in which we're treating different vulnerable groups in our society if we don't take this opportunity to extend the registration of the workforce.

[108] **Mr Moore:** Yes, I agree with those points. I think all the areas of social care that we have, and all the different groups that we provide services to, demand the best of services, and we wouldn't argue with that. We also talk about those people who arrange their own care, whether it be through self-funding arrangements or through direct payments and things like that, so not necessarily commissioned services. I think whoever we've got delivering services need to make sure that we've got the checks and balances in place to make sure that we are doing as much as we can to ensure top quality and that we've got the right people, not just doing the things they need to do, but we've got the right type of people to do those jobs as well. So, when it comes to that, I think it should apply to all groups.

[109] Also, the workforce—. What we're actually doing in registering those people is giving the workforce value for the job they actually do, and the social care workforce, I think, is one of the most undervalued workforces in all society. I think that's recognised, not just by rates of pay and things like that, although that is a big issue, but just by how we recognise the work they're doing in caring for the most vulnerable citizens, and not just older people, but all those groups we've mentioned earlier. So, I think it would really show them, and I think if we show them value, then they give you that value back.

[110] **Gwyn R. Price:** I fully support that. Thank you very much.

[111] **David Rees:** Dr Palmer, I think we'll take up the offer you've given to us on receiving that note on the views of that one particular organisation in relation to that. But, can I also ask the view on the licensing model? It's been mentioned by other witnesses we've heard from. There are different models—there's the registration and the licensing model. What's your view on the licensing model, perhaps, as a way of moving forward?

[112] **Dr Palmer:** Speaking as Age Cymru for a moment, we would be more in favour of a positive registration model, rather than a negative registration model, just in terms of the level of protection we seek to apply. We sort of have to ask ourselves, I think, how we in a society are looking at the way in which we provide care to the most vulnerable amongst us. And, as John said, there is also that additional element of recognising the value of that workforce. I'm thinking in particular of the way in which the Scottish model has been rolled out, which is to look at registration based upon level of qualification, so making sure that the people who are employed to do the job have been trained appropriately to do that job.

[113] **David Rees:** Thank you. Lindsay.

[114] **Lindsay Whittle:** Good morning. I wonder if you could give us your opinions on the issue of lay inspectors and the role of community health councils, please, in monitoring the care homes in particular.

[115] **Dr Palmer:** With regard to lay inspectors, I think the position of the alliance is that they have a valuable contribution to make. They bring in different experience, they bring in different backgrounds and they can offer a different perspective upon the quality of life and the quality of care that is being provided. I'm not as familiar with the community healthcare model use of lay inspectors as the older people's commissioner is, but, from the perspective of the alliance, I think what's important to us is that rich contribution that's added from the broader perspective, rather than, perhaps—. It enriches, if you like, that professional perspective of the inspection process.

[116] **Lindsay Whittle:** You will be aware that CSSIW say that the routine use of citizens in inspections is not particularly cost-effective. How could we make that cost-effective, do you think, on the face of the Bill even?

[117] **Dr Palmer:** That's a very interesting question. It's not something that we as an alliance have specifically considered. I'm happy to take that back to the alliance and see if they have a view to offer you.

[118] **Lindsay Whittle:** Thanks for that. If I could, Chair, through you, ask again about commissioning and this problem of the 15 minute care visits. What are your views on that? Do you think it's adequately covered in the Act?

[119] **Dr Palmer:** From the perspective of the alliance, I don't see, in the Bill as it's currently drafted, that this question is sufficiently well covered. We are aware—we're all aware—that the then Deputy Minister gave a commitment to revisit this as part of the regulation and inspection Bill while the social services Bill was going through. It's not obvious to us that that consideration comes through clearly on the face of the Bill.

[120] There is a recent consultation that's come out under the NICE guidance in England that also covers this particular issue and it recognises that short visits may have benefit as a welfare check, for example, but that they're not appropriate for the delivery of intimate personal care. And, really, what we are about, as an alliance, is ensuring that vulnerable older people receive the best quality of care that helps them maintain the best possible quality of



life.

[121] **David Rees:** Is it therefore your view that—I've asked the commissioners and others we've heard—the definition of care on the face of the Bill is not strong enough or appropriate to actually ensure that the situation can be addressed?

[122] **Dr Palmer:** We do have concerns about the definition of care, as it is written on the face of the Bill. There is a sense in which it appears to be oriented towards task and therefore may promote time and task oriented commissioning, rather than focusing upon the personal outcomes and providing the care and support that the individual actually needs to meet their needs. At the end of the day, the care and support plan is about meeting the needs of the individual, but in a way that leads them towards the personal outcomes that have been agreed in adopting the person-centred perspective that it at the heart of the social services Act. For us, there is a sense in which the definition of care, as it is currently drafted, overlooks or doesn't give enough weight to the importance of things like relationship building and social interaction, so that more holistic view, which would read across more easily with the social services Act.

[123] **David Rees:** John, do you have a view on that?

[124] **Mr Moore:** Yes. Could I come back on those two points that were mentioned as well? The first was about lay inspectors. Age Cymru was involved in a pilot that took place in south-west Wales involving older people's services and services for people with learning disabilities. It was a very small pilot and it was done quite quickly, but there was lots of success within that pilot, but, obviously, that wasn't taken any further forward.

[125] With regard to inspection, there are lots of different groups of people who go into care homes regularly. You've got the CSSIW inspectors going in; you've got local authority contract monitoring that's going in; you've got the possibility of CHCs going in; do HIW have a role? And you've also got other groups, very recently, over the last year or so: we've got the voluntary group chat, there's a pilot in the Gwent area of retired NHS volunteers going in and that was actually recognised by an NHS award last year, and there are other groups looking at doing some similar work going into residential and nursing homes. I think, with the number of different groups we've got going in, obviously with different agendas and slightly different focuses, we need to think, 'Can this be a bit more joined up and can we use what's already going in there to give us a finer focus and to give us more intelligence as to what we're actually looking for, rather than just have the option of something brand new?'

[126] Obviously, Age UK in England is involved with the Experts by Experience programme working with the Care Quality Commission and that tends to work very, very well, but, if we're not looking to replicate that, or do something similar to that, why not use what we've already got and hone those organisations and get them to work together a bit more closely?

[127] **Lindsay Whittle:** Just a quick supplementary. I do agree with what you say. There seem to be lots of inspections, but are they focused on the outcomes, because, you know, if it's just a tick-box inspection and one chat to one resident and out, quite frankly, it's useless. And, you know, with all of these inspections that you've mentioned, still poor care cases are being missed, aren't they? So, there's something wrong somewhere, I think. I was just wondering how we address that. I think all inspections should be outcome focused on the quality of care and speaking to all of the residents.

10:15

[128] **Mr Moore:** Very much so. I'd like just to change it slightly. I think it depends what

we're inspecting for. What are you inspecting for? I think if we just focus on just the quality of care, we're really missing a trick, because, for example, life in a care home is not just about quality of care. Care is just a small part of the support that we need in a care home. If we're living in a care home environment, that's our whole life; that's where we are. The staff are people who we are with 24/7, the relatives and visitors who come in: quality of life is the most important thing. Quality of life doesn't come out of quality of care, it's the other way around: quality of care comes out of quality of life. So, if we're just focusing on the care, we're missing the bigger stuff that's there. So, I think that's a big question: what are we inspecting for? That obviously then links to commissioning. What are we actually commissioning from providers? Are we commissioning care—just that little bit—or are we commissioning to fill the whole needs, the holistic picture about quality of life?

[129] **David Rees:** It comes back to the definition of care on the face of the Bill. I've got to bring us back to the Bill and focus on the Bill, in one sense. Just a final point on the lay inspectors aspect: do you believe the Bill has enough focus upon users' engagement, because it's important we focus on whether the Bill actually delivers on that? Does it actually have enough focus upon user engagement? Not just citizens, but the service user, or, where there are carers, workforce engagement. Is it appropriate? Does it have enough or can it go further?

[130] **Dr Palmer:** We welcome the inclusion of the user engagement in the Bill. I know that there are concerns among members of the alliance about the way in which what's currently drafted may or may not reflect and incorporate issues that pertain to groups of older people who, for example, suffer from sensory impairment or loss or are living with cognitive impairment and ways of, kind of, grasping, taking on board and incorporating, as well, their experience and the importance and relevance—but also making the user engagement available and accessible to people who may require particular types of communication, for example, and also about how the reports that come out are also then made available to those groups. So, for us, there is an issue there about, kind of, accessibility and involvement of groups who may have, as I said, for example, particular communication needs.

[131] **David Rees:** One final point before I move on to Darren: there is nothing that currently exists in the Bill on whistleblowing. Should there be an inclusion particularly in the Bill on whistleblowing to ensure that it is there and available?

[132] **Mr Moore:** I think, on whistleblowing, whistleblowing is, obviously, a huge part of things, especially, as was mentioned, when we have poor care and bad practice that comes up regularly. Whistleblowing within the workplace—we can't emphasise enough the importance of that. I think, despite past initiatives on whistleblowing and the importance placed on it in past initiatives, legislation and guidance, on the ground, it's still a huge problem with the workforce—and that's the workforce at different levels, from junior workforce on the ground up to senior level. It's still a problem. I don't think we're seeing whistleblowing given enough focus within the workplace, despite, as I said, the initiatives that have gone on in the past. How we get that to cascade down to every level of the workforce to see the importance of doing that, to me, that's part of the overall culture of the organisation and, therefore, the culture of the sector, and it is about valuing what we do in valuing the people we support. Whistleblowing is part of that; appreciating that there is a need for that culture to exist. Should it be focused on more in the Bill? Definitely. I think it's a wider issue than that. I think it's something we need to address in the whole care sector.

[133] **David Rees:** Okay. Thank you. Darren.

[134] **Darren Millar:** Thanks, Chair. I just wanted to ask you about quality ratings, because, of course, the Bill gives powers for Ministers to develop a system of quality ratings in reports, which the public can access—a scores-on-the-doors sort of approach for members of the public or service users and their families to be able to use when choosing a care home

or other service provider. Obviously, when the inspectorate is going into a home, they're quite complex environments, and it's very difficult, I would have thought, to be able to just simply say, 'good', 'bad', 'poor', 'unacceptable', or whatever these ratings might be, or even if it is a star sort of rating. How do you think that this sort of approach might be helpful for service users and their families to be able to identify places that they might want to receive their care in?

[135] **Dr Palmer:** The alliance welcomes the idea of the quality ratings in principle, but, as you suggested, they have the potential to be both an opportunity and, perhaps, also offer some degree of challenge or risk. I think what is important from the perspective of the alliance is that, should quality ratings be used, the way of arriving at those ratings has both consistency and objectivity, so that there are some kinds of objective measures, or checks, or whatever you would like to term those as, to try and ensure you get some level of consistency. Otherwise, you may see a system that, as you suggest, is being applied in very different ways in very different places.

[136] From speaking to service users, as we do in our roles, we know that it can be confusing, for example—and I know that John will add something to this—when you're choosing a care home based upon the type of report that's currently available. So, there is some value to be had out of making things clearer, perhaps, making it somewhat easier to choose, but this has to be approached carefully—it can't be too simplistic in terms of what it offers. Going back to my previous point about groups, for example, with sensory impairment or with cognitive impairment, considerations of what they need also have to be covered in some way, and the ratings need to make sense of those issues as well. But I think we would welcome the system in the sense that it would potentially offer some kind of objectivity and consistency that you may not get, for example, if you're just reading a report that somebody wrote on a website about a particular home or service.

[137] **Darren Millar:** The Minister says that he doesn't intend to use these powers immediately, that he wants to see how things develop. Most witnesses to the committee, and most of the evidence we've received, seem to suggest that a rating system of some sort is a good idea, but I know that, certainly in some parts of Wales, including my own constituency, the availability of some services is very limited. Do you think there might be unintended consequences in relation to this sort of scoring system whereby, frankly, if there's only one home available in a locality—for example, particularly in mental health provision, and the EMI-mental health sort of care home—actually, if that's got a low rating, and I have no idea why a low rating might be received, but, if that's got a low rating, then it's going to have empty beds, and it may be the only place, and then the local hospital could be having problems in terms of its capacity to be able to deal with new cases, bed-blocking problems, coming in?

[138] **Mr Moore:** The market is very fragile, and the capacity of the market for different specialisms, as you mentioned, is very different in different parts of the country, and that's why, unfortunately, we do have cases of people travelling many, many miles away from their homes, for example, to access the services that they need, and the negative implications that has on their families, obviously, and on their community and on their own self-wellbeing. My own wife's been involved heavily with CSSIW and the development of the new quality judgment framework. We welcomed, a couple of years ago, a new system that they brought in looking at the four different domains: quality of life, staffing, environment, and leadership and management within the home, and that was a huge leap forward, I think, for CSSIW. Now they're looking at a change again, taking 'quality of life' and calling it 'wellbeing', and sort of restructuring that slightly and having a system of 'excellent', 'good', 'adequate' and 'poor' ratings across the different domains, or those five sections. I think care home managers generally welcome the thought of ratings. I think people who are looking for a care home placement, either for themselves or their families, welcome that as well, because it is an aid in

making that positive choice that they've got, and those choices are very important, but usually those choices are made in times of crisis and difficulty for the families and the individual. So, the more help and support we can give people to make a positive choice, the better. If ratings are part of that, then let's do it, but I think we need to be careful with any sort of rating. If we're giving a rating for the home overall, for example, quality of care and environment might be excellent, the staff are well trained, the personal care and all that means is being done very well, but if the individual doesn't feel secure where they live, if they don't feel that their ideas are listened to, if they don't have any say in what's going on, if there aren't enough meaningful activities, the quality of care can be excellent, but the quality of life is just not there in the way it should be. So, when giving a rating to a home, should we look at those individual domains and give ratings for those, rather than just giving an overall rating for a home? I think that's a point we need to consider.

[139] We've also been involved in the development of the regional quality framework for Western Bay collaboration for care homes. There, we've looked at a system of ratings, but based on giving an incentive to a provider. So, we've looked at this saying, 'This is what bronze looks like', 'This is what silver looks like' and 'This is what gold looks like'. So, it's not just about saying, 'This is adequate,' which could be taken two ways. You might hear, 'You're an adequate service' and you might say, 'Well, adequate, that's not good enough for me; I want to be better than that', or you might think, 'Adequate; oh, that's okay, we're getting by', with no incentive to move forward.

[140] **Darren Millar:** I can understand the point that you make about supporting people to be able to make a choice between a number of providers, the concern I have is where there is no choice because there's only one provider in a locality and, if there's a low rating, then it may have those unintended consequences elsewhere within the health and social care system more widely. One of the great things about the food hygiene rating system that we have is, because there's lots of choice, it enables people to pick and choose where they might want to go and eat or order their food from a takeaway, but they have a system there where there's an opportunity for food establishments to have a re-inspection, upon request—obviously, they have to pay for it, to cover the costs associated with it—in order to, if they've had a low rating, get themselves back up there. There's no such provision on the face of this Bill to allow care providers the same sort of opportunity. If there were a system, would you welcome an opportunity for speedy re-inspection in order to support and aid providers to get up from a 'poor' rating or an 'adequate' rating into a 'good' or 'excellent' category, if they are the bands overall that the Minister decides to bring forward?

[141] **Mr Moore:** I think the analogy you used of food and restaurants and things like that is a good one. Care homes know that, when they have had, for example, recommendations placed on them by CSSIW, and those recommendations have been attended to and improvements have been made very quickly, then that's maybe not recognised—the public don't know. They read the inspection report and they've seen in the inspection report what needs to be done, but they don't know if it's been done or not. So, I think from that point of view, those re-inspections would have great value to the home, but also to the people who are looking at the home.

[142] I'll come back to the market in a second, but there are other systems. We've just had the launch of a pilot again in Gwent, the Think About Me: Good Care Guide. It's a Trip Advisor-style system, which again is trying to provide support. I think there's never just one way of rating a care home. As an individual, one care home might suit one individual more than another, and there might be lots of different reasons for that. It might be about where that care home is, it might be about the suitability of that home to that person's personality and their strengths, and what that care home specialises in and obviously the need is being attended to, but I think we'd encourage people, when looking for a care home, to use all the tools available. I think the most important tool when it comes to looking for a care home is

actually going to visit it, rather than just looking at a report and rather than just seeing a star rating, or looking at a Trip Advisor-style rating online.

[143] When it comes to the food industry, as you said, because there's lots of choice out there, if you're rated as a two, then you think, 'I've got work to do in order to make sure that my business can keep going and be competitive against the other people in the marketplace'. If a care home is in a rural area, what's the incentive there?

10:30

[144] I think that is a big question. I think most care home providers would say, if they were rated low like that, then no matter what the situation, be it in a rural location or not, they would look to improve. I know through the task and finish group that Albert Heaney has been leading on behalf of the Welsh Government and others, they're looking there at how we can strengthen the market. I know through the older people's commissioner that there's been encouragement for the not-for-profit sector to look at how they can improve the market as well, to get a more mixed market in there, to give us more diversity, but also, to give us capacity to strengthen what is, as I said, a very fragile market.

[145] **Darren Millar:** Okay; thank you.

[146] **David Rees:** Your written evidence clearly identifies the dual role that Social Care Wales will have in the future under this Bill, and you've expressed some concern over the possible conflicts of interest and the separation of the two roles. Do you want to expand on that a little bit?

[147] **Dr Palmer:** I think the concern from the point of view of the alliance is that when you are bringing these multiple functions under the remit of one agency, there is, inevitably, potential for there to be a conflict of interest when it is discharging different types, essentially, of duty towards the workforce, both as its regulator, but also as, if you like, its improvement agency. I think what the alliance would like to see is that there will be appropriate governance safeguards put in place within Social Care Wales to ensure that the regulation part of its work is led and managed appropriately and sufficiently, separately from the discharge of the other functions with regard to, for example, training and improvement.

[148] I think that the perspective of the alliance is that it's the protection of the public that is the primary function of the regulator and that that function needs to have a degree of protection that, if you like, keeps it apart from other business and operational decisions that are being made on the part of the agency. As the carers strategy implementation group also said, these governance safeguards are required and I think, from the perspective of Age Alliance Wales and the member organisations that make it up, it is ensuring that that protection function can be discharged appropriately.

[149] **David Rees:** Okay. John.

[150] **Mr Moore:** Thank you. I think that the Care Council for Wales, over the last few years, has done very, very well in raising its profile in the sector, and going out there to provide more support—so, not just providing the registration and facilitating that, but making sure that training and workforce development is top of its agenda. It's been very good recently at promoting what it's all about—over the last couple of years—and it's done that tremendously well. I think Social Care Wales, as part of its role, should have a supportive role to play, not just facilitating what needs to be done, as a regulation, or making sure that the workforce and training agenda is attended to, but it needs to be a close partner of all the other partners that are out there—regulators, inspectors and commissioners. At the moment, I think that there's too big a divide between all of those groups.

[151] **David Rees:** Okay. Thank you for that. Well, one final question from me is: the Bill obviously also talks about the need to look at the market, and oversight of the market. Clearly, we've seen the example of the Southern Cross Healthcare collapse and the consequences of that. Do you think the Bill goes sufficiently far enough when providing provisions for oversight of the market and for, perhaps, even horizon scanning to one extent, to ensure that sustainability of the provision is there, so we don't get another situation where we have a large provider collapsing and the possibility of many vulnerable people having difficulty?

[152] **Dr Palmer:** From the perspective of the alliance, we welcome the provision in the sense that, as you say, when we are looking at the stability of the market and the impact of the collapse of a large provider in that way, and what that then means in terms of having to uproot the lives of people who've been living in those care homes and find them other sources of provision that may not be as well suited, or in the case of many residents of care homes, if they're living with advanced stages of dementia, they may not even grasp and understand what is happening.

[153] I think there is a concern—and in some respects, this relates back to the point that Darren made about the fact that you may only have one particular residence of a particular type in an area—that the nature of the market in Wales is such that local authorities may be dependent upon a relatively small number of providers, even though they may not be providers on the scale of Southern Cross. I think there may be an element in which that needs to be considered further, as to how the reports are going to capture that. Because, again, within a local area, the closure of a particular institution, even if they were only running one home, may actually have a significant impact upon the level of provision.

[154] I think there is a sense in which, as well, we need to consider the relationship with the population needs assessment under the Social Services and Well-being (Wales) Act 2014 so that, as you say, we can horizon-scan to look at how we are best going to meet the needs of the population within specific areas as they age, and how we can best meet those needs appropriately.

[155] **David Rees:** John.

[156] **Mr Moore:** I think the sector for care homes in Wales is a very interesting one. Between 70 and 80 per cent are in the independent sector; 70 per cent of those independent-sector providers only have one or possibly two homes. Of all the providers that we have in Wales—700 homes or whatever—there are over 400 different providers; that's huge. That comparison is totally different to when we look over the border at England, where the larger companies—the Southern Crosses and those type of companies—really rule the roost, mostly. I think that it gives us great variety—having different types of services. I think the reason why we have a lot of small services is because we have a lot of people—and I meet many of them going around care homes throughout the country—many of whom have set up a care home because of what they wanted to achieve. We've got lots of those small providers and we don't want to minimise the input that they have in the sector. Having said that, when a larger provider collapses or when things go wrong—and we've seen very recently a couple of nursing home closures—and when that happens quite quickly, the implications of that are huge for the individuals and for the local authority in commissioning, but especially for the individuals and their families.

[157] The question is: what can we do to keep the market very varied, but not so varied that we lose control? Because the more varied we have it, the more support those providers need. Those small providers need an awful lot of support. Managers, for example, in a home that's maybe just one home—you haven't got any others in a group—that manager does everything: head cook, bottle washer, in charge of finance, in charge of HR. They're in charge of

everything. In a bigger provider, the manager doesn't touch those things, but concentrates on the day-to-day life of the home. We need to look of ways, if we're keeping that market quite diverse, to support the small providers to get it right because, at the moment, that's where they really struggle. I don't think we want to be at the mercy of larger providers too much, directing where the market goes.

[158] **David Rees:** Kirsty, do you want to come in?

[159] **Kirsty Williams:** Yes. In answer to the Chair's question, both of you focused on residential homes. I'm just wondering whether you have any comments about the sustainability of domiciliary care providers in Wales and what the market looks like in terms of domiciliary care. Do you have any views on whether you think that the direction of travel in the last 15 years has been towards local authorities in the role of commissioners rather than local authorities in the role of directly providing services from their own staff? I wonder if you had any comments as to how the Bill might impact upon the sustainability of the domiciliary care market.

[160] **Dr Palmer:** I was just framing my opening comment because there is definitely something in what Kirsty says, in that we have seen that shift away from local authorities providing services themselves to local authorities commissioning services. I think there is something very important there because perhaps one of the things that we haven't talked about as much this morning is the way in which commissioning processes act as a driver for the quality of the care delivered and then, also more broadly, about the quality of life people are able to experience. I know that in different local authorities around Wales—and I know Kirsty's home constituency is one of them—there have been issues around the commissioning of domiciliary care and the impact that those commissioning decisions have had upon companies and the viability of companies to deliver. So, I think we do need to also consider the way in which the domiciliary care market—. If we are moving towards a system where, under the Social Services and Well-being (Wales) Act 2014 we are trying to keep people independent in their own homes for longer, then we need to seriously consider a) the preventative services that are required and how we look at those, but also the way in which domiciliary care is commissioned and whether we have the appropriate providers to move forward.

[161] **Mr Moore:** Again, I think there's great fragility in the market for domiciliary care. In a previous life, I worked in commissioning in Powys, covering domiciliary and residential care. I think the style and the mode of commissioning practice is really important. There's evidence right there to say that the price drives everything, which is not always the best driver, and doesn't always encompass exactly what the quality's going to be like. Again, we've had some commissioning practice of late—commissioning practice about residential care, about the dynamic purchasing matrix and the difficulties that that gives. I think the main difficulty that we have is about giving people exactly what they need, what they want in the way they want it; what does that look like from the domiciliary point of view, and who's best placed to do that? I think sometimes local authorities—. Where there's still some local authority provision going on and lots of independent sector provision going on, I've seen in the past that you can get some sort of cherry-picking going on, if there's no brokerage happening as regards need or area. Especially in a rural area like Powys, there can be a lot of cherry-picking that goes on in the service, so that one particular provider—usually the local authority—will end up having the more intense cases, or more difficult cases. That's not fair on the market at all. We don't want to be led by that. I think it'd be interesting to look at brokerage systems—they've been around for a long time—and how we can best utilise those to strengthen the market but still provide exactly what people need.

[162] **Kirsty Williams:** The older person's commissioner was quite devastating in her evidence this morning, I felt, about the inadequacies of the provision within the Bill, as it

currently stands, around commissioning and the role of commissioners. I wonder whether you have any views on whether you think commissioning is adequately addressed within the Bill. I also wonder whether you have a view on whether the Bill should explicitly say that those people who are involved in commissioning and awarding contracts to private companies, then should be prevented from moving from a commissioning role to employment within one of those companies over a certain period of time. So, for instance, Ministers would have a cooling off period before they could move into a particular role, but it seems to me that there is nothing to stop somebody working in a local authority today, handing out a very valuable contract tomorrow, and then working for that company the following week.

[163] **David Rees:** It can be a short answer, because we haven't got much time. So, first of all, does the Bill—. Is it strong enough on commissioning, which is what Kirsty's asking, and should it include stronger elements to ensure the circumstances Kirsty highlighted don't occur?

[164] **Dr Palmer:** I think, in light of my earlier answer about the role of commissioning as a driver of the quality that we're looking for, then I think there is a sense in which it is not sufficiently currently addressed by the Bill. With regard to Kirsty's further question, I'd have to take that back for the alliance, as it's not something they've discussed in developing their position.

[165] **David Rees:** Thank you for that.

[166] **Mr Moore:** The second point is a really interesting point and I don't have an answer for that, really, but, again, I think Age Cymru would be interested in coming back on that point. That's a really interesting, but devastating scenario, I think.

[167] **Kirsty Williams:** Well, it happens.

[168] **Mr Moore:** On the first point about commissioning, I feel very strongly about the fact of what we are actually commissioning when we're commissioning a service. What are we actually commissioning? Then, does that have an influence on what we actually get as an end result? If we're just commissioning services around, again, just care—in the case of residential homes, if we're just commissioning beds—then, what are the outcomes we're going to get at the end of that?

10:45

[169] If we're commissioning a service that's going to benefit and support people to have the best quality of life possible for them, then what are we going to get at the end? We're going to see a big difference in what we get at the end. We can't plant one thing and expect to reap something different; we've got to have consistency through what we plan at the beginning, support that process and we'll get the benefits at the very end of that.

[170] **David Rees:** Thank you. Time has actually caught up with us, so thank you very much for your evidence this morning; again, it's been very helpful. You will receive a copy of the transcript for any factual inaccuracies that you may identify. If you do see any, please let us know as soon as possible. So, once again, thank you very much.

[171] **Dr Palmer:** Thank you.

[172] **Mr Moore:** Thank you—diolch yn fawr.

[173] **David Rees:** I now propose that we take a break until 10.55 a.m. Okay? Thank you very much.



*Gohiriwyd y cyfarfod rhwng 10:46 a 11:03.  
The meeting adjourned between 10:46 and 11:03.*

**Y Bil Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru):  
Sesiwn Dystiolaeth 11  
Regulation and Inspection of Social Care (Wales) Bill: Evidence Session 11**

[174] **David Rees:** Can I welcome Members back to this morning's session of the Health and Social Care Committee, where we now enter into our third evidence session this morning into the Regulation and Inspection of Social Care (Wales) Bill? Can I welcome representatives of the Justice for Jasmine campaign group? We have Pamela Cook, Loraine Brannan and Kelvyn Morris. Welcome. Thank you for the written evidence we've received from the campaign group, and, obviously, we understand that, whilst you are not experts, you are individuals who have family members who've experienced circumstances in care homes, and it's your experiences that we would like to be able to explore a little bit.

[175] I'll start off the questions, if that's okay with Members. Can I just highlight the fact that, obviously, the website for Justice for Jasmine states that, despite the weight of evidence, the Crown Prosecution Service has actually failed to bring forward any prosecutions? I don't want to go into some of the reasons for that, but perhaps, if you've had opportunity to look at the Bill, do you believe the Bill can address some of the issues you think need addressing as a consequence, which may tackle some of the points and the issues raised under Operation Jasmine? Loraine, do you want to start?

[176] **Ms Brannan:** I did read the Bill, but our biggest dismay was that the—. We believe that the Crown Prosecution Service were responsible for failing to prosecute. We met with Keir Starmer, who was the director of public prosecution, and we were concerned because we didn't hear anything from him and we didn't understand. We were told all the way through that the evidence that the CPS looked at didn't reach the threshold, and there was a bar and then the evidence didn't go above the bar. We wanted to know what the threshold was and what the bar was. So, that was our main concern with the CPS. So, if the Bill would help to address that—. It was just also difficult to find out why it didn't reach the bar, what the level was, what more was expected, and what more evidence they would have needed. So, if the Bill went to addressing that, then, you know, that would be a good point; and we think our group—

[177] **David Rees:** Some of the issues, obviously, are criminality and criminal law, which we won't have responsibility for, but clearly, it's the issues of ensuring quality of care. Were there any issues that you thought on quality of care that the Bill can actually address, to ensure that we get that right?

[178] **Ms Brannan:** Sorry; I couldn't hear then.

[179] **David Rees:** Sorry. Elements of criminality law we don't have devolved responsibility for, but it's a question of whether we can address some of the quality of care issues that have arisen and how the Bill may be able to address some of the quality of care issues you identified. In relation to that aspect, is there anything you think we need to look at in the Bill relating to that? Kelvyn.

[180] **Mr Morris:** What we found, I think, through talking to the solicitors that act for the group as well is that the current law doesn't take into account all the varied ingredients that make up a neglect claim and the chain of management within a home, in that if you've got a one-owner home—one manager owner—then that person is responsible for everything.

Proving a chain of events against a homeowner is very difficult, because there are nurses in between, there are social workers, there are carers. Eventually, in our instance, the CPS decided to change direction and use the Health and Safety Executive health and safety rules to try and bring a prosecution. It was that difficult. So, this multiplied the time spent on this by the police—well, it's 10 years now, more or less.

[181] So, what we've got is a scenario where larger homes have multi-tier, multi-support for their management team and the residents, but the smaller homes don't have this; therefore, they need some sort of regulatory help so that if there is accountability you can actually pin it on somebody because we found we couldn't get a specific person or any other persons in the home accountable. We've just still not got there in 10 years. I think the responsible individual within the Bill works for me, because they should be tested, they should be competent, they should be professional and they are accountable then for what goes on within the home. The difficulty, if that's a one-man band or a one-woman band, is that that scenario is very difficult. Therefore, the regulatory process of monitoring those types of smaller homes—. Listening to the earlier session, there are a lot more of these smaller homes than there are larger providers that have multi-tier management. So, to me, the responsible individual is the key thing within the Bill.

[182] **David Rees:** Thank you. I have Alun and then Kirsty wanting to come in on this.

[183] **Alun Davies:** Thank you, Mr Morris. That pre-empted the question I was going to ask you. The Bill introduces the concept of a responsible individual—and I represent Blaenau Gwent, so I'm familiar with the background to the issues that you've been raising—which I felt would go some way towards resolving some of the issues that have been raised through this last period, but the older people's commissioner has also told us that the Bill should include provisions about fitness to own a care home, which, I think, goes a step further. So, rather than holding someone responsible for what happens in that home, there is actually another barrier, if you like, whereas on a fitness to actually own a home, would you agree with her that such a designation or a test would be of use and may address some of the issues that you've raised?

[184] **Mr Morris:** It's certainly a difficult situation. I would wholeheartedly agree with her, because if we're talking about one person setting up a home, they usually have a goal in life that they want to provide care, they want to look after people, but there are others who are profit orientated and will try to withdraw as much cash from that cash-flow scenario as possible. That's the type of person you will have the problem with, long term and short term, and the danger I see is that type of owner. How can you identify that person until they've actually done the job, opened a home, run the home? So, again, you're coming back to the regulatory inspections and whistleblowing and feedback and finding out about the problems earlier, because I don't think you can stop these people owning a home and running a home.

[185] **Ms Brannan:** From the personal problems we had, we found that there wasn't a responsible person. When we had problems, there wasn't a responsible individual who we could speak to. The problems we had couldn't be addressed because there wasn't a named person. So, personally, we think that, yes, that is certainly something to look at. It would benefit if, when you had any information about the home, a responsible individual would be named. Yes, we think it's a good idea.

[186] **David Rees:** Kirsty.

[187] **Kirsty Williams:** Good morning. In the paper that you sent to the committee, you've identified that some families tried to alert the inspectorate to their concerns. So, having not had any response from the home, and I'm assuming no response from the county council, families then reverted to talking to the inspector, and the paper says that there was not an

adequate response. Do you think the way the Bill is now drafted—? Could it be made stronger to try and ensure that the inspectorate is more accountable and is doing what you think that they should be doing in those circumstances, if a family member has alerted them to concerns?

[188] **Ms Brannan:** I think to be more attentive to users and families more than to be going on inspection reports—. I think it should be that the authority should be more geared towards listening to families and residents, rather than reading inspection reports and not really seeing the problems, because it was very difficult to know—in our case—who we could contact. There wasn't a responsible individual at the time, so we found out later, then, that you went through the different processes—social services, and then eventually get to CSSIW.

[189] **Kirsty Williams:** The Bill does say that we do need to give a greater voice, and CSSIW does need to have a greater role, for families when they're inspecting. But, we've also heard from the older person's commissioner of the concept of lay inspectors—people who aren't professional inspectors for their job, just ordinary people who actually go into homes and they feed into the reports. Do you think lay inspectors are a good idea, or do you think inspectors should only be professional people employed to do that job? Do you have a view?

[190] **Ms Cook:** Personally, I think that having lay inspectors is a very good idea. I think somebody from the public who goes in will see a different picture.

11:15

[191] **Kirsty Williams:** Okay, that's great. Thank you very much.

[192] **David Rees:** John.

[193] **Kirsty Williams:** Sorry—Mr Morris.

[194] **Mr Morris:** It's the lay inspector's role—. We've talked about this; there may be another question later about quality ratings and things, and these ratings need to be kept alive, and, perhaps the lay inspector could form an interim review of the home; not a full inspection, just ad-hoc visits to various places to supplement the previous rating and give some feedback, because, it's difficult: inspections are done on one day and you see a snapshot of that day when relatives may not even be there. So, I think it's important that the regulator pre-announces the visit, asks for feedback from various parties that visit the home, whether it be the resident, the relatives, the professionals who visit—the GPs, the pharmacists, or whoever—all of those should be asked to contribute a feedback form that is collected electronically.

[195] **Kirsty Williams:** Thank you very much.

[196] **David Rees:** John, do you want to come in?

[197] **John Griffiths:** Yes, thank you, Chair. Kelvyn, you mentioned whistleblowing as one aspect of improving matters for the future and making sure that we could have greater confidence, really, that any problems will be brought to light and can be addressed at an early stage. The Bill doesn't, at the moment, include any provision on whistleblowing. Can I take it from what you said that you think that's something that we should seriously look at, perhaps—including a whistleblowing provision in this Bill? I know, obviously, we can't go into any detail in terms of the actual cases, but is it your view that, in general, had staff thought that whistleblowing wouldn't have adverse consequences for themselves, and was, in fact, encouraged and facilitated, matters might have come to light more quickly and action taken more quickly?

[198] **Mr Morris:** I think, whilst whistleblowing is important, the difficulty, going back to the smaller homes where you have one person controlling everything—hiring and firing—care staff are on minimum wages and turnover's high; it's very, very difficult. I think the other things within the Bill—quality ratings, a responsible individual and other ways—can manage that a little better, because if homes have a notice on their doors saying, 'I'm only a 1-star home', they're going to do something to change it, because it will affect their business; people will vote with their feet, existing residents will move and put off new residents. There's the responsible individual; well, all these people will want to improve scenarios in care, rather than just blow whistles, and, possibly, lose their job. They'll all be contributing in a positive way, rather than in a negative way.

[199] So, I do see that whistleblowing should be an automatic thing for everybody who visits a care home, whether it is professionals or individuals from the family. If they see something that's wrong, they need an avenue to post something. It's not particularly a protection of vulnerable adults scheme, because, we saw, at the time of our relatives, thousands of POVAs flying around the place, which made the system completely gridlocked and not worked. That can't happen, can it? You know, there are things about sharing information between organisations and regulatory bodies. So, things have to be tightened up, but whistleblowing is a very difficult scenario in smaller homes, because staff won't do it. There are others who should, like relatives, the residents, if they're mentally capable of replying, but also doctors, chiropractors, dentists and opticians. All of these people visit and see things and they should all, you know, be wise enough to own up if they see something wrong and say something.

[200] **Ms Brannan:** On the question of whistleblowing, we were given a video of a programme made in 1995 by HTV, of employees who worked in a nursing home. They were so concerned about what had happened, they were quite willing to go on a television programme and give their evidence. The complaints that were made then were the complaints that we made 10 years later. The television programme and the people themselves went to the authorities, they told them their complaints and nothing happened about it. So, is there anything in the Bill that can ensure that this doesn't happen again? They did everything that they possibly could to rectify the things that went wrong, but nothing happened, and then, 10 years later, we were making the same complaints. So, you do feel as if no lessons had been learnt then. Is there anything that can be put in the Bill to ensure that the people who have the authority will do something about it?

[201] **Alun Davies:** Can we take up that point, because I think you've raised an absolutely essential point there? I understand that the report on this matter will be published later this month, or in the next few weeks.

[202] **Ms Brannan:** Yes.

[203] **David Rees:** Yes. We haven't got time for it, but—

[204] **Alan Davies:** The point I'm making is it might be useful if we wrote to the Minister and asked him how this Bill would actually take account of issues raised in that report, if that's appropriate at the time, because I think that point is absolutely essential.

[205] **Ms Brannan:** Yes, accountability.

[206] **David Rees:** We will discuss Margaret Flynn's report afterwards, yes. Okay. Thank you. Darren.

[207] **Darren Millar:** Thank you, Chair. I just wanted to ask you about your views on

registration of the social care workforce. You've already mentioned the named person in a home, who, of course, is the registered manager. The Bill makes provision for certain categories of the workforce to be registered: social workers, care home managers of services, student social workers and childcare workers, but the registration provisions don't currently extend to carers in care homes, they don't extend to people working in day care services or domiciliary care providers—people who go into people's homes. Are you satisfied with the arrangements in the Bill or would you like to see other categories of individuals incorporated?

[208] **Ms Brannan:** I—

[209] **Ms Cook:** Sorry, Loraine. I think carers should be incorporated in the registration. I mean, there are carers who have finished in one home for a certain reason, and they've gone on to work in other homes, so I think they need to be registered.

[210] **Darren Millar:** And these are carers who you are aware of where there may have been issues with the quality of their work or the quality of the care they have been providing, have there?

[211] **Ms Cook:** Yes. I would have—. I mean, it's hearsay that I have heard, but, you know, I would say yes, I think it would be a very good idea.

[212] **Ms Brannan:** I agree with that completely, yes, because they are the people who are going into the homes now, so the patients they visit are more vulnerable, if anything. So, yes, I think that, without a doubt, they should be registered.

[213] **Darren Millar:** You mentioned earlier on, Mr Morris, about the fact that the social care workforce, you know, tends to be not very well rewarded financially for its work. There was a suggestion from the Care Council for Wales, when they came to give us evidence, that a more simple sort of licensing regime for social care workers might be a more appropriate system of registration, if you like, for domiciliary care workers and for other care providers in homes. Do you think that that might be an appropriate way forward? They were suggesting, for example, that, for a £25 fee, records could be kept of who they were, what training they had received, if that training was up to date, and their work history, et cetera.

[214] **Mr Morris:** I'm all for compulsory registration of care staff. The care industry is not a shop; you're not a shopkeeper offering a product. Caring for people is a very different matter. Nurses and social workers—they're all registered and they all respond to a regulatory body, which has some power over them if they don't perform to the standards, and make sure that they are trained to a certain standard as well. I think, with the social care side, that's the bulk of the employees, compared with the numbers of nurses and social workers, et cetera. The proportion is probably 6:1, is it? These are the people who need the help. If you want to improve standards, you've got to train them. Now, if you're going to keep turning over staff, paying minimum wages, you're not going to—. With the best will in the world, you can't keep them, you're always taking on new people and you can't improve quality. Occasionally, you will; there's always an exception to the rule. So, I think, if there's a regulatory body looking after these people, they have the power to improve training, to decide what sort of training is needed for a particular type of home—whether it be an EMI home, or just a residential home, or for a child, or whatever. So, minimum standards need to be met in terms of training and quality, and, if a person is not up to standard, then they can be highlighted on the register, either for additional training or be banned from the sector. I think there is something in the Bill proposed about not registering everybody, but excluding people who are not good enough and have been proven to be poor carers.

[215] **David Rees:** There is a prohibition order.

[216] **Mr Morris:** A prohibition order, yes. So, I think that's there, but how is that going to improve training and quality for all the other 60,000 care workers, or whatever the numbers are? I think that, if they had their own workforce regulation, then, if you as the law givers, want to change and move them forward, you can say, 'Right, well, we want training up to this standard now'. We're fed up of hearing of minimum standards being observed. That's not good enough. Everybody should be above the minimum and, if they fall below the minimum, they're in trouble.

[217] **Darren Millar:** Okay.

[218] **David Rees:** Pamela.

[219] **Ms Cook:** We live in a small community, and they are good carers, but there are carers who we know of who live in the community, and you think, 'How the heck are they working as carers when they can't even care for their own families?' To me, they wouldn't be responsible; you wouldn't want them caring for you.

[220] **David Rees:** So, you are in favour of total registration for all care workers.

[221] **Ms Cook:** Yes, and very much so. I think there are a lot of people who go into the care sector just because it's a wage; it's a job. Although it's minimum wage, there's no work about. But to be a carer, to me, your heart has got to be in it; there are only certain types of people who can become a carer. So, I think that'll need to be looked at and addressed.

[222] **David Rees:** Loraine.

[223] **Ms Brannan:** I was just going to say I agree wholeheartedly. Funding is a problem, and resources, we understand that, but I do think that training for carers is essential. As Pamela said, you can just decide you're going to go to be a carer, and there's very little training. So, yes, I think that training is very, very important for carers.

[224] **David Rees:** Can I just confirm on that, obviously, you suggest training to a certain standard? Because, as you said, some people can go into the system and receive two hours induction time and they consider that training. We're not talking about that, are we? We're talking about training to a certain level.

[225] **Ms Brannan:** To a certain level, yes.

[226] **David Rees:** Thank you.

[227] Time is coming upon us. Have any other Members got questions? No. Can I thank you all very much for coming? It's been very helpful to hear your personal experiences, and you've indicated some of the issues that have arisen, and the evidence you've given us as well has been very helpful. So, thank you very much. You will receive a copy of the transcript. If you see any factual inaccuracies, please let us know and we can get them corrected as soon as possible. Thank you very much once again.

[228] Just to remind Members that, in the next session, we will be having a representative from the British Association of Social Workers Cymru. Unfortunately, in a previous session, they were unable to attend, and we did feel that it was important that they did come to the committee on this particular Bill, and this is an extra session that we've added in as a consequence of that.

11:30

**Y Bil Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru):  
Sesiwn Dystiolaeth 12  
Regulation and Inspection of Social Care (Wales) Bill: Evidence Session 12**

[229] **David Rees:** Good morning. The next evidence session is with a representative of the British Association of Social Workers Cymru. Can I ask you to introduce yourself and your position, please?

[230] **Mr Moulster:** Yes. My name is Robin Moulster; I'm the country manager for the British Association of Social Workers Cymru.

[231] **David Rees:** Thank you very much. Thank you also for the written evidence we've received and thank you for rearranging, because I know you couldn't make the last session, and therefore you've been able to put this in. I think it is important that we hear the voice of the association of social workers within Wales.

[232] **Mr Moulster:** Thank you.

[233] **David Rees:** Obviously, we have questions, and, if it's okay, we'll go straight to those questions. Gwyn Price.

[234] **Gwyn R. Price:** Thank you, Chair. Good morning. Could I just ask you for your views on the current provision in the Bill and the intentions of the Welsh Minister regarding workforce registration? What's your view on the workforce registration?

[235] **Mr Moulster:** Are you talking about a general issue around the workforce registration or about social workers particularly?

[236] **Gwyn R. Price:** Yes, social workers and domiciliary care workers—

[237] **David Rees:** I'll have a general view first and then focus on the social workers.

[238] **Mr Moulster:** Okay. All right. Does this need to be switched on?

[239] **David Rees:** No, don't touch anything.

[240] **Mr Moulster:** In terms of the general workforce, to regulate the whole of the workforce in Wales would be an absolute mammoth task and would be incredibly costly. Now, I know there are some different views about that in terms of whether that would help protect people more. But, at the end of the day, I think the best protection is about how we develop cultures of working. And, yes, there are some groups that need to be registered, but the way of doing that is by ensuring that there is proper management, support and advice to make sure, for example, that, when there is commissioning of services, particularly when you're talking about social care services, that that's done properly, according to clear standards in relation to the needs and the outcomes that vulnerable people and their carers need rather than just numerical amounts just to tick a box, really. So, from my point of view, it's about a partnership approach.

[241] In terms of social workers, social workers and the British Association of Social Workers campaigned long and hard to be registered, and so they should be. And so, the fact that social workers are on part 1 of the register we would fully support and endorse its

continuation, really. I don't know whether that answers your question.

[242] **Gwyn R. Price:** Yes. And the different levels of the workforce regulation between services for children and adults—there is a difference there—would you agree that it should be for adults as well as children?

[243] **Mr Moulster:** Are you talking about in terms of the general thing, because, obviously, you have registered childcare managers, which are registered?

[244] **Gwyn R. Price:** Yes.

[245] **Mr Moulster:** Well, that has been a point of discussion in some of the early groups that I was involved in in relation to the development of this Bill. There certainly is a view that perhaps registered managers from adult services ought to be alongside their counterparts in children's services. So, I think we would support that it should be like for like and, therefore, that registered managers of adult services ought to be registered in the same way as they are for the children's services.

[246] **Gwyn R. Price:** Thank you very much. Thank you, Chair.

[247] **David Rees:** Thank you. Elin.

[248] **Elin Jones:** Just on the registration of care workers, you've hinted that it would be a mammoth task to undertake this, but we've just heard evidence from family members of people where care has failed individuals. Their evidence and their words to us was that they thought that the profession that provides the direct care to the individual should be a profession that is registered. Can you tell us a little about why you think it's such a mammoth task and not a priority for legislation of this nature?

[249] **Mr Moulster:** Just to qualify what I'm going to say before I say it, in terms of standards, I think the standards need to be high, wherever. For information, I've been involved, and am involved, in Operation Jasmine review reference group. So, I've been involved in that and heard a lot of stories both there and in other situations as well.

[250] I think, when you draw upon some of those terrible situations that have happened, registration isn't necessarily in itself the answer. The answer is about creating the right environment collectively, collaboratively and in a partnership way. So, when you're talking about how services commission, how they are inspected, what the culture is inside those services, are staff allowed to speak up and speak out about issues of concern and what facilities are in place to enable them to do that, rather than just to register people. People can be registered, but, I have to say that if you're talking about social workers, you could register social workers, but, we all know, like in all walks of life, people operate at different levels. So, at the end of the day, there will be different levels. But, I think it's about making sure that there is a positive working environment that is focused on the outcomes for the people you are there to serve.

[251] So, on the cost, I don't know what the Care Council for Wales costs at the moment, but I think it is somewhere around £10 million. I don't know how much that would need to expand to register all care workers across Wales. Then you've got the question: is it just homes? Is it nursing homes as well? Is it things like direct payments, which are outside of the situation at the moment or things like people who are employed through the independent living fund, which go unregulated? So, how do you embrace all of that? Is that a sledgehammer to crack a nut, I guess is what I'm saying? My personal view would be that you need to look at issues about employers' standards and commissioning and what you're commissioning on. Is it on cost or is it on quality and outcomes for individuals? And then if



you build a service around that and there is proper inspection where the people know what they're looking for—. So that there are people who have worked in those type of settings who understand the sorts of things—. And that sort of touches on one of the things that I want to say later, but I'll leave it there.

[252] **David Rees:** Can I clarify a point, because you talked about the culture within the organisation? I fully appreciate that, but as we've heard already this morning and in other evidence, many institutions that deliver that here in Wales are individually owned, or maybe two homes are owned by an organisation. Therefore, it's much more difficult to have that type of assurance of culture and it's a bigger turnover of staff. Wouldn't registration of all staff basically help to introduce that culture into those types of businesses?

[253] **Mr Moulster:** How to—. Sorry, my hearing isn't great.

[254] **David Rees:** Wouldn't registration help to introduce that culture into these homes, because they are so small?

[255] **Mr Moulster:** I think there are other things around that aren't used to the fore at the moment. So, for example, there is the code of practice for employers of social care workers, which is not regulated. So, for example, there is a code of practice for social care workers, which is regulated, because if people contravene that, obviously they can be taken off the register. But in terms of employers, there are no sanctions. So, if that were strengthened, and there are opportunities to do that within this Bill, which I hopefully will have the opportunity to come on to a bit later, I think that would certainly help. As I said before, there's the issue about the quality of inspections and making sure that people know what they're looking for. So often, people look at functions rather than outcomes, and what that means is, you know: 'Is there a file showing that people have met regularly?' Yes. 'What was the quality of that meeting?' They don't really know, often. So, I think, actually, it's about changing the way we look at how we develop that culture, really, and instead of just trying to pin everything down by regulating it, it's about how we develop a positive way of working together, really, and setting the bar higher.

[256] **David Rees:** Well, since you want to talk about a few things, as you said, you're written evidence indicated your concern over lack of clarity on the regulation of commissioners. Do you want to expand upon that a little?

[257] **Mr Moulster:** Yes. Just for information, I've worked in social care and social work for about 38 years and 16 of those in Wales. In terms of inspections, so often—. I've, sort of, alluded to the social care side already in answer to the previous question, but in terms of local authority inspections, for example, one of the issues that so often happens is that, in terms of the commissioning, there isn't always a link between the practitioners and their assessments and the commissioning of services—there's not a clear link, there might be a numerical link, but there aren't necessarily outcomes. So, for example, they might say, 'We've assessed the needs and x number of people want social care in this particular locality'—domiciliary care, for example—and so that would be commissioned on the basis, often, I have to say, of cost. Some people would argue against that, but I've seen how it works. I've seen how it works in Wales, I've seen how it works elsewhere as well. I think, unless we start looking at improving the links—and this links to some of the issues that certainly came up in the Operation Jasmine review—there wasn't a linkage between professionals and the commissioning of services. So, that certainly needs to be clarified and strengthened, because if we're looking at outcomes that service users and the carers want, then it isn't just about somebody popping in for 15 minutes a day, if they can manage it.

[258] **David Rees:** Okay. Kirsty.

[259] **Kirsty Williams:** On the issue of commissioning, do you think there should be on the face of the Bill a provision that would prevent somebody from commissioning services today and then working for the organisation to which they have awarded a contract the following week?

[260] **Mr Moulster:** That's an interesting question. Well, I would say there's a potential conflict of interest in that, so I would have grave concerns. If somebody knew they were going to commission something, I would say I would have severe concerns about that.

[261] **Kirsty Williams:** Okay.

[262] **David Rees:** You've talked about commissioning services. Obviously, the Bill has limited services available on the face of it, with the possibility of the Minister adding further services under future regulations. Should those services be included now, or is it appropriate that they are taken a step at a time?

[263] **Mr Moulster:** Sorry—apologies for my hearing.

[264] **David Rees:** The Bill actually only highlights at the moment the situation of certain services and not all services. You've talked about commissioning of services. Should the Bill actually include further services now, or should it be, as it states, that the Minister will be able to add, under regulations, additional services at a later point in time?

[265] **Mr Moulster:** In terms of commissioning now—

[266] **David Rees:** In terms of the Bill, full stop, not commissioning in particular.

11:45

[267] **Mr Moulster:** Well, I guess there's an issue about where and when you stop and start that process. Obviously, there's the timing, because there's the timing of the Bill and the life of this Assembly, really. Personally, I think, as long as there's an intention to continually review that and update that, as appropriate as we go along, you need a starting point. So I would prefer that we go with what's in the Bill now and then look to extend that, as and when required.

[268] **David Rees:** Lindsay.

[269] **Lindsay Whittle:** Thank you, Chair. Part of the Bill focuses on co-operation and joint working between some of the regulatory bodies. What are your views on the provisions in the Bill for joint work and integration between services?

[270] **Mr Moulster:** Thank you for that question. That's certainly one of the issues I wanted to raise. BASW Cymru work very collaboratively with a whole range of different bodies in Wales: third sector organisations, but also other professional groups, and I guess that there are some omissions from the Bill. I work closely, for example, with colleagues in the College of Occupational Therapists and physiotherapy, amongst others, and, certainly, as far as occupational therapy is concerned, they are not always recognised as being part of the social care workforce. Now, occupational therapy, physiotherapy and other allied health professions are regulated by the Health and Care Professions Council, which are based in England but cover the UK. So, there is sometimes a confusion between where is social care and who's responsibility is it. Sometimes, that causes problems.

[271] There are problems for social work as well. If I might also add, in terms of social workers, there is a problem with social workers who may be registered in other parts of the

UK, for example, England, who may be required to provide services, for example, assessments of children, particularly in border areas of Wales, because they don't have enough social workers. If we create barriers between people working from one regulatory body to another, then what people do is vote with their feet and say, 'Well, I've got enough work over here, thank you very much; I won't come'. But where does that leave the vulnerable people in Wales? Yes, people need to understand the Welsh context and the Welsh legislation and policy—of course they do—but to create an extra barrier, whether it be for another professional group or for social workers working elsewhere in the UK, I think that's an issue that needs to be addressed, really. It certainly needs to be addressed as part of the process of the passage of this Bill, really.

[272] **Lindsay Whittle:** Thank you, through you, Chair. Thank you for that. Like you, I agree occupational therapists, physiotherapists and many more professions are an integral part of the continuing care and quality of life, aren't they? So, how can we strengthen this Bill, then, to include these?

[273] **Mr Moulster:** I've got a few points, if I may—

[274] **Lindsay Whittle:** One you prepared earlier, is it?

[275] **Mr Moulster:** Yes, I was just waiting for that cue.

[276] **Lindsay Whittle:** You haven't co-ordinated with me. We're not a double act.

[277] **Mr Moulster:** We didn't plan this, no. In terms of—. I'll come on to the code of practice. I mean, certainly, in terms of that, I think there need to be more formal arrangements. When GSCC—the General Social Care Council—existed in England, there was an agreement between the regulatory bodies. Of course, it was still HCPC for the allied health professionals, but social workers are registered with HCPC in England now. There was an agreement, prior to that, if somebody was registered elsewhere in the UK, with one of the other three regulatory bodies, they could work in Wales. There are barriers to that now. There are barriers to that because people have to register separately, and either people do the work and don't call themselves a social worker, which has dangers, because that links into issues around protection of title, or people actually refuse to come and work here.

[278] In terms of other professional groups, I think that what there needs to be is a memorandum of understanding—an agreement. At the moment, my understanding is that the agreement is that a small amount of work will do, and when you try to drill down to what 'small amount of work' is, it probably amounts to about a day or two a year. Well, that's not very helpful when you're talking about improving outcomes for individuals. So, whether it's the Health and Care Professions Council or other regulatory bodies in the UK, there is clearer guidance around other EU countries than there is within the UK, I would suggest, in terms of the Bill. So, that certainly needs clarity, and there needs to be a memorandum of understanding that enables people and removes barriers—yes, to make sure that people have the knowledge and skills that are appropriate to Wales when they come to work here, but doesn't create extra barriers that prevent people coming. Because, at the end of the day, the people who lose out are the people who need the services that they're not getting.

[279] **Lindsay Whittle:** Thank you for that. It sounds a bit of a minefield and I will dig down, as you suggest, in your evidence. Thank you.

[280] **David Rees:** Darren.

[281] **Darren Millar:** Yes. Can I just ask a supplementary before I go on to the other question that I wanted to ask? You suggested there then that there could be problems in

ensuring that there's the right capacity in the social care workforce in Wales in the future as a result of some of these changes. I mean, there is no requirement in the Bill for any kind of adequate workforce planning, if you like, by the different bodies—the commissioners of services. Do you think that that's something that you might like to see?

[282] **Mr Moulster:** Yes, I've got a few comments about that. That was one of the other things that I wanted to say. No, we didn't talk beforehand either about this. But, in terms of workforce planning, I've been involved in that in the past, actually. Excuse my terminology, but sometimes it is a bit like on the back of a fag packet, really. People would deny that, but I've seen how that works on occasions. One of the concerns that I have is that, obviously, there are pressure areas. Children's services are often a pressure area. Children's social work was often a pressure area. I have to say it's far better in Wales than perhaps it is over the border. But, generally, I think there needs to be issues in terms of how employers of social workers work together, so that people are not trundling off from one to another and hopping from one employer to another. So, that's a concern.

[283] The other part of the answer to that question is that my big concern at the moment is—and I'm getting stories all of the time, particularly in adult services, and particularly older people's services right the way across Wales; north, south, east and west—that what's happening is, in order to meet numerical targets, employers are replacing social workers with non-social-work-qualified staff. Now, my big concern about that is where are the skills and the expertise—as it would be if we were talking the same for any other profession.

[284] **Darren Millar:** So, staff mix, workforce planning, et cetera, has got to improve. There's a requirement for some market oversight to be done, both at local authority level and then at national level by the Minister, on the face of the Bill. Would you like to see that part of the Bill expanded to include specific reference to better workforce planning in some way?

[285] **Mr Moulster:** Yes.

[286] **Darren Millar:** Okay. Thank you for that. The question that I wanted to come on to was just in relation to whistleblowing. We heard some concerns from people who were familiar with Operation Jasmine. Obviously, you're familiar with what went wrong there. Whistleblowing is something that can be of benefit in terms of driving up standards, exposing poor practice and addressing poor practice sooner rather than later before it becomes dangerous for people. There's nothing on the face of the Bill in relation to whistleblowing. There was a clear commitment from the Deputy Minister for Social Services when the Social Services and Well-being Act was in its Bill stage—a very clear commitment—to ensure that whistleblowing was something that was going to feature in this Bill. It's not there. What do you think of that?

[287] **Mr Moulster:** Well, I think that, in terms of whistleblowing, there's a, you know, statutory responsibility in terms of whistleblowing that exists anyway. Again, I think I'd probably go back to—

[288] **Darren Millar:** A statutory responsibility may apply to certain parts of the workforce, yes?

[289] **Mr Moulster:** Well, to all people who have concerns. In terms of the professional association, we have our own whistleblowing policy that we expect all members to comply with. But, to me, it comes back, again, a bit to the issue about whether we say 'whistleblowing' and what that will mean. Because, as far as I'm concerned, people can whistleblow and then they're hung out to dry. We've seen lots of experience of that, right the way—not just in Wales, but across the whole of the UK. So, you can whistleblow, but you can just wave goodbye to your career if you do that. That's the reality and that's what

happens—not just in terms of social work, I have to say, either.

[290] One of the things I think that would help people speaking out—because I guess that’s the issue: helping the people speak out about wrongdoing and things—is, to me, about the regulation of the employers, the code of practice for employers of social care workers, because at the moment, and I’ll give you an example—. There was a particular situation where I was aware that there was a social worker who had done something wrong but was very concerned. Had they done something wrong? Yes, but they’d been instructed to do that by their manager. Now, at the end of the day, what happens is, the social worker’s taken to a conduct hearing and dismissed. What happens to the employer that’s given that person 50 childcare cases and never supervised the person, as per the code of practice for employers? Nothing. And so, unless we improve that—. Funnily enough, I’ve brought this along, on effective working between employers and social workers, and I thought I’d just leave these with you, because these are standards that BASW have done with the international federation—that’s the global body for social work, which BASW is a leading member of. So, I’ve brought these, and it also links to the code of ethics, which I’ve got some copies in English and Welsh, which I’ll leave—

[291] **David Rees:** You can leave them with the committee clerks and they’ll be able to—

[292] **Mr Moulster:** So, I think it’s about strengthening this. If social care workers do something wrong, then they’re held to account, and rightly so if somebody does something wrong. But, often it’s shades of grey in terms of employers’ responsibility, individuals’ responsibility. Somebody might do something wrong, but there are often extenuating circumstances. Whilst people might say that’s taken into account in conduct hearings, the reality is that the social worker or the social care worker will receive any decision that’s pending on their actions, but the employer gets nothing. That’s why it needs to link to inspections, because if inspections are done properly—. Sorry, just to say this: in terms of inspections, and, again, I’ve got a lot of experience of inspections, inspectors come in and they inspect services for particular areas of social services, but, for example, they won’t check how many cases each social worker has got or each worker. They won’t check the level of complexity. They won’t check—

[293] **David Rees:** I’m going to stop you on this, because we are focusing on the Bill and not what the inspectors do.

[294] **Mr Moulster:** But, it comes back to how you underpin people speaking out about issues. That’s the linkage you see. Because if people have got concerns and they feel they can’t speak out, and if you’ve got a caseload that is very high and very complex and you’re not getting any support, how do you feel justified or able to speak out?

[295] **David Rees:** I think you’ve made the point. Are there any other Members who’ve got questions? Thank you very much for your evidence this morning.

[296] **Mr Moulster:** Okay. Can I also thank you and apologise that I couldn’t make the original date? I thank you for arranging this extra session for me. So, thank you.

[297] **David Rees:** You will receive a copy of the transcript and if there are any factual inaccuracies, please let us know.

[298] **Mr Moulster:** Okay. Thank you.

[299] **David Rees:** Thank you very much for your time. Members, whilst Mr Moulster leaves, can we move on to item 6, papers to note?

11:59

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

[300] **David Rees:** We have the minutes from the meetings of 23 and 29 April 2015. Are you happy to note those? Yes.

12:00

[301] We've received additional information from the Welsh Reablement, Wales Carers and Social Care and Wellbeing Alliances regarding the Regulation and Inspection of Social Care (Wales) Bill, and note that this additional information has also been endorsed by the Wales Alliance for Mental Health. They did indicate that they would give us some and we've now received that. Are you happy to note that? Yes.

[302] We also have correspondence from the Petitions Committee regarding a petition, 'Helping Babies Born at 22 Weeks to Survive', which requests that the committee undertakes an inquiry on the professional guidance available in this area. I propose that we respond to the Petitions Committee noting that we have a heavy legislative workload and it's unlikely that we'll have sufficient time to give this complex matter the consideration that it requires, and while the topic will be added to our list of possible future inquiries, we will need to give careful consideration to the focus of the work, as the committee does not have the necessary clinical expertise to comment on the detail of professional guidelines, because it is mainly professional guidelines.

[303] **Darren Millar:** This an interesting petition, though, Chair. As I understand it, the guidance to which this case relates—. The lead petitioner for this case had a very unfortunate experience and I do think that there needs to be some work on this. I appreciate that we don't have time for an inquiry, but I do think it would merit, perhaps, correspondence with individual health boards as to what their policies actually are. As I understand it, the policy from one health board to the next, and, indeed, one hospital to the next in terms of the support given to pre-term babies who are born at 22 weeks can be very different from one place to the other. I think there needs to be a consistent approach here in Wales. So, I think we ought to engage in some correspondence with individual health boards.

[304] **John Griffiths:** Chair, I'm content with—[*Inaudible.*]

[305] **David Rees:** I'm going to have Lindsay in in a second. John's made his comment; he's content. Lindsay?

[306] **Lindsay Whittle:** Thank you, Chair. I was present at the Petitions Committee when Emma presented her petition and I met her afterwards. It was an extremely tough day, I can tell you. I would refer Members to page 150 in your papers, where it clearly states that Riley, her son, was in gestation for 22 weeks and three days and he lived for 83 minutes. At the final paragraph, the Minister states in his letter that each mother and baby needs to be individualised; that wasn't the action taken in that hospital at that time. She was not individualised and neither was her son, Riley. She accepts that no-one knows whether Riley would have lived or died, sadly, but I do feel that there is merit in looking at this case and examining the situation for other parents as well. It was extremely moving. Five children, we know, have survived, who didn't go through the same gestation period as Riley did. Five have been lucky. Was Riley lucky or not? He wasn't given the chance, and no-one came to visit Riley whilst he was cradled in—it's awfully tough—in his mother's arms.

[307] **David Rees:** I want to highlight the point that the guidance is actually not from the

Welsh Government. These are guidelines from the British Association of Perinatal Medicine and the Nuffield Council on Bioethics.

[308] **Lindsay Whittle:** I appreciate that.

[309] **David Rees:** They are professional guidelines, but I understand Darren's point.

[310] **Darren Millar:** It's a very important point. There's no consistency from one hospital to the next, even within the same health board. We know that there are cases of babies surviving at this age and, frankly, simply to say that the guidance says if you're born one day later—literally, if you're born one day later—for some babies, we'll give the resuscitation support and we'll give the breathing support and we'll intervene, but those babies born before a certain date won't be given that, I think that's something that needs to be given some consideration. I appreciate that we don't have time for a full inquiry, but I do think that we can engage in some correspondence with health boards to find out what their individual policies are.

[311] **John Griffiths:** Chair, I just think, you know, these are very emotive and important matters, of course they are, but if we were to do as Darren suggests and we get information back, what do we do from there? In a way, if we take the initial step, I think, logically, we would need then to do further work, otherwise it's not a satisfactory approach to these very important and emotive issues, and, given the workload that this committee already has, I don't think we could give this—currently, at least—the time and the attention that it deserves.

[312] **Elin Jones:** Can I just ask whether we could, when we next discuss our forward work programme, have just a short piece of work to outline what the potential is that we could do on the basis of the petition? I don't think we can discuss it one way or the other, really, without that kind of background.

[313] **David Rees:** I agree with Elin. We will put it to our forward work programme discussion. We will ask them to get something brief for us to give us a consideration of what could be achieved, what would the outcomes be, and where we would go from there. Kirsty.

[314] **Kirsty Williams:** I'm very happy to have it discussed next time we look at the forward work programme, but, if we're going to make an informed decision, we would need to do it on the basis of some information. I'm just wondering, as a compromise, if we didn't write to all the local health boards at this stage, could we not write to the chief medical officer to gain an understanding of what their view is of individual hospitals, and what their expectation is of individual units and individual hospitals or trusts, just to have an understanding of what the chief medical officer thinks is going on and what her expectation is of practice that should be followed by Welsh NHS organisations? That's only one letter to write and that might give us a basis to have a slightly more informed discussion, as Elin suggested.

[315] **Darren Millar:** I don't have a problem with that suggestion. I think we do need to—. We can't just simply say, 'We haven't got time.' This is an important issue and I'm not talking about the merits or otherwise of this particular case; I don't think it would be appropriate to discuss individual cases in too much detail, but we do need to understand why it is that some babies are given support and others aren't. I appreciate there's guidance, but things like birth-weight et cetera have to come into this. There's always a judgement call on the gestation periods as well, on due dates, et cetera. I mean, it's just a judgment call from a GP at the start of a pregnancy, usually, so I think we do need to engage in some correspondence. I'd like to see us do some work at just looking at the situation, and, for me, it's a matter of ensuring there's some consistency across Wales, because there isn't at the moment.

[316] **David Rees:** First of all, I'd like to clarify that it's not just a judgment call by a GP, because, clearly, there are experts who have roles now. There's ultrasound scans—

[317] **Darren Millar:** But the point I'm making on due dates—

[318] **David Rees:** I understand the point you're making—

[319] **Darren Millar:** It is a judgment call by a GP.

[320] **David Rees:** No.

[321] **Darren Millar:** It is. On due dates, it is. It's an estimate.

[322] **David Rees:** You and I might dispute the actual extra information that is sometimes gained from other means on dates. It's not just a GP date; it's also others. But I think the comment that has been made—. We can't take any particular case. I also believe that we have to be very careful, because it is a judgement call by clinicians at particular times, very much so, and we're never in a situation to understand the clinical expertise that those people have at that point in time in that decision making. I am prepared to accept Kirsty's position and recommend that we write to the chief medical officer—

[323] **Kirsty Williams:** Just to have an understanding of what the expectation is.

[324] **David Rees:** —to understand what the expectation is, and we'll bring that back to our forward work programme.

[325] **Darren Millar:** But we'll also have a paper looking at the potential avenues of inquiry we may be able to take without undertaking a full inquiry into the matter. Okay.

[326] **David Rees:** Okay. Let's move on to the next paper to note—the response from the Deputy Minister regarding the inquiry into the ambulance services in Wales. Can I also remind Members that we have already agreed to come back to the ambulance service later in the year as well? Okay. And, finally, there's the correspondence from the Minister for Health and Social Services following the general financial scrutiny session, providing us with information that we asked for. Is everyone happy to note those points? Okay. Thank you for that.

12:09

**Cynnig o dan Reol Sefydlog 17.42(vi) i Benderfynu Gwahardd y Cyhoedd o  
Weddill y Cyfarfod ac o Eitem 1 yn y Cyfarfod ar 21 Mai 2015  
Motion under Standing Order 17.42(vi) to Resolve to Exclude the Public from  
the Remainder of the Meeting and for Item 1 of the Meeting on 21 May 2015**

*Cynnig:*

*bod y pwyllgor yn penderfynu gwahardd y cyhoedd o weddill y cyfarfod, ac o eitem 1 yn y cyfarfod ar 21 Mai, yn unol â Rheol Sefydlog 17.42(vi).*

*Cynigiwyd y cynnig.  
Motion moved.*

*Motion:*

*that the committee resolves to exclude the public from the remainder of the meeting, and eitem 1 of the meeting on 21 May, in accordance with Standing Order 17.42(vi).*



[327] **David Rees:** Following that, I now propose, in accordance with Standing Order 17.42(vi), that we resolve to meet in private for the remainder of this meeting but also for item 1 of the meeting of 21 May. Are you all content with that? Okay; thank you very much.

*Derbyniwyd y cynnig.  
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 12:10.  
The public part of the meeting ended at 12:10.*