



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

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

Dydd Mercher, 18 Gorffennaf 2012
Wednesday, 18 July 2012

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

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

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Mick Antoniaw	Llafur Labour
Mark Drakeford	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Rebecca Evans	Llafur Labour
Vaughan Gething	Llafur Labour
William Graham	Ceidwadwyr Cymreig Welsh Conservatives
Elin Jones	Plaid Cymru The Party of Wales
Darren Millar	Ceidwadwyr Cymreig Welsh Conservatives
Lynne Neagle	Llafur Labour
Lindsay Whittle	Plaid Cymru The Party of Wales
Kirsty Williams	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats

Eraill yn bresennol
Others in attendance

Shane Brennan	Cyfarwyddwr Cysylltiadau Cyhoeddus, Cymdeithas y Siopau Cyfleus Public Affairs Director, Association of Convenience Stores
John Dyson	Cynghorydd Bwyd a Materion Technegol, Cymdeithas Lletygarwch Prydain Food & Technical Affairs Adviser, British Hospitality Association
Lesley Griffiths	Aelod Cynulliad, Llafur (y Gweinidog Iechyd a Gwasanaethau Cymdeithasol) Assembly Member, Labour (the Minister for Health and Social Services)
Dr Chris Jones	Cyfarwyddwr Meddygol, GIG Cymru a Dirprwy Brif Swyddog Meddygol Cymru, Llywodraeth Cymru Medical Director, NHS Wales and Deputy Chief Medical Officer, Welsh Government
Yr Athro/Professor Marcus Longley	Cyfarwyddwr Athrofa Iechyd a Gofal Cymdeithasol Cymru ac Athro Polisi Iechyd Cymhwysol, Prifysgol Morgannwg Director of the Welsh Institute for Health and Social Care and Professor of Applied Health Policy, University of Glamorgan
Brigid Simmonds	Prif Weithredwr, Cymdeithas Cwrw a Thafarndai Prydain Chief Executive, British Beer and Pub Association
David Sissling	Cyfarwyddwr Cyffredinol, Iechyd, Gwasanaethau Cymdeithasol a Phlant, Llywodraeth Cymru a Prif Weithredwr, GIG Cymru

Director General, Health Social Services & Children, Welsh
Government and Chief Executive, NHS Wales

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

Llinos Dafydd	Clerc Clerk
Claire Griffiths	Dirprwy Glerc Deputy Clerk
Joanest Jackson	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser

Dechreuodd y cyfarfod am 8.28 a.m.
The meeting began at 8.28 a.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

[1] **Mark Drakeford:** Bore da i chi i gyd. Dyma sesiwn olaf Pwyllgor Iechyd a Gofal Cymdeithasol y tymor hwn. Symudwn yn syth at ein hail eitem.

Mark Drakeford: Good morning to you all. This is the final session of the Health and Social Care Committee for this term. We will move straight to our second item.

8.28 a.m.

Ystyried Gohebiaeth a Gyhoeddwyd yn Ddiweddar rhwng Swyddogion
Llywodraeth Cymru a'r Athro Marcus Longley
Consideration of Recently Published Correspondence between Welsh
Government Officials and Professor Marcus Longley

[2] **Mark Drakeford:** Croeso, nid am y tro cyntaf, i'r Athro Marcus Longley, cyfarwyddwr Athrofa Iechyd a Gofal Cymdeithasol Cymru ac athro polisi iechyd cymhwysol Prifysgol Morgannwg. Diolch i chi am ddod i'r cyfarfod y bore yma.

Mark Drakeford: Welcome, and not for the first time, to Professor Marcus Longley, director of the Welsh Institute for Health and Social Care and professor of applied health policy at the University of Glamorgan. Thank you for attending the meeting this morning.

[3] Fel arfer, gofynnaf i chi wneud unrhyw sylwadau agoriadol byr yr hoffech eu gwneud. Ar ôl hynny, byddwn yn troi at aelodau'r pwyllgor er mwyn iddynt ofyn cwestiynau.

As usual, I ask you to make any brief opening remarks that you wish to make. We will then turn to committee members for them to ask questions.

[4] **Professor Longley:** Thank you very much, Chair, and thank you all for inviting me today and for giving me the chance to make a couple of opening remarks, which is very helpful.

[5] I would always have wanted this committee and this Assembly to be discussing patients and hospitals and issues about clinical outcomes, not arguing over grammar and the choice of words in e-mails. It is a matter of real dismay to me that the story has become one about process, because that is drowning out the very real and fundamental need for a serious debate between serious people about the shape of our national health service. There are very few opportunities for people who are quite rightly concerned about the future of their health

service to come together and challenge and discuss with the experts.

8.30 a.m.

[6] I took on this task at the request of the NHS itself to contribute my best judgment from 30-odd years of studying and analysing the health service. I led a team of analysts and researchers in my unit. We do analysis for bodies across the health world, including the NHS and other parts of the public sector in England and Wales. Experts from my team led the work on the technical papers, and I wrote the main report and its conclusions. As a team, we wanted to pull together the information to explain to people its strengths and weaknesses, and then to provide an opportunity for those who wished to do so to think it through and make up their own minds.

[7] Is there actually any evidence of collusion or conniving in the documents themselves? Are they 'sexed up'? The answer is categorically 'no'. There are many examples of where I painstakingly point out the need for caution in interpreting the data, and many places where data are presented that do not actually support the case for change. The report goes to great lengths to point out that generalisations are dangerous and that, at root, many of these decisions will be value-based judgments, based on what matters most to people. The evidence is laid out for all to see. Ultimately, the only person who knows whether I was subject to any attempt to influence my conclusions is me. So, let me be very clear: I did not ask the Welsh Government to influence my conclusions. It did not try to do so. If it had tried to do so, I would not have allowed it, but no such attempt was made. I am independent, and so is this report.

[8] This has moved far beyond the debate on the health service and beyond the political. At times, it has become personal and I deeply regret that my own integrity is being smeared by one or two people, as it has been in the last few days. It is a huge pity that those individuals did not pick up the phone to me at the beginning and ask me to explain, before announcing to the public that I was guilty of conniving and colluding. I suppose that a cynic would say that I should have expected this to happen if I dared put my head into a debate that is so hugely politicised. However, I believe that there is a place for independent analysis in any debate, no matter how much the subject raises the political temperature. I welcome vigorous disputes over the evidence. On the one hand, that is the essence of academic life and it is what the NHS needs. It is very much my fervent hope that our session today can enable the committee to get beyond this story and on to the real debate about the future of our hospitals and the people who rely on them. Thank you.

[9] **Mark Drakeford:** Thank you very much indeed, Professor Longley. Members will know that, because of pressures of time, I want to make sure that everybody has a chance to put questions to you. We will have to organise ourselves a little more tightly than we normally do. I will ask individuals to ask you questions, Professor Longley, I will let you know how many questions they will ask, and then we will move to the next speaker. I ask Vaughan Gething to ask the first two questions.

[10] **Vaughan Gething:** Thank you, Chair, and good morning, Professor Longley. The paper that we received from the Welsh NHS Confederation states that the NHS in Wales commissioned your report

[11] 'to provide an independent overview of what the clinical evidence says about the best configuration for hospital services'.

[12] What was your understanding at the outset of the relationship that was appropriate for you to have with Welsh Government officials in producing this report?

[13] **Professor Longley:** It was always going to be necessary for the team to have contact with those who had the data that we needed, so there was always going to need to be contact with those officials to get those data; first of all, to source the data and obtain them, then to analyse them to make sure that we had the most recent, up-to-date and accurate data, and also to make sure that we had not misinterpreted the data. So, there was going to be a professional relationship between us and those officials, because, without those data, we could not do the job. However, I was quite clear throughout that there was to be no influence over any conclusions or inferences that we drew from that evidence. That was clearly our business. It was our business what evidence we included. That is exactly what we did.

[14] **Vaughan Gething:** Some members of this committee and others have said that the e-mail correspondence between you and senior Welsh Government officials actually shows that, willingly or otherwise, you surrendered your independence and became a cheerleader for the Government and the Government's preferred action. The British Medical Association also challenged the independence of your report. So, why should people still accept that this is a valid and independent piece of work on the future of the NHS?

[15] **Professor Longley:** I think that the most conclusive evidence is to be found by looking at the 170 pages that we produced, because I still have not heard anyone criticising the conclusions that we have drawn, or pointing to anything that has clearly been influenced by anyone other than ourselves. That is a far more conclusive piece of evidence than a number of e-mails that, quite frankly, have been taken out of context and have been twisted. So, if people are concerned about the independence of the report, look at the report.

[16] **Mark Drakeford:** We now turn to the Conservative Party members of the committee. They have three questions to deploy as they choose.

[17] **Darren Millar:** Thank you for your attendance at committee this morning, Professor Longley.

[18] The BMA has raised concerns about your report, saying that

[19] 'there is no way that this report can continue to be hailed as an independent piece of academic research...Rather, it could be viewed as a cynical attempt to downgrade quality and access to services by manipulating the opinions of health professionals and the public through a now discredited report.'

[20] You say that no-one has raised concerns about the conclusions that have been drawn in your summary document, but, in fact, the BMA has.

[21] 'We thought at the time that the report was published, that the evidence set out in the technical documents was insufficient to support the bold statements contained in the summary document.'

[22] It refers specifically to areas in the access document, for example—the technical document that you use to support the access part of your report—and how the weight of evidence there was clearly against the significant distances that might need to be travelled if significant reorganisation took place. What is your response to that?

[23] **Professor Longley:** Like everyone else, I have great respect for the BMA, but I think that, on this point, it is wrong. Interestingly, over the weekend, it has changed its position somewhat anyway. However, as I said at the beginning, we welcome people disputing the evidence. That is exactly what this is supposed to be about. If people have particular concerns about sections of the technical document, that is great and we should discuss them. After all, that was the whole purpose of producing this report in the first place. However, I refer to what

I said before. This report was independent. It was conducted independently, and all the key decisions about what went into this document were our own. As I have said before, there is a lot of evidence here that we should be using.

[24] **Darren Millar:** You said earlier on that the Welsh Government was the sole custodian of important evidence that you wanted to bring into the document. I accept that, and if the e-mails simply suggested a bald exchange of data, that would be perfectly acceptable. You say that we have taken the e-mails out of context, but we can see the e-mail flows in the information that has been provided. The BMA is the sole custodian of some data on issues such as workforce planning, likewise the Royal College of Nursing, but you did not contact either of those bodies, did you? Why?

[25] **Professor Longley:** Because we had to make a judgment about who we thought were the most relevant sources of data for what we wanted to produce, in order to produce a balanced document. We sought opinions from a wide variety of experts in the professions. We had, I think, two sessions with the national clinical forum, which is the most senior advisory body. We also had a session with the Welsh nursing and midwifery committee, which is the statutory advisory body in nursing and midwifery. So, we took advice and information, and we checked our conclusions with a wide variety of the most senior figures in the professions as we were going about this work. You are quite right that we did not consult with the BMA or with the RCN. That was because our judgment was that the other sources that we used were more appropriate.

[26] **Mark Drakeford:** William Graham has the next questions.

[27] **William Graham:** I accept what you said in your opening statement. However, you will appreciate that, from the opposition's point of view, we would look at the evidence that you, and others, provide before coming to a judgment ourselves. So, you can understand why we are so concerned that it appears that your report has not been as objective as one would like. I agree with the criticism. However, if you look at some of the e-mails that have been passed, I think that you can understand the reason for our doubt. One e-mail asks for, 'other relevant evidence', and notes that 'killer facts' would be really useful. 'Killer facts' is an unusual term to be used by a senior academic in such an exchange. From our point of view, seeing that sort of thing, why should we believe that your evidence is wholly independent?

[28] **Professor Longley:** Absolutely, and I can quite understand where you are coming from. However, let me just explain the context and then those specific words, if I may. It is a perfectly legitimate and sensible question and it is good to have the opportunity to clarify this. The first point to make is that these are e-mails, and I suspect that we all know what e-mails are: they are quick exchanges between people, usually for business purposes, where you do not spend a lot of time worrying about whether the phrases you use might be misinterpreted by someone other than the person for whom they are intended. Often, they are dashed off and you go on to do the next thing, and that is exactly what these e-mails are. So, I did not take great pains to make sure that every last phrase that I used in every e-mail that I sent—and I send dozens every day—could not be misinterpreted if taken in a context such as this.

[29] Let me deal with that particular phrase, the 'killer facts'. Again, the context is important. This is an e-mail from me, I think on 17 January, to a gentleman called Richard Bowen, who is a senior official in the Welsh Government. The preceding part of the paragraph, from which this 'killer facts' phrase is plucked, is as follows:

[30] 'We'll pick up material via parallel discussions with colleagues on stroke services, workforce (NLIAH), primary care and public health'.

[31] Then the paragraph finishes with this:

[32] 'but any other relevant evidence (the 'killer facts') would be really useful.'

[33] What I was trying to get at there—and you will see in a number of these e-mails increasing frustration between me and Welsh Government officials—was the sort of information that is not generally readily available to the public: the killer facts. By that, I meant information on clinical outcomes. To strip away the jargon, that means how many people die, in hospital or shortly after discharge from hospital, and how many people do not recover as fully as they could have done. On all counts, it is the most important evidence of all; hence that phrase, in inverted commas, the 'killer facts'.

[34] **Mark Drakeford:** Thank you very much. Mick Antoniw has two questions now.

[35] **Mick Antoniw:** Professor Longley, right at the start of this event, on public radio, a member of this committee said:

[36] 'but what we now know as a result of this information being available to us is the evidence absolutely stinks. It shows us that senior Welsh Government officials, the Welsh NHS Confederation and Professor Longley were all conniving together to produce a report with a predetermined conclusion...it shows very clearly that there were certain statistics being looked at in order to back up their case for change. It shows very clearly there was a determined effort to pull out of the worst evidence.'

[37] Could you outline from your report the extent to which you actually searched for independent evidence? How many meetings did you have? How many interviews were there and so on? Can you give us an overview of the extent to which you searched genuinely for all the relevant evidence, irrespective of what that evidence said?

[38] **Professor Longley:** Absolutely, I would be delighted to. There is a lot of evidence in these 170 pages. A significant amount of it is from published academic literature, such as studies carried out in North America on how to organise stroke services and so on. So, a lot of that evidence is in the public domain and it is a question of sourcing it from online sources and libraries. That was done in the conventional way by literature searches. There are a lot of data also that are about Wales today. Often, those are not published, simply because they are too current to have been published. We went to a variety of sources to get those. A number of these are from the Welsh Government, and you have seen those particular e-mails. Many more actually came from the health service. You have seen reference there to the National Leadership and Innovation Agency for Healthcare, which is an NHS body. We sought information and checked our conclusions with a whole list of senior NHS people, chosen by us because they were the relevant experts on the issues that we were looking at in public health, on the workforce, clinical outcomes data and so on. We spent many weeks in frequent dialogue with a wide variety of experts to make sure that we got all the information, that the information that we got was right and up to date, and then that we had not misinterpreted it. So, what you see in these e-mails is just a snapshot of a much more complex and inclusive process.

8.45 a.m.

[39] **Mick Antoniw:** You used the word 'we' quite regularly, and in the e-mail of 17 January, in which there is a reference to 'the killer facts', the word 'we' is used. Could you tell the committee what you mean by 'we'? Who is 'we'? Is it you and the Welsh Government? Is there a team? How many are people involved? Who exactly is the 'we'?

[40] **Professor Longley:** May I just ask which e-mail you are referring to?

[41] **Mick Antoniw:** In a number of them, you referred to ‘we’, as in ‘we need the killer facts’ and so on. I think that what I am getting at is that there is a suggestion of collusion and that the ‘we’ is you and the Government. What is your understanding when you use the word ‘we’?

[42] **Professor Longley:** It was very clear that the ‘we’ was me and my team. The team consisted of the names of the people that you see on the technical documents. So, in total, there were five of us. I was part of that team, with different people leading on different bits. Again, we, as the team, were anxious to get that information, which was not, unfortunately, terribly forthcoming. We had some considerable frustration in getting from the Welsh Government the data that we felt we needed—this is the reference to ‘the killer facts’. So, the ‘we’ there is very clearly me and my team.

[43] **Mark Drakeford:** We turn to Plaid Cymru Members now, Professor Longley, and there are again three questions: two from Elin and then one from Lindsay.

[44] **Elin Jones:** Good morning, Professor Longley. At some point in the future, I would love for this committee to hold a session with you on the content of the report, but that is not why we are here this morning, as you said in your introduction.

[45] I just want to understand from you, following on from your opening comments, when you started this work, what your intention was. Was it to undertake a balanced assessment of all the available evidence, to reflect on that evidence and then to draw conclusions from it, or was it to collate evidence—to collate the killer facts—in order to articulate the case for change?

[46] **Professor Longley:** It was to do with exactly what we say in the document, and we are completely genuine about that. This was to gather together all the evidence that may be relevant to this question of what is the best configuration of hospital services for Wales. We spent a long time sourcing all the available evidence—anything that may conceivably be relevant to it—and that evidence is presented according to our judgment about what is pertinent to the issues we are discussing here in Wales today.

[47] It also says in the document that the point was to present this in a way that enables the non-specialist reader to get engaged in the debate, if they want to. A crucial bit of the evidence, we felt—and I would still absolutely defend this—is about clinical outcomes, because, at the end of the day, what probably matters more than all the rest of this is whether our patients are coming out of hospital as well as they could have done.

[48] **Elin Jones:** There has been some discussion as to how this work was commissioned in the first place. We have papers in front of us, among which is a draft scoping document that you provided to the NHS. I would like to know, when you started this work, who commissioned you to write ‘The Case for Change’. Who gave you that authority and sent you that letter, and what did that letter entail? That has not been released to us, and it is possible that it would be useful to us if it were released to us.

[49] **Professor Longley:** The work was commissioned by the local health boards, particularly by the chief executives of the local health boards. The outline proposal that you referred to was produced just before Christmas, I think, and circulated to them by the Welsh NHS Confederation. Comments were invited on it, and when those comments were received, which were very few in fact, the work was then commissioned, I think, going from memory, on 9 January. So, it was very clearly from the chief executives of the local health boards.

[50] **Elin Jones:** So, very quickly, there is a commissioning document or a commissioning letter that triggered the start of the work, and if there is such a document—and I presume that

there is—could it be released to us?

[51] **Professor Longley:** I cannot remember, to be quite honest, exactly what piece of paper triggered this. From my memory, there was a clear indication from the Welsh NHS Confederation that the comments had been received back, the proposal had been approved, and the work should commence.

[52] **Lindsay Whittle:** Good morning, Professor Longley. In your university blog, posted in July last year, you stated, in referring to the NHS, that:

[53] ‘It needs to transfer services out of hospital into the community...while centralising other specialised services into fewer hospitals’.

[54] In other words, before you began on the report, had you already agreed with the Minister on centralising certain services, whether the data supported change or not?

[55] **Professor Longley:** Categorically, no. In fact, I had never met the Minister until we were almost finished. So, there had been absolutely no communication between me and the Minister at all. From memory, I think that what I am saying in that blog is that there is a lot of evidence that suggests—exactly as you have read out—that some services should be centralised. The question is: which services and how do you do that? What are the implications of that? How much centralisation do you want and in what sort of configuration? I think that that statement would be endorsed by any independent expert. It is almost a truism. The much more interesting bit, which is what this evidence is about, is in digging down into that and asking, ‘What does that really mean?’ It was not, in any way, a preconceived conclusion.

[56] **Lindsay Whittle:** However, it does appear 12 months before the report.

[57] **Professor Longley:** As I say, I think that that is addressing a different issue. That is stating what would be common ground among any observers: that there is a case for certain services in certain circumstances to be centralised, and particularly for services to be taken out of hospitals and into the community. It is a commonplace; I think that everyone accepts that. The devil is always in the detail, and we have 170 pages of detail.

[58] **Mark Drakeford:** Thank you very much. We will now move to Lynne Neagle, who has one question.

[59] **Lynne Neagle:** Thanks, Chair. Good morning, Professor Longley. Throughout the whole process that you went through, gathering data, and with all the e-mails that were going back and forth, did you at any point consider that the level of contact from Welsh Government officials went beyond your understanding of the independent nature of your remit?

[60] **Professor Longley:** Never. No. It is perfectly normal, as I think many people have been saying over the past week, for contact to occur between researchers doing this sort of work and, in this case, the Government department that had most of the information that we were after at that point. It is a perfectly normal and necessary process. If you look at these e-mails, you will see that that is exactly what has happened. It is a question of our repeatedly requesting the information—almost having to get it out of the Government at some stage because it was rather slow in responding to our requests. There is no evidence here or anywhere else—and it never occurred—that any Welsh Government official or anyone else sought to exercise any influence over the conclusions that we draw.

[61] **Mark Drakeford:** Thank you very much. We will now go to Kirsty Williams from

the Liberal Democrats, who has two questions.

[62] **Kirsty Williams:** Thank you, Chair. Good morning, Professor Longley. May I take you back to the issue raised by Elin Jones? At the beginning of this session, you said that this was an important piece of work that was going to have an important impact in helping to articulate what is probably the most significant debate that all policymakers will have to have about the future of our NHS. It is kind of surprising, therefore, that you are not able to recall the details of the commissioning letter that would have been sent to you from the local health boards, asking you to carry out this piece of work. Knowing that you were coming here this morning, it would have been perfectly reasonable for you to go through all your records to make sure that you were up to date. I wonder whether we could ask you, and crave your indulgence, to go back to your records and publish the terms of reference that you were given by the Welsh NHS Confederation in commissioning this piece of work.

[63] At the same time, would you be willing to publish and make available to this committee all your drafts and all your correspondence because, at numerous stages during this process, your e-mails ask not just for data, which would be absolutely what you would need to do, but for comments on the content of drafts? While you say that the challenge for us is to look at the final draft and point to evidence of interference, we cannot do that with the final draft, because that is just the document. We cannot see how the document was developed, as you worked on it, in response to things that were being said to you, either in e-mails or in the conversations alluded to in these e-mails. For the sake of transparency, and to clear all this up, if you were able to publish all your drafts and all your correspondence, we might be in a better position to understand what really went on. Are you willing to do that, Professor Longley?

[64] **Professor Longley:** Let me say first of all that the request for comments on drafts, for me, is an entirely normal process. You say that the e-mails were not about seeking information, but, as I think I have tried to make clear, at least, the three things that we were after were, first, to make sure that we got the information, secondly, that it was up to date and accurate and, thirdly, to make sure that we had not misinterpreted it. That is the third bit that I think this refers to. It was important that we did not get this information and misunderstand what it said and therefore draw the wrong conclusions; hence all the correspondence in those e-mails.

[65] In relation to publishing all the drafts, I am not even sure that we have all the drafts. This was a working document—or a series of working documents—carried out intensively over a period of many weeks. I am not sure that we have all those drafts, because what happens is that amendments are made almost every day in response to another piece of information that has been found, and so on; it is not a neat, sequential process.

[66] **Kirsty Williams:** In the final question from me, Professor Longley, I draw your attention to the e-mail sent by you to Chris Jones on 22 February. It reads:

[67] ‘Dear Chris, WORKFORCE Final Draft .doc. I attach the latest draft of the Workforce Paper which is part of the suite of papers we are preparing for the forthcoming debate on the National Case for Change. We have used material from the Deanery, NLIAH and other published papers, including the impact of medical workforce issues such as the European Working Time Directive, the shortage of junior/middle grades in some places and the possible changes in training. However, on reflection the evidence as presented does not seem to be as incisive as we might have hoped. Is there any further evidence that you could provide to sharpen up the document and its impact in supporting the case for change.’

[68] Do you, in hindsight, regret dashing off, as you said, an e-mail worded in that way—obviously in a very busy working life? Is it then not unreasonable for members of the public

to read that e-mail and think that you were not simply asking for additional data about the workforce, but that you were—and I quote again—asking for evidence to be provided to you to,

[69] ‘sharpen up the document and its impact in supporting the case for change’?

[70] Would you care to comment?

[71] **Professor Longley:** I would be delighted to, yes. Let me explain what this e-mail was about. You have read it out, and it is very helpful to have these phrases in context. We have already had the debate about who the ‘we’ refers to; that was me and my team. I said that it,

[72] ‘does not seem to be as incisive’.

[73] Those were the words that I used, and that is exactly what I meant. We were looking, as I have said on several occasions, for these clinical outcomes data, the data that cut through to the issue that people are most concerned about, namely whether our hospitals are delivering the best possible outcomes. The data cut through incisively; that is why I used the word ‘incisive’. We want those data that matter most, which we were having difficulty getting hold of.

[74] The second bit that you very helpfully read out says,

[75] ‘to sharpen up the document and its impact in supporting the case for change.’

[76] Let me explain, if I may, that sentence, because clearly it has caused some concern. I think that I have explained ‘sharpen up the document’ already; we wanted a document in which interested, non-specialist readers could read and find something that grabs their attention and that is really important. So, it needs to be sharp, so that people will want to engage with this debate and not be confused by the fog of data that is so often produced.

[77] The last bit, ‘supporting the case for change’, is a phrase that clearly has been misinterpreted.

9.00 a.m.

[78] **Kirsty Williams:** I do not know how it can be.

[79] **Professor Longley:** Well, if I may explain, ‘the case for change’ was a phrase that was used for many months throughout this whole process, and it refers to more than simply the piece of work that we were doing; there is a whole stream of activity going on. What we were trying to do was to produce evidence to understand—so that the general public could understand—what is the case for change. Our whole job was to support that process of understanding what the case for change is. Now, because I have left out those three or four additional words, it is capable of being misinterpreted. I do not think that I misinterpreted, and I suspect that the recipient did not either. This was a business correspondence between people using language that is shared in common. I do not think that there was any misinterpretation there at the time. Clearly, when it is taken out of context, it is capable of being misinterpreted.

[80] **Mark Drakeford:** I am keeping a close eye on the time. I will go to Rebecca for one question. I will then allow each opposition party an additional question each in the same order that people have been called. I will then see whether there are any further questions that Labour Members might want to put.

[81] **Rebecca Evans:** Good morning, Professor Longley. You referred today to the production of the report as being a ‘complex and inclusive process’. Who else did you share copies of the draft with and why, particularly outside of your academic team?

[82] **Professor Longley:** I can go through the list for you, if you like. At various points, we shared the document with the local health boards’ and trusts’ chairs and chief executives. We discussed it in various forms with the directors of workforce and organisational development of all the local health boards and with the medical directors of all the local health boards and trusts. We discussed it with the National Leadership and Innovation Agency for Healthcare, which is an NHS body that specialises in workforce issues. We had discussions with senior clinicians in Abertawe Bro Morgannwg University Local Health Board. We had discussions with a number of leading experts in public health. We had two sessions with the national clinical forum. We had a lot of evidence from the post-graduate medical deanery. We had a session with the Welsh nursing and midwifery committee. There was also a whole series of other experts whom we contacted because they had particular expertise in particular aspects of all these data.

[83] So, I think that you can see from that that, actually, the Welsh Government contribution was a minority one.

[84] **Darren Millar:** I am still not clear, Professor Longley, about the basis on which this report was written. It seems to me that you provided an unsatisfactory response to Kirsty’s question on whether you were looking for evidence that simply supported a case for change. In a document that was presented to the Welsh Government Cabinet in March, it is quite clear what the Welsh Government felt your report was seeking to do, because it clearly says in that document that:

[85] ‘The Wales Institute for Health and Social Care (WIHSC) was commissioned by Health Board Chief Executives to articulate a “*National Case for Change*”—

[86] in other words, to make the case for change and to gather evidence. It was not simply an overview of all the evidence spread out on the table and then taking a view, but a case of actively seeking to make a positive case for change. You referred to the fact that the words ‘case for change’ were used throughout the document’s development, and there was then a change of title. I have to say that the new title that was used towards the end of the process gives a very different impression to the title that could have been used, which was ‘The Case for Change’, which appear to be the words that were used all the way through. So, can you tell us: were you articulating and seeking to make a positive case for change, which is what the Cabinet documents say, and what seems to have been suggested throughout the e-mail correspondence? I am not trying to take it out of context here; that is what seems to have been the case throughout, but you seem to be disputing that today. Or was this, as you said earlier, a complete independent overview of all the available data, and then you drew conclusions from that?

[87] **Professor Longley:** It was completely the latter. This was an independent attempt to identify all the relevant data, to evaluate them and to present them in a transparent fashion so that people could read them for themselves.

[88] **Darren Millar:** So, the Cabinet minutes are incorrect in saying that you are articulating a case for change?

[89] **Professor Longley:** I cannot comment on the minutes of a meeting that I was not part of.

[90] **Darren Millar:** There is a statement,

[91] 'to articulate a "*National Case for Change*".

[92] Is that right or wrong?

[93] **Professor Longley:** That is certainly not the phrase that I would use.

[94] **Darren Millar:** That is not the phrase that you would have used—so, it is not right.

[95] **Professor Longley:** I am not saying that. I am saying that, had I been asked to describe what we did, I would have described it in exactly the way that I have done this morning and in exactly the way in which it is in the documentation.

[96] **Darren Millar:** So, you were not tasked to articulate a case for change.

[97] **Elin Jones:** Can you answer for me why the document that seemed to have spent most of its working life in its draft form named 'The Case for Change'—even in the Cabinet minutes of 13 March, when it was presented to the Welsh Government, it was called 'The Case for Change'—was changed to 'The Best Configuration of Hospital Services for Wales: A Review of the Evidence'? Whose idea was that? Who authorised the change of name of what was and what is your document?

[98] **Professor Longley:** The title of the document was entirely my decision. No-one else had any input into that at all. The title of the document was not determined, really, until the document came to be written. As is often the case with this kind of thing, you sit down and write the document, and then, at some point, you ask, 'What is the title that actually describes what is being written?' That is where the title of the document came from. So, it is not strictly true to say that the document itself changed its title. The document has only ever had that one title. As I think I have said before, 'the case for change' was a term that was used to describe a whole series of activities that were going on of which we had no part at all—those were going on within the Welsh Government, I think, the health service and whatever. Our particular bit was to identify, summarise and present the evidence so that people could understand what the case for change is, in all its complexity and difficulty. As I said before, there is a lot of evidence in this report that actually contradicts this simple notion that we have to change health services. We point out on more than one occasion, for example, that there is a significant body of evidence to suggest that a smaller number of large hospitals, in some respects, do not perform as well as a larger number of small hospitals. If this were a document that was simply about pushing a particular line, I do not think that we would have included that sort of evidence. I do not think that we would have gone to great pains to point out, in several places, that this evidence needs to be treated very cautiously, because there are all sorts of methodological and other difficulties with it. People need to evaluate this and think it through carefully. It is not a simple message; it is a complex one, which, after all, was the rationale for doing it in the first place, because of its complexity and its seriousness.

[99] **Kirsty Williams:** Professor Longley, on 3 March you sent an e-mail to Chris Jones outlining some electronic voting that you had done with 170 leaders at ABMU, asking him to 'have a look at the attached' and 'Interesting results'. In response to that e-mail, Chris Jones said that they were very interesting and

[100] 'pretty clear as you describe'.

[101] He goes on to say:

[102] 'I think there was a general feeling that the CfC needs to be more positive if possible i.e. describing a persuasive vision of how things could be better. People seemed to think there

was a gap where a blueprint in response could exist and Andrew is thinking about this.

[103] There was an excellent presentation on the emergency response service covering the west of Scotland and a feeling that we need something similar in Wales. This is a positive new service that needs to go in.'

[104] Is that exchange of e-mails about collecting data, about ensuring that your data in your report was not being misinterpreted by yourself and your experienced team, or was there, in fact, an ongoing running commentary between you and Chris Jones about the development of this document and a whole other series of work associated with it?

[105] **Professor Longley:** No. There was no ongoing commentary. You will see, from the subject line of the e-mail, that this e-mail was not actually intended to be about this document at all. It is reporting the results of the voting that took place on 29 February. It just happens to be between the same two people as some of the other e-mails. So, I think that this is largely irrelevant, really. On the response from Chris Jones, my interpretation of this is that it has been completely misinterpreted. What he is saying, as you have read out, is that he had been to this meeting on a previous occasion, and at that meeting there was a

[106] 'feeling that the CfC needs to be more positive'.

[107] He goes on to say, as you have read out, that 'Andrew is thinking about this'. What that led to, as I understand it, was an NHS response to our document, and I think that you have all had a copy of that NHS response. My interpretation of this e-mail is that the NHS people at this meeting felt that, when this document was published, there should be a response from the health service that said a number of other things. In fact, I think that this quite clearly points to the fact that we were not being influenced. When they decided that something else needed to be said, they said it themselves; we did not say it.

[108] **Kirsty Williams:** We cannot tell that, however, because we only have the final document and you are unable to present us with drafts.

[109] **Mark Drakeford:** You have made that point already, Kirsty. I now turn to Mick for one last question.

[110] **Mick Antoniw:** Professor Longley, on page 19 of our notes is an extract from minutes of a ministerial update meeting with the Welsh NHS Confederation, dated 2 May 2012. You were obviously not at that meeting, but what it states, in referring to your report being published on 9 May—so this is about a week before that—is that:

[111] 'It was acknowledged the report might contain some unpalatable messages about the current state of the Welsh NHS, but this is necessary if we are to be open and honest with the public.'

[112] During the course of the preparation of your report, were any representations made about any facts or evidence that should be excluded from your report, because they might, in some way, either influence the outcome of your report or put the Welsh Government or Welsh Ministers in a bad light?

[113] **Professor Longley:** No. No communication of that sort ever came to me. I cannot comment on what goes on within officials, because I would not know. However, we were never denied access to any information that we felt was appropriate. As I have said to you before, in some of these e-mails we were becoming a little frustrated about the amount of time that it was taking to get this information. However, at the end of the day, we had access to all of the information that we thought was appropriate, and no-one obstructed us at all.

[114] **Mark Drakeford:** Thank you, Professor Longley. We have one minute left, which I will offer to you in case there is anything arising from this morning's questions and discussion that you want to leave us with as your final thoughts.

[115] **Professor Longley:** I have a couple of things, if I may, very quickly, Chair. It is beholden on me to repeat what I said at the beginning: the Government did not try to influence our conclusions. If it had tried to do so, we would have completely resisted that. I am independent and I am quite happy to stand on my record—I have done many things, and my team has done many things, and produced many reports that I think that the Welsh Government have found uncomfortable. I can point you to a number of examples where we have carried out research that has had really quite difficult conclusions for the Welsh Government.

[116] That is the first point. The other point that I would like to leave you with, I suppose, is that, as I have said already, there are 170 pages of evidence here about one of the most important questions that we are going to have to decide in Wales over the next few months, about whether our hospitals are configured in the best possible way. The consequences of getting that wrong are desperately serious, and this is a desperately serious and complicated issue. This was an attempt to provide evidence so that people could join in that debate, as is essential in a democracy. I very much hope that we can get back to the evidence and deal with those difficult issues.

[117] **Mark Drakeford:** Diolch yn fawr iawn i chi am eich help y bore yma.

Mark Drakeford: Thank you very much for your help this morning.

[118] Trown yn syth at yr ail sesiwn o dan yr eitem hon. Croesawaf Lesley Griffiths, y Gweinidog Iechyd a Gwasanaethau Cymdeithasol, a hefyd Dr Chris Jones a David Sissling. Roedd Chris Jones a David Sissling yma yn barod, felly ni fyddaf yn eu cyflwyno. Byddwn yn cynnal y sesiwn yn y modd arferol. Weinidog, byddaf yn gofyn a ydych am wneud unrhyw sylwadau agoriadol byr ac, ar ôl hynny, byddaf yn troi at aelodau'r pwyllgor i ofyn cwestiynau.

We will immediately turn to the second session under this item. I welcome Lesley Griffiths, the Minister for Health and Social Services, and also Dr Chris Jones and David Sissling. Chris Jones and David Sissling were already here, so I will not introduce them. We will run the session in the usual manner. Minister, I will ask whether you would like to make any brief opening remarks and, after that, I will turn to members of the committee to ask questions.

9.15 a.m.

[119] Just to be clear, in this session, I will allow Members to direct questions to any member of the panel from whom they would like to receive an answer. So, Minister, it is over to you now for a few opening remarks.

[120] **The Minister for Health and Social Services (Lesley Griffiths):** Thank you, Chair. I was very pleased to accept the invitation of this committee to come today to put the record absolutely straight and to tackle head-on the accusations that have been made against me and my officials over the past week or so. I know that you have just heard from Professor Longley, who said quite clearly that his report was independent. He said how he acquired the information and the evidence in order to produce the report in what I think was a very transparent way, and he said that the conclusions were very clearly his own.

[121] The report that Professor Longley produced for the NHS did not come out of the blue—that is, regarding the need for changes to be made in the NHS in Wales. It is a very long-accepted and widely accepted fact that change is needed, but it seems to me that, as soon

as someone articulates that—as I have done since I have been the Minister—and tries to do something, distractions and obstacles are thrown in the way. It made complete sense for NHS chief executives to commission a very distinguished academic—somebody who has had a very long interest in the health service—to look at the evidence for change in detail to help them to develop their future service plans.

[122] Returning why I am here today, I want to be very clear that it was entirely appropriate for my officials to engage with Professor Longley. I knew that they were doing that. It was completely routine, but I was not overseeing it. I did not collude. I did not exert any influence, nor did my officials. I can think of no reason why I would want to do so. All that I, and the Welsh Government, want is the best health service for the people of Wales. Everybody around this table knows me. You know how I work; some of you have known me for a very long time. That is not the way that I work. It is absolutely ridiculous to think that I would want change for change's sake. What I want is the best NHS for the people of Wales.

[123] **Mark Drakeford:** Diolch yn fawr. I am going to begin the questioning in this session with Elin, as she moved the original motion that led to the session taking place. There are three questions for Plaid Cymru Members to use as you see fit.

[124] **Elin Jones:** Good morning, Minister. In your written statement of 9 May, you twice referred to the Marcus Longley report as being independent. You called it an independent assessment and said that it was from an independent position. What did you take 'independent' to mean that day?

[125] **Lesley Griffiths:** It was Professor Longley's own conclusion, they were his views, and it was his judgment. He had gone wherever he wanted for evidence, and the report was entirely independent because it contained his views and, I presume, those of his team.

[126] **Elin Jones:** Mr Jones, you corresponded with Marcus Longley on the content and style of his report during the drafting process. Do you consider the report to be entirely independent of Government? In preparing the written statement for the Minister, did you draft the statement, or did you clear it? What did you mean, if you did so, in describing the report as 'an independent assessment'?

[127] **Dr Jones:** May I take issue with your starting premise, which is that I commented on the content and the style of the report, because I did not do so? I was sent, as you know, copies of the report at different stages of evolution, but I did not comment back on those. I wrote two e-mails to Professor Longley during this process—just two e-mails. The first, on 5 February, was in response to his request for access to national clinical audit data. They are all in the public domain, but we hold them all for Wales. So, in a very neutral fashion, I passed that request on to the officials who hold that information. I was entirely neutral in that; I offered no comment.

[128] In my second e-mail to Professor Longley, on 4 March, I offered feedback on the discussions of a meeting of senior clinical leaders, the medical directors and the planning directors, which occurred in response to a presentation on some of his emerging findings, and I reported the mood of those conversations to him. Once again, I was very careful to be neutral in that e-mail. I offered no comment of my own about the style and content of his report or any draft of his report. So, nothing that I have done in any way affects what is clearly an independent report by a very independently minded independent academic.

[129] **Elin Jones:** Could I ask you to answer the question about the Minister's statement of 9 May? Did you draft, or did you clear, the Minister's words that day?

[130] **Dr Jones:** I cannot remember who cleared the statement. It would have been drafted

by civil service colleagues within the medical directorate, but I do not know whether I, as director, cleared it or whether a deputy director cleared it. I certainly did not draft it from scratch. However, I would not have drafted it in a different fashion. It was an independent report.

[131] **Elin Jones:** Finally, reflecting on Marcus Longley's evidence this morning, I am not questioning his independent academic credibility, but the commissioning process for the document—the report—that he described to us this morning does not persuade me that the NHS was looking for an objective independent report in commissioning this report. What was the Welsh Government's role, and, as the chief executive and the medical director of the NHS, what was your role in the commissioning process of the report?

[132] **Dr Jones:** We were aware of the discussions. We made it very clear that the process of commissioning had to be taken through the NHS chief executives. That meant that the scope and the terms of reference had to be agreed through the chief executives. As the committee has heard, the Welsh NHS Confederation played a role in that. The NHS chief executives alone had to monitor the progress of the report and they had to accept and approve it in its final stage.

[133] **Lindsay Whittle:** This has been quite a controversial week for the Minister in particular. I do not wish to ask you this question, Minister, but could I be forgiven for asking whether the Minister has been set up in all of this?

[134] **Mark Drakeford:** I do not quite understand the question.

[135] **Lindsay Whittle:** There have been a lot of e-mails and lots of issues have gone on behind the scenes, and some members of the public may very well ask whether the Minister has been set up. It is a perfectly legitimate question.

[136] **Mark Drakeford:** I just wanted to make sure that we understood it, Lindsay.

[137] **Lesley Griffiths:** It is normal Government procedure and normal Government process, the exchange of e-mails between—

[138] **Lindsay Whittle:** Thank you, Minister, but I did not direct the question to you.

[139] **Mr Sissling:** The answer is unequivocally 'no'. This was a process, just to be clear, that used and took advantage of the expertise of an eminent, respected academic. It was commissioned, as we have heard, by the NHS chief executives. They agreed the scope, they monitored the progress and they accepted the final product. The Welsh Government's role was to provide data where only we could provide data. This is something that we might discuss later, but, for example, some of the data that we provided were to do with trends over the last five years. Only we have those data, because the health boards did not exist five years ago. For mortality information, only we have the all-Wales perspective on mortality information. We provided it on a non-selective basis. We were offered opportunities, as we have seen from the e-mails, to comment on drafts at various stages. I have searched through every piece of evidence and all records and we declined to comment on the drafts on each of the occasions that we were invited to do so.

[140] **Lindsay Whittle:** Okay, thank you.

[141] **Mark Drakeford:** Lynne Neagle has two questions.

[142] **Lynne Neagle:** My questions are to the Minister. How often did you meet Professor Longley during the course of the preparation of this report?

[143] **Lesley Griffiths:** I did not meet him at all during the preparation of the report. The first time that I met him was on 5 March. That was the one and only time that I met him. He came to meet me with Andrew Carruthers, the programme director for 'Together for Health'. Andrew Carruthers asked for the meeting and they came to see me. What they showed me was a preview of the PowerPoint presentation that they were going to show to Assembly Members. At that time, I think that it was due to take place on 21 March. It was subsequently cancelled, but when they came on 5 March, the intention was that the preview would be shown to Assembly Members on 21 March. That was the one and only time that I met him during this process. I did not meet him during the drafting of the report at all and I have not met him since, until I saw him just now.

[144] **Lynne Neagle:** Thank you. You said that you saw the PowerPoint presentation at that meeting. Are you able to say anything else about what was discussed at that meeting?

[145] **Lesley Griffiths:** It was literally just a showing of the PowerPoint presentation. I think that it was a courtesy, really, that he was showing it to me before he showed it to Assembly Members. I thanked him for showing it to me and that was it. There was no discussion about it. It was just literally a showing of the PowerPoint presentation.

[146] **Mark Drakeford:** Kirsty, you have two questions now.

[147] **Kirsty Williams:** Mr Sissling, you said in answer to a committee colleague that you were aware of the discussions between the Welsh NHS Confederation, the chief executives and Professor Longley to develop this suite of work, but that it was for the chief executives of the LHBs alone to monitor and participate in this work. The Cardiff and Vale University Local Health Board met on 17 January. I will quote from its board papers. Under the heading 'National Case for Change' it said:

[148] 'WG is working with the Welsh Institute for Health and Social Care to develop the national case for change. This will involve identifying 4-5 key messages to support the need for change, and each of these will have a supporting evidence based document, to include the issue being addressed, why it is a national issue and the evidence to support this and the benefits to the population of service change.'

[149] Those were the minutes of the Cardiff and Vale board. They said Welsh Government 'is working with'.

[150] In the same week, the Abertawe Bro Morgannwg University Local Health Board meeting minutes said exactly the same. There was no difference in the wording. In the same week, the Aneurin Bevan Local Health Board minutes were exactly the same, word for word, as were the minutes of the Cwm Taf Local Health Board. Can you explain why, as far as the LHBs were concerned, the Welsh Government was

[151] 'working with the Welsh Institute for Health and Social Care to develop the national case for change'

[152] if this was a matter for the LHBs alone?

[153] **Mr Sissling:** I could not comment on the reasons the health boards recorded the situation as they did at the time. All that I can say is that it is quite clear from the evidence provided by the Welsh NHS Confederation to this committee that the commissioning decisions were made by the NHS chief executives and that subsequent events were such that we did not monitor the progress of the report and that we did not contribute other than by the provision of data. We did not approve the report, sign it off or accept it in its final stages.

[154] **Kirsty Williams:** However, you quite clearly stated at the beginning of this meeting that this was a matter for the LHBs alone, and yet, that week, the LHBs were all reporting that their understanding of what was going on was that the Welsh Government was working with the Welsh Institute for Health and Social Care. Is it not curious that the wording for each local health board is exactly the same? Given that boards would not know what other boards were saying, would that consistency in the wording not suggest that the wording came from a document sent to them by somebody? Is it possible that the wording of the minutes in each of those boards is the same because the wording came from a document from a central source? Why do you think that the local health boards—which, in your words, were doing this on their own—so misunderstood the situation that their minutes record that their understanding was that the Welsh Government was working with the Welsh Institute for Health and Social Care? Why is that?

[155] **Mr Sissling:** I cannot answer on their behalf. All that I can say is that your suggestion that the wording came from a central source, by which I presume you mean Welsh Government, certainly was not the case.

[156] **Mark Drakeford:** Mick Antoniw now has two questions.

[157] **Mick Antoniw:** Minister, you attended a meeting on 2 May 2012—I am looking at page 19 in our bundle of papers—where the document and Professor Longley’s report was prepared. *[Interruption.]*

[158] **Mark Drakeford:** We will adjourn for five minutes, so that the technology can be sorted out.

*Gohiriwyd y cyfarfod oherwydd nam technegol rhwng 9.30 a.m. a 9.50 a.m.
The meeting adjourned due to a technical fault between 9.30 a.m. and 9.50 a.m.*

[159] **Mark Drakeford:** Croeso nôl. Bydd dau funud yn awr er mwyn i’r cyhoedd ddod yn ôl i’r galeri. Wrth iddynt ddod i mewn, esboniaf yr hyn a wnawn ni yn awr.

Mark Drakeford: Welcome back. There will be two minutes now for the public to come back to the gallery. As they come back in, I will explain what we will do now.

[160] My proposals for what we do now are these: we broke at 9.32 a.m., so there was effectively half an hour of that session still left. It is important that we allow that half hour to take place. *[Interruption.]* We are adjourning again because we cannot continue while this problem persists.

*Gohiriwyd y cyfarfod oherwydd nam technegol rhwng 9.51 a.m. a 10.03 a.m.
The meeting adjourned due to a technical fault between 9.51 a.m. and 10.03 a.m.*

[161] **Mark Drakeford:** We will resume the committee’s public session. I will just say, for the record, what our intentions are now. We have half an hour of this session to run, and we will allow the full half hour to take place. We will not be able to take oral evidence from the Minister today in relation to the food hygiene Bill, but we will translate the questions that we identified last week into written questions, send them to the Minister and hope that she will be able to respond to them in that way. When we have received those answers, we will explore among ourselves whether or not we think we need to ask the Minister to return for an oral session at the beginning of the autumn term.

[162] We have another panel of witnesses, who have come from quite a long way, scheduled for 10.30 a.m., so, out of courtesy, we will move straight to them as soon as this session is over.

[163] When the difficulties began, Mick was asking his first question. We will start from scratch and go from there.

[164] **Mick Antoniw:** Minister, there is a record of a meeting on 2 May 2012 that you chaired; it is on page 19 of our bundle. It is a redacted summary of what was discussed. In that minute, it states:

[165] 'It was acknowledged the report might contain some unpalatable messages about the current state of the Welsh NHS, but this is necessary if we are to be open and honest with the public.'

[166] Could you outline the discussions that you had at that meeting and whether there was any discussion whatsoever about the report and its conclusions or anything that might need to be changed or emphasised in any different way? From what I can see, this is the most contemporaneous note, in that it was a week before the publication date. Had you had any other discussions, prior to that meeting, about the conclusions and whether there was any scope for changing the report's conclusions?

[167] **Lesley Griffiths:** Categorically, 'no'. There was no intention ever to change anything in the report. The meeting that you refer to was an update I had with the Welsh NHS Confederation. The report would have been in its final format by then. It was the confederation's report and the LHBs' report and I never at any time asked for anything to be changed. You referred to unpalatable findings. We all know of the difficulties and challenges that the NHS is facing. There are some difficult decisions to be made. Every one of us around this table agrees that there has to be changes, it is just that some would argue about the shape of the change that we need to make.

[168] **Mick Antoniw:** I will follow that with a question to Dr Jones. In the e-mail of 22 February, which has previously been referred to, Professor Longley says to you:

[169] 'However, on reflection the evidence as presented does not seem to be as incisive as we might have hoped. Is there any further evidence that you could provide to sharpen up the document and its impact'.

[170] The suggestion is that discussions are going on that endeavour to change the direction or conclusions of the report. What was your understanding of that e-mail? What was your response to it?

[171] **Dr Jones:** There were no such discussions seeking to influence the report in any way. I took the e-mail that I received from Professor Longley to indicate that he wanted to make sure that he was missing nothing. He was keen to do a proper and credible job and wanted to make sure that he had access to all the information that existed, wherever it was. I assumed that there were areas where he was asking for whatever might be there, without necessarily knowing what he did not have. I did not respond to this e-mail, offer any comments or in any way attempt to influence this report as it developed.

[172] **Mark Drakeford:** I am going to move to Conservative Members, and they have three questions to ask. Darren will start.

[173] **Darren Millar:** On 13 March, Minister, you presented a paper to the Welsh Government Cabinet. That paper, which has your name on the bottom, says that the Wales Institute for Health and Social Care was commissioned by the health board chief executives

[174] 'to articulate a 'National Case for Change''.

[175] That suggests that, at that point in time, you were under the impression that it was about making a case for change and not necessarily an independent report. You say that you had no influence over this report, yet in an e-mail from the Welsh NHS Confederation, it makes it clear that it was waiting for you, as Minister, to sign off on the timetable for the publication of the report. I will quote from an e-mail from Helen Birtwhistle to a number of different people on 22 March, in which the programme for publication of the report is set out. The paragraph that sets the timetable states:

[176] ‘Thursday 22nd: Welsh Government informs Confed of decision on whether presentation to AMs can go ahead on 28 March’.

[177] Why would you or your officials be involved in making that decision? At what point did your opinion of the report change from it being an articulate report making the case for change to it being,

[178] ‘an independent assessment of the evidence on NHS service change...which cements and underpins the case for change...It is impartial, based solely on the evidence reviewed’?

[179] That is a quote from your statement on 9 May.

[180] **Lesley Griffiths:** I, at no time, had any influence or discussions about the content of the report. It was not my report. It was absolutely the NHS’s report. To me, the word ‘articulate’ means ‘explain’. I do not see anything different in this report to any other report that we have seen along the way. If there was something hugely different in this report, it would be one thing, but there is not. You can go back to the Wanless review in 2003, and we had the Bevan commission; this report is just building on that. I do not see any difference in it. I was not signing off anything about this report. I just think that everyone involved in the report—the Welsh NHS Confederation and the local health boards—thought that it was really important that Assembly Members were properly briefed on the report. As I said, I had the PowerPoint presentation—the preview—that was going to Assembly Members on 5 March. That was the only time that I saw anything to do with this report. That was the first time.

[181] **Darren Millar:** In terms of the Welsh NHS Confederation awaiting the decision from the Welsh Government on whether presentations could go ahead to AMs, why would it be awaiting a decision?

[182] **Lesley Griffiths:** It was not my decision that it was awaiting at all.

[183] **Darren Millar:** It was awaiting a Welsh Government decision.

[184] **Lesley Griffiths:** I do not know why the Welsh NHS Confederation would say that. It was certainly not awaiting any decision from me.

[185] **Darren Millar:** Can your officials help to clarify why it would be waiting for that?

[186] **Dr Jones:** No. I was not involved in any such decision. I was not aware of any such decision.

[187] **Mr Sissling:** No. I do not know why. At that point in time, the planning for the release of the document was quite active. We were within a few days of it. There was liaison between the communication teams in particular. The e-mail of 22 March from Abigail Harris to Helen Birtwhistle indicates that the decision seemed to come from Helen Birtwhistle; that seemed to be the interpretation that I put on that particular e-mail exchange.

[188] **Darren Millar:** Even though Helen Birtwhistle, of course, would seem to be waiting for the Welsh Government.

[189] My second question just relates to the assertion that is being made that there was no influence on the content of the report coming from the Welsh Government. In your e-mail of 4 March to Marcus Longley, Mr Jones, there is a statement that suggests that you wanted something to go into the report:

[190] ‘This is a positive new service that needs to go in.’

[191] It makes reference to a service covering the west of Scotland. Do you not think that that implies that you had seen a draft copy of the report and that you had noticed that this particular service was not mentioned in it, and, given that it is mentioned in the final draft of the report, that you clearly had influence on the content of it?

[192] **Dr Jones:** None of that is true. As a doctor, the last few days have been quite painful because I have had to hear a lot of statements made in public about a conniving conspiracy and some sort of immoral behaviour seeking to mislead the public. As a doctor, that is accusing me of serious professional misconduct, and that is very difficult for me. It is worse also because the comments made have been absolutely untrue, and there seems to be no reason to think that they may be true.

[193] In this e-mail of 4 March, which has been widely misquoted, first, I report the mood and discussions of others—senior clinical leaders and other doctors engaged in trying to improve NHS services, who heard a presentation on ‘The Case for Change’. I reported the mood of that and the outcome of those discussions to Professor Longley. In the second paragraph, I also refer to discussions about an air medical retrieval service in the west of Scotland, which the medical directors and planning directors felt would be a very advantageous model to replicate in Wales, and would actually become part of future emergency arrangements in Wales in an important way. So, I wanted to alert Professor Longley to those discussions as well. None of that, to me, implies anything that you have just said about influencing the report or other discussions or other conversations. I regret very much the comments that have been made about my behaviour.

10.15 a.m.

[194] **Darren Millar:** May I clarify this, Chair? So, when you said,

[195] ‘This is a positive new service that needs to go in’,

[196] you were not seeking to influence the report with the inclusion of that particular service.

[197] **Dr Jones:** I was telling Professor Longley that the medical leaders in NHS Wales had received a presentation about a Scottish system, had discussed it at length with the planning directors and had concluded that it needed to be part of future arrangements in NHS Wales. Professor Longley would not have known about that unless I had told him about it.

[198] **Darren Millar:** So, when you said that it needed to go in, you meant that it needed to go in the report, but you still assert that you were not seeking to influence whether that was included in the report or not.

[199] **Dr Jones:** I was telling him of conversations and conclusions drawn at that meeting.

[200] **Mark Drakeford:** For the record, may I put this to you, Dr Jones, because Mr Millar

has suggested that one reading of your e-mail might be that you had already seen a draft of the report, otherwise, how would you have known that this was not already in it? As a matter of fact, may I ask you, for the record, whether you had seen a draft of the report?

[201] **Dr Jones:** If I can just find my chronology—I had been sent draft copies of the report. I received a draft of the quality and safety paper on 14 February, and I believe that I read it, but did not reply or comment on it. I also then on 20 February received by e-mail, as you already know, the workforce and access papers. They were sent to chief executives and I was copied into that. Again, I saw those reports and did not comment on them.

[202] **Mark Drakeford:** Thank you very much. The third question is from Mr Graham.

[203] **William Graham:** My question is for the Minister. Despite the evidence set out in different documents and comments that it was insufficient to support the bold statements, for the record, was not this report like manna from heaven, the winning lottery numbers and Christmas all in one for you?

[204] **Lesley Griffiths:** Absolutely not. As I have stated already, there is nothing in this report that we have not seen before. We all know that the NHS cannot continue in the way that it has done. We all know that in order to have safe, sustainable services, things have to change. We cannot keep doing things differently—I am sorry, the same.

[205] **William Graham:** But this report does support your position.

[206] **Lesley Griffiths:** It is another report that supports what we all know, what we have all said and what we have all heard in the Chamber. It supports what we knew. There are gaps in this report—we heard from Professor Longley earlier who said the same thing—but I do not think that there is anything new in this report. If this report was somehow telling us something wildly different, I could understand, but it is not. It is just saying what we all know.

[207] **Mark Drakeford:** For Members' information, I have a question from Rebecca next and then from Vaughan, and I still hope to have a chance to come back for one question each from the opposition parties as well.

[208] **Rebecca Evans:** The report states that it was written for a 'lay audience' to stimulate rational and informed debate among Welsh citizens who want to make up their own minds about how their hospitals should be configured. Do you believe that the data and analysis in the report are accurate and comprehensive and that they it is still up to that task? Are you concerned that the debate has been damaged? What confidence can you give my constituents that the debate remains open and honest?

[209] **Lesley Griffiths:** Yes, I agree with the data, in answer to your first question. In relation to the debate being damaged, yes, I think that it has been damaged. I have been contacted by at least three dozen senior clinicians and health professionals who are horrified that the debate has moved—we are just talking about a few words in a few e-mails. It is very frustrating for them to see this, and they want us to get back on to the debate. We will get back on to the debate; there are no two ways about that. This report, as I have just said, builds on what we already know. We know that we have to have this debate.

[210] When I became Minister, some 14 or 15 months ago, I realised straight away—I worked in the NHS for 20 years—that things have to change. The assurance that I can give to your constituents and the people of Wales is that this is a very serious matter that we will continue to discuss. We know that we have the service change plans coming through. There will be a huge amount of scrutiny of those. I know, as Minister, that we will never have a

health service that we are all 100% happy with, but that is what I am aiming for, and I want to do it in a very transparent way. I think that I have really moved the transparency agenda forward. I want the public to know that if they travel that little bit further, if that is what we have to do—if we have to centralise specialist services—they will get a better outcome. That is the most important thing, and we will get that debate back on.

[211] **Vaughan Gething:** A former Welsh Conservative Assembly Member, Jonathan Morgan, said that he saw nothing unusual in the e-mail correspondence between Professor Longley and Government officials. He also said that he would be disappointed if that sort of contact was not taking place, but, as you know, other members of this committee disagree and say that the correspondence is highly unusual and challenges the integrity and independence of the report, and also the integrity of each of the three of you. Why should we not accept the interpretation of it by some members of this committee and others that what has really happened is that the Minister and Government officials have sexed-up a report to say what the Government wants, and the public is now being insulted when you continue to describe it as ‘independent’?

[212] **Lesley Griffiths:** That is a very good question. Jonathan Morgan showed huge insight into Government, because it is a normal process. I knew, of course, that Professor Longley was doing this report. I knew, of course, that he would be contacting my officials for information. Some of that information is only held by the Welsh Government.

[213] I cannot keep an eye on 625 officials’ e-mails; I have to have trust, and I do trust my officials and senior officials. I know that they would not have influenced the report. I did not seek to coerce, put pressure or influence the report. You have heard from Professor Longley this morning; he is a very respected academic. I thought he was incredibly forthright this morning. That report is independent and contains his and, presumably, his team’s conclusions as well. It is his judgment, and I completely agree—I know that I have done nothing wrong. My officials are here and you can question them. They have come up with nothing that makes me think that they attempted to influence the report at all.

[214] **Mark Drakeford:** I am going to allow one relatively brief question from each of the opposition parties in the same order that we heard from them earlier. So, I will go to Elin first.

[215] **Elin Jones:** Minister, we have heard this morning that the local health boards are stating that the Welsh Government is working with Marcus Longley on the case for change. We have heard the Welsh Government state this morning that the chief executives of LHBs are working alone with Marcus Longley on the case for change. I cannot help but think that after all this evidence, you are all in this together—the LHBs, the NHS, the Welsh NHS Confederation, the Welsh Government—all working with Marcus Longley to articulate the case for change. There is nothing wrong with you all working together on this report, as long as you are upfront about it with us. What is wrong is that you are seeking to persuade us that you are all independent of each other in some way. So, Minister, my question after this morning’s session is: why are you continuing to stress your independence from this report when all evidence is to the contrary?

[216] **Lesley Griffiths:** No. Professor Longley said that it was his report and that it is independent because it is his report and his conclusions. I have just stated that, of course, I knew that Professor Longley would be asking my officials for information, some of which would only be held by the Welsh Government. However, the report, which was commissioned by the Welsh NHS Confederation with the local health boards, was Professor Longley’s independent view, his conclusions and his judgment.

[217] **Kirsty Williams:** We have seen that as far as the local health boards were concerned, the Welsh Government was working with Professor Longley. Mr Sissling and you have both

said that you had nothing to do with the publication of this report or the discussions about it. However, in an e-mail from Helen Birtwhistle on 22 March, which included Chris Jones in its distribution, it clearly states,

[218] ‘Welsh Government informs Confed of decision on whether presentation to AMs can go ahead’.

[219] At the end of it, she says that she would be, ‘Grateful if Abi’—that is Abigail Harris, one of your officials—

[220] ‘could confirm the position re 28th March’.

[221] On 16 March, Abigail Harris also wrote,

[222] ‘There is support for the CfC being launched on 28th if the comms plans are right and the Minister will want to be assured of this.’

[223] **Mr Sissling:** There was liaison regarding the method of publication. I think that that was entirely reasonable. This was a report that clearly would provoke questions to be asked of the Minister, and there needed to be an ability to prepare for that. So, there was liaison between the communication teams to make sure that the arrangements were aligned. There was an understanding of the arrangements that were in place. That has nothing to do with the independence of the report. The report stands on its own merits; it stands as an independent report produced by an eminent academic. The fact that there was some communication about the release of it does not, in any sense, create any questions about the independence of the report.

[224] **Kirsty Williams:** Five minutes ago, you said that you had nothing to do with it, but now you are saying, ‘Well, actually, there was liaison between us’. Five minutes ago you said that it had nothing to do with you, and that the launch of the report was a matter for the confederation and the NHS alone, yet now you are saying, ‘Oh well, actually, there was a discussion about the launch of the report’.

[225] **Mr Sissling:** I think that I said that there was some communication about the launch of the report. As you can see from the e-mail, it is evidentially so that there were exchanges between the Welsh NHS Confederation and Welsh Government communication colleagues about the way in which this independent report should be released into the public domain.

[226] **Darren Millar:** I am still not clear on this. It seems to me that the Minister and her officials are digging a deeper hole for themselves as far as this issue is concerned. I have a copy of a board paper from the Betsi Cadwaladr University Local Health Board, dated 24 May, which is obviously after the report’s publication. The paper clearly states,

[227] ‘This paper from the Welsh Institute of Health and Social Care is provided for information. Its author, Professor Marcus Longley, has been charged by Welsh Government with developing an independent view of the “case for change”’.

[228] So, it is very clear that, from the health boards’ perspective—and we have already heard about the board papers that have been presented in four other health boards—that it was the Welsh Government working with Professor Longley to produce a case for change, which articulated, as stated in your own words in your own paper, Minister, the case for change. Yet, you are still trying to maintain some sort of illusion that this is actually a simple review of all the evidence and is a summation of it, and that there was no suggestion that there was an attempt to try to build that case for change, or for Marcus Longley to make that case for change, or that he was seeking information that simply supported that case for change to

sharpen it up to look for those killer facts. I want to give you and your officials another opportunity, Minister, in the face of the evidence—we are not taking this out of context; we have seen the e-mail exchanges, and there is not just one piece of evidence, but many pieces of evidence, which are now stacking up—that makes it absolutely clear that there was a request, at some point, to Marcus Longley to articulate this case for change, to make the case for change, and to produce a document that supported the case for change. Those are the words that appear in documents and papers. So, I ask you again, Minister—and you have an opportunity here to make sure that the record is straight—will you confirm that Professor Marcus Longley was asked to articulate to make a case that supported reconfiguration?

[229] **Lesley Griffiths:** I did not ask Professor Longley—

[230] **Darren Millar:** I am not asking you. Was the Welsh Government involved, in some way, in helping to support him to prepare a document that would aid that case for change?

10.30 a.m.

[231] **Lesley Griffiths:** This was not a Welsh Government report. I was aware that Professor Longley would be asking my officials for information, information that was only held by the Welsh Government. This was a report commissioned by the Welsh NHS Confederation with the local health boards and their chief executives. It was not a Welsh Government report. The only time that they would be contacted for information was for data. No-one tried to influence—you have not shown any evidence of where you think the Welsh Government influenced the report. We did not influence the report. Professor Longley was not asked to change the report. You heard from Professor Longley this morning, who has said categorically and clearly that it was an independent report and that he was not influenced or put under pressure by Welsh Government officials or by me to change the report.

[232] **Vaughan Gething:** I want to go back to two points that have been raised about input in the process. First, are you aware of whether the four local health boards in south Wales share a common secretariat to produce the minutes of their board meetings, because it was my understanding that they did? That might explain the commonality of the minute. I want to go back to the e-mail of 22 March from Helen Birtwhistle to Abigail Harris, which was copied to a number of people—it is on page 13 of our notes—and the paragraph that starts

[233] ‘A key element of what we discussed yesterday was whether the briefing for AMs could and/or should go ahead next Wednesday (28 March 2012)’.

[234] If we move on, it states

[235] ‘the fact that we’re now only three working days before the event is problematic. You may recall that only two out of sixty Assembly Members had said they would attend when we arranged the event for this week, 21st March, and that was when we gave them two weeks’ notice. Ideally, we would have given them the new date when we postponed/cancelled initially.’

[236] Further on, it states

[237] ‘Our intelligence from the workings of the Assembly tells us that AMs will not be impressed with the short notice.’

[238] The interpretation that has been urged on us by some Members of this committee is that the suggestion of waiting on the Welsh Government, whoever that is, about whether the briefing on 28 March should go ahead, is that they were looking for permission from the Welsh Government to brief Assembly Members. I do not understand that from this e-mail,

and I am interested in whether you see this as a practical point about whether AMs would turn up having been given a few days' notice or whether it really was, as has been urged on us by both Darren Millar and Kirsty Williams, a case of you influencing the whole process and the presentation of what was supposed to be an independent report.

[239] **Lesley Griffiths:** I did not try to influence when Assembly Members saw this report. I mentioned that I had had the PowerPoint presentation, which would then be made to Assembly Members, earlier in the month, and the plan, I think, at that time, was to hold a breakfast meeting, hosted by the Chair for Assembly Members. It was cancelled for the reasons that they state. I was not aware that only two of the 60 Assembly Members had said that they would attend, but this was certainly not waiting to be signed off by me or by officials. It was a matter for the Welsh NHS Confederation as to when it briefed Assembly Members. I presume that

[240] 'Our intelligence from the workings of the Assembly'

[241] refers to the confederation having spoken to Assembly Members and asking them what time they would want, and that that was the reason for that.

[242] I am sorry, Vaughan, I did not quite catch all of your question about the local health boards.

[243] **Vaughan Gething:** A minute with common wording was read out from four of the south Wales health boards, and the suggestion was, previously, that that was because someone had given a directive about how this should be presented and that that explained the commonality of the minute. However, my understanding is that those health boards share a common secretariat. I want to go back to whether that is your understanding or not, or whether, as Kirsty Williams suggests, actually, the unknown force is the Welsh Government.

[244] **Lesley Griffiths:** There was no directive from the Welsh Government. Do they share a common secretariat?

[245] **Mr Sissling:** I honestly do not know.

[246] **Lesley Griffiths:** I do not know.

[247] **Mr Sissling:** I am sorry; we will find out.

[248] **Mark Drakeford:** We have just about a minute left, Minister, and I will ask the only question that I have asked from the chair this morning. I will ask Mr Sissling. Lots of what we have debated this morning has circled around the commission that Professor Longley was given—what he was asked to do and by whom. The best document that we have in front of us is a scoping paper that was agreed by chief executives through the Welsh NHS Confederation. I will read you a couple of extracts from this scoping and commissioning paper. What I want to know from you is whether you think that this fairly represents the job that Professor Longley was asked to do and whether you think that this is what he went on to do. The document states that the purpose of the work that Professor Longley was asked to do was to

[249] 'help provoke and inform a dispassionate and evidence-based discussion of the key issues relating to the national case for change'.

[250] The second extract is:

[251] 'The discussion papers will provide a impartial and independent synthesis of the most important evidence...an opportunity to understand and challenge the evidence and

arguments.’

[252] Does that represent a fair summary of what Professor Longley was asked to do?

[253] **Elin Jones:** Chair, may I correct you? That is what Professor Longley was asked to do. Those words are in Professor Longley’s paper.

[254] **Mark Drakeford:** I am clear that he produced the scoping paper, but the scoping paper was then agreed by the chief executives and the Welsh NHS Confederation as the job that they wanted him to do. So, Mr Sissling, is that the job that you thought that he was asked to do and is it the job that he did do?

[255] **Mr Sissling:** First, I want to say that I was not involved at all. The first time that I saw this scoping document—the terms of reference—was towards the end of last week. So, first, I was not involved at all in the formulation of that paper. However, in terms of the appropriate question that you ask, it is important to say that there were two parts to the process. One was the formulation of the document based on relevant evidence, but the second part was engagement. It is fair to say that the process of engagement that Professor Longley and others have led has proved to be extraordinarily beneficial. There has been a coalescence of debate and discussion about the evidence, or the lack of evidence, because what he did was present evidence where it was available, and where it was not, he was very open and said, ‘This requires further debate and discussion’. So, it has had a very beneficial impact within the NHS and with key stakeholders and there is a growing sense that the way ahead is one that involves change—well-planned change, based on evidence, defined by inclusive processes of engagement and one that is implemented in a meticulous manner.

[256] **Mark Drakeford:** Thank you all for being here this morning and for the evidence that you have given. Thank you for agreeing an amended way forward in relation to the food hygiene Bill. I also thank, from the chair, committee members, for their help in getting through the sessions and for giving everyone a chance to take part.

[257] Rydym am symud ymlaen yn syth at bedwaredd eitem ein hagenda. Bydd egwyl fer am 11.30 a.m.. We will now move straight on to the fourth item on our agenda. There will be a short break at 11.30 a.m..

10.38 a.m.

Bil Sgorio Hylendid Bwyd (Cymru): Cyfnod 1: Sesiwn Dystiolaeth 4 Food Hygiene Rating (Wales) Bill: Stage 1: Evidence Session 4

[258] **Mark Drakeford:** Before the questions are sent to the Minister, now that we have to convert our oral questions into written questions, we will circulate them to all Members. So, if you think that there are any questions missing or questions that need to be asked in a different way in order to make sure that we get the information we need, everybody will have a chance to look at them before we send them.

[259] Bore da a chroeso i chi i gyd i’r Pwyllgor Iechyd a Gofal Cymdeithasol. Diolch am ddod i’n helpu ni yn ein gwaith ar y Bil Sgorio Hylendid Bwyd (Cymru). Fe gyflwynaf y panel i’r Aelodau. Mae gennym ger ein bron Mr Shane Brennan, cyfarwyddwr cysylltiadau cyhoeddus, Cymdeithas y Siopau Cyfleus; Brigid Good morning and welcome to the Health and Social Care Committee. Thank you for coming to help us with our work on the Food Hygiene Rating (Wales) Bill. I will introduce the panel to Members. We have with us Mr Shane Brennan, the public affairs director for the Association of Convenience Stores; Brigid Simmonds, chief executive of the

Simmonds, prif weithredwr Cymdeithas Cwrw a Thafarndai Prydain; a John Dyson, cynghorydd bwyd a materion technegol, Cymdeithas Lletygarwch Prydain. Diolch i chi i gyd am ddod yma'r bore yma. Rydym fel arfer yn gofyn am unrhyw sylwadau agoriadol byr sydd gan ein tystion i gyflwyno'r sesiwn, ac ar ôl hynny byddwn yn mynd yn syth at aelodau'r pwyllgor i holi cwestiynau.

British Beer and Pub Association; and John Dyson, food and technical affairs adviser for the British Hospitality Association. Thank you all for joining us this morning. We usually ask whether witnesses have any brief opening remarks that they would like to make to kick off, and following that we will move straight to questions from members of the committee.

[260] Brigid, I always tend to look at the person in the middle as though they are the person who will lead off. If you are happy to lead off, please do.

[261] **Ms Simmonds:** Very happy. Thank you for inviting us here this morning. My name is Brigid Simmonds and I am chief executive of the British Beer and Pub Association. We represent 95% of brewers in the United Kingdom and about 50% of pubs. In Wales, there are about 3,200 pubs employing 32,000 people, and, overall, the beer and pub industry in Wales supports 46,000 jobs.

[262] In essence, as an industry, we have helped by supporting a voluntary scheme for the display of food hygiene ratings. From the beginning, we supported the Scottish system, which was purely that you passed or you did not pass, and there was room for improvement there, rather than the five-'blob' system, as I like to call it, that we have here. We are against making the display mandatory, and we believe that, at a time when there is very little money available to businesses, it is the role of Governments, wherever they are in the UK, to reduce the burdens on business. We do not believe that this mandatory display of rating for food hygiene will either improve food hygiene in Wales or, indeed, make it easier for business.

[263] **Mark Drakeford:** Does either of you want to add anything to that, or does that summarise the essence of the issue?

[264] **Mr Dyson:** That summarises our position. The British Hospitality Association represents the hotel and catering industry, and 112,000 people are employed in the industry in Wales, with the annual gross value added wages and profits in Wales being around £1.8 billion. Very much as Brigid has just said, we have been involved with the food hygiene rating scheme right from the beginning in Scotland, and I sat on the group that did the research on food hygiene rating in Scotland.

[265] **Mr Brennan:** From my perspective, the Association of Convenience Stores represents 33,500 shops throughout England, Wales, Scotland and Northern Ireland, and around 5,000 to 8,000 of those are in Wales. Our members are predominantly small businesses. We represent some of the larger businesses in the industry, like the Co-operative Group, but the vast majority of our members are independent small businesses trading either as part of a group, such as Spar or Costcutter, or on their own as an unaffiliated business.

[266] **Elin Jones:** Thank you for your evidence. We currently have the voluntary scheme, but it has been made clear to us that, of those businesses that score 0, 1 or 2, only a very small proportion provide that scoring information to consumers. So, they are withholding that information and not displaying it, while a higher proportion of businesses scoring 5 seem to be putting it on display for their consumers. Is this an issue that can be addressed without legislation? Can businesses be persuaded to display their stickers voluntarily regardless of their score? There is just one other question from me. Are you aware of what costs businesses would incur if this legislation were introduced and they were required to display their sticker?

[267] **Mr Dyson:** First of all, we believe that it is a matter of competition, to an extent. A score of 3 is broadly compliant, and so businesses will display scores of 3, 4 and 5 as time goes on. There is pretty well no doubt about that. In Wales, there has not been sufficient time for the scheme to settle in, and for people to really get the information. It has been only a few months. The publicity has been relatively low throughout the UK and in Wales as well, because the money is not available to be spent on publicity. That is a fact of life. As time moves on, businesses will be encouraged to display their rating. If a consumer does not see one displayed, they might feel entitled to ask why and become concerned that it is not displayed. It is a question of allowing the scheme to mature. The good news is that all Welsh authorities took on the scheme voluntarily and became part of the national scheme. Every one of them has taken it on and continues to use it. That means that a momentum will build over time on the use of the scheme. That is why we believe that the voluntary scheme needs to be given time. On those who do not display, consumers will become aware of that and wonder why the score is not displayed. If the score is 0, local authorities should be taking statutory action against that business anyway because it is not complying with the law. So, without a shadow of a doubt, action should be taken by environmental health on that particular aspect.

[268] As far as the costs are concerned, there is an administrative burden to requiring a mandatory display, whichever way we look at it. Take a multisite business for example. You have to have a manager making sure that he displays it and, if he does not, you would have to go down there and take disciplinary action. You have to have somebody checking it and making sure that it is there and that it does not get removed, by whatever means. Otherwise, on any given day, you could be committing an offence. Any time you legislate, there is a burden on businesses, and therefore a cost.

[269] **Ms Simmonds:** On cost, our view is that we have a national scheme that has been in place for only 18 months, and so we would prefer for the voluntary scheme to have more time to bed in before we move to this mandatory process. We would also prefer something across the United Kingdom, rather than Wales being different from England and Scotland. If it is voluntary, you take pride in displaying it. Once it becomes mandatory, it becomes a burden on business that they have to comply with and a cost. It is difficult for an industry, when you do your utmost to promote something that is voluntary, and then it becomes the law. As John said, the cost for businesses is not about the display, but about the consequences if you contravene it—and we will go on to talk about some of the fines for non-compliance. It is that burden that is likely to be costly to businesses.

[270] **Elin Jones:** So, in your response to me, you are almost saying that, for businesses with a rating of 0, 1 and 2, it would be very difficult for them to display voluntarily and offer that information to their consumers, and if consumers do not see a 3, 4 or 5 displayed, they should assume that a business has a rating of 0, 1 or 2. That is the way in which you see the voluntary process developing, with consumers assessing the information that is or is not there.

[271] **Mr Dyson:** The reality is that consumers do not make a decision to enter a premises based only on whether there is a display of 3, 4, 5 or 0, 1, 2. There are lots of other reasons why they go in. If they see a 3, 4 or 5, which means that the hygiene standards are broadly compliant and go above that, that will encourage them, but there will be other aspects that they will consider in deciding whether to go in. However, if they see a 0, 1 or 2, or they assume that, meaning that the business does not comply, that may well make their decision different.

[272] **Ms Simmonds:** It depends who you are. My son graduated from Cardiff University yesterday and I asked him about this issue this morning. He talked about kebab houses, as most students would, frankly. He said that they were all rated 0 but that that did not stop him using them. He did it with his eyes open and knowing that there was a risk. It depends on how much money you have to spend and on where you are going. I support what John is saying

that, surely, a local authority should be taking action against a business rated 0, 1 or 2, and coming back on a reappraisal basis to make sure that it is moving up to 3, 4 or 5. We have to be terribly careful that this is about remaining legally compliant. There must not be an element of good practice that affects the score if the business finds it terribly difficult to comply.

[273] **Kirsty Williams:** Mr Dyson, do you have any evidence to suggest that there is a problem with signs falling off or being removed? You said that one of the burdens is that signs disappear. Do you have any evidence to suggest that we have a problem with signs falling off shop windows?

[274] **Ms Simmonds:** I can give you an example to do with smoking. The only place that has been prosecuted for not displaying a no-smoking sign was in Wales. It was a pub, which produced its own signage. Smoking is another example. We all know that we cannot smoke in public buildings, so why do we have to have signage all over the place? The problem is that there are lots of signs that businesses have for various reasons. Some of them are to show membership of the British Beer and Pub Association or the British Hospitality Association, for example. Some of them are awards. Premises do not like requirements to display a monumental amount of signs. It is a burden to comply with those.

[275] **Kirsty Williams:** So, there is no evidence to suggest that these signs fall off or are removed by people. Therefore, I am wondering about the cost to business. I can see that there is a cost to non-compliance, and I suspect that non-compliance will come about because someone has been awarded a rating of 0, 1 or 2, because, as you said, if they have a rating of 3, 4 or 5, they have every reason to display that. I am finding it really hard to understand what the cost to business is in saying to someone, 'Here's a sign, which we will give to you, and you have to put it up in a public place'. They are being inspected anyway. I am finding it really hard to understand why that is a significant cost or a burden to business. I can understand the cost if they get prosecuted for not doing it, and I understand that there is a cost to a business if they have to make their premises better in order to comply with the law—and businesses would have to do something about their premises if they were awarded a rating of 0, 1 or 2—but are you seriously suggesting that putting the sign up is a significant burden to business?

[276] **Mr Dyson:** We are not suggesting that the physical act of putting up a sign is a cost. What I am suggesting is that there is a cost to checking that the sign is still there and that it has not been removed.

[277] **Kirsty Williams:** Really?

[278] **Ms Simmonds:** There is also a cost if you have multiple entrances and you are quite a big premises and you are required to have a sign at every entrance. A big pub with a separate public bar and a restaurant will have to display signs in all those places.

[279] **Mr Brennan:** To ensure that they are compliant with the law, businesses have to put in place a range of procedures to ensure that they are regularly checking all aspects of their compliance. This will be added to that list of things that they have to check. On that basis, there will be a requirement to check continually. You spoke about there being no evidence of signs falling down. In a dynamic business environment, there are lots of changes to what you display such as pricing, posters on different things and other local authority initiatives—this one is food hygiene, but there are initiatives on age-restricted sales, crime and safety, and all sorts of different things—and when you have a compliance procedure in place you would have to add this to the list of things that you have to check. So, it is a burden. You might think that it is a very limited burden, but it is a burden on business.

[280] **Kirsty Williams:** My colleagues are bored to death of hearing me talk about Mrs Lally in the fish shop in Brecon. She is a one-woman band—she is on her own and runs it all by herself—she has been given a rating of 5, and she is very proud of her sign. I do not think that Mrs Lally, who is doing everything on her own, will have any difficulties checking the sign. She is standing behind the counter, looking at her window and her sign is still there. I feel sorry for people like Mrs Lally, because she has bigger competitors who have more resources but lower ratings and they are not forced to display their signs, and her small business is put at a disadvantage because other people are not co-operating, so it is not a level playing field. I am really surprised that you are not campaigning for all businesses to operate on a level playing field. I am very surprised.

[281] **Mr Brennan:** What I would say in response is that, as she has a rating of 5—and this is the rationale behind the whole scheme—she has a significant commercial advantage from being able to display that 5 rating in her window. That is a positive voluntary initiative. The whole concept of food hygiene ratings is that they are about incentivising good behaviour. The change that this Bill is talking about is penalising those who are not at that level by making them display something that is negative to their business. That is fundamentally changing the nature of the scheme. Unfortunately, this was developed in partnership with industry over a number of years as a voluntary, positive scheme to move things forward by bringing businesses along together, and the signal being sent by making it a statutory requirement is that it is penalising, by requiring display when things are not right. John has picked absolutely the right one: if it is down at the level of 0, then we should not be worried about whether they are displaying something; we should be worried about enforcing against them to ensure that they are actually safe for their consumers. So, we need to think about the consequences of turning a voluntary, positive initiative into one that is about penalising businesses.

[282] **Mick Antoniw:** I listened to the answers with, I have to say, a certain amount of incredulity. At the moment, for example, you have to display your employers' liability insurance and public liability insurance certificates—it is a criminal offence not to do so. Has anyone from among your members ever come up to you to say 'This is a burden on my business and I should not have to display this and do this'? If that can be done so simply, is there any reason whatsoever that this is not the simplest of administrative tasks?

[283] **Mr Dyson:** At the end of the day, this is just one more thing at a time when businesses are suffering. As far as we are concerned, we started out, as Shane said, with this voluntary scheme, which we think should be given time to bed in. Turning it into legislation changes the whole approach. Yes, you are right, there are signs that have to be put up, and this now adds another one, and then there will be another one, and where will it end? There has to be a point at which you say—and by the way, congratulations to Mrs Lally; I am pleased that she got a 5—that businesses have probably had enough of additional burdens.

[284] **Mick Antoniw:** We have heard a lot about the business interest—that is part of what we are here for, to hear your view—but do you not think that the right of a member of the public to have this information overrides that interest?

[285] **Mr Dyson:** I do not think that members of the public are being prevented from having the information; it is all on the Food Standards Agency website. All the information is there and has been right from the start of the scheme, and the public are entitled to look at that at any time. They can contact their local authority and get the information. There is no reason that they should not be able to get the information. What we are suggesting is that, if you allow a long enough settling down period when the scheme is in force, we believe that those businesses that are doing well will continue to do well, and those businesses that get a 0, a 1 or a 2 will find their businesses penalised through consumers not going in, and then they will start to improve, which is what this is about. It is about encouraging businesses to improve

their standards, and this is a good method for doing it.

[286] **Mick Antoniw:** Is it not the best way that the public know what the ratings are, so that people can make their choice on that basis, with simple information that is available to them at the point of supply?

[287] **Mr Dyson:** I would encourage businesses to display, in fairness, but it is entirely up to them. However, without a shadow of a doubt, if it is not there, consumers will ask why not. Most people will understand that if it is not there, there will be a reason, and they will factor that into their buying decision.

[288] **Ms Simmonds:** We also have to be careful that people really understand what this means, so that they do not go into a restaurant or a pub thinking that the rating means that they are going to get a particular level of service or a particular type of food served on that basis. I worry that the research says that, while 94% of the population wanted the display, 50% of the population did not know what it meant. When you questioned the Minister, she talked about having a swing board outside with the ratings on it, but there is a danger that people will think that it is like AA stars for a hotel, when it is not.

[289] **Mr Brennan:** Consumers expect one thing above all else, which is that the place they are going to is safe. They have that right to expect those premises to be safe. If they are not safe, and we are talking about 0-rated premises, and they are potentially at risk, it would be a strange thing for a consumer—the man in the street—to think that the place is not compliant with food safety and yet is still trading, but it is okay because there is a little sticker showing a 0 rating when, in reality, enforcement action should be taken against it.

11.00 a.m.

[290] The Scottish scheme, to which Brigid referred at the outset, basically says what is safe, what is not safe but is going through a period of improvement, and what has failed. That is how that scheme works; it is binary. I am not sure about the idea of having five different gradations of compliance. Consumers want to know whether things are safe or not; they do not necessarily need to know whether it is four-star safe or five-star safe, compared with other things. I guess that I am looking at it from the perspective of a business representing a bunch of businesses that do not handle a lot of high-risk food. These are businesses that sell packaged goods; they come into the premises in packaged form and are sold. There are risks and things can be done wrong, but those are pretty visible things, like the premises being incredibly dirty or rat-infested; those are the sorts of things that are non-compliant. If those things are happening, they should not be trading; it does not matter what star signs they have on the front of their shop.

[291] **Vaughan Gething:** I am a little perplexed. On the one hand, you are saying that the voluntary scheme, will, in time, drive consumer behaviour, because people will know if people are not displaying their stickers. Yet, on the other, you say that 50% of the problem is that the public does not know the scheme at present. How can consumer behaviour be driven by something people are unaware of? Surely, once it is mandatory and everyone displays the information, it really will drive consumer behaviour.

[292] **Mr Dyson:** The problem is that it is a complex scheme and it will take time for consumers to understand what it means. It will also need—we put this in our response—some effort to publicise the scheme, so that consumers understand it. We always believed that the Scottish scheme was the right one to go with, because it was the simplest and we felt that consumers understood ‘pass’ and ‘fail’. We engaged in this scheme with the Food Standards Agency because we felt that, if we managed to get 3, 4 and 5 to look as if you had passed, and the rest as if you had failed or needed some improvement, it would at least begin to look like

the Scottish scheme. It is still not right, but ‘pass’, ‘fail’ and ‘improvement required’ are very straightforward, and we think that, if consumers begin to understand it, it will drive consumer behaviour and business behaviour, which is what we are looking for, without providing any additional burdens.

[293] **Vaughan Gething:** I want to move on to a different point. In the British Hospitality Association response, on the question about whether you think that, in addition to food hygiene rating scores, some inspection reports should be routinely published on the FSA website or otherwise made available, you say ‘no’, and that summary reports can be misleading. The Association of Convenience Stores refers to the right of reply, and essentially says that it believes that the reply should be displayed next to the stickers. So, on the one hand, the BHA says ‘more information’, with the right of reply giving the view of business, but the ACS says ‘no more information’ about the rating and how it is being delivered. Is there not a big conflict between consumers having more information about the rating and having just the view of the business in addition to the rating, which is very simple to understand?

[294] **Mr Brennan:** They are different things. We take a different view to the BHA. I have no problem with food hygiene inspection reports being published and fully transparent. Consumers who genuinely want to look for everything—not just a summary—with regard to food hygiene compliance should be able to see that. The Freedom of Information Act 2000 allows them to apply for it and get it anyway, so why not just have it automatically available on websites and for those who want to research it? That is the position of ACS, and it is different to other organisations. My point is that we gave that response in the context of the scheme being up there. If you are forced to display a low rating, but you dispute that rating and believe that you have a right of reply, then you should be posting that alongside your rating. I am not happy with the idea of a mandatory display of rating, but if we are going to do it, then we should also include the response of the business. That is the position that ACS took.

[295] **Mr Dyson:** We believe that there should be a right of reply; we are not suggesting that there should not be a right of reply. What we are talking about are environmental health officer food hygiene reports, which can be long, and some authorities vary with regard to their approach, so there is potential for confusion and consumers not fully understanding what is being said in terms of risk. Therefore, we do not think that it is strictly necessary for all reports to be put up in their entirety. It is also an additional burden, and I am not sure how many local authorities would be keen to do that, because there is a cost there. However, at the end of the day, we do not believe that it is necessary to do that; there is the ability under the Freedom of Information Act 2000 to ask for this information, and journalists and so on do that.

[296] **Vaughan Gething:** I will ask one other brief question, on a different subject again. I have a question for the British Hospitality Association. In your consultation response, when asked whether food authorities should charge operators the reasonable cost of undertaking a re-inspection, your answer is ‘no’. You make it clear in the other part of your response that you do not believe that businesses should have to pay for a re-rating. Why should the public have to pay for a re-rating when a business requests it?

[297] **Mr Dyson:** It has always been part of the local authority’s responsibility to pay for food safety and food safety enforcement. This is about food safety enforcement, at the end of the day, and about compliance with the law. If a business has not complied, it should not have to pay for a revisit. It should be the responsibility of the local authority to carry out revisits for free. We do not see any reason why that should change. We also believe that, at the end of the day, it could change the relationship between the environmental health officer and the business. We do not think that money should get between the two. The relationship between

the business and the environmental health officer should be one of mutual respect, co-operation and of moving forward in improvement. The moment that money gets involved, things become too complex.

[298] **Mark Drakeford:** Are you familiar with the Norwich City Council scheme? It publishes every inspection in full on its website and committee members have been shown an example of how it does that—all premises are put on the website in the same way; they do it to a standard format. Do you know of it?

[299] **Mr Dyson:** I am aware of Norwich City Council, but I am not aware of that particular format.

[300] **William Graham:** Thank you for your evidence. Would you like to expand on your comment on the use of fixed-penalty receipts? You suggest that the money generated should go to the local authorities rather than to Welsh Ministers.

[301] **Ms Simmonds:** First, we have a concern about fixed-penalty notices per se and we have a huge concern that the proposal is for £200 with a reduction to £150 if it is paid within a certain period. If you drive in a yellow box, you get a fine of £60 plus three points, but if you fail to send your child to school, you only pay £50 to £100. On failure to display a notice, we would be much happier if it were a £50 fine with a reduction of £25 for early repayment. So, we are not keen on using fixed-penalty notices in this particular way.

[302] **William Graham:** My question was do you support it going to local authorities and, if so, why?

[303] **Ms Simmonds:** Given that local authorities are doing this work, we would prefer the money to go to local authorities, which could invest it in food hygiene. That would be better than if it disappeared into some massive pot—I am sure that it would be used in a good way—in the National Assembly. Also, and this relates to the point that has just been made on the cost of re-inspection, we feel that there needs to be some sort of national guidance, because there is a real concern that what would be considered a cost recovery to one local authority may be totally different to another. Without some form of national guidance, you open up the possibility of all sorts of other things being included by local authorities that face as many difficulties in this economic climate as do businesses.

[304] **Mr Brennan:** On the point about FPNs, I do not have an opinion on whether those should go to the National Assembly or to local authorities, but they are about penalising individuals on the ground, namely managers and supervisors in businesses—potentially owners, but in most cases, people who work in that business; it is about penalising them for going to work. They might have made a mistake and something might have gone wrong in what they do, but the idea of penalising the individual for something that is happening in the business sits uneasily with me. I know that it genuinely encourages a negative attitude among staff and employees about a range of things. I am talking mainly about alcohol-related issues and so on, where it is more regular and real for businesses. However, FPNs are easy to enforce by authorities, but they leave a sour taste among, not necessarily the owners of the businesses, but those who work in them and that is not a positive thing.

[305] **Mr Dyson:** We support what Brigid just said about the money going to local authorities. If you are going to encourage local authorities to improve food safety, then, if the money goes to them, there is a chance that it will go to the local environmental health department, and it might actually be usefully applied.

[306] **William Graham:** In the ASC's evidence, you comment on the validity of stickers. We have heard in previous evidence that the maximum time between inspections is around 18

months. The suggestion is that the date of the last inspection should be put on the notice. Would you support that?

[307] **Mr Brennan:** Support what, sorry?

[308] **William Graham:** The date of the last inspection being put on the notice—we know that it will only be for a maximum of 18 months.

[309] **Mr Brennan:** Yes. However, that relies on local authorities conducting their re-inspections in that timeframe. There is an issue about the frequency with which local authorities will actually get round to visiting premises to do those inspections. My fear, in representing a part of the food industry that is low down the priority list when it comes to inspections, is that, as we often find that two or three years pass before a re-inspection happens, we could end up with a rating that is relevant to three years ago. Whether or not it is displayed on the sticker is a small point. The bigger problem is that we might have very out-of-date ratings and so, particularly if they are negative, businesses will suffer for a long time.

[310] **William Graham:** I presume that this will be probably done by regulation, but how would you then suggest making a sticker obviously valid?

[311] **Mr Brennan:** It is difficult to say. We do not think that the stickers should be mandatorily required in any case. They need to be clearly identifiable as a stand for the scheme.

[312] **Ms Simmonds:** The information about when you had your last inspection will be on the website. I am not sure that you necessarily have to put it on the sticker as well.

[313] **Mark Drakeford:** For the record, Ms Simmonds, as well as having concerns about the level of fixed penalty fines, your evidence also suggests that the level 3 fines proposed for offences outlined in clause 9 of the Bill ought to be set at level 1, does it not?

[314] **Ms Simmonds:** Yes. We are opposed to fines for minor misdemeanours like non-display of signs. However, they should be at level 1; a level 3 fine seems excessive. I think that this is based on smoking regulations, which we have always argued are excessive. We believe that a level 1 fine—£200—would be better and less of a burden on businesses.

[315] **Rebecca Evans:** I am interested in the Scottish example that you gave. Does it incentivise businesses to do only the bare minimum to scrape through a pass, rather than strive for excellence? What are your views on how the consumer will know if they are going to an establishment with excellent hygiene, or if they are going somewhere that is just about okay?

[316] **Mr Dyson:** The Scottish scheme is based on a pass. There is no distinction between a very good pass and a minor pass—it is just a pass. That seems reasonable, because we are talking about compliance with the law. This is not about excellence; it is about compliance, whichever way we look at it. If you have passed, you have complied, and that is what most consumers are interested in—that you have passed and it is safe to eat there. If ‘improvement required’ is there, it indicates that some work will be carried out and then, presumably, the business will pass. ‘Failure’ is the one that most consumers will worry about. We expect that to be the biggest concern. However, we do not think that you need to have different grades of pass, because consumers are only interested in whether or not you pass.

[317] **Rebecca Evans:** Would not different grades of pass offer a competitive advantage to some small businesses?

[318] **Mr Brennan:** That is the positive of the five-ratings scheme. However, evidence of whether you have good food hygiene should be visible. The premises should be clean, well maintained and well looked after. Those are the main metrics of whether something is safe or not, from a consumer point of view. That is the way in which I would want to differentiate between businesses. My other problem, looking at it from the point of view of small shops, is that the things that you can do to be better than somebody else are not physical. They are about paperwork. That requirement worries me. You see a lot of ratings where the best ratings are those who have the best processes, procedures and paperwork rather than those that are thoroughly clean and are studiously doing these things, because those things are not easily inspected through this scheme. In particular, ratings of 4 and 5 can be hard to get for my members. Every local authority is different, but it can be hard to get ratings of 4 and 5, just because they discriminate against you because you are not doing the paperwork in the way they like, rather than looking at the fact that you are running a very clean and safe business that you take a great deal of pride in.

11.15 a.m.

[319] **Ms Simmonds:** We also have to be careful about consistency in the system. In Wales, 30% of premises are rated 0, 1 or 2. Only 9% of premises in Northern Ireland are rated the same and only 15% of premises in England. It suggests that there is a bit of inconsistency across local authorities with regard to the way they are looking at this. At the end of the day, from a business perspective, we really want consistency.

[320] **Rebecca Evans:** So would legislation provide that consistency?

[321] **Ms Simmonds:** No, I do not think it would. As John has said, you are either hygienic and comply with the law or you are not. If you go back to the whole reason for this, it is that we want food to be safer. I am not sure whether having this system makes it any safer. At the end of the day, you are inspected at a point in time and assessed as being safe or not and as compliant with the law or not. I am not sure whether, overall, this would have stopped any of the outbreaks of food poisoning we have had in the past. You are complying with the law, which means you have to be safe.

[322] **Mr Brennan:** The law imposes burdens on business; it does not impose burdens on the local authority in terms of delivering consistency. That is not the way in which the law is structured. Essentially, the parameters of the scheme would be the same as the current voluntary scheme in terms of how inspections are done and the framework for inspections, and it comes down to the individual officers and local authority departments to decide how they go about interpreting that. That inconsistency or variation will continue. The legislative framework is irrelevant to that aspect.

[323] **Rebecca Evans:** May I ask a question on a different issue?

[324] **Mark Drakeford:** Yes, and then we will have questions from Lindsay.

[325] **Rebecca Evans:** Thank you. The Bill does not require businesses to include their ratings on promotional material, such as takeaway menus, websites and so on. However, we have heard evidence that we should perhaps look at that. What is your take on that?

[326] **Ms Simmonds:** It is just another burden. There are some businesses that would choose to do that, but making it mandatory for businesses to put it on every single piece of paper would be a huge burden on them, particularly when they want to use their promotional material to display other messages.

[327] **Mr Brennan:** Promotional material is very important for my members. Shops such as

Spar or Nisa are independent businesses, but they are part of a group. Those leaflets are produced by the group on behalf of a whole range of small businesses. Therefore, if those leaflets had to be different for every single one of the shops they represent, it would become unworkable for that group. The production of those leaflets would no longer be viable and it is very important to those small businesses to be able to advertise to their local customer bases what they are selling and the prices in a market where, as you well know, the likes of Tesco and everyone else tend to dominate. It is an important part of our armour that would be potentially taken away by such a requirement.

[328] **Lindsay Whittle:** Food and drink come into Wales from other countries, not only within Britain but Europe. What are your views on the cross-border issue? I do not know whether the wonderful pint of beer I am drinking in a Welsh pub is fine, but if the Cornish pasty is not so good, perhaps I would not be very happy. Do you have any views on that?

[329] **Mr Dyson:** Well, if you make a Cornish pasty in Wales—we will call it a pasty—the chances are that it was made on the premises and is therefore safe. It should not be a problem. At the end of the day, to be more serious, where people buy their food is clearly important to them and they should be checking the standards of where they are purchasing their food. Most food manufacturing businesses—large food manufacturers—comply with quite significant standards. There is a global food safety standard. Therefore, the whole due diligence process of checking standards of food suppliers is fairly well established in many businesses these days and many small businesses that buy from wholesalers are in a position to take advantage of that because many wholesalers are also buying from larger suppliers. Therefore, there is a good chance that the food is safe. It is less of a problem than you might think.

[330] **Ms Simmonds:** The BBPA spends an awful lot of money on beer production safety through Campden BRI. We have a contract that covers all our breweries, and we have a lot of checks all the time to make sure not only that we are compliant, but that all the beer that you drink is safe, and it does not matter whether you are in England, Wales or Scotland, as all are covered by the same scheme.

[331] **Mr Brennan:** According to the logic of the scheme, it needs to be about the premises and how they are maintained rather than being weighted towards the products. If there is a dimension of that, then it should be a small dimension, because it is about changing what the people who own and run the physical premises are doing with regard to food safety rather than the stuff they have in them.

[332] **Lindsay Whittle:** I should have said, Chair, that other pasties are available. *[Laughter.]*

[333] **Mark Drakeford:** I am not sure that I thanked you all at the beginning, as I should have done, for the written evidence that you have supplied to us, for which we are grateful.

[334] I want to run quickly through a number of points that you have made, to make sure that we have them on the record in the oral session. You are welcome to answer these relatively briefly if you like, because we have the written evidence to go alongside your answers.

[335] A basic proposition behind the whole Bill is that it will strengthen food hygiene standards in stores. Is that a proposition that you accept?

[336] **Mr Dyson:** We do not accept the premise of the requirement in the Bill to make display compulsory.

[337] **Mark Drakeford:** The Minister has introduced, beyond the scope of the voluntary

scheme, business-to-business food transactions within the scope of this Bill. Is that an extension that you welcome?

[338] **Mr Dyson:** No. We do not see that that will make that much difference. At the end of the day, the aim of the food hygiene rating scheme was about where consumers go, and business-to-business transactions is not where consumers go.

[339] **Mark Drakeford:** We have heard evidence from others that the appeals system proposed in the Bill might be strengthened if the appeal was not to the same local authority that awarded the rating in the first place. Is that a proposition that you would support?

[340] **Ms Simmonds:** We have real concerns that the appeal will go to the same local authority that dealt with the issue in the first place. We think that serious consideration needs to be given to having an independent appeals system.

[341] **Mark Drakeford:** The Bill proposes a new duty on food businesses to inform someone verbally of their food hygiene rating if requested. Is that a proposition that you think is straightforward?

[342] **Ms Simmonds:** I think that that is a huge burden on business, because you have to make sure that all your staff are trained. In pubs in particular, you will have a vast array of people working part time and you will have students working there during the summer, so that training requirement will add a burden.

[343] **Mark Drakeford:** Thank you very much indeed for those helpful—

[344] **Ms Simmonds:** Could I make just one final point?

[345] **Mark Drakeford:** I was just about to offer you the opportunity. Thank you for going through those things in that way; it is helpful to have those views on the record. I will just check whether any Member has any final questions to ask you. We do have just a few minutes left to us in this session, so I am very happy now to offer all of you an opportunity, if you need it, to address any points that have not come out as strongly as you think they ought to have done during the session or issues that we have not managed to cover at all. I am very happy for you to draw those to our attention now.

[346] **Mr Brennan:** From my point of view, I would reiterate that we have a positive voluntary scheme that brings local authorities and businesses together in what is, in a sense, a common cause. Introducing a statutory requirement and penalties will skew things away from businesses feeling that this a scheme in which they are participants, because it is voluntary, and it will potentially do more harm than good in an area where we are making good, positive progress.

[347] **Ms Simmonds:** There are two things that I want to say. Something that we did not cover is the power of re-entry. We do not believe that there should be a separate power in this Bill to enable enforcement officers to enter premises, because they have that ability anyway under the hygiene laws.

[348] In England, there is a requirement by the English Parliament that, if the Government imposes a regulation on business, it should remove another. That is not a requirement in Wales, but we would certainly like to see what sort of regulations might be removed from businesses if you are going to impose others on them.

[349] **Mr Dyson:** From our point of view, the consistency issue is critical. There is a brand standard that the Food Standards Agency produced for the food hygiene rating scheme, and

we would like to see that being maintained throughout Wales. It is a voluntary scheme, and we would not want to see any deviation from the brand standard. We have concerns about the whole issue around consistency. I do not believe that hygiene standards in Wales are any worse than anywhere else, but how can there be 30% on 0, 1 and 2 and 9% in England on 0, 1 and 2? It does not seem quite right. That is a bigger issue for us to return to.

[350] **Mark Drakeford:** Thank you all very much for travelling some distance in some cases to help us today. It has been very valuable for us. You will get a transcript of this morning's hearing in a little while. If you have a chance to look at that and see that any corrections need to be made to it, we would be very grateful to hear from you on that as well. With that, thank you very much indeed.

11.26 a.m.

Papurau i'w Nodi Papers to Note

[351] **Mark Drakeford:** Rwy'n mynd i wneud eitemau 5 a 6 cyn yr egwyl. O dan eitem 5, mae rhai papurau i'w nodi. I ddechrau, dylem nodi a chytuno'r cofnodion ar gyfer y cyfarfodydd a gynhaliwyd ar 28 Mehefin a 4 Gorffennaf. Gwelaf eich bod yn hapus gyda'r cofnodion. Rwyf hefyd eisiau nodi'r papurau sy'n ymwneud â chyfarfodydd diweddaraf y grŵp cyfeirio ar yr ymchwiliad i ofal preswyl i bobl hŷn. Mae'r papurau hynny ymysg y papurau ar gyfer heddiw. Rwyf yn siŵr, ar ran y pwyllgor i gyd, y byddech am i mi nodi diolch y pwyllgor i'r grŵp am ei waith caled a'i gyfraniad gwerthfawr i'r ymchwiliad dros y tymor diwethaf. Rwyf am roi hynny ar glawr.

Mark Drakeford: I will just move on to items 5 and 6 before the break. Under item 5, there are some papers to note. To begin, we should note and agree the minutes of the meetings held on 28 June and 4 July. I see that you are content with the minutes. I also wish to note the papers relating to the latest meetings of the reference group on the inquiry into residential care for older people. Those papers are among the papers for today. I am sure, on behalf of the entire committee, that you would want me to note the committee's thanks to the group for its hard work and valuable contribution to the inquiry during the last term. I wanted to put that on the record.

11.27 a.m

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

[352] **Mark Drakeford:** Cynigiaf

Mark Drakeford: I move that

yn unol â Rheol Sefydlog Rhif 17.42(vi) fod y pwyllgor yn penderfynu cwrdd yn breifat ar gyfer gweddill busnes y cyfarfod.

the committee resolves to meet in private for the remainder of the business of the meeting in accordance with Standing Order No. 17.42(vi).

[353] A yw'r Aelodau i gyd yn fodlon? Gwelaf eich bod. Felly, rydym yn awr yn mynd i sesiwn breifat ond bydd egwyl am bum munud cyn i ni ddechrau ar hynny. Felly, gofynnaf i chi fod yn ôl yma am 11.35

Are all Members content? I see that you are. Therefore, we will now go into private session, but we will break for five minutes before we begin. I therefore ask you to be back here by 11.35 a.m.

a.m.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 11.27 a.m.
The public part of the meeting ended at 11.27 a.m.*