



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

## **Y Pwyllgor Plant a Phobl Ifanc** **The Children and Young People Committee**

**Dydd Iau, 25 Ebrill 2013**  
**Thursday, 25 April 2013**

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

These 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**

Angela Burns	Ceidwadwyr Cymreig Welsh Conservatives
Keith Davies	Llafur Labour
Rebecca Evans	Llafur Labour
Bethan Jenkins	Plaid Cymru The Party of Wales
Ann Jones	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Lynne Neagle	Llafur Labour
David Rees	Llafur Labour
Aled Roberts	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Simon Thomas	Plaid Cymru The Party of Wales

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

Ann Bell	Rheolwr Datblygu, Cymru, Adoption UK Development Manager, Wales, Adoption UK
Dr Sam Clutton	Swyddog Polisi, Swyddfa Comisiynydd Plant Cymru Policy Officer, Office of the Children's Commissioner for Wales
Sarah Coldrick	Cynghorydd Cyfreithiol, BAAF Cymru Legal Advisor, BAAF Cymru
Gerry Cooney	Prif Weithredwr, Cymdeithas Plant Dewi Sant Chief Executive, St David's Children Society
Maureen Ingham	Cydlynnydd, Consortiwm Asiantaethau Mabwysiadu De Cymru Co-ordinator, South Wales Adoption Agencies Consortium
Melanie Jones	Rheolwr Gweithredol Mabwysiadu a Maethu (Gogledd Cymru) Barnardo's Cymru Adoption and Fostering Service Operational Manager (North Wales), Barnardo's Cymru
Wendy Keidan	Cyfarwyddwr, BAAF Cymru Director, BAAF Cymru
Carolyn Oliver	Rheolwr Datblygu Mabwysiadu, Barnardo's Adoption Development Manager, Barnardo's
Joan Price	Dirprwy Gyfarwyddwr, Cymdeithas Plant Dewi Sant Deputy Director, St David's Children Society



[6] **Ann Jones:** Also, could we have relatively short questions and answers so that we can try to get all the questions in? I will stop babbling now and ask the first question.

[7] You raised concerns in your written evidence that the Bill brings together duties and functions into a single act, whether it is related to a child or an adult. Are you attempting to suggest that the Welsh Government should bring forward a separate Bill for children?

[8] **Mr Towler:** I am trying to point out that the UN Convention on the Rights of the Child makes it really explicit that when legislation, policy or practice guidance is being produced, the best-interest principle—article 3 of the convention—that the best interests of children and young people need to be paramount needs to be within that legislation. In the way in which the Bill is currently drafted, I do not feel that sufficient regard is being given to the convention. I also think that that runs rather contrary to the Deputy Minister's intention. So, I think that this is a drafting issue; that is what I am trying to get to the bottom of.

[9] **Aled Roberts:** Yn eich tystiolaeth, rydych yn awgrymu bod y gwelliannau i ddeddfwriaeth bresennol yn ymwneud yn fwy â chysoni'r sefyllfa rhwng oedolion a phlant, yn hytrach na'u bod yn cyd-fynd â'r confensiwn. Yr ydych yn sôn am adran 144 yn benodol, ond a oes unrhyw enghreifftiau eraill sy'n eich pryderu chi? **Aled Roberts:** In your evidence, you suggest that the amendments to current legislation are more to do with aligning the situation between adults and children, rather than aligning with the convention. You mention section 144 specifically, but are there any other examples that concern you?

[10] **Mr Towler:** I missed the beginning of that because I was not properly tuned in. However, yes, I do. What I tried to raise in the submission—and I used the example on the radio this morning of disabled children and young people—was that when you are trying to align current procedures for children with a new framework for vulnerable adults, which is really important work in terms of the work that needs to be taken forward, we begin to overlook the best-interest principle of the child. So, the issue in relation to disabled children and young people, which I raised by way of example, was that, currently, the Children Act 1989 provides very explicit protection for disabled children and young people through the children in need definition. So, by removing that definition with this Bill, with a view to moving towards assessment—which would be great—and eligibility criteria as a test to make sure that people get the care and support that they need, without the substance of the eligibility criteria, it is very difficult to ascertain whether the Bill, as currently drafted, will deliver the outcomes that the Deputy Minister intends. It leaves too many unanswered questions for me, because we need to know what the eligibility criteria look like.

[11] **Simon Thomas:** Ni fydddech yn disgwyl gweld y meini prawf hynny ar wyneb y Bil, serch hynny. Nid yw hynny'n arferol. Fel arfer, bydddech yn cael yr hyn sydd gennych yn y fan hon, sef y pŵer i wneud rheoliadau. A fydddech yn croesawu cyhoeddi'r meini prawf mewn ffurf ddrafft wrth i ni drafod y Bil? A fyddai hynny'n helpu i leddfu'ch pryderon chi? **Simon Thomas:** You would not expect to see those criteria on the face of the Bill, however. That is not usual. Usually, you would have what you have here, that is, the power to make regulations. Would you welcome the publication of those criteria in draft form as we discuss the Bill? Would that help to alleviate your concerns?

[12] **Mr Towler:** Yes, it would help to alleviate the concern. To see it on the face of the Bill and have that explicitly there would go some way to alleviating the concern that I am raising about the UN convention. Sam, would you like to add to that?

[13] **Dr Clutton:** The intention of the Bill, as set out in the explanatory memorandum, is

to integrate and align arrangements so that there is a common set of processes for people. So, the intention of the Bill itself is flawed in terms of bringing together procedures from existing legislation for children and young people and aligning them with new arrangements for adults, instead of on the basis of the consideration of the best-interest principle. The ability to look at the eligibility criteria would help in terms of what may or may not be lost for children. It remains that under the 1989 Act, to go back to Keith's example, disabled children are protected in statute and the Bill does not afford that special protection.

[14] **Simon Thomas:** It would possibly be regulation-making powers that would do that. However, it is not there on the face of the Bill.

[15] **Dr Clutton:** No, and it does currently exist in statute.

[16] **Ann Jones:** Aled, have you finished?

[17] **Aled Roberts:** Yes.

[18] **Ann Jones:** Angela is next.

[19] **Angela Burns:** I think that you have already discussed your views on the Bill's explanatory memorandum with regard to the due regard assessment. I will ask a slightly different question. I was much taken by a comment made by the Deputy Minister when she said that children cannot be seen in isolation from the families and communities that they are part of and that her Bill, via the people model, does much to enforce this notion. I get the sense that that is exactly what we are trying to do. Are you comfortable with your position of trying to put children way out in front of vulnerable adults and everybody else, because it looks like this is an attempt at a cohesive strategy? Basically, why is that so bad?

[20] **Mr Towler:** The vision is not bad. The issue is whether the legislation, as currently drafted, continues to afford the protection to children and young people by virtue of their age and vulnerability in the way that currently is the case. So, I do not think that the vision is so bad. In fact, I have had some really positive meetings with the Deputy Minister and officials, and I am completely in agreement with some of the statements that Gwenda Thomas has made. One of the issues for me is making sure that we do not undermine the protection that is already afforded to children and young people in implementing a piece of legislation that takes that vision forward. Taking that back to the UN Convention on the Rights of the Child and looking explicitly at the words on the Bill, those are the words that raise my issues as the commissioner holding Government to account in relation to how it works for the convention. Actually, not having explicit references to the convention and not ensuring that those things are protected while we move towards a family model, in the way in which she articulates, concerns me. Essentially, we know the narrative, because the Deputy Minister has explained that well and we have a set of words in relation to the Bill, but we have not seen the child-rights impact assessment that, presumably, officials will have done in relation to this Bill. If we had that, it might help to alleviate some of the concerns that I am raising.

[21] **Angela Burns:** Have you asked for it?

[22] **Mr Towler:** No, but I am going to. It would be a really good thing if you asked for it too, because that will help the scrutiny process for this Bill. That might begin to alleviate some of the concerns that I am raising. As we have just the Bill and the words on the paper at the moment, that is why I am raising the issues that I am raising.

[23] **Angela Burns:** Other than referencing UNCRC on the face of the Bill, what other changes would you like to see that would address the concerns that you raise?

[24] **Dr Clutton:** If a full consideration of the application of the due regard duty was undertaken in relation to the Bill and if changes were made in relation to where greater effect is not given to the UNCRC currently through the Bill and to where there is retrogression—for example, in relation to disabled children and young people—that would address many of the concerns that have been set out by the commissioner.

[25] In relation to family support and prevention, we already have practice models in Wales, such as Team Around the Family and Families First. They are operating. There are other Welsh Government flagship programmes. In order for those to operate with whole families, we do not need legislative change. Those practice models are already in place. So, I do not think that the Bill is imperative in terms of allowing us to work in a whole-family way.

[26] **Ann Jones:** The committee received papers late last night, and new members may not have seen them. It is a technical briefing, so we will make sure that that is circulated again. We have asked that question.

[27] **Lynne Neagle:** According to this paper that we have, this UNCRC impact-assessment was laid alongside the Bill anyway.

[28] **Angela Burns:** I must admit, Chair, that I do have it and I have read it. It seems to be very balanced and it points out very clearly that there is a fine line between your position and the Bill's position.

[29] **Ann Jones:** As we have had a change in the membership of the committee, we will re-circulate that and we will see where we go from there.

[30] **Rebecca Evans:** On the detail in the Bill, particularly with regard to access to services, section 14 provides that anyone with parental responsibility for a child under 16 can refuse an assessment for that child. Perhaps you could expand on your concerns about that and let us know whether, based on your written evidence, you would like to see that section of the Bill removed or amended in any way.

[31] **Mr Towler:** That is a really important point. It is one of the essential issues in relation to the best-interest principle, and that is one of the areas where some sensitivity and balance are required, in terms of delivering this, to ensure that we get the right outcomes for vulnerable children. If a parent refuses consent to assessment, does that cut across the best interest of the child? That is a really interesting dilemma. The Bill also talks about children under the age of 16 being able to voice their refusal to assessment. This is about good parenting. It is about responsible adults making sure that the boundaries for children are in place and ensuring that their health and wellbeing is progressed. Do we really want to see a situation where refusals of assessments could cut across the best interests of a child in relation to care and support needs? Maybe Sam would like to add to that.

[32] **Dr Clutton:** I wish to look at this in relation to the United Nations Convention on the Rights of the Child. Within the Bill, this is presented as affording a stronger voice and control to children. However, the convention is clear that article 12 is there to support the protection of children and young people, and not to undermine the best-interest principle. We do not believe that it is in the best interests of children for them to be able to refuse an assessment of their care and support needs.

[33] **Ann Jones:** I have loads of Members with their hands up. This is obviously a topic of interest. We will have Angela first, then David and Simon.

[34] **Angela Burns:** I will address this very quickly, although I am trying to flick through the papers—there are so many of them. Last night, I read a section of the Bill that gives the

local authority or a designated organisation the ability to override the refusal of a child or the refusal of a parent to allow an assessment. Does that not give you the safeguard that you are looking for?

[35] **Aled Roberts:** Only in two cases.

[36] **Dr Clutton:** The ability to override is where it is believed that a child may be at risk of harm. So, that would be in relation to child protection issues, not necessarily in relation to promoting wellbeing. That goes against the spirit of the Bill, in terms of early prevention and promoting wellbeing.

[37] **Angela Burns:** Thank you for that clarification.

[38] **Mr Towler:** I wish to add something to that. As an office, we have been doing some work around child rights impact assessments in relation to the Bill from my perspective. Would it be worth us sharing with you the impact assessment that we would draw up in relation to the legislation? It would give you some sense of what we are thinking and the way in which the Welsh Government is thinking, so that we can get the right balance to move this forward.

[39] **Ann Jones:** Okay, thank you. Dai has a supplementary question.

[40] **David Rees:** That was my question.

[41] **Ann Jones:** Okay, I will come back to you, as Becks still has some more questions in her section. I will now bring in Simon.

[42] **Simon Thomas:** My question is specifically on this issue, and you have addressed part of it in response to Angela. Is there not a balance to be struck between conflicting rights here? There is the right of a child to refuse. You are saying that that should not trump the right to look after the best interest of the child. However, there are other rights in other legislation about family life and the best interest of the child in the round. It is very difficult to write those on the face of the Bill, is it not? Again, a lot of this will be done in regulations and guidance. Are you really saying that the Bill, as drafted, is not capable of delivering this, but as long as the guidance is right further down the line—

[43] **Mr Towler:** The guidance and the eligibility criteria are absolutely critical to this, are they not? One of the struggles that I am having—or that we are collectively having—is trying to put the meat on these bones. It is very difficult to take on trust that that balance will be struck, when you look at the drafting. It is about making sure that, through this scrutiny process, we debate this sufficiently well to make sure that the balance is met. At the moment, I am not comfortable that we have got there.

[44] **Ann Jones:** Rebecca, I believe that you have some more questions before I bring in David.

[45] **Rebecca Evans:** What is your view on the provision of the Bill for local authorities to be able to charge 16 and 17-year-olds for services?

[46] **Mr Towler:** Considering the United Nations Convention on the Rights of the Child, and the rights and entitlement to care and support services, should we really be charging 16 and 17-year-olds for care and support? The answer is 'no, we should not'. Maybe Sam would like to add to that. I see that she does not.

9.45 a.m.

[47] **David Rees:** Good morning. Going back to the question in your report about the refusal of assessments by a parent, effectively, you indicated that it was under certain conditions. The safeguards as I read them in section 13 for 16 and 17-year-olds actually state that if the local authority is satisfied that having the assessment would be in the child's best interests, then it can override that refusal. So, that is there, but it is not for those under the age of 16. Would you prefer that type of statement for those under the age of 16 as well, because nearly everything else is there? Is that the only safeguard that you are looking at?

[48] **Dr Clutton:** That would be helpful, in terms of progressing things, but fundamentally the principal is that if a child is referred and assessed as having a care and support need then we know, in terms of promoting the wellbeing of children and safeguarding them, that the best thing is for services to become involved with that family. At the moment, parents are able to refuse consent for that information to be shared and for those assessments to take place, and the Bill affords that same right to children.

[49] **David Rees:** As I say, if a refusal is undertaken the authority can actually have the assessment in the child's best interests to ensure that it meets its duties under section 12. So, it is saying that the child's best interest is there, and that the authority has a duty for that, but is that sufficient for you, because it is actually there?

[50] **Mr Towler:** It comes back to Simon's point about what follows in terms of the regulation and eligibility criteria, which procedures deliver the best outcome for the child, and what local authorities, social services, education and health departments will be doing in response to that process. That is the nitty-gritty of what we are trying to get to here. The vision that the Minister sets out, which we have talked about before, is the right one, and we need to make sure that this is sufficiently well balanced and argued on the face of the Bill to deliver what you suggest. I suppose that I am raising a question about it, and I am raising the question in the hope that we can strike that balance in the right way.

[51] **David Rees:** Is there some concern that having criteria on the face of the Bill will always open up opportunities—you may actually have missed some criteria, or need to amend them, and so the guidance is the area where those criteria should be?

[52] **Mr Towler:** Maybe that is an issue for lawyers to be very clear about in the drafting. I am not a lawyer. What I am raising is the issue of making sure that we do not miss this trick.

[53] **Aled Roberts:** There is, however, on the face of the Bill a best-interests test, and a distinction between 16 and 17-year-olds and those under 16. There is an additional threshold, if you like, for 16 and 17-year-olds, which is that they must lack capacity, in addition to the best-interests test, before the decision can be overridden. Would you see any justification for dealing with 16 and 17-year-olds differently to those under the age of 16, if we accepted the principle of best interests?

[54] **Mr Towler:** The UN Convention on the Rights of the Child would not agree with that at all. Let us remember that the Rights of Children and Young Persons (Wales) Measure 2011 means that Ministers are putting themselves under an obligation to have regard to the convention, and the convention would find that unacceptable.

[55] **Ann Jones:** David, are you happy?

[56] **David Rees:** Could I just move on? My next question is on the national eligibility framework. Is it a realistic approach?

[57] **Dr Clutton:** I think that, at the start of the process, when the White Paper was

published, Keith took the position that eligibility criteria could assist in consistency of services and the service offer to children and young people across Wales. However, the way in which the two-stage process of assessment operates as set out in the Bill causes some concern that, actually, what this is about is gatekeeping. The Bill does talk about the control of demand on services, which we know is a real issue for us, so that is part of the problem.

[58] **David Rees:** Should it be on the face of the Bill? Yes or no.

[59] **Dr Clutton:** Do you mean the eligibility criteria?

[60] **Mr Towler:** Yes, they should.

[61] **Dr Clutton:** Yes, we should offer the legal protections on the face of the Bill.

[62] **Mr Towler:** That is part of what we are trying to get to, which is about what drives the improvement in outcomes that the Government wants to see for children and young people as well as vulnerable adults. That outcomes statement is a really important part of that. The way in which that should be articulated for children and young people should see the UNCRC written through the whole thing in terms of rights and entitlement. That is the commitment that the Government has already made, in a sense. So, it has to be on the face of the Bill.

[63] **Bethan Jenkins:** I am finding it difficult to understand how it could be on the face of the Bill, because that will be quite detailed. If you needed to amend that, it would take quite a long time to go through the legal processes. Is it not more realistic to have that in the main part of the legislation as opposed to it being on the face of the Bill?

[64] **Mr Towler:** Possibly, but the scope of this Bill is vast, is it not? This is a transformation agenda that the Government is taking us through in terms of social services and wellbeing for children, young people and vulnerable adults. The vision that is set out means that we are coping with a really big Bill in terms of scope. Making sure that we do no damage to the protection that is already there in legislation for children and young people requires some serious thinking. I am not saying that thinking has not happened, but I am not convinced yet that that protection is afforded to children in the way that we currently understand a concept of children in need, for example, that is set by the Children Act 1989. That principle has driven everything that we have done in relation to safeguarding and protecting children since that point. I do not want to see an unintended consequence that moves us back from that position. So, if there is a drafting issue, and it is a complex one, it has to be made right, because we cannot afford not to get this right for children and young people.

[65] The convention would say that there is some danger that this could be a retrogressive step. We are already in a position where certain safeguards in legislation in the UK protect children and young people in relation to safeguarding. You could interpret the way in which it is currently drafted as our taking a step back from that. That is the point that I am raising. The convention would say, 'Whatever you do, make sure that you don't take a retrogressive step'. It might be a very complex drafting process, but we need to get it right.

[66] **Ann Jones:** Aled and Lynne have questions on this point.

[67] **Aled Roberts:** You could take a clear view, as could the legislature, that, at the time that the Bill is passed, the draft regulations were in place so that you could make that judgment.

[68] **Mr Towler:** Yes, absolutely. I cannot make the judgment at the moment. So, if we

had the regulations and we had some clarity on that, then we could make that judgment. However, I cannot make it at the moment.

[69] **Lynne Neagle:** Has your office had any discussions with the Deputy Minister as to what the national eligibility criteria will look like?

[70] **Mr Towler:** We have had some initial discussions and have worked quite closely with officials in developing and working with their thinking. The process up to this point has been a very productive one and we have made some pretty robust input into those discussions. Once again, the vision that the Deputy Minister has set out is one that we are very much in agreement with. I see no reason why that dialogue will not continue through this scrutiny process.

[71] **David Rees:** In light of what you have just said, would many of your objections be removed if you saw that set of regulations?

[72] **Mr Towler:** That would make me feel much more comfortable in being able to support the Government in what it intends to do. In other words—and this goes back to Bethan’s point—some of the detail that goes behind what the Bill is setting out is what we need to make sure that we can do a really good scrutiny job in relation to children and young people.

[73] **David Rees:** So, it is not all about the Bill, it is—

[74] **Mr Towler:** Although I know that we are asking a lot of officials in this, it is important. We need to see that level of detail.

[75] **Ann Jones:** This is a process issue, is it not? That is, the legislation goes through and then the regulations follow behind it. This is something that Members across the Assembly have raised. I will put my hand up and say that I have experience of passing law and then the regulations having to follow a little later on. That is fine; we are getting there. That is a process issue. We have to scrutinise and consider the Bill in the best interest of what is in front of us, which, I appreciate, is difficult. However, it is a process issue that the majority of us will have struggled with at the same time.

[76] **David Rees:** May I ask a question?

[77] **Ann Jones:** Yes, but we need to make some progress, as well.

[78] **David Rees:** It is important, in the sense that regulations explain how you will implement the Bill. The drafting is critical in ensuring that it cannot be interpreted in other ways. Is the current drafting appropriate in your view? Regardless of what regulations follow, is the drafting appropriate? Drafting meets the policies, which is why we are here.

[79] **Mr Towler:** That is the question that I ask in my evidence to you, in terms of scrutiny. I am raising that question. My job is to stand up and speak out on behalf of children and young people; that is my focus on this. I am raising a question about whether the drafting meets that level of ambition, so that children and young people get the outcomes that all of us want to see. That is what I am asking you.

[80] **Ann Jones:** Okay. We need to try to make some progress. Keith will ask the next question.

[81] **Keith Davies:** Fe wna f i ofyn fy **Keith Davies:** I will ask my question in nghwestiwn yn Gymraeg. Rydych chi wedi Welsh. You referred to the way in which the

cyfeirio at ddull Llywodraeth yr Alban o geisio datblygu deddfwriaeth yn ymwneud â darparu gwasanaethau eiriolaeth. A ydych chi'n credu y dylem ni gael deddfwriaeth ychwanegol, neu a allwn ni gynnwys hyn yn y Bil fel y mae yn awr?

Scottish Government has sought to take forward legislation regarding advocacy provision. Do you think that we should have additional legislation, or could we include it in the Bill as it stands?

[82] **Mr Towler:** I was disappointed not to see words like 'independent professional advocacy' for children and young people on the face of this Bill, or in this Bill. You will be aware that I conducted a review of independent professional advocacy for looked-after children, care leavers and children in need. I am about to publish an anniversary report on that, which will focus on the commissioning arrangements for advocacy, having done a piece of follow-up work this year to see whether things have improved in relation to advocacy. It would be fair to say that we are at a standstill position. Things have not really moved; in some areas they have, but in others, they have fallen back. Next year, I will do a full review of 'Missing Voices' in relation to advocacy provision. In terms of the voice of children and young people, and vulnerable children and young people, independent professional advocacy is a safeguarding tool. I would expect to have seen that in here. So, I think that there is a drafting issue in relation to recognising that children's voice and advocacy are very important. I do not see that. Sam, do you want to come in there?

[83] **Dr Clutton:** The Bill restates section 26A of the Children Act 1989 in relation to representation for children within proceedings et cetera, but it does not use the term 'independent professional advocacy' in the way that the 1989 Act does. More generally, because of the stated intentions of the Bill and the vision, as explained to the Deputy Minister in discussions with Keith, of a stronger voice and real control being key to this, we anticipated seeing more on the face of the Bill in relation to that.

[84] **Simon Thomas:** On that issue, I think that you would agree that there has been significant improvement in independent advocacy for children in Wales over the last few years. Your own post is part of that. So, are you saying that the Bill as drafted does not deliver what has already been delivered in policy terms, in effect?

[85] **Mr Towler:** In effect, yes, that is what I am saying. It is missing a trick in driving the voice, choice and control issue and recognising what article 12 of the convention is all about, why Wales appointed the first Children's commissioner and why we place great store in relation to independent professional advocacy. We are not selling that sufficiently well in this Bill as a vehicle by which the safeguarding of children is secured. In other words, we have a Bill in place here that listens to service users in the way in which we want them to. Independent professional advocacy is a key part of that. You are right to say that things have improved; we have advocacy in all 22 local authorities. The issue is whether we have sufficient advocacy in place.

[86] **Ann Jones:** That is debatable, but we will not debate that today. Keith, had you finished?

[87] **Keith Davies:** Yes.

[88] **Ann Jones:** Okay. Simon, you are next.

10.00 a.m.

[89] **Simon Thomas:** Mae rhan 6 y Bil yn ymwneud â phlant sy'n derbyn gofal a phlant sy'n cael eu lletya. Roeddech yn dweud yn

**Simon Thomas:** Part 6 of the Bill relates to looked-after children and accommodated children. You said very clearly that you are

glir iawn eich bod yn pryderu nad yw'r Bil fel y mae yn cwrdd ag amcanion polisi'r Llywodraeth. Rydych yn cyfeirio at y ffaith bod y Llywodraeth wedi dweud ei bod eisiau cryfhau'r ffordd y mae'n delio â phlant sy'n derbyn gofal a phlant sydd mewn llety. Rydych yn dweud nad yw'r Bil yn cyflawni hynny. A oes gennych unrhyw awgrymiadau penodol ynglŷn â sut y gellid gwella'r rhan hon o'r Bil i gyflawni'r amcanion hynny?

concerned that the Bill as it stands does not fulfil the Government's policy objectives. You refer to the fact that the Government has said that it wants to strengthen how it deals with looked-after children and accommodated children. You say that the Bill does not achieve this. Do you have any specific suggestions as to how this part of the Bill could be improved to fulfil those objectives?

[90] **Mr Towler:** The First Minister made it absolutely clear that the Bill would include specific provisions for looked-after children and care leavers. That was a very welcome intervention from the First Minister. While the intention to clarify duties may lead to improvements to the Bill, it is a bit of a missed trick as it does not take the next step in thinking through what support we could put in place for looked-after children and young people.

[91] For example, Ken Skates's 'When I Am Ready' scheme has specifically looked at the transition from care to independence and at the massive issues that looked-after children face in that transition. We are not seeing that commitment coming through in the Bill, and that is a concern. I think that Ken Skates hit the nail on the head when he identified what the issues were for care leavers and the anxieties that children in the care system have. When you think about accommodation, short breaks and all of those types of issues for looked-after children, particularly the issue around transition, it feels as though we have missed a trick. The Bill is not strengthening in the way that I thought it would.

[92] **Simon Thomas:** Mae hyn yn rhywbeth sydd wedi codi eisoes y bore yma, sef yr hyn sydd ar wyneb y Bil a'r hyn sy'n debyg o ddilyn yn y rheoliadau, gan fod pwerau i wneud rheoliadau yn y rhan hon o'r Bil hefyd, a'r hyn sydd yn y cyfarwyddiadau y mae'r Gweinidog yn gallu eu gwneud. Mae nifer fawr o gymalau yn y Bil yn rhoi'r hawl i'r Gweinidog wneud rheoliadau. Rydych chi eisoes wedi dweud y byddai'n fuddiol gweld rhai rheoliadau ar ffurf ddrafft wrth inni drafod y Bil hwn. A ydych yn hyderus bod y cydbwysedd yn gywir rhwng y gallu *scrutiny* y bydd gan y Cynulliad a chithau wrth fynd ymlaen—rydych yn gwneud y rheoliadau hyn drwy'r broses negyddol, y broses gadarnhaol neu'r broses uwchgadarnhaol, neu beth bynnag ydyw? Wrth i'r rheoliadau hyn gael eu paratoi, a fydd digon o *scrutiny* arnynt yn unol â'r broses a amlinellir yn y Bil ac a fydd hynny'n rhoi mwy o ffydd i chi y bydd cyfeiriad at hyn wrth inni ymwneud? Nid yw'n bosibl rhoi popeth ar wyneb Bil—mae'n ddigon hir fel ag y mae.

**Simon Thomas:** This is something that has already been raised this morning, namely what is on the face of the Bill and what is likely to follow in regulations, as there are regulation-making powers in this part of the Bill, and what is in the directions that the Minister can make. A large number of clauses in the Bill give the Minister the right to make regulations. You have already mentioned that it would be beneficial to see some regulations in draft form as we discuss this Bill. Are you confident that the balance is correct between the scrutiny capacity that the Assembly and you will have going forward—you make these regulations through the negative procedure, the affirmative procedure or the superaffirmative procedure, or whatever it may be? As these regulations are being drafted, will the process outlined in the Bill lead to sufficient scrutiny and does that give you more confidence that this will be referred to as we engage? It is not possible to put everything on the face of a Bill—it is long enough as it is.

[93] **Mr Towler:** No, it is not possible. I have no reason to doubt that the Deputy Minister and her officials will not continue to have that open dialogue. So, I remain reasonably optimistic that the issues that I am raising will get a thorough airing and that the Deputy

Minister would want to address those issues. So, in terms of continuing to work progressively and whether we use the affirmative or negative procedures in that process, and the technicalities of that, I feel very comfortable that we will thrash that through and get to the point where the vision that has been set can be realised through good legislation and good regulations.

[94] **Simon Thomas:** Yn adran 62 o'r Bil, mae brawddeg sy'n fy nharo fel un eithaf pwysig, sef is-adran (5), sy'n dweud:

**Simon Thomas:** In section 62 of the Bill, a sentence strikes me as being particularly important, namely sub-section (5), which reads:

[95] 'Os yw Gweinidogion Cymru yn credu ei bod yn angenrheidiol, er mwyn amddiffyn aelodau o'r cyhoedd rhag niwed difrifol, cânt gyfarwyddo awdurdod lleol i arfer pwerau'r awdurdod mewn cysylltiad â phlentyn y mae'n gofalu amdano mewn modd a bennir yn y cyfarwyddyd.'

'If the Welsh Ministers think it is necessary, for the purpose of protecting members of the public from serious injury, they may direct a local authority to exercise the authority's powers with respect to a child whom it is looking after in a way specified in the direction.'

[96] Hynny yw, mae'n rhoi hawl i'r Gweinidog, heb unrhyw fath o *scrutiny*, achos cyfarwyddyd ydyw, roi cyfarwyddyd i awdurdod lleol i ymddwyn mewn ffordd benodol mewn perthynas â phlentyn unigol. A ydych chi'n credu bod yr is-adran hon yn taro'r cydbwysedd cywir rhwng hawliau plentyn, diogelu plentyn, diogelu cymdeithas a hawliau'r Gweinidog? A ydych yn credu bod hwnnw yn rym cydbwysol i'w roi i Weinidog?

That is, it gives the Minister the right, without any scrutiny, as it is a direction, to direct a local authority to behave in a specific way in relation to an individual child. Do you believe that this sub-section strikes the right balance between the rights of the child, the safeguarding of children, the safeguarding of society and the Minister's rights? Do you believe that this is a balancing power to give to a Minister?

[97] **Mr Towler:** It is a significant power to give to a Minister in terms of an intervention. You could look at it as an ultimate safeguard, under the best-interest principle. So long as that was working in the best interest of children, and a process had been gone through to ensure that, if things were not happening, the Minister could intervene, then I would support it, if the ultimate aim is about safeguarding the child. Do you want to add anything to that?

[98] **Dr Clutton:** No.

[99] **Bethan Jenkins:** Yn amlwg, clywsom ar y newyddion y bore yma dy gonsŷrn ynghylch yr hyn a fydd yn digwydd gyda'r byrddau plant, o ran rhoi pŵer i'r Gweinidog uno'r byrddau plant â'r byrddau oedolion lleol i greu un bwrdd. A allwch chi esbonio pam mae gennych y consŷrn hwnnw, yn sgîl y ffaith bod y Gweinidog yn dweud yn glir yn ei llythyr eich bod chi wedi eistedd ar y bwrdd a wnaeth y penderfyniad penodol hwn? A oeddech chi, fel aelod o'r bwrdd hwnnw, wedi dweud nad oeddech yn cytuno? Os felly, beth oedd y broses i chi ddangos nad oeddech yn cytuno â'r hyn yr oedd y bwrdd hwnnw'n ei roi gerbron y cyhoedd? Os na wnaethoch chi hynny, a allwch chi

**Bethan Jenkins:** Evidently, we have heard on the news this morning your concern about what will happen to the children's boards, with regard to giving a power to the Minister to merge the children's boards with the adult boards locally to create a single board. Can you explain why you have that concern, in light of the fact that the Minister states clearly in her letter that you sat on the board that took that decision? Did you, as a member of that board, state that you did not agree? If you did, what was the process by which you demonstrated that you did not agree with what the board was putting to the public? If you did not say that, can you say why?

ddweud pam?

[100] **Mr Towler:** I did say it. I sat on the national safeguarding forum that was put in place by the Deputy Minister to do some preparatory thinking about the way in which local safeguarding children boards were working on developing a model in the Welsh Government's thinking about children and adults and safeguarding agenda forming as one. That forum was chaired by Phil Hodgson, independently of Government, and during the course of the safeguarding forum's work, we had a pretty lively debate on this issue. I was on the side that expressed anxieties about merging children and adults in a safeguarding board. Some members of the forum agreed with me, others took a different view. Ultimately, it was for the Deputy Minister to make the decision that she made.

[101] I was always very comfortable with the idea that there should be a national independent safeguarding board and that an independent chair should be appointed, and I have not changed my mind on that; I still think that it is a really positive development. The issue that I am raising is that child protection and safeguarding for children is a very specific discipline. Child protection and the safeguarding of adults is a different discipline. They are two very complex areas that are complementary but are also a huge work programme for one national board to oversee. So, the aligning of current child protection procedures with a new framework for safeguarding vulnerable adults is a massive task for one board. My concern is, and still remains, that merging the safeguarding of children and adults into one board could mean that the dominance of the vulnerable adult framework would become such a big task that it would overlook where we are at with safeguarding children.

[102] **Bethan Jenkins:** I appreciate that, and we have heard the same thing from other charities. However, the word is 'could' and, at the moment, you do not know that. It is a bit difficult for me to understand how you can claim that now, in the middle of this process, when that has not actually happened and the Deputy Minister's legal advice would claim the contrary. All that I am trying to understand is why you are saying this now when it could be that adult services would be downgraded. It seems to me that the whole process is somehow skewed towards it inevitably going against children when we have not actually tested that, and I am just a bit worried about the language that we are hearing from you and other charities. I can understand why you would have concerns; it is just the language that is being used in the discussion at the moment.

[103] **Dr Clutton:** I do not think that it would be in anyone's interest if it was skewed towards either vulnerable adults or vulnerable children—

[104] **Bethan Jenkins:** I do not think that that is the point of it, though. That is what I am saying.

[105] **Dr Clutton:** But is that not a big test to undertake in terms of national direction on safeguarding in Wales, to find out whether it does work or not? Is it not better to raise those concerns at this point?

[106] **Bethan Jenkins:** You do not know, do you? That is what I am saying: you have not tested it to say that it could skew it one way or the other. That is what I am saying is my concern. Obviously, you are saying to me that, because of that amalgamation, you would want it to remain separate, so that those inevitabilities or concerns would never arise in the first place. Is that right?

[107] **Dr Clutton:** Yes.

[108] **Ann Jones:** We have a couple more questions, but we are running close to the wire on this.

[109] **Angela Burns:** I can gallop through mine. You have addressed an awful lot of my questions, so I only want to ask one more question. Do you think that it is appropriate for the Bill to enable Welsh Ministers to prescribe what is or is not a disabled child or person?

[110] **Mr Towler:** That is a huge question, and it gets us into all kinds of issues to do with the eligibility criteria and whether we should pursue definitions about disability. It is a massive point to raise. The issue for me in all of this—and I feel as if I am just repeating myself—is about the assessment process and the eligibility criteria. We are very clear at the moment in terms of legislation: that disabled children and young people, in terms of their care and support needs, are protected by the ‘child in need’ definition. We are moving into some uncharted territory in terms of what the definition of disability could look like in relation to this Bill.

[111] **Angela Burns:** You have answered my question quite clearly, because my question was: should a Welsh Minister—a politician—have that responsibility? If not, what would you see as being the appropriate organisation to define disability?

[112] **Mr Towler:** You have stumped me. I have absolutely no idea. Sam, deal.

[113] **Dr Clutton:** Turning to definitions as set out in relation to equality legislation to inform and allow for consistency in relation to non-discrimination et cetera would be a sensible way forward.

[114] **Mr Towler:** There will be people who disagree with that, but that is where we get to in where the definitions would lie.

[115] **Angela Burns:** Absolutely. One of the concerns that we have all raised before is that a child progressing through the age spans will see his or her disability, with some diseases, changes with time.

[116] **Mr Towler:** Absolutely, and so does the access to support.

[117] **Ann Jones:** I am in a good mood, so I will call Simon.

[118] **Simon Thomas:** The counterargument, of course—and I think that the Deputy Minister would subscribe to this, from her evidence in committee on Monday—is that current legislation has a medical model of disability. Simply transposing that to the face of this Bill does not address the people model, which is what the Deputy Minister is trying to achieve. I raised with her on Monday in another committee that this model is very difficult to explain and set out. We have no experience of legislating for such a model, which would be the justification for having these powers to change. Do you have any work on that people model, or more social model, which can inform the way that this Bill could be improved to make that more clear?

[119] **Dr Clutton:** The assessment process is key to this in terms of the point that Angela has made in relation to the needs of a child changing over time. If there is a thorough assessment process, through the implementation of the intentions of the Bill, and if we are looking at the current support needs of individual children at any point in time, in theory it should not matter whether they have been given a definition as a disabled child or not. That is the theory that could lead to improvements in wellbeing.

[120] **Mr Towler:** The UN committee produced a general comment—comment number 9—in relation to children with disabilities. It might be worth having a look at that. We will go back to that and have a look at it.

[121] **Ann Jones:** Thank you. We will now move on. Lynne has the last question.

[122] **Lynne Neagle:** On the national outcomes and standards framework, you have raised some concerns about whether there should be a more specific approach within the Bill to monitoring implementation and progress of the outcomes framework. Can you say little bit more about that and whether you think that that should be on the face of the Bill?

[123] **Mr Towler:** We saw the publication of the outcomes statement and measures last week. In a sense, that has left me with the reservations that I expressed earlier. There is no direct reference to the UN Convention on the Rights of the Child within any of those statements. I would expect to see that being evidence in relation to the due regard duty of the child rights Measure, because that is the bit that actually delivers outcomes for children. Those are the bits that almost underscore my earlier concern.

[124] **Ann Jones:** This is not very good chairing, is it? We have run out of time, I am afraid, and we still have a couple of questions. I thank you both for coming this morning. As you know, you will get a copy of the transcript to check for accuracy and I think that there are a couple of points on which you will come back to us; the clerks will liaise with your office on those. Thank you.

[125] **Mr Towler:** I know that you are pressed for time, but if you have other questions and you want to send them to us, we will send you a written reply.

[126] **Ann Jones:** We will do that, yes. That is standard practice. Thank you, both.

10.15 a.m.

**Bil Gwasanaethau Cymdeithasol a Llesiant (Cymru)—Sesiwn Dystiolaeth  
Cyfnod 1  
Social Services and Well-being (Wales) Bill—Stage 1 Evidence Session**

[127] **Ann Jones:** We will move on quickly. We have a set of witnesses from the British Association for Adoption and Fostering Cymru. We welcome Wendy Keidan, Sarah Coldrick and Maureen Ingham. Wendy is the director of BAAF, Sarah is the legal adviser and Maureen is the co-ordinator for the south Wales adoption agency consortium. I thank you very much for coming in, and apologise that we are running slightly late. If it is okay with you, we will just go straight into questions and see how we get on. I will start with the first.

[128] The Bill contains provisions that allow Welsh Ministers to direct two or more local authorities to work together to provide specified aspects of adoption services. What is your view on that?

[129] **Ms Keidan:** My understanding is that, if local authorities or adoption agencies did not, in a voluntary capacity, come together to deliver services, Welsh Government would then have the powers to intervene and direct them to deliver. There have been some moves forward, certainly with the Welsh Local Government Association/Association of Directors of Social Services paper on adoption—I do not know whether you have all had the opportunity to have a look at that. There has been a lot of work since ‘Sustainable Social Services’ in 2011 to look at how adoption agencies can come together and deliver services that are more consistent, because that was one of the major concerns raised when the committee first met last year—consistency of delivery of services. While on some levels that is welcomed, if that does not happen, and if the aspirations that are set out within the WLGA/ADSS paper are not met, Welsh Government has that power to intervene. It is helpful that that is now in the Bill,

but it is about that willingness to work together for the overall outcomes for children, and to ensure that they do not wait where adoption is the plan. However, the whole concept needs a lot more working through. These are broad-brush principles, but it is helpful that that duty is in there, if necessary.

[130] **Angela Burns:** You have obviously had a look at the functional model of the national adoption service. Do you think that that is going to work?

[131] **Ms Keidan:** Gosh, that is a big question. I was on the expert working group, and it has taken us some time to get to the point where we are in consensus across the statutory and voluntary sector. Helpfully, we also had a service user and adoptive parent and, indeed, a medical adviser sitting on that expert working group. We have had a good cross-agency, cross-party look at this. In respect of it working, really the next stage now is to have a look at that. In principle, having national, regional and local delivery is very admirable, and is aspirational. In respect of how it will work in terms of delivery, they are the next stages. However, we have to realise that, while some aspects of the adoption service are working well, other aspects are not. So, we have to look at the delivery of adoption services in a different way, but that has to be seen within the overall context of permanency planning for children.

[132] **Angela Burns:** I do not disagree with you, but I would respectfully remind you that the committee is way ahead of you and the Government on this issue. When we started out, we thought that we were going to have one proper, national and independent service. For me, this is a dilution of where we should go. One of the concerns that I have is the fact that there are six footprints that do not tie in with any other footprints, so I would like your commentary on that. We have seven health boards and four regional consortia, and adoption services work best when they are tied in with health, social services, education et cetera. I would also like to have your view on what impact any possible changes in how we structure our local authorities may have on this. I will whizz all my questions out. I would also like to hear your view on how it would work if we took things like recruitment and training out of local authorities. Do you think that there has been sufficient work in the last year on consistency? We talk about collaboration across local authorities as if it is an easy thing to achieve, but we have seen in other areas that it is exceptionally difficult.

[133] **Ms Keidan:** To take your first point, I read the committee's recommendations, which were well thought through. I know that one was for the service to be independent of both voluntary and statutory provision and to sit outside. I would adhere to what the Deputy Minister said on that, namely that taking adoption outside the remit of overall service delivery to children could, by default, have the unintended consequence of adoption being seen as a separate service. Adoption needs to be seen as part of the continuum of service delivery for children. It is for a small group of children, and it is absolutely essential that we move with every speed to ensure that we have consistency of service, but it cannot be seen in isolation to permanency planning for children. That would be one of the dangers of removing it and having it as an independent service. So, that would be my answer on that.

[134] In terms of how it will now be structured, I would agree with you that it seems to have taken some time to get to this point, whereby we are now looking at regional collaboration. I have not been party to those discussions about how the regional collaboration will be set up, so I cannot give you an answer on that, because that is being done by ADSS. However, certainly in respect of recruitment, single point of contact and sufficient marketing strategies that are nationally delivered, that is absolutely right. On the model—there is some tinkering around in respect of the support plans, which I think we will come on to later—we need to get somebody who will oversee the operational delivery of that model, but the model needs to feel like a sensible way forward from my perspective. I do not know whether my colleagues want to comment on that.

[135] **Ms Ingham:** I would add that the model ties in closely with the existing adoption consortia in Wales. For example, the south Wales adoption consortium already comprises nine local authorities and the two voluntary adoption agencies in Wales. It is doing quite a lot of work currently on recruitment, working with a marketing recruitment company. In fact, the east Wales consortium—it currently comprises three local authorities, but will extend in about a year to comprise two other local authorities—has joined in with the south Wales consortium on the current recruitment drive. Then there is the north Wales adoption service, which comprises six local authorities and there is the west Wales one. So, there is already collaborative work being done, certainly around adoption. That makes sense in terms of this.

[136] **Angela Burns:** I take your point, and I thank you for that. The only comment that I wish to make, which will probably sound exceptionally churlish, is that much of the evidence that we took centred on the fact that people found it exceptionally difficult to access additional services. They could not very easily access mental health services for children. Once a child was adopted or was in the process of being adopted, they certainly found it very difficult to access educational support. There are six regional areas and four regional consortia, and we talk about collaboration until it falls out of our ears. There are so many consortia that I have lost count, and I do not know where I am. However, I have a real concern that they do not dovetail, and, unless we start doing some dovetailing, we are not going to be able to provide a joined-up service. Trust me, when people are under pressure, there are lots and lots of holes that they can disappear into. We took so much evidence on adoption that we were very clear as to where those holes were and that we need to block them up, because we are not performing a service for those children.

[137] **Ms Keidan:** No, and I agree about multi-agency working, certainly, and concerns around access to services. One of the recommendations that we have made on the national adoption board is that we should have representatives from health, education and mental health services. Otherwise, adoption can become solely the responsibility of social services, and it has to be the responsibility of all agencies working together. I fully take on board those concerns; that has to change.

[138] **Aled Roberts:** Hoffwn ofyn fy nghwestiwn yn Gymraeg. O ran y pum rhanbarth, rydych wedi sôn mai un o'r prif resymau dros gadw'r gwasanaethau hyn o fewn llywodraeth leol yw eu bod yn cyd-fynd â gwasanaethau plant eraill. O ran mabwysiadu, a yw'r rhanbarthau hyn yn dilyn yr un patrwm â rhanbarthau gwasanaethau cymdeithasol cyffredinol sy'n cael eu datblygu?

**Aled Roberts:** I would like to ask my question in Welsh. In terms of the five regions, you have said that one of the main reasons for retaining these services within local government is that they tie in with other children's services. In terms of adoption, do these regions follow the same pattern as the general social services regions that are being developed?

[139] **Ms Keidan:** Sorry, I did not catch all of that.

[140] **Aled Roberts:** There is reference in the report to five regional collaboratives for adoption. You said that the main reason for agreeing to the retention of adoption services within local government, compared to the committee's recommendation, was the need for adoptive services to tie in with other children's services. Do the five regional collaboratives that have been endorsed by the expert group follow the pattern of the regional bodies being set up within social services generally, or do we have yet another footprint for another service?

[141] **Ms Keidan:** My understanding, in respect of the alignment of children's services, is that what has been decided with the regional collaboratives is that they will fit into the other

developments that are taking place. I apologise; we sit outside and we are not privy to the information that ADSS is discussing in respect of the reorganisation of other services, so it is quite a difficult question for me to answer. I have been very involved in the adoption collaborative.

[142] **Aled Roberts:** So, ADSS did not see part of its role, in seeking to convince the adoptive services to endorse this plan, as being to say, ‘Well, the main reason for asking you to endorse this plan is that it ties in with the other proposals that we are bringing forward on children’s services in general are concerned, in terms of regional working.’

[143] **Ms Keidan:** I am not aware of that. I am very aware of adoption services and the way in which they will be delivered. Certainly, local accountability and responsibility for care planning will fit very much in line with the overall organisation of adoption services. It would not be sensible if there were some other developments that did not fit in with that. However, we are not privy to that level of detail, unfortunately.

10.30 a.m.

[144] **Aled Roberts:** Rwy’n meddwl mai’r prif reswm am benderfynu ein bod eisiau model mwy radical na’r un a awgrymwyd ar y pryd oedd bod nifer fawr ohonom wedi ein siomi yn enfawr ynghylch ansawdd y gwasanaethau mewn rhai cynghorau. Os nad yw’r gwasanaethau’n datblygu i’r graddau yr ydych yn gobeithio y bydd y model newydd hwn yn ei warantu, a ydych chi’n gweld y bydd pwerau’r Gweinidog i ymyrryd yn ddigonol yn y Bil fel ag y mae?

**Aled Roberts:** I think that the main reason why we decided that we wanted a more radical model than the one proposed at the time was that a large number of us had been hugely disappointed with the quality of the services in some councils. If the services do not develop to the extent that you hope that this new model warrants, do you see the Minister’s powers to intervene as sufficient within the Bill as it stands?

[145] **Ms Ingham:** That is a difficult question. I suppose, as we normally say to adoptive parents when discussing post-adoption contact arrangements, it has always been a possibility that those could be enforced by the courts. However, in fact, if the parties are not willing to work together, it is difficult to enforce from on high. So, I would much prefer that there could be agreement to the collaborative work without that duty having to be imposed. If people are not signed up to it, it can create resentment and problems.

[146] **Aled Roberts:** The reason why we put the model forward in the first place, however, was because we were not convinced that there was that sign-up.

[147] **Ms Keidan:** I do not know about that in terms of the evidence that you are going to subsequently hear. Certainly, sitting on the expert working group, when you get a group of people coming together from statutory, voluntary and other interested bodies, initially there is that process of storming, forming and shaping ideas. I feel that, when the expert working group met a couple of weeks ago, there was far more of a willingness to work together. So, possibly, I am being overly optimistic, but I think that there is an understanding that there are some aspects of adoption services that have not worked well and have not served children well, alongside prospective adoptive parents and anybody who is involved in adoption, and we include birth parents in that as well. There is a willingness to come together and to work across and to have that explicit working with the voluntary sector as being very much part of that planning and delivery, as opposed to being on the periphery.

[148] So, I am trying to be quietly optimistic at the moment. For me, the task now is how quickly some of these systems can be put into place, because we are two years on now, and we really need to get some speed in getting these systems in place, because we still have a lot

of children waiting for adoption and too few adopters able to be matched with those children, for a variety of reasons. That is my main concern: we need to move quickly now and appoint a project manager and a working party to start to get this model working. In principle, I think that it could be a model that works. However, in 12 months' time, we do not want to be still deliberating and debating, because children will not wait.

[149] **Angela Burns:** You say that you want to do it quickly. The Children and Families Bill in England provides a new power for the Secretary of State to direct local authorities to collaborate, no matter what. What do you think are the benefits and potential difficulties of such an approach?

[150] **Ms Keidan:** I think that is quite concerning, really. I am aware of that power, and I am aware of that clause in the Children and Families Bill to outsource adoption services. I think there would be concerns, if they are outsourced, about to whom they would be outsourced to. Would they be able to deliver services better? The expertise in adoption is very complex. It is not just about the recruitment and assessment of prospective adopters. That is one part of the adoption service. It is an incredibly complex process and I think that outsourcing could have detrimental consequences in respect of outcomes for children. So, I would have some concerns and I think that my colleagues in BAAF England, who have looked at this in far more detail, have similar concerns.

[151] **Angela Burns:** I take your point. I would just like to make a comment on the record that the adoption services of some of the local authorities that we spoke to were absolutely appalling and that some of the third-sector organisations that provide adoption services in Wales were utterly outstanding.

[152] **Keith Davies:** Rwyf am ofyn cwestiwn yn Gymraeg. Mae fy nghwestiwn yn dilyn yr hyn a ddywedodd Angela. Yn eich tystiolaeth, rydych yn gofyn pryd fyddai awdurdodau lleol yn cael eu gorfodi gan Lywodraeth Cymru i weithio gyda chi, yr asiantaethau gwirfoddol. Ond y cwestiwn, fel oedd Angela yn dweud, yw pam, ac nid dim ond pryd, fyddai Llywodraeth Cymru eisiau mynnu bod yr awdurdodau'n gweithio gydag asiantaethau fel chi.

**Keith Davies:** I will ask my question in Welsh. My question follows what Angela said. In your evidence, you ask when local authorities would be forced by the Welsh Government to work with you, the voluntary agencies. The question, however, as Angela said, is why, and not just when, would the Welsh Government insist that the authorities worked with agencies such as yours.

[153] **Ms Keidan:** It is about that acknowledgement. It goes back to my earlier point about the implicit understanding that, for any national adoption service, it is about the statutory and voluntary sector working collaboratively together. Organisations such as us and the other voluntary-sector organisations have specific expertise. It is about recognising that expertise and drawing on it. It is not about division and saying, 'Right, we can do this better than them'. It is about us working together and recognising when to draw on that level of expertise for the delivery of some services. Going back to Angela's point, I know the two voluntary organisations and I work very closely with them, and I also know some of the work that is going on in local authorities. The whole purpose and principle of having a national adoption service and looking at national service delivery is about getting that consistency. If you go to the voluntary sector, it manages the recruitment and the assessment of adopters and it also manages the support services for adopters. It is about, when you pick up the phone to talk to one organisation, getting a similar service to that you would get when you talk to another organisation. That is one of the critical issues and concerns, and rightly so, that the committee had when it met some time ago—about that lack of consistency and about why one agency can assess adopters within a six-month timescale and another agency is taking two years. That is not acceptable, because what happens is more children wait for adopters. So, it is about

drawing on that expertise.

[154] **Keith Davies:** Felly, dyna pryd y dylai'r Gweinidog neu Lywodraeth Cymru ymyrryd yn y peth, yn eich barn chi, pan fo problemau fel hynny. A ydych eisiau hynny yn y Bil?

**Keith Davies:** So, that is when you think the Minister or the Government should intervene in the process, when there are those kinds of problems. Do you want that in the Bill?

[155] **Ms Keidan:** What I am happy with, and what I think have been missing previously, are clear governance arrangements. I welcome the national performance framework and the national outcomes framework. In respect of adoption, how we are measuring performance has been inconsistent and there has been a mismatch in terms of that performance measurement. We measure things in different ways. Once those systems are in place, it is about what we are measuring against, what this performance is looking at and outcomes for children. If it is deemed that a local authority is failing in those outcomes for children, then that is where I would see the Bill coming in in terms of its power to intervene. At the moment, that level of statistical analysis and data is not here.

[156] We hear and take on board an awful lot of evidence, but it is about getting that information in a consistent way. In respect of failing authorities, it is not about protecting them; it is about asking, 'What is happening in those authorities in terms of their performance?' We have a duty overall to ensure that the outcomes for children are of the upmost importance and that service delivery to adopters and birth families is appropriate, right and consistent. It is about getting those measurements and level of governance in place. My understanding is that there is going to be a director of operations and a national board. We have never had that before in relation to adoption services. So, to go back to my earlier point, I am quietly optimistic at the moment that this is a model that could work and that if it does not, those powers are there.

[157] **Bethan Jenkins:** Rwyf am wneud pwynt cyflym am beth roedd Angela yn dweud yn gynharach. Yn ardal Abertawe, mae'r sector annibynnol yn gwneud lot o'r gwaith oherwydd nad yw'r cyngor lleol yn gallu delio â'r problemau. Felly, rwyf am ddeall a ydych yn rhagweld y byddai'r sector hwnnw'n rhan o unrhyw *governance arrangements*, yn sgîl y ffaith bod hynny'n bodoli'n barod mewn nifer o ardaloedd.

**Bethan Jenkins:** I want to make a quick point in relation to what Angela said earlier. In the Swansea area, the independent sector does a lot of the work because the local council is not able to deal with the problems. Therefore, I want to understand whether you think that that sector will be part of any governance arrangements, resulting from the fact that that already exists in many areas.

[158] **Ms Keidan:** My understanding in respect of the governance arrangements is that the national adoption board would have the voluntary sector sitting on it. So, in respect of the governance arrangements, yes, certainly. My understanding is that it would be the voluntary adoption agencies that would be part of those governance arrangements. We were very clear when we last met the expert working group, going back to a point that I made earlier, that the voluntary sector should not be seen as being on the periphery: it should be seen as integral and part of that governance.

[159] **Simon Thomas:** I have read your evidence. The evidence that you have given today has concentrated quite a lot on the delivery of the governance and the procedures that will flow after the Bill, assuming that the Bill will be passed in its current form. I want to take a step back and look at whether the Bill delivers the powers that would enable us to get to the sort of service that you have described today. It strikes me that there are still a couple of weaknesses here. First, it is not clear to me, so I would like to ask you this: are the powers sufficient to involve the third sector and the voluntary sector in a strong enough way? That is

something that we found in our inquiry: that that should be there and that it was often the voluntary sector that would drive good practice, not the local authorities. Is that strong enough in the Bill? Secondly, is the architecture of the Bill sufficient to address the concerns that you have expressed? A lot of your concerns today have been about the delivery of services rather than the Bill itself. I want to know if the Bill is strong enough to address that. I have to put it to you that it strikes me that, in this field, the Bill is a hotch-potch. It is trying to achieve an improvement in a system without addressing the structure of that system. It is still sticking with what is basically a local authority model and not really addressing the issues. Do you agree with that? Even if you do not agree with that, does the Bill have the powers to change that model in the future? It is not clear to me that it does.

[160] **Ms Coldrick:** It probably could be strengthened in terms of the involvement of the voluntary sector. We were concerned that it did not have sufficient information about that duty to involve the voluntary sector.

[161] **Simon Thomas:** The specific powers of collaboration are within local authorities. They do not involve the voluntary sector, do they?

[162] **Ms Coldrick:** That is right.

[163] **Ms Keidan:** Two voluntary agencies sit on the South Wales Adoption Agencies Consortium, so there is collaboration there.

[164] **Simon Thomas:** However, that is not a statutory obligation.

[165] **Ms Keidan:** No, it is not and I would agree with Sarah. One of the points that we made was that I am slightly disappointed that there is only a small paragraph on adoption in the Bill. That is why our evidence concentrated on what was not there as opposed to what was there.

10.45 a.m.

[166] There is nothing about adoption support services, for example, specified within the Bill. There does need to be a strengthening in respect of that. Again, one of the questions that we raised was: what does working with registered adoption services actually mean and when would that happen? Those are the questions, so the questions that you have posed are the questions that we have posed as well. So, it needs to be more explicit in its understanding about where they would actually see that interface with the—

[167] **Simon Thomas:** The reality of adoption in Wales is that it is delivered by a mix of bodies, including the voluntary sector, private agencies and statutory bodies in local authorities. If you are talking about a national system, whether you are talking about one agency or not—just to go by ‘system’ now, because I think we are agreed that we need a whole-system approach for the whole of Wales—then surely all those agencies should have equal standing in the Bill.

[168] **Ms Keidan:** Absolutely.

[169] **Simon Thomas:** That is not the case at the moment, is it?

[170] **Ms Keidan:** I do not disagree with that at all in respect of the Bill. In respect of the Bill, it is about ensuring that both the voluntary and statutory sector sit side by side in terms of the delivery of adoption services, because if they do not, it will not work.

[171] **Simon Thomas:** If we were to find that this did not work and wanted the Deputy

Minister to use her powers, her powers only really relate to local authorities.

[172] **Ann Jones:** We will have to make some progress. We have about five minutes and there are three areas that we need to cover. On post-adoption support, Lynne.

[173] **Lynne Neagle:** Post-adoption support was one of the key aspects that our report looked at and we heard some pretty harrowing evidence from parents as part of the inquiry about the way that they had been failed by post-adoption support. You have said that you are very disappointed that there are no specific provisions in the Bill. Are you able to elaborate on that? Do you not feel that the Bill would cover children who have been adopted anyway? How would you like to see the Bill changed to strengthen that area?

[174] **Ms Keidan:** Again, it is how you could interpret what the Bill would have the powers to do. It talks about the establishment of a pool fund, services, contribution and so on. However, with adoption support services, what we are concerned about, and perhaps where the Bill has missed a trick, is whilst, at the moment, we have that duty within legislation to assess adoption support services, what we do not have is a statutory duty to provide adoption services. It would have been helpful if that had been put as a specific clause within the Bill. So, we know about all the issues with assessment and, in our opinion, the legislation at the moment in terms of assessment is okay, but where we are concerned is about that duty to provide. That is missing from this Bill.

[175] **Lynne Neagle:** Would the duty to provide not come if a child had been assessed as needing that service anyway, so the child would be covered by that provision?

[176] **Ms Keidan:** The problem is that it is a duty to assess; it does not say anything about a duty to provide at the moment. When the House of Lords met some time ago, it made a very helpful suggestion—I think that it is in the Children and Families Bill—about inserting a clause about a duty to provide. We know the problems in respect of assessment, but that goes back to a point made about concerns about the provision of child and adolescent mental health services, educational support and whatever. It would be helpful if that was in the Bill. That would then strengthen the powers to intervene if that duty to provide was actually missing.

[177] **Ms Coldrick:** In light of that, in terms of having the new structure, it is really important to have that co-ordination at a national level that actually incorporates both health and education to alleviate some of the problems that adoptive families suffer. There is a lack of understanding and a lack of knowledge about what is available in terms of support for adoptive families in both the health and education sectors. To have an overall strategic function on that national level, which would then devolve down, would really start to address some of those patchy areas of adoption support.

[178] **Ann Jones:** Okay. Are you content?

[179] **Lynne Neagle:** Yes.

[180] **Ann Jones:** David has a question on fostering to adoption.

[181] **David Rees:** Section 65 of the Bill, which is quite a long section, highlights fostering to adoption. I think that, in your words, you said that this actually fails to meet the Welsh Government's aspirations in this area. Is it going in the wrong direction or has it simply not gone far enough in the right direction?

[182] **Ms Coldrick:** In terms of the way in which section 65 is drafted, it is going in a very small direction and a direction that is actually not workable. We are saying that we think that there should be a clause that states that the local authority has a duty to consider, as part of a

permanency plan for children, the placement with carers at an early stage. This fostering-to-adopt provision provides a small window for placing children with dual-approved carers. This is not a concurrency model at all. Concurrency is where children are placed at the beginning of care proceedings with dual-approved carers who are both foster carers and prospective adoptive parents. They stay with those carers who transform into adoptive parents if reunification is not possible with the birth family. With this provision, as it is set out, children move to short-term foster carers. They then only move to the prospective adopters, who are also foster carers, in this tiny window during care proceedings, when there has been a 'should be placed' decision by the adoption agency, where the adoption agency has matched the child with the prospective adopters who are currently only foster carers, but before the placement order is actually made by the court. That has some structural difficulties in terms of the court procedure and in terms of care planning for children. What you are doing is moving children into, effectively, a prospective adoptive placement before the court has given authorisation for that placement. So, you might be saying to a child, 'You are moving to these people; they might be your forever mummy and daddy, but they might not be. You might be going to grandma in six weeks' time, when the local authority does not approve the care plan for adoption and wants a special guardianship order instead'.

[183] With the 26-week timetable for care proceedings taking place—and it is already gaining momentum in Wales—there will not be the opportunity for this to happen in any event because the whole care planning procedure will have to be quickened up so much within this 26-week timetable that, by the time that you have had a 'should be placed' decision by the adoption agency, you are almost at the time for the placement order application to be made. What we are worried about is that people think that this is a panacea. So many people misunderstand this provision and think that it will make adoption for existing foster carers a much easier option. It does not do that because this provision is about dual-approved carers. It is not about a child who is in an established foster placement and that it looks as if that is the best place for that child to remain. We are seeing more of those, now that adoption is not an option for so many children because of the lack of adoptive parents. It is not providing that answer.

[184] **David Rees:** In your view, is it worth it remaining in the Bill, modifying it, or getting rid of it and leaving the existing processes for—

[185] **Ms Coldrick:** We would say—as our colleagues in England have said in relation to the Children and Families Bill—that if we were to put in a clause that the local authority has a duty to consider, as part of the permanency plan for the child, placement with carers who could become the child's permanent carers where that is in the child's best interests, that would create a firm base for the concurrency model, which is an excellent model. It is very small at present. It does not operate in Wales in any major way, nor in other parts of the UK, but it is a good model and it would ensure that that could take place and that the local authority looks at family and friends, or kinship placements, as well. As Wendy has said several times, we have to see adoption as part of the range of options available for children. So, this looks at permanency in the wide sense at an early stage, rather than looking at this very narrow perspective on fostering to adopt.

[186] **David Rees:** To clarify, I understand what you say about the concurrency model, but sub-sections 10 and 11, if I read them correctly, reflect upon the placement with the family, or relatives, or friends, so there is a safeguard there. Is that not sufficient?

[187] **Ms Coldrick:** They do, indeed; that is right. We certainly welcome that part of the Bill, because it is only looking at fostering to adopt if placement, re-unification with birth families, or placement with family and friends is not an option. Nevertheless, it does not actually answer the need for quicker permanent placements.

[188] **Simon Thomas:** On the concurrency model that you have set out and which was reflected in our earlier report, does the Bill have the provision, in your opinion, to deliver such a model, as it is currently drafted?

[189] **Ms Coldrick:** Given that it is so specialised, it has proved very difficult for single local authorities to keep that going—Wendy has been involved in a local authority that has done that. In fact, the only body in England that has been able to carry it on is Coram, an independent adoption agency. So, regionally—

[190] **Simon Thomas:** So, to make it work, you would need a specific provision in the Bill to facilitate that?

[191] **Ms Coldrick:** Legally, you do not need that. In terms of the concurrency model and the Children Act 1989, that is fine. The provision of this particular clause would be enough—to say whether the concurrency model is possible. It is very expensive to run this, because you are dually approving people as both adoptive parents and foster carers.

[192] **Simon Thomas:** So, in reality, guidelines could deal with that. Leaving aside money for the moment—

[193] **Ms Coldrick:** It does not need to be in primary legislation.

[194] **Simon Thomas:** No. So, guidelines could do it.

[195] **Ms Coldrick:** Yes.

[196] **Ann Jones:** Okay, we have about three minutes for Bethan to ask her question—

[197] **Bethan Jenkins:** I will write to the witnesses with my question.

[198] **Ann Jones:** Okay. That is helpful, thank you. We have run out of time, I am sorry, but thank you very much for coming today. I think you know the drill; you will get a copy of the transcript to check for accuracy and we will write to you with Bethan's question. Thank you for coming to give your evidence today. We will now break until 11.05 a.m.

*Gohiriwyd y cyfarfod rhwng 10.58 a.m. ac 11.08 a.m.  
The meeting adjourned between 10.58 a.m. and 11.08 a.m.*

**Bil Gwasanaethau Cymdeithasol a Llesiant (Cymru)—Sesiwn Dystiolaeth  
Cyfnod 1  
Social Services and Well-being (Wales) Bill—Stage 1 Evidence Session**

[199] **Ann Jones:** We will now take evidence from Ann Bell, development manager in Wales for Adoption UK. Thank you very much for agreeing to give us evidence today. We are looking at the Social Services and Well-being (Wales) Bill, as you know. As we are short on time and running rather late, I will start with the first question. The Bill contains provisions which allows Welsh Ministers to direct two or more local authorities to work together to provide aspects of adoption services. Are changes needed to this Bill?

[200] **Ms Bell:** It would be helpful if there was some mention of the voluntary sector in the Bill. We all know that some of the very good practice at the moment rests in the voluntary sector, and we do not want to lose that in any way.

[201] **Ann Jones:** What would you want to see? Is there a specific area where you would

want to see that put in, or would you just prefer a reference to voluntary services?

[202] **Ms Bell:** I am no legal expert, so I could not—

[203] **Ann Jones:** I do not think that I am either.

[204] **Ms Bell:** It is important to make it explicit that the voluntary and statutory sectors need to work together, and could be made to work together if necessary.

[205] **Ann Jones:** Okay, thank you very much for that.

[206] **Angela Burns:** Talking of making authorities work together, is it appropriate that the Government is following this model that is not owned by any particular local authority? What are your views on that approach? Are there any potential weaknesses or strengths removing from local authorities the responsibility for certain elements such as, perhaps, training and recruitment of adopters?

[207] **Ms Bell:** I think my view has changed as we have all worked together in the expert working group, and I can see that there are real risks in moving things too far away from where the other parts of permanency lie. We have fostering, special guardianships, kinship care, and if we remove adoption too far away from that, I think there will be some real dangers for children. Probably having a regional collaboration makes some sense, and arguably fostering should be moving that way as well, so that those things fit together well. Taking too much into the national tier probably is not a good idea.

[208] **Angela Burns:** Wow—then I have to ask whether you believe that local authorities have improved over the last 12 months in their ability to consistently and coherently deliver good adoption services.

[209] **Ms Bell:** I think things are better, because there has been a focus on them. Whether they would remain better if that focus was removed, I rather doubt. Things are definitely better from what we have seen, but there is still a real dearth of adoptive parents. The recruitment part is not right by any means yet, and there are not enough adoptive parents around, but when people do come forward, they are getting processed more quickly, and children are getting placed a little more quickly where there are parents to place them with.

[210] **Angela Burns:** I would just like to challenge you on one point. I agree that it may have slightly improved because everybody is looking at it, and I wonder how sustainable that is. If we say that the local provision is patchy, and is likely to remain so, but you are not convinced that a national model would be the most suitable way forward, you are putting an awful lot of emphasis on the regional collaboration agenda. Do you have confidence that that can work given that, in other areas of public services, there have been issues with getting regional collaboration models to work effectively?

[211] **Ms Bell:** I think regional collaboration is really difficult. We all know that it is very difficult. Having strong national governance—a strong performance framework, and outcomes framework—would help it to happen. However, it is clear in the Association of Directors of Social Services model that that will only happen if there is some new money to create that national tier, so we do not know whether that will be forthcoming. The other thing that could really help is if we could have some kind of even playing field between the statutory and voluntary sector—so, for example, having a fixed fee for assessing, preparing and providing adoptive parents would make it a lot easier for the voluntary sector to play its part fully, and that would help to raise the bar and push good practice throughout the sector. You could do the same thing on post-adoption support. You could say, ‘Right, your average post-adoption support for a family costs this amount of money’, and then get the best people

to deliver for that amount of money. That would level the playing field quite significantly.

[212] **David Rees:** Just a quick one—obviously, you have highlighted some points there, and the crucial aspect that I wanted to know is whether, accepting the voluntary sector element, you think the Bill actually allows what you just said to be delivered.

[213] **Ms Bell:** I think the Bill, from what I have seen of it, is so sketchy that it does not either prevent or allow. There is very little detail.

[214] **Aled Roberts:** Rwyf eisiau gofyn **Aled Roberts:** I want to ask a question in cwestiwn yn Gymraeg. Welsh.

[1] O ran y grŵp arbenigol, mae'n ymddangos mai model y cyfarwyddwyr yw hwn, ond hwyrach eich bod wedi cael eich darbwyllo yn ystod y broses bod hynny yn dderbyniol. Rydych wedi dweud ei bod hi'n ymddangos bod costau ychwanegol o ran yr haen genedlaethol a'r haen ranbarthol. A oes unrhyw fath o drafodaethau wedi bod o fewn y grŵp arbenigol ynglŷn â chyfanswm y costau hynny, oherwydd dywedodd y Dirprwy Weinidog, wrth roi tystiolaeth i'r pwyllgor ynghylch mabwysiadu, nad oedd arian ychwanegol ar gael?

In terms of the expert group, it appears that this is the directors' model, but perhaps you have been convinced during the process that this is acceptable. You have said that it appears that there are additional costs in terms of the national tier and the regional tier. Has there been any kind of discussions within the expert group regarding the total costs, because the Deputy Minister said, when she was giving evidence to the committee on adoption, that no additional money was available?

[215] **Ms Bell:** I have not heard any discussions about specific costs in that expert working group. It just has not happened, really.

11.15 a.m.

[216] **Aled Roberts:** Rwy'n meddwl bod ein hadroddiad yn adlewyrchu'r symudiad tuag at fodol y tu allan i lywodraeth leol o achos rhwystredigaeth ynglŷn ag ansawdd y gwasanaethau sydd wedi cael eu cyflwyno gan lywodraeth leol hyd yn hyn. Os nad yw'r trefniadau rhanbarthol hyn yn gwella safon y gwasanaethau neu os oes rhai cynghorau nad ydynt mor barod i gydweithio ag y dylent fod, a yw'r grymoedd i ymyrryd sydd gan y Gweinidog yn y Bil ar hyn o bryd yn ddigonol?

**Aled Roberts:** I believe that our report reflects the move towards a model outside local government because of frustration about the quality of the services that have been introduced by local government until now. If these regional arrangements do not improve the quality of services or if there are some councils that are not as ready to collaborate as they should be, are the powers to intervene that the Minister has in the Bill at present sufficient?

[217] **Ms Bell:** I do not know, to be honest. There is an indication that the Minister could intervene in the Bill. Whether that is strong enough, I am not enough of a legal expert to be able to say. There are real worries and doubts, so anything that can be done to strengthen that would be helpful. The scrutiny of committees such as this one is very helpful as well.

[218] **Aled Roberts:** How strong is the level of commitment within the expert group that this model will see the sea change in adoption services that our report was calling for?

[219] **Ms Bell:** We have moved a long way. We have had four meetings, and, between the first meeting and the last meeting, there was a very different atmosphere and a willingness to admit that there were difficulties in the first place. At the beginning, there was not that

admission, but, by the end, there was an admission that things needed to change, that things were not right and that this was a model that people felt relatively comfortable could deliver change. However, having some kind of fixed-fee arrangements would make a big difference, because that would push the statutory sector to try to keep up with the voluntary sector in terms of good practice.

[220] The other thing that could make a huge difference to children, and it is fairly small, would be if the prioritisation of looked-after children in health and education services could include previously looked-after children. That would make a huge difference. I know that you will talk about post-adoption support later, but that would make a big difference to adopted children and their ability and that of their adoptive families to get support.

[221] **Aled Roberts:** Has there been any discussion regarding fixed-fee arrangements in the model discussed?

[222] **Ms Bell:** No, not that I have been privy to.

[223] **Simon Thomas:** Bydd fy nghwestiwn hefyd yn Gymraeg. A derbyn nad ydych yn arbenigwraig cyfreithiol—nid wyf innau'n arbenigwr chwaith—ymddengys fod y Bil fel ac y mae yn galluogi delifro, oherwydd yr orfodaeth ar awdurdodau lleol i gydweithio, sef y posibilrwydd bod y Gweinidog yn dweud wrthynt, 'Mae'n rhaid i chi gydweithio.' Mae pwerau yn y Bil sy'n gallu darparu naill ai'r model rhanbarthol, fel sydd yn digwydd ar hyn o bryd, neu, os oes yn rhaid, model cenedlaethol, er bod hwnnw tipyn bach yn fwy trwsgl, ond mae yno, rwy'n meddwl. Yr hyn sydd ar goll yw pwynt rydych wedi ei godi yn gynharach, sef ble byddai'r sector gwirfoddol a hyd yn oed y sector preifat yn hyn i gyd. Ymddengys i mi, felly, fod y Bil fel mae wedi cael ei ysgrifennu yn israddio'r sector gwirfoddol ac elusennol sydd yn darparu gwasanaethau fel hyn a chanolbwyntio gormod ar y sector statudol. Nid oes gennyf reswm i gredu nad oes modd cynnwys y sector gwirfoddol. A fyddech mewn egwyddor yn croesawu bod y Bil yn rhoi'r sector gwirfoddol ar yr un lefel ag awdurdodau lleol, pa bynnag batrwm sy'n dod?

**Simon Thomas:** I have a question in Welsh too. I accept that you are not a legal expert—neither am I—but it seems to me that the Bill as it stands enables delivery, because of the compulsion on local authorities to work together, namely the possibility of the Minister telling them, 'You have to work together.' There are powers in the Bill that can provide either the regional model, as is happening at the moment, or, if necessary, a national model, although that is a little clumsier, but it does state that, I think. What is missing is a point that you raised earlier, namely where the voluntary sector and even the private sector would fit in in all of this. It seems to me, therefore, that the Bill as written downgrades the voluntary and the charitable sector that provides these kinds of services and focuses too much on the statutory sector. I have no reason to believe that it is not possible to include the voluntary sector. Would you, in principle, welcome the Bill putting the voluntary sector on the same level as local authorities, whatever pattern emerges?

[224] **Ms Bell:** Yes, I think that would be very helpful.

[225] **Simon Thomas:** Have you discussed that in the expert group at all?

[226] **Ms Bell:** I have to confess that I missed one of the meetings, but, as far as I am aware, it has not been discussed.

[227] **Simon Thomas:** To put it another way, you have not been consulted upon that either.

[228] **Ms Bell:** No.

[229] **Ann Jones:** Rebecca will ask about post-adoption support.

[230] **Rebecca Evans:** We have heard some evidence expressing disappointment that there is no specific reference to post-adoption support in the Bill. Do you share those concerns?

[231] **Ms Bell:** Yes, I do. It would be really helpful. At the moment, we know that there is a duty to assess for post-adoption support, but no duty to deliver it. So, I would like to see that strengthened. As I mentioned earlier, if we could prioritise previously looked-after children alongside looked-after children, that would make a huge difference. Whether that is something that should be in this Bill, I cannot say, as I am not a legal expert, but it needs to happen wherever it is appropriate for it to happen.

[232] **Rebecca Evans:** So, you do not feel that you are in a position to have a view at the moment on what should be in the Bill and what should come later in regulations.

[233] **Ms Bell:** No, I am not really clear enough, to be honest.

[234] **Ann Jones:** Thanks. Next is fostering to adoption, with questions from Bethan.

[235] **Bethan Jenkins:** Mae BAAF Cymru'n dweud na fydd adran 65 y Bil parthed maethu ar gyfer mabwysiadu yn darparu dim o'r canlyniadau a geisir gan Lywodraeth Cymru o ran lleoliadau sefydlog cynnar i blant. A allwch ehangu ar eich barn chi ar y mater hwn yn benodol? **Bethan Jenkins:** BAAF Cymru says that section 65 of the Bill in respect of fostering to adoption will not provide any of the outcomes sought by the Welsh Government with regard to early permanent placements for children. Can you expand on your view on this specific issue?

[236] **Ms Bell:** Like a lot of people, when I first saw it I thought, 'Great, here we are; concurrency planning will get in there', but I think that BAAF is quite right: when you read the detail and see the timing with which that kicks in, it is not going to work, and it could possibly make it worse. So, I think it is a badly drafted piece of legislation that does not deliver what we would want to deliver, and it needs to be looked at.

[237] **Bethan Jenkins:** What would be your suggestions to make it better? I know that you have said that you are not a legal expert, but do you have any ideas as to what you would change or amend, so that we as a committee have an idea?

[238] **Ms Bell:** I was listening up in the gallery, and I thought that Sarah's suggestion was very sensible, that there should be a requirement for local authorities to consider concurrency as an option at an early point. It is difficult, and there is a lot of expertise around that that is necessary, but, personally, we did it as a family, and I think it is an excellent thing and a good thing to allow and encourage to happen, where it is appropriate.

[239] **Ann Jones:** Do Members have any more questions, or are we happy? I see that you are content. Well, that was very concise but very effective. [*Laughter.*] Thank you very much for coming. We will send you a copy of the transcript for you to check for accuracy. Thank you ever so much once again.

11.22 a.m.

**Bil Gwasanaethau Cymdeithasol a Llesiant (Cymru)—Sesiwn Dystiolaeth  
Cyfnod 1  
Social Services and Well-being (Wales) Bill—Stage 1 Evidence Session**

[240] **Ann Jones:** We shall now move on to our next set of witnesses—it will just take a couple of minutes to get them here.

[241] Let us now move on with this item, in which we are still taking evidence on the Social Services and Well-being (Wales) Bill. We are joined at the table now by Melanie Jones, who is the adoption and fostering service operational manager with Barnardo's in north Wales, and by Carolyn Oliver, who is the adoption development manager at Barnardo's. Also with us is Gerry Cooney, chief executive of the St David's Children Society, and Joan Price, the deputy director of the St David's Children Society.

[242] Thank you for coming in to give evidence at this session. We are running slightly late and—as I have appealed previously to Members and witnesses—there are quite a lot of questions to get through, so, if we could just have some sharp questions and answers, that would be helpful. Keith is going to start the questioning off.

[243] **Keith Davis:** Good morning. The Bill allows Welsh Ministers to get local authorities working together. Will that actually provide a better adoption service?

[244] **Ms Jones:** It is a good start to get local authorities working together, and I hope that it includes the voluntary agencies, because it is important to have a complete partnership to make this adoption service a reality. It is encouraging that local authorities work together, but I would like to feel that we are included in that partnership, too.

[245] **Mr Cooney:** On the functional model for a national adoption agency, we have managed to forge a partnership with ADSS and the WLGA. That is a very positive start, and a firm platform on which to build.

[246] **Ms Oliver:** What one would hope is that, by working together, we can really improve the chances for children by moving things forward and offering choice, making services more accessible by working together. That is what we would be looking to do.

[247] **Keith Davis:** Are there implications in the Bill for the voluntary adoption services?

[248] **Mr Cooney:** There is a clear spirit of partnership in the functional model. The critical issue is that the functional model is the framework; it is the business model that will be the delivery mechanism. We really need to be clear about how this service is going to be costed and funded and where we set the widgets for that. Do we cost the service at the number of children placed last year or do we cost the service with the number of children with placement orders? The number of children placed last year was 245. Looking at the national adoption register, there were 200 children with placement orders who were not placed. In terms of how we move forward, it is important that we have a service that embraces the rights of every child. [*Inaudible.*]

[249] **Keith Davies:** So, will it be more expensive, then?

[250] **Mr Cooney:** No. It depends on how we cost our services. If you consider the 200 children last year who were not placed and you average our fostering fee at £30,000 a year over a 15-year care journey, then that is £450,000. In terms of a legal challenge, I saw something in one of the north of Ireland trusts recently that stated that a straightforward legal challenge averaged £150,000; a complicated one was twice that. You are potentially talking

about an £800,000 to £1 million care journey over 15 years if you cost the placement fee. In England, the Association of Directors of Children's Services and the voluntary agencies have agreed that, come September, there will be a £27,000 fee for every child, whether that child is placed through a voluntary agency or a local authority. A total of £27,000 versus a 15-year care journey of £800,000 leads towards a very affordable service.

[251] **Ms Oliver:** It is about making the costs transparent and having a level playing field across all participants. The costs for voluntary agencies are much more visible than for local authorities, but they are still there and there would be efficiency savings from the proposed functional model in terms of not replicating things unnecessarily, when they could be done once by a collaborative group. It is about being clear and transparent, but, whoever does it, it costs money.

[252] **Keith Davies:** Would it cost more? That is what I wanted to know, and you are saying 'no'.

[253] **Ms Oliver:** The model would suggest that it should cost less.

[254] **Mr Cooney:** It is an invest-to-save model.

[255] **Ann Jones:** Did you have a question on this, Aled?

[256] **Aled Roberts:** Rwyf am ofyn hwn yn Gymraeg. Rydych yn dweud mai'r hyn sy'n bwysig yw'r ffordd y mae'r model hwn yn cael ei weithredu. Mae hefyd yn amlwg bod rhaid sôn am y gost. Fe wnaeth Ann Bell drafod hynny yn ei thystiolaeth hi hefyd. A yw'r grŵp arbenigol wedi cael unrhyw fath o drafodaeth wrth i'r ADSS ddod i sôn am y model hwn o weithredu?

**Aled Roberts:** I will ask this in Welsh. You are saying that what is important is the way in which this model is implemented. It is also clear that there is a need to talk about the cost. Ann Bell discussed that in her evidence as well. Has the expert group had any kind of discussion as the ADSS came to talk about this model?

[257] **Mr Cooney:** Through the expert advisory group that the Welsh Government set up, we certainly had ongoing discussions with the ADSS and WLGA. There has been a lot of input from the third sector into that in terms of papers. It would be fair to say that we have all reached parity on the functional model. We have not gone into the detail of the business model yet, but one leads to the other and one is built on the other.

[258] **Aled Roberts:** We are taking a bit of a step, are we not, without any real confidence? We were shaken by some of the evidence that we heard previously regarding the quality of these services. We would hope that there is certainty, in adopting a new model, that there will be a step change in quality. Can we be assured of that step change if we lack detail with regard to the financial model that is being put forward?

[259] **Mr Cooney:** I think that work has to be done on the financial model. I suppose the question is: what was there before? Last year delivered, approximately, a placement for one in every two children. That would suggest that the model needs to be radically and dramatically reformed. In fairness to the civil servants, ADSS, the WLGA and the voluntaries, they have agreed a structure on which to move forward. There is more work to be done.

11.30 a.m.

[260] Is it a risk? Yes. At the moment, the risk is carried by children. It may be time for the Welsh Government, ADSS, the voluntaries and the WLGA all to work together and own that risk. We need to remove the burden of risk from children. For me, this is very simple: it is a

justice argument for children. If we get the structure right, it will work. If we get the funding right, it will work.

[261] **Ms Jones:** Credaf fod yr egwyddor o gydweithio yn hollbwysig drwy'r broses hon. Ni chredaf fod un ochr yn bwysicach na'r llall. Y nod fyddai parhau i gydweithio. Credaf fod yna botensial yn hynny o beth. Mae risg, ond credaf fod peidio â gwneud unrhyw beth yn fwy o risg. Dyna sut yr wyf yn teimlo. Mae gan bawb sy'n gweithio yn y maes hwn gyfle arbennig i greu gwasanaeth sy'n hollol wahanol i'r gwasanaeth sy'n bodoli yn Lloegr. Serch hynny, fel y dywedodd Gerry, mae hefyd yn gyfle i'r bobl ifanc sy'n dod drwy'r broses fabwysiadu a'r plant sy'n mynd drwy'r blynyddoedd cynnar o ran cael eu mabwysiadu. Credaf ei bod yn hollbwysig gweithredu ar y cyfle hwn.

**Ms Jones:** I believe that the principle of collaboration is vital throughout this process. I do not believe that one side is more important than the other. The aim would be to continue to collaborate. I believe that there is potential in that. There is risk, but I believe that not doing anything is a greater risk. That is how I feel. Everyone who works in this field has an excellent opportunity to create a service that is totally different to the service in England. However, as Gerry said, it is also an opportunity for the young people who come through the adoption process and the children going through the early years of being adopted. I think that it is vital to act on this opportunity.

[262] **Aled Roberts:** A ydych yn disgwyl y bydd yr eglurder hwn yn cael ei adlewyrchu yn y rheoliadau, o ran trafod y sail ariannu?

**Aled Roberts:** Do you expect that this clarity will be reflected in the regulations, in terms of discussing the basis for funding?

[263] **Mr Cooney:** I think that funding is one thing that is critical to making it work, and if we could write it into the regulations, it would enhance the opportunities for success.

[264] **Ann Jones:** We are all smiling, as we would all like funding to be written somewhere, so that we knew exactly what was being spent. That is called hypothecation. I quite like hypothecation, but I think that I am the only one.

[265] **Angela Burns:** You talk about having funding written into the regulations. Do we need to consider writing in a statutory responsibility to engage with the voluntary sector? You say that you are happy with the functional model. Are you involved in all aspects of the functional model—local regional and national—at present? Do you think that this will be able to continue? Do you think that, when the five regional consortia get going—I referred to six consortia earlier on, and I am sorry about that—you will still be able to be part of that? Do you foresee a situation in the future where you may slowly be shut out of this, because of financial pressures and all the rest of it? Do you think that we should provide better protection? My final question, which is a very cheeky one, is: do you think that, in the last year, when we have been looking at this so hard, services delivered by local authorities have improved?

[266] **Mr Cooney:** That was a lot of questions.

[267] **Angela Burns:** Go for it. *[Laughter.]*

[268] **Ms Oliver:** Writing something into the regulations to ensure that voluntaries are included at all levels of governance is important. It is important in two ways. Voluntaries should be engaging with local authorities at all levels, and local authorities should be engaging with voluntaries at all levels, so that, between us, we can offer wide expertise and a wide scope of operations. So, yes, I would very much want that to be written in.

[269] **Angela Burns:** Does anyone else want to add anything?

[270] **Ms Price:** In terms of the local authorities, there has definitely been a willingness to look at working together, whether that is in partnership with voluntary agencies or with other local authorities, in order to develop their services. They recognise that they cannot be all things to all men and that, to have the best-equipped and most flexible workforce, and to produce the best resources for children, they have to look outside their own boundaries and work alongside other partners to deliver that.

[271] **Angela Burns:** Would I be correct to interpret that as saying that you think that the national agency taking responsibility for things such as recruitment and training could be a benefit, and that this is a possible strength, rather than a weakness?

[272] **Ms Jones:** If it includes people in equal partnership, it can only be a strength. As I said, there are really good opportunities to fine tune a lot of what we should all be providing for children, not just bits of what we currently have. So, it is about bringing it together and allowing people to develop expertise. We place a lot of disabled children, for example, and it is good that we are able to develop that expertise. There are other agencies that specialise in other areas. It is about being able to share those skills in the best interests of the children and to make sure that we are not going for the least worst match, but the best possible match. We can only do that by getting the best-quality adopters and the best support for adopters. It is all part of the same thing.

[273] **Ms Oliver:** It is also about increasing the choice. That is, by working across boundaries, you increase the choice for children.

[274] **Angela Burns:** May I ask another question?

[275] **Ann Jones:** You can, but Simon is waiting to come in on this point as well.

[276] **Angela Burns:** My last quick question is: do you have any concerns about the shape, or footprint, of the consortia and how it dovetails into regional consortia on education and into health services?

[277] **Mr Cooney:** No, I do not have too many concerns about that at this stage. We need to look at some of the national stuff and be intelligent about how that is provided. A month or two ago, England launched its adoption helpline. It did that in collaboration with a voluntary agency, but primarily with Adoption UK, which is a parent support organisation. It runs that helpline almost with a volunteer-led service, which Adoption UK has been very good at developing. If a local authority was to provide that service, it would become an expensive service, because it has full-time staff covering the whole of Wales. If you used an organisation such as Adoption UK, which is more volunteer-led, you can have an intelligent, high-quality service for a lower cost. So, it is about how we unpack and unpick each one of these tiers of services and the boxes within the services and the model.

[278] **Simon Thomas:** Gofynnaf fy nghwestiwn yn Gymraeg. Yn dilyn y pwynt rydych wedi ei wneud am y ffaith nad oes sôn am y sector gwirfoddol ar wyneb y Bil hwn mewn perthynas â mabwysiadu, mae'n amlwg bod hynny'n wendid. Mae'r dystiolaeth y bore yma wedi atgyfnerthu'r pwynt hwnnw. Serch hynny, mae adran 7, sy'n ymwneud â gwasanaethau gofal yn fwy eang, yn dweud yn glir bod dyletswydd ar awdurdodau lleol i hyrwyddo mentrau cymdeithasol, a bod hawl i newid y diffiniad

**Simon Thomas:** I will ask my question in Welsh. Following on from the point that you have made regarding the fact that the voluntary sector is not mentioned on the face of this Bill in relation to adoption, that is obviously a weakness. The evidence this morning has reinforced that point. However, section 7, which relates to care services more broadly, states clearly that there is a duty on local authorities to promote social enterprises, and that there is a right to change the definition of 'social enterprise' or 'co-

o 'fenter gymdeithasol' neu 'fenter gydweithredol'; mae'n glir bod hynny'n cynnwys y trydydd sector. Felly, a oes rhywun o'r Llywodraeth wedi ymgynghori â chi i weld a oes perthynas rhwng y cymal hwn a mabwysiadu? Nid wyf yn gweld perthynas, ond, mewn egwyddor, nid yw mor anodd â hynny i ddiwygio'r Bil i wneud yn siŵr bod cydbwysedd rhwng y rhan o'r Bil sy'n ymwneud â'ch sector chi a'r rhan sy'n trafod mabwysiadu, nad yw ar hyn o bryd yn cynnwys eich sector chi.

[279] **Ms Jones:** Nid wyf yn ymwybodol o ymgynghori penodol. Mae'n bosibl bod Barnardo's yn ehangach wedi bod yn rhan o ymgynghori ynglŷn â'r gwasanaethau eraill rydym yn eu cynnig. Mae'n anodd pan fydd rhywbeth yn agored i ddehongliad personol. Mae'n bosibl iddo gael ei anghofio, ac mae pobl yn meddwl nad yw'n cynnwys y sector os nad yw hynny'n glir. Gwn mai geiriad ydyw. Roedd rhywun yn holi yn gynharach a fyddai'r Bil yn delio â phlant sydd wedi cael eu mabwysiadu beth bynnag, ond, os nad ydych yn rhoi hynny mewn geiriau yn y Bil, mae'n hawdd iddo gael ei gamddechongli. Mae'n gallu bod fel *Chinese whispers* ac, erbyn y diwedd, nid yw'n rhan o'r Bil o gwbl. Felly, cryfa'n y byd, gorau'n y byd o ran y neges drwy'r Bil, er mwyn i'r sector wirfoddol wybod ei bod yn gyfartal.

[280] **Simon Thomas:** Yn amlwg, yn ystod y flwyddyn ddiwethaf, mae cydweithio wedi bod yn weddol dda ac wedi gwella; a ydych yn poeni, os nad oes cyfeiriad atoch yn benodol yng nghyd-destun mabwysiadu yn y Bil, bod lle i awdurdodau lleol reoli'r broses o hyn ymlaen?

[281] **Ms Jones:** Mae hynny'n bosibl. Nid wyf yn ofni hynny'n digwydd, ond mae'n bosibl, ac rydych yna'n dibynnu ar bobl eraill yn ei ddechongli mewn ffordd wahanol. Felly, cryfa'n y byd, gorau'n y byd yw hyn.

[282] **Mr Cooney:** I agree with that. Sometimes, what happens is that cultures evolve within practices and, by virtue of the fact that that is made concrete in regulation, it will help to shift and evolve that culture into a much better place.

[283] Adoption forms a small part of the Bill. In all fairness to the civil servants, I have found them to be incredibly expansive in the time that they gave us—and we had a lot to say.

[284] **Lynne Neagle:** You have all spoken positively about the proposed model for the

operative organisations', and it is clear that that includes the third sector. Therefore, has anyone from the Government consulted you to see if there is a relationship between this clause and adoption? I do not see a relationship, but, in principle, it is not that difficult to amend the Bill to ensure that there is a balance between the part of the Bill relating to your sector and the part that discusses adoption, which does not currently include your sector.

**Ms Jones:** I am not aware that we have been consulted specifically. It is possible that there has been consultation with Barnardo's more widely about the other services that we provide. It is difficult when something is open to personal interpretation. It is possible for it to be forgotten and then people think that it does not include the sector if it is not clear. I know that it is about wording. Someone asked earlier whether the Bill would cover children who have been adopted anyway, but if you do not state it explicitly in the Bill, it is easy for it to be misinterpreted. It can be a little like Chinese whispers and, by the end, it is not part of the Bill at all. Therefore, the stronger the message through the Bill, the better it will be so that the voluntary sector knows that there is equal status.

**Simon Thomas:** Obviously, over the past year, collaboration has been pretty good and has improved; are you concerned, if there is not a specific reference to you in the context of adoption in the Bill, that it will be possible for local authorities to dominate the process from now on?

**Ms Jones:** That is possible. I am not afraid of that happening, but it is possible, and you then rely on other people interpreting it in a different way. Therefore, the stronger it is, the better.

adoption service, which is encouraging, but what if it does not work, and we are back where we did not want to be? Are you satisfied that the powers in the Bill are sufficient to enable the Minister to intervene and to sort it all out?

[285] **Ms Jones:** They are there. I suppose that the optimism and the passion that people working within this field have comes from really wanting this to work. However, I think that you need the safety net of having somebody who can say, 'Right, this is not working'. Otherwise, the whole investment of a lot of people's time will be wasted. However, I am not sure. It is there, and, hopefully, it is strong enough; I do not know whether it could be stronger.

[286] **Ms Oliver:** Having it there is one way of galvanizing commitment to working together and making it work. Obviously, it is better avoided. It is better, as things stand now, that people being enthusiastic and positive will achieve some results. However, it needs to be there so that, if things do go off course, they can be moved along and that governance and control is there to ensure that it happens.

[287] **Ms Price:** One of the critical elements would be in relation to governance within the regional bodies, overall standards and how people are measured against those standards, in terms of achieving the outcomes that have been set.

[288] **Mr Cooney:** The governing board for the national adoption agency will be critical. A balance of membership is needed and it has to have sufficient rigour and independence to ensure that everybody is held to account, including every adoption provider, whether it is voluntary or statutory. So, that will play a central role. It is also fair to say that there are some good examples of local authority adoption services. The south-east Wales service has been a very good service. I appreciate that there are some pockets where authorities underperform, but across Wales there are some other good models of adoption services. So, it is important that we embrace all that is good and try to further the development of those that are falling below standards.

[289] **Lynne Neagle:** Do you have any timescales in mind as to how long we should give it before everything should be working 100%, as we would like it to be?

[290] **Mr Cooney:** The Deputy Minister mentioned a national adoption service in February and March 2011, and two years later, we have just agreed a functional model, and there is some suggestion that it will, potentially, be 2015-16 before it is fully operational. We need to tie this down. A total of 200 children waited last year, and that is not fair. If another 200 children are waiting per year, until we get this right, that is not fair. We are these children's advocates. Everything about this has to serve the needs of children. Everything about the whole adoption legislation has to serve the needs of children. It is no good having the United Nations Convention on the Rights of the Child with adoption written into it, in article 6 or 7, unless we have a fine-quality adoption service for our most vulnerable kids.

[291] **David Rees:** We have already heard this morning from many other witnesses of their concerns about the lack of provision within the Bill for post-adoption support. Do you share those views? Do you believe that it should be a statutory obligation within the Bill?

[292] **Mr Cooney:** Yes. I will make a suggestion. I was thinking about this last night, and I have been thinking about it for a week or two, because I saw that it was one of the questions. I think that adoptive parents are absolutely wonderful people. They commit the rest of their lives to these children. As I said before at the inquiry, I am a big fan of Adoption UK, because it is an adoptive parent to adoptive parent support organisation. It is slightly patronising for agencies such as us to design an adoption service for adoptive families committing the rest of their lives to these children. We have entered into a partnership with Adoption UK, in which,

so far, we have signed about 150 families up with support until the child reaches 18 years of age. If I would like one thing to come out of this today, it is that I would like somebody to agree a fee of, say, £4,000 per child to be paid at the adoption order to an organisation such as Adoption UK. For that, you would get 15 or 18 years of support groups, buddying schemes, helplines, newsletters and peer-to-peer support.

11.45 a.m.

[293] Those are the services that we are buying at the moment. If a local authority provides a service, it is going to be a lot more expensive over the 15 years for that child. What happens in adoption support is that a third of the families will disappear once the adoption order is granted and will never come back to the agency, about a third will dip in and out, and a third will be high-end users. Local authorities are used to paying us £27,000. If they are going to deliver an adoption support service, or if a national adoption agency is going to do so, it is going to be much more expensive than agreeing a simple fee at the granting of the adoption order, whereby we look at buying in a seamless service until the child is 18 years old. I do not have shares in Adoption UK, but it would be innovative and creative, it would put Wales at the front of national adoption services, and, most of all, it would be a great service for children and families.

[294] Why not fund organisations that are run by adoptive parents—which are run, for the most part, by volunteer adoptive parents—and allow them to develop, design and deliver the support service that they required? There are some elements of that service that will need to remain within local governance—such as health, children and adult mental health services, education—but you will get a very broad stream of services that you will not get elsewhere.

[295] **Ms Jones:** I agree with that, but I also think that the Bill offers the opportunity to tie in other agencies, such as health and education agencies, in a way that we have perhaps not an opportunity to do so before. There are some families that do need extra support, and that may not be until the child is aged 17 or 18. The lifelong commitment to adopting goes well beyond the childhood years. So, both are important but both have to be in the Bill and it should not be a matter of ‘who can shout the loudest gets the service’. It has to be there and available to whomever needs it, according to need, really. So, I think that both have a really important role to play, otherwise we will not get people coming in who want to be adopters if they do not think that the support is going to be there. I think you do need both.

[296] **Ms Oliver:** The 2002 Act was a huge step forward in making it clear that adoption is a lifelong process for all parties, in giving that right to come forward and ask for an assessment. However, that has got lost in delivery and in the commissioning of services, and the difficulties between health and education and those kinds of provisions. So, we really need to revisit that duty to provide services across the piece—looking to commissioning and to responsibilities being shared between health and education—and to be mindful that included in that is the need to support birth parents in losing children to adoption. That, in itself, will serve as a preventative measure as regards further costs in health support. So, although there may be costs in giving a duty to provide, in terms of the long-term cost implications, it will save a huge amount.

[297] **Mr Cooney:** The risk is that we could end up with a fragmented, piecemeal adoption support service unless it is well co-ordinated. We know what we need: we need the groups, helplines, buddying schemes and parent mentoring. Adoption UK provides all that. The difficulty when you have five collaboratives is that things grow at different paces in different areas. Four thousand pounds for 200 children, which is £800,000, might sound a lot, but one breakdown over 15 years could cost you the same. It is an invest-to-save argument.

[298] **Aled Roberts:** Cawsom dystiolaeth **Aled Roberts:** We received evidence from

gan BAAF Cymru ac Adoption UK yn gynharach ynghylch adran 65. Mae'n ymddangos bod y Llywodraeth yn ceisio creu sefyllfa lle mae lleoliad sefydlog cynnar yn cael ei baratoi. Fodd bynnag, maent yn poeni bod adran 65 yn gweithio'n erbyn hynny'n anfwriadol. Beth yw'ch barn chi?

BAAF Cymru and Adoption UK earlier about section 65. It appears that the Government is trying to create a situation where early permanent placements are prepared. However, they are concerned that section 65 works against that unintentionally. What is your opinion?

[299] **Ms Jones:** Mae'n rhywbeth sy'n dod ag oedi i mewn i'r broses i'r plentyn, ac ansicrwydd o ran, 'A yw'r bobl hyn yn mynd i fod fy nheulu, a'r bobl byddaf yn aros gyda nhw am weddill fy mywyd?'. Mae angen gallu gwneud y broses yn gyflymaf ac yn well na gorfod mynd at un teulu ac wedyn teulu arall. Mae'r cymhlethdod hwnnw, a gorfod symud o un le i'r llall yn drawma i'r plentyn, gan nad oes sicrwydd. Efallai bod enghreifftiau lle y buasai yn gallu gweithio, ond, ar y cyfan, cyfran fach y byddent. Mae ffyrdd eraill o gael *permanency*. Nid wyf am roi'r argraff bod rhaid i benderfyniadau cael eu gwneud cyn i asesiad llawn o anghenion y plentyn cael ei wneud. Fodd bynnag, unwaith mae pobl yn sicr, wrth fynd ymlaen i fabwysiadu a chydweithio i gael y lleoliad gorau i'r plentyn hwnnw, boed hynny gyda gofalgwyr maeth tymor hir, neu gyda mabwysiadwyr, mae'n bwysig ei fod yn union beth sydd angen ar y plentyn. Mae'n teimlo fel bod y broses yn creu rhyw *tier* o oedi ychwanegol. Mae *planning* yn wahanol, ac rwy'n meddwl bod ffordd o ddatblygu'r opsiynau hynny, ond maent yn reit newydd yng Nghymru.

**Ms Jones:** It is something that brings delay into the process for the child, and uncertainty in terms of, 'Are these people going to be my family, and the people whom I will stay with for the rest of my life?' We need to make the process quicker and better than having to go to one family and then another. That complexity, and having to move from one place to another, is a trauma for the child, because there is no certainty. There might be examples where it could work, but, on the whole, they would be a small proportion. There are other ways of getting permanency. I do not want to give the impression that decisions have to be made before a full assessment of the child's needs is done. However, once people are certain, in going on to adoption and working together to get the best placement for that child, whether that is with long-term foster carers or adopters, it is important that it is exactly what the child needs. It feels as though the process creates an additional tier of delay. Concurrency planning is different, and I think that there is a way of developing those options, but they are quite new to Wales.

[300] **Aled Roberts:** Nid wyf yn siŵr os clywsoch awgrym BAAF Cymru ynglŷn â ffordd well ymlaen o ran y Bil. Os na chlywsoch y dystiolaeth honno, efallai byddai'n bosibl i chi wrando arni i weld os ydych yn cytuno bod hynny'n ffordd well ymlaen.

**Aled Roberts:** I am not sure whether you heard BAAF Cymru's suggestion of a better way forward in terms of the Bill. If you did not hear that evidence, perhaps you could listen to it to see whether you agree that that is a better way ahead.

[301] **Mr Cooney:** I read BAAF's written evidence and I have some sympathy with that model. I found out a couple of days ago that, in England, there is clause 30 of the Children and Families Bill, which is about fostering to adopt, and the Family Rights Group is considering a legal challenge to that, because it feels that it does not strengthen kinship care rights. It is important, in any fostering-to-adopt deliberation, that we look at the role of birth parents and at the role of kinship and embrace that before we move into a fostering-to-adopt arrangement.

[302] There is also some suggestion in England, at this early stage, that, because the family justice system had had a marked impact on delays for court cases, the need for fostering to adopt is not seen as high by some of the local authorities, because in a sense, the delays are

being ground out at an earlier stage.

[303] There are also other models. I also found out a couple of days ago that, in Scotland, all prospective adopters are routinely dual-approved to foster and adopt. The children's hearing system actually allows that. So, there are more flexible models out there. The difficulty with the fostering-to-adopt model is that we try to pick out whom it applies to, whereas the Scottish model embraces everybody and creates the option for everybody. Some families go straight to straightforward adoption, but some are dual approved. I do not have a sufficient grasp of that model at this stage, but I can find out more information and come back to you on that. However, dual approval for all adopters seems to work in Scotland; it seems to have reduced delays and it is a much more flexible system. The problem with some of the models is that we end up trying to make the child fit the model, whereas that model in Scotland has sufficient flexibility that everything fits the child.

[304] **Ms Oliver:** One of the concerns about the attention that has been given to the fostering-to-adopt model in England is that it is likely to be of benefit to a very small number of children, but it deflects from the other concerns about delays in planning, and the possibility of developing concurrent placements for those children where you can place the child, but have the adults take the risk while you are making those determinations about what is in the child's best interests. Concurrency is a much more child-centred model and would have greater capacity to meet that need. Concurrency, along with continued work to reduce delay for children coming through the legal system would make the need for fostering to adopt much smaller. So, while having that in place, to focus so much on that and cause confusion about whether it is about children being placed with foster carers, who will then apply to adopt, is unfortunate, I think, as it deflects attention from where it is needed, which is on timely planning for children and moving things forward.

[305] **Aled Roberts:** Chair, if there is disquiet regarding the current provision in section 65, and if there are lessons from England and Scotland that we ought to have regard to, then perhaps it would be useful for us to have more information on that.

[306] **Ms Oliver:** Barnardo's is running a concurrency scheme. We have been developing that and have been exploring where that fits alongside fostering to adopt. So, we would be happy to provide some more information.

[307] **Ann Jones:** Is everyone content? I see that you are. Thank you for coming in to give your evidence and in advance for the additional papers that you will supply. We will send you a copy of the transcript to check for accuracy. Thank you very much.

11.56 a.m.

### **Ethol Cadeirydd Dros Dro Election of a Temporary Chair**

[308] **Ann Jones:** Before the committee breaks, we need to appoint a temporary Chair for this afternoon's session, which takes evidence from the Welsh Local Government Association and the Deputy Minister and her officials. I propose that Lynne Neagle be appointed as the temporary Chair for that session. I see that there are no objections. Thank you very much.

*Penodwyd Lynne Neagle yn Gadeirydd dros dro.  
Lynne Neagle was appointed temporary Chair.*

**Cynnig o dan Reol Sefydlog Rhif 17.42 i Benderfynu Gwahardd y Cyhoedd o'r  
Cyfarfod ar 1 Mai**  
**Motion under Standing Order No. 17.42 to Resolve to Exclude the Public from  
the Meeting on 1 May**

[309] **Ann Jones:** The committee also needs to agree that it will meet in private on 1 May to discuss the key issues and the reporting. I move that

*the committee resolves to exclude the public from the meeting on 1 May in accordance with Standing Order No. 17.42(vi).*

[310] I see that Members are content. Thank you.

*Derbyniwyd y cynnig.  
Motion agreed.*

*Daeth y cyfarfod i ben am 11.56 a.m.  
The meeting ended at 11.56 a.m.*