



Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales

# Cofnod y Trafodion The Record of Proceedings

[Y Pwyllgor Cyllid](#)

[The Finance Committee](#)

19/01/2017

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Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynnddi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd. Lle y mae cyfranwyr wedi darparu cywiriadau i'w tystiolaeth, nodir y rheini yn y trawsgrifiad.

The proceedings are reported in the language in which they were spoken in the committee. In addition, a transcription of the simultaneous interpretation is included. Where contributors have supplied corrections to their evidence, these are noted in the transcript.

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

Mike Hedges <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Llafur Labour
Huw Irranca-Davies <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Llafur (yn dirprwyo ar ran Eluned Morgan) Labour (substitute for Eluned Morgan)
Steffan Lewis <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Plaid Cymru The Party of Wales
Nick Ramsay <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Ceidwadwyr Cymreig Welsh Conservatives
Mark Reckless <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	UKIP Cymru UKIP Wales
David Rees <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Llafur Labour
Simon Thomas <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)

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

Dr Patrick Bishop	Uwch Ddarlithydd, Coleg y Gyfraith a Throsedddeg, Prifysgol Abertawe; Cymdeithas Cyfraith Amgylcheddol y DU Senior Lecturer, College of Law and Criminology, Swansea University; UK Environmental Law Association
James Byrne	Rheolwr Tirweddau Byw, Ymddiriedolaethau Natur Cymru Living Landscapes Manager, Wildlife Trusts Wales

Rebecca Evans <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Aelod Cynulliad, Llafur (Gweinidog Iechyd y Cyhoedd a Gwasanaethau Cymdeithasol) Assembly Member, Labour (The Minister for Social Services and Public Health)
Becky Favager	Rheolwr Gwastraff ac Adnoddau, Cyfarwyddiaeth Tystiolaeth, Polisi a Thrwyddedu, Cyfoeth Naturiol Cymru Waste and Resources Manager, Evidence, Policy and Permitting Directorate, Natural Resources Wales
Kim Gutteridge	Pennaeth Grantiau, Codi Arian Mawr—Cynllunio a Datblygu, RSPB Head of Grants, High Value Fundraising—Planning and Development, RSPB
Rhodri Jones	Rheolwr y Bil, Bil Iechyd y Cyhoedd (Cymru), Llywodraeth Cymru Bill Manager, Public Health (Wales) Bill, Welsh Government
Lee Marshall	Prif Swyddog Gweithredol, Pwyllgor Ymgynghorol Ailgylchu Awdurdodau Lleol Chief Executive Officer, Local Authority Recycling Advisory Committee
Dr Stephen Marsh-Smith	Afonydd Cymru Afonydd Cymru
Brian Mayne	Ricardo Energy & Environment, Cyfarwyddwr Rhanbarthol Cymru; Effeithlonrwydd Adnoddau a Rheoli Gwastraff, Sefydliad Siartredig Rheoli Gwastraff Ricardo Energy & Environment, Regional Director Wales; Resource Efficiency & Waste Management, Chartered Institution of Wastes Management
Clare McCallan	Rheolwr y Prosiect Treth Gwarediadau Tirlenwi, Cyfoeth Naturiol Cymru Landfill Disposals Tax Project Manager, Natural Resources Wales

Chris Tudor-Smith      Uwch Swyddog Cyfrifol, Bil Iechyd y Cyhoedd  
(Cymru), Llywodraeth Cymru  
Senior Responsible Officer, Public Health (Wales) Bill,  
Welsh Government

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

Bethan Davies	Clerc Clerk
Gemma Gifford	Dirprwy Glerc Deputy Clerk
Catherine Hunt	Ail Glerc Second Clerk
Helen Jones	Y Gwasanaeth Ymchwil The Research Service
Georgina Owen	Dirprwy Glerc Deputy Clerk
Katie Wyatt	Cynghorydd Cyfreithiol Legal Adviser

*Dechreuodd y cyfarfod am 09:17.*  
*The meeting began at 09:17.*

**Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datgan Buddiannau**  
**Introductions, Apologies, Substitutions and Declarations of Interest**

[1]      **Simon Thomas:** Croeso, bawb, **Simon Thomas:** Welcome, everyone, i gyfarfod o'r Pwyllgor Cyllid. Rydym to the meeting of the Finance yn edrych ar ddau Fil heddiw—Bil Committee. We are looking at two lechyd y Cyhoedd (Cymru) a'r Bil Bills today—the Public Health (Wales) Treth Gwarediadau Tirlenwi (Cymru). Bill and the Landfill Disposals Tax Yn gyntaf oll, a gaf i atgoffa Aelodau (Wales) Bill. First of all, may I remind fod clustffonau ar gael ar gyfer Members that headsets are available

cyfieithu ar sianel 1 a'r sain ar sianel 0? Hefyd, atgoffaf Aelodau i dawelu unrhyw ddyfais electronig fel nad yw'n amharu ar y cyfarfod. Rwy'n croesawu Huw Irranca-Davies, sydd yn lle Eluned Morgan. Diolch i chi am ddod i'r cyfarfod.

for translation on channel 1 and amplification on channel 0? Can I also remind Members to ensure that any electronic devices are on silent so that they don't interrupt the meeting? Can I welcome Huw Irranca-Davies, who is substituting for Eluned Morgan this morning? Thank you for coming along today.

09:18

### Papurau i'w Nodi Papers to Note

[2] **Simon Thomas:** Rwy'n gofyn i Aelodau yn gyntaf, cyn i ni symud at y dystiolaeth gan y Gweinidog, i nodi dau llythyr—na, sori—i nodi dau bapur: un llythyr gan y Llywydd ynglŷn â digwyddiad Senedd@Casnewydd, ac un set o gofnodion y cyfarfod diwethaf. Jest o ran y set o gofnodion o'r cyfarfod diwethaf, atgoffaf Aelodau hefyd fod y cyfnod gosod gwelliannau i'r Bil Treth Trafodiadau Tir a Gwrthweithio Osgoi Trethi Datganoledig (Cymru) nawr ar gael, ac felly mae'r staff cymorth, y clerod a phawb yn barod iawn i'ch helpu chi i edrych ar welliannau ac i baratoi gwelliannau ar gyfer hynny.

**Simon Thomas:** Can I ask the Members, first of all, before we move on to evidence from the Minister, to note two letters—I beg your pardon—to note two papers: a letter from the Llywydd regarding the Senedd@Newport event, and also a set of minutes from the previous meeting. Regarding those minutes, can I also remind Members that the period for tabling amendments to the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Bill is open, and everyone is ready to help you with that? The clerks are here and available to assist you to look at those amendments and to prepare amendments for that.

[3] Ar y llythyr gan y Llywydd ataf i ynglŷn â Senedd@Casnewydd, rwyf wedi bod yn trafod â'r tîm ynglŷn â mynd â'r pwyllgor i Gasnewydd. O bosibl, mae'r Gweinidog, Mark Drakeford, yn awyddus hefyd i fod yn rhan o sesiwn dystiolaeth agored,

Regarding the letter from the Llywydd to me regarding Senedd@Newport, I have been talking to the team about taking the committee to Newport. Possibly, the Minister, Mark Drakeford, is also keen to be part of an open evidence

ond byddwn yn croesawu unrhyw syniad sydd gyda chi hefyd ynglŷn â sut y gallem ni ychwanegu at y profiad yna—nid yn unig mynd â'r pwyllgor, ond efallai cynnal rhyw fath o ddigwyddiad gyda'r bobl yng Nghasnewydd hefyd. Felly, croeso i chi ddod ag unrhyw syniadau. Byddwn yn dod nôl â mwy o fanylion maes o law, a byddwch yn gallu edrych ar hynny hefyd. Felly, a ydych chi'n hapus i nodi'r ddau bapur? Diolch yn fawr.

session, but I would also welcome any ideas you have in relation to how we could expand on that experience—not only taking the committee, but maybe holding an event as well with the people of Newport. So, you're very welcome to present any ideas. We will come back with more details on that very shortly, and we can have a chat about that. Are you happy to note both papers? Thank you very much.

09:19

### **Bil Iechyd y Cyhoedd (Cymru): Sesiwn Dystiolaeth Public Health (Wales) Bill: Evidence Session**

[4] **Simon Thomas:** A gaf i droi felly at Weinidog Iechyd y Cyhoedd a Gwasanaethau Cymdeithasol, Rebecca Evans? Rydym yn eich croesawu chi i'r cyfarfod. Rydych chi yma i roi tystiolaeth ar Fil Iechyd y Cyhoedd (Cymru), ac a gaf i ofyn i chi siarad am y swyddogion sydd gyda chi ar gyfer y Cofnod, os gwelwch yn dda?

**Simon Thomas:** Can I turn, therefore, to the Minister for Social Services and Public Health, Rebecca Evans? We welcome you to the meeting. You are here to give evidence on the Public Health (Wales) Bill, and can I please ask you if you would introduce your officials for the Record?

[5] **The Minister for Social Services and Public Health (Rebecca Evans):** Okay, thank you. Would you like to introduce yourself?

[6] **Mr Jones:** Yes, I'm Rhodri Jones. I'm the Bill manager for the Public Health (Wales) Bill.

[7] **Mr Tudor-Smith:** Chris Tudor-Smith. I'm the senior responsible officer for the Bill.

[8] **Simon Thomas:** Ocê, diolch. Roedd eich lleisiau chi yn eithaf isel.

**Simon Thomas:** Okay, thank you. Your voices were a little quiet there.

[9] Your voices were quite quiet there, so if I do this with my hand I might want you to speak up a bit, that's all.

[10] A gawn ni droi yn syth at y Bil felly, ac at y dystiolaeth? Mae'n amlwg bod hwn yn ail ffurf ar Fil a gyflwynwyd ac a aeth gryn dipyn drwy'r Cynulliad diwethaf. O safbwynt cyllidol a fedrwch chi amlinellu beth rydych chi wedi ei ddysgu o'r broses ddiwethaf, ac ym mha ffordd a ydych chi wedi ailedrych ar effaith gyllidol y Bil yma, ac ym mha ffordd ydych chi wedi adlewyrchu hefyd beth oedd y pwyllgor blaenorol wedi ei ddweud ynglŷn â'r Bil? Can we turn straight to the Bill, then, please, and the evidence? Clearly, this is a second version of a Bill that was presented and got quite far in the last Assembly. From a budgetary point of view, can you tell us what you have learned from the previous process, and how you may have looked again at the budgetary effect of this Bill, and how you've reflected perhaps what the former committee had to say about the Bill?

[11] **Rebecca Evans:** Thank you and good morning, Chair, and committee. The officials working on the Bill, and then subsequently myself when I came into post and took responsibility for the Bill, took an interest in the report of the previous Finance Committee and the seven recommendations that were in that report. A number of those recommendations of the committee were directly addressed as the Bill was going through the stages of the previous Assembly. For example, the summary tables in the pharmaceutical services section of the regulatory impact assessment were revisited to show separate tables for costs and monetised benefits. And any changes that were made during that RIA process have been retained in this Bill as well.

[12] I know that the committee made some more general recommendations in terms of how RIAs should be presented, and that's an issue more widely for Government. That work was included in the work that the Government's doing in terms of looking at how RIA's are presented more generally across Government in the fifth Assembly. Along with that, there's the Constitutional and Legislative Affairs Committee's report on legislation in the fourth Assembly as well. That has led to a number of changes in RIAs in this and in future as well: one being, for example, the summary table that you'll see towards the start of the RIA, which I think presents information in a clear and understandable way for committee members and interested Assembly Members, but also importantly, I think, for stakeholders more widely.

[13] **Simon Thomas:** Ie, jest ar y pwynt yna, hoffwn i ofyn am y rhanddeiliaid. Rydych chi'n iawn: mae yna dipyn o wybodaeth gyllidol, a dweud y gwir, gyda'r Bil yma. A ydych chi hefyd wedi ailedrych gyda'r rhanddeiliaid ar rai o'r ffigurau o ran budd a chost, achos roedd yn amlwg eich bod chi wedi gweithio a bod yna dipyn o naratif o gwmpas y Bil y tro diwethaf ynglŷn â'r ffaith bod y rhain, yn y pen draw, yn arbedion cost yn ogystal ag arbedion iechyd i'r gwasanaeth iechyd? A ydych chi wedi ailedrych ar y ffigurau yna ar y cyd â rhanddeiliaid?

**Simon Thomas:** On that point, I'd like to ask about the stakeholders. You're right: there is significant financial information with this Bill. Have you looked again with the stakeholders at some of the figures in terms of costs and benefits, because it was obvious that you worked and there was narrative around the previous Bill in terms of how this ultimately will lead to cost savings as well as health benefits for the NHS? Have you looked at that figure again jointly with stakeholders?

[14] **Rebecca Evans:** I'll ask Chris to update you on some of the more recent work, but I will say that the figures in the RIA have been developed using a wide range of reliable sources. They have included discussions with key stakeholders, but also Office of National Statistics data, data from local authorities, engagement with local health boards, and so on. So, we have gathered the data on which the RIA is based from a wide range of sources.

[15] **Mr Tudor-Smith:** Obviously, one of the key changes we've had to make is to update the information in the RIA on the new costs that changed since the RIA was originally done. We have carried out that exercise, and we obviously have talked to key stakeholders about how the costs need to be updated in that process.

[16] **Rebecca Evans:** I think it's worth adding as well that, as in the previous RIA, we have continued to take a cautious approach to the way in which we deal with the projections of costs and benefits within the RIA. For example, when there is low confidence on the accuracy of data, then we've assumed those costs to fall towards the top end of the range and benefits to fall towards the bottom end of the range. So, that does prevent the overestimation of net benefits. And the actual costs associated with implementing the legislation might, in fact, be less, but we have taken throughout a cautious approach.

[17] **Simon Thomas:** Ac yn y **Simon Thomas:** And in the previous Pwyllgor Cyllid blaenorol a'r Finance Committee and the evidence dystiolaeth a gawsom ni gan y we had from the previous Minister, Gweinidog blaenorol, fe soniodd e yn he mentioned clearly that he was glir iawn ei fod yn mynd i chwilio o going to look through the scrutiny hyd drwy'r broses graffu am ffordd o process for a way of making cohesive wneud arbedion cydlynol, fel mae'n savings, or as he said, in his words: dweud, neu yn ei eiriau ef:

[18] 'Make sure we have a joined-up way of doing things'.

[19] A ydych chi wedi canfod rhwng Have you found between the two Bills y ddau Fil eich bod chi wedi llwyddo i that you've managed to do that more wneud hynny yn fwy effeithiol? effectively? It would be good to have Byddai'n braf cael enghraifft, efallai, an example, perhaps, of where you o rywle rydych chi'n teimlo bod feel that has worked in this context. hynny wedi gweithio yn dda yn y cyd-destun hwn.

[20] **Rebecca Evans:** Yes, I think it's important in implementing the Bill that things are done in a joined-up and connected, cohesive way, and that will, I think, limit the costs as well, particularly to local government. An example where that could happen would be through training for relevant staff with the special procedures and the licensing, because it will be similar staff who are delivering both, so it would make common sense to have training delivered to those staff on a basis that lowers the costs, potentially across local government as well. So, there are opportunities there for local government to work together to keep the costs to a minimum.

[21] **Simon Thomas:** Océ, diolch yn **Simon Thomas:** Okay, thank you very fawr. A gaf i droi at Nick Ramsay? much. I'll turn to Nick Ramsay now.

[22] **Nick Ramsay:** Diolch. Good morning, Minister. In terms of the way that the costs and benefits in the RIA have been presented, members of the previous Finance Committee will remember that we had concerns about the way the information had been presented, and we thought that it was confusing and, in some cases, unintentionally misleading. I know that you've worked with the Auditor General for Wales to try and move on from that confusion. Can you tell us to what extent you have worked with the auditor general, and to what extent he is satisfied with the new presentation?

[23] **Rebecca Evans:** The Welsh Government has met with the Wales Audit Office, as you say, to explore the concerns that were raised previously. One of the key things that we have introduced, as I said previously, is the summary report or the summary document at the start of the RIA. I think that addresses some of those concerns. Welsh Government guidance has also been amended to ensure that costs and monetised benefits are presented separately in future RIAs, and I think that, again, addresses one of those concerns that was raised.

[24] **Nick Ramsay:** It has certainly addressed my next question, so that saves time. [*Laughter.*]

[25] **Rebecca Evans:** In terms of the RIA, though, at the start of the document—sorry, the summary tables at the start of the document—I think that they do address some of those concerns, because it does show, as we see, that costs are split between administrative costs and compliance costs. And, within that, costs involved with preparing—so, the transitional costs to the implementation—are there alongside the ongoing recurring costs as well. So, that, I think, provides a clearer level of information for people as well.

[26] **Nick Ramsay:** To what extent is this work in progress? Do you think that further improvements can be made to the presentation—in future Bills, I'm thinking now, more so than this one? But it seems you've come some way at this point. Do you think you're there or do you think that further improvements can be made?

[27] **Rebecca Evans:** The RIA was developed in collaboration with our economists in Welsh Government, and it fully complies with the standards set out for RIAs. So, in terms of this Bill, I wouldn't envisage any changes. Any concerns that committee might have in terms of the layout and information contained in RIAs generally would be an issue more widely for Welsh Government, which committee might want to take up separately. But, in terms of the Bill, I think that we have things right.

[28] **Nick Ramsay:** Thanks.

[29] **Simon Thomas:** Okay. Mike Hedges.

[30] **Mike Hedges:** Diolch, Gadeirydd. A couple of questions. The first one is that, from looking at the figures, it looks as if the next year's going to cost local authorities around about £300,000. I assume that you accept that that

figure as being around about right. Is there any additional money going to be given to local authorities to pay for it?

[31] **Rebecca Evans:** We recognise the challenges to local authorities, particularly in these difficult financial times, and the whole Bill, I think it's fair to say, was developed with it very much in mind that local authorities are under a lot of pressure. So, we've taken every opportunity within the Bill to lower the costs to local authorities where possible. Lots of things in the Bill just require local authorities to do some things differently, rather than to spend extra costs. I think that's an important thing to recognise. And, as I alluded to there, there are lots of opportunities within the Bill for local authorities to work very closely together, to collaborate, for example, on IT systems and taking a co-ordinated approach to training, or in communicating the Bill's provisions as well.

[32] With regard to smoke-free settings, for example, that's an important part of the Bill that I know many Members are particularly interested in. But, there, we're building on the mechanisms and expertise that already exist in local authorities, and those three particular settings that are named on the face of the Bill—so, playgrounds, schools and hospitals—are areas where many local authorities already have voluntary bans in place. So, local authorities are well used to enforcing or seeking to try and enforce those bans on a voluntary basis, and local authorities have been very supportive in terms of putting these things on a statutory basis to help aid enforcement in future. So, where possible, we have sought to limit the costs to local authorities and also create a system where we're moving forward on the basis of the expertise that already exists.

09:30

[33] **Mike Hedges:** We're not here to scrutinise the efficacy of the Bill. For the record, I'm very supportive of the Bill and what it's attempting to achieve, but we're actually looking at the financial side of it, and the financial side only. The second question is: if you accept my £300,000 as a rough ballpark figure, would you expect it to fall equally on each local authority, fall per head of population, or would it be more complicated, based upon the number of different piercing places, for example? I know you've calculated these numbers, so have you got a bottom-up calculation, as in, there are so many piercing places in, say, Swansea, multiply that by a certain cost per piercing place and adding on additional costs at the end, or have you got a different methodology of doing it? If you have that methodology, are the

calculations available?

[34] **Rebecca Evans:** Can I ask you to start with this one, Chris?

[35] **Mr Tudor-Smith:** I think we've calculated this rather globally and not on an individual local authority basis, because one of the issues at the moment is that we don't have all the information that is needed to do that. So, for example, if we take the register of retailers of tobacco and nicotine products, until we have the register, we will not know how many sellers of those products there are out there, because that information just isn't available at the moment. So, there are quite a lot of constraints at the moment on us being able to do that as you suggested. So, we've made some assumptions on an all-Wales basis, rather than on an individual local authority basis, because the quality of the data isn't strong enough for us to do it at that level.

[36] **Mike Hedges:** Would I be correct if I divided the £300,000 by 22 and came up with a figure of just under £15,000, or would I expect it to be higher in some than others?

[37] **Mr Tudor-Smith:** I think we would expect it to be higher in some than others, from what we currently know.

[38] **Mike Hedges:** My last question: you accept that some of these figures are ballpark figures, and it's always amazing, when people produce figures that are meant to be ballpark, that they get them to £61,800, £26,300—we get down to the hundreds, which gives the lay observer a belief that there's a level of accuracy in those. Would it be easier if you set ranges, so that you say it will cost between £25,000 and £30,000? I'm not sure how you can come up with a figure unless you have something to multiply it by and add. If I was doing this for a local authority, I'd say, 'How many places would you have that do tattooing and piercing, and then how much is it going to cost to do each one and then we'll have overall admin charge, and then that will be the total cost.' I'm not sure how you can come up with a cost without actually going through those figures.

[39] **Rebecca Evans:** I think the important point here is that we've taken a cautious approach in terms of giving the data and based them on the best possible available evidence from a wide range of sources in order to come up with the figures that are in the RIA, following the established processes that have been agreed by Welsh Government and agreed with our economists as

well.

[40] **Mike Hedges:** Just a last question, then: what sources did you use for piercing?

[41] **Mr Tudor-Smith:** The information that we've received from local authorities as to what they know at the moment about the number of piercers in their areas.

[42] **Simon Thomas:** When you were replying to Mr Hedges, I didn't quite catch a commitment to fund local authorities for these new responsibilities, which are estimated in the Bill as being something in the order of £2.1 million between 2017-18 and 2021-22, and Mike Hedges worked out how much that was in the first year. The previous Welsh Government used to say quite often that if there was responsibility put on local authorities, then funding would flow, and that's the recommendation of the Wales Audit Office, as well. So, are you making that commitment that those upfront costs will be provided by Welsh Government?

[43] **Rebecca Evans:** Some of those costs are already provided by Welsh Government. For example—

[44] **Simon Thomas:** No, these are the extra costs, Minister. I accept your point that Welsh Government's already looking at tobacco-free areas, and it's already looking at general public health in terms of provision of some of these things, but these are specifically the extra costs that you say in your regulatory impact assessment will flow on from this Bill. Are you providing those costs—yes or no—to local authorities?

[45] **Rebecca Evans:** Well, the point I was trying to make was that we already give local authorities, for example, £2 million per annum through the—

[46] **Simon Thomas:** I take it the answer is 'no'.

[47] **Rebecca Evans:** No, this is specifically related to the enforcement of smoke-free provision. So, that funding will cover smoke-free provisions, and there will be opportunities within the Bill then for local authorities to have their costs covered, for example, through registration schemes, by charging a cost for registration and so on. So, that will be cost neutral.

[48] **Simon Thomas:** I assume, because that's how you're supposed to do regulatory assessments, that's all factored in, and you still end up with additional costs in the first several years. Now, that there might be savings that accrue in public health terms down the line, and they're worked out as well, but they're not savings that local authorities pick up. The local authorities have to spend in order to achieve the aims of the Bill. Are you prepared to provide that? You can make a legitimate case, I'm sure, to say you're not prepared to do it, because local authorities have to share the burden as well, but I just want it on the record if local authorities will be getting that money or not.

[49] **Rebecca Evans:** No, there's no plan to add additional money specifically to the implementation of this Bill. However, we have made specific commitments. For example, over the medium term, we will cover any shortfall between the fees raised and the costs of running the retail register, and so we'll be monitoring that in terms of implementation. So, that's a specific commitment that the previous Minister—

[50] **Simon Thomas:** So, it's reasonable to assume, then, that you are asking local authorities to bear some of these costs, in a partnership way, you might say, or in a way that everyone has to work together for public health, but there is a cost that they will have to bear initially.

[51] **Rebecca Evans:** There is a cost, and there are also opportunities within the Bill to keep the costs as low as possible and to reduce those costs by working in collaboration with other local authorities and so on.

[52] **Simon Thomas:** And we may explore some of those in a moment. Huw Irranca-Davies.

[53] **Huw Irranca-Davies:** May I turn from costs on local authorities to costs that will incur on tobacco and nicotine retailers, Minister? As you know, the proposals around the national register have faced some flak, not least from the National Federation of Retail Newsagents, which considers that, even though the £30 registration fee is relatively small to the layperson, when you add it to things like the national minimum wage, pensions auto-enrolment and business rates annual increases, it could be the straw that breaks the camel's back. So, what consideration did you give to those views in setting that fee? How did you listen to them? How did you take them into account?

[54] **Rebecca Evans:** Well, we're proposing the one-off fee of £30 for a

registration, and that will cover one premises. Then, in order to try and keep costs as low as possible, we're proposing £10 for any additional premises on top of that as well. I have to say that these are indicative figures only, in line with the cautious approach that we've taken, so it very well might be that the cost actually is lower. But the final fee will be set out in regulations, and that will be subject to a full and detailed consultation to which retailers and others can certainly make their views known. The final fee will be compliant then with the Hemming judgment, so only covering the costs of the application and no more. So, in terms of being fair, I think [*Inaudible.*]

[55] **Huw Irranca-Davies:** So, there's still time for this to be modified based on consultation, but you're not persuaded by the argument of the national federation that this could be a step too far. You think this is fair and commensurate with what you're trying to do with this national register.

[56] **Rebecca Evans:** I think the £30 fee would be fair, and we have tried to consider how we can create not too much of a burden on one sector—so, not the entire burden on local authorities and not the entire burden on other sectors as well. So, I think that our approach has been fair and that £30 is a reasonable amount, but it will be subject to full consultation.

[57] **Huw Irranca-Davies:** Okay. You obviously were not persuaded by the different approach that was taken in Scotland and Northern Ireland, where the cost did not lie on the retailers at all. You didn't consider that. You didn't think that was appropriate.

[58] **Mr Tudor-Smith:** We've already made a change in the way we're applying fees. The original proposal was to have a registration fee and then to have a re-registration fee after three to five years. In response to the concerns that were raised by retailers, we've taken out the re-registration fee, so we only have a single registration fee, and that's the way, I think, we've moved nearer to the position that the retailers would like us to have.

[59] **Huw Irranca-Davies:** Okay, thank you for that. Could I turn to the issue of the fixed-penalty notice and ask you, specifically, to what extent you think—does your assessment tell you that these fixed-penalty notices are likely to cover the enforcement costs of local authorities?

[60] **Rebecca Evans:** Well, the primary purpose of the register, of course, is to protect children and young people from the harms associated with tobacco and nicotine. So, I think we have to bear that in mind as the focus.

But the Bill or, when enacted, the Act will provide local authorities with a definitive list of retailers in their area, and I think that will be of great benefit to local authorities as well in terms of existing enforcement legislation, but also as a communications tool as well, because for the first time they'll actually know where their retailers are in the area. There will be a requirement for officers to investigate reports of unregistered retailers selling tobacco and nicotine products. But based on the experience of Scotland, we do expect that to be low. I think we're expecting around seven fixed penalty notices a year, so the amount will be set out in regulations, subject to detailed public consultation and the affirmative procedure through the Assembly as well.

[61] I refer again to the £2 million, recurring, that local authorities receive through the Welsh Government through the revenue support grant now in order to help them with their enforcement of the smoke-free provisions. This is very much within the spirit of those smoke-free provisions.

[62] **Huw Irranca-Davies:** Thank you for that, Minister, for that answer, but we note that we don't have at the moment, within the figures that we have, any real idea of the extent to which the enforcement cost of the register might be partially met by any income from fixed penalty notices. There's an idea that some of it might be, but you don't at the moment have any idea of what proportion that might be, or what figure that might be.

[63] **Rebecca Evans:** No, I think it will be small, because, as we say, we only expect around seven a year, so the amount that would be leveraged by that would be quite small. In terms of anticipating the amount of the fixed penalty notice, a kind of ballpark figure that we're thinking about at the moment would be £200 with a reduced amount of £150, but, again, this is due to be looked at through regulations and consultation will follow and so on, and the affirmative process through the Assembly.

[64] **Huw Irranca-Davies:** Okay, thank you, Minister. I only have one final question on this issue of the register. The previous Finance Committee did recommend that you should look at approaches to tracking local authority income. What consideration have you given to that?

[65] **Rebecca Evans:** Officials will be working with local authorities to determine the feasibility of that process and I'm happy to write to committee with any thoughts on that in future.

[66] **Huw Irranca–Davies:** Okay. Thank you very much.

[67] **Simon Thomas:** Could I just follow up on a point raised by Huw Irranca–Davies with you? You replied around these costs and also the fixed penalty notices that this is going to be done by regulation. You also confirmed it was affirmative, though that's really an issue for another committee, how it's done, but, obviously, we take an interest as a Finance Committee that, if there are any penalties, that's done by the affirmative resolution of the Assembly. Could you just, if you like, just put on the record that because there would be different costs in different local authorities to this, but that it's not your intention to use the regulating powers to have, if you like, regional costs or penalties, that there would be a national charge for registration and a national set of fixed penalty costs?

[68] **Rebecca Evans:** I think it would be reasonable to have a single fixed penalty across Wales.

[69] **Simon Thomas:** Before we get into the detail, it's good to have that confirmation.

[70] **Rebecca Evans:** Of course, it will be subject to consultation, so if there are other views, I would take those into account.

[71] **Simon Thomas:** Yes, it would be unusual to have that, but we need that as much as possible. It's not your intention as Minister to do that. Thank you.

[72] Can I turn to another issue now that was raised by the previous committee, which is the famous *Hemming v. City of Westminster* situation, which relates very much to part of the Bill, and costs that you can recover. I just wondered if you could give us an update on your latest assessment of the various judgments that have been made as a result of this case, and the impact on the Bill from the fiscal point of view.

[73] **Rebecca Evans:** Okay, thank you. We did explore this at some length in the Constitutional and Legislative Affairs Committee, as you would expect us to do.

[74] **Simon Thomas:** Yes, we're just looking at the financial—what it allows you and doesn't allow you to do financially.

[75] **Rebecca Evans:** I'm happy to confirm that the Bill is very much in compliance with European law on this point following the Hemming judgment, and I know officials will have taken a very keen view in terms of the judgment as that court case was progressing, in terms of making sure that the Bill would be compliant with it. So, as a result of the judgment, an applicant can only be charged a fee that reflects the administration cost of processing the application and it can't include an amount for the enforcement and management of the system. So, when we take the special procedures part of the Bill, for example, the Bill provides that, when applying for a licence, an applicant can only be charged a fee that is set having regard to administration costs. But then section 73 of the Bill provides local authorities with the power to charge licence holders an additional fee for the management and enforcement of the licensing system. So, that's an example of how the Bill is compatible with law on this point. Again, with the register for tobacco, the Bill provides that the fee for applying to be on the register will be set out in regulations, and they'll be subject to full public consultation, but that fee will reflect the cost of application and administration costs, rather than anything else. Did you want to add anything else in terms of how this was developed?

09:45

[76] **Mr Jones:** I think that's covered everything. We would say that we were obviously alert to the progress and the different stages of the Hemming case, as the Bill was being developed originally, and some minor drafting changes were made to the Bill, in the way that the Minister has just outlined, to ensure that, whatever the outcome of that process would be, the Bill would remain compliant with European law on that point.

[77] **Simon Thomas:** So, by splitting the financial obligations under the Bill, if you like, in this way, you feel you've met your legal obligations. And have you had to have discussions with the justice ministry in London? Have you had discussions at the UK level, if you like, just to make sure that this is also compatible with their view of what Hemming says?

[78] **Rebecca Evans:** Well, the UK Government have been kept fully up to date throughout the progress of the Bill, both previously and, of course, with this second iteration of it. We haven't had specific discussions on this particular point, but there are ongoing wider discussions, as you'll be aware, between Welsh Government and UK Government regarding the management of devolved Welsh legislation and the potential impacts on the justice system.

[79] **Simon Thomas:** Okay. Any other Members? Okay. Steffan Lewis.

[80] **Steffan Lewis:** Diolch, Gadeirydd. Moving to the health impact assessments, the additional cost estimated is just over £0.5 million, and in evidence received from the director of public health at Cwm Taf Local Health Board, there was an indication there that there needed to be more clarity around resource implications. I wonder if you could outline the consideration you've given to the additional costs that public bodies will have to face from the additional health impact assessments and how you've gone through the process of trying to minimise those costs.

[81] **Rebecca Evans:** Okay, thank you. Well, the Bill aims to take a proportionate approach to health impact assessments and ensure that they are carried out in the most appropriate circumstances, and those precise circumstances will obviously be set through regulations—again, determined through a process of consultation. So, all health boards and other bodies with an interest will obviously be able to make their views known through that process.

[82] The overall aim isn't to increase or to have vast numbers of health impact assessments carried out in Wales, but it's about strengthening and formalising the existing arrangements. Also, I think we need to recognise that health impact assessments are already taking place across Wales, and there is a level of expertise within our public bodies already. We have the Welsh impact support unit, which is based in Public Health Wales, and they have a tremendous amount of expertise and they'll be continuing to promote the use of HIAs in Wales and providing advice and support to those carrying out HIAs as well, in terms of developing advice and resources. So, that would not be a cost in terms of that falling on health boards or any other appropriate bodies.

[83] Most health impact assessments are likely to be fairly rapid and small. I think the cost estimate for that is around £2,000, and that includes staff time as well. There would be a small—a much, much smaller number that would be the major health impact assessments, costing, for example, £30,000 to £150,000, potentially taking place over a number of years. Those would, really, be only for very major projects.

[84] **Steffan Lewis:** Okay, thanks for that. And to what extent have you looked at alternative methodologies for developing the health impact

assessments that might be more resource-efficient? How many different methodologies did you look at, and why did you land at this one?

[85] **Rebecca Evans:** Well, advice from the Welsh health impact support unit suggested that the major health impact assessments and the rapid ones would be the two most appropriate and the two kind of normal ways in which to approach this. But, as I say, the detail will be addressed through regulations, so if there are other methods that people would like to suggest, we will obviously take those into account through the consultation process.

[86] **Steffan Lewis:** In your process of looking at the different methodologies, are there comparisons to other countries that you've looked at in terms of how they've changed their health impact assessments and the lessons learned there and the financial considerations?

[87] **Rebecca Evans:** I'll ask Chris to answer this because he was very much involved in the development of the Bill.

[88] **Mr Tudor-Smith:** There's only a very small number of countries at the moment that have actually mandated health impact assessments in the sort of way that we intend to do. So, in some ways, we're amongst a group of countries or states—Australia, New Zealand and America—that are moving in this direction. So, we have taken note of the experience of those countries in how they've developed their new approach to health impact assessments, and we built that experience in in the way that we've gone about our approach here. So, for example, when we say that we don't expect a huge number of increases in health impact assessments—we've looked at Quebec for example, and we've seen there that there's been a slow increase in the number; it hasn't been a dramatic increase. So, that's the sort of approach that we would expect here.

[89] **Steffan Lewis:** Apart from the Quebec example, were there any other major lessons from other territories and countries that have gone down this avenue, from a cost implication point of view?

[90] **Mr Tudor-Smith:** I think, because most countries have recently taken this forward, it's very difficult to learn lessons in that area at the moment.

[91] **Simon Thomas:** Just on that, because you set out, as far as I can see, in the regulatory impact assessment very clearly what the different costs of the different types of health impact assessments could be, but in order to be

able to do them, you've got other costs such as training, which is the obvious one, and I appreciate they are done already to a certain extent, and we had evidence yesterday in another committee of one that was being done. So, we see that happening, but are you sure that you've taken into account those establishment costs, if you like—that you'll need people to be trained and to know how to do it? Obviously, the running costs might be within certain parameters, but there could be some initial costs there. Are you confident that that's been taken care of?

[92] **Rebecca Evans:** Yes, I think that would be reflected in the figures that we have in the RIA. As I say, there's the expertise that already exists in Wales in terms of the Welsh health impact support unit, and Welsh Government will be updating its guidance on HIAs as well, and that should, I would hope, provide a useful resource in terms of making sure that we only have to do things once, if you see what I mean.

[93] **Simon Thomas:** Okay. David Rees.

[94] **David Rees:** Thank you, Chair. Can I just make a final point on health impact assessments? As you may well know, Minister, health impact assessments weren't in the original Bill; they were added at Stage 3, following discussions at Stage 1 and Stage 2 in the previous committees. You've indicated some more costs, but what discussions have you actually had with local authorities, which you've identified as being the main bodies responsible, to ensure that those costs you've identified are genuine costs that they anticipate will be borne?

[95] **Mr Tudor-Smith:** We've had general discussions about the Bill with the directors of public protection, for example, about the way that they can support health impact assessments in local government. My understanding is that they are generally very supportive.

[96] **David Rees:** And those discussions have been since the previous Bill?

[97] **Mr Tudor-Smith:** Yes, since the previous Bill we've carried on talking with local government about the Bill and about the new sections within the Bill.

[98] **David Rees:** Okay, because, as I say, that wasn't in the original Bill. Can we move on to pharmaceutical services? Again, you've estimated the additional costs of around £1.5 million to health boards—approximately

£200,000 to pharmacists in one sense—of the additional pharmaceutical needs assessments aspect of this Bill. Have you had discussions with health boards, because we've talked about local government being under pressure, but health boards, as we all know, are also under pressure and will get that cost? Before we talk about the offsetting of the £7.7 million—I'll come back to that in a minute—what discussions have you had with the health boards as to whether you'll be funding that additional money, or are you expecting, as in local government, for them to perhaps take this in their stride in their figures as per normal?

[99] **Rebecca Evans:** Any costs incurred by local health boards in terms of developing their pharmaceutical needs assessments can be minimised by ensuring that they undertake those need assessments alongside the wider planning with their responsibilities—

[100] **David Rees:** So, the answer's that you haven't got the additional costs put into funding for them.

[101] **Rebecca Evans:** There's no additional funding, but there's no reason—. I would imagine that all local health boards would undertake this work alongside the work that they're doing under the Well-being of Future Generations (Wales) Act 2015 to ensure that their pharmaceutical needs assessments are undertaken at the same time as their local well-being plan assessments. In doing so, it's possible then for health boards to utilise those population assessments for the purposes of the pharmaceutical needs assessments. So, there would be no major extra costs to local authorities in terms of developing them. And we will be providing guidance in terms of how a local health board should produce that pharmaceutical needs assessment as well. So, we're trying to make things as simple and straightforward for health boards as possible and offer them the opportunities to keep costs as low as possible too.

[102] **David Rees:** You've identified a monetised value of benefits for health purposes as, I think, from the figures that I've got, about £2.5 million, or £2.1 million, for 2019–20, 2020–21 and 2021–22. It seems strange to me that you've got the same figure for three years because health benefits tend to accrue in one sense and they progress—you don't actually have, all of a sudden, 'Wow, we've got this benefit this year' and it's the same value next year and the same value next year. How did you come across those figures?

[103] **Rebecca Evans:** I'll ask Chris to address this, again, having been

involved with the Bill and the mathematics of it for a long time now.

[104] **Mr Tudor-Smith:** When we calculated the health benefits, we only took account of one increase in services provided by pharmacies and that is smoking cessation, because that is the area where we have best evidence about how we could cost the health benefits. So, we expect, over a number of years, to have more smoking-cessation facilities in pharmacies. Over the three-year period, we think it was reasonable to assume that, for that area, there would be a continuing increase in benefits from more smokers giving up through going to pharmacies for their smoking-cessation support. So, that's why, for those periods, it is constant. But we didn't take account of any increase in any other services that pharmacies might develop during that period because we didn't think there was sufficient evidence of the financial benefits that will be accrued from those additional services. So, it's a very conservative figure for benefits, we think.

[105] **David Rees:** Just to clarify: have these figures been adjusted since the previous Bill? I simply ask the question because we all understand that e-cigarettes are now out of this Bill, which would have been part of the smoking-cessation services, possibly.

[106] **Mr Tudor-Smith:** We have updated the figures since the last Bill, taking into account the difference in smoking prevalence levels between when we first did the RIA and the levels now.

[107] **David Rees:** And you also, in the previous Bill, had in your calculations a monetised value for reduction in travel. That doesn't seem to be in this Bill. So, I suppose I'm asking: why have you taken it out? Was it a valid figure? Is it no longer a valid figure?

[108] **Rebecca Evans:** We took that out based on concerns that were raised by the previous Finance Committee that the figure was so small in terms of monetising individual visits to a pharmacy that there was a level of accuracy that we couldn't really rely on there. So, it was in response to concerns previously raised.

[109] **David Rees:** Can I move on to the public toilet provision? Clearly, this Bill puts a requirement upon local authorities to put a strategy in place and not to put a provision in place, in that sense. But the Crohn's and Colitis UK consultation response to the Health, Social Care and Sport Committee actually thinks you've overestimated your costs. Do you want to comment on

that?

[110] **Rebecca Evans:** I've met with Crohn's and Colitis UK and the British Toilet Association and others with a particular interest in this and there is a general support for the approach. I know that some would like us to go further, but I think we've talked at some length this morning about the pressures facing local authorities in terms of their finances, so I think that our approach in the Bill takes a reasonable and proportionate approach to trying to seek to improve access to public toilets for all groups of people.

[111] I think that producing a strategy on its own wouldn't necessarily have the impact that we would want it to. I think the important thing about our approach in the Bill is that the Bill goes beyond that by requiring local authorities to publish their interim progress statements and to publish their plans. I think that provides a level of transparency and scrutiny for the general public that hasn't been there before. I know that this is an area of huge interest to many groups—Crohn's and Colitis UK, older people's groups, and so on.

10:00

[112] **David Rees:** I accept that. This was always a provision that was widely accepted by the public and by various organisations, but, in the production of a strategy, and publishing that strategy and its plans, there will inevitably become pressure for local authorities to actually implement and offer situations, because there are possible implications of this. If you don't have adequate provision people may become not wanting to go out. You may create an isolation problem among many individuals, which has an impact on social care, for example. So, there are a lot of knock-on possibilities. Have you considered the impact that any pressure might come to a local authority to actually start implementing this, and the costs that that might put upon the authority?

[113] **Rebecca Evans:** I think that part of this is about asking local authorities to think much more creatively about access to public toilets within their areas. So, opening up local authority premises at the moment—lots of them, people don't feel comfortable just going in and using the toilet. People don't realise that they can. So, there is a culture change involved as well. We will be looking at doing some communications work in terms of implementing the Bill as well. Local authorities, I have to say, have been very supportive of our approach towards this particular issue within the Bill, but generally towards

the Bill as a whole.

[114] **David Rees:** And will that opening up of public buildings, effectively, will the—? Again, it's about public pressure put upon places. We can say that the council office is open 9 a.m. till 5 p.m., but people don't go out simply between 9 a.m. and 5 p.m. They go out for longer periods at times, evenings. Will there be a cost, or have you considered the costs, that public bodies may have to face to ensure that the provision is open longer than perhaps they're normally open now?

[115] **Rebecca Evans:** We haven't looked in that level of detail in terms of what might happen as a result of local pressure.

[116] **David Rees:** So, there could be an added financial burden to local authorities at some point down the line as a consequence.

[117] **Rebecca Evans:** Well, in terms of making things more open and transparent, local groups can put pressure on local authorities. That's then about local authorities deciding on their priorities, based on the needs of their local population, as they would with a wide variety of services that are made.

[118] **David Rees:** Thank you. I think you've answered the question.

[119] **Simon Thomas:** I'll have my penny's worth as well, if I may, on this. [*Laughter.*] I think that the concern from the Finance Committee point of view would be that, in a previous Bill, you—the Welsh Government—took a decision not to have a statutory duty on local authorities. There are huge costs, potentially, involved in that, and I understand why a Government might decide to do that. So, you've got this alternative in this Bill that we're looking at now. The costs are relatively low—about £0.5 million—but if the provision of strategies doesn't actually lead to an improvement of services then that £0.5 million, in effect, is wasted. So, I think that's the concern from the point of view of spending some money to gain some improvement in the services. So, the question, really, is: are you confident, as a Minister, that this approach—the sums are not huge, but, nevertheless—won't be wasted in financial terms, and there will be an improvement in public toilet provision as a result of the provisions that are in this Bill?

[120] **Rebecca Evans:** Well, the aim of the Bill—or this part of the Bill—is to improve access to public toilets. I think that this has been a proportionate

and reasonable approach, based on the level of concern by local authorities as to if we had a statutory number and so on that they would have to reach. I think that we've taken an appropriate approach, which has been well supported generally.

[121] **Simon Thomas:** Ocê. Gwnawn **Simon Thomas:** Okay. We'll leave it ni ei adael e fanna. A gaf i droi at—? there. Can I turn to—?

[122] **Nick Ramsay:** Chair—

[123] **Simon Thomas:** Sorry, if we move on then. Go on.

[124] **Nick Ramsay:** Yes, just very briefly on that point. This is the problem with that approach, which is is it actually—? I have a simple question: is it actually going to deliver that provision on the ground in those local authority areas or, actually, are they pleased with this approach, because it does mean that they don't have to provide the level of public toilet coverage that is needed?

[125] **Rebecca Evans:** Well, it's not just local authorities that have welcomed this. We've had discussions with other partners in the third sector who think that this is a good and reasonable way forward as well. We are looking at things. For example, there's been some interesting work in terms of Changing Places and mapping of local toilets. So, we've had some interesting discussions with the British Toilet Association in terms of mapping. For some people who need changing places particularly, but disabled access and so on, actually knowing where facilities are that they can use is really important to them. So, I think, in terms of widening-up access to information, that's going to be really important in terms of quality of life for many people.

[126] **Simon Thomas:** It sounds like we are getting towards a toilet app. Huw Irranca-Davies.

[127] **Huw Irranca-Davies:** It's a very simple and short question. Based on the investment in the strategy, would your expectation be that the value for money of this investment will be that the provision in different parts of Wales, provided in different ways, will be better than it currently is? It comes to the heart of David's question and what went before. I think it's assumed within this model of working that this investment in the strategy, with more creative thinking, will actually fill in the gaps that are currently out there that we all know are within our constituencies, that this investment will improve

the provision on the ground.

[128] **Rebecca Evans:** It will improve access, and when I—. Because I'm very careful about in terms of what you mean by the word 'provision'. We are not talking necessarily about—

[129] **Huw Irranca-Davies:** It will improve the access.

[130] **Rebecca Evans:** The access, yes. It won't necessarily mean that new facilities will be built all across Wales. I'm not suggesting that that would happen. But it will take a more strategic and creative approach to using what is in local areas.

[131] **Huw Irranca-Davies:** Sorry, just to come back on this: is your expectation that, as a result of this investment that we are looking at in the Finance Committee, access on the ground in different parts of Wales, provided by this creative partnership approach, will be better than it is today?

[132] **Rebecca Evans:** Yes. That's the point.

[133] **Huw Irranca-Davies:** Thank you.

[134] **Simon Thomas:** I think we have asked the same question about five times now, so I think we'll move on. [*Laughter.*]

[135] A throi at rywbeth arall nawr, os caf i, drwy'r dystiolaeth y bore yma, rŷch chi wedi sôn sawl gwaith am yr is-ddeddfwriaeth a fydd yn dod yn sgil y Bil yma. Mae'n amlwg bod nifer o bethau sy'n ymwneud â chostau yn dod yn sgil rheoliadau, ac yn arbennig, wrth gwrs, cosbau, yn ogystal. Nid yw'r rheini yn rhan o'r ddarpariaeth gyllidol sydd gyda ni gyda'r Bil. Rŷm ni'n gallu deall pam yn y cyd-destun hwnnw, ond mae hefyd yn wir i ddweud nad yw is-ddeddfwriaeth a rheoliadau pob tro yn cael yr un sylw, hyd yn oed o dan y drefn gadarnhaol. Nid ydyn nhw'n

Can I turn to another issue if I may, please? Through your evidence this morning, you have mentioned subordinate legislation that will come in light of this Bill. Clearly, there are many issues in relation to costs that will come in the wake of regulation, and, of course, penalties as well. These things are not part of the financial provision that we have with the Bill. We do understand why in that context, but it's also true to say that subordinate legislation and regulations don't always get the same attention, even under the affirmative procedure. They don't

cael yr un sylw gan bwyllgor ac ati ag have the same scrutiny from  
y mae'r Bil ei hun. Felly, a ydych chi committees, for example, as the Bill  
wedi gwneud unrhyw asesiad o gwbl itself would. Have you made any  
o gostau posibl yr is-ddeddfwriaeth assessment of the possible costs in  
yr ŷch chi'n bwriadu ei chyflwyno o relation to subordinate legislation  
dan y Bil hwn? under this Bill?

[136] **Rebecca Evans:** Well, within the Bill we've tried to focus particularly—sorry, within the RIA, we've focused particularly on ensuring that the main activities involved in enforcing, or, I should say, implementing, the legislation are included. For example, estimated costs associated with signage for new smoke-free open spaces have been included, even though the detail of those signs and so on will be decided through regulation. So, in that sense, we've tried to include as much as possible. Similarly, estimated costs for public bodies from producing additional health impact assessments have been included, even though the specific circumstances where those assessments might take place will be set out in regulations as well. So, we've tried to take that approach as far as possible.

[137] It's not possible in every circumstance to estimate possible future implications. For example, new procedures added to the special procedures list at a future date—it's hard to put a cost on those because that's a very fast-moving field in terms of trends and fashions and so on. So, we would have to look at that at the time. But, of course, a separate RIA is produced for each of the regulations as well. As you noted, those that do relate to cost do require the affirmative procedure through the Assembly as well to give Members the opportunity to scrutinise.

[138] **Simon Thomas:** Roedd **Simon Thomas:** There was a  
argymhelliad gan y pwyllgor recommendation made by the  
blaenorol i chi edrych ar y maes yma previous committee that you look at  
a bod yn fwy cyson, a dweud y gwir, this area and be more consistent,  
yn y modd yr ŷch chi'n cynnwys perhaps, in the way that you include  
costau yn yr asesiad effaith. Mae'n costs in the RIA. I'm encouraged to  
dda gen i glywed eich bod chi wedi hear that you have done some work  
gwneud rhywfaint o waith i edrych ar in looking at that and include them.  
hynny ac yn eu cynnwys nhw. Ond, But, as you have accepted in principle  
gan eich bod chi wedi derbyn mewn that recommendation from the  
egwyddor yr argymhelliad hwnnw previous committee, are you  
gan y pwyllgor blaenorol, a ydych confident that you have gone as far  
chi'n hyderus nawr eich bod chi wedi as you can to provide that financial

mynd mor bell ag y medrwch chi i information in preparation for the ddarparu'r wybodaeth ariannol regulations that you're likely to honno wrth baratoi ar gyfer y introduce? rheoliadau yr ydych chi'n debyg o'u cyflwyno?

[139] **Rebecca Evans:** Yes, I think that we've done as much of the preparatory work as we can based on the available evidence that we have.

[140] **Simon Thomas:** Ocê, a oes **Simon Thomas:** Okay, does any other Aelod arall—? Member—?

[141] **David Rees:** Just for clarification purposes, are you saying that, if you bring regulations forward to add more procedures to the list—because that's again one of the issues we've previously heard; whether your lists are accurate and could there be more things in—you will also bring forward the financial implications of that additional procedure being added to the list?

[142] **Rebecca Evans:** Yes, at that time.

[143] **David Rees:** I just wanted to clarify.

[144] **Simon Thomas:** Ocê, unrhyw **Simon Thomas:** Okay, any other Aelod arall? Member?

[145] Any other questions? Okay.

[146] Os felly, a gaf i ddiolch i'r If so, could I thank the Minister and Gweinidog a'r swyddogion am ddod i her officials for coming in and giving mew'n i roi tystiolaeth, a dweud hefyd evidence, and say also that we'll send y byddwn ni'n gyrru drafft o'r a draft transcript to you to check for trawsgrifiad atoch ar gyfer cywirdeb accuracy following the meeting? I yn sgil y cyfarfod? Rwy'n diolch, felly, thank you, therefore, Minister. Thank i'r Gweinidog. Diolch yn fawr iawn. you very much.

10:10

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

*Cynnig:*

*Motion:*

*bod y pwyllgor yn penderfynu that the committee resolves to  
gwahardd y cyhoedd o eitem 5 ac exclude the public from item 5 and  
eitemau 9 i 12 yn y cyfarfod hwn, ac items 9 to 12 in this meeting, and  
eitem 1 y cyfarfod ar 25 Ionawr, yn item 1 of the meeting on 25 January,  
unol â Rheol Sefydlog 17.42(vi).*

*in accordance with Standing Order  
17.42(vi).*

*Cynigiwyd y cynnig.*

*Motion moved.*

[147] **Simon Thomas:** A gaf i ofyn i'r pwyllgor ystyried cynnig o dan Reol Sefydlog 17.42 i ni fynd i gyfarfod preifat, yn benodol ar gyfer eitemau 5 a 9 i 12 yng nghyfarfod heddiw a'r eitem gyntaf yn ein cyfarfod nesaf ni ddydd Mercher? A yw pawb yn hapus? Diolch yn fawr iawn. Fe awn ni i mewn i sesiwn breifat.

**Simon Thomas:** Could I ask the committee to consider a motion under Standing Order 17.42 to go into private session, specifically for items 5 and 9 to 12 in this meeting and the first item of the next meeting next Wednesday? Is everyone content? Thank you very much. We'll go into private session.

*Derbyniwyd y cynnig.*

*Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 10:11.*

*The public part of the meeting ended at 10:11.*

*Ailymgynullodd y pwyllgor yn gyhoeddus am 10:48.*

*The committee reconvened in public at 10:48.*

**Y Bil Treth Gwarediadau Tirlenwi (Cymru): Sesiwn Dystiolaeth 3**  
**Landfill Disposals Tax (Wales) Bill: Evidence Session 3**

[148] **Simon Thomas:** Good morning. May I bring the committee back to

order? Before we formally welcome our witnesses, just to say that we have translation facilities available in front of you if necessary. So, you may need those.

[149] A gaf i felly ofyn i'r pwyllgor ddod nôl i drefn a chrosawu'r tystion sydd gyda ni—Mr Brian Mayne a Mr Lee Marshall? Jest o ran trefn, a wnewch chi gadarnhau eich enwau a'ch swyddogaeth ar gyfer y cofnod, os gwelwch yn dda?

Could I therefore ask the committee to come back to order? Could I welcome the witnesses before us, Mr Brian Mayne and Mr Lee Marshall? Just in terms of the order of proceedings, could you just confirm your names and roles for the record, please?

[150] **Mr Mayne:** Brian Mayne, Wales centre council member for the Chartered Institution of Wastes Management.

[151] **Mr Marshall:** Lee Marshall. I'm the chief executive officer of LARAC, which is the Local Authority Recycling Advisory Committee.

[152] **Simon Thomas:** Hoffwn i ddiolch i'r ddau ohonoch chi am eich tystiolaeth. Mae gyda ni nifer o gwestiynau ar sail y dystiolaeth ac ar sail y Bil hefyd. Os y'ch chi'n fodlon, fe wnawn ni ddechrau yn syth gyda chwestiynau gan y pwyllgor. A gaf i ofyn yn gyffredinol—? Mae'n amlwg o'r dystiolaeth r'ych chi wedi'i chyflwyno eich bod yn cefnogi'r Bil yn gyffredinol. Ond a oes gyda chi unrhyw amcan o sut y gellir gwella'r Bil? A ydych chi'n adnabod gwendidau y mae modd mynd i'r afael â nhw yn y sefyllfa sydd ohoni wrth i ni edrych ar y Bil yn y *stage* yma?

**Simon Thomas:** I'd like to thank you both for your evidence. We have a number of questions based on that evidence, and on the Bill as well. So, if you're content, we'll start immediately with questions from the committee. Could I ask generally—? Evidently, from the evidence that you've submitted, you do support the Bill generally. But do you have any idea how the Bill could be improved? Are there any weaknesses that we could tackle in this current situation as we look at the Bill at Stage 1?

[153] **Mr Mayne:** In the first instance, I'd just like to say that we are fully supportive of the Bill, and we see it as being two strands: not only tax revenue, but behaviour change as well. That's quite important, we think, to see it in the overall context of reducing waste to landfill and the

environmental impacts of that. We believe that it is certainly a key policy lever in the Welsh Government's objective of achieving 5 per cent waste sent to landfill in 2025, and the ultimate ambition of zero waste. And we agree that there is a need, as well, that Wales has appropriate tax instruments in place for 2018.

[154] We have—I wouldn't say they're weaknesses—a couple of issues that we think may need to be addressed, and that's certainly in terms of barriers, and that concerns the potential lack of resources for National Resources Wales the WRA and possibly the local authority themselves, who all have a role in its implementation. So, ensuring they have the resources is extremely important to ensure that the Bill gets the amount of support that it requires.

[155] Another issue that we'd like to raise would be the subject of qualifying materials, and specifically around sampling, and in terms of thresholds as well. So, how do you determine the amount of materials? Is it by weight or is it by volume? 'Small quantity' is mentioned, but what does that actually mean? There's a huge difference between weight, for example, and volume. If you think of polystyrene in a load, then when it's in weight there's a heck of a lot of it. So, we certainly have that issue to raise.

[156] In terms of multiple rates as well—I've no doubt we'll come onto that—we have some issues that we'd like to raise about that. It sounds as if I'm raising a lot of issues, but they certainly aren't. We are totally in support of this Bill. We have a couple of points around the landfill community scheme at the very end. But no doubt these will be covered.

[157] **Simon Thomas:** Indeed, we will look at all of those in detail. But just on the general point at the moment, Mr Marshall, are you in agreement that generally the Bill is appropriate and delivers what is necessary in this field?

[158] **Mr Marshall:** Yes, I think I'd echo what Brian's just said; that, as you've just intimated, generally, the Bill sets out what it wants to achieve. Obviously, there are areas around the subordinate legislation that would need looking at further down the line. In line with Brian again, some of the issues Brian's raised in the committee we'll come onto in due course. I think one or two of the other areas we would raise are, perhaps, the focus on household waste that is often the case in these things. We've raised in our written evidence areas around the relief of mining and quarry waste as well, and looking at other waste streams, and how they may be impacted by the Bill as well as the household side of things as well.

[159] **Simon Thomas:** Thank you for that. Just while we are on the general principles of the Bill, obviously the Bill itself sets out the principles, but a lot is deal with by regulation and we don't know what the regulations are at the moment. I think you, particularly, Mr Mayne, in the evidence of the Chartered Institution of Wastes Management, particularly note that there could be potential for unintended consequences if the regulation isn't right. So, are you content that we've got the right balance at the moment between what's written on the face of the Bill—what we can see, what it tells us now—and what's likely to come in regulation? Or are there things that are proposed to come in legislation that you'd actually like to see on the face of the Bill now?

[160] **Mr Mayne:** No, I think we're content as things stand now. I think it's the issues around subordinate legislation and opportunities for stakeholders to be involved—I think that would be our thrust, to be quite honest.

[161] **Simon Thomas:** And some of the issues that you mentioned at the outset are ones dealt with by regulation—

[162] **Mr Mayne:** Yes, indeed.

[163] **Simon Thomas:** And Mr Marshall, if I can ask you, is there anything that you feel that should be on the face of the Bill but isn't there on the face? Are you also content with this balance?

[164] **Mr Marshall:** I think we're also content with the balance. Again, as Brian said, I think we've raised also that it's making sure that the relevant stakeholders have got the relevant opportunities as the subordinate legislation comes through to input into it.

[165] **Simon Thomas:** Okay; thank you. Can I turn to Nick Ramsay, please?

[166] **Nick Ramsay:** Diolch, Chair. Good morning to both of you. Can I ask you, in terms of the well-worn phrase 'waste tourism' and the concerns about how the Bill might or might not lead to that, what are your views on the safeguards in the Bill against supposed waste tourism? Who wants to take that? Brian.

[167] **Mr Mayne:** By all means. Thank you. I think, basically, this will relate to the actual fees or rates that are applied. If they're substantially less than they are over the border, then one would presume, if they can cover their

transport issues, we will attract waste. Whether that's a good or a bad thing I'm not 100 per cent sure, to be quite honest. It's good if it's revenue-generating, and not too good if it's based on an environmental basis. We have 25 landfill sites and about 20 [correction: 10] are going to be here in about 2020, I guess—a number of which are operated by local authorities as well. So, I think that thought has to be given to the fee, and I would hope that perhaps it doesn't differ that greatly from England's, because of what has been called 'a porous border', I think, by an Assembly Member.

[168] **Nick Ramsay:** Edwina Hart, I think, a former Minister, used to refer to that a lot. You've just run into my next question.

[169] **Mr Mayne:** Oh.

[170] **Nick Ramsay:** It's fine, because, I mean, they were supposed to be linked anyway. Clearly, the rates of tax are going to be key to this image we've got in our heads of trucks full of waste criss-crossing back and forth across the border, depending on what the rates are. So, just to be clear, you think that, with the standard and lower rates of landfill tax, it will be helpful if those remained similar to those across the border in England.

[171] **Mr Mayne:** I do, yes, on a personal level. An interesting element of landfill in south Wales is that, for a number of years, we've transported our asbestos waste into Wiltshire, Somerset and Gloucestershire, because we've had no facilities. That has changed now, over the last 12 to 18 months, where landfill sites operate those facilities for themselves. So, waste will move, dependent on what facilities are available to them and at what price. So, we need to be mindful of that.

[172] **Nick Ramsay:** The Welsh Government's maxim in terms of tax devolution has been that, certainly in the initial phases, the rates should be similar—that's what they've told us in committee, anyway—to avoid confusion. But that doesn't mean that in the medium term, the long term, the rates won't then start to differ. Just to be clear, you think that, five years down the line, if the rates change then, that would still have an impact on the waste tourism consequently.

[173] **Mr Mayne:** I'd agree. I think there are two issues to take into account here. That is, one great thing about the landfill tax is that it needs to be taken into the context of all waste policy, to be quite honest. I'm an ex-local government officer and, a long time ago, it had an impact because, quite

simply, other technologies, other treatments, were a lot more expensive than throwing it into a hole in the ground. Now, I know we have policy that has, thankfully, changed that towards zero waste, but back in the early 1990s, quite simply, it was cheaper to throw it into a hole in the ground than to treat that waste. The landfill tax has certainly helped that, in that, now, there is a balance between different types of treatment and disposing of it in a hole in the ground. So, it's worked effectively on that.

[174] The other issue is that there is talk about multiple rates here. So, then, that brings up a whole series of other questions, such as: could you then have rates for materials that could be recycled but are getting landfilled? So, I think there are two elements surrounding that. So, one, yes, keeping it the same, possibly, as in England and in Scotland, and secondly, there then needs to be some consideration of the concept of multiple rates.

[175] **Nick Ramsay:** We always—well, we often tend to assume that rates in most of these areas would end up being higher here, but, on the flip side of that, if we had significantly lower rates here in the longer term than England, would that then generate more of a need for more landfill sites in Wales?

[176] **Mr Mayne:** If I knew that, perhaps I'd start investing in it. [*Laughter.*] If one knew the rate that was going to be applied and had the money. But, no, seriously, I think what needs to be taken into account is that England have, basically, now no recycling targets, in effect.

11:00

[177] Therefore, there will be—I'm sure Lee will expand on this—an opportunity for them to landfill this waste, which, in Wales, we're driving out—quite rightly in my opinion, we're moving away from it. So, if you're an English authority or an English business, quite simply, and there is a cheaper method of disposal somewhere else, including the transport of that, then I would presume you would take it.

[178] **Nick Ramsay:** Lee, did you want to come in?

[179] **Mr Marshall:** I would agree with that. I suppose there are economic opportunities as well in terms of waste: as well as looking at waste tourism in the negative way, as Brian has alluded to there could be positive aspects to it, and you tend to find that the transport element of waste in environmental terms is quite low. So, the environmental disbenefit of transporting waste

long distances compared to the environmental disbenefit of bad disposal is a relatively small portion. There are other disbenefits in terms of traffic congestion and noise that you need to take into account, but it's not as clear-cut as transporting waste at long distances is a bad thing necessarily.

[180] So, the rate of tax, I would imagine that the limits within which you can change it before you affect behaviour are probably quite small. Hence, I think why the majority of people have sort of said it makes sense if the rates are relatively similar. So, even in the medium term, how much room for manoeuvre the Welsh Government may have, depending on what they want to achieve, may be quite small. But I would suggest in Wales, especially in terms of local authorities, the landfill tax is less of a policy driver than some of the other policy instruments that are in place, especially the statutory recycling targets. So, again, it's maybe more the other types of waste—commercial, industrial, quarrying, mining, et cetera—that may be more affected and be more influenced by the landfill tax as a policy in its own right.

[181] **Mr Mayne:** Could I just say, Chair, that I don't want you to think that I'm advocating more landfills for Wales? I certainly support the waste hierarchy and developing a closed-loop economy in Wales, which landfills don't play a part of.

[182] **Simon Thomas:** Can I also assume that when you refer to England not having targets, what you're referring to is that there are no English statutory national targets as we have in Wales?

[183] **Mr Mayne:** Yes.

[184] **Simon Thomas:** So it's left more to the local authorities to deliver.

[185] **Mr Marshall:** That's right, Chair. The only sort of target on English local authorities is actually the current UK-level target of 50 per cent, which is derived from EU legislation. So, there are no—.

[186] **Simon Thomas:** So, we're already well ahead.

[187] **Mr Marshall:** Well ahead in Wales. But there's no specific target on local authorities in England and therefore no consequences if they don't reach that target. Whereas, obviously in Wales, with the statutory targets and statutory fines, there are financial consequences, as well as reputational, if a

Welsh local authority isn't achieving the targets set out.

[188] **Simon Thomas:** I wonder, given what you've just told Mr Ramsay, why you wouldn't have advocated that the rates should actually be on the face of this Bill, with regulation-making powers to change the rates at some stage in the future. Because if the intention is, as it seems to be from the evidence from the Government itself, and if your operational belief as well is that, at least initially, the rates should be much the same as in England, wouldn't it give a clear signal to have them on the face of the Bill and, as I say, strong regulation-making powers to change them if necessary? Would that pose a particular problem, to have them on the face of the Bill?

[189] **Mr Mayne:** No, I don't think it would. I think that opportunity to change them should be encouraged, to be quite honest. And the opportunity to, perhaps, look at other rates as well, other than the two [correction: the active and inactive] and the unauthorised disposal [correction: unauthorised disposals rate].

[190] **Simon Thomas:** Which, again, the Bill has flexibility built into it to allow that.

[191] **Mr Mayne:** It does indeed, yes.

[192] **Nick Ramsay:** So, when you say other rates, rather than the two at the moment—.

[193] **Mr Mayne:** It's standard and inactive, yes, and potential for an unauthorised disposal rate.

[194] **Nick Ramsay:** So, you could make that more flexible.

[195] **Mr Mayne:** As long as it's not too onerous, but then there's an opportunity, I would suggest, with recyclable material that is going to landfill: if that had a different rate, then that could potentially support the other policy drivers.

[196] **Nick Ramsay:** So, the rates, I think it would be helpful to have those rates a lot clearer, because that's the one thing we always end up talking about and yet it's not in the Bill, is it? Okay, thanks.

[197] **Simon Thomas:** Thank you. I'll turn to Mr Hedges.

[198] **Mike Hedges:** Could I just carry on with rates? You could have lots of different rates. Do you think that would bring another level of complication into what is a basically a fairly simple system at the moment? Mr Mayne.

[199] **Mr Mayne:** I do, yes. I do, and that is one of the drawbacks from it, but I don't think that it should be dismissed just because of those issues. I think there needs to be thought given to it, in terms of: what is the impact of those rates, and can it create beneficial environmental consequences? So I think it needs to be taken into account.

[200] **Mike Hedges:** Thank you. This is for Mr Marshall. Can I just preface this by saying that local authorities have done phenomenally well reducing the amount of waste that is sent to landfill? It's been something like a 70 per cent reduction. They've moved from over 80 per cent of all landfill coming from local authorities to, according to the last information we had, 60 per cent. So I think the progress made by the local authorities should not be underestimated, and they deserve a great deal of credit for it.

[201] I can understand you wanting to have a mechanism for reducing the cost of getting rid of household waste, but don't you feel that that could have a perverse incentive to local authorities to not necessarily want to keep continuing to increase their amount of recycling? It comes to pricing, doesn't it? If recycling rates for local authorities for household waste drop to a certain level, then, 'We'll keep our 50, 55 or 60 per cent that we're at, but we won't strive for 100 per cent, because it's not in our economic interest'. Do you see that as a potential problem?

[202] **Mr Marshall:** It could be, on a very simplistic level, if you look at it in isolation, but then, when you start to look at some of the other policy drivers—again, the statutory nature of the targets and the potential fines and the cost of those that would be incurred if you did, in effect, stop recycling as a local authority because it was cheaper because you had less landfill tax. I think what we were advocating in our written evidence wasn't so much a reduction for the sake of saving costs; it was a reduction for then redistributing those costs back into the local government services to help increase the recycling. So, it wasn't just a, 'Please, can we have it cheaper because we want to pay less money?' It was a case of, as we start to get to the higher recycling targets, you know, once we start hitting 65 and we're trying to make that jump from 65 to 70, to use the jargon, the low-hanging fruit is gone, and you start to get to the point where that extra percentage of

recycling from 65, 66, 67 per cent, proportionally, is going to be more expensive than going from 44 to 45. So that's why we were sort of saying within our evidence, 'If there's a differential rate or a reduction or a relief for the household waste, those funds could still go back into the recycling services of the local authorities to help them increase it.'

[203] **Mike Hedges:** But within the local authority budget, that money would be available generally within local authorities, and you'd have no guarantee, would you, that that would be used for recycling as opposed to for the huge pressure of community care and education?

[204] **Mr Marshall:** There is that danger, and it would have to be designed in a certain way so that it was hypothecated straight back, which I know local government members may have a different view to local government officers on, and I do appreciate that.

[205] **Simon Thomas:** And Welsh Government, as well.

[206] **Mr Marshall:** And Welsh Government. But we recognise within waste services, as waste managers, that we're competing, in effect, as a service against social care and other valuable services that people—voters and residents—in some respects, may value over having their recycling taken away.

[207] **Mike Hedges:** Yes, but surely the pressure that is on local authorities now, and the amount of money they have to pay, and the targets, mean that dealing with recycling is a high priority on financial grounds. If we made it less financially beneficial to keep on improving, wouldn't there be a danger that instead of using it for recycling, some, if not all local authorities, would use it to deal with their huge social care pressures?

[208] **Mr Marshall:** Yes. There is a danger. Like I say, it would need to be designed in such a way that minimised that sort of danger.

[209] **Mike Hedges:** Okay. I'll stop there and go back to Mr Mayne. You say there was a small amount of non-qualifying material in mixed loads, and that looking for

[210] 'a definition as "a small quantity" will add costs to landfill operators and a further regulatory burden on both the operator and regulator.'

[211] I would say the simplest thing is that you treat it all at highest rate. If there's any lower rate material in there, you treat it all at higher rate to make people split them up. Would you agree with that?

[212] **Mr Mayne:** Yes, frankly. I think the point I made earlier about thresholds is something: if you have a threshold, then I think it has to be defined; it has to be quantifiable; it has to be measurable. So, with that approach, it doesn't make any difference at all, does it, measuring it, if it's there.

[213] **Mike Hedges:** One of the things that concerns people is that you cover your waste in stone and brick, and then you have general waste underneath it. Then, you arrive and say, 'Look, we are bringing stone and brick here, which should be charged at a lower rate, rather than general waste, which will be charged at a higher rate.' Would you accept that?

[214] **Mr Mayne:** Well, I'm sure that it's practice in some areas.

[215] **Simon Thomas:** It's not accepted practice in your—

[216] **Mr Mayne:** There wouldn't be a member of the institution that would dream of such a thing.

[217] **Mike Hedges:** I'm thinking more of the people taking their lorry-loads of waste. I was not thinking that your people would be responsible. But some of the people taking lorry-loads of waste could see an opportunity to make savings.

[218] **Mr Mayne:** Indeed, yes. Without doubt.

[219] **Mike Hedges:** Right, that's me. Thanks.

[220] **Simon Thomas:** I would just like to clarify what you have just told Mr Hedges. It seems to me that you have suggested, actually, that it is not useful to have in the Bill this concept of a 'small quantity'.

[221] **Mr Mayne:** Well, the issue is what is a 'small quantity'. My point is, if you are going to have a 'small quantity', I think it needs to be measurable. I don't know what a 'small quantity' is. A 'small quantity' to me may well not be a 'small quantity' to my colleague Lee.

[222] **Simon Thomas:** And you made the earlier point about volume versus weight as well.

[223] **Mr Mayne:** Well, yes, there is certainly that argument. So, if you have it—. Certainly, it has been raised by a few colleagues within the CIWM, and you have to remember that we are a broad church—we have landfill operators, recycling officers, and a whole range of members. So, some would agree with not having it, and others, I think, would agree that if it is there, it should be quantifiable and measurable.

[224] **Simon Thomas:** If it weren't to be there at all—and therefore, there would be, in effect, no grey area and you would go straight to a higher rate if you weren't careful—that would be an enormously powerful driver for good waste management, wouldn't it?

[225] **Mr Mayne:** Well, yes, I would have thought so. There's certainly a financial incentive there, even if you haven't got an environmental one. We are not against this 'small quantity', but we would like to know what on earth it is.

[226] **Simon Thomas:** Okay. Can I turn to David Rees, please?

[227] **David Rees:** Thank you, Chair. Can I go on to exemptions and reliefs? Clearly, many of the exemptions that were in the landfill tax now come into reliefs in this Bill—a slightly different way in which we claim the money back, effectively. You have both highlighted concerns over particular aspects of quarrying. Do you want to clarify your concerns in relation to the relief on quarried waste? Mr Marshall first.

[228] **Mr Marshall:** Yes. I think that, from our point of view, as I highlighted a little bit earlier on, household waste approximately—and I'm talking at a UK level—accounts for about 8 per cent to 10 per cent of the total waste that is produced. But, obviously, for most people, it is one of the most visible, which is why it probably attracts most of the attention. So, we feel that, again, in terms of environmental disbenefit, we should be looking at some of the others waste streams in a bit more detail. Again, household waste is very well catered for in terms of statutory fines and the impositions—not impositions, but the targets—local authorities have got on them. So, this is where we raised the fact that quarrying and mining waste is 20 per cent of total waste produced in the UK. It seems to us that it is not environmentally correct, as it were, that you are offering a relief on a portion of waste that is a lot larger

than household waste.

[229] Now, we appreciate that there may be issues about what environmental damage quarrying and mining waste may then cause, compared to some of the potential damage that household waste could cause, but that's where our issue with the relief on mining and quarrying waste came from. We think that that should be looked at again in a bit more detail. It may need a bit further work in terms of what environmental damage landfilling this waste causes. I am sure that, in some instances, people would argue that, actually, it is going back into, almost, land repair rather than landfill when you put some of this waste back in.

[230] **David Rees:** Mr Mayne.

[231] **Mr Mayne:** Similar arguments, I think, were forwarded by the CIWM, to be quite honest. They are similar issues, so I haven't really got anything to add to that.

[232] **David Rees:** Okay. In relation to this, also, you highlighted, Mr Marshall, opportunities in relation to multiple disposal aspects, particularly in relation to illegal sites. You are calling for a real look at that because you feel that local authorities are the ones most responsible. Surely, if we put a relief on for that situation, are we encouraging illegal disposals more, because somebody will say, 'Well, the authority will clean it up; they haven't got to pay for it'?

11:15

[233] **Mr Marshall:** I think our concern with that was that we can see the idea and the concept behind extending landfill tax to non-landfill sites, as it were. So, you're trying to mitigate and deal with the illegal dumping. So, if you apply the tax at that point, that's fine and we would support that. What the danger is then is that you have a local authority or Natural Resources Wales come and clean it up, they then take it to a landfill site and the tax potentially is put on that waste again. So, it's trying to make sure we mitigate against the double taxing of that waste, and I think our argument was that because local authorities have a responsibility for dealing with and clearing household waste, if the tax has been applied already on it, that's where we'd want to make sure the exemption or the relief is then given to the local authority.

[234] **David Rees:** Obviously, if it's illegal initially, the tax wouldn't have applied.

[235] **Mr Marshall:** No, and that's where again—. One of the issues we've raised is we believe that a bigger deterrent is getting caught in the first place rather than the expense if you then get caught, although that is a factor.

[236] **David Rees:** I would've thought that, for many people, the expense would be a major factor. Getting caught to a lot of people is just not really a deterrent.

[237] **Mr Marshall:** No, if they don't think they're going to get caught, it won't be, which is where we've got an issue then. So, you apply the tax on these unauthorised disposals, but you can only apply it, as you rightly point out, if you actually catch the person who's caused the tipping in the first place, and, if the likelihood of catching them is fairly small because the resources aren't put into it, then you're not going to recover the money in the first place. So, the expense then potentially becomes less of an issue for the person who's doing it. If the expense is high and the likelihood of getting caught is high, then both of those together become potentially a very big deterrent.

[238] **David Rees:** But the Minister, when he came, emphasised that it would be the responsibility of the owner of the vehicle to dispose of it and, therefore, that question you said about the local authority wouldn't arise, but you're saying the practicalities are that that doesn't occur and local authorities end up cleaning the site.

[239] **Mr Marshall:** Especially if it's on public land. This is probably going to sound a bit strange: you can't always identify a landowner in some of these issues, because the reasons some of the waste has been deposited there is because it's out of the way and it's perhaps easy to get to so there is an element of public access to it. So, it's not always as clear cut as, 'The landowner is X, Y, or Z, therefore they will need to pick up the responsibility for this.'

[240] **David Rees:** Interesting points, okay. Other than those points, are the exemptions and reliefs roughly in line with what you would expect?

[241] **Mr Marshall:** Yes, roughly speaking, apart from what we've already highlighted in our written evidence and to you today.

[242] **Mr Mayne:** And the CIWM as well.

[243] **Simon Thomas:** Just on the potential for taxing unauthorised disposals, the Government has said that that could be a higher rate again. Are you in favour of having a punitive rate in effect in order—. Would that be a deterrent or is it really your point that only catching them is a deterrent really?

[244] **Mr Marshall:** I think it warrants a potential higher rate because that, as Members have said, does help in terms of then whether a person would make a decision to do that or not. Again, we feel as though it needs to be in conjunction with the likelihood of getting caught. So, if the likelihood of getting caught is still fairly low, even a high rate may only have a small influence on people's behaviour, whereas if the likelihood of getting caught increases along with a higher rate of expense if they do get caught, then I think that those two together are much more powerful.

[245] **Mike Hedges:** Isn't there a difference though between fly-tipping and people opening up land and allowing tipping to take place on it? There have been cases, including one not very far from where I live, where somebody's opened up fields and they've allowed tipping on them and they've taken the fines because the fines would be substantially less than the amount of money that people would have had to pay in terms of landfill tax. Don't you see that the real aim of this Bill—I think the Minister said it and we need clarification again from him—is these people who open up sites as illegal sites? Do you think that a punitive rate for those could very well bring this to an end very quickly?

[246] **Mr Marshall:** Yes. In those instances, I would agree with that.

[247] **Mr Mayne:** If I may, Chair, I think there are three issues to take into account, and certainly a punitive rate is most definitely something we would welcome. But you have the unauthorised illegal landfill sites and then you have the irresponsible businesses that undertake major fly-tipping, and then you have the third element, I would suggest, of householders fly-tipping. We need to be mindful of all of those three, but certainly a punitive measure must—. I think you're quite correct; if the fines aren't affordable, then this can certainly raise that.

[248] **Simon Thomas:** Okay. Mark Reckless.

[249] **Mark Reckless:** With the tax applicable, is an important advantage of this that the sort of burden of proof would be less for a sort of punitive tax rate than it would be for conviction?

[250] **Mr Mayne:** Well, it could well be, yes, for an illegal operator of a landfill site.

[251] **Mark Reckless:** Can I ask you about penalties? There are a couple of things—failure to register with the Welsh Revenue Authority and failure to comply with the requirements of a notice designating a non-disposal area. Are you clear that both those are sensible areas to have a penalty regime?

[252] **Mr Mayne:** Most certainly. As you say, failure to comply with a weighing requirement, failure to register, failure to comply with requirements of notices. All certainly are welcomed and supported.

[253] **Mark Reckless:** Could I ask about one area that I'm less clear about? The failure to comply with the weighing requirement, but then a penalty for not correctly applying an agreed water discount. Why is there a requirement for a penalty there if not applying the discount would presumably result in a higher rather than lower tax?

[254] **Mr Marshall:** I think, with that, it's an area where there is the possibility then for—I'm trying to think of the right phrase—basically, cheating the system. So, if you're not registered properly and the agreements aren't in place for proper calculations, then that could start to cast doubt on the calculations and their validity, and then whether you're paying the right amount of tax or whether the right amount of tax is being recovered. So, having that penalty for not going through the proper process in the first place, hopefully, would act as a deterrent for people looking to use that as a potential loophole or potential way of avoiding paying some of the tax.

[255] **Mark Reckless:** Can't we rely on the client, though, to try to avoid being sort of over-taxed? I'm just not quite sure why, if it's public policy, we want to have this penalty for people paying too much tax if they don't apply the discount.

[256] **Mr Marshall:** Whilst I'm here representing local authorities, I'm a member of the Chartered Institution of Wastes Management as well. So, I would imagine, if you speak to operators who are members of the

Environmental Services Association and the operators who follow the legislation correctly, they would welcome that, because they would feel that that then deters the illegal operators or the operators who operate around the margins of the legislation in terms of the financial benefits and the business advantage they could get by not adhering to the regulations properly.

[257] **Mark Reckless:** Brian, have you anything to add on this issue of penalty for not applying an agreed water discount?

[258] **Mr Mayne:** I support what Lee has said. Quite simply, waste is a lot heavier and, therefore, ensuring that there is a requirement to give information regarding that is incredibly important because, otherwise, you would be paying over and above what you should be.

[259] **Mark Reckless:** I just wondered why we, as the Welsh Assembly and Government, should object so strongly to being paid too much money that we create a penalty regime to prevent this.

[260] **Simon Thomas:** It's another way of taxing water, isn't it? [*Laughter.*]

[261] **Mark Reckless:** Can I ask about the scale of the penalties? The £5,000 for failure to comply with a notice designating a non-disposal area—is that a sufficiently high amount to deter such activity?

[262] **Mr Mayne:** Well, I guess 'we'll see' is the answer to that. From discussing with members, there's been nothing that has highlighted any major disgruntled—.

[263] **Mark Reckless:** But if a non-disposal area is designated, and if a penalty for using it is £5,000 tops, but the benefit of disposing it there rather than in another area that you would prefer not to—. I don't have the expertise in the industry that you do, and I just wondered whether that £5,000 was such a large amount in the context of a waste operator that it would be sufficient to deter. Or can you envisage circumstances where it wouldn't?

[264] **Mr Mayne:** Well, there are some major operators for whom that is not a significant sum, but there are other smaller ones for whom it would be, so it's very difficult to assess, to be quite honest.

[265] **Mr Marshall:** I think, with the larger operators, whilst in theory they could absorb the financial impact a lot easier, I would say they're much more aware of the reputational impact that such a fine can cause. So, there's that aspect of it as well for the larger operators, whereas, obviously, for some of the smaller companies involved in landfill still, yes, that would be a considerable amount. But, without wishing to put them on the spot, knowing they're coming later, that may be an area that Natural Resources Wales would have better information on in terms of the sorts of levels of fines that they would see working, as it were, in terms of their enforcement activities.

[266] **Mark Reckless:** Thank you. The penalty for failing to register with the Welsh Revenue Authority is a lot lower—just £300. I wonder if the whole way we're getting this tax in is people registering with the WRA, and the tax flowing from that. I wonder, if the penalty is only £300, if it isn't actually a very substantial incentive for people to not register with the WRA and try and get away without paying the tax.

[267] **Mr Mayne:** Or maybe it's there to encourage more people to register with the WRA because it's cheap enough to do so.

[268] **Mark Reckless:** That's an interesting way of seeing it. Mr Marshall.

[269] **Mr Marshall:** As a waste person, I'll reserve judgement on that. I can see what you're saying in that respect. I'd imagine a lot of this has come originally from the waste—it's a tax on waste—so perhaps the focus has been too much on the waste side rather than the tax collection side. It may be something that needs looking at as the Bill goes forward.

[270] **Mark Reckless:** Thank you.

[271] **Simon Thomas:** The committee will be visiting a landfill site. Could we expect to see some technology there that can test this water issue? Is the obligation on the person bringing the waste to the landfill to declare the water issue, or is there a kind of test or way of checking that out, because there's quite a perverse incentive, potentially, here to try and get around the Bill, isn't there, if there are not going to be checks on what's happening?

[272] **Mr Mayne:** In all honestly, I'm not sure whether landfill sites—. I'm not 100 per cent sure to answer that to be quite honest, whether they have that capability—.

[273] **Simon Thomas:** So, we're putting a lot of onus on the honesty of the person to declare—okay, there's a penalty if they do it wrongly, but I'm just wondering how we could possibly know if they are declaring it incorrectly.

[274] **Mr Marshall:** With Brian—. I must admit, it's a while since I've been to a landfill site. Personally, I'd say you're in for a treat, but then I would. [*Laughter.*] But if the onus on collecting the tax is on the landfill site, then it would be in their interest to make sure they've got the appropriate checks and balances and equipment tests in place to ensure that they're collecting the correct amount and applying the correct rates.

[275] **Simon Thomas:** I just wondered if they were ready for that, in that sense.

[276] **Mr Mayne:** I do apologise—.

[277] **Mr Marshall:** Well, in that respect, they've been operating to the UK system already, so obviously anything that's carried over should already be in place at the landfill sites in Wales anyway.

[278] **Simon Thomas:** Okay. Well, it's something the committee can take forward if it wishes. I turn to Steffan Lewis.

[279] **Steffan Lewis:** Going on to unauthorised disposals and those responsible, do you support the inclusion of unauthorised disposals in this Bill? Is that an appropriate place for them? And also, an additional point: what assessment can you make in terms of the additional resources that will be required by public bodies to deliver the aspirations of the Bill in this respect?

[280] **Mr Mayne:** Well, we support the proposal, which includes unauthorised disposal. I suppose our issues around there are about the costs, the monitoring and the actions taken, to be quite honest, that need to be considered in identifying them. As I raised earlier, it covers those three areas of illegal landfill sites, major landfilling, household—.

[281] **Mr Marshall:** We support that. I mean, we haven't got an indication of a figure on what additional resources or what are the suitable resources to police this, as it were. We just feel that, obviously, this is new legislation and this is an area of enforcement that isn't currently being undertaken. Logically, that feels like there will need to be additional resources if you're not going to take them from another area of enforcement activity.

11:30

[282] **Steffan Lewis:** Do you think that the regulatory impact assessment has properly considered the financial requirements for enforcing it? There is evidence that we've had from the Welsh Local Government Association and others that it's a difficult thing to enforce.

[283] **Mr Marshall:** I think it has, as much as the knowledge enables it to at this moment in time. So, unfortunately with a lot of these things, until it actually comes in, you will never know for definite. So, I think the impact assessment that's been done so far is the best guess, with the knowledge we've currently got.

[284] **Mr Mayne:** I think also, as I started off, apart from being a tax revenue, there are the major environmental implications to this and that's part of the armoury to defeat waste crime, in effect.

[285] **Steffan Lewis:** Going on that point as well, you've mentioned new things in the Bill, and looking at the way that the Bill will seek to hold certain persons responsible for authorised disposals in certain circumstances, do you think it'll be easier, under the ideas and suggestions in this Bill, to hold people to account, or will it be an over-complication that actually might lead, if there aren't sufficient resources particularly to more people falling through the net?

[286] **Mr Mayne:** Well, I'd like to think it would be easier. At the end of the day, it's the resources that are applied to it, as far as I can see, and that's a mixture of local authorities and NRW and the support that they get.

[287] **Mr Marshall:** In theory, if the legislation makes it clear, that should make the first few steps, as it were, in any enforcement activity, easier, quicker or better—however you want to define it. As Brian has alluded, it's whether you've then got the resources to follow that through. I'm sure there will be legal opinions on how clear or not this is and how you may or may not apply it if you're the person who's caught, as the landowner, or whatever's specified in the Bill.

[288] **Steffan Lewis:** Okay, thank you.

[289] **Simon Thomas:** Just on that, because we've already discussed that

unauthorised disposals could potentially have this higher rate of tax applied to them, as well as any legal action that might be taken, is the Bill clear, in your view, as regards what an unauthorised disposal is and what would be fly-tipping and dealt with by a local authority as a, if you like, residential fly-tipping matter? It doesn't seem to me that the Bill is designed to deal with somebody dumping a fridge, and it's certainly designed to deal with somebody who opens up a field and allows rubble to be put there, but it's somewhere in between that I'm not sure where this applies. The person who goes around offering to cut everyone's hedges and just bags it up in the back of their van and then dumps it somewhere—would that be encapsulated in this? Is that what you're looking to use this Bill for? Is it clear enough on the face of the Bill how this can be used in that way?

[290] **Mr Marshall:** My interpretation of the intention of the Bill is more the illegal site operations, as it were, that it's intending to capture. It doesn't mean that it couldn't be used, perhaps, for the halfway house where you've got a man with a van, as it were, and they're using either those illegal sites, or they're dumping it on public land or a site that they've come across. I think it's got the potential to help with that, but that may be in the design of the subordinate legislation, and, then, if you have differing rates applied to them. But, again, it would need to be clear what that encompasses—you know, where an illegal site on a piece of land starts and stops and where dumping in a lay-by starts and stops. That can be a bit more tricky in terms of defining it in legislation, I appreciate that.

[291] **Mr Mayne:** And I think that that is to be welcomed as the Bill progresses, to be quite honest, and subordinate legislation to ensure that there is clarity on roles.

[292] **Simon Thomas:** Okay. Mike Hedges.

[293] **Mike Hedges:** Can I move on to the landfill communities fund? Mr Mayne, your organisation has previously suggested that revenue raised should be used to establish a fund or scheme to cover the full costs of clearing and remediating abandoned or orphaned sites. Do you still hold that view, or would you suggest that every time somebody opened a site, they pay a certain amount of money in each year, so that at the end, when they close it down, the money to do it is available anyway?

[294] **Mr Mayne:** I have a tricky response to this in that, as I said earlier, we do have a range of members. I have three points to raise, which are not

necessarily all that cohesive, to be quite honest. I'm not sure whether I should say that and be recorded for it but—

[295] **Simon Thomas:** It happens in politics as well. [*Laughter.*]

[296] **Mr Mayne:** So, I sit here in front of you with three responses, to be quite honest, which I hope you'll allow me to raise, so that at least then I've represented the membership. On the first one, there is, interestingly—. First of all, I should say that we recognise and support the streamlined distribution process, so we are very supportive of that and anything to reduce the administrative burdens. However, we've had some colleagues raise that perhaps it should also include well-being and health initiatives, not just environmental. It's also been raised that the 5-mile geographical limit could be a burden when trying to develop more regional awareness campaigns to support behaviour change. And also, very much, the funding could be used for the remediation of abandoned or orphaned waste disposal sites. So, I think I've represented the membership on those three points, but perhaps not addressed your question, but then that would add a fourth.

[297] **Mike Hedges:** I just think any information you provide on behalf of organisations that are involved is helpful. Can I ask a question to Mr Marshall along the same lines? You've suggested that the money is used for promoting more recycling, et cetera. I assume you still go along with that, because I think that one thing with the system we've got, Mr Marshall, is the need for additional money to promote recycling. I think that's been a theme you've promoted right the way through this. So, I assume you still want that. Do you also accept, however, that a lot of small organisations—if I could declare an interest, because I belong to some of them—get small grants that help the development of sports or community facilities and this money helps make up for the upset these people have of having lots and lots of waste disposal vehicles driving down their roads and occasionally some overspill?

[298] **Mr Marshall:** What we wouldn't advocate is taking away the funds completely from the communities around the landfill sites that are adversely affected or can be adversely affected. I think where we're coming from is looking at the portion of firms that are used locally and, perhaps, as Brian mentioned briefly, looking at funds that may be able to be used regionally, because there comes a point, potentially, especially with the criteria around environmental projects, if you've got a 5-mile radius, there are only so many projects you're going to be able to usefully do. There comes a point where you might start to get diminishing returns, so that's where we would

advocate some support for the communication side of things. Again, as you start to get to the higher levels of recycling, in terms of household waste, initially, anyway, you're starting to need to get the material out of the people who are less and less predisposed—sorry, no pun—to recycle in the first place. So, you're going to have to get more and more communications out to them to get them to use the systems that we're putting in place.

[299] **Mike Hedges:** Can I just say that the Chair comes from a rural area and I come from a highly urban area, and 5 miles is entirely different in terms of the number of people you pick up? On the 10-mile radius that existed from the waste disposal site at Tir John in Swansea at St Thomas, 10 miles took you a large way into Port Talbot, took you a long way up the Swansea valley and took in most of Swansea, probably having a population of about 400,000. If you looked at the one at Pwllfawatin up in Swansea valley, the 10-mile radius from there also covered a very large area, whereas I'm sure that in 10 miles around some rural areas in mid Wales, you'd get very few people. But the argument is, and would you accept, that with 5 miles, you're getting the people who are being affected by the lorries coming down and by any waste that overflows from the lorries having to be picked up or being on their streets? Whereas if you have the whole area, people who aren't getting the disadvantage of it—and we had a fly problem in St Thomas, for example, which hugely upset the people there. The people who are being affected should get the benefits or get something for having the disadvantage, having the misfortune or just living close to a waste disposal site.

[300] **Mr Marshall:** I'd agree with all of that. It's not a case—we're not looking at either/or, so we agree that you should still be supporting the local projects, and I accept the point about the rural and the urban nature. So, it could be that in urban settings the percentage or the amount of funding going to local projects is perhaps much higher than it is in rural areas. I live in a rural area, and I'm aware of rural landfill sites and the lack of concentration of people around them that you could have in the urban areas. So, it's not a case of either/or. I think it's looking at both sides of it and saying, 'Yes, the local community needs to have access to these funds'. But we are starting to struggle to see the projects come through. I think the criteria should enable the funds to be used in other ways as well.

[301] **Simon Thomas:** A oes unrhyw **Simon Thomas:** Does any other Aelod arall—? Os felly, a gaf i ddiolch Member—? Therefore, can I thank ichi am ddod i mewn i roi tystiolaeth? you for coming in to give evidence?

Jest i gadarnhau, byddwn ni'n rhoi drafft o'r trawsgrifiad ichi i wirio ar gyfer ffeithiau ac ati, rhag ofn. Mae hynny'n cau'r sesiwn yma. Diolch yn fawr iawn i chi.

Can I just confirm that we will send you a draft transcript to check for accuracy and so forth? That brings the session to a close. Thank you very much.

[302] We'll go straight to the next evidence session.

11:41

### Y Bil Treth Gwarediadau Tirlenwi (Cymru): Sesiwn Dystiolaeth 4 Landfill Disposals Tax (Wales) Bill: Evidence Session 4

[303] A gaf i, felly, groesawu'r tystion o Cyfoeth Naturiol Cymru? I ddechrau, fe wna i jest ofyn ichi ddatgan eich enwau a'ch swyddogaethau ar gyfer y cofnod, os gwelwch yn dda.

Can I please welcome the witnesses from Natural Resources Wales? Can I ask you please to give your name and your position for the record?

[304] **Ms Favager:** I'm Becky Favager. I'm the waste and resources manager in Natural Resources Wales.

[305] **Ms McCallan:** I'm Clare McCallan. I'm the project manager for the landfill disposals tax.

[306] **Simon Thomas:** Diolch yn fawr iawn. Rŷm ni wedi derbyn y dystiolaeth ysgrifenedig gennych chi. Rwy'n deall efallai eich bod chi'n dymuno gwneud cyflwyniad o'r dystiolaeth yna. Byddem ni'n hapus, wrth gwrs, i dderbyn hynny, ond os gwnewch chi gofio ein bod ni wedi derbyn y dystiolaeth ysgrifenedig—ac felly a wnewch chi fe mor gryno ag sy'n bosibl fel ein bod ni'n gallu gofyn y cwestiynau? Diolch yn fawr iawn.

**Simon Thomas:** Thank you very much. We have received your written evidence, thank you. I understand that you would like to make an opening statement from that evidence. We'd be very happy to listen to that, but if you could perhaps please remember that we've already had that evidence from you—so could you be as succinct as possible so we can move on to questions?

[307] **Ms Favager:** Bore da. Diolch

**Ms Favager:** Good morning. Thank

am y gwahoddiad heddiw.

you for the invitation.

[308] Thank you for giving us the opportunity to come and give evidence at the committee today, and for allowing us to do a short opening statement, which I just hope will enable me to put our role into context. As you are probably aware, Natural Resources Wales's purpose is to pursue sustainable management of natural resources in all of our work. That means looking after air, land, water, wildlife, plants and soil to improve Wales's well-being and provide a better future for everyone. Building on the Environment (Wales) Act 2016 and the Well-being of Future Generations (Wales) Act 2015, we see this Bill as a further step in creating modern legislation to manage Wales's natural resources and improve the social, economic, environmental and cultural well-being of Wales.

[309] We are responsible for regulating the waste industry, and that includes ensuring that waste is managed in a way that does not cause pollution to the environment, harm to human health and serious detriment to the local amenity. We also advise and communicate on issues around the environment and natural resources, and we believe the new landfill disposals tax legislation will help us tackle the challenges we face and enable us to take better advantage of potential opportunities for Wales. We welcome the compliance and enforcement role that we will have in the implementation of the landfill disposals tax and the recognition that we have relevant skills and experience to deliver this role. We are working to understand that level of knowledge and skills needed within NRW, and to enable us to deliver our role effectively. We also recognise the importance of the relationship that we will have with the Welsh Revenue Authority and the responsibilities that will come with the delegation of their powers to us. We're very much looking forward to working with them, and believe that joining the tax information with our information will provide us with a picture of waste in Wales that we've never seen before.

[310] **Simon Thomas:** Ocê. Diolch yn fawr am hynny. Mae'n amlwg, felly, o'r datganiad a'r dystiolaeth eich bod chi'n cefnogi'r Bil a'r egwyddorion y tu ôl i'r Bil. A gaf i ofyn, felly, yn benodol: a ydych chi'n meddwl bod y Bil yn cynnwys y cydbwysedd iawn rhwng yr hyn sydd ar wyneb y Bil a'r hyn sy'n cael ei benderfynu mewn

**Simon Thomas:** Thank you very much for that. Clearly, from your statement and evidence, you support this Bill and the principles behind it. Can I ask you, therefore, specifically: do you think that the Bill includes the correct balance between what's on the face of the Bill and what will be decided in regulations, remembering,

rheoliadau, gan gofio mai un o'ch of course, that one of your main priod swyddogaethau chi fel corff duties as a body will be to consult fydd ymgynghori a bwydo i mewn and feed expertise into some of arbenigedd parthed rhai o'r these regulations? rheoliadau hynny?

11:45

[311] **Ms Favager:** Yes, we absolutely support the introduction of the Bill. We see this as a key part of the legal framework that's necessary to collect and manage landfill tax within Wales. And just to put it into context, we're aware that the Environmental Services Association estimated, back in 2014, that the amount of landfill tax evasion is around £157 million per year. So, we believe there are significant benefits in increasing compliance with the tax regime and our on-the-ground compliance activities, on both the environmental regulation side and our new role. I think the question you were asking was around the balance between what's in the Bill and the subordinate legislation. I think, from our point of view, we welcome that flexibility of approach. That means that we'll be able to, and Government will be able to, better respond quickly through changes that are happening elsewhere in the UK, as we are becoming more familiar with our role and the context within Wales.

[312] **Simon Thomas:** I assume that you agree with your colleague on that, so I won't press that further. I'll just go on specifically—because you mentioned the cost of some of this and waste as well—to ask whether there's anything in the Bill that will streamline your work or make your work more effective, particularly, perhaps, around the definition of what a taxable disposal is and whether you'd expect either more or fewer challenges and legal arguments as a result of this Bill. Is it a Bill that delivers in your enforcement role?

[313] **Ms Favager:** Yes. I think, as I set out earlier, we're definitely seeing an increase in the amount of criminality associated with avoidance of tax. I've been working for this and legacy organisations for 18 years, and waste crime is a significant problem and I would welcome any further interventions to help tackle those issues.

[314] **Ms McCallan:** Just to add, as it stands at the moment—Becky mentioned the change in terms of the information that we'll get as a result of working with the new Welsh Revenue Authority; we don't have sight of a lot

of that at the moment. So, with things like the activities that are going on on sites, we're not familiar with those. We don't get that information from HMRC. So once we're confident and once we become aware of them and we can start comparing them, then, with the records that we've got, that's where the changes will happen, and that's certainly what they found in Scotland.

[315] **Simon Thomas:** So you expect, on the Scottish experience, to have a closer working relationship with the WRA than you would have with HMRC—

[316] **Ms Favager:** Absolutely.

[317] **Ms McCallan:** Yes.

[318] **Simon Thomas:** —who are famous for their close co-operation with other partners, of course.

[319] **Ms Favager:** And we will have access to the information that we don't currently have access to.

[320] **Ms McCallan:** Just to clarify that, there's protected taxpayer information, which is set out in the Tax Collection and Management (Wales) Act 2016, and as it stands at the moment, we don't have access to that. Once we have the delegated powers, then we would have access to that. There are instances where the Welsh Government, and us, have wanted to know information and we've had to seek the agreement of the operators to have that information, such as who has got water discounts in place already. We don't know who has them, because they didn't agree to give us that information. That's perfectly within their rights, and that's the difference that it's going to make: that we'll have the practicalities and the boots on the ground to be looking at what's going on.

[321] **Simon Thomas:** Okay; thank you. Mark Reckless.

[322] **Mark Reckless:** Did you have a satisfactory degree of involvement in developing the landfill disposals tax Bill?

[323] **Ms Favager:** Yes, I think—. We've been working very closely with Welsh Government over the last two years, and we're continuing to work with them, particularly on ensuring that the resources that will be available to us are based on agreed service levels and funding that reflects the priorities and practicalities of the delivery. Also, as part of those kinds of discussions we've

been having, we've been part of the technical experts group; we've been sat on the Welsh Government project board. So, we've had that opportunity to input our technical experience and knowledge of the sector, as the Bill and the policy options have been developed.

[324] **Mark Reckless:** Is NRW independent of Welsh Government?

[325] **Ms Favager:** Yes.

[326] **Mark Reckless:** The memorandum of understanding—. Conceptually, I've always found that a difficult thing, so it's very good to have such a clear answer on the record, thank you. The memorandum of understanding between NRW and the Welsh Revenue Authority; is that a document we can look forward to having published?

[327] **Ms McCallan:** The one for 2016–17—published as in published publicly?

[328] **Simon Thomas:** Available publicly, I think.

[329] **Ms McCallan:** That's never crossed my mind, but we can find that out. I couldn't see a reason why not. The way that it's written at the moment—it's things around dispute resolution and how we'll go about payment, and those sorts of details. And then, attached to that, is a list of the deliverables. So, my role is being paid for by the Welsh Government. So, as part of that, they will want to see the progress that's being made, to ensure that NRW are properly preparing for the roll-out next year.

[330] **Mark Reckless:** On 15 December, the Cabinet Secretary told us that they were funding a post in NRW to consider how the compliance and enforcement functions will be carried out in practice. Is that you?

[331] **Ms McCallan:** Yes.

[332] **Mark Reckless:** Are you sufficient for this task?

[333] **Ms McCallan:** It's not a one-woman job. [*Laughter.*] I joined NRW in June, and, since then, we've now got a project team. So, we've got legal representatives, our enforcement body is included with that, operations, finance, and ICT and data management. So, I've drawn in all of the people, from across the organisation, who I think are needed to deliver this. So,

we've got a project team that's meeting monthly, and making quite good progress in terms of making sure that we're prepared as well.

[334] **Mark Reckless:** And do you think the financial implications to NRW of the enforcement and the compliance duties that you'll have were sufficiently taken into account in the RIA?

[335] **Ms McCallan:** So, the figures that appear in there, which I think are the set-up costs—there's an envelope for set-up costs, which is, I think, £100,000 to £180,000 in total, and then an envelope for running costs, which is up to about £340,000 or £350,000. Those figures came from our original estimate last year, so those need to be refined, and the level of resource that we'll need to expend on this will really depend on some of the decisions that the WRA and we make, in terms of prioritisation. And also, to some extent, whether the WRA gets criminal powers—so, if it gets criminal powers, there'll be a different response from us, and a different level of input, in terms of legal and enforcement and prosecution.

[336] **Mark Reckless:** Because you've got your normal enforcement role on unauthorised disposals currently. Is there going to be a separation between that and what you're going to be doing on a delegated basis for the WRA? Will that be impacted by whether they have criminal powers themselves?

[337] **Ms McCallan:** We think that there's sufficient justification to have an entirely separate team. So, it'll be a landfill disposals tax team, which will sit—because they'll be separately warranted, they'll have separate powers, they'll be looking at separate things from our enforcement powers and our enforcement colleagues. The other thing is the protected taxpayer information. That gives us a significant responsibility, once we have access to that, so we want to make sure that that's as tightly managed as possible. It has to be transferred across the secure network, when we're sharing information with the WRA. We need to store it in a particular way and we need to manage our intelligence in a particular way. So, we're hoping to get that endorsed by the board next week, to ensure that we've got that ratified.

[338] **Ms Favager:** I think what will happen is, whilst we'll have that separate team, they will be very much informed by the work that we're doing on the environmental side. So, there will be these ethical walls, but we hope that the bringing together of that information, and the flow of information, will improve the effectiveness.

[339] **Mark Reckless:** But given those delegated powers—and you already have criminal enforcement powers—why does the WRA need criminal enforcement powers in addition?

[340] **Ms McCallan:** There may be instances where say, for example, if a landfill operator were arranging their business in such a way that they were taking wastes that were permitted by the environmental permit, which we regulate—. If they were choosing to, say, bypass the weighbridge, that's tax avoidance or evasion, in which case there's no environmental crime. Therefore, if we wanted to investigate that we would need to ensure that we had those powers. So, the criminal powers consultation is due out, I think, in spring—that Welsh Government are planning to do—and we'll be inputting into that as well to just make sure that we've got our thoughts about it framed in the right way.

[341] **Mark Reckless:** So, is there an option under consideration of giving NRW those criminal enforcement powers, whether directly or delegated to NRW?

[342] **Ms McCallan:** Delegated.

[343] **Mark Reckless:** Thank you.

[344] **Simon Thomas:** Mike Hedges.

[345] **Mike Hedges:** Just one question: going across, avoiding the weighbridge, wouldn't that pick up the general anti-avoidance rule and wouldn't they be properly be able to be prosecuted under that?

[346] **Ms McCallan:** I think it's—. So, there are civil sanctions and criminal sanctions. The civil sanctions are the things like, if you haven't registered, you get fined. There are other activities. So, with civil sanctions, you don't really need to do very much investigation to have the powers to go in and search premises, et cetera, or to look at people's records to try to work out whether there's something wrong going on.

[347] **Simon Thomas:** Mr Ramsay.

[348] **Nick Ramsay:** I think the question that Mark Reckless was asking, and that Mike has just pursued, which we're all getting at, is: is this a sledge hammer to crack a nut? Are we doing such a belt-and-braces approach to

this to make sure that we're catching people at every particular avenue that, actually, this is overregulation? Do you not fear that there's a danger? Because I understand that this is a very complex area, and, with all the tax legislation that we've looked at, we realise that. But is there not a danger we're going over the top here and actually do you really need this degree of power or is it just something that you really want to make absolutely sure?

[349] **Ms Favager:** I think we would be limited without the power.

[350] **Nick Ramsay:** Limited.

[351] **Ms Favager:** Yes. So, in terms of the criminal powers, we would be entirely constrained under the civil sanctions and there may well be cases or instances that we come across where the significance of the action is so serious that you might want to go down the criminal prosecution route.

[352] **Nick Ramsay:** But what's to stop you? You're going to have a close relationship—you said so—with the Welsh Revenue Authority, so what would stop you going to the Welsh Revenue Authority and saying, 'This is the problem; it's your responsibility to deal with it?'

[353] **Ms McCallan:** I guess the thing to say is that there currently aren't criminal tax powers on the face of the Bill but there is the power to go to consultation to decide whether those ought to be in place. We're still working through what powers are needed and what powers we have and possibly we think should be replicated by the WRA. We're actively working on that with Welsh Government at the moment. It just may be too early to say that at the moment.

[354] **Simon Thomas:** And, sorry, if I can just be clear: you're not talking about new criminal powers for yourselves as Cyfoeth Naturiol Cymru, you're talking about criminal powers for the Welsh Revenue Authority, which would be delegated to you. That's correct, yes?

[355] **Ms McCallan:** Yes.

[356] **Ms Favager:** Yes.

[357] **Simon Thomas:** Mike Hedges.

[358] **Mike Hedges:** The other Bill we've been discussing has got general

anti-avoidance rules in it and one of the things that some of us thought was that those general anti-avoidance rules would carry through for every other tax we brought in and would mean that the powers would exist with somebody within that to deal with it. Are you saying that's not true?

[359] **Ms McCallan:** I think it's the detail of the criminal powers that we need to have to carry out a complete investigation. Our experience as an environmental regulator has shown us how complex these cases are now becoming from an environmental point of view in terms of investigations being able to access all of the information. Some of the activities that are going on at the moment are organised waste crime that are now being investigated by collective regulatory bodies because they are so widespread across the waste industry. So, I think that they are something different to just a general anti-avoidance rule.

12:00

[360] **Simon Thomas:** Troi at Steffan **Simon Thomas:** We'll turn to Steffan Lewis.

[361] **Steffan Lewis:** Thanks, Chair. As we mentioned in the previous session local government are concerned or questioning whether there may be unintended consequences in terms of fly-tipping in particular. Obviously, the Bill has aims and objectives in terms of behavioural changes it wants to achieve. Do you think that there is a merit, though, in those concerns, that there could be an unintended behavioural change that might lead to changing the nature of fly-tipping rather than actually clamping down on it, so that you have smaller scale, but more smaller-scale fly-tipping rather than a clamp down?

[362] **Ms McCallan:** We already operate under the fly-tipping matrix, so there isn't at the moment any lack of clarity about whose responsibility fly-tipping or—you know, that spectrum between a small fridge or whatever, or a fridge and then large-scale dumping on a piece of land, because that's a spectrum. We've got an agreement with the local authority that allows us to pinpoint whose responsibility that is and if there's a bit of a grey area then we'll have that conversation and agree who's going to take a lead on that. So, I think that increased smaller activities would be more a matter for the local government association rather than for us.

[363] **Steffan Lewis:** So, then that would imply that local government

would—if that behavioural change actually did occur, the one that they fear, they would require greater resources in order to combat the potential increase in the number of small-scale fly-tipping incidents.

[364] **Ms Favager:** I guess for me the landfill tax Bill is establishing within Wales the equivalent of what is already there on an England-and-Wales basis. So, at the moment there's going to be no difference really in incentivising somebody to dispose of, you know, in small scale or large scale. I think what will change as we develop into the role is that we will be better informed and we will be able to prioritise and focus our resources to tackle the bigger issues from tax evasion.

[365] **Ms McCallan:** I think the Cabinet Secretary did say that there should be some kind of incentivisation, so if we or the local authority were collecting increased rates of tax through unauthorised disposal then there should be some benefit for us to pay for that additional resource that we're expending.

[366] **Steffan Lewis:** And do you think that provision in the Bill related to holding certain persons responsible for unauthorised disposals—is that going to make it easier to address as a body independent of Government? Do you have a view on whether that aspect of the Bill's going to make things easier?

[367] **Ms Favager:** In terms of knowingly permitting, the landowner side—I guess, through our experience as an environmental regulator, one of the most difficult and challenging things is to identify the offender who has deposited the waste and, secondly, is the landowner aware of that, have they knowingly permitted. So, will this make it easier? If we have the evidence available to us and we understand the exact transactions between what's happened in that instance, then I think this will facilitate us taking action. I couldn't say it's going to make it easier, because it would depend on the information we've got available to us.

[368] **Ms McCallan:** There's no disbenefit, I think, with the way it's written. It's very similar to the environmental legislation.

[369] **Steffan Lewis:** Okay, thank you.

[370] **Simon Thomas:** Okay. Nick Ramsay.

[371] **Nick Ramsay:** Thanks, Chair. In terms of understanding the different

rates of landfill tax and the issue I mentioned—I think you were in the gallery, actually, when I asked the previous witnesses about my favourite subject of waste tourism, one of the committee's favourite subjects, my—*[Inaudible.]*—is in the winter about tourism—*[Inaudible.]* In your consultation response, you state that if HMRC apply the changes to landfill tax that they've planned for April, two sets of tax changes will need to be made. What do you think will be the effect of making two changes to the landfill tax system?

[372] **Ms Favager:** So, this is in the interim, the next year, isn't it? I think our concern would be around confusion to the operators, because the operators in Wales already know that they will need to understand the legislation in Wales, and will need to work with the Welsh Revenue Authority and ourselves in that delegated authority. So, our concern would be HMRC bringing in something different that the operators would then have to adapt to, only for, a year later, to move to a different system again.

[373] **Nick Ramsay:** Do you think that the standard and lower rates of landfill tax should remain similar to England?

[374] **Ms Favager:** Yes. We believe there are definite benefits in maintaining that consistency across the United Kingdom. It's been a highly effective tax in terms of behavioural change, and I know that Welsh Government have done some modelling that indicates that fairly small changes in rates could result in quite a significant flow of waste across the border, particularly as we've got such large urban conurbations on both sides of England and Wales.

[375] **Nick Ramsay:** It's quite a different tax to other taxes in that it seeks to abolish itself eventually, and to reduce the amount it collects, doesn't it? On that issue of the waste tourism, what do you—? You've hinted at it already. If rates here were slightly lower than across the border in England, do you think that that would have a significant impact on the amount of tourism coming across the border this way?

[376] **Ms Favager:** I would hope and I would expect that any proposed changes in tax rates would be fully considered in terms of trying to work through what potentially might be unintended consequences. A small change may not have an impact initially, but it'd be: what is the reason for that change? What is the outcome that we're trying to achieve? Because, at the moment, particularly on the active tax, that is a significant driver in ensuring that biodegradable waste isn't going into, or can be deterred.

[377] **Nick Ramsay:** The previous witnesses, if I heard them correctly, said that, because the actual transportation of waste is a smaller part of the cost relative to the disposal, even a relatively small change in the rates could lead to flows of traffic around the country.

[378] **Ms Favager:** Yes.

[379] **Simon Thomas:** Did you want to come in just on this, Mark Reckless?

[380] **Mark Reckless:** We can ask about waste tourism from a domestic perspective, but I wonder can you just clarify for me what provisions there are in terms of international waste tourism. Are there any restrictions on waste disposal companies exporting waste? And how does the tax rate interplay into their decision to do that? Or is it solely driven by the regulatory regime?

[381] **Ms Favager:** So, there are specific regulations around the export and import of waste. It's the international waste shipment regulations. We are not allowed to export waste for disposal to other countries. It would need to be going for recovery or recycling, and there are specific rules around what can and what can't, and there's a notification system between ourselves and the receiving country, where there's an agreement between the relevant competent authorities that this type of waste can go there and it is going to be recycled and recovered.

[382] **Mark Reckless:** And those decisions aren't generally influenced by the landfill tax rate because it's only recyclable waste that should be going overseas. Is that a—?

[383] **Ms Favager:** Yes.

[384] **Mark Reckless:** I would be correct on that. Thank you.

[385] **Nick Ramsay:** That's bringing back Nerys Evans's transferable waste legislation. I think it was a legislative competence order, wasn't it?

[386] **Simon Thomas:** It was an LCO.

[387] **Nick Ramsay:** She was obviously ahead of her time back then. We didn't call it waste tourism back then, but—. Going back to the—. Again, I

keep referring to the previous witnesses, because it's fresh in my mind, but I asked them about the potential of multiple rates, and they said that could introduce flexibility. I think Mike Hedges was a bit concerned about that. What do you think about multiple rates? Would the disadvantages be outweighed by the benefits?

[388] **Ms Favager:** Again, I think it would have to be properly considered and thought through for why you would want to introduce multiple rates. I know the previous witnesses were suggesting a tax on recyclable material, so things that are going into landfill that could be usefully reused or recycled elsewhere. So, I think in principle we'd support that. Another one that we've thought of, which, again, came up earlier—I think Brian was talking about it—was asbestos disposal. We do have facilities in Wales for asbestos disposal. At the moment, it attracts the higher rate of tax, so, £82.50, although I might be wrong on that.

[389] **Nick Ramsay:** He didn't seem to think we did have asbestos disposal.

[390] **Ms Favager:** No, he, I think—.

[391] **Ms McCallan:** We didn't used to.

[392] **Ms Favager:** We didn't used to; we do have now. But the best environmental option for asbestos is for it to be disposed of at landfill. It's a hazardous material. It has the potential to impact on human health. So, that might be an area where you might think, actually, you want to encourage the appropriate disposal of that material and you may wish to bring in an alternative rate for that.

[393] **Nick Ramsay:** The idea of huge quantities of asbestos travelling all around the country would certainly, I think, fill a lot of people with dread, wouldn't it?

[394] **Ms Favager:** It's very—

[395] **Nick Ramsay:** —emotive.

[396] **Ms Favager:** It's very well controlled. Movements of asbestos come under the hazardous waste regulations. So, there's a higher level of control around that kind of material.

[397] **Nick Ramsay:** As somebody who chaired the cross-party group on asbestos in the last Assembly, this is an aspect that is of interest to me, Chair. Finally, from me, in your submission to the Welsh Government's consultation in 2015—you

[398] 'strongly recommend that no threshold is introduced to define a small quantity'

[399] of non-qualifying waste in a load of qualifying material. I hope I've got that right.

[400] **Ms Favager:** Yes.

[401] **Nick Ramsay:** Could you explain the potential impact of introducing a threshold to define a small quantity?

[402] **Ms Favager:** I think from our perspective, and our understanding of regulating the waste industry, the danger would be that you specify an amount and you will find that operators will produce that amount.

[403] **Simon Thomas:** It becomes a ceiling.

[404] **Ms Favager:** Yes, exactly. So, for us, not defining it would actually encourage better upstream treatment and sorting of the material. So, you know, in our view, something that shouldn't be there should almost be accidental—not something that's prevalent through the whole load.

[405] **Nick Ramsay:** So, if you say to the operator, 'You're not allowed to have more than 20 per cent, say, in this', then what you will find is that they will go right up to the 19.9 per cent.

[406] **Ms Favager:** Yes, 19.9 per cent. Because the difference between the standard, the lower and the higher rate is so significant that it makes—.

[407] **Nick Ramsay:** So, don't have a threshold. Don't specify it.

[408] **Ms Favager:** That would be our view.

[409] **Ms McCallan:** The plan is to have subordinate legislation, so we'll be part of the group that will be looking at trying to work out what the best answer to that is in practice. We can see that there is an interest in it, and it

would just be a case of us inputting into that.

[410] **Nick Ramsay:** Thanks.

[411] **Simon Thomas:** Okay. Mike Hedges first.

[412] **Mike Hedges:** On asbestos, isn't the control that people have to have a licence in order to take it out of a building or off a building, and then they have to get a licence for where they're going to dispose of it, rather than at the site? Because, as you both know, and as I think most people in this room know, lorry loads turn up, and you could have the bottom quarter filled with asbestos and the top three quarters covered with brick, stone and wood, and you wouldn't be any the wiser. So, it's a control when taking it out and having to get permission to dispose of it somewhere. That's what gives you control, isn't it, and the same with knotweed?

[413] **Ms Favager:** I believe—perhaps you can jump in—that that is controlled, but through health and safety legislation. So, the removal of asbestos from buildings wouldn't be something that we get involved in at the site. However, anybody dealing with asbestos would need to register with us if they were a producer of hazardous waste above a certain threshold, and that material would need to be consigned from the place of production through to final disposal. So, there's a kind of dual control over that.

[414] **Mike Hedges:** Thank you.

[415] **Simon Thomas:** David Rees.

[416] **David Rees:** I have two questions on asbestos. I'd be interested to know where the sites are across Wales, because we are talking about transportation issues and I'd be pleased to know how many there are. I know there's one, but I don't want to presume, 'Oh, I kind of know that.' You don't have to do it now—send us a note if you're happy to do so.

[417] **Ms Favager:** Okay. I thought it was just Trecatti in terms of landfill, but we'll check.

[418] **David Rees:** Well, Tata's got permission too; it has a hazardous waste site as well. But it would be nice to know for our constituents.

12:15

[419] **Ms McCallan:** Yes.

[420] **David Rees:** We talked about—. They said there's more and I'd like to know, because there are none in north Wales and it could be possibly travelling across north Wales, for example, to England's sites.

[421] As a second point, on this question of the small quantity, you say that you don't want a threshold. Mike Hedges, earlier on, asked should there not be any reference to a small quantity, full stop, and everything should be charged at the higher level, no matter what is there. If you don't do that—. I know there are going to be problems if you do that. That's possible. But, if you don't define the small quantity, are there legal difficulties that you might be facing because somebody could use it as a loophole to say, 'Well, actually, you've not said what is and what isn't a small quantity; your definition and my definition are different', and therefore a legal challenge could be made?

[422] **Ms McCallan:** I think it brings us back to Mr Hedges's point as well about mixing and mis-description. So, one of the objectives of the combination of this legislation and our environmental legislation, and sharing the records, is that we'll get a picture, as Becky said, that we've never seen before. So, I think we're going to be able to understand a lot more about what's in lorry loads of waste and why the operators or the producers think it's a lower rate of tax and it's a relatively innocuous material rather than it going into the higher rate of tax. Because that's where there's a significant—. Landfill tax has been a significant driver for waste crime in terms of mixing and mis-describing, and that's now a very significant issue. So, our objective is to use this legislation to help us to fight that part of crime.

[423] **David Rees:** Right. You say 'fight it', but actually, could it stop it? Because if there are no clear definitions, that's going to be a problem because all you're going to end up saying is, 'Actually, more of this can happen.'

[424] **Ms McCallan:** Yes. I guess that would be a matter for the courts to decide what would be reasonably expected to be in there. If we, working with the WRA, haven't got the guidance right that says what a small quantity is, then it would be a matter for the courts to try to decide that.

[425] **David Rees:** That's an interesting situation.

[426] **Mike Hedges:** On a small point here, it depends on weight or volume, doesn't it? You can have non-recycled polymers that would take up a huge amount of volume, but not much weight; and you could have things like some building-type materials that would have a lot of weight, but very little volume.

[427] **Ms McCallan:** Yes. No, it needs very careful thinking and that's the next stage and there'll be legislation, I understand, for that.

[428] **Simon Thomas:** While we're just still on rates, although we've gone a little way away from there, but we started this discussion on rates, I just wanted to understand whether you would feel it would be beneficial at all to have the rates on the face of the Bill, given that the Welsh Government has said its intention is to keep—at least initially—a similar regime to that that pertains in England. Given your evidence that at least next year, or the next financial year, there could be some confusion because we'll be almost going to the Welsh system, but not quite, and they'll have the England and Wales system running as well, would it not be useful to have the proposed rates on the face of the Bill to allow for planning? Obviously, there would then be the regulatory-making powers under the affirmative action that the Welsh Government could always use to change those rates, but would that not be at least an appropriate first step at this stage?

[429] **Ms Favager:** I think, for me, the important thing is around how it's providing certainty to the people that are affected.

[430] **Simon Thomas:** But the current sort of proposal seems to say that we'll take the Bill through and then we won't know the rates until the Welsh Government decides it's convenient for them to announce the rates, and that could be quite close to April 2018.

[431] **Ms McCallan:** My understanding is they were planning to do it in the autumn this year.

[432] **Ms Favager:** Yes.

[433] **Mark Reckless:** Why not do it now?

[434] **Ms Favager:** I don't know how onerous it would be to change the face of the Bill. I would expect that the benefit of not putting it on the Bill is that it

will allow more flexibility and a streamlined process to—

[435] **Simon Thomas:** But the Government says it doesn't want flexibility at the start; it wants a similar system. You're not the Government, I appreciate, but it strikes me that there's a conflict here. If the Bill is proposed initially to be, and you've given evidence to us that it would be better if there wasn't a sudden jolt between England and Wales, then surely putting it on the face of the Bill, which we can do now, in the next few months—it's a little bit earlier than the autumn, but not tremendously earlier—would allow certainty for the likely taxpayers. Let me rephrase the question to your responsibilities: would it give you a problem if the Bill, as it became as Act, had the rates on the face of the Bill? Would that create a problem for you?

[436] **Ms Favager:** No.

[437] **Ms McCallan:** No, not practically.

[438] **Simon Thomas:** No. Okay. We'll turn to David Rees's questions.

[439] **David Rees:** Thank you, Chair. Basically, this is exemptions and reliefs, but your written paper actually doesn't say an awful lot, but it does highlight the fact there's one new one, exemptions, and the existing pet cemeteries is one. But, I suppose, I want to try and ask—. Some of the exemptions that were in the current position are becoming reliefs. Do you see that as a problem for operators in any way whatsoever? The change from exemptions to reliefs.

[440] **Ms McCallan:** That could be a question for your next witnesses who, I understand, are from the environmental services association—.

[441] **David Rees:** We'll ask them as well, don't worry.

[442] **Ms McCallan:** I think, for us as the regulators, it won't make a practical difference to our day-to-day work. Hence my lack of comment in our response, really.

[443] **David Rees:** The other question I've got on this is that you've identified the quarries' restoration issue, and the materials that go into that, which I've acknowledged, but I raised with the Minister this question. Opencast sites seem to be missing from the possibilities, because, yes, you can fill a quarry, but you've also got to look at opencast sites. Would the

inclusion of opencast sites also be helpful to NRW? Because we have several, some are now voids that are filled with water, and others are still eyesores. Should we include opencast sites in there to ensure that we can look at restoration issues there?

[444] **Ms McCallan:** We're talking to Welsh Government about that. In my role before this one, I actually worked for the Coal Authority and was part of writing the guidance for restoration bonding, et cetera, for opencast sites, so I'm familiar with the issue. I think we're currently looking at which sites could be affected and the quantities with Welsh Government.

[445] **David Rees:** Okay. And just a final one: did they miss anything they could have used more effectively?

[446] **Ms McCallan:** On opencast sites, generally the material that's excavated is used to restore, and it's very unusual that that hasn't happened. So, we were just trying to work out whether there was an impact that needed to be mitigated through the tax.

[447] **Simon Thomas:** Okay. Mark Reckless.

[448] **Mark Reckless:** We've discussed that. I think you are aware that the previous witnesses had some issues around penalties. That's one area where they focused. There was one area in particular where they said, 'Not me guv, ask NRW.' Can I just try and get to grips with this penalty for not applying the water discount? Why do we want to penalise operators if they pay too much tax by not applying this discount?

[449] **Ms McCallan:** We don't currently know who has claimed water discount. So, just to be clear, the water discount currently is claimed by the producer of the waste. So if they say that they need to add a percentage or an amount of water to a transportation, they agree that individually with HMRC at the moment. The range of water percentage will be agreed. I don't know what testing goes on, which was the Chair's question, at landfills to see whether that percentage is correct or not. So, it's a bit of a mystery to us, because we don't know who's got them at the moment. But I understand your question; if there's too much water in there, then they're paying too much tax for disposing of the material, and it's almost a commercial decision for them to be managing what that is, but we don't currently have any role in monitoring that. We will in future, and we'll know what those are. I know that in Scotland, when they did this exercise, they removed probably the majority

of the existing water discounts.

[450] **Simon Thomas:** Interesting.

[451] **Mark Reckless:** Okay. Thank you. I think we may pursue that further. Can I ask on the £5,000 penalty for deterring disposal in a non-disposal area that has been designated as such, is that an appropriate and sufficient sum really to deter in this area?

[452] **Ms Favager:** So, the non-disposal areas would be part of an authorised site. So, you are talking about an operator that has a permit with us on the regulation side for disposal, and it would be in their best interest to ensure than the non-disposal area is being managed appropriately. I guess your question is: is £5,000 enough to ensure that good management?

[453] **Ms McCallan:** As it stands at the moment, if you've got an information area then, if you're found to not be complying with the record keeping—and if you're not complying with the record keeping, then you're possibly doing that for a reason or you just need some help to bring your record keeping back into line—if that's the case, then we would need to look at the rest of your activities. I think, currently, if you aren't doing your record keeping properly, then all of the material in the non-disposal area becomes taxable immediately, so there's a change that Welsh Government has put in place to make that more reasonable to allow that fine to happen, or to have another discussion about what should be taxable and what shouldn't. So, as far as we're aware with that penalty, it's up to £5,000 and it would be a sliding scale depending on the facts.

[454] **Mark Reckless:** Isn't all the landfill disposal taxable? Am I missing something here?

[455] **Ms McCallan:** The non-disposal area could be an area where you were storing inert material that you were going to use for restoration purposes that would never be liable for tax, under controlled circumstances.

[456] **Mark Reckless:** Okay.

[457] **Ms Favager:** It just happens to be on a landfill site, so it's important to distinguish and be clear that this area of the site isn't for disposal, it's for that—

[458] **Mark Reckless:** So, potentially, could we have a designated non-disposal area that wasn't on a site as such that, if there's an area where fly-tipping is a particular problem, we can designate it as a non-disposal area and use this regime to penalise people, which might perhaps be easier than fining them to a criminal standard for fly-tipping?

[459] **Ms McCallan:** It would still need to be—. It's still waste; it might not be taxable, but it's still waste. So, if it's—. I don't think that there's any benefit in doing it, but I could think about that.

[460] **Mark Reckless:** Thank you. Three hundred pounds for not registering with the WRA—is that enough of a deterrent?

[461] **Ms McCallan:** They're not popping up. Landfills aren't happening that—. You know, landfills that should be registered, that have a permit and are authorised—I think it would be very unusual not to have that, and it's an administrative penalty.

[462] **Mark Reckless:** But what if they don't register with you or with the WRA?

[463] **Ms McCallan:** If they don't register with us, then we would take the normal course of action, which is to try to bring them into regulation, and if that fails, then try to close them down and prosecute.

[464] **Mark Reckless:** Okay. So, that would be the mechanism. And the WRA, it's convenient if they do—

[465] **Ms McCallan:** It would be an unauthorised disposal, so it would be taxable.

[466] **Mark Reckless:** So, that £300 is not the primary basis of deterrent enforcement, in effect.

[467] **Ms McCallan:** No.

[468] **Mark Reckless:** Thank you very much.

[469] **Simon Thomas:** Can I just ask, is there any interaction between this non-disposal area, which is in a landfill site, and a non-authorised disposal? Because a non-authorised disposal can be taxed under this Bill at the higher

rate, so if somebody uses a non-disposal area in their landfill site for disposal, which they shouldn't be doing, does that then become a non-authorized disposal, which then becomes taxable at a higher level?

[470] **Ms Favager:** I don't think so. I think that's tax evasion.

[471] **Simon Thomas:** And are we double-penalising people in that sense?

[472] **Ms McCallan:** The point at which you bring the material through the gate—that's the point at which it should be taxed. So, if you say it should go into a non-disposal area, but in fact, you're not following the rules and it's the wrong type of material, then, my understanding would be that the WRA would say, 'You haven't complied with the rules and therefore it needs to be taxed.' You would need to justify why you haven't paid tax on that, so it would get caught in that way.

[473] **Simon Thomas:** So, it would get caught by the general tax, as it were—the overall rules on taxation.

[474] **Ms Callan:** Yes.

[475] **Simon Thomas:** Okay. Mike Hedges.

[476] **Mike Hedges:** The landfill communities fund: when we heard the previous witnesses who came in, they said that some of this money should be used for orphaned and abandoned sites to bring them up to a suitable standard—landscaping et cetera—do you actually believe that some of the money from the landfill communities fund should be used for that?

12:30

[477] **Ms Favager:** There is a system in place for landfill sites, which is financial provision, so if you have a permitted facility, then you need to ensure that you have the financial mechanism to enable it to be restored if something went wrong. That system isn't there for all waste management facilities, but that is something that we are exploring with the Welsh Government waste regulation branch, as part of our environmental regulatory side.

[478] **Mike Hedges:** I think it's very important—I've got David Rees sitting next to me here who will tell you about some of the problems that exist with

opencast, and that there's meant to be this putting back and sometimes the firms go out of existence before such time as they're meant to put things back—

[479] **David Rees:** Or transfer offshore.

[480] **Mike Hedges:** So, I think one of the things that we're very keen on is not having lots of waste sites left that are eyesores when they ought to be to being turned into leisure and sports facilities for the area that has suffered having them.

[481] The other question I've got—do you think the Welsh Government are right when they said that their new proposal simplifies the administration of the scheme? On 5 miles—distance is always interesting. I understand the 5 miles does not take into account topography, so it's 5 miles from the point, as if you were flying, rather than 5 miles from the point if you either travel on foot or if you were travelling over the hills, as it were. So, I've got a site in St Thomas in Swansea—you've got Kilvey hill next to it. You've got the best part of 2 miles going up and down that, for example, before you add the 3 miles. But I understand the 5 miles is almost like a compass circle of 5 miles, including St Thomas, even though most of that is at sea. But what I'm saying is, do you know if somebody is mapping where the 5 miles are from the different sites?

[482] **Ms McCallan:** We've provided the OS references for the transfer stations and the landfills to Welsh Government. I thought that was in part of their—

[483] **Mike Hedges:** It is. But I was interested in taking account of topography. Hills, mountains—this is Wales, one thing we're not short of is hills and mountains, and 5 miles as the crow flies, as it were, is entirely different to 5 miles away from a site if you had to go up and down the hills. So, what I'm saying is you would see it as a straight 5 miles as if you were in the air, rather than 5 miles on the ground.

[484] **Ms McCallan:** NRW don't have a role in the communities fund, and I would say that—or the communities scheme, rather—it would seem to me to be a policy decision if Welsh Government wanted to change the distance.

[485] **Mike Hedges:** I don't know about the distance, but the measuring of the distance—

[486] **Ms McCallan:** Or the measuring of the distance, yes.

[487] **Mike Hedges:** Because 5 miles along the flat, or 5 miles in the air and 5 miles across the rolling plains of Wales are slightly different.

[488] **David Rees:** Chair, can I expand on that?

[489] **Simon Thomas:** David Rees on this.

[490] **David Rees:** Can I expand on—*[Inaudible.]*—Welsh Government? Have you undertaken any analysis as to the impact of such sites on communities around or at any distance from them? So, is 5 miles anything you recognise as a figure, or is this simply coming from Welsh Government? In other words, who do I ask who's done the analysis?

[491] **Ms Favager:** Welsh Government.

[492] **Ms McCallan:** But if you don't mind me adding, we did make the suggestion in our written evidence that it ought to be applied to unauthorised disposal sites, too.

[493] **David Rees:** I understand that aspect, I just want to know where the 5 miles came from, because, as Mike Hedges says, 5 miles, as the crow flies, covers a lot of area.

[494] **Ms McCallan:** I think Scotland have moved to 5 miles as well and they've got similar topography issues.

[495] **Simon Thomas:** Yes, indeed.

[496] **Mike Hedges:** Yes and no, I think, because Scotland have got the central belt, which is where most people live, which are low lands, whereas Wales, even in our southern belt, still has a lot of hills.

[497] **Simon Thomas:** We've explored the geography of Wales quite thoroughly, I think, so we'll bring the evidence session to an end there.

[498] Diolch yn fawr iawn i chi am y Thank you very much for the dystiolaeth. evidence.

[499] We'll send a draft transcript so you can examine it for veracity.

[500] Diolch eto, ac fe wnawn ni Thank you again, and we'll bring that  
ddod â'r sesiwn i ben. session to an end.

[501] Thank you very much.

[502] If committee is content, as we have a few minutes, if we take item 10,  
which we agreed to take in private, now, that will facilitate things for this  
afternoon.

*Daeth rhan gyhoeddus y cyfarfod i ben am 12:34.  
The public part of the meeting ended at 12:34.*

*Ailymgynullodd y pwyllgor yn gyhoeddus am 13:48  
The committee reconvened in public at 13:48.*

## **Y Bil Treth Gwarediadau Tirlenwi (Cymru): Sesiwn Dystiolaeth 5 Landfill Disposals Tax (Wales) Bill: Evidence Session 5**

[503] **Simon Thomas:** Galwaf y **Simon Thomas:** I call the Finance  
Pwyllgor Cyllid nôl i drefn, felly. A gaf Committee back to order, therefore,  
i groesawu'r tystion? and I welcome the witnesses.

[504] Translation equipment is available at the front, and for all Members.

[505] Diolch yn fawr i chi gyd am Thank you all for coming to the  
ddod i'r pwyllgor i roi tystiolaeth ar committee to give evidence on the  
Fil tirlenwi Cymru. Rydym ni'n Landfill Disposals Tax (Wales) Bill.  
ddiolchgar iawn i chi. Gan fod pedwar We're very grateful to you. Given that  
ohonoch chi, byddwn ni'n gofyn i chi there are four of you, I would ask you  
ateb y cwestiynau ond, da chi, os oes to answer the questions, but if  
rhywun wedi rhoi'r ateb, nid oes someone has given the answer, you  
rhaid ailadrodd. Ychwanegwch os oes don't have to repeat it. Please add  
rhywbeth penodol gwahanol i chi ei something if you have something  
ddweud, fel ein bod ni'n gallu casglu specific and different to say, so that  
cymaint o leisiau ag sy'n bosib. we can have as many voices as  
Diolch yn fawr am hynny. Rydym possible. So, thank you very much for  
wedi derbyn y dystiolaeth that. We've had the written evidence,  
ysgrifenedig ac rydym ni'n ddiolchgar and we're very grateful for that.  
iawn i chi am hynny. Mae'n amlwg Evidently, you do support the Bill;

eich bod chi'n cefnogi'r Bil; rydych chi i gyd wedi mynegi eich cefnogaeth i'r Bil yn gyffredinol. A gaf i jest roi cyfle i bawb fynegi, felly, nid eich cefnogaeth, achos rydym ni'n derbyn hynny, ond a oes rhywbeth yn y Bil y byddech chi'n dymuno ei wella?

[506] Perhaps I'll start on the left.

[507] **Dr Marsh-Smith:** Of course, we're really here about the communities aspect of it and how that might be—. Is that what you'd like us to speak about?

[508] **Simon Thomas:** Anything that you think would improve the Bill, yes.

[509] **Dr Marsh-Smith:** Well, firstly, we're slightly concerned at the narrowing of the zone under which you intend to administer this. Our experience is that if you narrow the fields for funding too much, eventually you run out of good projects in that area. So, we'd recommend that you keep that as broad as you can, because you can always refuse a project when it's delivered to that new funding body.

[510] The second point I made was that there's another similar type of—not tax, but a levy, from aggregates. You're setting up this one Welsh body, and it almost seems too good an opportunity to miss, in not bringing that under the same administrative scheme. That would probably double the funding available, which makes the whole thing rather more worth while. It's been very hard to get hold of the aggregates levy tax because, again, it's very tight in the geographic zone.

[511] The third point I'd make is for my own particular area, which is rivers. We have problems with our rivers in Wales. They're generally underperforming and failing their targets under the water framework directive. Under the old scheme, if a river went through a designated zone, the whole river could be included in that thing, and, of course, if you have a landfill sprouting out whatever bad stuff it does at any point in a catchment, it will enter that river, and it's that river that needs to be improved, rather than just the immediate zone around it. So, I think I've probably said what I can add to the thing there.

[512] **Simon Thomas:** Thank you for that. We may well return in more detail to the community fund, but, at this stage, any general points of improvement to the Bill.

[513] **Ms Gutteridge:** I suppose, just to build on that, going back one step, at the moment, as it stands, there is no mention, or no link, between the actual tax and any kind of fund, whereas, in the current legislation for the UK, there is. Our concern is that the visibility and the protection of that fund, if it's not actually referenced, it's then under the goodwill, shall we say, of the Welsh Government, and later initiatives may somehow take precedence, and it would disappear. We commend trying to simplify it, because it is horribly complicated at the moment, but actually that link that's missing, and no reference, is a major concern.

[514] **Simon Thomas:** Could I ask James Byrne next, because we'll take the NGOs before we come to the legal practice, if you like?

[515] **Mr Byrne:** Actually, Chair, my colleagues have answered the question appropriately, and concerning your initial instruction, I'll leave it at that.

[516] **Simon Thomas:** Thank you very much.

[517] **Mr Byrne:** I'll just say that I'd like to thank the Welsh Government, because we work very strongly and supportively with Welsh Government on this—the consultation for the community benefit scheme—and they did retain it, and they've been very helpful and very supportive.

[518] **Simon Thomas:** Okay. And yourself, Dr Bishop.

[519] **Dr Bishop:** I'll exclude the fund from my comments and, as you say, adopt a more legal approach. I would never be so complacent as to think that any Bill or any piece of legislation was perfect, but, actually, it's quite difficult to find fault with the actual detail in the Bill. I think what is quite useful is that the scheme in a different format has been running since 1996. Scotland has moved ahead with a very similar Bill, including the addition of deposits on unauthorised sites. So, generally, I think we've learned from that experience. It's quite useful that it's consolidated; so, under the old regime, there was the Finance Act, and there were various pieces of regulation that were enacted on an ad hoc basis, sometimes in response to case law. So, it's in one useful place.

[520] In certain areas, I think maybe the objectivity of the key concepts could be improved somewhat, particularly on the issue of small quantities or small amounts—I can't remember the exact phrase that's used—in terms of where there are mixtures. I know there's been some debate as to whether to set a threshold, et cetera. My normal instinct as a lawyer is the more objective a piece of legislation is, or legislative provision, the better. So, I think further thought needs to be given to having a set threshold, which in itself can create problems, but, at the moment, I think that the 'small quantity' issue is a rather ambiguous phrase and might cause issues for enforcement practices. But, other than that relatively minor point, I think the Bill generally is very well written.

[521] **Simon Thomas:** To be clear, if I may, the threshold set on the face of the Bill—and, obviously, powers to amend it in some shape—you'd like to see it on the face of the Bill so we understand what that means.

[522] **Dr Bishop:** I think, in my written evidence, the point I made was, obviously, it's great that there's a provision there to amend that, and that's a feature of the Bill throughout—at various stages, there's power there to make regulations to change key definitions. So, that's positive from a futureproofing perspective. So, I wouldn't necessarily want to, at this stage, include a threshold, but an evidence base would be useful, just to find out how this issue, or this key concept of 'small quantity', has been interpreted by enforcement officers. And a lot of the discussion, particularly from Natural Resources Wales, was of a fairly high threshold—I think they mentioned 10 per cent. So, of course, if you reduce that threshold, then the problems they anticipate of people mixing up to that level, to avoid as much tax as possible, would disappear if that threshold was fairly low.

[523] **Simon Thomas:** So, the threshold is more like a de minimis rather than a threshold.

[524] **Dr Bishop:** Yes.

[525] **Simon Thomas:** Okay. We will ask specific questions about the community fund as well later on. We have some questions around the Bill itself. Please don't feel you have to answer questions about the Bill, if you're not interested in that part of the Bill, but, you know, there's an opportunity if you have a particular thing to say as well. But I'll turn now to Nick Ramsay.

[526] **Nick Ramsay:** Thanks, Chair. Good afternoon—yes, it's good afternoon, for this evidence session. Can I ask you whether you think the standard and lower rates of landfill tax should remain similar to England? Who wants to start that? Stephen.

[527] **Dr Marsh-Smith:** I'll have a go, because we're on the border. Most of the rivers just border England. If I could make a general thing about waste and litter, we're still a country that drops a lot of its stuff over bridges and down banks, and stuff like that. And it's quite important that anything like a landfill tax doesn't present any punitive charges on people, and prevent the waste going where it should be going. And I'd also add that I'd like to see some of the community charge picking up the bits that are left behind for other reasons. So, I can't say what the ideal balance is in terms of what that tax should be, but there has to be that in the consideration of it, if you see what I mean.

[528] **Nick Ramsay:** Anybody else? Patrick.

[529] **Dr Bishop:** In terms of consistency with the rest of the UK, obviously, there's an intuitive logic to having the same system, the same level of taxation, across all parts of the UK. The evident phrase that's used in the literature is 'waste tourism'. If you were being mischievous about it, you could say, 'Well, tax for landfill disposal is much higher in Wales', and that will lead to movements across the border, which would help Wales in their targets, but, obviously, that wouldn't do very much for Anglo-Welsh relations. I think, with the tax level, consistency is key, given the amount of landfill sites in Wales within an easy commuting distance of the border. And it needs to be—consistency is very, very important.

[530] In terms of the actual level, I think there's an optimal level with any taxation. But, if you did go down the route of taxing disposals too highly, then that might be counter-productive, in the sense that would create a perverse incentive to fly-tip, et cetera. So, I think that needs to be thought about with considerable care. But I think the overriding objective is consistency across all parts of the United Kingdom.

[531] **Simon Thomas:** As are shared by the other NGOs, as it were.

[532] **Dr Marsh-Smith:** Yes.

[533] **Mr Byrne:** Yes.

[534] **Ms Gutteridge:** Just one small thing to add, not only to do with quarries filling up, and needing more landfill sites, obviously, and waste tourism, but there's also the impact of that—transport on the roads, and on communities, and carbon emissions. So, for that reason as well, it's a good reason to make sure that waste is disposed as close to its generation as possible.

[535] **Simon Thomas:** Okay. Nick.

[536] **Nick Ramsay:** I was going to ask you what the implications would be if the rates were substantially different in Wales, but you've kind of suggested that. If the lower rate was increased, would this be to reduce the amounts of lower rate material being brought onto landfill sites? The WLGA state that lower rate material is useful for site development. I don't know which one of you to look at, because you're lined up there.

[537] **Mr Byrne:** So, well, a bit like *Mastermind*, my specialist area is the community benefit scheme, so, unfortunately, I couldn't really answer that.

14:00

[538] **Dr Bishop:** Well, that would be logical. Obviously, the entire rationale of the tax—. If you tax something it becomes less popular, particularly if you're taxing something that's socially undesirable. But I think you'd have to get very close to having the same rate as the landfill disposals tax for the lower rate in order to reduce the potential problem of people mixing waste up to a certain level. I think you could increase it considerably but, as long as there was that gap between the exempted, or the lower rate and the higher rate, it wouldn't really create any perverse incentives.

[539] **Nick Ramsay:** The witnesses we had this morning suggested that because the transport costs of waste are relatively small compared with the overall cost of waste disposal, it wouldn't take much of a differential in the rates for you to get so-called waste tourism. Do you agree with that?

[540] **Dr Marsh-Smith:** I think that's likely, yes.

[541] **Nick Ramsay:** Okay. I've got a question for Patrick Bishop specifically. In your written submission, you note the omission of a specific threshold to define 'small quantity' could cause ambiguity. Could you explain the

potential impact of not introducing a threshold to define a small quantity of non-qualifying waste in relation to mixed loads?

[542] **Dr Bishop:** Well, it obviously links to what I said in response to the first question. Is this a question of objectivity? I presume, if you did a study, that this phrase 'small quantity' is inherently ambiguous, as far as I'm concerned, and so one enforcement officer might interpret it differently to another, and that can lead to uneven coverage. It might mean that you're not collecting as much tax as you could be collecting. In terms of fairness to the people who pay the tax, you might have one enforcement officer who interprets it one way and one who interprets it differently, and that can lead to unfairness from the perspective of the people who have to pay the tax in question.

[543] In terms of the issue of people who are mixing up to the threshold, if you had a threshold, there's a clause in the Bill that caters for that to some extent, in that if you deliberately mix qualifying waste with non-qualifying waste then you will be required to pay the full tax. Obviously, that's great in theory but, in practice, there are real issues there of enforcement and detection et cetera. So, I think that's my main reason—it's just the question of objectivity. It would create an even playing field—everyone would know where they stood if you had a fixed rate that was permissible and, beyond that then, you would pay the full tax.

[544] **Nick Ramsay:** And should that be on the face of the Bill or set in regulations? Should the percentage of non-qualifying materials be on the face of the Bill?

[545] **Dr Bishop:** Well, at the moment, I don't think we have enough evidence to form a conclusion on that issue. So, we need further studies and evidence—however that is gathered—just to work out at the moment how, on the ground, as it were, this 'small quantity' provision is actually interpreted. If it's interpreted on a de minimis perspective, a very small quantity, then the Act, or the Bill, might be fine as it is. If there was widespread discrepancy between what 'small quantity' was or how it was interpreted, then it might be worth while putting that in the Bill, on the face of it. But I see no problem with which method—whether it's written into the Bill or it's created by regulations after the Bill has passed.

[546] **Nick Ramsay:** You don't think having it on the Bill would give a greater certainty at the earlier stage so that people know where they are?

[547] **Dr Bishop:** It would do, but I wouldn't want to jump into that until that evidence base has been developed.

[548] **Nick Ramsay:** So, you're saying there's no point having it on the Bill at this moment if, actually, that rate that's decided is wrong or not the right rate?

[549] **Dr Bishop:** And that's one of the benefits of having the clause in the Bill that allows that rate to be changed or modified via regulations at some future date.

[550] **Nick Ramsay:** Yes, okay. Thanks.

[551] **Simon Thomas:** Thank you. We now turn to the landfill communities scheme, and Mike Hedges.

[552] **Mike Hedges:** It's not often that people look forward to listening to me. We've heard evidence this morning that some of the money going into the community scheme should be used for the restoration of orphaned and abandoned landfill sites. Do you have a view on that?

[553] **Dr Marsh-Smith:** I'm trying to think of an orphaned and abandoned site within our particular zone.

[554] **Mike Hedges:** You might not have them in landfill. They've certainly had them in opencast.

[555] **Dr Marsh-Smith:** Yes. I suppose, at the end of the day, you need to prioritise the needs in the environmental world and what this money could be used for, and clearly that would be one of them, in our view.

[556] **Simon Thomas:** What about the other—

[557] **Mr Byrne:** It depends on what state the site was left in if it was restored as opposed to being just gaping hole, as it were, because if it was restored but it wasn't managed per se, then if nature's taking it back then it becomes a mini rewilding project in itself. Actually, areas like that, little pockets of wildness dotted around the country, are ecologically very important if they're a stepping stone for species or habitats. So, it would depend on the site, I'd say, and the condition it was left in.

[558] **Mike Hedges:** The RSPB and the Wildlife Trusts have both said the land disposals community scheme should be referenced in the legislation. Do the other two of you agree? Or would you like to say why you want it referenced? The people who want it referenced, do you want say why you want it referenced, and other people, do you agree with it?

[559] **Mr Byrne:** Well, I can mention why we'd like to see it referenced, and it was effectively what Kim said earlier—that it gives certainty that the community benefit scheme will continue into the future. I know the reason—I've discussed with Welsh Government the reason why they don't want it in the Bill and it's a very sound reason and logical: that they want to give it greater flexibility, because the purpose of the entire Act, as it were, is to reduce the landfill going forward, as such the landfill communities fund would decrease as well from potentially £1 million to, you know, relatively minor amounts. As such, they want the flexibility to be able to change the scheme, modify the scheme and potentially merge it with other schemes or use it as match funding. So, they're really sound reasons. However, from our point of view, it does give that certainty that it will go forward, that it will not be—if it's more guidance and policy, then guidance and policy can very quickly change at the pen stroke of a Minister et cetera. So, it's to give us certainty. Rather than us having to, almost year on year when it comes to budgets, lobby for its continued existence, I believe that if it was mentioned in the Bill at some point, then it gives us a very important source of biodiversity funding, and there are very few of them around. It gives that certainly going forward.

[560] **Ms Gutteridge:** I would agree with that. Absolutely.

[561] **Mike Hedges:** The Welsh Government—their approach has been to simplify the community scheme administration. Do you like the way they're going about it, and the general idea of making it simpler?

[562] **Mr Byrne:** Yes, we do. I think making it simpler is a very good idea, especially considering that the amount of money being generated from the community fund is going to be relatively low. Therefore, cutting overhead costs from, let's say, 10, 12 or 15 landfill distributors in Wales at the minute to one will reduce administration costs significantly and, as such, more money will then go to good causes, which is the Welsh Government's intention, and we fully support that.

[563] **Ms Gutteridge:** I think it is an improvement on the current scheme in

the UK. I've been involved with it since 2004 and yes, this is a welcome simplification. Regulation in the Scottish scheme, which I've also been involved in helping with from an RSPB point of view—that seems to be working quite well. The need for that really heavy regulation doesn't seem to—you know, they seem to be working quite well, so there are certainly lessons to be learnt from that. That will save costs, because at the moment the regulator, Entrust, takes between 2 and 5 per cent, as a levy, of the scheme, so that would cut that out. It's good to see in the memorandum that it's going to be a procured, open process. Because it's going to be really important that whoever gives that money out has got a really good knowledge of the areas that are hoping to seek funding, that it's transparent, and that there aren't any arbitrary, shall we say, restrictions. Because the current regulator seems to interpret the legislation, which is quite broad in its initial sort of sense, and, over the years, the restrictions have got tighter and tighter in all sorts of areas. It will good to see that those principles of transparency are set up from the beginning.

[564] **Mike Hedges:** I think another point on which we can perhaps generate some discussion is the 5 miles. Can I ask a question to Afonydd Cymru, generally, first? Are the 5 miles a straight 5 miles, or do they stop at the border? So if the border is 3 miles away from the site, does it stop at the border, or does it go into England?

[565] **Dr Marsh-Smith:** Well, we're currently running a landfill project right on the border itself. And, currently, that project is going over the border, because the actual owner of that landfill site is an English company, Tarmac. So, we've managed, in the current legislation, to cover the border in that way. I'm not quite sure what's envisaged in the future.

[566] **Mike Hedges:** Before we get a general view on the 5 miles, would you like it to be at least something? It was said by the Minister in one of our past meetings here that the 5 miles will be 5 miles and the border will not be taken into account.

[567] **Dr Marsh-Smith:** Firstly, I'd like to say that perhaps you could consider that 5 miles is just a bit too small, because you'll run out of projects in that five-mile zone pretty quickly. And also, as I mentioned with rivers, they don't conform to a circle at all anyway, and you need to think of the linear length of that, and the continuity between sites and so on. So we would say that the border, in wildlife, isn't really there. We'd like to carry on both sides and maybe bring in some English money to compensate.

[568] **Ms Gutteridge:** Yes, I would agree. Biodiversity, in particular, doesn't take any notice of borders or arbitrary things on maps. The purpose of this tax is to drive behaviour and reduce. So, the tonnage will go down, and the funds will go down, we know. But if you've only got 5 miles, then the fewer sites—you're going to go through to 2020. So, those circles are going to get smaller and smaller. And some of the really most important wildlife that you've got in Wales are in areas that already aren't really very well covered by this fund. And if you bring it down to 5 miles, you're going to reduce that even further, I would say. I would also add—I don't know if we're going to come onto it—that we welcome the idea to include waste transfer sites, because that will broaden your coverage. However, they are still very urban related, and although there's lots of wildlife and biodiversity in urban areas, there is quite a lot that's not—that's in rural areas.

[569] **Dr Bishop:** My view on the issue is that my colleagues here have a particular way of looking at things—ecologically, environment, ecosystem—that sort of area, given their areas of expertise. But, as far as I understand it, part of the scheme will also be to ameliorate the community impacts of landfill sites. Now, to me, under the current system, if you were living 8 or 9 miles from a landfill site, you might not suffer—from an anthropocentric perspective; a purely a human-focused perspective. You might not suffer terribly the effects of the landfill site, whereas if you are living within 2 miles of a waste transfer station, you might very well suffer those adverse impacts. So, I think the change to the 5 mile radius, but extending it to waste transfer stations—I think the limit is providing 2,000 tonnes per year handled—is perfectly sensible. There might be issues there from an environmental, ecological perspective but, certainly from the community perspective, I think it's to be welcomed.

[570] **Mr Byrne:** So, taking on board the comments of my colleagues sitting on my right-hand side, there could be an option there that, from a community point of view, the 5 miles might be appropriate, but from an ecological point of view, it could be wider. So, at the minute, the community benefit scheme has three focal points: waste minimisation, biodiversity and local environment. And if there's a relatively equitable distribution of the fund between those three areas, if you take the biodiversity one, you could have one ring in a map that could be 20 miles, and if you look at the more community-based ones—waste minimisation et cetera—then that could be the 5 miles. So, that could be an option to have a bit more consensus.

14:15

[571] **Dr Bishop:** Of course, one way to ensure flexibility is to have a general 5 mile radius for both transfer sites and landfill sites, but giving the power to whoever administers the scheme, in exceptional circumstances, to fund projects outside that radius. That would give maximum flexibility in exceptional circumstances to move beyond that 5 mile radius where the circumstances make it so that that is reasonable.

[572] **Simon Thomas:** Just on that point, just for me and the committee to understand, there's a difference, isn't there, in saying that the money can only be spent within a 5 mile radius and saying that the money can only be applied for within a 5 mile radius. There's a significant difference between the two. Just to give an example, as I do have a constituency example: I visited Newtown on Friday to see a river cleaning project with the River Severn Custodians. Currently, it couldn't get anything under the current regulations because there's no landfill there, but there is a waste transfer station that could, possibly, come into this new set of proposals. But, again, on the point about rivers, there's a linear 2.5 miles of the river Severn, I think, that they look after, which may go in and out of a 5 mile radius—I don't know. So, there could be another approach as well, which is to say that the applications have to come from within those communities, but they don't necessarily have to have the same geographical footprint, so that you know that that benefit is happening there. Would that be something that you could work with, as well?

[573] **Dr Marsh-Smith:** Very much so.

[574] **Ms Gutteridge:** From our point of view, we've got a number of offices in Wales. I'm actually from the headquarters. I think it should be where the benefit of the project—where the benefit's going to be felt, actually, rather than where the applicant is actually based. Just as a wider point, when you're looking at eligibility, sometimes people use postcodes or they have a postcode checker, and often in rural areas the postcode is where the nearest letter can be delivered. So, I noticed that Natural Resources Wales has a really good mapping system, and it would be, I think, great if, when you do decide what the eligible places or sites are—perhaps landfill and transfer—they are identified on the system. It'd be much easier for a person to know whether or not they're eligible, rather than an arbitrary postcode, for instance. But I do think it should be where the benefit of the project's going to be, rather than where the applicant lives.

[575] **Mr Byrne:** I'd agree with that.

[576] **Simon Thomas:** Are there any other points that you want to make on the landfill communities fund before we move on to other parts of the Bill? Obviously, we've got your written evidence as well, so you don't need to repeat what's in there.

[577] **Mr Byrne:** No, it was just, as mentioned in the previous answer about more of a—not ring-fenced, per se, but at least an equitable split between the three priority key themes. The reason behind that—there's pros and cons to that—. For example, in England, even though it was an England-and-Wales scheme or fund, as it were, the UK Government took something like £20 million out of that scheme specifically to fund the Environment Agency—that was the Environment Agency and not NRW. So, immediately, you got a disbenefit in Wales.

[578] So, as I say, very quickly you could have one thing just completely dominating—now it's waste. In Wales, we know that the local authorities get a sustainable development grant, but, because there are legal targets on recycling, a lot of that money, if not the vast majority of that money, actually goes on the waste recycling targets, rather than other elements of sustainable development, such as biodiversity. Biodiversity is always the poor cousin, as it were, so I want to stick up for biodiversity, obviously, being from a wildlife trust, but also say that there should be a relatively equitable split. But, flexibility should be built in there—considering whether or not there's underspend in one particular area or not.

[579] **Dr Marsh-Smith:** May I add another suggestion? That is to consider the option of adding match funding in order to hoist in more to a project and make it more attractive to the Welsh Government at whatever percentage—you might say 25 or 30 per cent coming from the project sponsor, it would give you a much larger pot to play with.

[580] **Simon Thomas:** Okay, thank you. Mark Reckless.

[581] **Mark Reckless:** Can I ask, James—you refer to an equitable split, by which I assume you mean a third to community projects, a third to waste reduction, and a third to biodiversity—are you able to tell us what has tended to be the split in the community fund when it's been administered on a joint basis?

[582] **Mr Byrne:** So, the current scheme, then. At the minute—. Well, actually, Kim might be better placed to answer this, but at the minute there are various criteria, so, options, and, as far as I'm aware, Kim, it's up to the environmental distributor body to actually come up with whichever one that they feel is appropriate. So, some have a biodiversity one. So, Waste Recycling Environmental Limited will have a biodiversity one and a community one, and others will go straight just and have a community one. I don't have the figures to hand, but I'm pretty sure that the more community aspect ones are substantially more—.

[583] **Ms Gutteridge:** Yes. It's a difficult comparison, actually, because, in the UK system, the object—it's split into things that you can fund, and that has A to E or A to F or something, and biodiversity was only added in 2003. So, before then, a lot of projects went in under what was considered 'D', which is 'Object D: community or enhancing a public amenity', which could include a nature reserve, so it could have biodiversity. But then they brought in biodiversity as a separate thing, so it's quite difficult. Although they all have to run to the same scheme, the distributors, yes, have the ability to pick and choose what they fund, and therefore a lot of them have funded community over biodiversity, although it flipped the other way more recently.

[584] Some of that is because of the influence that landfill operators are looking for—or waste operative companies—because they're looking for public recognition in their local area, and that's a consideration. Recently, it's gone back massively the other way because Treasury put a challenge onto the fund and, because biodiversity tends to take a little longer to do—so, it might not be done in one season because of restrictions or weather or whatever—Treasury have turned around and said, 'Well, actually we want to see the spend much quicker'. And it's not that biodiversity was dragging its feet, but it does take longer to spend, and so the reaction to that is that the distributors have said, 'All right, we won't fund biodiversity then'. So, it's a bit of a lottery, really, in that respect.

[585] **Mark Reckless:** So, pitching a third to biodiversity would probably be an improvement on the status quo.

[586] **Ms Gutteridge:** Yes, and, before 2003, they talk about waste and recycle. So, there were two other categories, C and CC, that were in in 2003 that were taken out and the money was given to the Waste and Resources Action Programme, because they found that there was a proliferation of lots

of masses of little recycling initiatives and there wasn't any kind of join-up, and then they decided to break that away. Up until that point, the majority of money was going on object C and CC, waste recycling. So, I agree with James: we want to see an equitable distribution. I'm not saying it all for biodiversity, but we'd want to see some parity across those sections.

[587] **Dr Bishop:** Of course, sometimes the distinction between community projects or community benefit and biodiversity is a false dichotomy, because, often, one will have the other.

[588] **Mark Reckless:** Thank you.

[589] **Simon Thomas:** David Rees.

[590] **David Rees:** Diolch, Gadeirydd. Clearly, the idea behind the landfill tax is about trying to reduce our waste and more recycling, but one of the problems we tend to have is the unintended and illegal sites that pop up. Do you think the Bill as it stands addresses that avenue to ensure that we can reduce the—well, I call them 'illegal'—sites that are operating? And to perhaps change behaviour of individuals, because—. There's the word 'fly-tipping', and I'm very conscious of fly-tipping because there are various levels of fly-tipping, and this is obviously focusing far more on the larger loads, on the sites and illegal sites. Is the Bill appropriate to tackle that challenge we face here at the moment?

[591] **Ms Gutteridge:** I think, on a general principle, the polluter should pay for the action in that respect. I'm not a legal expert, so I don't know—

[592] **David Rees:** We'll come to Dr Bishop in a moment.

[593] **Ms Gutteridge:** The other thing, just as a sort of unknowing observer of these things, is that I don't know how effective it'll be in identifying who the perpetrators are and therefore bringing those to justice and therefore applying that charge to those people. I know that the Scottish scheme introduced the—if you want to call it such—fly-tipping kind of rule. I know that's been going a little while but I don't know whether there's anything there that can be learned about the effectiveness of this kind of measure. But I'm sure Patrick probably has a better—

[594] **David Rees:** Before I go on to Patrick, because I've got a couple of questions for you that are far more specifically legal, in that sense, does anyone else want to comment?

[595] **Dr Smith:** What I would say is that, to the credit of Welsh Government, starting with the plastic bag tax, there is a general improvement in the chucking stuff out of the cars and chucking stuff out the bag. We've run a litter clearance for the last 10 years of river banks and the amount we're picking up is getting less and less and less, partly because, I think, people are much more aware of how unpleasant litter is. Just seeing it everywhere no longer is acceptable for a huge part of the population. I think it won't just be the landfill tax that acts positively, but the overall perception and general well-being of the public that's going to act positively as well, if that makes sense.

[596] **David Rees:** To an extent, yes. I understand that.

[597] **Mr Byrne:** I would say that NRW and Welsh Government currently at the minute are doing a good job on that. So, there have been very large illegal landfill sites being—. I think there was one in Neath that they picked up and that should have added something like £2 million to the tax credit if it was done properly. So, at the minute, I'm not sure if the Bill will actually make enforcement greater on that, but, certainly, at the minute, the current powers—. I know that Welsh Government and NRW are working quite well. I think this consultation on this landfill tax actually goes quite well—hand in hand—with the current consultation out on fly-tipping at the minute through Welsh Government, which I'm currently drafting a response to. But, again, I'd support the polluter pays principle. It's fundamental, not just in Welsh policy but also in UK and international policy as well.

[598] **David Rees:** I need to separate fly-tipping a little bit, because what most people consider as fly-tipping is, I think, not for this Bill, because this Bill is about the landfill taxation and the sites and the transfer and that aspect. Even though there are some concerns about people dumping on public ground, public land, it's not quite what the public would consider fly-tipping in one sense, which is what you were talking about.

[599] **Mr Byrne:** Yes. So, again, I'm looking at that in the fly-tipping consultation. Actually, the minimum fine there in that consultation—sorry, the maximum fine—is £400, but I'm suggesting that be upped to £1,000, but then that is a fine that would go to somebody like the local authority and

then the polluter still has to pay to remove the offending material, and also if it's done in a nature reserve—and there's a lot of fly-tipping done in nature reserves or in rivers, et cetera—then also there needs to be the cost of remediation as well. I'm hoping that the fly-tipping consultation, if it becomes enacted, will actually deal with some significant levels of fly-tipping that will be just below, as it were, the—

[600] **David Rees:** So, hand in hand with this element of the Bill, it should actually reduce that unauthorised disposal, almost. Dr Bishop, I'll move to you now.

[601] **Dr Bishop:** So, I think if you're focusing particularly on the extension of the tax to unauthorised deposits and non-landfill sites, as distinct from the person who dumps a little bit of rubbish by the side of the road, I think that's to be welcomed. The phrase that was used in all the literature was, 'This will increase deterrence'. It'll dissuade people who would otherwise be minded to make a disposal on an unauthorised site, it will dissuade them from doing so, and, in as far as it goes, that's true. But my particular problem, and this isn't a problem with the Bill on the face of it, it's a more policy orientated problem, is that you can increase the penalties for any activity as high as you want. You could sentence someone to 10 years—have a maximum penalty of 10 years imprisonment—for unauthorised disposal if you wanted to, but that, in itself, will not increase deterrence.

14:30

[602] Deterrence as a concept is a two-pronged concept. On the one hand, there's the penalty that might be imposed—the fine in most instances—and then, on the other hand, there's the likelihood of getting caught and the likelihood of apprehension. All the academic literature suggest that it's the likelihood of apprehension that has the biggest positive deterrent effect. So, while the extension to unauthorised disposals is sensible and to be welcomed—I have no problem with that at all—in order for that to be successful in reducing unauthorised disposals, it needs to be backed up and supported with a meaningful enforcement and inspection regime. Of course, that's far more expensive. It costs nothing to increase the maximum fine for a certain activity. It costs an awful lot to increase boots on the ground, as it were—enforcement activity, investigations, et cetera. So, in as far as it goes, it's fine, but it needs to be backed up with meaningful enforcement.

[603] **David Rees:** I'll come on to the monitoring and regulatory aspect of it

in a second, which is down to Natural Resources Wales, but—because [*Inaudible.*]*—*is this Bill going to deter more unauthorised landfill sites appearing? Because there's a difference between someone dumping and someone allowing their land to be used for that purpose.

[604] **Dr Bishop:** What I think it does—and, hopefully, this was deliberate—is that it does place an obligation or an incentive on landowners, for example, to ensure that their land isn't used for unauthorised deposits. So, the terms used, obviously, are the twin phrases of 'knowingly cause' and 'knowingly permitted' an unauthorised deposit. If you are the landowner or the lessor or lessee of the land in question, then there's a presumption that you knowingly permitted that to take place. So, a sort of wilful blindness, if you like, will not be a defence. So, I think that's useful from that perspective. If a landowner knew about this provision, then that might well encourage him or her to ensure that these disposals don't take place on their land. So, the theory is fine. In order to make that theory work in practice, then, as I said, you need to back it up by enforcement activity.

[605] **David Rees:** Can I go back to the bit we just left about Natural Resources Wales? Do you feel that there are sufficient resources within Natural Resources Wales to actually monitor and regulate this Bill and these aspects?

[606] **Mr Byrne:** Well, considering that Natural Resources Wales have, over the last few years, had their budget reduced—and, as far as I'm aware, it continues and will continue to be reduced—however, at the same time, their responsibilities keep getting added to, as such—. It just makes logical sense that, if they are being asked to do more, there should be a budget increase to NRW to undertake additional responsibilities.

[607] **David Rees:** Shall I take, from that very clever answer, that you don't believe Natural Resources Wales has sufficient resources at this point in time to take on the additional work that this will actually bring to it?

[608] **Mr Byrne:** Thanks for saying that it was a clever answer. [*Laughter.*] But it's true. If they're being asked to do more with less, then obviously that's going to be really difficult. This is why I say in my consultation response to the fly-tipping that the fine should purely go back into the monitoring and enforcement, and the removal is still then at the cost of the polluter. So, the fine and the cost of removal should be to the polluter, not just a fine. There was a paper done a few years ago—almost 10 years ago—called the Hampton

review. The Hampton review highlights that the fine needs to be large enough to (a) cover the costs of whatever you're doing, but also (b) so businesses don't see it as just an expense—you know, if they do it 20 times but get caught once, they take that gamble. The fine needs to be big enough that it is a deterrent, but, as Patrick said, that fine deterrent, as it were, needs to be backed up by boots on the ground to make sure that there are prosecutions so that there is that fear of, 'Actually, we will get caught', rather than just chancing it.

[609] **David Rees:** It is dependent upon where the unauthorised disposal is actually taking place and whether you can identify a landowner and perhaps an individual or company that actually is making that disposal, because it's not always easy. So, the resources aspect becomes important in trying to do that.

[610] **Mr Byrne:** It does, and this is where I think—with the exception of the landfill communities fund—perhaps some of the other tax incentives coming from this could be recycled, as it were, back into enforcement.

[611] **David Rees:** Anyone else?

[612] **Dr Bishop:** There's something about the question of funding priorities. Obviously, funding is scarce, and choices have to be made. But it's not always just a case of more money; sometimes, from an enforcement perspective, being smarter helps. So, in European countries, there's a lot of use of satellite imaging technology to highlight transgressions of the environmental legislation sector. So, of course, in an ideal world the NRW would have as much money as they needed to fulfil their role, but sometimes, also, the way they do things can be modified to produce the same effect.

[613] **David Rees:** I appreciate that, but part of our role is to ensure that if the Bill is being passed, we are comfortable that the Bill's affordable as well. Any other comments?

[614] **Dr Marsh-Smith:** I agree with colleagues when they say they are under-resourced, but they are still going through a merging progress. I don't think that is yet complete and that the full benefits of changes of offices and staff integrating into dual roles have fully taken place yet, so there are some benefits to come that way, but they do need some more money.

[615] **David Rees:** Nor me.

[616] **Dr Bishop:** But, as far as I can see, there is no plan B. If NRW do not take responsibility for enforcement then who else is going to?

[617] **David Rees:** Okay. Can I move on a little bit to the exemptions and reliefs within the Bill? Perhaps Dr Bishop will focus on that a bit more. Not much has been said by many people on this because they seem to be satisfied with these exemptions and reliefs. Clearly, this Bill takes exemptions in the current landfill tax and puts them as reliefs, and introduces new exemptions under multiple disposals. Are you of the view that these exemptions and reliefs are actually appropriate, that we haven't missed anything, and that with the transfer from exemptions to reliefs, everything is fine there?

[618] **Dr Bishop:** Yes. I am entirely satisfied that the exemptions are fairly narrow in the sense that they—. If I understand you correctly, one of them is pet cemeteries, for example, which is not a pressing social issue. So I think they're narrowly construed, which is great, because it doesn't undermine the overall purpose of the Bill; so, generally, I'd be very relaxed about them. I have no issue with them.

[619] **David Rees:** Has anyone else got a comment on the exemptions? Again, I know this is not your interest area, your focus is much more on the community, but if there are any comments.

[620] **Dr Marsh-Smith:** Couldn't see anything untoward.

[621] **David Rees:** Thanks, Chair.

[622] **Simon Thomas:** A gaf i jest orffen drwy ofyn ynglŷn â'r cosbau sydd o dan y Bil? Efallai, yn enwedig o ddiddordeb i Patrick Bishop, ond efallai bod gennych chi ddiddordeb hefyd. Mae'r Bil yn pennu rhai cosbau penodol. Mae peidio cofrestru gydag Awdurdod Cyllid Cymru, er enghraifft yn un, a defnyddio'r man anghywir mewn safle tirlenwi ar gyfer cael gwared â sbwriel ac ati. A ydych chi'n

**Simon Thomas:** Could I just finish by asking about the penalties that are part of the Bill? Perhaps of particular interest to Patrick Bishop, but maybe you have an interest as well. The Bill sets some penalties, specifically for not registering with WRA, for example, and for using the wrong site in terms of landfill sites for disposing of rubbish and so forth. Are you comfortable that the level of

gysurus bod y lefel cosbau yn briodol penalties are appropriate for the  
ar gyfer y troseddau sydd yn y Bil? offences in the Bill?

[623] **Dr Bishop:** In simple terms, yes. It comes back to my earlier point, essentially. No matter how high the penalties are, if they're not enforced and there's no chance, or a very small chance, of them being enforced, then they won't have the necessary deterrent effect.

[624] **Simon Thomas:** I suppose the change here is that Natural Resources Wales will have delegated powers from the Welsh Revenue Authority, and it will be active in a tax inspector kind of role to a certain extent. So, again, they will still need the resources, but there is an additional level of powers that they will be exercising, albeit on behalf of another body.

[625] **Dr Bishop:** One additional sanction that might be considered in the Hampton review, for example, and in the environmental context there was a report by Richard Macrory about sanctions for environmental offences, and essentially for a regulated site, the nuclear option, as it were, is the removal of their licence, which effectively stops that company trading—trading lawfully, at least. So, I think that might be kept in mind. It's a power that's available already for environmental effects. This is outside of an environmental regime, in the sense that it's a tax regime and the penalties are for failure to comply with the tax obligations, but it might be worth thinking about whether a similar power could be transferred to this tax regime. So, if there was continued intransigence, then there's the threat, at least, of the removal of a licence, which would be, essentially, a corporate death sentence.

[626] **Simon Thomas:** Do other witnesses have anything specific on that, or are you content with the situation? Yes. In which case, I'd like to thank you all—diolch yn fawr iawn. Thank you for coming in to give evidence. We'll send you a transcript so that you can check it for veracity and if you want to correct figures, as it were, then there's an opportunity to do that. Other than that, I'd like to thank you for assisting the committee in our scrutiny of the Bill—diolch yn fawr iawn i chi. Thank you.

[627] The committee goes back into private session now.

*Daeth rhan gyhoeddus y cyfarfod i ben am 14:41.  
The public part of the meeting ended at 14:41.*