

**National Assembly for Wales
Health and Social Care Committee**

**Fourth Assembly
Legacy Report**

March 2016

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



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Wales



Committee remit

The Committee was established on 22 June 2011 with a remit to examine legislation and hold the Welsh Government to account by scrutinising expenditure, administration and policy matters encompassing: the physical, mental and public health of the people of Wales, including the social care system. Matters relating to the health and wellbeing of children and young people, including their social care, sat specifically within the remit of the **Children, Young People and Education Committee**.

Committee membership

Committee member	Party	Constituency or Region
David Rees (Chair)	Welsh Labour	Aberavon
Alun Davies	Welsh Labour	Blaenau Gwent
John Griffiths	Welsh Labour	Newport East
Altaf Hussain	Welsh Conservatives	South Wales West
Elin Jones	Plaid Cymru	Ceredigion
Lynne Neagle	Welsh Labour	Torfaen
Gwyn R Price	Welsh Labour	Islwyn
Kirsty Williams	Welsh Liberal Democrats	Brecon and Radnorshire
Lindsay Whittle	Plaid Cymru	South Wales East
Darren Millar	Welsh Conservatives	Clwyd West

Previous members of the Committee

Committee member	Party	Constituency or Region
Mark Drakeford (former Chair)	Welsh Labour	Cardiff West
Vaughan Gething (former Chair)	Welsh Labour	Cardiff South and Penarth
Leighton Andrews	Welsh Labour	Rhondda
Mick Antoniw	Welsh Labour	Pontypridd
Rebecca Evans	Welsh Labour	Mid and West Wales
Janet Finch-Saunders	Welsh Conservatives	Aberconwy
William Graham	Welsh Conservatives	South Wales East
Ken Skates	Welsh Labour	Clwyd South

During the Committee's scrutiny of the **Recovery of Medical Costs for Asbestos Diseases (Wales) Bill** Mike Hedges AM, Gwyn R Price AM and Jenny Rathbone AM substituted at relevant meetings for Mick Antoniw AM as the Member in charge of the Bill and Vaughan Gething AM, who chose to exclude himself from proceedings given his declared long-standing support for the Bill. During the Committee's scrutiny of the **Nurse Staffing Levels (Wales) Bill** Peter Black AM substituted for Kirsty Williams AM as she was the Member in charge of the Bill.

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HEALTH AND SOCIAL CARE COMMITTEE ACTIVITY DURING THE FOURTH ASSEMBLY



25

COMMITTEE
REPORTS
PUBLISHED



150

FORMAL
COMMITTEE
MEETINGS

25

INQUIRIES
UNDERTAKEN



20

LETTERS CONTAINING RECOMMENDATIONS TO THE WELSH
GOVERNMENT AND ASSOCIATED PUBLIC BODIES



776

WITNESS
APPEARANCES



7

BILLS REFERRED TO
THE COMMITTEE

7

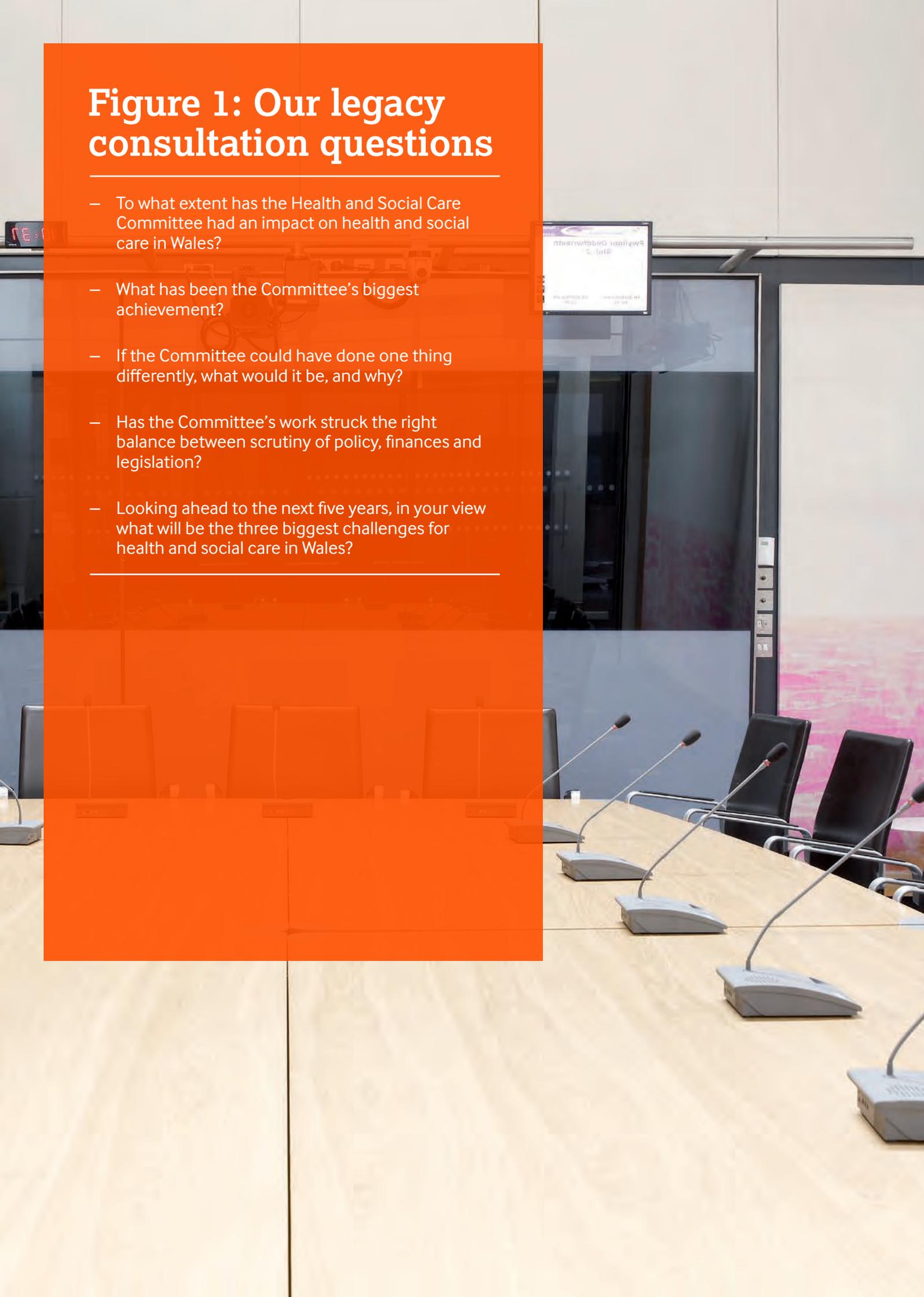
LEGISLATIVE CONSENT MEMORANDA
REFERRED TO THE COMMITTEE

1,388

CONSULTATION RESPONSES

Figure 1: Our legacy consultation questions

- To what extent has the Health and Social Care Committee had an impact on health and social care in Wales?
 - What has been the Committee’s biggest achievement?
 - If the Committee could have done one thing differently, what would it be, and why?
 - Has the Committee’s work struck the right balance between scrutiny of policy, finances and legislation?
 - Looking ahead to the next five years, in your view what will be the three biggest challenges for health and social care in Wales?
-



Introduction

Purpose

This report aims to reflect our activity since our establishment in June 2011. It does not provide an exhaustive analysis of every piece of work we have undertaken. Rather, it identifies our key achievements and explores the lessons learned over the last five years, via a series of case studies, with a view to informing the work of our successor committee in the Fifth Assembly. Readers who wish to find out more about individual inquiries can access this information, via links provided in this report, on our website: www.assembly.wales/seneddhealth.

Background

With nearly half the Welsh Government's budget spent every year on health and social services, our Fourth Assembly work programme has been ambitious and challenging.

An extensive Welsh Government legislative programme coupled with an ever-evolving policy and financial landscape has demanded of us a wide range of policy, legislative and financial scrutiny over the last five years.

Our activity during the Fourth Assembly

Our work can be broken down into three overarching categories: policy, legislative and financial scrutiny. Our report covers each category in turn.

Our objective throughout the Fourth Assembly was to scrutinise the development and implementation of Welsh Government policy and legislation in the field of health and social care.

During the Fourth Assembly, European affairs have been mainstreamed across committees. While our primary focus has been domestic matters, we have considered European issues relevant to our work on a number of occasions, most notably as part of our inquiry into new psychoactive substances (see page 9).

Approach

As well as reflecting Members' opinions, we were keen to ensure that our legacy report was informed by the views of the public. In summer 2015, we conducted a public consultation. We invited people to share their thoughts about our work over the past five years (see Figure 1) and would like to thank those who responded. **Each response has been published on our website** and used to inform our report.

Committee activity (2011–2016)

- 25 policy inquiries, of which 9 were followed up
- 7 bills referred to the Committee for detailed consideration
- 7 legislative consent memoranda referred to the Committee
- 1 post-legislative scrutiny inquiry
- Consideration of 1 detailed set of social services regulations
- Scrutiny of 5 Welsh Government budgets, amounting to over £32 billion
- 1 full-scale inquiry into a public petition
- 1 sub-committee established

Figure 2: Witness breakdown

- **50** appearances by Welsh Government ministers
- **153** appearances by Welsh Government officials
- **16** appearances by Assembly Members and their officials
- **8** appearances by UK Government officials
- **80** appearances by Local Health Boards
- **17** appearances by local government
- **93** appearances by charities
- **242** appearances by medical organisations
- **11** appearances by representatives of service users
- **59** appearances by industry and business
- **17** appearances by the statutory Commissioners and their officials
- **12** appearances by police and probation services
- **13** appearances by academics
- **5** appearances by religious organisations

Policy scrutiny – activity, lessons learned and recommendations

The policy scrutiny we undertook during the course of the Fourth Assembly typically fell into one of the following four categories: 'spotlight' work; progress-measuring work; reactive and topical work; and longer-term thematic work.



Cynulliad Cenedlaethol Cymru

Cynulliad Cenedlaethol Cymru yw'r corff
sy'n ddemocrataidd i
gynrychioli'r bobol
nau Cymru a'i phobl,
i ddeddfu a'i ddeddfu
Cymru ac i ddwyn
Llywodraethol Cymru
i ddeddfu Cymru.

Kid (ra)
• KID (ra)

01. 'Spotlight' work

A number of our inquiries sought to shine a spotlight on otherwise neglected areas of policy, or areas in which there was a need for increased public awareness. In undertaking these inquiries we wanted to use our influence to draw attention to important subjects that may otherwise struggle to be noticed and to achieve important gains in policy and practice.

Inquiry into stroke risk reduction

When we undertook our **inquiry into stroke risk reduction** in 2011-12, stroke was the third biggest killer in the UK and the single biggest cause of severe acquired disability. In Wales, 11,000 people every year suffer a stroke. While people were familiar with the risk factors for heart attacks and cancer, there was a much lower awareness about stroke risks. Our inquiry into stroke risk reduction made five recommendations with a view to reducing the prevalence of one of Wales's biggest causes of disability and death.

Since undertaking our inquiry, patient care and outcomes have improved significantly across Wales. The All Wales Stroke Implementation Group has led work on some of the priority areas we identified, including atrial fibrillation, and timely access to carotid surgery to reduce the risk of stroke. The most recent **annual report** on the Welsh Government's stroke delivery plan highlighted that the number of patients receiving carotid surgery within target timescales has increased significantly in Wales in recent years.

Inquiry into stillbirths

Our 2012-13 **inquiry into stillbirths** shone a spotlight on the fact that 4 babies were stillborn in Wales every week in 2011. While it was Wales's most common form of child mortality, awareness levels of stillbirth was low among the population, and the understanding of its causes poor. We recommended that urgent consideration be given to the relatively small steps that had been devised – or could be devised relatively straightforwardly – to make a difference to the rates of stillbirth in Wales.

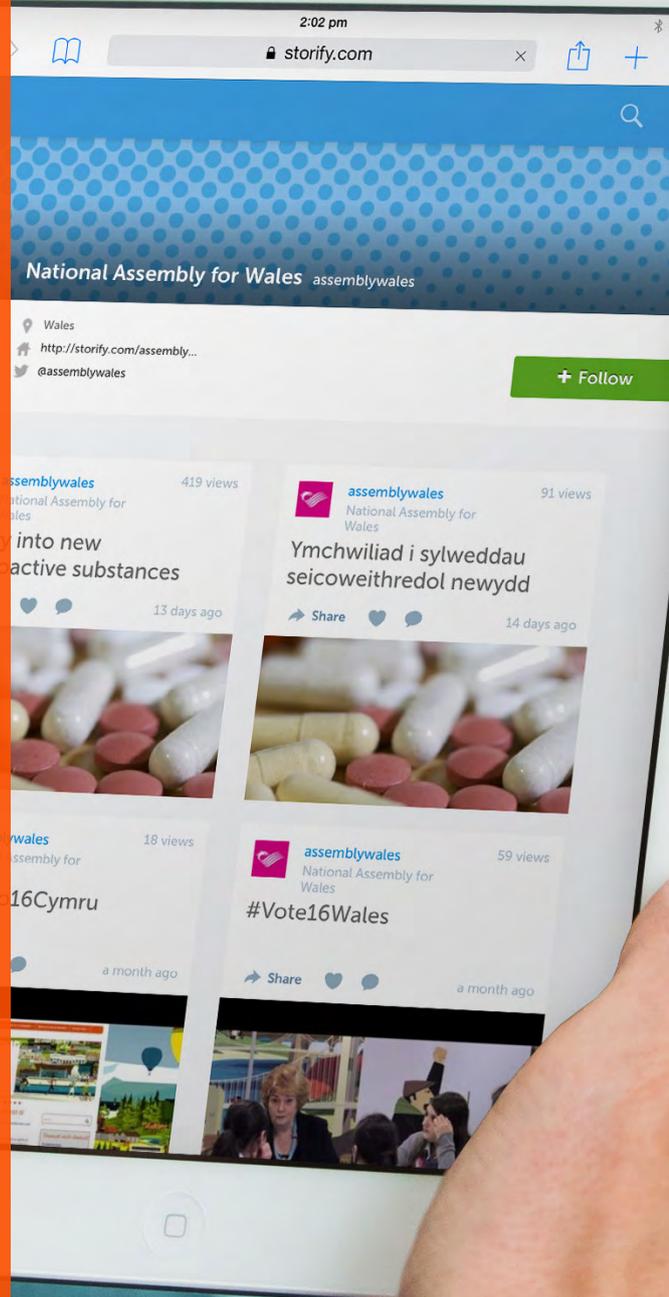
When we followed up on our recommendations in 2014-15 we discovered that considerable progress had been made. This included the creation of a maternity network to drive the standardisation of care across Wales; the development of a national document setting out key message about stillbirths; the introduction of a national training package for health professionals; an information pack for parents to address the low rate of post-mortem for stillborn babies; and joint governmental work across the UK to introduce a standardised approach to perinatal mortality reviews.

Examples of 'spotlight' inquiries

- **Stroke risk reduction**
- **Stillbirths**
- **The impact of new psychoactive substances**
- **Alcohol and substance misuse**
- **The availability of bariatric services**

Figure 3: Innovative approach to the inquiry into new psychoactive substances (NPS)

- **Pre-inquiry briefing** from Gwent Police about its experiences of the impact of NPS on local communities
- **Public survey** conducted, hearing directly from over a thousand members of the public
- **Focus groups** held in Merthyr Tydfil and Wrexham to hear directly from front line staff
- **Visits** undertaken to the LOTS project (Wrexham), Forsythia Youth Club (Merthyr Tydfil) and DrugAid (Caerphilly) to speak to those affected by NPS. Members also visited the headquarters of DAN 24/7, Wales's national substance misuse helpline located in Wrexham
- **Storify** used to keep people updated on the inquiry's progress
- **Summary report** produced to provide a quick, easy-read guide to our work
- **Participation in the annual UK-wide NPS conference**, addressing experts in the field
- Discussion, by invitation of the European Parliament UK Office, with the lead rapporteur (Polish MEP Michał Boni) and UK Government officials in an NPS stakeholder consultation on the draft EU legislative proposals



Case study 1: Inquiry into the impact of new psychoactive substances

What did we look at and why?

We decided to look into this issue because **the use of new psychoactive substances (NPS)** had grown in Wales, and elsewhere, in recent years.

NPS were being commonly marketed as safer and legal alternatives to illegal drugs even though they could be as addictive and dangerous. We were concerned about the lack of awareness of the health and social harms caused by NPS, not only among the general public but among front line public service staff too.

What approach we adopt?

We invited written and oral evidence via traditional methods, but we also adopted a series of more innovative approaches to inform our work (see summary in Figure 3). We gave consideration to relevant developments at EU and UK levels, engaging actively with the Home Office and European Commission. We were also keen to draw on international best practice, exploring approaches adopted in the Republic of Ireland and New Zealand during the course of our work.

What impact did our work on NPS have?



Inspector Catherine Hawke of Gwent Police spoke about the impact of our work on NPS at the launch of Gwent Police and Communities First’s NPS educational tool “Lethal Highs”. We hosted the launch at the Senedd on 24 February 2016. A full transcript of the video is available at Annex A to our report.

Lessons learned from our awareness-raising inquiries, and recommendations for our successor committee

Lesson 1: Protecting time for 'spotlight' work

Inquiry topics that resonate with the general public and shine a spotlight on areas of policy that are otherwise neglected have the potential to deliver the most impact for committees.

Recommendation 1: Our successor committee should ensure that a proportion of its time is protected for 'spotlight' inquiries.

Lesson 2: Gathering evidence innovatively and flexibly

Adopting alternative, more innovative approaches to gathering evidence can provide invaluable insights from those most directly affected by the issues under consideration. Work to compare practice in Wales with that of other countries can also be beneficial.

Recommendation 2: Our successor committee should continue to adopt a flexible and innovative approach to gathering evidence through a variety of methods. This will help ensure it engages with the range of people who are affected by, and are interested in, the work it undertakes.

Recommendation 3: Our successor committee may wish to build on the limited comparative work we have undertaken by seeking more examples of international best practice and travelling further afield.

Lesson 3: Communicating our work

Investing time in providing regular and accessible updates about an inquiry's progress and outcomes allows a committee to keep in the loop those who invested their time and shared their experience. It also allows a committee to seek further information about the level of impact its work has had.

“The Committee has undertaken a significant number of inquiries in the Fourth Assembly and has produced numerous reports. However it is unlikely that many staff within the NHS and members of the public are aware of what has been done. The visibility and profile of the Committee’s work, together with the outcomes achieved, need to be communicated more effectively across all stakeholders.”

Welsh NHS Confederation response to our legacy consultation

Recommendation 4: Our successor committee should commit to providing regular and accessible updates about the progress and outcomes of its work.

Lesson 4: Tackling areas where responsibility is shared between UK and Welsh Governments

The fact that a number of policy areas relevant to the NPS inquiry were not devolved to Wales did not prevent us from exerting constructive influence at the Welsh, UK and European levels. While adding an additional layer of complexity, matters of competence provided opportunities to encourage cross-border cooperation, share best practice, and show that Wales can lead the way in this field.

Recommendation 5: Our successor committee should not shy away from policy areas in which responsibility is split between devolved, national and supranational governments. In such circumstances, committees should seek informal as well as formal avenues of influence, not least via national conferences and stakeholder events where key people and networks will be present.

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Cymru a'i phobl
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wediath Cymru i gyfif.

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02. Progress-measuring work

In shaping our programme for the Fourth Assembly we were keen to assess performance and measure progress in relation to existing Welsh Government policies and initiatives.

In undertaking these inquiries we wanted to hold the Welsh Government and its associated public bodies to account and ensure that strategies, delivery plans, clinical guidance and previous committee recommendations were being implemented.

Inquiry into wheelchair services

In May 2010 the Third Assembly's Health, Local Government and Wellbeing Committee reported on **wheelchair services in Wales**. It concluded that there was a need for substantial service improvement.

At the beginning of the Fourth Assembly we were keen to follow up on progress made.

Rather than undertaking a wide-ranging review of provision in this area, we undertook a one-day inquiry which focused on the recommendations made in our predecessor's report. Our aim was to identify places where progress had been made, as well as areas where further development was needed.

We concluded that a great deal had been achieved in the period since the original inquiry, but that a stronger sense of strategic grip was needed to sustain and extend progress in the future. Our report drew media attention to the topic and was welcomed by the Welsh Government and stakeholders.

Inquiry into the implementation of the Welsh Government's Cancer Delivery Plan

In Spring 2014 we consulted on whether Wales was on course to achieve the outcomes and performance measures set out in the Welsh Government's Cancer Delivery Plan.

We concluded that some areas – including research, cancer screening, and caring for people at the end of their lives – had improved since the Plan's inception in 2012. However, **when we spoke with people who had cancer**, their experiences did not always match the aspirations set out in the Plan.

Following our inquiry the Welsh Government **reported** that spending on cancer care was at a record high. Earlier this year it was also reported that **cancer treatment waiting times** and **cancer survival rates** continue to improve in Wales.

Examples of progress-monitoring inquiries

- Venous-thromboembolism prevention
- Implementation of the Cancer Delivery Plan
- Implementation of the National Service Framework for diabetes and its future direction
- Wheelchair services
- Orthodontic services

Case study 2: Inquiry into venous-thromboembolism (VTE) prevention in hospitalised patients

What did we look at and why?

In 2010, approximately 900 deaths in Wales were either due to or associated with hospital acquired thrombosis (HAT). This was higher than the combined number of deaths involving MRSA (47), breast cancer (614), and AIDS (9) in the same year.

What approach did we adopt?

We undertook a one-day inquiry to give focused attention to this subject. The aim of our approach was to gather all relevant oral evidence in the course of one Thursday meeting.

Our report was published in October 2012 and a Plenary debate was held at the end of that year. In line with our objective of trying to make a small number of key recommendations in areas most worthy of attention, we made only five recommendations.

“I have listened carefully to what Members have said and I will certainly now make it (compliance with the relevant NICE guidance) a tier 1 priority ... having listened to Members again and having read the report, I think that that should be a tier 1 priority.”

*Lesley Griffiths AM, Minister for Health and Social Services,
December 2012*

To ensure that momentum was maintained, we followed up on our recommendations in summer 2014.

Venous thromboembolism (VTE) is the blocking of a blood vessel by a blood clot dislodged from its site of origin

Hospital acquired thrombosis (HAT) is any episode of VTE arising in the 90 days following admission to hospital

What impact did our work on VTE prevention have?



Dr Simon Noble, Medical Director Wales for Thrombosis UK, and one of our inquiry's key witnesses, spoke about the impact of our work on VTE prevention at the Presiding Officer's celebration of the Fourth Assembly on 1 March 2016.

A full transcript of the video is available at Annex B to our report.

Figure 4: What is a “SMART” recommendation?

- **Specific** – target a specific area for improvement.
- **Measurable** – quantify or at least suggest an indicator of progress.
- **Assignable** – specify who will do it.
- **Realistic** – state what results can realistically be achieved, given available resources.
- **Time-related** – specify by when the result(s) should be achieved.



Lessons learned from our progress-monitoring inquiries, and recommendations for our successor committee

Lesson 5: Building follow-up action into all work strands

Following up on the extent to which policies, strategies, delivery plans, clinical guidance and recommendations have been implemented is often as important and influential as the initial work to create them. Holding feet to the fire is at the core of good scrutiny – it is no coincidence that a committee announcing its intention to follow-up on progress made in certain policy areas can lead to a flurry of relevant activity.

Recommendation 6: Our successor committee should build follow-up action into all work strands as a matter of course. This is to ensure that momentum is maintained and that valuable time spent by Members and stakeholders on particular topics has a demonstrable long-term impact.

Lesson 6: Making “SMART” recommendations

The act of monitoring performance and improvement can often highlight the weaknesses of the original targets, recommendations or objectives against which progress is to be measured. “SMART” recommendations (see Figure 4) can improve a committee’s ability to give a robust and fair assessment of progress made, and to hold the Welsh Government to account in relation to its actions and performance.

Recommendation 7: Our successor committee should adopt a “SMART” approach to its recommendations. It may also wish to consider investing more time in testing its recommendations with experts in the relevant field in advance of publication in order to ensure that they are as effective as they can be.

Lesson 7: Using the one-day inquiry format

We undertook a series of one-day inquiries during the course of the Fourth Assembly. While we note that some respondents to our **legacy consultation** suggested we may wish to consider undertaking fewer inquiries, and covering them in greater depth, we believe that our approach has enabled us to encourage improvements to services that may not otherwise have been made.

Recommendation 8: Our successor committee should set aside a proportion of its time for one-day inquiries. This format can enable a committee to engage with a wider breadth of subject areas, particularly if it is facing a heavy legislative workload.

03.Reactive and topical work

During the course of the Fourth Assembly we sought opportunities to react to emerging issues of national importance in the field of health and social care.

In undertaking these inquiries we wanted to respond quickly to issues of significant public interest. We also wanted to hold the Welsh Government and its associated public bodies to account, and exert timely and proactive influence on its approach to emerging issues.

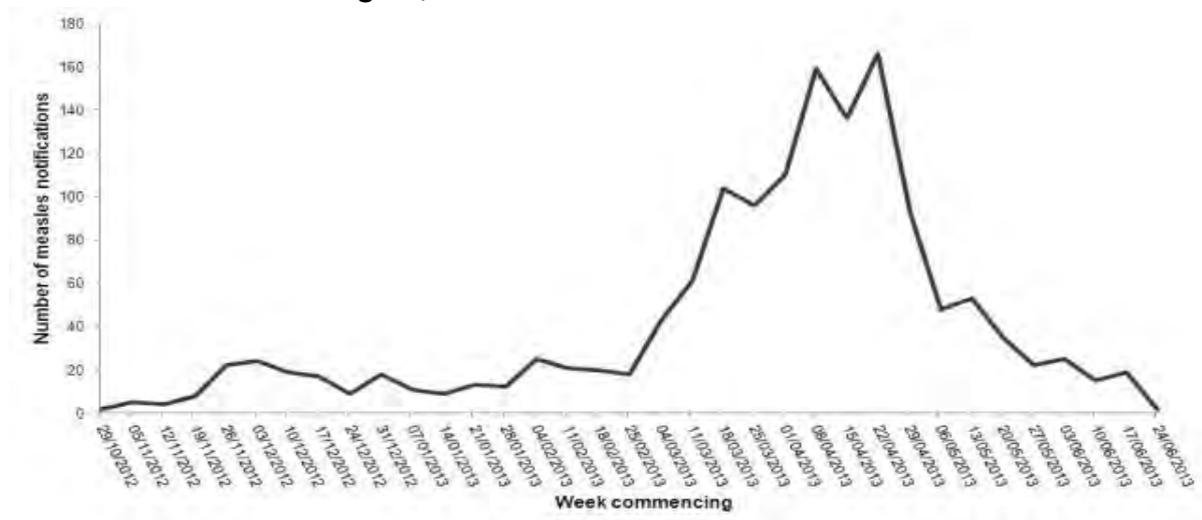
Inquiry into the 2013 measles outbreak

The largest outbreak of measles seen in Wales in recent years occurred between November 2012 and July 2013. There were 1,455 notified cases of measles across Wales during the outbreak. For comparison, in the whole of 2011 there were fewer than 20 confirmed cases of measles in Wales. The outbreak centred on the Swansea area, which saw 660 notified cases.

We reacted quickly to news of the outbreak, announcing our intention to consider the factors that led to it, the actions taken by public health professionals in partnership with other agencies in response to it, and the lessons that could be learned to prevent future outbreaks.

The key issues we identified were considered by the multi-agency team who responded to the outbreak, and informed the recommendations in the team’s subsequent **report** to prevent further outbreaks. In an **update provided to us in 2015**, the Chief Medical Officer highlighted the improved vaccination coverage for measles, mumps and rubella (MMR) in target age groups: “it’s a huge step forward, and our focus now is really on keeping the momentum going”.

Number of notifications by week during the outbreak period: week commencing 29 October 2012 – week commencing 24 June 2013



Source: **Public Health Wales**

Examples of reactive/topical inquiries

- **NHS complaints process**
- **Unscheduled care**
- **Correspondence relating to the national case for health service change**
- **Measles outbreak**
- **GP workforce**
- **The performance of the ambulance service**
- **Transfer of responsibility for the Independent Living Fund**

The performance of ambulance services in Wales

In March 2015 we announced our intention to undertake a short inquiry on the performance of ambulance services in light of significant and sustained media coverage, particularly in relation to ambulance response times. This inquiry sought to:

- follow-up on the recommendations made by **Professor Siobhan McClelland's strategic review of Welsh Ambulance Services**;
- hold those responsible for the commissioning and delivery of ambulance services to account for performance;
- enable us to contribute proactively to the ongoing national debate about the future of ambulance services in Wales.

We made a number of recommendations with a view to making improvements to handover delays, performance against response time targets, staffing arrangements, and non-emergency patient transport.

When we re-visited the inquiry less than 12 months later to measure progress, we were told that there had been progress in a number of areas, including improved leadership at a senior level, more effective deployment of ambulances, and the introduction of a new clinical emergency response model. It was also announced that new ambulance quality indicators would be published quarterly from January 2016, focusing on clinical outcomes and patient experience.

Handover delays – one of our key concerns – have been reduced across most health board areas, although we concluded in our recent follow-up work that sustained improvement and better national reporting will be needed in future months.

What is the new clinical emergency response model?

The new model, currently being trialled for a year, categorises 999 calls into red, amber and green:

- **Red:** immediately life-threatening. The target is for 65 per cent of emergency responses to arrive within 8 minutes.
- **Amber:** serious but not immediately life-threatening.
- **Green:** non-urgent (can often be managed by other health services) and clinical telephone assessment.

Case study 3: Inquiry into the NHS complaints process

What did we look at and why?

On 16 July 2014 we held an oral evidence session on the NHS complaints process in Wales. The purpose of this work was to:

- consider the effectiveness of arrangements for handling complaints in NHS Wales;
- highlight what could be learned from recent reviews of complaints handling in Wales and England;
- influence future work on the complaints process in NHS Wales.

It was clear to us that the public admire and value the NHS, the service it provides and the staff who work within it. However, reports such as **Trusted to care** and **Using the gift of complaints** – both published during summer 2014 – demonstrated that the handling of complaints in Wales required significant improvement. The English and Welsh complaints process had received high levels of national press coverage, and we wanted to ensure that all relevant information was explored and probed in detail and in public.

What approach did we adopt?

Given the importance of this policy area, and the level of public interest in it, we wanted to respond with a timely and focused piece of work. We wanted to avoid duplication of the work undertaken by the detailed reviews, all of which took into account evidence from the Welsh public. We therefore issued a targeted call for written and oral evidence from specific bodies to supplement the evidence already available.

Our evidence was gathered and our conclusions published within 8 weeks of announcing our intention to look at the topic. This enabled us to influence the next steps for the NHS complaints process in Wales and to show the Welsh public that this important subject area was being given due priority.

What impact did our work on the NHS complaints process have?

A number of actions have been taken forward in response our work on complaints handling. In accordance with our recommendation, timely and responsive handling of complaints has now been identified as a priority in the NHS Outcomes Framework. The National Quality and Safety Forum has also been leading on a number of work streams aimed at ensuring a consistent approach to complaints handling across NHS Wales. The Welsh Government's 2015 green paper – **Our health, our health service** – considers some of the longer term actions identified in our work, including the need for improved regulation of the complaints process and consideration of the role of community health councils in representing the patient voice.

Figure 5: England and Wales reports on complaints handling in the NHS

‘Using the gift of complaints’ (July 2014)

Report author: Keith Evans

In February 2014 the Health Minister announced a three month review of complaints handling within the Welsh NHS, led by Keith Evans (ex-Chief Executive, Panasonic UK). The report of the review was published on 2 July 2014 and made 109 recommendations.

‘Trusted to care’ (May 2014)

Report authors: Professor June Andrews and Mark Butler

In May 2014 a report was published on a review undertaken of the Princess of Wales Hospital and Neath Port Talbot. This report identified an issue of concern relating to “adversarial and slow complaints management”. The report’s main recommendation called for an overhaul of local procedures on adverse incidents and complaints to build greater staff and public trust and confidence in their effectiveness.

‘Putting patients back in the picture’ (October 2013)

Report authors: Rt. Hon. Ann Clwyd MP and Professor Tricia Hart

In March 2013 and in response to Robert Francis’ report into failings at Mid Staffordshire NHS Foundation Trust, the Prime Minister and the UK Government’s Secretary of State for Health commissioned Rt. Hon. Ann Clwyd MP and Professor Tricia Hart to undertake a review of NHS hospital complaints handling in England. The focus of the review was acute hospitals, although evidence was taken relating to other care settings. The report was published on 28 October 2013.



Lessons learned from our reactive and topical inquiries, and recommendations for our successor committee

Lesson 8: Protecting time for responsive work

Responding in a timely way to issues of significant public interest is an important part of a committee's role. Ensuring sufficient space for a robust public discussion can increase the transparency associated with an emerging issue and can inject pace into any necessary response. It can also help ensure that the experiences of those most directly affected by an issue, or most expert in the relevant field, are brought to the forefront and used to inform, influence and drive forward the necessary actions.

We are proud of the reactive work we undertook. However we believe that we could have done more to respond to emerging issues in the field of health and social care. Our flexibility was at times constrained by commitments to existing inquiries and legislative scrutiny. Nevertheless we believe that, on occasion, opportunities were missed to adjust our timetable to make space for topical issues and to display the agility expected of an influential committee.

Recommendation 9: Our successor committee should ensure that a proportion of its time is protected for reactive or topical inquiries. Sufficient flexibility should be retained in its programme to ensure that it is agile enough to accommodate – and respond to – emerging issues of importance.

Lesson 9: Mitigating the risks associated with responsive work

When responding quickly to emerging issues, a number of risks can arise. If other interested parties launch similarly reactive pieces of work at the same time, duplication of effort can occur or the overlapping nature of the work may make it impossible to take all information into account. Furthermore, time can be very limited for relevant organisations or individuals to prepare the information necessary to inform a committee's work, and the scrutiny can be perceived as superficial.

Recommendation 10: Our successor committee should ensure that any reactive work it undertakes is tailored and focused, and that it communicates clearly from the outset the intended outcome of its work. This is to minimise the impact of necessarily tight deadlines on those witnesses or consultees from whom it has requested information and to manage expectations about the anticipated scale and nature of the Committee's work and output.

04. Longer-term thematic work

To complement some of our shorter inquiries, we undertook a number of longer-term pieces of work. We undertook these inquiries with a view to giving consideration to topics that were broad and complex in nature, and/or likely to feature in forthcoming legislation.

The work of Healthcare Inspectorate Wales

We announced our intention to undertake an inquiry into the work of Healthcare Inspectorate Wales (HIW) in July 2013. Our aim was to hold a challenging and constructive conversation about the activities and effectiveness of the Inspectorate in assuring the quality and safety of healthcare services.

Our inquiry was framed and timed to follow the publication of the report of the Francis Inquiry, and the Welsh Government's response to that report in July 2013. It also sought to anticipate the publication of the Welsh Government's legislative proposals in relation to the regulation and inspection of social care.

We made a single recommendation: that the Welsh Government must undertake a fundamental review of the core functions and purpose of HIW and that this review should be undertaken as a matter of urgency.

Following the publication of our report the former Older People's Commissioner for Wales, Ruth Marks, was appointed by the Minister for Health and Social Services to lead a **review of the work of HIW**. Following our work and that of Ruth Marks, **the Minister published proposals to legislate to improve quality and governance in the NHS**, including improving the independence of the inspectorates and the possibility of a merger of HIW and CSSIW.

Examples of longer-term thematic work

- Residential care for older people
- Contribution of community pharmacy to health services
- The work of Healthcare Inspectorate Wales
- Access to medical technologies
- Public health implications of inadequate public toilet facilities



BBC News: Independent review of health watchdog announced

Access to medical technologies

We agreed in June 2012 to undertake work on access to medical technologies in Wales. While many future innovations for the provision of health and social care services lie in the field of medical and assistive technologies, little attention was being paid to this subject. We set out, therefore, to explore the processes that existed in Wales for accessing medical technologies and to consider what improvements could be made to this important area of development.

To inform our approach, and in acknowledgement of the complex nature of this topic, we launched a consultation on the inquiry's scope in August 2012. We sought stakeholders' views on what the terms of reference should include. We also held an informal seminar in March 2013, at which we discussed possible areas for inquiry with invited stakeholders.

Following this pre-inquiry work, we issued a call for written evidence, gathered oral evidence over a period of 8 months, and conducted a total of 20 evidence sessions. We made 13 recommendations, the most significant of which focused on the creation of a more strategic, co-ordinated and streamlined approach to the adoption of medical technology.

To inform the Plenary debate on our report we invited key stakeholders to discuss with us our recommendations and the Welsh Government's response:



Dr Nazia Hussain, General Practitioner and representative of the Royal College of General Practitioners Wales. A full transcript of the video is available at Annex C to our report.

Responding to our report in the Siambwr, the Minister for Health and Social Services told Members:

“Our intention now is to build on the recommendations to establish a national strategic system to identify and select medical technology. That will help to ensure the most appropriate and effective equipment and treatment for people here in Wales.”

*Mark Drakeford AM, Minister for Health and Social Services,
25 February 2015*

Our external reference group on residential care

Our external reference group on residential care was established to shadow our work and consider the evidence we received in light of their own experiences. It was made up of people whose family members were either still, or had recently been, in residential care. The group's views were considered throughout the inquiry and our conclusions and recommendations were tested against its members' experiences. The group's final conclusions were included as part of our report.

We are grateful to the members of the group, and to Age Cymru and the former Crossroads Care (now Carers Trust) for facilitating the group's work.

Key actions identified by the external reference group

- Improving the provision of adequate and appropriate information, support and guidance
- Building the care system around the needs of the individual
- Improving the recognition and training of care staff
- Involving those with direct experience in the inspection and regulation process
- Achieving a fairer funding regime
- Designing care services that are integrated and future proofed
- Increasing the level of support for – and recognition of – carers

“We were delighted to work closely with the Committee throughout its inquiry into residential care in Wales. This was an extremely positive experience for all involved. I believe that the Committee should be commended for its commitment to ensuring that individuals with direct experience of care provision were able to help shape the inquiry, and to directly contribute their own views and experiences to the process.”

Graeme Francis, Age Cymru – co-facilitator of the external reference group



Case study 4: Inquiry into residential care for older people

What did we look at and why?

The aim of our inquiry was to examine how older people enter residential care and how effective the residential care sector is at meeting their needs. We were also keen to consider the future direction for residential care in Wales and alternatives to it, particularly in the context of an ageing population and new patterns of service provision.

What approach did we adopt?

Given the potential breadth of this piece of work we consulted on the scope of the inquiry before setting our terms of reference. We then pursued specific themes to ensure that all key areas were explored.

In addition to gathering a significant amount of formal evidence, we were eager to hear first-hand from people affected by, and involved in, residential care, and to learn about the challenges faced by the sector and its users. To this end we:

- visited a number of care facilities;
- held informal meetings with officials in local health boards (“LHBs”) and local authorities;
- hosted an informal session in north Wales to speak with care sector workers and other interested parties;
- established an external reference group to shadow our work (see Figure 6).

What impact did our work on residential care for older people have?

We recommended that the Welsh Government take action to ensure that older people in Wales have access to effective advocacy. This issue was highlighted during scrutiny of the **Social Services and Well-being (Wales) Bill**, and the legislation was successfully amended at Stage 3 to include a new section on advocacy services. Other recommendations reflected in this legislation include new duties to improve access to information and advice, and assessment of need for older people.

We also recommended improving access to reablement and intermediate care services. In December 2013, the Welsh Government **announced** the establishment of a £50 million Intermediate Care Fund to support people to maintain their independence and remain in their own home. In December 2014 the Social Services Improvement Agency (SSIA) conducted a **review of reablement services in Wales** and reported evidence of continued success and expansion of reablement services across Wales.

The **Regulation and Inspection of Social Care (Wales) Bill** reflected our calls to improve and strengthen the financial scrutiny of care home providers, introduce ‘fit and proper’ person tests, and involve those with direct experience in the inspection and regulation process.

Our work also stimulated the Older People’s Commissioner to delve further into the quality of life in care homes in Wales, culminating in her **detailed review** published in 2014 and followed up in 2015.

Lessons learned from our longer-term thematic inquiries, and recommendations for our successor committee

Lesson 10: Using policy inquiries to inform legislative scrutiny

We are proud of the comprehensive thematic scrutiny we undertook over the course of the Fourth Assembly. Selecting topics for scrutiny that would later feature in legislation – including residential care, community pharmacy, and the public health implications of inadequate provision of public toilets – has been of significant benefit to us in shaping our consideration of the provisions of relevant Bills.

Recommendation 11: Our successor committee, if responsible for scrutiny of policy and legislation, should plan its programme so that policy inquiries can be used to help inform the scrutiny of subsequent legislation. This can provide the opportunity for Members – and external stakeholders – to increase their knowledge and awareness of a particular subject area before being asked to consider detailed Bills, and their capacity to make practical, well-evidenced amendments.

Lesson 11: Managing the scale of policy inquiries

Despite their high quality and detailed level of scrutiny, some of our longer-term inquiries outgrew the initial intention. Some spanned many months and, towards their end, lacked the energy and momentum that shorter pieces of work were more able to maintain. Their length also meant that, on occasion, events overtook the evidence gathered and the potential recommendations available to us.

Recommendation 12: Our successor committee should remain mindful of the need to strike a balance between undertaking detailed inquiries and maintaining interest and relevance.

Lesson 12: Consulting on the scope of policy inquiries

Owing to the potential breadth and complexity of some of our longer-term thematic work, consultation on the scope and terms of reference of inquiries were held. This ensured that we focused on areas of most concern and/or potential impact, and engaged at as early a stage as possible stakeholders with expertise in a subject area.

Recommendation 13: Our successor committee should consider consulting, where time allows, on the scope of its inquiries. This can help ensure that work is relevant and constructive, and that the Committee's time and resource is applied as effectively as possible.

Legislative scrutiny – activity, lessons learned and recommendations

Over the course of the Fourth Assembly we have scrutinised seven Bills, five of which were introduced by the Welsh Government and two by individual Members. However, our legislative work was not limited to scrutiny of Bills alone. From 2011-2016 we received seven legislative consent memoranda for consideration, scrutinised subordinate legislation emanating from the Social Services and Well-being (Wales) Act 2014, and undertook comprehensive post-legislative scrutiny of the Mental Health (Wales) Measure 2010. We also established a sub-committee to meet jointly with a sub-committee of the Enterprise and Business Committee to consider **the Smoke-free Premises etc. (Wales) (Amendment) Regulations 2012**.

01. Scrutiny of Bills

We considered the general principles of seven Bills at Stage 1, producing a comprehensive report on each and making a total of 180 recommendations. We considered over 1100 Stage 2 amendments in committee during the course of the Fourth Assembly.

Bills proposed by the Welsh Government

- **Food Hygiene Rating (Wales) Bill**
- **Human Transplantation (Wales) Bill**
- **Regulation and Inspection of Social Care (Wales) Bill**
- **Social Services and Well-being (Wales) Bill**
- **Public Health (Wales) Bill**

Bills proposed by individual Members

- **Recovery of Medical Costs for Asbestos Diseases (Wales) Bill**, introduced by Mick Antoniw AM
- **Nurse Staffing Levels (Wales) Bill**, introduced by Kirsty Williams AM

Government legislation: Human Transplantation (Wales) Bill

We considered the Welsh Government's Human Transplantation Bill during 2012-13. The purpose of the Bill was to change consent arrangements for human organ and tissue donation by introducing a 'soft opt-out' system. The new system would mean a person's consent for donation would be assumed unless he or she had formally opted out by placing his or her name on a register. The aim of the legislation was to increase the number of organs and tissues available for transplant.

Stage 1: We made 22 recommendations. These related to issues such as the need for extensive communications and education campaigns, sufficient resources to deal with any increase in transplantation activity, effective training for medical professionals, further clarification on the role of the family, and more consideration of how an individual's residency status would affect whether they were captured by the system.

The sensitive subject matter of the Bill provoked strong views among the public and Members alike, demanded a high level of detailed scrutiny and posed challenging ethical questions for us all. While the majority of us supported the Bill's general principles and the proposal to introduce a system of deemed consent for organ donation in Wales, this view was not held unanimously.

Stage 2: 42 amendments were tabled, of which 22 were agreed (including 1 non-government amendment). Changes made to the Bill resulting from our work included:

- excluding novel and composite forms of transplantation from the deemed consent system;
- requiring guidance on how to assess information provided by relatives and friends;
- extending the residency criterion to 12 months;
- requiring that where an appointed representative is unable to act, consent passes to a person in a ranked qualifying relationship.

The Minister also brought forward **Stage 3** amendments relating to communications campaigns.

The Bill received Royal Assent on 10 September 2013. Preparatory work for the law coming into effect included what has been described as "**the largest and most diverse public health campaign in the history of devolution**" to ensure public awareness and understanding of the new system. As recommended in our Stage 1 report an evaluation plan has been established to assess the implementation of the Act and the impact it has on organ donation rates.

The **Human Transplantation (Wales) Act 2013** came fully into force on 1 December 2015.

Member legislation: Nurse Staffing Levels (Wales) Bill

Kirsty Williams AM introduced the Nurse Staffing Levels (Wales) Bill on 1 December 2014 following her success in a ballot held for Members' legislation. The Bill's stated purpose was to ensure that nurse staffing levels would be sufficient to provide safe, effective and quality nursing care to patients at all times.

Stage 1: Although we supported the general principles of the Bill, we did not do so unconditionally. We concluded that a number of amendments would be needed to mitigate the potentially significant unintended consequences created by the Bill's provisions. We made 19 recommendations, including calling for clarity on the settings to which the Bill's provisions were intended to apply at commencement; steps to guard against compliance in one setting having an adverse effect on staffing in another; and comprehensive workforce planning to ensure sufficient numbers of trained nurses across public and independent health and care sectors.

Stage 2: 38 amendments were tabled, 10 of which were tabled by the Minister. The Member in charge did not table amendments at this stage. Changes reflecting the concerns we raised at Stage 1 were made, and commitments were given to bring forward further amendments at **Stage 3**. These included:

- clarifying that the duty would apply to adult acute medical and surgical inpatient wards, with the potential to extend the duty to other situations by regulations;
- requiring the Welsh Ministers to consult with a range of people likely to be affected by the nurse staffing level guidance, including the independent health care and care home sectors;
- requiring LHBs and NHS Trusts to undertake workforce planning, including planning the recruitment, retention, education and training of nurses.

The Assembly agreed the Bill on 10 February 2016. It is due to receive Royal Assent in late March.

[Safe] Nurse Staffing Levels (Wales) Bill

When Kirsty Williams AM introduced the Bill in December 2014 it was called the Safe Nurse Staffing Levels (Wales) Bill. During Stage 2 proceedings on 25 November 2015, we agreed to amend the short title of the Bill to Nurse Staffing Levels (Wales) Bill (amendment 35).

Stage 2 – Amendment 29

While maintaining the overall spirit of the Bill as introduced by Kirsty Williams, one of the Minister's amendments made significant changes to the Bill's drafting. Although this approach complied fully with the Assembly's legislative procedures, some Committee Members felt that the size and nature of the changes proposed to the Bill amounted to an almost complete re-write. They did not believe that this was an appropriate approach to legislating.

02. Legislative consent memoranda

During the Fourth Assembly seven legislative consent memoranda (LCMs) relating to the following UK Bills were referred to us for scrutiny:

- **Children and Families Bill**
- **Care Bill (initial LCM)**
- **Care Bill (revised LCM)**
- **Care Bill (supplementary LCM)**
- **Criminal Justice and Courts Bill**
- **Medical Innovation Bill**
- **Access to Medical Treatments (Innovation) Bill**

In most cases the time available for us to consider LCMs was very limited. This restricted our ability to undertake detailed pieces of work. For the most part, meaningful engagement with external stakeholders was not possible.

In the case of the Children and Families Bill there was insufficient time available to report, however we invited the Minister to a short oral evidence session to explore the issues covered. The **transcript** of this session was made available in time to inform the **Plenary discussion** and vote on the relevant legislative consent motion.

In the case of the Medical Innovation and the Access to Medical Treatments (Innovation) Bills, the Welsh and UK Governments held opposing views about the Assembly's competence. While the Welsh Government believed that the Bills would make provisions in relation to matters devolved to the Assembly, the UK Government believed that the provisions related to retained matters.

Although neither Bill ultimately legislated for Wales (the Medical Innovation Bill fell at the end of the last Parliament and amendments to the Access to Medical Treatments (Innovation) Bill meant it applied to England only) a situation could have occurred in which the UK Parliament legislated without the Assembly's consent in an area we, and the Welsh Government, considered to be devolved. This would have been a matter of significant concern to us had the situation materialised.

What is a legislative consent memorandum and why is one needed?

When the UK Parliament wishes to legislate on a subject matter that has already been devolved, convention requires that it receives the Assembly's consent before it may pass the legislation in question.

Standing Orders require a legislative consent memorandum to be laid if a UK Bill makes provision in relation to Wales for a purpose that falls within, or modifies, the legislative competence of the Assembly. These are generally referred to relevant committees for consideration.

Committee reports on LCMs are used to help inform the wider Assembly's decision on whether to give consent for relevant provisions to be made by the UK Parliament.



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03. Subordinate legislation

In May 2015 we notified the Minister for Health and Social Services of our intention to consider **the Care and Support (Eligibility) (Wales) Regulations 2015**. We had concluded in our **Stage 1 report on the Social Services and Well-being (Wales) Bill** that the regulations on eligibility criteria should be subject to robust scrutiny and had indicated our intention to follow up on the Regulations once they were available.

We gathered written and oral evidence to inform our consideration. We wrote to the Minister in advance of the relevant Plenary debate highlighting where we believed improvements could be made to the Code of Practice accompanying the Act and the Regulations.

Our contribution to the scrutiny of these Regulations led to valuable improvements to the Code of Practice, including:

- a clearer, but expanded, process for determining eligibility for support;
- the inclusion of further detail about the responsibilities of local authorities;
- further provisions to address our concerns about potential pressures placed on individuals or unpaid carers.

“Inevitably, in an Act that provides for radical change, there are understandable concerns about its practical delivery. The Committee has very helpfully set out ways in which these concerns can be addressed in the Code of Practice that will accompany the Act, and we will ensure that the Codes are further strengthened to reflect the Committee’s recommendations.”

*Mark Drakeford AM, Minister for Health and Social Services,
14 July 2015*

“We welcome the scrutiny undertaken by the Health and Social Care Committee of the Care and Support (Eligibility) (Wales) Regulations 2015 and the associated code of practice in order to consider whether they will achieve the aim of the Social Services and Well-being (Wales) Act 2014 and to inform Assembly Members’ preparation for the consideration of the regulations in Plenary.”

*Constitutional and Legislative Affairs Committee Report on Making Laws in Wales,
October 2015*

Figure 7: Approach to post-legislative scrutiny

Key objectives for post-legislative scrutiny:

- to see whether legislation is working out in practice as intended
- to contribute to better legislation
- to improve the focus on implementation and delivery of policy aims
- to identify and disseminate good practice so that lessons may be drawn from the successes and failures revealed by the scrutiny work
- to assess whether the legislation has represented, and will continue to represent, value for money.

Focused evidence gathering

- we targeted our written consultation at the Welsh Government; statutory mental health service providers; relevant professional bodies and third sector organisations; regulatory/inspection bodies; and those who responded to the consultation issued by the Third Assembly's Legislation Committee No.3 when it scrutinised the proposed Measure in 2010
 - we considered the key themes raised in the written evidence before inviting oral evidence
 - we held a scrutiny session with the Minister for Health and Social Services to probe the issues arising in written evidence.
-

04. Post-legislative scrutiny

We agreed in May 2014 to undertake post-legislative scrutiny on the Mental Health (Wales) Measure 2010.

Prior to this the Assembly had undertaken relatively little post-legislative scrutiny. We adopted four objectives set out by the **Law Commission** as guiding principles for our work. In addition, we introduced a fifth principle, based on affordability, prioritisation and value for money, which built on our programme of financial scrutiny.

On the basis of these principles, we measured the implementation and operation of the Measure by:

- assessing the extent to which the stated objectives of the Measure were being achieved;
- identifying whether there were any lessons that could be learned or good practice shared from the making and implementation of the Measure and the associated subordinate legislation and guidance;
- assessing whether the Measure had represented, and would continue to represent, value for money.

We reported that improvements had been made following the Measure’s implementation. However, we identified a number of areas where progress was still needed. The issue of greatest concern to us was that children and young people were not benefitting fully from the Measure. The Minister has since announced a review of Child and Adolescent Mental Health Services (CAMHS) to address these and other issues, including those highlighted by the Children, Young People and Education Committee in its November 2014 **report on CAMHS**.

The Welsh Government published its **duty to review final report** on the Measure in December 2015.

“Post legislative scrutiny plays an important role in assessing the effectiveness of legislation ... The value of this work can be seen most recently, for example, in the Health and Social Care Committee’s post-legislative scrutiny of the Mental Health (Wales) Measure 2010. We considered this to be an important, insightful and timely inquiry, which should act as a model of best practice in this area.”

*Constitutional and Legislative Affairs Committee Report on Making Laws,
October 2015*

Case study 5: Legislation relating to social care services

What did we look at and why?

During the course of the Fourth Assembly we scrutinised a significant amount of primary and secondary legislation relating to social care services, including the Social Services and Well-being (Wales) Bill (“SSW Bill”), the Regulation and Inspection of Social Care (Wales) Bill (“R&ISC Bill”) and the Care and Support (Eligibility) (Wales) Regulations 2015 (“the Eligibility Regulations”).

What approach did we adopt?

Information gathering

As well as taking extensive written and oral evidence in relation to the SSW Bill, we were keen to seek information via other more innovative methods. We did this in three main ways:

- commissioning the Assembly’s outreach team to visit service users across Wales to gather evidence on two key elements of the Bill: safeguarding and intervention, and choice and control;
- considering the views of an Advisory Group set up by third sector organisations to provide coordinated advice on their various areas of expertise;
- appointing two expert advisers to provide us with expert legal and policy advice.

Developing specialism

Given the volume of social care legislation, and our decision to prepare ourselves by undertaking an early and extensive policy inquiry into residential care for older people, we became more expert in this policy area.

Relationship building

Throughout the course of our work on the SSW Bill, the R&ISC Bill, the Eligibility Regulations, and our policy inquiry on residential care, our relationships with key stakeholders grew stronger. An effective working relationship developed between us and the Older People’s Commissioner, leading to complementary pieces of work such as the **Commissioner’s review of the quality of life and care of older people living in care homes in Wales**.

Maintaining momentum

We have kept a continuous eye on this thread of work, which has run from the beginning to the end of this Assembly. Our last substantial piece of policy work during the Fourth Assembly was to hold a **session with the Older People’s Commissioner** to follow up on progress made to implement the changes identified by her and us as being necessary in the field of residential care for older people in Wales.

“The Social Services and Well-Being (Wales) Act, 2014 was a large and complicated piece of legislation. If its aims are successful it will have a significant positive impact on the lives of thousands of people who receive care. The Committee’s work in scrutinising and improving this legislation would count as its biggest achievement.”

Care Council for Wales response to our legacy consultation

Lessons learned from our scrutiny of legislation, and recommendations for the successor committee

Lesson 13: Timetabling Bills

Our legislative workload has been significant, not only in terms of the number of the Bills referred to us for scrutiny but also in terms of their size, nature and timetabling. The clustering of Bills at the beginning and the end of the Assembly has, on occasion, crowded out the opportunities for us to deliver on our policy scrutiny responsibilities. Nevertheless, the majority of us agree that the dual policy and legislative scrutiny function should remain in the Fifth Assembly on the basis that subject expertise can assist with producing better legislation.

Recommendation 14: Our successor committee should press for:

- **a more equal distribution of the timetabling of Bills within its portfolio across the five years of the next Assembly term (this applies to Bills introduced by both the Welsh Government and others);**
- **more time to be given for it to consider the general principles of larger or more complex Bills;**
- **longer tabling windows for Members to prepare amendments in the case of larger or more complex Bills.**

Lesson 14: Public engagement with legislative scrutiny

While we undertook some innovative outreach work in relation to legislation – including ‘vignettes’ on the Social Services and Well-being (Wales) Bill and a public survey on the Public Health (Wales) Bill to which 766 people responded – we could have done more to engage more effectively with the general public about legislation.

Recommendation 15: Our successor committee should adopt innovative methods of evidence gathering where it would add value to legislative scrutiny.

Lesson 15: Scrutiny of legislative consent memoranda (LCMs)

In certain cases during the Fourth Assembly the time made available for us to consider LCMs was inadequate. Given the potentially far-reaching impact of LCMs, further consideration needs to be given to how committees can make meaningful contributions to this process.

Recommendation 16: Further work should be undertaken at the beginning of the Fifth Assembly to consider the time available for committees to make meaningful contributions to the scrutiny of legislative consent memoranda.

Lesson 16: Scrutiny of subordinate legislation

Our work on the Care and Support (Eligibility) (Wales) Regulations 2015 illustrated the importance of keeping a close eye on subordinate as well as primary legislation. In many cases it is subordinate legislation that contains the detail which will have the most impact on people's day to day lives.

However, our work on these Regulations also highlighted the need to time a committee's contribution carefully. Once an instrument is formally laid it cannot be amended. In the case of the Eligibility Regulations, the timing of our work meant that while we could suggest changes to the Code of Practice that accompanied the Regulations, it was too late to suggest substantive changes to the subordinate legislation itself. With hindsight, it may have been preferable to engage with the subordinate legislation during the Welsh Government's consultation in order to maximise our influence.

Recommendation 17: Our successor committee should:

- **monitor closely subordinate legislation being made within its portfolio;**
- **protect time within its programme to scrutinise the impact of significant statutory instruments;**
- **give careful consideration to the timing of its contribution in order to maximise its influence.**

Lesson 17: Post-legislative scrutiny

Post-legislative scrutiny plays an important role in assessing the effectiveness of legislation, particularly the extent to which it meets the objectives it set out to achieve and delivers the benefits intended for the Welsh population. While other policy and legislative scrutiny demands placed on committees will dictate how much time is available for post-legislative scrutiny, we believe that the Assembly's committees have an important role to play in learning lessons and identifying best practice for future legislation.

Recommendation 18: Our successor committee should ensure that a proportion of its time is protected for post-legislative scrutiny.

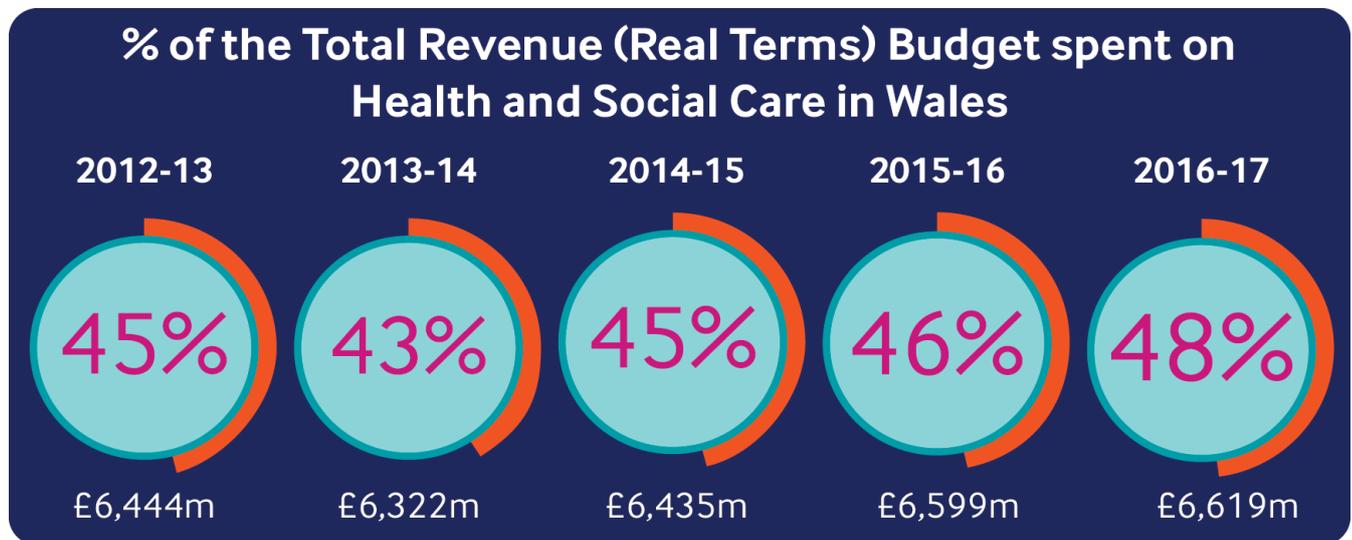
Financial scrutiny – activity, lessons learned and recommendations

With nearly half of each annual budget allocated to health and social care, we sought to monitor the Welsh Government's expenditure and to assess the extent to which the Welsh Government was using the tools at its disposal to achieve value for money. Our financial activity during the course of the Fourth Assembly can be categorised as follows: budget scrutiny; in-year financial scrutiny and financial scrutiny mainstreamed within policy and legislative inquiries.

01. Budget scrutiny

Between 2011 and 2016 we scrutinised five Welsh Government annual budgets, amounting to a total allocation of over £32 billion to health and social care.

How much is spent on health and social care in Wales?



Key themes

We sought to pursue key themes year on year, ensuring that recommendations made previously were followed up and implemented. Themes arising included:

- financial planning and the financial position of LHBs and NHS Trusts, including the distribution of additional revenue allocations for NHS services;
- the funding available for service reconfiguration and transformation;
- alignment of the budget with Programme for Government commitments, specifically the commitments to improve access to GP services and introduce health checks for the over 50s;
- the impact on social services of reductions in local government funding, and the knock-on effect for other services such as health;
- integration of health and social services, particularly financial collaboration and the use of pooled budgets;
- the introduction, development and implementation of the Intermediate Care Fund;
- the availability of capital funding, including the pursuit of innovative funding mechanisms.

Better financial information

Better budget information

Another key theme that emerged over the last five years was our call for better budgetary information to be provided by the Welsh Government. While we acknowledged the improvements made during the Fourth Assembly, difficulties remained with respect to scrutinising the 'NHS Delivery' line, which covered the vast majority of the health budget.

Report on the general principles of the Regulation and Inspection of Social Care (Wales) Bill

We highlighted our concerns about issues raised by the Auditor General relating to a lack of clarity about the Bill's costs and benefits. We noted that, given the potential for legislation to have significant and far-reaching financial implications, it is important that clear and accurate information about its costs and benefits are provided to enable robust scrutiny.

Report on post-legislative scrutiny of the Mental Health (Wales) Measure 2010

We recognised the difficulties of estimating the costs of legislation, and that introducing new services can unlock latent demand for such services. However, we highlighted that the Welsh Government should continue to refine and improve the ways in which it estimates the demand and financial implications of legislation. We also emphasised the need to provide further information, as a matter of course, about the way in which the Welsh Government monitors and assesses value for money.

02. In-year financial scrutiny

We held annual in-year financial scrutiny sessions with relevant Ministers in order to:

- follow-up on themes arising in our budget scrutiny and other relevant policy or legislative work;
- hold the Welsh Government to account on its control of expenditure, particularly the extent to which it had executed its plans and measured their impact;
- keep abreast of variations to Welsh Government plans as reported in supplementary budgets;
- monitor the revenue positions of LHBs, particularly their performance against planned savings, their use of any additional funds provided in-year, and the extent to which they were on target to meet their budgets at the year end.

“It is unlikely that key actors will invest effort in making a budget realistic if the execution is unaccountable.”

Department for International Development, Review of Public Management Reform Literature, 2009



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03. Financial scrutiny mainstreamed within policy and legislative inquiries

During the course of the Fourth Assembly we sought to integrate financial scrutiny into our consideration of legislation and policy by ensuring that:

- the terms of reference for our policy and legislation inquiries included references to financial considerations;
- our work complemented, where possible, the work of the Finance Committee; and
- we built the consideration of financial matters into our scrutiny of subordinate legislation and post-legislative scrutiny.

What is a legislative consent memorandum and why is one needed?

Financial scrutiny capacity building

In acknowledgement of the importance of building financial scrutiny capacity, we undertook a series of professional development sessions with the Chartered Institute of Public Finance and Accountancy (CIPFA). As a consequence of these sessions, we shaped our subsequent financial scrutiny activity in accordance with CIPFA's four principles of good financial scrutiny:

- **Prioritisation:** is the division of resources in line with the Programme of Government?
- **Affordability:** is there a balance between income and expenditure?
- **Value for money:** is public money being put to best use, and are the expected outcomes being identified and achieved?
- **Budget process:** is performance managed and reported clearly, and are all relevant spending plans integrated where appropriate?

Lessons learned from our financial scrutiny, and recommendations for our successor committee

Lesson 18: The importance of clear financial information

We believe strongly that individual committees have an important role to play in scrutinising the detail of relevant budget allocations, and the expenditure, outcomes and value for money associated with policies and legislation within their respective remits. While acknowledging some of the difficulties associated with providing financial information, we believe that improvements need to be made in this regard in order to increase our successor committee's effectiveness in holding the Welsh Government to account.

In particular, our ability to scrutinise the annual budget was constrained by the fact that the vast majority of the health budget was covered in one budget line, the 'NHS Delivery' line. We believe that more detailed information should be provided by the Welsh Government in future years to enable our successor to undertake more effective scrutiny of the budget.

Recommendation 19: The Welsh Government should provide more information about the outcomes it intends to achieve via its budget allocations, including details about its assessment of affordability and prioritisation. Furthermore the Welsh Government, in presenting its budget information, should provide a more detailed breakdown than the current 'NHS Delivery' line which we believe has constrained our ability to scrutinise effectively.

Recommendation 20: The Welsh Government (and any non-Government Members in charge of Bills) should provide improved financial information in the Explanatory Memoranda published alongside Bills.

Lesson 19: The importance of in-year financial scrutiny

We consider in-year financial scrutiny of health and social care expenditure to be as important as scrutiny of the annual draft budget. The periodic in-year financial scrutiny we have undertaken has aided our overarching budget scrutiny and our ability to hold the Welsh Government to account.

Recommendation 21: Our successor committee should continue to undertake in-year financial scrutiny in the Fifth Assembly.

Lesson 20: Mainstreaming financial scrutiny

The effort we have made to mainstream financial scrutiny within our policy and legislative work has added to the body of financial information at our disposal to hold Ministers to account. Nevertheless, we acknowledge that we could have done more to mainstream financial scrutiny and, on occasion, did not give sufficient focus to important finance-related questions.

Recommendation 22: Our successor committee should commit to:

- **mainstreaming financial scrutiny into its policy and legislative work;**
- **ensuring that finance-related matters form a key part of Members' scrutiny of all selected inquiry topics;**
- **taking a lead on the financial scrutiny of any Bill referred to it for Stage 1 consideration.**

Lesson 21: Building financial scrutiny capacity

We believe that building financial scrutiny capacity could deliver valuable improvements to the Assembly's scrutiny of the Welsh Government. The devolution of fiscal powers to the Assembly strengthens the case for such activity.

Recommendation 23: Our successor committee – and the Assembly more widely – should undertake further work to build the financial scrutiny capacity of Members and staff.



Looking to the Fifth Assembly – inquiries for next time

In looking back at our work over the last five years, and in considering the responses to our legacy consultation, we have identified a small selection of issues our successor committee may wish to consider.

01. Health

Performance of ambulance services

As part of our work we stated our belief that a regular focus on ambulance services should be maintained until the Assembly can be confident that services have improved reliably and sustainably. Our successor committee may wish to monitor progress during the Fifth Assembly.

Recruitment, retention, and sustainability of the NHS workforce

During the Fourth Assembly we considered the GP workforce in Wales. Our successor committee may wish to follow up on this work. Alternatively it may wish to give consideration to well-publicised concerns about the recruitment, retention, and sustainability of the wider NHS workforce in Wales.

Implementation of the NHS Finance Act 2014

The financial position and planning of LHBs and NHS Trusts, including the distribution of additional revenue allocations for NHS services, was a regular topic of discussion for us. The purpose of the Act was to establish a financial regime in which services would be required to manage their resources within approved limits over a 3 year period. Our successor committee may wish to consider the Act's impact.

Service reconfiguration

There have been proposals agreed for the reconfiguration of health services in a number of areas across Wales. Our successor committee may wish to examine what progress has been made in implementing those service changes, what this means for patients' access to services, and for the sustainability of the workforce.

Access to treatment and the Individual Patient Funding Request (IPFR) process

During our inquiry on the implementation of the Cancer Delivery Plan a number of concerns were raised about access to treatment and the IPFR process. Our successor committee may wish to follow up on the extent to which improvements have been made.

The preventative agenda

Shifting the use of NHS services further towards prevention and early intervention has been a key aim of the Welsh Government during the Fourth Assembly. Our successor committee may wish to consider the role and impact of a preventative approach to health services and work to educate the general public about the preventative agenda. It may also wish to give consideration to the fiscal tools that will be at the Assembly's disposal to incentivise people to reduce their consumption of unhealthy foods and drinks.

02.Social care

Social Services and Well-being Act 2014

A number of respondents to our legacy consultation highlighted the importance of following up on the implementation of the eligibility regulations and framework emanating from the Social Services and Well-being Wales Act 2014. Our successor committee may wish to undertake an inquiry on this topic.

Dementia

Throughout our consideration of the social care legislation referred to us, our inquiry into residential care services, and our scrutiny of the Ministers and Older People's Commissioner, dementia was a key area in need of further consideration. Our successor committee may wish to undertake an inquiry on this topic.

Integration of health and social care services

Integration of services, including progress made to date in delivering closer working and future challenges in this field, arose repeatedly in our legacy consultation as a topic in need of further consideration. Our successor committee may wish to take this forward during the Fifth Assembly.

Cross-cutting themes

A number of common themes emerged across our inquiries during the Fourth Assembly. Our successor committee may wish to consider these themes as part of their scrutiny over the next five years.

National leadership and implementation

The need for stronger national leadership to ensure the effective implementation of strategies, service frameworks and delivery emerged as a recommendation in a number of our inquiries.

Relevant inquiries included: stroke risk reduction, community pharmacy, wheelchair services, venous thrombo-embolism prevention, stillbirths, diabetes, Cancer Delivery Plan, and access to medical technologies.

Data collection, sharing and reporting

The need for improved data collection and reporting, and the sharing of such data across organisations and services, arose in a number of our inquiries. Associated with this was the need to improve ICT and the ability of different services' systems to interact with one another.

Relevant inquiries included: new psychoactive substances, access to medical technologies, community pharmacy, measles outbreak 2013, unscheduled care, the work of Healthcare Inspectorate Wales, NHS complaints and orthodontic services.

03. Consultation on – and publication of – the work programme

In its legacy report, our predecessor committee recommended that we:

“...should consider implementing a system of ongoing engagement with the public, including a standing invitation to the public to suggest subjects for committee inquiries. In addition, we feel the committee’s forward work programme should be published, to allow stakeholders to feed into it.”

Health, Wellbeing and Local Government Committee, Legacy Report, March 2011

We took action on this, operating an ongoing dialogue with stakeholders about future scrutiny topics and publishing our forward work programme at termly intervals. Nevertheless, we acknowledge that we could have done more to engage systematically with stakeholders, at specified and regular intervals, about our future work programme. Our successor committee may wish to consider this for the Fifth Assembly.

Annex A: Video transcript – impact of the NPS inquiry

The video of Inspector Catherine Hawke, Gwent Police - featured on page 9 of our report - was filmed on 24 February 2016 in the Senedd, Cardiff Bay. It followed the launch of Gwent Police and Community First's educational video on new psychoactive substances, entitled 'lethal highs'. The [video can be viewed online](#).

Q: How well did the Committee approach the inquiry?

Inspector Hawke: I've been very impressed. It has been hugely inclusive. They've looked at people who have used NPS, people who work with people who have taken NPS and are trying to deal with the issues of removing people from taking NPS. Working with agencies such as ourselves and health etc. And that broad brush approach has made sure they've captured all the information possible around this issue.

Q: What has been the broader impact of the NPS inquiry?

Inspector Hawke: The impact for us has very much been raising the profile in terms of NPS as a question and an agenda item.

We recognised within Gwent Police, and within the Cwmbran area where I was working specifically, the concerns around the increased use of NPS, and by the Committee's involvement that's raised that to an all-Wales and all agency consideration which has been a huge benefit to us.

Recognising the importance of education. Education especially around young people in empowering choices is critical. And it is raising that on a national scale so that the debate around NPS usage, linked to the new legislation that is going to come in in April, can be critical to all forces and all partner agencies working together. And by working with the Committee we've raised that on an all-Wales scale.

Annex B: Video transcript –impact of the VTE prevention inquiry

The video of Dr Simon Noble, Medical Director Wales, Thrombosis UK - featured on page 15 of our report - was filmed on 1 March 2016 in the Senedd, Cardiff Bay. Dr Noble's speech was given as part of the Presiding Officer's St David's Day Reception, which celebrated the achievements of the Fourth Assembly. The [video can be viewed online](#).

Dr Simon Noble, Medical Director Wales, Thrombosis UK

I'm basically here to thank the Assembly for what they've done to shine a light on an underappreciated problem. And, by doing it, ultimately, I know that lives have been saved and avoidable harm has been reduced.

Several years ago, whilst representing the views of patients affected by hospital-acquired thrombosis, it became very clear that people really didn't understand it or get it. Whenever you'd speak to someone about clots, they would always think about long-haul flights and yet you're 1,000 times more likely to get a clot by being a hospital in-patient. As Dame Rosemary said, 'You don't ask, you don't get', so we approached members of the Health and Social Care Committee to ask them whether they would consider looking into this issue as a matter of urgency. We were very mindful that they get many different issues that they're asked to prioritise, but every person we approached listened carefully, asked very sensible and pertinent questions, and we were delighted when they agreed to have a one-day inquiry into the prevention of hospital-acquired thrombosis.

They listened to a breadth of stakeholders, clinical advice, and they took on every recommendation that came from this. Not only that, but when the report came through, the initial response had been—when it was debated—just to acknowledge the recommendations, but the members of that committee vociferously pushed for this to be more than just acknowledged and taken on board, but actually for this issue to be made a tier 1 priority. Through doing this it has made this a massive priority in healthcare, and rather than having a draconian approach to tell us as healthcare professionals what to do, the edict was, 'Advise us how you want to sort this problem out. We recognise it is problem; we recognise it needs to be sorted.' It was an excellent example of engagement with experts and working with us to sort this problem out.

We therefore came up with a solution that not only changed practice, but changed attitudes. That way, one could actually grow the improvements. Only yesterday there was a UK alliance for health improvement, in which one of the members of our committee spoke about how this is the best example of healthcare improvement that has come from Wales. I'm very proud to be part of that. I'm very proud of the people who've put so much time into this. In particular, it's given us opportunities to, rather than just deal with what we set out to do, we've expanded it. We're now looking at specific areas: prevention of clots in patients receiving chemotherapy and public campaigns—the Ask About Clots campaign, the Cancer, Chemo and Clots campaign. Also, it's allowed us to do research which is now considered world leading. The leading research about patient experience from thrombosis is being done from Wales.

So, I would like to thank the Assembly for all the work they've done to support us, for all the work I know they'll do to continue to support us. Thank you very much.

Annex C: Video transcript – impact of the medical technologies inquiry

The video of Dr Nazia Hussain, General Practitioner and representative of the Royal College of GPs (RCGP) Wales - featured on page 25 of our report - was filmed on 25 February 2015. It followed an informal lunch we hosted prior to the Plenary debate on our report to discuss with witnesses our recommendations and the Welsh Government's response. [The video can be viewed online.](#)

Dr Nazia Hussain, General Practitioner and representative of the RCGP Wales

My name's Dr Hussain and I'm a GP practising in south Wales and I'm here representing the Royal College of General Practitioners. So, I think that's something that came up today really: the scope of the definition of medical technologies is absolutely huge. So, as was mentioned, it ranges from a little plaster up to the high-end surgical technologies, so I think that's one issue that has come up in this inquiry is how you actually define a medical technology. Obviously, medical technology to me, as a general practitioner, will mean something different to someone who's a surgeon in a hospital. I was pleased with the recommendations because I felt it echoed some of the things that I came to give evidence about: the fact that we need someone to evaluate medical technologies to see if they're actually effective clinically, as well as looking at the overall economic impact, and then introducing actually the patient impact as well, because I think that's a very important thing to consider when you're introducing medical technologies—it has to be acceptable to the receiving patient as well. The Government's response seemed very promising from that point of view. Quite a few of our recommendations have been taken into account and I look forward to seeing what happens in the future and how actually these recommendations are implemented.