



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

**Pwyllgor Deddfwriaeth Rhif 2
Legislation Committee No. 2**

**Dydd Iau, 10 Mehefin 2010
Thursday, 10 June 2010**

Cynnwys
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These proceedings are reported in the language in which they were spoken in the committee.
In addition, an English translation of Welsh speeches is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Lorraine Barrett	Llafur Labour
Alun Davies	Llafur (Cadeirydd y Pwyllgor yn dirprwyo ar ran Val Lloyd) Labour (Chair of the Committee substitute for Val Lloyd)
Michael German	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Gareth Jones	Plaid Cymru The Party of Wales
Rhodri Morgan	Llafur Labour
Brynle Williams	Ceidwadwyr Cymreig Welsh Conservatives

Eraill yn bresennol
Others in attendance

Graham Benfield	Prif Weithredwr, Cyngor Gweithredu Gwirfoddol Cymru Chief Executive, Wales Council for Voluntary Action
Rhys Jones	Nwy Prydain British Gas
Lynne Reynolds	Cyngor Gweithredu Gwirfoddol Cymru Wales Council for Voluntary Action
David Rosser	Cyfarwyddwr, Cydffederasiwn Diwydiant Prydain Cymru Director, Confederation of British Industry Wales
Non Rhys	Rheolwr Polisi Cymru, Ffederasiwn y Busnesau Bach yng Nghymru Wales Policy Manager, Federation of Small Businesses
Rebecca Thomas	Uwch Eiriolwr Polisi, Llais Defnyddwyr Cymru Senior Policy Advocate, Consumer Focus Wales
Liz Withers	Prif Eiriolwr Polisi, Llais Defnyddwyr Cymru Principal Policy Advocate, Consumer Focus Wales

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

Stephen Davies	Cynghorydd Cyfreithiol Legal Adviser
Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Owain Roberts	Dirprwy Glerc Deputy Clerk
Dr Alys Thomas	Gwasanaeth Ymchwil yr Aelodau Members' Research Service
Gareth Williams	Clerc Clerk

Dechreuodd y cyfarfod am 8.59 a.m.
The meeting began at 8.59 a.m.

Ethol Cadeirydd Dros Dro
Election of a Temporary Chair

[1] **Mr Williams:** Good morning, everyone, and welcome to today's meeting of Legislation Committee No. 2. In the absence of Val Lloyd, the committee Chair, the first item on today's agenda is to elect a temporary Chair. Under Standing Order No. 10.19, I call for nominations.

[2] **Lorraine Barrett:** I nominate Alun Davies.

[3] **Gareth Jones:** I second that.

[4] **Mr Williams:** Thank you. I see that there are no other nominations. I therefore declare that Alun Davies has been duly elected temporary Chair of the committee.

[5] **Alun Davies:** A card vote.

[6] Diolch yn fawr am hynny. Thank you for that.

*Penodwyd Alun Davies yn gadeirydd dros dro.
Alun Davies was appointed temporary chair.*

8.59 a.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introduction, Apologies and Substitutions

[7] **Alun Davies:** Cafwyd **Alun Davies:** Apologies have been received ymddiheuriadau gan Val Lloyd. from Val Lloyd.

[8] Heddiw, yr ydym yn cymryd cryn Today, we shall be taking quite a lot of dipyn o dystiolaeth am y Mesur iaith evidence on the proposed Welsh language arfaethedig. Croesawaf Graham Benfield a Measure. I welcome Graham Benfield and Lynne Reynolds i'r cyfarfod am y sesiwn Lynne Reynolds to the meeting for the first gyntaf. session.

9.00 a.m.

[9] Fel y gwyddoch, yr ydym yn As you will know, we work through the gweithredu drwy gyfrwng y Gymraeg a'r media of Welsh and English and Saesneg ac y mae cyfieithu ar y pryd ar gael. simultaneous translation is available. I Atgoffaf bawb i ddiffodd ffonau symudol ac remind everyone to switch off mobile phones and all other electronic devices. Given that unrhyw ddyfais electronig arall. Gan nad we do not expect a fire drill, we will have to ydym yn disgwyl ymarfer tân, bydd rhaid inni symud o'r ystafell hon os bydd larwm yn leave this room if an alarm sounds canu.

[10] A oes gan ein tystion unrhyw Do our witnesses have any opening sylwadau agoriadol cyn inni ofyn comments before we ask questions? cwestiynau?

[11] **Mr Benfield:** No, we are quite happy to move to questions from Members; I believe that we have quite a lot of questions to cover.

[12] **Alun Davies:** Diolch am hynny, Mr **Alun Davies:** Thank you for that, Mr Benfield. Yr ydym wedi darllen eich Benfield. We have read your written dystiolaeth ysgrifenedig. Gofynnaf y evidence. I will ask the first question. Do cwestiwn cyntaf. A ydych chi fel corff yn you, as an organisation, believe that the

credu bod y Mesur arfaethedig yn gwella ar y drefn bresennol? proposed Measure improves on the status quo?

[13] **Mr Benfield:** That depends on whether the standards that are set will be realistic and will reconfirm the status quo or whether they will be aspirational. So, I guess that the key to this as far as we and most of our members are concerned is the setting of the standards and what level the standards are set at.

[14] **Alun Davies:** Fodd bynnag, fel fframwaith a strwythur ar gyfer y safonau a drafodwyd gennych, a gredwch fod y Mesur arfaethedig yn gwella ar y fframwaith statudol ar gyfer y Gymraeg? **Alun Davies:** However, as a framework and structure for the standards that you discussed, do you think that the proposed Measure improves on the statutory framework for the Welsh language?

[15] **Mr Benfield:** Yes, I think so. In terms of getting greater clarity from the point of view of Welsh speakers and what people can expect from organisations, then the framework is fine. As I say, it is the level of standard setting that is the key.

[16] **Alun Davies:** A oes gennych unrhyw beth i'w ychwanegu, Ms Reynolds? **Alun Davies:** Do you have anything to add, Ms Reynolds?

[17] **Ms Reynolds:** Nac oes. **Ms Reynolds:** No.

[18] **Alun Davies:** Ar hyn o bryd, Mr Benfield—ni chredaf eich bod yn sôn am hwn yn eich tystiolaeth ysgrifenedig—faint o'r mudiadau yr ydych yn eu cynrychioli sy'n cynnig gwasanaeth Cymraeg? **Alun Davies:** At the moment, Mr Benfield—I do not think that you mention this in your written evidence—how many of the organisations that you represent offer a Welsh-language service?

[19] **Ms Reynolds:** Gwnaf ateb y cwestiwn hwnnw. Mae'n gwestiwn anodd ei ateb ar fyr rybudd. Efallai y cawn gyfle i roi gwybodaeth fanylach ichi ar hwnnw. Yr ydym yn ymwybodol fod tua 75 o gynlluniau iaith wedi eu paratoi gan fudiadau'r trydydd sector. O'n hymchwil diweddaraf, mae tua 11,000 o grwpiau yn gwneud gwaith yn y pedwar ardal sy'n cynnwys y canran uchaf o siaradwyr Cymraeg, sef Gwynedd, Ynys Môn, Ceredigion a Chaerfyrddin. Nid yw hwnnw'n golygu eu bod i gyd yn cynnig gwasanaethau trwy gyfrwng y Gymraeg, ond y mae hwnnw'n rhoi amcangyfrif ichi. Yr ydym hefyd yn gwybod fod mudiadau lleol yn defnyddio dewis iaith eu defnyddwyr. **Ms Reynolds:** I will answer that question. It is a difficult question to answer at short notice. Perhaps we can have the opportunity to give you more detailed information on that. We are aware that around 75 Welsh-language schemes have been prepared by third sector organisations. From our latest research, around 11,000 groups work in the four areas that include the highest percentage of Welsh speakers, namely Gwynedd, Ynys Môn, Ceredigion and Carmarthenshire. That does not mean that all of them provide Welsh-medium services, but that gives you an estimate. We also know that local organisations use the language of choice of those whom they serve.

[20] **Alun Davies:** Diolch am hynny. Yr ydych yn sôn rhywle yn eich tystiolaeth ysgrifenedig fod y ffaith bod fframwaith rheoleiddio yn y Mesur arfaethedig i ryw raddau yn amharu ar annibyniaeth y cyrff yr ydych yn eu cynrychioli. A allwch ymhelaethu ar hynny? **Alun Davies:** Thank you for that. You mention somewhere in your written evidence that the fact that a regulatory framework is included in this proposed Measure would to some extent impair the independence of the organisations that you represent. Could you expand on that?

[21] **Mr Benfield:** That is more a matter of principle in a way because up until now there

has been no statutory requirement for voluntary organisations to draw up a language policy, but many organisations have done so on a voluntary basis and much has been achieved since the 1993 Act in that sense. So, there has been a lot of goodwill and a lot of cutting-edge work has been done by voluntary organisations on a voluntary basis. Once you start to pick out particular organisations and say that they must do x, y and z—and, as far as we are concerned, it does not matter what; this applies to all sorts of different kinds of legislation—that tends to contradict the principle of free association and coming together to do things on a voluntary basis. It is not that people will not do it, but it is better that they are able to do it on a voluntary basis. The evidence so far suggests that that is what works.

[22] **Alun Davies:** I am not sure that I quite follow that point about free association. I will bring Rhodri Morgan in shortly, but the voluntary sector already operates within a legal and statutory framework for much of its equalities work. Why is this different?

[23] **Mr Benfield:** It is different because you are proposing to apply this to a particular sort of organisation—that is, one that is in receipt of a lot of public money. General legislation, such as health and safety, employment, and so on, which applies to everyone, also applies to voluntary organisations, but it is when you pick out particular organisations and list them, or try to apply a law to a particular set, that that becomes a problem, because you are treating different sorts of organisations in the sector in different ways.

[24] **Rhodri Morgan:** I am assuming that what you are referring to is the paragraph two thirds of the way down the second page of your evidence, where you say that:

[25] ‘As we have previously stated, we do not agree that the National Assembly for Wales should be able to make laws that encompass the core activities of third sector organisations where they are *not* being commissioned to deliver statutory services on behalf of a public body.’

[26] Am I right that what you are doing in answer to the last two questions from the Chair is giving more explanation of the opposition that you have to the right of the Assembly to make laws that encompass the core activities of third sector bodies, except when commissioned to deliver statutory services? Is that right?

[27] **Mr Benfield:** What we would prefer—this also applies to other areas, such as the Freedom of Information Act 2000—is that this is done on a voluntary basis, because these organisations have been set up in that way in the first place.

[28] **Rhodri Morgan:** All that I was asking was whether I was right to assume that it is this paragraph in your written evidence that we are now talking about.

[29] **Mr Benfield:** Yes.

[30] **Rhodri Morgan:** Okay. The point that I was going on to make was that, when you say ‘as we have previously stated’—I did not sit on the LCO committee—do you mean that you gave similar evidence to that committee?

[31] **Mr Benfield:** Yes.

[32] **Rhodri Morgan:** At that stage, of course, it is more the issue as to whether it is appropriate for Westminster to have the right to make such laws as distinct from the Assembly, because—

[33] **Mr Benfield:** We said that law on the Welsh language should be a devolved matter—there is no question about that. It is how you best improve voluntary organisations’ ability,

and build on what has been achieved. After all, that is the intention of the proposed Measure.

[34] **Michael German:** Part 1 of the proposed Measure says that it is

[35] ‘to make further provision about the official status of the Welsh language in Wales’.

[36] In your evidence, you say that there is no clear statement clarifying the official status of the Welsh language in Wales. Is the sentence that I just read out insufficient, and, if so, what would you replace it with?

[37] **Ms Reynolds:** For clarity, it would be useful to include a statement making clear the status of Welsh as well as English as official languages of Wales.

[38] **Michael German:** You would include English in that statement.

[39] **Ms Reynolds:** Yes.

[40] **Michael German:** Why do we need to include Welsh and English?

[41] **Ms Reynolds:** They are both official languages of Wales.

[42] **Michael German:** What would be the effect of such a statement, which is clearly not here? There is no previous legislation pointing to Welsh being an official language. If you made that statement, the one that you have just said that you would like to see, in the proposed Measure, what would be the effect upon your members and the third sector?

9.10 a.m.

[43] **Mr Benfield:** I think that it is a question of a declaration of intent. It is a statement of how it should be. I think that it would, in general, create a climate in which people felt that they had a greater obligation, at whatever level, to be able to operate in both languages. Therefore, it is a sort of mega framework statement, if you like.

[44] **Rhodri Morgan:** Mae gennyf ychydig gwestiynau ar strwythur y Mesur arfaethedig o ran dileu bwrdd yr iaith a chyflwyno swydd newydd, sef comisiynydd yr iaith Gymraeg. Os ydych yn derbyn y caiff Mesur o'r fath ei basio, a ydych o blaid neu yn erbyn? Beth yw eich cefnogaeth neu eich gwrthwynebiad chi i'r strwythur a'r prif bwyntiau, megis dileu Bwrdd yr Iaith Gymraeg a sefydlu comisiynydd yr iaith Gymraeg yn lle'r bwrdd?

Rhodri Morgan: I have a few questions on the structure of the proposed Measure in terms of the abolition of the language board and introduction of the new role of Welsh language commissioner. If you accept that such a Measure will be passed, are you in favour or against it? What is your support or opposition to the structure and the main points, namely the abolition of the Welsh Language Board and establishing a Welsh language commissioner in place of the board?

[45] **Mr Benfield:** There seem to be three important things. First, there needs to be a regulator, and there also needs to be a promoter and supporter of the Welsh language. I think that there needs to be an appeal process against the judgments, if you like, of the commissioner. It seems that those three functions need to be separated because I do not think that they are the same function, and the appeal bit clearly needs to be as independent as possible.

[46] The appointment of the commissioner seems to me to be more appropriate for the National Assembly to do than the Government, because part of that regulator's job will apply to the Welsh Assembly Government, as well as to everyone else.

[47] Therefore, it is the functions that I am interested in, and how they are distinguished and separated. The bit that is missing from all of this is that, if we are to raise the status quo in terms of language provision, we need not just promotion but support in terms of how organisations can do this. That seems to be a separate function from the regulator. In our own world, for instance, we have the Charity Commission, which is the regulator and has a very different function from the promotion and support sector, which is done by organisations such as us. It is a very different function. To mix the two would probably be quite difficult.

[48] **Rhodri Morgan:** A ydych wedi meddwl am y broblem hyn? Yr ydych wedi sôn am ddwy, neu efallai dair, swyddogaeth o ran yr ochr apêl, rheoleiddio, hyrwyddo ac ati. A oes digon o waith i ddau neu hyd yn oed dri chorff neu berson gyda chefnogaeth, fel y bwriedir gan y Mesur arfaethedig wrth gael comisiynydd?

Rhodri Morgan: Have you considered this problem? You have mentioned two, or possibly three, functions in terms of the appeal, regulation, promotion and so forth. Is there enough work for two or even three organisations or individuals, with support, as intended by the proposed Measure in having a commissioner?

[49] **Mr Benfield:** I would have thought so. I am not fully aware of how many people are presently employed by the Welsh Language Board. I think that it is more than two or three people. Therefore, I would guess that there would be.

[50] **Rhodri Morgan:** Pwynt arall sydd yn codi, ac un yr ydym wedi gofyn cwestiynau i bawb sydd â diddordeb yn y Mesur arfaethedig hwn, yw'r broses o benodi. Penodir yr ombwdsmon a'r archwilydd cyffredinol gan y Cynulliad ac yna gan y Frenhines yn y pen draw. Yna, ceir swyddogaethau neu gomisiynwyr eraill megis y comisiynwyr dros blant a phobl hŷn yng Nghymru, a benodir gan Weinidogion. A gredwch fod y comisiynydd hwn yn debycach i'r comisiynwyr dros bobl hŷn a phlant, neu'n debycach i'r ombwdsmon a'r archwilydd cyffredinol?

Rhodri Morgan: Another point that has arisen, and one on which we have asked questions to everyone who has an interest in this proposed Measure, is the appointments process. The ombudsman and the auditor general are appointed by the Assembly and ultimately by the Queen. Then there are other functions or commissioners, such as the commissioners for children and older people in Wales, who are appointed by Ministers. Do you believe that this commissioner is more akin to the commissioners for children and older people or to the ombudsman and the auditor general?

[51] **Mr Benfield:** Put like that, I guess that it is more akin to the children's commissioner and the commissioner for older people. However, I still tend to think that the position's greater independence and the greater perception of the position's independence is probably the most important factor here. So, in that sense, if the process that you describe endows it with a greater perception of independence, that is probably the better way to go.

[52] **Rhodri Morgan:** O ran eich gwaith yn y sector gwirfoddol—y trydydd sector—a ydych yn dod ar draws gwaith y comisiynwyr dros bobl hŷn a phlant? A ydych yn gyfarwydd â'r ffordd y maent yn ystyried eu hannibyniaeth? A ydynt yn cwyno ynglŷn â diffyg annibyniaeth? A ydych yn ymwybodol o waith yr archwilydd cyffredinol neu'r ombwdsmon ac felly'n gallu barnu pa mor annibynnol y maent at bwrpas gwneud eu gwaith yn weddus? A gredwch fod problem gydag annibyniaeth y comisiynwyr dros bobl

Rhodri Morgan: With regard to your work in the voluntary sector—the third sector—do you come across the work of the commissioners for children and older people? Are you aware of how they view their independence? Do they have any complaints about an absence of independence in their role? Are you aware of the work of the auditor general or the ombudsman and, therefore, able to judge how independent they are for the purpose of carrying out their work appropriately? Is there a problem with the

hŷn a phlant?

independence of the commissioners for children and older people?

[53] **Mr Benfield:** No, because I was not aware that the commissioner for older people, for instance, was appointed by the Welsh Assembly Government; I thought that she was appointed through one of the other ways that you mentioned. If you ask me whether I think that the ombudsman and the auditor general are more independent of the Welsh Assembly Government than the two commissioners, then I would answer with a 'yes', and I think that many people would take the same view.

[54] **Rhodri Morgan:** Mae hynny'n wir, heb os nac oni bai.

Rhodri Morgan: That is true, without a doubt.

[55] **Mr Benfield:** It is about perception.

[56] **Rhodri Morgan:** Fodd bynnag, os ydych yn gyfarwydd â gwaith y comisiynwyr dros bobl hŷn a phlant yn eich gwaith, a ydych wedi gweld diffyg annibyniaeth yn y ffordd y maent yn gweithredu, o ganlyniad i'r broses benodi?

Rhodri Morgan: However, if you are familiar with the functions of the commissioners for children and older people as part of your work, have you seen a lack of independence in the way that they operate, as a result of the appointment process?

[57] **Mr Benfield:** No.

[58] **Gareth Jones:** Trof at Ran 4, sy'n delio â safonau. Mr Benfield, yr ydych eisoes wedi cyfeirio at hyn fel rhywbeth heriol iawn oherwydd bod diffyg adnabyddiaeth o beth yn union yw'r safonau ar hyn o bryd; nid chi yw'r unig un sydd wedi datgan y pryder hwnnw mewn tystiolaeth. Felly, mae'n anodd rhagweld beth fydd effaith y safonau hyn. Yn eich tystiolaeth ysgrifenedig, pwysleiswch fod nifer fawr o sefydliadau'r trydydd sector yn gweithredu cynlluniau iaith yn wirfoddol oherwydd

Gareth Jones: I now turn to Part 4, which deals with standards. Mr Benfield, you have already referred to this as a very challenging area, because of the lack of recognition of what exactly the standards are at present; you are not the only person who has stated that concern in evidence. So, it is difficult to foresee what the effects of the standards will be. In your written evidence, you emphasise that a large number of third sector organisations have voluntarily adopted Welsh language schemes because

[59] 'eu bod yn cydnabod bod hynny'n esgor ar nifer o fanteision i'r gwasanaethau y maent yn eu cynnig'.

'they recognise that it brings with it a number of benefits to the services they offer'.

[60] A allwch chi ymhelaethu ar natur y manteision hyn?

Can you expand on what these benefits are?

[61] **Mr Benfield:** It is very simple: organisations want to be able to offer services to people in the language in which they are most comfortable. That is the beginning and the end of it; if you want to provide good services, you want people to feel comfortable, understand and be able to communicate effectively. So, it is all about the communication of services. That is why people do it. It is an efficiency and effectiveness argument as much as a cultural argument.

[62] **Gareth Jones:** Yn eich tystiolaeth ysgrifenedig, yr ydych yn cyfeirio hefyd at anawsterau recriwtio staff sy'n siarad Cymraeg fel un o'r rhwystrau posibl o ran

Gareth Jones: In your written evidence, you also refer to the difficulty of recruiting Welsh-speaking staff as being a potential barrier to implementing the proposed

gweithredu'r Mesur arfaethedig, sydd hefyd yn heriol. A yw'r broblem hon yn bodoli eisoes a pha fathau o swyddi a pha ardaloedd daearyddol sy'n dioddef fwyaf yn hynny o beth? A yw'r Mesur arfaethedig yn cynnig y potensial i fynd i'r afael â'r diffygion hyn?

Measure, which is also a challenge. Can you explain whether this problem already exists, and could you describe the sorts of posts and the geographical areas that are the worst affected in that respect? Does the proposed Measure provide the potential to get to grips with these deficiencies?

9.20 a.m.

[63] **Mr Benfield:** At WCVA, around a third of our staff speak Welsh to some extent. We do not have a particular problem in recruiting Welsh speakers in north or west Wales, but we had to move our helpdesk from Cardiff to Aberystwyth in west Wales because we were having difficulty recruiting Welsh speakers in Cardiff at the rates of pay that we can afford. Where there is a post for which the ability to speak Welsh is essential, we have just about been able to fill it. However, we find it difficult to compete for Welsh-speaking staff in Cardiff—particularly reception and administrative staff, which is a problem. You are absolutely right; if we are to move beyond where we are at the moment, a huge block will be the availability of Welsh-speaking staff. I am not aware of anything in the proposed Measure that will address that issue. The fundamental issue is probably how many people are coming through the education system who can function in Welsh. That seems to be fairly self-evident.

[64] **Lorraine Barrett:** Are you saying that, if you needed a receptionist who spoke Welsh, they would be more expensive than a receptionist who could not speak Welsh?

[65] **Mr Benfield:** Yes.

[66] **Lorraine Barrett:** To probe the standards framework a little further, do you think that the framework, as it is proposed, will be an improvement on the current system of language schemes in providing services in Welsh?

[67] **Mr Benfield:** This goes to the very core of how effective the proposed Measure will be in our sector. As I say, if the standards are set too low, or at current achievable levels, you are achieving and possibly codifying the status quo. If they are set too high, they become aspirational and very difficult to meet, and organisations are likely to fail. Given the diversity of the third sector, with almost every organisation being different in one way or another, the ability to set an appropriate standard that is somewhere between the status quo and that unachievable aspiration will be extremely challenging. At WCVA we have had a Welsh language scheme for some time, and we spend around £100,000 on it. The issue for us over the next few years will not be whether we spend more money on it, given what we all know is coming; the challenge is the issue of how we spend that money more effectively in the delivery of services in the Welsh language.

[68] Going back to my comments about the functioning of promotion and support, we need to be able to look at what we are doing in a creative way and to discuss with experts and say to them, 'We cannot spend any more money on this because we simply do not have any more money, so how can we use it in the most effective way?' That bit of the jigsaw is missing at the moment. The only way in which our organisation will improve what we are currently doing is by having some kind of advice, dialogue or support with regard to how we can do it better.

[69] **Lorraine Barrett:** In your written evidence, you say that the standards should not prove to be more bureaucratic and regulatory than existing schemes. Can you say a bit more about the way in which the existing schemes are bureaucratic and regulatory?

[70] **Ms Reynolds:** We are not saying that they are bureaucratic. At the outset, it is reasonably costly to set up a scheme. Our scheme was approved in 1998, so all the administrative management work was done then. We have reviewed it twice. We are hoping that the standards will be clear enough, set at a level that organisations can reach, and that they will not have a negative impact on any organisation's use of the Welsh language.

[71] **Lorraine Barrett:** How easy is it at this point to understand the standards that will be applied to third sector organisations?

[72] **Mr Benfield:** We do not know, do we? We will not know until we see them. As I have said, this is the heart of the proposed Measure; the challenge is to come up with standards that can be understood and that are relevant. It is one thing to look at sectors or sub-sectors where there is a great deal of commonality. For example, you could take all of the electricity companies and say that the standards for all of those should basically be the same. The difficulty is how you chop up the sector. You cannot have a separate standard for each organisation. I guess that the problem is that, at the moment, the language schemes are specific to each organisation. You work out what you can do in your situation and geographical area, and then you submit that to the language board as your scheme. At one level, from a supplier point of view, group schemes are quite difficult. I can see that, obviously, from the consumer's point of view, you want a standard to be set that you can expect from everybody. However, applying standards in a way that makes progress from where we are takes us back to the business of whether we are codifying the status quo or being over-aspirational.

[73] **Lorraine Barrett:** You have expressed concern that any standards imposed must be reasonable and proportionate. If you could think of a virtual standard, could you give us some examples of what might be unreasonable and disproportionate?

[74] **Mr Benfield:** If a smallish group in Monmouth was required by the standards to do everything bilingually we would think that that would be a disproportionate and unreasonable expectation. I know that we are moving to the next question and the figure of £400,000, but you have to take into account the ability of smaller organisations to achieve their core purpose. The language provision must be in relation to the service that they are trying to provide. For example, if the empirical evidence was that all the clients of a women's aid group were English speakers, to impose a standard that required a Welsh speaker to be present at all times would be unreasonable in our view.

[75] **Rhodri Morgan:** At the bottom of the penultimate page of your written evidence, in the last of the four bullet points, you say that current problems include

[76] 'organisations not thinking beyond a blanket translating of materials when considering how to offer a Welsh language service'.

[77] That raises the issue of the relevance of applying the Welsh-language concept to a particular voluntary body. With regard to the work of the WCVA, if an organisation is simply puzzled about how to implement a Welsh-language scheme or how to offer a Welsh-language scheme or service, does it come to the WCVA and say, 'Look, all that we can think of doing is to provide blanket translation into Welsh? Is that what a Welsh language scheme is?' Do the organisations come to the WCVA and ask you for assistance?

9.30 a.m.

[78] **Mr Benfield:** Such organisations would go to a number of places. Some years ago, we produced a publication that is still current, called 'As good as our words', which was a guide written precisely for organisations that were approaching the Welsh language in the

first instance. It goes through questions such as ‘Do I have to do everything in Welsh?’ and ‘What are the simple things that I can do?’ and takes organisations on from there.

[79] **Ms Reynolds:** That was done in partnership with the Welsh Language Board and we have worked closely with Estyn Llaw, referring people to it for specific queries.

[80] **Rhodri Morgan:** What I was trying to get at was, when you and possibly the Welsh Language Board are approached for advice by a Women’s Aid organisation, for example, that has never come across a Welsh-speaking client before, do you manage to give them advice as to what is the proper, proportionate and reasonable implication of having a Welsh language scheme so that they can go beyond thinking of the blanket translation of materials, so that there is a reasonability and proportionality component to the way in which they approach their Welsh language provision?

[81] **Mr Benfield:** Yes, based on the advice in ‘As good as our words’, which would be to go a little further in terms of what they were able to do.

[82] **Alun Davies:** Mae gennym ychydig dros bum munud ar ôl o’r sesiwn hon, felly gofynnaf i bobl gofio hynny wrth ateb a gofyn cwestiynau. **Alun Davies:** We have a little over five minutes remaining of this session, so I ask people to bear that in mind while they are asking and answering questions.

[83] **Michael German:** There will be a threshold of £400,000 of public money before voluntary sector organisations are brought in. You tell us that 400 of your organisations will come within the scope of the proposed Measure because of that, but you also tell us that you think that lottery money should be excluded, implicitly or explicitly, in the proposed Measure. Currently, Schedule 5 to the proposed Measure defines ‘public money’ as moneys from

‘(i) the National Assembly for Wales;

(ii) the Welsh Ministers;

(iii) Parliament;

(iv) Ministers of the Crown; or

(v) an institution of the European Union;

(b) moneys provided by virtue of any enactment.’

[84] What is insufficient about those definitions and what do you believe might give rise to national lottery money being included within their scope?

[85] **Ms Reynolds:** For clarity, it would be useful for organisations to see that stated about lottery money.

[86] **Michael German:** We probably also need a definition of that to know what that section of the Schedule would mean. You could take that definition not to mean national lottery money. Do the 400 organisations that you think would be encompassed by the proposed Measure include or exclude those that receive lottery money?

[87] **Ms Reynolds:** The figure that we have excludes them. We would need more time to give you an estimate of the number of organisations that would be affected, if you were to include those that receive lottery money.

[88] **Michael German:** So, it is 400, excluding lottery money.

[89] **Ms Reynolds:** We believe so.

[90] **Alun Davies:** Efallai y byddai'n syniad da gofyn i'r cynghorwyr cyfreithiol gynhyrchu nodyn ar gyfer y pwyllgor ar y pwnc hwn. **Alun Davies:** Perhaps it would be an idea to ask the legal advisers to produce a note for the committee on this issue.

[91] **Michael German:** I also want to look at section 46 of the proposed Measure, which talks about the protection that organisations have before they are issued with a compliance notice. Does the consultation that is required give you sufficient comfort that no heavy hand will come down on you before you have had a chance to put things right?

[92] **Mr Benfield:** Yes.

[93] **Gareth Jones:** Ar safonau eto, yn Rhan 4, bodola'r hawl i herio pan fo diffyg cydymffurfio. Yn eich tystiolaeth ysgrifenedig, yr ydych yn datgan eich bod yn pryderu y bydd sefydliadau'r trydydd sector yn cael eu 'barnu'n llym' am fethu cydymffurfio â'r safonau. A allwch ymhelaethu ar eich pryderon o ran 'barnu'n llym'? **Gareth Jones:** Again on standards, in Part 4, a right to challenge exists when there is a failure to comply. You state in your written evidence that you are concerned that third sector bodies will be 'judged harshly' for failing to comply with standards. Can you expand on your concerns regarding being 'judged harshly'?

[94] **Ms Reynolds:** Mae hyn yn dychwelyd at y pwynt ynglŷn â'r angen am safonau cyraeddadwy a theg, a rhoi cyfle i bawb i fod ar yr un maes chwarae. **Ms Reynolds:** This returns to the issue of having achievable and fair standards, and giving everyone the opportunity to be on a level playing field.

[95] **Gareth Jones:** A ydych yn fodlon ar yr hawl i herio'r hysbysiad cydymffurfio fel y mae wedi'i gynnwys yn y Mesur arfaethedig ar hyn o bryd? **Gareth Jones:** Are you satisfied with the right to challenge the compliance notice as it is currently worded in the proposed Measure?

[96] **Mr Benfield:** Yes.

[97] **Brynle Williams:** We will move on now to Part 6 and the freedom to use Welsh. You state in your written evidence that you agree with the provisions about the freedom to use Welsh. Some witnesses have questioned whether this part of the proposed Measure is necessary, while others have called for the establishment of a right rather than a freedom to use the Welsh language. What are your views on that?

[98] **Mr Benfield:** We have said that we think people should have the freedom to use Welsh. I do not think we have anything to add to that.

[99] **Brynle Williams:** You mentioned that among potential barriers to implementing the proposed Measure are the perceived and real financial costs of bilingual working and the time, cost and personal commitment of staff learning, or improving their Welsh, as part of their job. Will you expand on these comments and explain how perceived and real costs differ?

[100] **Mr Benfield:** It is incredibly difficult to generalise because, sometimes, the perception of what organisations need to do is far greater than the cost or the perceived cost

because they think that the actual cost will be huge and everyone will have to do absolutely everything in Welsh and they will have to have Welsh speakers and they will have to train everyone in Welsh and all the rest of it. Of course, in some respects that is absolutely right. Sometimes the perception is worse, if you like, than the reality. On the other hand, the costs of using simultaneous translation and so on come as quite a shock to organisations. Sometimes the perception is inaccurate one way and sometimes it is inaccurate the other way. It is very rarely absolutely right, but I guess that that is like most things.

[101] **Brynle Williams:** You also state that you are concerned that it will be difficult to assess the financial implications of the proposed Measure until the new standards are established. Will you expand on these concerns?

[102] **Mr Benfield:** Again, it goes back to this point about the standards, how you set those standards, at what level you set them, and how you finance all of that. I guess that, at a time when there is not going to be that much money around, anything that is resource intensive is going to be a problem. So, in terms of calculating the cost, you will not know until the standards are available. However, again, when I go back to talking about the promotion and support role, what we need to be doing is looking at how we can better use the resource that people have or the normal financial resource that people could acquire. As I said earlier, to me, this is the missing bit of whether we could achieve more than we have done so far. I think that there are ways in which that could be done.

[103] **Alun Davies:** Diolch yn fawr am eich parodrwydd i ateb cwestiynau'r Aelodau y bore yma; gwerthfawrogwn hynny'n fawr iawn. Fel y gwyddoch, bydd trawsgrifiad o'r sesiwn hon ar gael i chi cyn iddo gael ei gyhoeddi'n derfynol, ond diolch yn fawr i chi am eich cymorth y bore yma.

Alun Davies: Thank you very much for your willingness to answer Members' questions this morning; we appreciate that very much. As you know, a transcript of this session will be available to you before it is published in final form, but thank you very much for your help this morning.

[104] **Mr Benfield:** Thank you very much for listening.

[105] **Ms Reynolds:** Diolch yn fawr.

9.40 a.m.

[106] **Alun Davies:** Mae'r sesiwn nesaf gyda Nwy Prydain a chroesawaf Rhys Jones i'r cyfarfod.

Alun Davies: The next session is with British Gas, and I welcome Rhys Jones to the meeting.

[107] **Rhodri Morgan:** Jones y Gas.

Rhodri Morgan: Jones the Gas.

[108] **Alun Davies:** Ni wn os mai fel hynny'n union mae'n hoff o gael ei adnabod.

Alun Davies: I am not sure if that is exactly how he likes to be known.

[109] **Rhodri Morgan:** Nid wyt yn cofio'r Jones y Gas gwreiddiol—Merfyn Jones—wyt ti?

Rhodri Morgan: You do not remember the original Jones the Gas—Merfyn Jones—do you?

[110] **Alun Davies:** Na, nid wyf yn ei gofio.

Alun Davies: No, I do not.

[111] Diolch yn fawr am ddod, Mr Jones. Fel y gwyddoch, yr ydym yn trafod y Mesur iaith arfaethedig. Mae Aelodau wedi cael

Thank you for your attendance, Mr Jones. As you know, we are discussing the proposed language Measure. Members have had an

cyfle i ddarllen eich tystiolaeth ysgrifenedig, a bydd gan Aelodau gwestiynau i chi ar sail hynny. A hoffech wneud unrhyw sylwadau agoriadol cyn inni symud at y cwestiynau?

opportunity to read your written evidence, and will have questions for you that are based on that evidence. Do you wish to make any opening remarks before we move to questions?

[112] **Mr Jones:** Yr ydym wedi datgan o'r blaen pa wasanaethau yr ydym yn eu darparu ar gyfer cwsmeriaid sy'n siarad Cymraeg sy'n dewis derbyn gwasanaethau Cymraeg oddi wrthym. Os yw'r pwyllgor am gael mwy o fanylion am hynny, gallaf eu danfon atoch ar wahân. Heblaw am hynny, yr wyf yn hapus i symud yn syth at y cwestiynau.

Mr Jones: We have previously stated which services we provide for Welsh-speaking customers who choose to receive Welsh-language services from us. If the committee wishes to receive further details on that, I can send them to you separately. Apart from that, I am happy to go straight into questions.

[113] **Alun Davies:** Wrth ddarllen eich tystiolaeth, yr oeddwn yn meddwl fod ei dôn yn bositif ac adeiladol iawn, fel ag yr oedd pan yr oeddwn yn aelod o'r pwyllgor a oedd yn trafod yr LCO. A ydych yn ystyried fod y Mesur arfaethedig yn gwella'r status quo?

Alun Davies: In reading your evidence, I thought that its tone was very positive and constructive, as it was when I was a member of the LCO committee. Do you consider that the proposed Measure improves the status quo?

[114] **Mr Jones:** Yr ydym wastad wedi cytuno â'r egwyddor o drosglwyddo pwerau dros yr iaith Gymraeg o San Steffan i fae Caerdydd. Yr ydym hefyd yn gefnogol iawn o hawliau pobl sy'n siarad Cymraeg i siarad Cymraeg yn y fan lle maent yn gweithio. Nid oes dadl am hynny. O ran a ydyw'r Mesur arfaethedig yn well na'r hyn sydd gennym yn awr, mae'n anodd iawn ateb hynny gan nad ydym wedi gweld y Mesur arfaethedig ar waith. Os mai nod y Mesur arfaethedig yw cynyddu'r defnydd o wasanaethau Cymraeg, mae'n anodd dweud os yw'n well gan nad ydym wedi gweld y Mesur arfaethedig yn cael ei weithredu. Bydd hefyd angen ystyried, os a phryd y caiff y Mesur arfaethedig ei gyflwyno, pa fath o wasanaethau fydd yn cael eu cynnig. A fyddant yn wasanaethau sydd yn gwneud gwir wahaniaeth ac yn gwella'r ddarpariaeth o wasanaethau Cymraeg i gwsmeriaid?

Mr Jones: We have always agreed with the principle of transferring powers over the Welsh language from Westminster to Cardiff bay. We are also very supportive of the rights of people who speak Welsh to do so in their workplace. There is no argument about that. On whether the proposed Measure is better than what we have currently, it is very difficult to answer that because we have not seen the proposed Measure in operation. If the objective of the proposed Measure is to increase the use of Welsh-language services, it is difficult to say if it is better as we have not seen the proposed Measure in operation. We will also need to consider, if and when the proposed Measure is introduced, what kinds of services will be offered. Will they be services that will make a real difference and improve the provision of Welsh-language services to customers?

[115] **Alun Davies:** Diolch am hynny. Fel fframwaith statudol, a ydych yn ystyried fod y Mesur arfaethedig yn gwella'r sefyllfa fel y mae? Yr ydym i gyd yn deall y bydd y safonau, os cânt eu cyflwyno, yn gweithredu'r gyfraith, fel yr ydych yn ei ddweud, ond a yw'r Mesur arfaethedig yn creu fframwaith gwell ar gyfer y Gymraeg na'r hyn sydd gennym ar hyn o bryd?

Alun Davies: Thank you for that. As a statutory framework, do you consider that the proposed Measure improves the situation as it stands? We all understand that the standards, if introduced, will implement the law, as you have said, but does the proposed Measure create a better framework for the Welsh language than that which we currently have?

[116] **Mr Jones:** Yr wyf o'r farn bod y

Mr Jones: I am of the opinion that the initial

cam cychwynnol, sef y dull gwirfoddol, yn ddull gwell o helpu pobl i ddewis gwasanaethau Cymraeg. Fodd bynnag, yr ydym wedi symud ymlaen o hynny gan fod gennym Fesur arfaethedig a fydd yn cael ei gyflwyno o fewn y misoedd nesaf. Felly, yn y bôn, yr ydym yn hapus gyda'r strwythur. O ran Nwy Prydain, bydd prawf y strwythur yn dod i'r amlwg pan fyddwn yn dod i drafod y mesurau penodol y bydd y comisiynydd yn gofyn inni eu cyflwyno.

[117] **Alun Davies:** Ie, sut y bydd yn cael ei weithredu sy'n bwysig—yr wyf yn cytuno â chi o ran hynny. Yr ydych yn bositif drwy gydol eich tystiolaeth nes y diwedd, lle yr ydych yn dweud:

[118] 'the scope of the proposed Measure does not represent the best solution to increasing the use of Welsh language services.'

[119] Yr oeddwn yn meddwl fod hynny'n eistedd ychydig yn anghyfforddus gyda gweddill eich tystiolaeth achos fel y dywedais ar y dechrau, yr oedd yn bositif ac yn adeiladol, ond wedyn, ar y diwedd, yn eich casgliadau, dywedwch, 'Ond nid ydym yn meddwl mai dyma'r ffordd orau o'i wneud'.

[120] **Mr Jones:** Yr ydym am fod yn bositif ac yn adeiladol lle y gallwn, ond nid wyf yn ymwybodol o dystiolaeth y bydd Mesur yn gwneud i bobl ddefnyddio gwasanaethau Cymraeg yn fwy nag y maent yn eu gwneud awr. Dyna pam yr awgrymais efallai y byddai'n well ceisio creu galw am wasanaethau yn y lle cyntaf ac wedyn cael cwmnïau, yn wirfoddol, i ddarparu'r gwasanaethau i ddiwallu'r cynnydd hwnnw yn y galw, ond nid dyna'r sefyllfa yr ydym yn ei hwynebu. Dim ond o ran hynny y gwneuthum y pwynt ynglŷn â ffordd wirfoddol o weithredu gwasanaethau Cymraeg. Yn y pen draw, nid ydym yn gwybod yn union pa wasanaethau y bydd yn rhaid inni eu darparu. Cawn weld, ond daw hynny yn nes ymlaen pan gaiff y comisiynydd ei benodi—cawn y drafodaeth honno bryd hynny.

[121] **Alun Davies:** Diolch am hynny. Mae fy nghwestiwn olaf am statws swyddogol. Yr ydych wedi trafod eich pryder ynghylch rhannau o'r ddeddfwriaeth hon, ac yr wyf yn

stage, namely the voluntary method, is a better way of helping people to choose Welsh-language services. However, we have moved on from there as we have a proposed Measure that will be introduced in the next few months. So, essentially, we are happy with the structure. In terms of British Gas, the test of the structure will come to the fore when we discuss the specific measures that the commissioner will ask us to introduce.

Alun Davies: Yes, the important thing will be how it is implemented—I agree with you on that. You are positive throughout your evidence until the end, where you say:

I thought that that sat rather uncomfortably with the rest of your evidence because as I said at the beginning, it was positive and constructive, but then, at the end, in your conclusions, you say, 'But we do not think that this is the best way of doing it'.

Mr Jones: We want to be positive and constructive where we can be, but I am not aware of any evidence that a Measure would make people use Welsh-language services more than they do now. That is why I suggested that it would perhaps be better to try to create demand for services in the first place and then to have companies, voluntarily, provide the services to meet that increased demand, but that is not the situation that we face. It was in that regard only that I made the point about operating Welsh-language services voluntarily. In the end, we do not know exactly what services we will have to provide. We shall see, but that will come later when the commissioner is appointed—we will have that discussion at that time.

Alun Davies: Thank you for that. My final question is about official status. You have discussed your concerns about parts of this legislation, and I accept that. What is your

derbyn hynny. Beth yw'ch barn am statws swyddogol ac a fyddai hynny'n effeithio o gwbl ar eich gwaith?

[122] **Mr Jones:** Yn symbolaidd, nid wyf yn siŵr beth y byddai statws swyddogol yn ei olygu. O ddydd i ddydd, byddai'n golygu y bydd gan gwsmeriaid yr hawl i ddefnyddio gwasanaethau Cymraeg a mynediad ehangach i wasanaethau Cymraeg, a byddai ganddynt hawliau i ddefnyddio'r Gymraeg yn y gweithle o ddydd i ddydd. Yn ymarferol, dyna y byddai'n ei olygu.

[123] **Rhodri Morgan:** Wrth ichi fynd i'ch seddau, ac wrth i'r ddau dyst o'r WCVA adael, cefais drafodaeth fach gellweirus am y 'Jones y gas' arall hwnnw, sef Mervyn Jones, yn ôl yn yr hen ddyddiau, ryw hanner canrif yn ôl, adeg yr oedd Nwy Prydain yn ddiwydiant gwladoledig. Gadewch imi gael y pictiwr yn fy meddwl am y newidiadau sydd wedi digwydd yn y chwarter canrif diwethaf. Yr ydych yn cyfeirio yn eich tystiolaeth ysgrifenedig at y ffaith bod canolfan fawr—nid yw'n enfawr bellach, ond mae'n fawr—ar Sgwâr Callaghan yng Nghaerdydd yn gwerthu nwy a thrydan, ac efallai hyd yn oed yswiriant ceir a gwasanaethau eraill. Fodd bynnag, yn y pictiwr sydd yn fy meddwl, yr ydych yn cyflawni gwasanaethau diogelwch yn achos nwy yn gollwng, ac mae gennych hawl i dorri'r stryd i foderneiddio'r pibellau ac ati. A allwch roi pictiwr o ba wasanaethau neu agweddau ar yr hyn y mae Nwy Prydain yn ei wneud yn awr ar ôl chwarter canrif yn y sector preifat y credwch y byddai'r Mesur arfaethedig yn effeithio arno fwyaf?

[124] **Mr Jones:** Ar hyn o bryd, gwasanaeth gwirfoddol sydd gennym, a hynny'n ymwneud â'r cyflenwad o nwy ac ynni.

[125] **Rhodri Morgan:** Sef y biliau a phethau felly.

[126] **Mr Jones:** Ie. Busnes cyflenwi ynni i gartrefi. Nid yw'r cytundeb gwirfoddol sydd gennym ar hyn o bryd yn ymestyn hyd at ein busnes gwasanaethu a'r peirianwyr. Mae edrych ar ôl y rhwydwaith o bibellau yn waith y Grid Cenedlaethol. Yn sgîl datganoli a phreifateiddio, nid yw Nwy Prydain yn ymwneud â'r gwaith hwnnw. Mae hynny'n

opinion of official status and would that have an impact on your work?

Mr Jones: Symbolically, I am not sure what official status would mean. Day to day, it would mean that customers have the right to use Welsh-language services and greater access to services in Welsh, and they would have rights to use the language every day in the workplace. Practically, that is what it would mean.

Rhodri Morgan: When you were taking your seats, and as the two witnesses from WCVA were leaving, I had a light-hearted little discussion about that other 'Jones the gas', namely Mervyn Jones, back in the old days, some half a century ago, when British Gas was a nationalised industry. Let me get the picture in my mind about the changes that have occurred in the last quarter century. You refer in your written evidence to the fact that there is a large centre—it is no longer massive, but it is large—on Callaghan Square in Cardiff selling gas and electricity, and possibly even car insurance and other services. However, in the picture that I have in my mind, you supply safety services in the case of gas leaks, and you have the right to take the road up to modernise pipelines and so on. Can you give me a picture of which services or aspects of what British Gas now does after a quarter century in the private sector you think that the proposed Measure would affect most?

Mr Jones: Currently, we have a voluntary service, and that is to do with the supply of gas and energy.

Rhodri Morgan: Namely billing and the like.

Mr Jones: Yes. The domestic energy supply business. The voluntary agreement that we currently have does not extend to our service business and the engineers. Taking care of the network of pipelines is the National Grid's work. Following devolution and privatisation, British Gas does not deal with that work. That is something separate.

rhywbeth ar wahân. Felly, byddai effaith fwyaf y Mesur arfaethedig, yn fy marn i, ar ein busnes preswyl.

Therefore, the biggest impact of the proposed Measure, in my opinion, would be on our domestic business.

9.50 a.m.

[127] **Rhodri Morgan:** Hynny yw, yr ydych yn gwerthu nwy ac yr ydych hefyd yn gwerthu ynni yn fwy cyffredinol, drwy werthu trydan—

Rhodri Morgan: That is, you sell gas and you also sell energy more generally, by selling electricity—

[128] **Mr Jones:** Yr ydym yn gwerthu nwy a thrydan i—

Mr Jones: We sell gas and electricity to—

[129] **Rhodri Morgan:** Ai dim ond nwy a thrydan yr ydych yn eu gwerthu?

Rhodri Morgan: Is it only gas and electricity that you sell?

[130] **Mr Jones:** Ie.

Mr Jones: Yes.

[131] **Rhodri Morgan:** Yr ydych yn eu gwerthu drwy'r ganolfan fawr yn Sgwâr Callaghan yng Nghaerdydd. A oes ffyrdd eraill o werthu trydan a danfon biliau ac yn y blaen? Yr wyf yn ceisio cael y pictiwr yn fy meddwl.

Rhodri Morgan: You sell that via the large centre in Callaghan Square in Cardiff. Are there other ways of selling electricity and sending out bills and so on? I am just trying to get the picture in my mind.

[132] **Mr Jones:** Dim ond un canolfan ymhlith eraill yw'r ganolfan yn Sgwâr Callaghan; mae canolfannau eraill ledled y Deyrnas Unedig. Mae'n bwysig gwneud y pwynt—er bod pawb yn gwybod hyn, mae'n siŵr—fod y ganolfan yng Nghaerdydd yn gwasanaethu cwsmeriaid ledled y Deyrnas Unedig, ac nid cwsmeriaid yng Nghymru yn unig.

Mr Jones: The centre in Callaghan Square is only one centre among others; there are other centres throughout the United Kingdom. It is important to make the point—although I am sure that everyone is aware of this—that the centre in Cardiff serves customers throughout the United Kingdom, and not just customers in Wales.

[133] **Rhodri Morgan:** Felly, ble fydd yr effaith fwyaf? Yr ydych yn cymeradwyo'r modd cydweithredol a gwirfoddol, oherwydd eich bod yn y sector preifat, cystadleuol ac nad ydych yn ddiwydiant gwladoleddig bellach. Yr ydych wedi elwa o'r ffaith eich bod, dros y degawd diwethaf, wedi gweithredu yn y modd gwirfoddol. Yn eich tystiolaeth yr ydych hefyd yn cymeradwyo Bwrdd yr Iaith Gymraeg o ran y modd y mae wedi gweithio gyda chi. Fodd bynnag, byddech yn fodlon gweithio mewn modd statudol os mai hynny fydd effaith y Mesur arfaethedig yn y diwedd, os yw'n cael ei basio. Dyna yr ydych yn ei ddweud yn eich tystiolaeth, os wyf wedi ei deall yn gywir.

Rhodri Morgan: Therefore, where would the greatest impact be? You commend the co-operative and voluntary approach, because you are in the private, competitive sector and are no longer a nationalised industry. You have benefited from the fact that, over the past decade, you have taken that voluntary approach. In your evidence you also commend the Welsh Language Board on the way in which it has worked with you. However, you would be happy to work on a statutory basis if that is the effect of the proposed Measure in the end, if it is passed. That is what you say in your evidence, if I have understood it correctly.

[134] **Mr Jones:** Ie. Cytunaf â hynny.

Mr Jones: Yes, I agree with that.

[135] **Rhodri Morgan:** O ran y gwaith o hyrwyddo'r iaith Gymraeg, yn eich tystiolaeth yr ydych yn dweud mai nid mater i'r comisiynydd y dylai hynny fod, ond mater i Lywodraeth y Cynulliad. Felly, byddai hollt rhwng y swyddogaethau rheoleiddio a hyrwyddo. Yr ydych yn dweud y dylai'r swyddogaeth reoleiddio fod gan y comisiynydd a'r swyddogaeth hyrwyddo gan y Llywodraeth. Dyna yr ydych yn ei argymhell.

[136] **Mr Jones:** Ie. Efallai fod angen ailadrodd ac egluro ar hynny. Yr hyn yr oedd Nwy Prydain yn ei ragweld oedd pwerau Bwrdd yr Iaith Gymraeg o ran hyrwyddo defnydd yr iaith Gymraeg yn trosglwyddo i'r comisiynydd. Felly, pan oeddwn yn sôn am ddyletswydd Llywodraeth y Cynulliad i hyrwyddo'r iaith, yr hyn yr oeddwn yn ei olygu oedd y byddai'n gwneud hynny drwy apwyntio'r comisiynydd. Efallai nad yw hynny'n glir yn y dystiolaeth, felly, ymddiheuraf am hynny.

[137] **Rhodri Morgan:** Mae gennyf bwynt arall am y ganolfan fawr yn Sgwâr Callaghan. A ydych yn dweud bod biliau cwsmeriaid Nwy Prydain ar gyfer nwy a thrydan yng Nghymru yn dod o Sgwâr Callaghan, ynteu a ydynt yn dod o un o'r hanner dwsin o'r canolfannau eraill sydd gan British Gas/Centrica mewn dinasoedd eraill ym Mhrydain, fel Manceinion ac ati?

[138] **Mr Jones:** Mae'r biliau yn cael eu cynhyrchu rhywle yng nghanolbarth Lloegr—nid wyf yn cofio ble yn union.

[139] **Rhodri Morgan:** Felly, a yw'n gywir i ddweud o ran yr hanner dwsin neu fwy o ganolfannau sy'n debyg i'r un yn Sgwâr Callaghan bod rhai'n arbenigo mewn biliau, ac eraill mewn gwerthu, ac yn y blaen?

[140] **Mr Jones:** Ydy.

[141] **Rhodri Morgan:** Beth yw swyddogaeth y ganolfan yn Sgwâr Callaghan yn awr? Pa mor aml y mae'r swyddogaethau hyn yn newid, o ystyried yr hyn sydd wedi digwydd dros y degawd diwethaf?

[142] **Mr Jones:** Nid ydynt yn newid yn

Rhodri Morgan: On the work of promoting the Welsh language, in your evidence you say that that should not be a matter for the commissioner but for the Assembly Government. Therefore, there would be a split between the regulatory and promotional functions. You are saying that the regulatory function should lie with the commissioner and the promotional function with the Government. That is what you recommend.

Mr Jones: Yes. Perhaps there is a need to reiterate and clarify that. British Gas anticipates that the Welsh Language Board's powers in relation to promoting the Welsh language would transfer to the commissioner. Therefore, in referring to the Assembly Government's duty to promote the language, what I meant was that it would do that by appointing the commissioner. Perhaps that is not clear in the evidence, therefore I apologise for that.

Rhodri Morgan: I have one further point about the large centre in Callaghan Square. Are you saying that British Gas customers' gas and electricity bills in Wales come from Callaghan Square, or do they come from one of the half a dozen centres that British Gas/Centrica has in other cities in Britain, such as Manchester and so on?

Mr Jones: The bills are generated somewhere in the midlands—I cannot remember where exactly.

Rhodri Morgan: Therefore, is it correct to say that of the half a dozen or more of the centres that are similar to Callaghan Square some specialise in billing, and others in sales and so on?

Mr Jones: Yes.

Rhodri Morgan: What is the current function of the centre in Callaghan Square? How often do the functions change, bearing in mind what has happened over the past decade?

Mr Jones: They do not change quickly.

gyflym. Mae strwythur busnes Nwy Prydain wedi newid dros y degawd diwethaf; mae'n canolbwyntio ar adrannau gwahanol o'r farchnad ac yn ceisio tyfu rhannau gwahanol o'r busnes. Yn y bôn, busnes penodol y ganolfan yn Sgwâr Callaghan yw gwerthu nwy a thrydan a delio â galwadau cwsmeriaid sydd â chwestiynau am eu biliau neu am effeithlonrwydd ynni a phethau felly.

[143] **Gareth Jones:** Hoffwn droi at fater y safonau a sut yr ydych wedi ymateb yn eich tystiolaeth i'r safonau yn gyffredinol. Yr wyf yn derbyn bod penbleth cyn belled ag y mae'r safonau yn y cwestiwn, a rhywfaint o aneglurder hefyd, fel y clywsom gan dystion eraill. Yr ydych, fwy neu lai, yn cyfeirio at yr elfen wirfoddol, ac, o ran safonau, yr ydych yn datgan yn eithaf clir mai dull gwirfoddol o ddarparu gwasanaethau yw'r ffordd orau o gynyddu darpariaeth gwasanaethau Cymraeg. Sut y byddech yn ymateb i'r tystion a ddywedodd y byddai dull gwirfoddol yn annigonol, ac mai dim ond drwy orfodaeth y gellid gwireddu'r cynnydd hwnnw mewn safonau y cyfeiriasoch ato?

[144] **Mr Jones:** Mae'n ddigon gwir dweud, o ran ein cynllun gwirfoddol, ein bod wedi gweld galw sy'n weddol fflat dros y degawd diwethaf. Nid yw nifer y cwsmeriaid sy'n defnyddio'r gwasanaeth wedi cynyddu. Wedi dweud hynny, nid oes gennym dystiolaeth—gan nad yw'r Mesur arfaethedig mewn bodolaeth eto, siŵr o fod—y bydd y Mesur arfaethedig yn gwneud i gwsmeriaid ddefnyddio'r gwasanaethau sydd ar gael. Felly, ein pwynt ni—er na chafodd ei brofi—yw ei fod yn well, efallai, cael sefyllfa lle ceir cynnydd yn y galw am y gwasanaeth yn y man cyntaf, a bod cwmnïau, yn sgîl hynny, yn darparu gwasanaethau yn wirfoddol i ymateb i'r galw hwnnw. Efallai fod hwnnw yn bwynt nad yw wedi'i wireddu, ond dyna oedd ein gobaith. Yr ydym, wrth gwrs, mewn sefyllfa wahanol yn awr. Fy ateb, yn y bôn, yw nad oes tystiolaeth i ddweud y bydd y Mesur arfaethedig yn cael unrhyw effaith ar y defnydd o wasanaethau Cymraeg. Wrth gwrs, o ystyried ar ba lefel y caiff gwasanaethau eu darparu, wrth edrych ar draws y diwydiant—yr ydym yn sôn am y diwydiant ynni yn y fan hon—yr effaith fyddai lleihau ansawdd y gwasanaethau sydd ar gael yn hytrach na

British Gas's business structure has changed over the past decade; it focuses on different sectors of the market and is trying to grow different parts of the business. Essentially, the specific role of the centre in Callaghan Square is to sell gas and electricity and to deal with calls from customers who have questions about their bills or energy efficiency and so on.

Gareth Jones: I would like to turn to the issue of the standards and how you have responded in your evidence to the standards in general. I accept that there is some confusion as far as the standards are concerned, and some lack of clarity as well, as we heard from other witnesses. You refer, more or less, to the voluntary element, and, in terms of standards, you state quite clearly that a voluntary approach to service delivery is the best way to increase the provision of Welsh-language services. How would you respond to the witnesses who have said that the voluntary approach would be inadequate, and that only through compulsion would it be possible to achieve the increase in standards that you mentioned?

Mr Jones: It is quite true to say that, in terms of our voluntary scheme, we have seen a fairly flat demand over the past decade. The number of customers using the service has not increased. Having said that, we have no evidence to prove—as the proposed Measure is not yet in operation, I suppose—that the proposed Measure will make customers use the services on offer. So, our point—although it was not proven—is that it is, perhaps, better to have a situation where there is an increase in demand for the service in the first place, and that companies provide services voluntarily in response to that demand. That may be an unrealised issue, but that was our hope. We are, of course, in a different situation now. My answer, basically, is that there is no evidence to say that the proposed Measure will impact in any way on the use of Welsh-language services. Of course, considering the level at which services are provided, looking across the industry—we are talking about the energy industry here—the effect would be to reduce the quality of the services available rather than to improve them.

gwella'r ansawdd.

[145] **Gareth Jones:** A gaf i ddilyn y trywydd hwnnw? Mae hwn yn gwestiwn braidd yn hir—maddeuwch imi—ond ceisiaf ei gyflwyno gorau y medraf. Yn eich tystiolaeth ysgrifenedig, yr ydych yn datgan y byddai cynyddu'r defnydd o wasanaethau Cymraeg yn gwella safon y gwasanaethau hynny ac yn amlygu manau o wahaniaeth cystadleuol rhwng gwahanol gwmnïau, ac y gallai cynyddu'r defnydd a'r ddarpariaeth ar y sail hon arwain at well buddiannau i ddefnyddwyr na cheisio cyflawni hynny drwy'r safonau arfaethedig. A yw hynny'n awgrymu bod y defnydd o wasanaethau Cymraeg yn is nag y gallai fod ar hyn o bryd, neu yn is nag y dylai fod? Sut y gellir cynyddu'r defnydd o wasanaethau Cymraeg?

[146] **Mr Jones:** Nid oes angen ymddiheuro am y cwestiwn—fi ysgrifennodd y darn hwnnw, felly fy mai i yw hynny. [*Chwerthin.*]

[147] Y pwynt yw na allwn ddweud bod y defnydd a wneir o wasanaethau yn is nag y dylai fod, gan na allwn orfodi cwsmeriaid i ymddwyn mewn ffordd benodol. Pe bai Nwy Prydain yn gwybod sut i wneud i gwsmeriaid ymddwyn, byddai'n gwneud yn dda iawn, ond nid ydych yn gallu gwneud hynny drwy'r amser. Mater i gwsmeriaid yw penderfynu pa elfennau o wasanaeth sy'n bwysig iddynt—efallai bod yr iaith yn un o'r elfennau hynny; efallai ddim. Nid yw Nwy Prydain yn gwybod beth yw'r potensial i wasanaethau Cymraeg gael eu defnyddio gan gwsmeriaid. Nid ydym yn gwybod faint o gwsmeriaid a fyddai'n gallu eu defnyddio, gan nad ydym wedi gwneud unrhyw ymchwil i hynny. Y cwbl y gallwn ei wneud ar hyn o bryd yw dyfalu am y rhesymau pam nad yw cwsmeriaid yn defnyddio'r gwasanaethau sydd eisoes ar gael. Efallai bod hyder o ran defnyddio'r iaith yw un rheswm, a bod lefel sgiliau iaith o fewn teuluoedd yn rheswm arall.

10.00 a.m.

[148] Y pwynt yw na allwch honni bod y defnydd o'r gwasanaethau yn llai nag y dylai fod. Mater i gwsmeriaid yw penderfynu pa wasanaethau y maent am eu defnyddio.

Gareth Jones: May I follow that up? This question is rather long—forgive me—but I will try to present it as best I can. In your written evidence, you state that increasing the use of Welsh-language services will improve the quality of those services and highlight the competitive points of difference between different companies, and say that increasing the use and provision on this basis could lead to better benefits for users than trying to achieve that through the proposed standards. Does that suggest that the current use of Welsh-language services is lower than it could be, or lower than it should be? How can the use of Welsh-language services be increased?

Mr Jones: There is no need to apologise for the question—I wrote that section, so it is my fault. [*Laughter.*]

The point is that we cannot say that the use of services is lower than it should be, because we can not force customers to behave in a certain way. If British Gas knew how to make customers behave, it would do very well, but you cannot do that all the time. It is for customers to decide what elements of a service are important to them—the language may or may not be one of those. British Gas does not know what the potential is for Welsh-language services to be used by customers. We do not know how many customers would be able to use them, as we have not done any research into that. All that we can do at present is to speculate about the reasons why customers are not using the services already on offer. Confidence in using the language may be one reason, and the level of language skills within households could be another reason.

The point is that you cannot claim that the use of services is lower than it should be. It is a matter for the customer to decide which services they access.

[149] **Gareth Jones:** Yr wyf yn derbyn yr ateb hwnnw, ond un agwedd ar y dystiolaeth a roddwyd inni, sydd yn bwysig hyd y gwelaf i, yw bod llawer o ddigalonni. Mae rhai yn awyddus i ddefnyddio'r Gymraeg ac yn dewis ddarparwr ar sail hynny ond yn cael eu siomi, hyd yn oed gan eich cwmni chi. Weithiau, ceir sefyllfa lle nad oes unrhyw un ar gael. Y tueddiad wedyn yw anghofio'r Gymraeg a throi at y Saesneg. Heblaw bod mwy o elfen bositif i sicrhau ymateb yn y Gymraeg, mae'r holl beth yn colli. Dyna paham y mae pethau yn mynd yn fflat yn hytrach na'u bod yn cynyddu. Dywedwyd hynny wrthym fel tystiolaeth. Yr wyf yn dyfynnu hynny. A deimlwch fod rhywfaint o wirionedd yn hynny? A allwch chi ddweud bod Nwy Prydain yn darparu popeth yn y Gymraeg, ac nad oes rheswm i unrhyw un ddigalonni oherwydd pan drônt atoch yn y Gymraeg, mae'r gwasanaeth yno ar eu cyfer, a dylid cael hyder yn hynny o beth? A gredwch fod y gwasanaeth a gyflwynir gennych yn gryf yn hynny o beth?

[150] **Mr Jones:** Credwn; yn y bôn. Os yw cwsmer yn cael ei gyflenwi ar hyn o bryd gan gyflenwr nad ydyw'n darparu unrhyw wasanaeth Cymraeg ac yn dymuno troi at gyflenwr sydd yn darparu gwasanaeth Cymraeg, mae gan Nwy Prydain ddarpariaeth Gymraeg ar eu cyfer. O ran y rheswm paham na fyddai cwsmer yn troi at gyflenwr arall, mae llawer o resymau ac efallai mai'r iaith Gymraeg yw un ohonynt. Mae'n siŵr bod llawer o gwsmeriaid yn meddwl bob dydd y dylent wneud rhywbeth ynglŷn â'u cyflenwr ynni, cyflenwr gwasanaeth ffôn symudol ac ati, ond ni wnânt unrhyw beth yn ei gylch. Felly, yn y bôn, yr ydym yn falch iawn o'r gwasanaethau yr ydym yn eu cynnig. Yn anffodus, dros y ddegawd ddiwethaf nid ydym wedi gweld cynnydd yn eu defnydd.

[151] **Gareth Jones:** Yr wyf yn sicr yn cydnabod eich bod yn cyflwyno'r gwasanaethau hynny, ond a gydymdeimlwch rywfaint â'r pwynt a wnaed gan eraill bod siomedigaeth weithiau? Pe bai newid, Mesur, elfen bositif ddeddfwriaethol neu beth bynnag, a gredwch y byddai'n haws i bobl sicrhau a deall bod gwasanaeth Cymraeg ar gael, a bod yr hyder hwnnw yn elfen bwysig?

Gareth Jones: I accept that response, but one thing that has arisen in the evidence given to us, which is important as far as I can see, is a sense of disappointment. Some people are eager to use the Welsh language and choose a provider because of that, but may be disappointed, even by your own company. Sometimes, no-one is available. The tendency then is not to bother with the Welsh and turn to English. Unless there is a more positive approach in ensuring that there is a Welsh-language response available, the whole thing deteriorates. That is why things are flatlining rather than increasing. That has been presented to us as evidence. I was merely quoting. Do you think that there is some truth in that? Can you say that British Gas does provide all services through the medium of Welsh, and that there is no reason for anyone to lose heart because when they ask for a Welsh-language service, it is there for them and they should have confidence in that regard? Do you think that the service that you provide is robust in that sense?

Mr Jones: Yes; essentially. If a customer is currently supplied by a supplier that has no Welsh-language provision and wants to turn to a supplier that does provide those services in Welsh, British Gas has those Welsh-language services in place for them. As to the reasons why a customer would not turn to another supplier, there are a number of reasons and perhaps the Welsh language is one of them. A number of customers probably think on a daily basis that they should do something about their energy supplier, mobile phone company and so forth, but they do not do anything about it. Therefore, essentially, we are very proud of the services that we offer. Unfortunately, over the past decade, we have not seen a rise in the uptake.

Gareth Jones: I certainly recognise that you are providing those services, but do you have some sympathy with the point made by others that people are sometimes disappointed? Were there to be a change, Measure, positive legislative statement or whatever, would it be easier for people to ensure and understand that a Welsh-language service was available to them and that that confidence is an important element?

[152] **Mr Jones:** Mae'n deg dweud bod meddylfryd sydd yn dweud, os nad oes gwasanaethau Cymraeg ar gael, efallai y dylid rhoi gorfodaeth i ddarparu'r gwasanaethau hynny. Dyna'r unig ffordd. Derbyniat y ddadl honno. Fy mhwynt i yw nad oes tystiolaeth i ddangos, os gwnewch y Mesur, bod cwsmeriaid yn defnyddio'r gwasanaethau sydd ar gael.

Mr Jones: It is fair to say that there is a state of mind that says that if there are no Welsh-language services available perhaps there should be compulsion to provide those services. That is the only way. I accept that argument. My point is that there is no evidence to show that, if you pass a Measure, customers will use the services that are available.

[153] **Lorraine Barrett:** I am just probing a little further on the standards framework. Perhaps you could say some more with regard to your comment that the standards framework will not necessarily lead to clarity and consistency for customers. Can you also tell us whether you think that the standards framework will be an improvement on the current system of language schemes in providing services in Welsh?

[154] **Mr Jones:** As far as clarity and consistency are concerned, rightly or wrongly there is an implication that service providers—energy companies in this case—would provide the same service, but clearly that will not be the case. In a competitive market, service and product differentiation is assumed between service providers, which is beneficial to customers. They have a choice between the products or services that they select. Within the proposed framework, there is a possibility that service differentiation in terms of the services that companies must provide become a point of contention between suppliers, to the detriment of customers.

[155] With regard to the standards framework being an improvement on the current system, I have made the point several times that we were in favour of the voluntary approach, which will no longer be an option. We have not yet seen the standards framework in operation, so it is hard to comment on whether or not it will be an improvement. You could say that an increased access to services within the proposed framework, through compulsion, would be a crude measure of success, but the point is at what level those services will be provided. Would it just be saying that we have someone who can answer a call in Welsh? You could argue that that is a step in the right direction, but would that service be of a reasonable quality or would it be piecemeal? So, it remains to be seen whether or not the proposed framework will be an improvement on what we currently have.

[156] **Lorraine Barrett:** In your written evidence, you reiterate the need for formal consultation on any standards that you will be required to deliver. Are you content with the provision in section 46 of the proposed Measure that will require the commissioner to consult with affected parties before issuing compliance notices?

[157] **Mr Jones:** Yes, we are happy with that.

[158] **Brynle Williams:** Yr wyf am barhau **Brynle Williams:** I will continue on the ar y safonau. Dywedwch yn eich tystiolaeth: standards. You state in your evidence:

[159] 'It will be difficult for the proposed Measure to marry the principles of a level playing field and tests of proportionality and reasonableness.'

[160] Can you explain this comment and give examples of what may be unreasonable and disproportionate provisions in your view?

[161] **Mr Jones:** Efallai bod cael *level playing field* yn awgrymu bod pawb yn **Mr Jones:** Having a level playing field may suggest that everyone provides the same kind

darparu'r un math o wasanaeth. Yn ein tyb ni, mae posibilrwydd y byddai cwmnïau sy'n eithaf tebyg mewn sawl ffordd yn gorfod cynnig darpariaeth fwy costus na chwmnïau eraill ac efallai byddant yn edrych ar gwmnïau eraill yn yr un maes ac yn dweud, 'Rhaid i ni wneud hyn, ond mae'n rhaid iddynt hwy wneud rhywbeth arall'. Gallai hynny arwain at gwmnïau yn ailystyried eu darpariaeth. Gyda'r cynlluniau gwirfoddol presennol, mae llai o bosibilrwydd y gall hynny ddigwydd. O fewn cyfundrefn gyfreithiol, mae mwy o bosibilrwydd y bydd cwmnïau yn pryderu ynglŷn â'r orfodaeth sydd arnynt hwy a'u cystadleuwyr. O ran y pethau anghymesur, y prif beth y byddwn yn ei ystyried byddai'r gost o ddarparu'r gwasanaeth yn erbyn y niferoedd sy'n ei ddefnyddio.

of service. In our view, there is a possibility that companies that are quite similar in most ways would be required to make a more expensive provision than other companies and they might look at those other companies in the same field and say, 'We have to do this, but they have to do something else'. That could lead to a position where companies reconsider their current provision. With the current voluntary approach, there is less of a possibility that that will happen. Within a legal framework, there is more of a possibility that companies would be concerned about what compulsion exists for them and their competitors. With regard to the disproportionate things, the main thing that I would consider would be the cost of providing that service against the numbers of people actually using it.

[162] **Brynle Williams:** Felly, yr ydych yn dweud mai'r peth pwysig yw cael cae gwastad drwy'r diwydiant.

Brynle Williams: So, you are saying that the important thing is to have a level playing field across the industry.

[163] **Mr Jones:** Ydwyf. Derbyniaf nad ydyw cae gwastad yn golygu cae gwastad yn llythrennol. Mae pwysau yn dibynnu ar beth yw amodau'r cwmnïoedd. Fy mhwynt yw'r ffaith y bydd y gyfundrefn hon yn ei gwneud yn fwy tebygol y bydd y cwmnïau a oedd yn eithaf tebyg ond sy'n gorfod darparu gwasanaethau eithaf gwahanol o ran cost yn ailedrych ar eu darpariaeth ac efallai yn herio'r hyn y bydd yn rhaid iddynt ei ddarparu.

Mr Jones: Yes. I accept that a level playing field does not mean a literal level playing field. Pressures will come to bear, depending on the circumstances of the companies. My point is that this system would make it more likely that companies that were quite similar, but which have to provide services that are quite different in terms of cost, would review their provision and possibly challenge what they will be required to provide.

10.10 a.m.

[164] **Brynle Williams:** Are you satisfied with the right to challenge a compliance notice as currently contained in the proposed Measure?

[165] **Mr Jones:** Yes, we are. I would just issue a caveat on that by saying that under section 53, Part 2, we would want to know what the application process would comprise and whether we would be permitted to make any representations in person.

[166] **Brynle Williams:** Finally from me, what are your views about the enforcement regime and the penalties that could be imposed on an organisation? Do you feel that the proposed Measure contains adequate 'checks and balances' in respect of the 'reasonable and proportionate' test and the appeals process?

[167] **Mr Jones:** In our view, the proposed Measure's wording on the enforcement regime and penalties is adequate. Although, it is unfortunate to think that we are using terminology such as 'enforcement regime' and 'penalties' in respect of the provision of Welsh-language services.

[168] **Gareth Jones:** Trof at Ran 6, sef y rhyddid i ddefnyddio'r iaith Gymraeg. Yn eich tystiolaeth, yr ydych yn datgan yn glir eich bod yn cefnogi'r egwyddor y dylai pobl gael y rhyddid i ddefnyddio'r Gymraeg gyda'i gilydd, ond yr hoffech wybod a fyddai hynny'n arwain at unrhyw oblygiadau i chi. Nid yw'r ateb i'r cwestiwn hwnnw gennyf, ond a allwch rannu gyda ni pa effaith yr ydych yn dyfalu neu'n rhagweld y gallai hwn gael ar eich cwmni pe byddai'n cael ei amlygu a'i ymgorffori yn y Mesur arfaethedig?

Gareth Jones: I turn to Part 6, namely the freedom to use the Welsh language. In your evidence, you state clearly that you support the principle that people should have the freedom to use the language with each other, but you would like to know whether that would lead to any particular obligations on you. I do not have the answer to that question, but would you share with us the effect that you imagine or anticipate that that could have on your company if it were highlighted and incorporated in the proposed Measure?

[169] **Mr Jones:** I ailadrodd, yr ydym yn cefnogi'r egwyddor yn gyfan gwbl. Y pwynt oedd ein bod am wybod a fyddai goblygiad arnom ni o ran ffurfioli hynny ac nid oes neb yn gwybod dim am hynny ar hyn o bryd. Buaswn yn tybio, o ran unigolion, y bydd yn bosibl iddynt fynd â chwyn at y comisiynydd, os oeddent yn teimlo nad oedd ganddynt yr hawl i fynegi eu hunain drwy gyfrwng y Gymraeg yn eu gweithle. Mae'r llwybr hwnnw ar gael ar hyn o bryd drwy Fwrdd yr Iaith Gymraeg, fel yr wyf yn ei ddeall.

Mr Jones: To reiterate, we completely support the principle. The point was that we would like to know whether there will be an obligation on us in terms of formalising that and no-one knows anything about that at present. I suppose, in terms of the individual, that it would be possible for them to take a complaint to the commissioner, if they felt that they did not have the right to express themselves through the medium of Welsh in their workplace. That route is currently available through the Welsh Language Board, as I understand it.

[170] **Gareth Jones:** Os yw'n help i chi, yr ydym wedi derbyn tystiolaeth am ddefnydd yr iaith Gymraeg ar sail diogelwch. Er enghraifft, yr oedd Trenau Arriva Cymru yn rhoi tystiolaeth yr wythnos ddiwethaf a dywedodd y dylid defnyddio'r Saesneg yn hytrach na'r Gymraeg ar sail diogelwch. A ydych yn rhagweld y bydd sefyllfaoedd cyffelyb yn eich gwasanaeth chi?

Gareth Jones: If it helps you, we have received evidence about the use of the Welsh language on the basis of safety. For example, Arriva Trains Wales gave evidence last week and said that English must be used instead of Welsh on the basis of safety. Do you foresee similar situations in your service?

[171] **Mr Jones:** Ar hyn o bryd, byddwn yn dweud, 'Nac ydwyf'.

Mr Jones: At the moment, I would say, 'No, I do not'.

[172] **Michael German:** I would like to probe a little about the cost that might fall on British Gas as a result of the implications of this proposed Measure. I understand, from what you say, that it is difficult to make an assessment of what it might cost you without you having seen the standards that might be imposed on you. However, could I just check this against what you just said about a level playing field? If you have similar companies operating in the energy sector in Wales and they are all given the same standards—in other words, they are uniformly applied—would that alter the level playing field in any significant way and, if so, how would that alter it?

[173] **Mr Jones:** The quick answer is that we do not know what the obligations will be. We do not know whether or not they will be about having one person who can speak Welsh or whether or not they would insist on brand-wide compliance that incorporated signage, marketing, livery, online presence, billing and so on. The broad point is that there is a possibility, depending on the obligations in force, that there would be a cost implication for

all suppliers that may result in costs being spread across the entire customer base and, therefore, passed down to customers. However, we do not yet know what the obligations will be, so we do not know what the cost would be.

[174] **Michael German:** In a way, I am asking you to speak on behalf of your competitors. If you are in such a strong position with what you already do on the Welsh language, if the standard was applied uniformly across all suppliers, and if you are ahead of the field, the cost would fall disproportionately on you. Really, the question that I am asking is: if you applied a uniform standard to you and your competitors in Wales, would you expect that cost to be disproportionate for some of those suppliers?

[175] **Mr Jones:** At the moment, in the voluntary environment, we absorb the costs in order to supply customers. Even if we were to have the situation that you describe, speaking for us, the cost will always be disproportionate in relation to the numbers who use the service. That would be the case even if everyone who could access the service accessed it, because we are still talking about relatively small volumes. If you are talking purely about the cost to serve, the cost would still be disproportionate. If you impose something whereby every supplier will have to supply the same thing, speaking from British Gas's point of view, the cost would be an add-on that would have to be spread across the whole customer base.

[176] **Michael German:** However, it would be an add-on for all companies. It would not disproportionately affect you or any other supplier, would it? That is the question that I am asking. I will come back to the competitiveness element in a moment. If you are looking at competitiveness between you all as a range of companies and you all have the same obligations placed upon you, if there were extra costs, those would fall uniformly on the customer bases, but would they fall disproportionately on one company rather than another?

[177] **Mr Jones:** I have to say that I do not know.

[178] **Michael German:** You have seen the regulatory impact assessment from the Government, and you have seen its estimate of its costs. The explanatory notes states:

[179] 'As a rule the costs are estimated as £200k a year.'

[180] It states that that is based on the cost of installing translation equipment in council chambers, which seems to be a strange way of assessing costs. Do you think that there is any basis in fact for that figure being what it might cost you? Is £200,000 a year roughly what you are putting aside for this? Is that what it might cost you? Is that what it might cost large organisations?

[181] **Mr Jones:** Are you talking about the regulatory impact assessment?

[182] **Michael German:** Yes.

[183] **Mr Jones:** Sorry, could you repeat the question?

[184] **Michael German:** The regulatory impact assessment that the Government has produced states that, as a rule, the costs of a Welsh language scheme for large organisations are in the region of £200,000 a year. You are a large organisation, so I am really asking you whether that roughly equates with what it costs you a year.

[185] **Mr Jones:** I do not have that information, so I will have to respond to the committee later if that would be all right.

[186] **Michael German:** That would be very helpful.

[187] **Alun Davies:** Perhaps you could provide a written note after the meeting. That would be very useful.

[188] **Michael German:** The context of this question relates to the fact that you would like a way of judging whether things are proportionate in cost terms for British Gas by using the costs to serve per customer as a test of reasonableness. Can you tell us how you would work such a test? Does the cost to serve per customer relate to the service you provide, assuming that people do not pick it up in a uniform way, but as they want it, or is it the actual cost? How would you conduct such an exercise?

10.20 a.m.

[189] **Mr Jones:** As I have said, we absorb higher costs to serve for customers who use our Welsh-language services already, and we envisage that we would submit cost-to-serve data confidentially as part of the consultation process in respect of the standards of service that we were expected to provide. In doing that, we would need to be mindful of other rules and regulations; I am talking about the Office of Fair Trading and the Competition Commission and what we are permitted to provide. I cannot provide a definitive level that would determine whether or not a service was cost-effective. British Gas has a commitment to be cost-reflective in our charging to all customers and so I reiterate that there is a possibility that additional costs imposed by standards could be passed on to customers.

[190] **Michael German:** You have already told us that you provide a large range of Welsh-language services and that you would like more people to make use of those services. If there were greater use of the services that you currently provide, would you pass on the additional cost of having to provide a greater volume of those services to the customer?

[191] **Mr Jones:** It is more likely that increased provision of services based on an increased use of service, proportionally, would represent a less onerous cost implication.

[192] **Michael German:** However, if more people took up the service that you currently provide, would you pass on those additional costs, in other words, the costs of the quantum as opposed to the costs of the range of different services? So, if the take-up of the services that you currently provide increased, would you have to pass those costs on to your customer?

[193] **Mr Jones:** That is not a situation that I envisage at the moment. I have already said that we would welcome an increase in demand for the services that we offer at the moment, because the cost to serve those customers is higher.

[194] **Michael German:** I am trying to be clear about what you are saying: you want increased demand for your current services, but would you or would you not pass on the costs of that increased demand to your customers?

[195] **Mr Jones:** At the moment, no. We would not pass on the costs resulting from a moderate increase in demand for our services to customers.

[196] **Michael German:** What is 'moderate'?

[197] **Mr Jones:** I cannot give you a precise figure.

[198] **Michael German:** One of the issues that we are struggling with is what represents a level playing field. Who is on the field that you represent? Obviously, it will be suppliers of mains gas and electricity. We were concerned about the liquid petroleum gas sector, which made representations to us that it does not provide a service that competes with you, namely

that people would not choose to have LPG if they could get gas or electricity from British Gas and that its real competitors are solid fuel and oil suppliers. Do you agree with that? When you look at your competitive market, would you include LPG providers?

[199] **Mr Jones:** We do not consider LPG providers as competitors of ours. They provide a service that we do not.

[200] **Rhodri Morgan:** Is that on mains or off mains?

[201] **Mr Jones:** It is off mains.

[202] **Michael German:** I do not expect that there are many on-mains customers who could get the services supplied by British Gas that would choose LPG.

[203] **Mr Jones:** I would not have thought so.

[204] **Alun Davies:** Diolch am eich atebion a'ch parodrwydd i drafod y materion hyn gyda ni'r bore yma, Mr Jones. Fel y gwyddoch, darperir trawsgrifiad wedi'r sesiwn hwn. Bydd y pwyllgor yn cael egwyl o ryw 10 munud yn awr cyn y sesiwn nesaf, ac, yn ystod yr egwyl, hoffwn gael gair gyda'r Aelodau.

Alun Davies: Thank you for your answers and your willingness to discuss these issues with us this morning, Mr Jones. As you know, a transcript will be provided after the session. The committee will now take a break of some 10 minutes before the next session, and, during that break, I want to have a word with Members.

*Gohiriwyd y cyfarfod rhwng 10.24 a.m. a 10.40 a.m.
The meeting adjourned between 10.24 a.m. and 10.40 a.m.*

[205] **Alun Davies:** Galwaf y cyfarfod i drefn ar gyfer trydedd sesiwn dystiolaeth y bore yma. Croesawaf Non Rhys a David Rosser i'r cyfarfod. Diolch i chi am eich tystiolaeth ysgrifenedig. Mr Rosser, yr ydym wedi cylchredeg tystiolaeth ysgrifenedig y CBI ar gyfer y broses flaenorol, sef y Gorchymyn cymhwysedd deddfwriaethol. Mae pobl wedi cael cyfle i ddarllen honno—ei hailddarllen yn fy achos i. A oes gennych sylwadau agoriadol i'w gwneud cyn inni symud i ein cwestiynau?

Alun Davies: I call the meeting to order for the third evidence session this morning. I welcome Non Rhys and David Rosser to the meeting. Thank you for your written evidence. Mr Rosser, we have circulated the CBI's written evidence for the previous process for the legislative competency Order. People have had an opportunity to read that—to re-read it in my case. Do you have any remarks to make before we move on to our questions?

[206] **Mr Rosser:** Thank you, Chair. I apologise that we did not provide written evidence for this committee. The past few weeks and months have been rather busy, what with Assembly legislation on carrier bag charges, planning reviews, and the waste Measure, and I am afraid that we did not have the resources to provide that. However, our views on Welsh language legislation are consistent with what we said at the LCO stage.

[207] We find it disappointing that we are now going to move to a mandatory legislative approach for Welsh-language services in the private sector. However, given that that is where we are, we think that the proposed Measure is, as it stands, and as far as it relates to private sector provision of services, a pretty sensible document, and one that I think most companies will be able to work with. The big caveat is to do with the level of standards that will be required of services to be provided by private sector companies. Frustratingly, we still have no visibility of the likely level of services. It is nigh on impossible to give meaningful comment on costs and acceptability until we have some clarity on that.

[208] **Alun Davies:** Thank you for that. I have to say that I agree with that point. Given where we are today, we understand your position, which you have made clear in your evidence. I also thank the FSB for its evidence. You edged towards answering this question, Mr Rosser, in your initial remarks, but do you see the proposal to create a new statutory framework for Welsh-language services as an improvement on where we are at present?

[209] **Mr Rosser:** No, I do not think so. I think that the voluntary approach to service provision in the sectors that will be covered by the proposed legislation has been making progress. I am not aware of any evidence from elsewhere to suggest that the provisions of this proposed Measure will increase the take-up and usage of Welsh-language services by the people of Wales, which I and most of our members would regard as the ultimate measure of success. It will shift the focus of those companies that are covered by the legislation to compliance and costs rather than to the promotion and enhancement of service that the voluntary approach has engendered so far.

[210] **Ms Rhys:** With regard to small businesses, we are not clear as to how they would be affected, and which businesses will be included. Our understanding is that it is not meant to affect small businesses. However, we would like clarification on that. We feel that the change from voluntary schemes, which small businesses can take up now, to a set of standards, may put businesses off from being proactive and adopting Welsh, and the complexity may also be difficult for a small business to navigate around with regard to the proposed Measure.

[211] **Alun Davies:** What sort of clarification are you talking about?

[212] **Ms Rhys:** Clarification with regard to which small businesses will be included and how they will be affected. As there will be an individual commissioner, the proposed Measure could be open to interpretation, depending on that individual, considering that the businesses included in the standards can be classified with regard to size, sector, turnover—it is pretty open at the moment. For example, the Assembly Government has strategies for the take-up of anaerobic digesters nationally, and a lot of smaller businesses and farms are looking to produce their own energy. Energy distribution and supply are included in the proposed Measure, so would it cover these small businesses and discourage farms from taking up strategies that the Assembly Government is promoting at a national level?

[213] **Alun Davies:** How, then, would you like to see this proposed Measure improved in order to provide the clarity that you request?

[214] **Ms Rhys:** One of the main issues for us is clarity with regard to the distinction between the promotion side and the governance element or the regulatory role. With regard to the regulatory role, we do not feel that small businesses should be affected, but the promotion role really should include small businesses. With regard to encouraging and supporting small businesses to take up bilingualism, the majority of FSB members conduct their trade within close proximity of the business—60 per cent of annual sales are with customers in the local area—so that will be governed by customer demand, and 59 per cent of our members say that that is the one thing that would encourage them to take up Welsh, while 28 per cent are already able to deal with their customers and staff in Welsh. We really want the regulatory role to be separate from the promotion role so that small businesses are helped, encouraged and supported to take up Welsh.

[215] **Alun Davies:** Mr Rosser, in your opening remarks you said that you were unhappy about the statutory approach and preferred the voluntary approach. That is also what you said in earlier hearings on the LCO. Your website says that you are pleased to note that several of your demands have been incorporated into the proposed Measure. I remember your evidence to the LCO committee, and you were very concerned at the time about the £200,000

threshold, which has now been raised to £400,000. There were a number of other issues that you raised with us. Do you therefore believe that this proposed Measure is a better piece of legislation than you felt that it would be at that time?

[216] **Mr Rosser:** We were very pleased that the scope of the sectors covered by the legislation has been narrowed from what was being suggested by some members of the Government previously, and, indeed, by many campaign groups. We think that that is an improvement. We are very pleased to see the provision for reasonableness and proportionality written into the proposed Measure—we think that that is an important safeguard. We were very pleased to see that there is no legislative provision around an absolute right to speak Welsh in the workplace. We felt that that was a matter of common sense between employers and employees, and that seems to be the approach that is written into the proposed Measure. That is what we meant when we put the story on our website. Those are some of the key factors that we were looking for, and we were pleased that the proposed Measure reflects them. That was reflected in my opening remarks that, if one must adopt a legislative and compulsory approach, then this is a broadly sensible way of doing it.

10.50 a.m.

[217] **Alun Davies:** My final remark in this section is on the philosophical point of view that we discussed about compulsion and the voluntary approach. We understand where we are now, but are there any specific improvements that you would like to see to this proposed Measure that would enable other people whom you represent to implement it more easily?

[218] **Mr Rosser:** The glaring omission in the proposed Measure is an absence of any understanding of what Welsh language standards will be and the work of fiction that is the regulatory impact assessment. It is hard to do a decent regulatory impact assessment unless you have some notion of what the ambitions are for standards. You have a hard job as a committee in scrutinising this legislation in the absence of that information.

[219] **Alun Davies:** The Constitutional Affairs Committee has made that point and will be making that point to the Minister.

[220] **Rhodri Morgan:** We are full of sympathy for this pig-in-a-poke problem that you face about not seeing the standards, and the other committee that is looking at this has asked for some examples of what standards might look like. I presume that everyone would be happier if we had some sort of draft or dummy standards for people to chew on and see. That is roughly what you are both saying, is it?

[221] **Mr Rosser:** Yes. I have been asking various members of the Assembly Government now for 18 months to two years what a good level of Welsh-language provision looks like, and there has been no answer.

[222] **Rhodri Morgan:** On the broader philosophical issue of facilitating use of the Welsh language or forcing people to use the Welsh language, do you want to make any further comments about the mood music created by the proposed legislation? Should it be seen as ‘facilitating’ the use of the Welsh language or ‘forcing’ people to use it when it is not practical to use it?

[223] **Mr Rosser:** This is not about using the language; this is just about service provision—‘forcing’ companies to use it maybe. I am not sure that mood music is relevant. As soon as it is in law, it is in law and companies will have to comply.

[224] **Ms Rhys:** For us, as we have said in the written evidence, the important part for small businesses is the untapped potential for using Welsh in business and putting the

evidence forward clearly to businesses with regard to what the advantages are, so that they know where they should be investing and how that will benefit their customers and their business. This is the part that the Welsh Language Board currently does and that the *mentrau iaith* should be doing, especially with small businesses at a local level. It needs to be looked at, because we do not feel that this covers what exactly that role will be as clearly as the regulatory part, which hopefully will not affect that many small businesses.

[225] **Rhodri Morgan:** That was my next question. Are you both reasonably clear as to what is exempt or not? Whereas the private sector is in, as you said, David, in your opening remarks, it is only in insofar as, as I understand it, regulated ex-monopoly or ex-nationalised industries, or businesses that are in receipt of regular, substantial £400,000 dollops of public money. Do you think that that enables your membership to be clear as to whether they are exempt or not?

[226] **Ms Rhys:** We are not clear what small businesses will be exempt, especially with regard to the distribution and supply of energy. Also, post offices, bus services and recreational activities are mentioned; what exactly does that involve? We would like further discussion and clarity on that. That is where the ‘reasonable and proportionate’ clause will come into play for small businesses, but we would like an example of what exactly that will mean in reality.

[227] **Mr Rosser:** There is a reasonable degree of clarity. I speak to larger businesses than Non, by and large, and to big energy companies and they know that they are going to be covered by this, as does BT and its large competitors in the telecommunications sector. There is a degree of debate around the broader definition of what telecommunications are nowadays, and, frankly, it is changing more frequently than I can cope with.

[228] **Rhodri Morgan:** It changes depending on what day you ask.

[229] **Mike German:** Like Rhodri’s Facebook page.

[230] **Rhodri Morgan:** Would either of you like to make any observations about what information, or anecdotal information, you have from other countries where there is a multilingual situation—whether in similar areas, such as the Basque Country, or in dissimilar areas, such as Quebec, Belgium or Switzerland—as to the impact of the law and language rights on facilitating customers’ ability to access business services in the quasi-ex-public sector? How does that work, or not work, in Quebec, Belgium, Switzerland, Catalunya and so on? Do you have any thoughts on that?

[231] **Ms Rhys:** We have asked for fresh evidence from within Wales, looking at Welsh businesses, because, anecdotally, tourism businesses have been told that it can help to create a sense that visitors are in a unique country with a unique cultural heritage, so businesses are translating menus and other literature. However, we cannot see that there is any firm evidence or that there has been any research. We would welcome that, because businesses would like information about what works and what they can do on a practical level.

[232] **Rhodri Morgan:** Do you think that Indian restaurants in Cardiff should be marketing ‘half and half’ as ‘*hanner a hanner*’? I should say ‘alf and ‘alf’ in a Cardiff accent. Are there any thoughts on Catalunya, Quebec, Belgium, Switzerland and so on from CBI international contacts?

[233] **Mr Rosser:** I have very little information on that. Through contacts, we have had some people call up energy and mobile phone companies in Spain about their level of provision in Catalan or Basque. It does not seem terribly substantial, but I have only a very small amount of anecdotal evidence. There is an opportunity here—it should not be too

difficult—to undertake a desk exercise, or make some phone calls, to find out what companies do in those minority-language areas of Spain, what the usage of those services is, and whether legislation has made a big difference to take-up. I hope that someone will do that.

[234] **Rhodri Morgan:** We hope so, too. I have a general impression, which is based on nothing more than that, that in Quebec, Belgium, the historic nations or regions of Spain—I do not know about Switzerland—legislation has been used to oblige parts of the private sector that offer services to put up advertisements on the end wall of terraced houses and so on in the appropriate language, but I do not know that for sure.

[235] **Mr Rosser:** We need to be careful what our comparators are. The last time that I visited Quebec, French seemed to be the first language.

[236] **Rhodri Morgan:** I do not think that there is any obligation to offer services in English in Quebec.

[237] **Alun Davies:** Do you have any further questions, Rhodri? I see that you do not.

[238] **Brynle Williams:** Good morning. Let us now move on to standards. How easy is it to understand the standards that will apply to private sector organisations, and your members in particular?

[239] **Mr Rosser:** It is completely impossible from this proposed Measure.

[240] **Ms Rhys:** With regard to small businesses, we hope that they will not be caught in the net of standards, but if they are, I would imagine that it would be impossible for small businesses to understand, at the moment, and it would be a disproportionate burden for them to seek that legal counsel and advice and to deal with any appeals that resulted. As for what can be done voluntarily, we are not clear that that is covered in the proposed Measure either.

11.00 a.m.

[241] **Brynle Williams:** Do you think that the proposed standards framework will be an improvement on the current system of language schemes in providing services in Welsh?

[242] **Mr Rosser:** Gosh. You need to think about what the measure of success would be. If it is to persuade companies that currently provide little or no Welsh-language services to do something, then the standards would be an improvement. Whether they improve the overall level of Welsh-language provision to the people of Wales is a completely different issue; we have no idea until we see the standards. I think that you will see a levelling of services within a sector. From the energy sector, you have just heard from British Gas; I think that British Gas provides a good level of Welsh-language services, while some of its competitors provide next to nothing. If the level of standards is pitched somewhere in the middle, there will be a lot of pressure on the likes of British Gas to level down as time goes on. That is a real risk. It would certainly be resisted by the people who run British Gas in Wales, but it is a very real risk nonetheless.

[243] I strongly believe that the voluntary approach—that is, having the likes of the Welsh Language Board work with companies in Wales, to help them to do more and in a way that companies find easy to cope with to market those services to their customers—is likely, in the long run, to achieve a better level of provision.

[244] **Ms Rhys:** If the standards were seen as being too onerous and burdensome, they could discourage small businesses. Currently, there are voluntary schemes that they can sign

up to, in which what they do is acknowledged and recognised. Standards may be something that they would not feel able to implement, so they may not bother doing anything.

[245] **Mr Rosser:** While I hold to the statement that I have just made, in the long run, schemes are likely to give an overall better level of service provision. Once you have moved to a legislative situation, you have to have standards, because you cannot then operate schemes that are different for different companies. You would have to have standards.

[246] **Michael German:** I will come back to the issue of the level playing field in a moment, if I may. Before that, I will ask a question of the FSB. I listened to your response to Rhodri's question on the range of businesses that might be brought into the scope of the proposed Measure. You were not specific about where you think the legislation ought to be tightened, but I would like to ask you about a section that relates to shops. Do you think that the way in which this legislation is laid out is sufficiently robust to say that 'These services will be affected' and 'No other services provided by shops will be affected'?

[247] **Ms Rhys:** We do not find that clear, which is why we are asking for clarification. The typical small shop will react to its customers and the language that is used naturally in the area anyway. The chances are that, if the demand is there, the shop will have reacted to it as part of the community. If you are looking for one element in that small shop to be bilingual, support will be needed to implement that practically.

[248] **Michael German:** I have to ask you this: would you, therefore, say that shops that provide post office counter services or sell public transport tickets and offer timetables should have those services excluded? They are currently included, and they are virtually the main inclusion for shops.

[249] **Ms Rhys:** It is the practical implementation, namely the reality of shops' ability to do it, that we have questioned, unless the support is robust enough to allow them to react to that. Obviously, there is nothing in the proposed Measure about how exactly that would be implemented.

[250] **Michael German:** We are back to the standards issue. I want to ask two sets of questions of both of you about the reasonableness and proportionality test. Could both of you give me some examples of what might be unreasonable and disproportionate, so that we can get a sense of what that balance would be? I will come to my question about a level playing field after that.

[251] **Ms Rhys:** We have been discussing the supply and distribution of energy. A small company in that market cannot be expected to make the same provisions as a large gas or energy supplier. It is just not realistic.

[252] **Michael German:** So, you are saying that the size of a business should affect the nature of the standard applied to it.

[253] **Ms Rhys:** It comes down to the ability of that company to provide the service, rather than its intention. It is the practical implementation that we question. In a competitive market, how can a small business provide the same standards as a large company, which would have the resources to do that?

[254] **Michael German:** David, presumably you would say the opposite of that.

[255] **Mr Rosser:** I think that the prime test of what is reasonable and proportionate should be the cost of providing services against the take-up and usage of those services. One can quickly move from tens of thousands of pounds to millions of pounds if one is taking a strict

interpretation of treating the languages on a basis of equality. If you duplicate a fully functioning website, or if you ensure that you have a fully manned call centre with Welsh-language capacity on tap 24/7, costs will rise exponentially. That should be the prime test of reasonableness and proportionality. I would hope that there would be a very sensible dialogue between the commissioner and companies about that. It might have been helpful to state in the proposed Measure that those are the tests. Is there an issue of a company's size? I suspect that there is, actually.

[256] **Ms Rhys:** In our written evidence, we included the typical turnover of a small business in Wales for that reason—to put in realistic terms what it would actually mean for a small business. A typical Welsh business has a turnover of £458,000, and that is how you should be looking at the proportionality of the effects of implementing the proposed Measure.

[257] **Michael German:** You may have heard my question to British Gas earlier, which was this: if you have companies that provide very similar services to the public—and we talked about the gas industry, but it could have been any other industry with a range of companies—would it be sensible or appropriate to set a uniform standard that would apply across companies to ensure that level playing field? I wanted to pick up on the point that David made about it being very difficult to have a level playing field across companies. I am just testing that thesis.

[258] **Mr Rosser:** I think that it is critical. I would be surprised if there were not legal challenges if you were to apply different standards to companies competing with each other in the same market. I do not know how you could possibly conceive of getting away with that. Taking the energy sector as an example, where you have about half a dozen big energy suppliers, you must apply the same standards to those companies. If one or two of them choose, voluntarily, to exceed those standards to differentiate their service offering, because they think that their customers value it, that is fine. However, the level playing field must be at the regulatory level. As Non highlighted, energy is one of those areas where there are some interesting innovative small companies coming into the market, perhaps in green energy. There is a threshold somewhere.

[259] **Michael German:** That comes back to the question of whether size matters.

[260] **Mr Rosser:** I guess that it does, practically speaking. It would be ideologically pure to say that a small green energy company is competing with British Gas and so it should have the same standards applied to it. Practically, we have to accept that there must be a difference, and so the standards would apply when a company gets to a certain size. That is why schemes do not work once you have legislation. You have to have standards, and they have to be consistent across companies that are competing with one another. The Assembly would be open to huge challenges if it did not do that.

11.10 a.m.

[261] **Ms Rhys:** Within the energy sector, small businesses are almost a sector by themselves. Even if you have the same standards, there will not be a level playing field as compared with a larger business. So, perhaps small businesses, in this sense, are a sector in themselves.

[262] **Michael German:** Finally, I want to ask about section 46 and the protection that you get from the requirement for the commissioner to consult before he or she can apply a standard. Is that a sufficient safeguard and a comfort to you both?

[263] **Mr Rosser:** It is hard to specify the quality of consultation in a legal document such as this. You can specify the steps that have to be taken, but the quality of consultation comes

down to the spirit in which it is undertaken. It is very hard to write that down, so, broadly, yes, we are happy with it as it is written.

[264] **Ms Rhys:** As far as we can see, it would be open to the individual in the role of commissioner to interpret and consult as he or she thought appropriate, and, given how he or she is to be appointed, it could vary. There may be a feeling that there is no consistency in how they are applied, and businesses might not know what applies. On the commissioner consulting with a small business, it is a question of whether the small business has the ability to get all the advice and information required to consult in a proper manner. It might be at a disadvantage when dealing with the commissioner, who would have legal counsel.

[265] **Lorraine Barrett:** I will roll a few of my questions into one because they lead on quite nicely from one to another. Some witnesses have said that a voluntary and demand-led approach is not sufficient to improve Welsh-language services in the private sector, and they feel that that can be achieved only through compliance. So, a comment on that would be useful. Are you satisfied with the right contained in the proposed Measure to challenge a compliance notice? Do you have a view on the £5,000 penalty for non-compliance?

[266] **Mr Rosser:** The answer to the question of whether the voluntary approach is sufficient depends on your aim and ultimate goal. If you want every supplier of a service to provide Welsh-language services, you will probably end up legislating. In the absence of strong customer demand, you will end up legislating. However, if the provision of Welsh-language services in the private sector was static and had not shifted for the past 20 years, I would give more credence to that view. My strong impression is that we are making progress with the voluntary approach and we will continue to do so, but we are where we are now.

[267] We are broadly happy with the right to challenge compliance notices. It might be helpful to set out that reasonableness and proportionality will be the prime grounds for challenge, as I imagine they will be, and it might be helpful to set out what we mean by reasonable and proportionate. My take on it—and you heard the same from British Gas earlier—is that it is around cost and take-up. It might be helpful to have that clearly specified.

[268] Your final question was on penalties. I share British Gas's dismay that we are in this territory, but we are. I think that it is fine. I am personally convinced that companies will wish to comply with the legislation and the standards that are set out, irrespective of whether the fine is £5,000, £50,000 or £500,000. Companies will want to comply with this.

[269] **Ms Rhys:** As for whether it is sufficient at present, we feel that more could be done to encourage small businesses to offer Welsh-language provision, even if it is just bilingual signs, and grants and support for that visual aspect. More could be done to encourage them by giving them a firm evidence base of which elements it would be important to provide and how they could go about doing that. For example, practical support for the translation of documents of a particular size has been useful for small businesses. Little things such as being able to translate the literature, a letter or business cards can make a big difference to small businesses, because translation can mean a hefty bill for a small business for providing that service.

[270] Again, on the ability to appeal and challenge, I would say that the same is true for small businesses. It may not be as easy, financially or practically, for a small business to go through that process as it would be for a business with more resources. For a microbusiness with an average turnover in Wales, £5,000 would be quite a large sum.

[271] **Lorraine Barrett:** Non, you have referred a couple of times to your members being able to assess what a difference providing Welsh-language services would make to their throughput and profits. Do they do their own work? You have talked about some small

businesses in a predominantly Welsh-speaking community knowing the sort of service that they need to provide, but, generally speaking, are your members able to do that sort of research? They may not be in a predominantly Welsh-speaking community, but there could still be an untapped demand that they did not know about. Are they able to undertake that research to find out how many of their customers would keep coming back if there was more of a Welsh-language service?

[272] **Ms Rhys:** That is not something that an average business—

[273] **Lorraine Barrett:** As an organisation, would you be able to help with that, or is it beyond your resources?

[274] **Ms Rhys:** That is not the kind of support that we give to members, but it is one of the practical support measures that we would like to see taken by whatever is in place of the Welsh Language Board to undertake the promotional role. We would like to see it give that practical advice and support to small businesses.

[275] **Gareth Jones:** Yr wyf am gyfeirio at Ran 6, sy'n ymwneud â'r rhyddid i ddefnyddio'r Gymraeg. Mae'r cwestiwn hwn yn benodol i Mr Rosser ar ran y cydffederasiwn. Yr ydych yn datgan ar eich gwefan

Gareth Jones: I want to refer to Part 6, which relates to the freedom to use Welsh. This question is specifically for Mr Rosser on behalf of the confederation. You state on your website that

[276] nad oes unrhyw ddeddfwriaeth o ran yr hawl i siarad Cymraeg yn y gweithle wedi cael ei hymgorffori yn y Mesur arfaethedig.

'no legislation regarding rights to speak Welsh in the workplace has been incorporated'.

[277] A ydych yn credu bod angen Rhan 6 o'r Mesur arfaethedig, sy'n ymdrin â rhyddid dau berson i siarad Cymraeg â'i gilydd? Hefyd, beth yw eich dealltwriaeth chi o'r modd y mae'r rhyddid hwn yn berthnasol yn y gweithle, ac a yw'n wahanol i'r hawliau y cyfeirir atynt ar eich gwefan?

Do you think that Part 6 of the proposed Measure, which deals with the freedom to speak Welsh, is necessary? In addition, what is your understanding of how this freedom applies in the workplace, and is it different from the rights that are mentioned on your website?

[278] **Mr Rosser:** I must find out who wrote that on the website. [*Laughter.*] Part 6 is a large sledgehammer to nearly crack a small nut. I am not aware of any evidence that interference with the ability of people to speak Welsh in the workplace is a major issue. We have the example at Thomas Cook, but the fact that we are still talking about that five or six years on and that nothing else has cropped up in the meantime to replace it tells us all what we need to know, to be frank. The Thomas Cook example was dealt with. It was a clumsy application by a local branch manager that was dealt with reasonably swiftly and sensibly by the company at head office level.

11.20 a.m.

[279] It took a huge amount of damage to its brand in the press, and we are still talking about it now. So why on earth would companies want to put themselves through that in the future? Yet, there are situations involving workforces where not everyone speaks Welsh, where you need to have the right to insist that people have to converse in English. I just think that that is common sense. My reading of Part 6 is that it does not confer an absolute right on individuals to use Welsh in the workplace. However, clearly it gives the commissioner the power to investigate and to issue a critical report. Frankly, the media will do that, generally; if it is a very large company, the media will jump on that and do it for the commissioner. So, I

do not really see that Part 6 serves any useful purpose.

[280] **Gareth Jones:** So it is not needed, in your view.

[281] **Mr Rosser:** I do not think that it serves any useful purpose.

[282] **Gareth Jones:** That is the question.

[283] Mae'r ddau gwestiwn nesaf yn ymwneud â chyllid, ac maent i'r ddau ohonoch. Yn gyntaf, yn eich tystiolaeth ysgrifenedig yr ydych yn cyfeirio at dystiolaeth anecdotaidd y gall defnyddio'r Gymraeg roi hwb i fusnesau. A allwch ymhelaethu ar hynny gan nodi pa dystiolaeth sydd gennych o fanteision defnyddio'r Gymraeg mewn busnes?

The next two questions are to do with finance, and are directed to both of you. First of all, in your written evidence you refer to anecdotal evidence that using Welsh can boost businesses. Could you expand on that and indicate what evidence you have of the benefits of using Welsh in business?

[284] **Ms Rhys:** Fel y dywedais yn gynharach, twristiaeth yw un o'r prif bethau sydd wedi cael ei hybu dros y blynyddoedd drwy'r mentrau iaith o ran defnydd yr iaith mewn busnes. Fodd bynnag, hyd y gwelaf, nid oes ymchwil diweddar y gallwn ei roi ger bron busnesau i ddangos yr hyn sy'n gweithio mewn busnes, nid yn unig o ran twristiaeth ond o ran busnes yn gyffredinol ac anghenion cwsmeriaid. Mae'n wahanol mewn gwahanol ardaloedd, wrth gwrs; yr ydym yn siarad am farchnadoedd lleol, a byddai'r perchennog yn rhan o'r gymuned leol a byddai'r staff—llai na 10 aelod o staff sydd mewn busnes arferol yng Nghymru—o'r ardal honno hefyd. Ni fyddai'n rywbeth byddent yn meddwl amdano; byddai'r iaith yn cael ei defnyddio'n naturiol a byddai'r busnes yn ymateb yn naturiol mewn ffordd sy'n addas i'r ardal.

Ms Rhys: As I said earlier, tourism is one of the main things that has been boosted over the years through the *mentrau iaith* in terms of the use of the language in business. However, as far as I can see, there is no recent research that we can put before businesses to show what works in business, not only as far as tourism is concerned but in relation to business in general and the needs of customers. It is different in different areas, of course; we are talking about local markets, and the business owner would be part of the local community and the staff—on average, a business in Wales has fewer than 10 members of staff—would also come from that area. It would not be something that they would think about; the language would be used naturally and the business would respond naturally in a way that is appropriate for the area.

[285] **Mr Rosser:** When I talk to companies that already provide Welsh-language services voluntarily, whether they are in sectors that will be covered by the proposed Measure or not, and ask them why they do it and how they benefit from it, it is generally because they want to be seen to be identifying strongly with Wales, to be supporting the culture and values of Wales, and to be seen as Welsh and committed to Wales. I cannot recall any company that has been able to track the business return on the investment that it makes in that Welsh-language service. That is what I would mean when referring to anecdotal evidence that that can boost a business. It is almost impossible, in my experience of companies, to measure that. That is why we have taken the approach throughout of saying that companies should be allowed to do this on a voluntary basis in ways that they believe suit them and that their customers value, rather than there being a prescriptive approach, which is what we will get from legislation.

[286] **Gareth Jones:** Diolch yn fawr am hynny. Hwn yw'r cwestiwn olaf gennyf i. Yr ydych eisoes wedi cyfeirio at oblygiadau ariannol i'ch aelodau. A ydych yn fodlon bod

Gareth Jones: Thank you for that. This is my final question. You have already referred to the financial implications for your members. Are you satisfied that the

yr asesiad effaith rheoleiddiol yn gwneud asesiad realistig o oblygiadau ariannol y Mesur arfaethedig?

regulatory impact assessment is a realistic assessment of the financial implications of the proposed Measure?

[287] **Ms Rhys:** Byddem yn hoffi cael mwy o wybodaeth am hynny, ac, os edrychwyd ar fusnesau bach, hoffem wybod pa fath o fusnesau edrychwyd arnynt ac ym mha ffordd. Felly, nid oes gennyf y wybodaeth i roi barn ar hynny.

Ms Rhys: We would like to have further information on that, and, if small businesses were looked at, we would like to know what sorts of businesses were looked at and in what way. Therefore, I do not have the information to give an opinion on that.

[288] **Mr Rosser:** I think that it is simplistic in the extreme. It is, frankly, facile. I am on record in a few of these committees talking about the quality of regulatory impact assessments. This is just a finger-in-the-air job.

[289] **Rhodri Morgan:** Come off the fence, David. *[Laughter.]*

[290] **Mr Rosser:** You gave me the question, so I am going to have my say. *[Laughter.]*

[291] At the very least, someone could have gone in and spent some time working with some of the marketing or accountancy departments in the likes of BT and British Gas to get a better understanding of what it costs them. It does not give us any information about that. I have a little sympathy with whichever civil servant wrote it, because it is remarkably difficult to do in the absence of the standards. However, at the very least, someone could have gone out to look at what a company such as British Gas, with good-quality services, spends now. It might be commercially sensitive information, but, for goodness' sake, there has to have been a way to make a better attempt than this.

[292] **Gareth Jones:** That is a very clear answer. Thank you.

[293] **Alun Davies:** Diolch yn fawr am eich parodrydd i ateb ein cwestiynau, fel y byddem yn disgwyl gennych bob tro. Bydd trawsgrifiad o drafodion y pwyllgor yn cael ei anfon atoch cyn iddo gael ei gyhoeddi'n derfynol. Diolch am eich amser y bore yma.

Alun Davies: Thank you for your willingness to answer our questions, as we would expect of you. A transcript of today's proceedings will be made available to you before it is finally published. Thank you for your time this morning.

[294] Mae'r sesiwn olaf y bore yma i gymryd tystiolaeth ar Fesur arfaethedig y Gymraeg gan Llais Defnyddwyr Cymru. Croesawaf Liz Withers a Rebecca Thomas i'r cyfarfod. Diolch am eich amser y bore yma; yr ydym yn ei werthfawrogi'n fawr. Diolch hefyd am y dystiolaeth ysgrifenedig yr ydych wedi'i roi inni. Mae'r Aelodau wedi cael cyfle i ddarllen drwy'r dystiolaeth ac mae ganddynt cwestiynau sy'n seiliedig ar y dystiolaeth honno. Cyn inni symud at y cwestiynau, gofynnaf i chi wneud unrhyw sylwadau agoriadol.

The final session to gather evidence on the proposed Welsh language Measure this morning is from Consumer Focus Wales. I welcome Liz Withers and Rebecca Thomas to the meeting. Thank you for your time this morning; we greatly appreciate it. I also thank you for the written evidence that you submitted to us. Members have had an opportunity to read that evidence and they have questions based on that evidence. Before we move on to questions, I ask you to make any opening remarks.

[295] **Ms Withers:** We are pleased to have the opportunity to speak to you today. We were very considered in our comments to the committee. There are a number of areas where the proposed Measure needs to be looked at with regard to how it considers consumers, from the commissioner's role in developing standards for organisations to the responsibilities of

organisations, in developing new Welsh-language services, to consider what consumers need, want and will use. We look forward to discussing that with you today.

[296] **Alun Davies:** Thank you for those comments. This session differs in many ways from the previous session in the sense that, in the previous session, we were discussing with service providers in the private sector, whereas you represent more of a consumer point of view.

[297] Is the statutory framework contained within this proposed Measure an improvement on what we currently have with regard to the statutory framework for language policies?

[298] **Ms Thomas:** We think that it is an improvement for a number of reasons. First, on the point of clarity and consistency, we think that introducing standards will help consumers understand more what to expect and who to expect it from. We recently conducted a Welsh-language consumer survey; 72 per cent of the respondents agreed or strongly agreed that Welsh speakers are disadvantaged if they are unable to express themselves in the language in which they feel the most comfortable. So, extending the provision will help to alleviate that. We noted in some of the evidence that you have taken that it has been acknowledged that the current way of working does not allow a clear redress system for consumers and that it is not always clear what services there are, what level of services there are and, more importantly, what service users can expect.

[299] Secondly, extending service provision into new areas will help those areas that did not rate so highly in providing a Welsh-language service in our surveys by providing greater choice to consumers and then, in turn, helping to improve customer services in those areas. We think that engaging with the public is integral to providing good customer service, and we think that the proposed Measure could be strengthened and more safeguards put in to ensure that that happens. We have gone through that in specific areas, as Liz mentioned, in our written evidence. So, extending service provision and providing greater clarity about who you can expect the service from are the two main benefits of the proposed Measure for consumers.

11.30 a.m.

[300] **Alun Davies:** On those four points that you make in the final section of your written evidence, what amendments would you like to see to this legislation to give life, if you like, to the aspirations that you have outlined?

[301] **Ms Thomas:** I will not go through every specific area, because it is written down, but in general—

[302] **Alun Davies:** What are the key areas and the key amendments that you would like to see?

[303] **Ms Thomas:** We note that the proposed Measure often mentions engaging with key stakeholders, but it is not stated explicitly that there should be engagement with the public in a lot of areas: first, in the design of services through the standards and then later—and I know that this will come out later in the process—in the delivery of services. So, we would like to see a duty to consult with the public made explicit in the proposed Measure in order to bring that into the new culture of the commissioner's office and to safeguard it so that public opinion is part of the process from the start.

[304] We have also mentioned monitoring and evaluation. We have asked people about what services they use and why, and it would be beneficial for the commissioner to do this in developing and designing the services simply because people will use services over which they feel more of a sense of ownership. They will also feel more of a responsibility to use

those services if they have played a part in the design of them. It is about asking people what they want. We feel that provision has not been made in the proposed Measure to ask people what they want.

[305] **Ms Withers:** In addition, there are a number of areas in relation to monitoring and evaluation where we have made suggestions as to where amendments could be made. Specifically, we know that the commissioner has a responsibility to produce an annual and a five-year report and that within those reports the commissioner will be looking at census data on the number of Welsh-language speakers. Our research has started to provide a benchmark on the type of services that people are using at the moment in the private sector and how people rate those services. We think that it is vital that the commissioner should undertake regular research into service use, particularly in the new areas, so that we can monitor how effective the provisions of the proposed Measure are and, in particular, how effective the service delivery standards are in relation to the increase in the use of services that have not been legislated for previously. So that is the first point on monitoring and evaluation.

[306] We would also like to see some clarity on the record-keeping standards for organisations in Schedules 7 and 8. At present, it is not clear whether all organisations in those Schedules will have a responsibility to undertake record keeping as well as service delivery. In our discussions with civil servants, they were not able to clarify that for us. For all organisations in Schedules 7 and 8, we feel that it is vital that a record-keeping standard is placed on them, because unless you are monitoring and evaluating complaints data, and also how often people use your service, you cannot assess how effective it is and how it might need to be adapted.

[307] In addition, we feel that there is a role for the commissioner in evaluating individual complaints procedures of organisations that are subject to the proposed Measure and we would like the commissioner to look at how he or she can support companies to ensure that they have the right mechanisms to record and evaluate other comments and feedback beyond complaints alone.

[308] **Michael German:** Many witnesses have said that this proposed Measure does not make a clear statement at the beginning that Welsh is an official language of Wales. Do you think that it should make such a statement and, if so, what benefit would that have for consumers?

[309] **Ms Thomas:** We do not have a firm line on whether or not 'official language' should be the terminology used, but whatever is decided should be communicated. The consumers feel that providing Welsh-language services is important to keep the language alive and they feel at a disadvantage if they are unable to express themselves in the language of their choice. People are also more likely to buy again from businesses that provide them with services in Welsh. So there is a demand for the extension of Welsh-language provision. Extending the provision through the proposed Measure is a positive thing for consumers, especially in respect of providing more services. In the public sector, although 73 per cent said that Welsh speakers were more likely to buy again, only 10 per cent feel that provision is meeting their needs. Rather than concentrating on the semantics of what constitutes official status, we are looking to ensure that people are aware of what is available so that they know what to expect.

[310] You should also note that people's expectations are realistic, so if the notion of official status is not confirmed, people want to see an incremental approach to things so that services are slowly built up. When we have asked people what they want first and foremost, they have said that they want an improvement on the way that things are at the moment. So, rather than the end goal, it is about improving what is currently happening, and people are happy for that to be the next step.

[311] **Rhodri Morgan:** At the bottom of page 5 and the top of page 6 of your evidence, you refer to the reasons why people do not make more use of Welsh-language services, even though they have at least some command of Welsh. That relates to the accusation in your evidence that the promotion function, as it currently stands, does not work very well, and, as a result, you propose strengthening the monitoring of how to promote Welsh-language services. However, I was interested to see on the top of page 6 of your evidence that you assume that the lack of confidence that people have about using what Welsh they have was primarily an issue of transferring skills from the classroom to real-life settings, although you also refer to the fact that people who are fluent in Welsh never use Welsh with public bodies. Why did you assume that this is a problem for Welsh learners or people who have been through the Welsh-medium education system in transferring the skills from the classroom to the real-life setting, rather than from one real-life setting, such as the farmyard or the village street of native Welsh speakers? Those people still do not feel confident with dealing with officialdom or the private sector over the phone. That is just as much of a problem, or possibly more of a problem. What evidence do you have to support that focus on the classroom issue?

[312] **Mr Thomas:** We concentrate on people who are not in education and on people who use Welsh in the retail setting or outside an educational setting. When we surveyed people on their use of the language in those settings, we found that those who class themselves as learners with little Welsh were the ones, as expected, least likely to use those services. Although there were slight issues with confidence among fluent speakers, confidence was more of an issue for those people who were classed as learners or had very little Welsh, and how that could translate into a setting in which they felt comfortable and in which they could use what they felt was very little Welsh. In our survey, confidence was highlighted as one of the main issues for them.

[313] **Rhodri Morgan:** Yes, but the point that I am getting at is that you also say that almost half of those who say that they never use Welsh with public bodies were fluent in Welsh. So, it is not something that seems to be restricted to people who are learning Welsh or who learnt Welsh at school, who have since left and can remember some Welsh from the schoolroom. It also seems to be a matter for people who are perfectly fluent in Welsh but who assume that the Welsh that they use in the domestic setting, such as the farmyard or the street, is not translatable into dealing with officialdom or companies over the phone.

11.40 a.m.

[314] **Ms Withers:** It is fair to say that there are a number of reasons why people did not use services, and, in our survey, confidence was the biggest factor for all groups, including fluent Welsh speakers. It is difficult for us to pull apart the reasons for that. There were issues with people not being aware of what services were available, and an issue about the quality or level of service that was being provided, but over and above everything else, confidence seemed to be the biggest issue—people just did not feel that they had the confidence, whether that was the confidence to ask if Welsh was available, or in their skills to speak in a formal way.

[315] **Rhodri Morgan:** The point about formality is probably fair—it is the fear of the long words in Welsh, as much as anything else.

[316] **Alun Davies:** Some people are afraid of them in English, Rhodri.

[317] **Ms Withers:** When we did some in-depth interviews, we heard that people are scared to say something in Welsh in case someone said something in reply that they did not understand, which would make them feel stupid, and they would not know what to do. For some people, that was a real issue.

[318] **Rhodri Morgan:** That is a point that we are all familiar with. I just thought that you had drawn the wrong conclusion—that this was in some way predominantly a matter for Welsh learners.

[319] **Ms Thomas:** No.

[320] **Rhodri Morgan:** Okay; that is fine.

[321] **Gareth Jones:** Could I come in on this point? I understand the confidence factor. That is something that is out there. However, have you ever assessed the possibility that many Welsh speakers are conditioned to accepting that English is the norm?

[322] **Ms Thomas:** We came into this looking for spontaneous answers to questions. We did not ask about things that we already knew to be the case. We were looking for spontaneous answers, and we are just reporting them back. We did not go fully in-depth with that one.

[323] **Gareth Jones:** However, that has been presented to us as evidence—that it is the normality, and unless you bring about a change, there will be less take-up of the Welsh language. It is not only to do with lack of confidence.

[324] **Ms Withers:** The most striking thing for us—and you asked us about official status at the start—was that all the different levels of Welsh speaker, whether they were fluent or a learner, strongly felt that they should have the right to speak Welsh, and that the opportunity to use services through the medium of Welsh was important. However, there was a striking difference between that attitude and people's use of services. There is still a big gap between the number of those choosing to use those services and the availability of those services.

[325] **Alun Davies:** Before you ask your question, Rhodri, I would like to ask the witnesses whether this information is publicly available.

[326] **Ms Withers:** It will be publicly available. It will be published in the summer. We could give you further detail on the breakdown of statistics as an additional paper, if you would find that helpful.

[327] **Alun Davies:** It would be useful for the committee to have that, if you could make that available to the clerk.

[328] **Rhodri Morgan:** My last question is about the independence of the commissioner when appointed. You have gone big on this, and said that it is important that the commissioner is independent and represents users of the Welsh language. That is a fair point, but what is the definition of 'independent' that you have in mind, and does that have a bearing on how the commissioner is appointed, and whether the commissioner is appointed by Welsh Ministers, like the older person's commissioner and the children's commissioner, by the Assembly as a whole, or by final appointment by the Queen, and so on, like the ombudsman and the auditor general?

[329] **Ms Withers:** It is probably important to start by saying that we do not feel that we are in a position to have a view on who should appoint the commissioner.

[330] **Rhodri Morgan:** You have no person in mind.

[331] **Ms Withers:** No.

[332] **Rhodri Morgan:** Fair enough. Neither do we.

[333] **Ms Withers:** When we talk about independence it is important that whoever is responsible for appointing the commissioner upholds the principle of independence. The systems and processes that put the commissioner in place must ensure that service users are represented. From a consumer's perspective, the most important thing is that they see the commissioner as an independent person who can uphold their rights and represent their views. That is the most important thing, as far as consumers are concerned.

[334] **Rhodri Morgan:** So, the most important thing is that they should have empathy with the view of consumers. Is that right?

[335] **Ms Withers:** Yes.

[336] **Rhodri Morgan:** They should be an outsider's insider, not an insider's outsider.

[337] **Ms Withers:** Yes. I think that that is right. It goes back to some of the issues we have raised and the rest of the evidence with regard to the fact that we think that the consumer is missing from the proposed Measure process. Where are they with regard to their views being listened to and taken into account so that they have ownership of this process as well?

[338] **Rhodri Morgan:** I understand. Thank you.

[339] **Brynle Williams:** Good morning, ladies. I wish to move on to discuss the advisory panel of the Welsh language commissioner. You state in your written evidence that the commissioner must build a dialogue with the public and that it should be reflected in the membership of the advisory panel, taking diversity issues in particular into account. Can you expand on this a little please?

[340] **Ms Withers:** Yes, of course. Welsh speakers are not a homogenous group. Welsh speakers are older people, younger people, people who live in cities and people who live in rural areas, people who are parents and people who are carers, and so they have a number of other identities as well as being Welsh speakers. It is incredibly important that the make-up of the advisory panel takes into account the different groups of people from across Wales who are also Welsh speakers. It is incredibly important that the panel is able to consider the needs of those different groups when helping the commissioner to make decisions and rolling out the commissioner's work; for example, in developing service delivery standards, as different groups of consumers will need to access services in different ways. We know from previous research that only 27 per cent of older people—people over 65—choose to access the internet and only 54 per cent of lower income consumers have access to the internet. So it is incredibly important, when thinking about how people want to access information and how services are delivered, that the different needs of different groups within the group of Welsh speakers are considered. That is vital with regard to the advisory panel.

[341] Obviously, we know that it can be quite difficult to get representation in making public appointments. For example, young people are not traditionally considered for public appointments and do not traditionally apply for them. So, there are some tricky issues for the commissioner to consider in trying to make the advisory panel representative. That is an important issue to consider. In addition, it is really important to say that there are a number of ways in which we feel the commission and the advisory panel could consider engaging with consumers directly. That is vital, not only with regard to consulting on how to develop the standards and thinking about how to advise organisations on including consumers in the development of services, but because the advisory panel should have direct engagement with consumers. That can be done a number of ways. For example, regular consumer panels could be set up. These could be one-off engagements with groups of consumers to discuss particular issues, so the advisory group would meet the consumer panel to discuss developing a

particular standard or to look into a particular service area. That would be a key part of maintaining an ongoing dialogue with members of the public. That can also be done through a range of voluntary organisations that can also represent more hard-to-reach groups.

[342] **Alun Davies:** When you talk about hard-to-reach groups and consumer panels, do you mean something like a citizen jury, or a consumer panel such as the panel that Ofcom has?

[343] **Ms Withers:** I do not mean a panel such as Ofcom has, but a consumer panel made up of real people—[*Laughter.*]

[344] **Alun Davies:** I am sure that Ofcom would be delighted to hear that. [*Laughter.*]

[345] **Ms Withers:** We are talking about what we would like to see. The Consumer Council for Northern Ireland holds regular consumer panels. These are made up of people with whom they engage for six months at a time, so these people do not get to be regular committee members, but can feed in their views as a service user and share their experience. They might use the Welsh-language services available, or they may not, and could share the reasons for their choice.

[346] **Alun Davies:** So, it is almost a citizen-jury model.

[347] **Ms Withers:** Yes.

[348] **Alun Davies:** Okay, thank you for that.

[349] **Lorraine Barrett:** You have stated that the introduction of standards and the move towards consistency and clarity are positive steps forward for Welsh-language consumers. Can you explain how you think consumers will benefit as a result of these? Do you think that the proposed standards will deliver the level playing field that you want to see between the private and public sectors?

11.50 a.m.

[350] **Ms Withers:** Eventually, we hope that the standards will help to introduce a level of consistency, and not just across sectors, but within sectors, which is almost as important. When we undertook the research with private companies that have no legislative responsibility at the moment—and we know this from the evidence that you have received—the telecoms sector did particularly badly in respect of how well people felt that they were providing Welsh-language services. From the evidence that the committee has received from others, we know that some organisations in the telecoms sector are providing Welsh-language services, and some are not providing any such services at all.

[351] For consumers, having an understanding of a minimum standard that they should expect from a sector is imperative, because they then have a real choice as to the organisations that they choose to go to if they want to use Welsh in their engagement with those organisations. So, introducing a minimum standard will be hugely beneficial for consumers in creating a greater understanding of what they can expect within the sector, as well as across different sectors, in relation to the decisions that they make about which companies they go to.

[352] We know that there is a great disparity between the public and private sectors at the moment. Our research told us that 69 per cent of people felt that the public sector is much better at providing services in Welsh than the private sector, and that is to be expected because of the existing legislation. So, a minimum standard across different sectors, but also

within sectors, will be beneficial for consumers. Obviously, it is important that that is communicated in the right way, particularly with regard to why one sector has different minimum standards from another sector in respect of service delivery, for instance.

[353] **Michael German:** Naturally, you have spent a lot of time talking about your principal objections to the way in which the proposed Measure is written, which relate to the nature of the consultation with the public. That is not surprising since you are focusing on the consumer—and that, of course, is expressed in your title. You have given us an indication as to what you do not like about the way in which consumers would be consulted, and have told us what methods you would prefer. Could you briefly tell us—rather than outlining what is good practice—where in the proposed Measure you would like to see that emphasis on consultation with the public placed?

[354] **Ms Withers:** There are a number of areas, and I will try to take you through them. We feel that there should be a duty in section 26 to consult the public when developing standards.

[355] **Ms Thomas:** To elaborate on that, the reason for that is to increase the sense of ownership and responsibility. That is why we think that consultation at the design stage will be beneficial.

[356] **Ms Withers:** We also feel that, in section 61, a duty could be included on the commissioner to consult the public as part of investigations into standards that are imposed.

[357] **Ms Thomas:** On the reporting periods in section 5(1), Liz mentioned earlier using census data to establish the extent of Welsh-language use. We felt that stipulating a duty in that section to consult with the public could introduce more of an evaluation of service use or how the degree of Welsh-language use translates into services. Did we cover section 61?

[358] **Ms Withers:** Yes. There are also some areas where we feel that greater clarity needs to be provided as to what that means for consumers. We have just talked about variation between sectors, but we would like confirmation that the variations across areas or sectors as referred to in section 43 will have no detrimental impact on consumers.

[359] **Ms Thomas:** On the complaints, redress or appeal processes, we feel that under section 95(5) there is an opportunity to include provision to notify persons throughout the duration of the processes, and that could be safeguarded in that section.

[360] **Ms Withers:** Going back to section 26—

[361] **Ms Thomas:** Sorry.

[362] **Ms Withers:** There is a list. Although we understand that it is difficult to confer on organisations at this stage, we feel that section 26 should include the provision for subsequent regulations to include requirements on service providers to consult with the public on the development of services. The commissioner should be consulting with consumers on the development of standards, but once they have been conferred on an organisation, the organisation should be speaking to local consumers who use that service at the moment, as well as those who do not, and try to think about how they can plan and develop the service to meet local people's needs in a way that is appropriate for the organisation.

[363] **Michael German:** It is refreshing to have people who know exactly where they want to change the proposed Measure.

[364] **Alun Davies:** I agree.

[365] **Gareth Jones:** Trof at y mater o orfodi safonau. Yr ydych newydd gyfeirio, Rebecca, at adran 95. Yn eich tystiolaeth, yr ydych yn datgan y dylai rhywun sydd wedi cyflwyno cwyn gael ei hysbysu o'r opsiynau ar gyfer gwneud iawn neu apelio os nad yw'n fodlon ag ymateb y comisiynydd. Yr ydych yn datgan, hefyd, y dylid rhoi adborth i'r person sydd wedi cwyno drwy gydol y broses gwyno. A allwch ymhelaethu ar y sylwadau hyn ac esbonio pam eich bod yn credu bod hyn yn bwysig?

Gareth Jones: I turn to the enforcement of standards. You have referred, Rebecca, to section 95. In your written evidence, you state that a person who has logged a complaint should be notified of the options for redress or appeal if he or she is not satisfied with the commissioner's response. You also state that feedback should be given to the complainant throughout the complaints process. Can you expand on these comments and explain why you believe that that is important?

[366] **Ms Thomas:** In previous research into consumer engagement, we have found that people often feel disempowered and alienated if they are not contacted throughout the duration of a process such as a complaints process. It is not exactly the same, but when we did work on NHS waiting lists, you would normally expect people to be criticising the length of a waiting list, but what people felt disadvantaged and disempowered by was the fact that they were not kept up to date throughout the process of being on that waiting list, not given a point of contact to ask what was happening, were not aware of the process itself and did not feel empowered enough to question elements of that process. Those lessons are transferable here. It is about the principles of good customer service and embedding that into the complaints process of the commissioner.

[367] We also think that when you get to the end of the process, if you have not been kept up to date on what will happen as a result of your input into that process and as a result of the findings of the commissioner, that is when people will feel disengaged from the process and left out because there is no feedback or continuous dialogue with them. It is also more likely to lead to dissatisfaction with the outcome. That is why we feel that there should be an ongoing dialogue to explain what would happen, because you will not feel satisfied if you are not kept up to date on how your contribution has made a difference. You will not keep people engaged with the process if it has not been explained why their contribution is not making a difference: why bother if it does not do anything? One of customers' biggest bugbears is that they have not been kept informed of the end result. That is why those are important to consumers, to ensure that those safeguards are put in place.

[368] **Gareth Jones:** Yr wyf y troi yn awr at y cwestiwn olaf. Yn unol â'r hen ddywediad, diwedd y gân yw'r geiniog, felly mae gennyf gwestiwn ynglŷn â chyllid. Yr ydych yn pwysleisio yn eich cyflwyniad ysgrifenedig eich bod yn bryderus iawn y gallai costau ychwanegol sy'n deillio o'r Mesur arfaethedig gael eu trosglwyddo i'r defnyddwyr. A allwch chi roi enghreifftiau o achosion lle y gallai hynny ddigwydd, a sut yr hoffech weld y mater yn cael ei ystyried?

Gareth Jones: I now turn the last question. According to the old saying, it all comes down to money at the end of the day, so I have a question on finance. You emphasise in your written submission that you are extremely concerned that additional costs arising out of the proposed Measure may be passed on to consumers. Can you give examples of cases where that might happen, and how you would wish to see the issue addressed?

[369] **Ms Withers:** In some of the evidence that you have already had from a range of companies, it has been highlighted that they are anticipating that there will be additional costs on the back of standards being conferred upon them, and that these costs will be passed on to consumers. For some companies, it has been unclear as to whether that will be all consumers or consumers in Wales. At the moment, it is a difficult exercise because it is difficult to assess the types of costs that we are talking about because there is a lack of clarity about what

standards will look like. We recognise that. However, we do not believe that any additional costs of making Welsh-language services available to consumers in Wales should be passed on to consumers. The costs should be absorbed through profits and shareholders.

12.00 p.m.

[370] Some of the organisations that have already given evidence to this committee, such as BT, Royal Mail and Scottish Power, are already providing a number of services through the medium of Welsh and consumers in Wales—in comparison with consumers in England—do not have to pay additional costs for the customer service elements of those services. We think that is quite important. It is also important to say that these requirements should be part of companies' existing communications strategies because this is about how to provide appropriate services to different groups of consumers. For instance, a company would not expect someone with a visual impairment to pay to receive information in an accessible format, and if they provide minority ethnic resources, they would not expect someone to have to pay for those. Therefore, we do not feel that there is any reason why Welsh-language consumers should be disadvantaged by having to pay a levy to receive services through the medium of Welsh.

[371] **Alun Davies:** Diolch yn fawr i chi am eich tystiolaeth y bore yma. Yr ydym yn ei gwerthfawrogi yn fawr iawn. Fel yr ydych yn gwybod, bydd trawsgrifiad ar gael i chi cyn iddo gael ei gyhoeddi yn derfynol. Dyna ddiwedd ein trafodion am y bore yma. Bydd cyfarfod nesaf y pwyllgor ddydd Iau nesaf pan fyddwch chi yn cymryd tystiolaeth gan y Gweinidog dros Dreftadaeth a Llywodraeth Catalonia. Os nad oes unrhyw fusnes arall, byddaf yn cau'r cyfarfod yn awr. Diolch yn fawr.

Alun Davies: Thank you for your evidence this morning. We very much appreciate it. As you will be aware, a transcript will be made available to you before it is published in final form. That concludes our proceedings for this morning. The committee's next meeting will be next Thursday when you will be taking evidence from the Minister for Heritage and the Government of Catalonia. If there is no other business, I will bring the meeting to a close. Thank you.

*Daeth y cyfarfod i ben am 12.01 p.m.
The meeting ended at 12.01 p.m.*