



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

**Pwyllgor Deddfwriaeth Rhif 4**  
**Legislation Committee No. 4**

**Dydd Iau, 7 Hydref 2010**  
**Thursday, 7 October 2010**

**Cynnwys**  
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Proposed Safety on Learner Transport (Wales) Measure—Stage 1: Evidence Session 1,  
Member in Charge of the Proposed Measure

Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynddi yn y pwyllgor. Yn ogystal,  
cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

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**

Peter Black	Democratiaid Rhyddfrydol Cymru (yn dirprwyo ar ran Kirsty Williams) Welsh Liberal Democrats (substitute for Kirsty Williams)
Christine Chapman	Llafur Labour
Brian Gibbons	Llafur Labour
Bethan Jenkins	Plaid Cymru The Party of Wales
Jonathan Morgan	Ceidwadwyr Cymreig Welsh Conservatives
Jenny Randerson	Democratiaid Rhyddfrydol Cymru (Cadeirydd y Pwyllgor) Welsh Liberal Democrats (Committee Chair)

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

Bethan Bateman	Prif-ddadansoddwr Polisi Trafnidiaeth, Llywodraeth Cynulliad Cymru Principal Transport Policy Analyst, Welsh Assembly Government
Ieuan Wyn Jones	Aelod Cynulliad, Plaid Cymru, (y Dirprwy Brif Weinidog a'r Gweinidog dros yr Economi a Thrafnidiaeth) Assembly Member, The Party of Wales (the Deputy First Minister and Minister for the Economy and Transport)
Lynsey Edwards	Cyfreithwraig, Llywodraeth Cynulliad Cymru Lawyer, Welsh Assembly Government

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

Sarah Beasley	Clerc Clerk
Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Siân Hughes	Gwasanaeth Ymchwil yr Aelodau Members' Research Service
Sarah Sargent	Dirprwy Glerc Deputy Clerk

*Dechreuodd y cyfarfod am 9.36 a.m.*  
*The meeting began at 9.36 a.m.*

**Cyflwyniad, Ymddiheuriadau a Dirprwyon**  
**Introduction, Apologies and Substitutions**

[1] **Jenny Randerson:** Good morning and welcome to this morning's meeting of Legislation Committee No. 4. I have not received any apologies; all members of the committee are here. I will make the usual introductory remarks. In the event of a fire alarm, Members should leave the room by the marked fire exits and follow instructions from the staff. Please check that your mobile phones and other similar equipment are switched off as

they can interfere with the broadcasting equipment. I remind you that the Assembly operates through the media of Welsh and English, and that headphones are available for instantaneous translation and amplification if needed. I also remind you not to touch any of the buttons on the microphones, as this can disable the system.

10.08 a.m.

**Mesur Arfaethedig ynghylch Diogelwch ar Gludiant i Ddysgwyr (Cymru)—  
Cyfnod 1: Sesiwn Dystiolaeth 1, yr Aelod sy'n Gyfrifol am y Mesur Arfaethedig  
Proposed Safety on Learner Transport (Wales) Measure—Stage 1: Evidence  
Session 1, Member in Charge of the Proposed Measure**

[2] **Jenny Randerson:** This is the first of our evidence sessions on the Proposed Safety on Learner Transport (Wales) Measure. I welcome Ieuan Wyn Jones, the Deputy First Minister and the Minister for Economy and Transport, who joins us via video link from north Wales. We are very pleased that you are able to join us in this way, Minister. Here in the Assembly we have the Minister's officials. I welcome Bethan Bateman, principal policy analyst for transport in the Welsh Assembly Government, and Lynsey Edwards, from Legal Services in the Welsh Assembly Government.

[3] We now turn to our questions on the proposed Measure, which I will start. For the record, Minister, can you set out the key policy objectives of the proposed Measure and how the provisions within it will deliver these objectives?

[4] **The Deputy First Minister:** Thank you for the opportunity to join you for this evidence session, which is my first evidence session by video link. I am sure that it will go extremely well. It is nice to do this for the first time from our Llandudno Junction office in the north.

10.10 a.m.

[5] In relation to the key policy objectives of the proposed Measure, I am sure that you will be aware that it addresses the longstanding commitment to bring forward legislation on the safety standards of motor vehicles as used for learner transport. Therefore, the proposed Measure aims to improve the quality and safety standards of dedicated learner transport by enabling Ministers to set out in regulations a consistent set of minimum safety standards for dedicated learner transport vehicles in relation to matters such as fitting seat belts and closed-circuit television, single-decker buses, driver training and risk assessment. As the explanatory memorandum highlights, non-legislative approaches have not succeeded in delivering the consistent safety standards that we want. Therefore, the proposed Measure takes forward the commitment that I made in committee at an earlier stage that I would seek legislative competence to introduce these legislative proposals.

[6] **Jenny Randerson:** Other than those that you have outlined, are there any other shortcomings in the current legislation that you wish to refer to that have necessitated the introduction of the proposed Measure?

[7] **The Deputy First Minister:** If you look back at the scrutiny of the original proposed Measure, which a member of the committee introduced when he was a Minister, you will see that there was concern about the fact that, although we could introduce a behaviour code for learner travel, we could not specify anything about the buses, that is, the transport itself. As a result, I sought the legislative competence Order to enable me to do that. That was the principal reason for doing it, but we are able to do other things in relation to driver training and look at putting risk assessment on a statutory footing. Those are the two additional things

that we are now able to do.

[8] **Jenny Randerson:** Are there any provisions in the proposed Measure that have an impact on, or are affected by, other legislation, whether it is Welsh or UK legislation?

[9] **The Deputy First Minister:** It does not affect UK legislation, but it obviously has an impact on the Learner Travel (Wales) Measure 2008. It specifically amends that legislation to provide a framework for regulating learner transport.

[10] **Peter Black:** The proposed Measure contains a broad set of regulation-making powers for the Welsh Ministers in relation to safety on learner transport. Why did you decide on that approach rather than providing greater policy detail on the face of the proposed Measure? Do you think that the proposed Measure achieves the right balance between powers for the Welsh Ministers to make regulations and powers on the face of the proposed Measure?

[11] **The Deputy First Minister:** This is perhaps one of the more important discussions to have this morning. I would have preferred to put more on the face of the proposed Measure, but it was a matter of having to deal with quite severe time constraints. As I indicated in the statement that I made in the question-and-answer sessions at that point, it would have been very difficult to have a detailed proposed Measure within the timescale. Therefore, while there are some matters that, ideally, I would have wanted to include on the face of the proposed Measure, we also wanted to ensure that it was enacted before the end of this third Assembly, and therefore the other matters will have to be dealt with through regulations.

[12] As I said in my statement, I am not unsympathetic to the concerns that were raised by Assembly Members, and I am currently exploring with officials whether the proposed Measure would require notification to the European Commission under the technical standards directive if, for example, I included detailed requirements on seat belts in the proposed Measure. The current directive requires member states to notify the Commission of any draft legislation that prescribes technical standards. At this point, it would be helpful to get Lynsey Edwards to explain the legislative framework that may force us to notify the European Commission. Before Lynsey comes in, I can tell you that I am looking at that with my officials, and when we have an amendment that would bring those requirements regarding seat belts within the proposed Measure, we will make a decision on whether we need to notify, and I will inform the committee at that point.

[13] **Ms Edwards:** Members may be aware that the technical standards directive aims to avoid the creation of new technical barriers within the European community, and it provides for a three-month standstill period between notification of the proposed Measure and bringing the legislation into force to allow other member states and the Commission an opportunity to raise any concerns about potential barriers to trade. If any objections are raised within the three-month standstill period and the Commission issues a detailed opinion, there could be a further three-month standstill period, which may cause difficulties in amending the proposed Measure to include such requirements, given the time constraints. However, that is obviously a matter for the committee.

[14] **Peter Black:** Would that apply to the regulations? If the proposed Measure simply said that you could make regulations in relation to seat belts, would that process apply to the regulations rather than the proposed Measure? Are you relying on regulations in this instance to avoid a delay with the proposed Measure?

[15] **Ms Edwards:** Yes, that is correct.

[16] **Peter Black:** However, are you reconsidering whether that is necessary?

[17] **Ms Edwards:** Yes, at this stage, we are just considering the possibility.

[18] **Peter Black:** The proposed Measure applies only to home-to-school transport. Was any consideration given to extending the safety aspect to transport used for journeys between the places where pupils receive education and training? If not, are there any reasons for not doing so?

[19] **The Deputy First Minister:** We ought to make it clear that your interpretation is right, Peter, in the sense that we are looking only at home-to-school transport and not transport during the day. Our view is that the regulation of vehicles for private hire by schools and other authorities, for example, would sit outside the framework that we are currently legislating on and require a wholly new regulatory approach. As I am sure you are aware, journeys made during the day are normally made by buses or vehicles owned by the school rather than a traditional bus operator, although that may be the case on certain occasions. Therefore, you would require a totally different set of regulations concerning, for example, teachers who might be on the buses. A duty would have to be imposed on headteachers and schools. That would take us in a different direction, and the imperative was to create a legislative framework that dealt with the aspect that had caused most concern, which is the journey to school. So, we have not gone down the other road. The policy imperative came from concerns about home-to-school transport, and that is why we have limited it to that.

[20] **Brian Gibbons:** From what you have said, you have taken a policy decision that it would be within the competence of the Assembly Government to legislate on school transport during the day if it chose to do so.

[21] **The Deputy First Minister:** I will ask Lynsey to confirm that so that I am not leading you up the garden path. However, my understanding is that this is a policy issue rather than a competence issue. Lynsey, can you confirm that?

[22] **Ms Edwards:** Yes, you are right. It is within competence.

[23] **Brian Gibbons:** Do we have any empirical evidence on the amount of time that pupils spend on buses? What proportion of time do they spend travelling between schools? In view of the growing collaboration agenda, the transformation agenda, the federation of schools and so on, has any work been done to anticipate what the balance is likely to be in three, four or five years' time?

10.20 a.m.

[24] **The Deputy First Minister:** Yes, we considered that in the original proposed Measure, in 2008. So, one does understand that this could be a growing area of travel. However, as you have pointed out, some schools might not wish to teach certain subjects at A-level, which may be available only at an adjoining school and there would then be more travel during the day. There is also the issue of school trips, and so on. There is an agenda here. We decided not to go down that particular avenue for this proposed Measure, but it would be open to a subsequent Assembly Government to consider extending the Measure into that area, as we certainly could not do it within the current time frame. So, the decision that we have taken at this point is not to do that.

[25] **Brian Gibbons:** I would suggest that it is possibly a bit of un-joined-up Government as well, because if pupils are having to travel between schools, the temptation might be for them to bring their own transport. I know that, in my own constituency, the school and the areas around it are totally cluttered with the cars of staff and others.

[26] **The Deputy First Minister:** The tendency is to have an independent contractor

operate the journey to school, because that involves all pupils who wish to travel. However, during the day, travel will involve a smaller number of pupils and many schools arrange their own individual transport for that. For example, they may have their own minibuses, and so on. The supervision required on that transport would be entirely different from that on the normal school run. So, there is a different set of issues that we would have to consider. You asked for the empirical evidence, and I do not have that before me, but you could ask Bethan to make some inquiries through the WLGA to see the extent to which this type of travel now occurs.

[27] **Jenny Randerson:** We will now return to Peter, but I ask Bethan to follow that issue up for us.

[28] **Peter Black:** The 14-19 agenda is being delivered by local authorities on multiple sites, simply because they do not have the capacity on single sites. So, I think that it is an important development as regards transport during the school day, both for pupils and teachers. It would be useful to have some more information on that.

[29] One thing that interests me in particular about these regulations is that, since the Education, Lifelong Learning and Skills Committee in the second Assembly—I think it was in 2006—produced its report on school transport, the Assembly Government has been encouraging local authorities to take account of many of the things in this proposed Measure as part of their contractual arrangements when they come to deliver home-to-school transport. They have been encouraged to have longer contracts and to include safety measures as part of that. The regulations will put that on a statutory basis, but how do the regulations tie in with the existing contracts, especially those that are for a longer period? Would you expect local authorities to renegotiate those contracts or would the regulations take account of the fact that existing contracts need to be carried forward for the duration that they have been signed for, before the regulations come into effect?

[30] **The Deputy First Minister:** Those are the kinds of issues that we will need to consider when the regulations are introduced. There will be a host of things that we will need to consider, such as giving people time to adapt to the new regulations. You could not introduce the regulations overnight, because contracts are in place and there are cost implications to the replacement or refurbishment of the fleet, such as with the introduction of seat belts or CCTV cameras. There has to be a transition period, and we will have to consider existing contracts. So, you are right that those things need to happen. The reason why we have decided to go down the statutory route—apart from the fact that we want to ensure that these items are included—is to ensure a degree of consistency. If you have a voluntary code, you could have various local authorities and contractors agreeing to implement some, but not all, of the things in it. I think that pupils and parents would welcome a degree of consistency, so that if there is a set of minimum standards, they would know that those would be adopted across the country.

[31] **Peter Black:** Would you expect local authorities to implement these changes within their existing resources, or would you be providing additional resources to enable this transition?

[32] **The Deputy First Minister:** Those are the matters that we have to consider very carefully when the regulations are introduced. Introducing this proposed Measure does not impose further costs, because those will arise when the regulations are introduced. We would need to consider the costs involved carefully with local authorities and contractors. At that time, we would need to take decisions on what financial assistance we could give, if any.

[33] **Peter Black:** I look forward to that discussion in the Finance Committee. The explanatory memorandum states that regulations under the proposed Measure will be made in

a phased approach. On what basis will you be prioritising the introduction of regulations? Can you provide any detail on your timetable for making regulations under the proposed Measure?

[34] **The Deputy First Minister:** The timetable for introducing the regulations will be a matter for the next Assembly Government, because there is no time to do so before the election in May next year. I have made it clear that my priority is to introduce legislation requiring the fitting of seat belts, because this would ensure that every child has a dedicated seat fitted with a seat belt, and it would prohibit the three-for-two seating concession. Legislation would also make it impermissible to have standing passengers on dedicated school buses. That is my immediate priority, and that is why I am exploring, with lawyers, the opportunity to include that requirement on the face of the proposed Measure. The other issues, such as closed-circuit television and double-decker buses, would need to follow, and we will need to agree on the timescales for compliance with the new regulations. You cannot expect compliance overnight, so there should be a reasonable timescale for the introduction of regulations, in respect of the contracts, as I have discussed with Peter, and the cost implications.

[35] **Brian Gibbons:** I am sure that it is covered in the regulations—although without legal training one probably would not understand what some of the words mean—but which schools are covered by the proposed Measure, especially among those that cater for teenagers? It says that the governors of maintained schools ‘have a duty to’, but I presume that the duty on governors is only to provide transport for pupils up to GCSE level or 16 years of age. Where would I see a definition of that in the legislation?

[36] **The Deputy First Minister:** I will ask either Lynsey or Bethan to comment on that.

[37] **Ms Bateman:** The proposed Measure deals with free school transport, for which there is statutory provision for children up to the age of 16, so the decision was made for it to cover that area.

[38] **Brian Gibbons:** If I were to look for the words that indicate that on the page, where would I find them?

[39] **Ms Bateman:** We will have to find the relevant section and write to the committee with that information.

[40] **Brian Gibbons:** Okay, that would be fine.

[41] **Christine Chapman:** I turn to section 1 of the proposed Measure, which covers descriptions of vehicles that may be used for learner transport. Are you content, Deputy First Minister, that the regulation-making powers in section 1 are broad enough to enable you to meet all your policy objectives in relation to the safety of learner transport vehicles?

10.30 a.m.

[42] **The Deputy First Minister:** Yes, I am satisfied that the powers will meet the objectives, although I accept that the way in which the legislative competence Order has been drafted is quite complicated. Perhaps I need to ask Bethan or Lynsey to comment on that. As we had to in the legislative competence Order scrutiny procedure, we have to make it clear that we were trying to do what they then called a ‘carve-out’ out of a carve-out, if I remember rightly. I think that that was the phrase that we were using. We were quite limited in what we could achieve. Nevertheless, it allows us to refer to the fact that, if we wished, we could have regulations on the issues that I have described, such as seat belts, CCTV, single-decker buses, driver training and risk assessments. It enables us to do that. It seems to me that the main constraint of our competence is that it can relate only to contracted provision between



contractors and local authorities, and not to ordinary bus services. That is not a policy decision, but a competence issue. Perhaps Lynsey or Bethan would like to comment further.

[43] **Ms Edwards:** I would just echo what the Deputy First Minister said. We spent a long time negotiating with the Department for Transport on the issue of competence. While we wanted to go further, at the end of the day, we were asking it for competence and this is what it gave us. The proposed Measure goes as far as we possibly can within the competence that we have been given.

[44] **Peter Black:** Is that to do with what it was prepared to give you or the limits of European legislation?

[45] **Ms Edwards:** I think that it was both. Although there is UK legislation on seat belts, it is heavily based on European legislation. So, we could not go above and beyond what is prescribed across Europe. In other areas, such as public vehicles, for example, it was more a case of what competence the Department for Transport was prepared to allow us.

[46] **The Deputy First Minister:** I think it fair to point out that, in political terms, when we started the process of seeking legislative competence in this area, people were quite sceptical that we could get this far, because they were worried that we might not even secure any new ground. Having got this far, we felt that it was better to accept the competence that we were offered, after long negotiation, than to hold out for more and not be able to legislate within this third Assembly. There is always a trade-off in these matters.

[47] **Christine Chapman:** I will move on to my next question. The explanatory memorandum states that the intention is to make regulations on the requirement to fit seat belts on all dedicated school transport early in the fourth Assembly, and you have talked about that already. Would the introduction of regulations to phase out the use of older vehicles do away with the need to introduce regulations on fitting seat belts?

[48] **The Deputy First Minister:** That is an interesting question, and a very good one. Perhaps I need to come back to you and think a little bit more about it. The essence of this is that making it a requirement to have seat belts on a bus does two things: first, it prevents a situation arising in which someone will be allowed to stand on the bus and, secondly, it prevents having three pupils on a seat that is designed for two. Perhaps I should clarify that there is no requirement to have a bus of a certain age. It is my understanding that these buses have to be approved, regulated or allowed to be in service through inspections and checks with the Vehicle and Operator Services Agency, and I am sure that Bethan can tell you how often those checks need to happen. There are those usual checks. So, while we are not saying that vehicles have to be of a certain age, it is pretty clear that if we make these requirements, the tendency over time will be to go for newer fleets. Bethan, do you want to come back on the issue of the VOSA inspection?

[49] **Ms Bateman:** VOSA inspects all public service vehicles, which can be old buses and coaches used for carrying passengers, annually and then issues certificates. Driver licensing is also regulated in a similar way. From 2001, all coaches must have seat belts fitted, so there is a gradual move towards all vehicles having seat belts fitted. However, there are classes of buses, such as those designed for urban use, for which there is no requirement to have seat belts fitted, because they tend to be driven at 30 mph in quite different circumstances from coaches that are driven on motorways, for instance. Therefore, there are classes of vehicle that do not come under the requirements of the 2001 Act to have seat belts fitted, and so, in addition to regulation on seat belts, you would need to make other regulations to pick up those.

[50] **Christine Chapman:** You talked about VOSA's annual inspection. Older buses

could break down before the year is up, so are you satisfied that that is enough?

[51] **Jenny Randerson:** May I interrupt to ask the Deputy First Minister whether he can still hear us?

[52] **The Deputy First Minister:** Yes, I can hear you.

[53] **Jenny Randerson:** We have a visual problem here. We can still see you, but the picture is of you as you were about five minutes ago. You have been frozen. It is a little bit surreal. [*Laughter.*] We are still hearing you fine, but I just wanted to check that you can see us.

[54] **The Deputy First Minister:** I am waving now. Can you see me wave?

[55] **Jenny Randerson:** No, we cannot. You could stand up and walk away and we would not know. [*Laughter.*] So, if you cease to hear us, please let us know, because it will not be visually obvious to us. We will carry on, and I ask Bethan whether she wants to say anything else.

[56] **Ms Bateman:** In addition to the annual check, inspectors can also stop and spot-check vehicles. So, if they suspect that a vehicle was being driven in a dangerous condition, such as the tyres or any of the equipment on the vehicle, there is a spot-check provision and a civil sanctions regime to deal with that.

[57] **Jenny Randerson:** We now move on to questions from Bethan Jenkins.

[58] **Bethan Jenkins:** Symudaf ymlaen at adran 2, sef recordio delweddau gweledol neu sain ar gludiant i ddysgwyr. A allwch chi egluro beth yw ystyr 'digwyddiadau' er mwyn recordio lluniau gweledol neu sain ar drafnidiaeth i ddysgwyr? A allwch chi esbonio a fydd hynny'n digwydd ar bob bus neu ar fysiau sydd â phroblemau yn barod, ac a fyddai'n peri mwy o broblemau i'r disgyblion neu i ddarparwyr trafndiaeth leol?

**Bethan Jenkins:** I will move on to section 2, which is recording visual images or sound on learner transport. Can you clarify what constitutes 'events' for the purpose of recording visual images or sound on learner transport? Can you explain whether this will happen on every bus or just on buses that have already had problems, and might that cause more problems for learners or for local transport providers?

[59] **Y Dirprwy Brif Weinidog:** Mae digwyddiad yn cynnwys unrhyw beth o fewn ei ystyr naturiol, sef unrhyw ddigwyddiad bob dydd. Gall fod yn unrhyw beth sy'n digwydd ar y siwrne, felly yr ydym eisiau sicrhau diffiniad digon eang i olygu unrhyw beth a all ddigwydd ar y bus. Y bwriad yw y bydd ar gael ar bob bus, yn hytrach na'r rhai sydd â phroblemau yn unig. Felly, ein bwriad yw cynnal trafodaeth am y rheoliadau i gael y cydbwysedd cywir rhwng sicrhau diogelwch a'r ffaith bod lluniau'n gallu cael eu cymryd o ddisgyblion, gywrwr ac eraill ar y bus. Rhaid inni sicrhau bod hyn yn cael ei ddefnyddio yn y ffordd gywir a mwyaf priodol yn unig. Bydd y rheoliadau yn ystyried hynny'n ofalus, wrth gwrs.

**The Deputy First Minister:** An event would include anything that falls within its natural definition, which is any everyday event. It can be anything that happens during a journey, and so we want to ensure a definition that is broad enough to include anything that can happen on the bus. The intention is to have it available on all buses, rather than only those with problems. So, our intention is to have a discussion on the regulations to find the correct balance between ensuring safety and the fact that images can be taken of pupils, drivers and others on the bus. We must ensure that this is used only in the correct and most appropriate way. The regulations will consider that carefully, of course.

[60] **Bethan Jenkins:** Gan ddychwelyd at y diffiniad o 'ddigwyddiadau', ai'r hyn sy'n digwydd bob dydd ar fws fydd y diffiniad cyfreithiol yn y Mesur arfaethedig, neu a fydd yn mynd yn ddyfnach na hynny? Hoffwn gael eglurhad cliriach o sut y diffinnir 'digwyddiad' yn y Mesur arfaethedig.

10.40 a.m.

[61] **Y Dirprwy Brif Weinidog:** Yr ydym wedi ceisio ei wneud yn ddigon eang fel bod unrhyw beth sy'n digwydd ar y siwrnai yn dod o fewn y diffiniad. Mae 'digwyddiad' yn golygu unrhyw beth a allai ddigwydd ar y siwrnai. Credwn ei fod yn ddigon eang i gynnwys y materion yr ydym eisiau eu hystyried, fel camymddwyn ac yn y blaen. Dyna'r bwriad. Yr unig ffordd y gallwch sicrhau bod y bwriad hwnnw'n cael ei weithredu yw gosod camerâu ar bob bws lle mae cytundeb rhwng yr awdurdod lleol a'r cwmni sy'n rhedeg y gwasanaeth.

[62] **Bethan Jenkins:** A ydych yn gwybod am unrhyw bryderon am greu, defnyddio, storio a chadw lluniau neu sain ar drafnidiaeth i ddysgwyr? Pwy sydd â'r cyfrifoldeb pennaf ar gyfer storio'r hyn sy'n cael ei recordio ar y bysbus hyn?

[63] **Y Dirprwy Brif Weinidog:** Gofynnaf i Bethan ateb y cwestiwn ynglŷn â phwy fydd yn gyfrifol am gadw a storio. Yr hyn yr ydym yn bwriadu ei wneud gyda'r rheoliadau yw gosod yn fanwl iawn y trefniadau ynglŷn â defnydd camerâu, a manylion ynglŷn â diogelwch, preifatrwydd, cadw'r lluniau ac yn y blaen. Bydd y rheoliadau yn destun ymgynghoriad cyhoeddus llawn gyda phlant a phobl ifanc a'r mudiadau hynny sy'n amddiffyn eu buddiannau, fel ein bod yn defnyddio'r camerâu dim ond lle mae achos i wneud hynny ac yn ôl y pwrpas sydd wedi'i osod yn y rheoliadau. Gofynnaf i Bethan egluro pwy yn union fyddai'n cadw'r lluniau ac yn gyfrifol am eu diogelwch.

[64] **Ms Bateman:** The proposed Measure as it stands does not say who would be responsible, so we would need to set that out in regulation. That would come with certain safeguards, for example it could not go beyond the Data Protection Act 1998. We would also set out the purpose for which it would be retained. In policy terms, I would envisage that those images would be retained either by the bus operator or the local authority, but this is an

**Bethan Jenkins:** Returning to the definition of 'events', is the legal definition in the proposed Measure what happens every day on a bus, or does it go deeper than that? I would just like a clearer explanation of the definition of 'event' in the proposed Measure.

**The Deputy First Minister:** We have tried to make it broad enough so that anything that happens on the journey falls within the definition. 'Event' means anything that can happen on the journey. We believe that it is broad enough to cover the issues that we need to consider, such as misbehaviour and so on. That is the intention. The only way in which to ensure that that intention is carried out is by placing cameras on all buses where there is a contract between the local authority and the company providing the service.

**Bethan Jenkins:** Are you aware of any concerns about making, using, storing and retaining images or sound on learner transport? Who has the main responsibility for storing what is recorded on these buses?

**The Deputy First Minister:** I will ask Bethan to respond to the question as to who will be responsible for storage and retention. What we intend to do with the regulations is to set out clearly and in great detail the arrangements for the use of cameras, as well as details regarding security, privacy, the retention of the images and so on. The regulations will be subject to a thorough consultation with children and young people and those organisations that protect their interests, so that we use the cameras only where there is a reason for doing so, and for the purpose set out in the regulations. I will ask Bethan to explain who exactly would retain the images and be responsible for their security.

issue that we need to explore further in the regulation. We would then need to consult on those matters. So, that is not stated currently, but it would be a matter for regulation.

[65] **Jenny Randerson:** I think that Brian wants to come in on this point.

[66] **Brian Gibbons:** Have you finished your line of inquiry, Bethan?

[67] **Bethan Jenkins:** You can carry on.

[68] **Brian Gibbons:** I just wanted to go back to the point that you made about the appropriate purposes being in regulation. To clarify that, we can see that using these tapes for a satellite TV programme calling itself something like *Kids Bashing Buses* would clearly not be appropriate. However, could these recordings be used for training purposes, for example? Future supervisors might be shown these DVDs, which could result in a situation similar to the one that took place involving Richard Brunstrom when he showed some events for training purposes or when speaking to the media in order to illustrate something, which was clearly inappropriate. How tightly or broadly will you define recording for appropriate purposes? To follow up on Bethan's point, can the recording of activities on the bus be used for absolutely anything? If a pupil complained of an incident of sexual abuse or harassment by a supervisor or a driver, or even if a driver made an accusation against a pupil travelling on the bus, could the recording be used in that type of event?

[69] **The Deputy First Minister:** My view, subject to what might be included in regulations and in the consultation, is that the only reason for having CCTV cameras on the bus is that it would probably prevent a lot of unruly behaviour from happening in the first place. The initial evidence that we have from some pilot schemes that have been undertaken is that that is the case. The presence of cameras tends to improve behaviour. If there is an escort on the bus, there could always be a conflict of evidence with regard to the complaint, but a camera can sometimes provide pretty conclusive evidence. So, the initial evidence that we have had from pilot schemes is that it improves behaviour. Should the images show bad behaviour, it seems to me that you would only want to use it to prove that fact—it could only be used for that purpose. I would be very wary of allowing it to be used for any other purpose, unless there was an exceptionally good reason for that to happen. It would be inappropriate to use it for the kind of event that you have described.

[70] In the regulations, all these matters will have to be considered carefully and I want to reassure people that our intention in introducing this regulation is to improve behaviour and only use those images where there is evidence of bad behaviour, in order to bring proceedings under the legislation.

[71] **Ms Edwards:** To add to what the Deputy First Minister has said, there are already safeguards in place in UK legislation—the Data Protection Act 1998, for example—and there are restrictions within the Government of Wales Act 2006 that prevent us making Measures that go outside the scope of the Data Protection Act. I am happy to provide the committee with a note on the safeguards that are currently in place.

[72] **Jenny Randerson:** That would help, thank you.

[73] **Brian Gibbons:** Could these recordings be used in a court of law—not just in the case of pupil misbehaviour, but also misbehaviour by the bus driver or adult supervisor—as evidence of criminal activity that is not necessarily related with travel to school? Sexual abuse or harassment might have nothing to do with travelling to school, so could it be used for that purpose? Also, could the recordings be used for training purposes? I cannot see that they would be sold or anything like that. There are a number of possibilities; some are totally unacceptable, but I am not sure what the safeguards are with regard to other possibilities.

[74] **The Deputy First Minister:** It could well be that the current safeguards, to which Lindsay referred, will cover many of the points that you raise. Although it might be possible to fit cameras on buses that could be used for journeys not classed as learner travel, there would be no requirement for them to be used other than on learner travel journeys. That is the only requirement under the legislation. In other words, if an event happened outside the school journey, there is no requirement for the bus to have the camera on for that journey.

[75] **Bethan Jenkins:** Mae gennyf gwestiwn ychwanegol sy'n gysylltiedig â phwynt Brian Gibbons. Efallai y gall Bethan neu Lynsey ehangu ar y pwynt hwn. Mewn nifer o ysgolion, rhaid gofyn caniatâd rhieni cyn tynnu unrhyw fath o ddelwedd neu wneud unrhyw recordiad yn yr ysgol, er enghraifft yn ystod digwyddiadau Nadolig neu wrth gymryd lluniau yn gyffredinol. Mae sawl ysgol wedi cael problemau gyda hynny yn fy ardal i. A fydd angen caniatâd y rhieni? Os nad ydynt yn hapus bod eu plant yn cael eu recordio ar fysiau ysgol, a fyddant yn gallu optio allan o'r system, fel sy'n digwydd gyda chymryd lluniau â chamêrau neu ddulliau eraill o recordio sydd yn digwydd yn yr ysgol ar hyn o bryd?

**Bethan Jenkins:** I have a supplementary question related to Brian Gibbons's point. Bethan or Lynsey may be able to expand on this. In many schools, parents' permission is required before taking any picture or making any recording at the school, for example at Christmas events or when taking general pictures. Several schools have had problems with that in my area. Will you need parental consent? If they are not happy that their children are recorded on school buses, will they be able to opt out of the system, as is the case with taking pictures with cameras or other means of recording that currently happens in the school?

10.50 a.m.

[76] **Y Dirprwy Brif Weinidog:** Unwaith eto, mater i'r rheoliadau fyddai hynny. Fodd bynnag, os oes gofyn cyfreithiol i roi camera ar fws, byddwn yn disgwyl bod yn rhaid i'r cwmni a fyddai'n rhedeg y gwasanaeth gydymffurfio â'r ddeddfwriaeth. O dan yr amgylchiadau hynny, byddai'r gallu i optio i mewn ac allan yn negydu bwriad y ddeddfwriaeth. Dyna'r ffordd y byddwn i'n dehongli'r sefyllfa. Wrth gwrs, byddwn yn hapus iawn i Lynsey ychwanegu at hynny neu ddweud rhywbeth gwahanol. Serch hynny, mae'n bwysig bod y pwyllgor yn cael y wybodaeth gywir ar y mater hwn.

**The Deputy First Minister:** Again, it is a matter for the regulations. However, if there is a legal requirement for a camera to be installed on a bus, I would expect the company running that service to have to comply with the legislation. Under those circumstances, the ability to opt in and out would negate the intention of the legislation. That is how I would interpretate the position. Of course, I am happy for Lynsey to add to what I have said, or to contradict what I have said. However, it is important for the committee to have the correct information on this issue.

[77] **Ms Edwards:** I will just point out that, in relation to the recording of children on buses, section 2(3) of the proposed Measure states that

[78] 'regulations under subsection (1) may not authorise or require recording to be carried out in a manner that is calculated to ensure that persons who are subject to it are unaware that it is or may be taking place'.

[79] So, there would be no circumstance where parents, for example, would not be aware that their children would be recorded on their school journeys. The proposed Measure would prevent the regulations from doing anything that meant that that would not happen.

[80] **The Deputy First Minister:** There could be no secret filming is what you are saying,

is it not?

[81] **Ms Edwards:** Yes.

[82] **Jenny Randerson:** Are you happy with that, Bethan? I see that you are.

[83] **Peter Black:** In that definition, do you also mean the legal guardian?

[84] **Ms Edwards:** Yes. The schools would notify the parents that cameras would be recording their children.

[85] **Peter Black:** As I understand it, there is no legal requirement to obtain permission for filming. If they object to that, it would just have to be noted. They could not stop it from being done.

[86] **Ms Edwards:** I am not sure; I would have to get back to you on that. Would that be all right?

[87] **Peter Black:** Yes, thank you.

[88] **Jenny Randerson:** That is the end of the questions from Bethan. We will now move on to questions from Brian Gibbons.

[89] **Brian Gibbons:** Thank you, Chair. Section 3 of the proposed Measure would allow for regulations in relation to making safety risk assessments and for publishing the report. Can you explain for whom and for what purpose these reports will be made? What issues might be considered as part of the assessment?

[90] **The Deputy First Minister:** To assist local authorities, we published non-statutory guidance on home to school risk assessments in November 2009. It covers five key areas. The risk assessment will need to look at the route that the bus would take, the pick-up and drop-off points, the school sites to which the bus would travel, things like drivers and passenger assistance and the kind of vehicle used. All that information needs to be gathered, which will assist local authorities. These things would have to be published so that, presumably, parents could be satisfied that, for a particular journey, a full risk assessment has been undertaken of the potential dangers.

[91] I have looked at some of the forms. If you have not had these, Brian, I think that it would be helpful for you to see them. The document has sample forms, which set out the kind of things that bus operators would need to look at. That information would then be publicly available.

[92] **Jenny Randerson:** We have had the document circulated to us this morning. We have not had time to look at it, but we will look at it in the next few days.

[93] **The Deputy First Minister:** That is fine.

[94] **Brian Gibbons:** So, what is the purpose of publishing the reports? Is it for the public? I am still not clear what the policy objective is with regard to publishing the reports? Is it to inform the public that these risk assessments are undertaken? If school governors or even parents wanted to reassure themselves that the routes are safe, would these reports be the means of doing that? Is it for the purposes of community safety partnerships or whoever to produce some sort of audit report on progress made? Or is it all of those?

[95] **The Deputy First Minister:** The primary reason is that it will allow local authorities

to satisfy themselves that all the possible risks on a particular journey have been covered by the bus operator and that they are satisfied that appropriate action will be taken by the bus operator to reduce the risks identified. That is the main purpose. The main reason for that is to satisfy pupils and parents. It is not possible to assess every single risk to its logical conclusion, but by looking at the forms here you can see the sorts of things that need to be borne in mind. They cover, for example, whether the school site is adequately supervised, the requirement for vehicle doors to remain closed until the vehicle is stationary, and for vehicles not to move off until the driver is sure that it is safe to do so and has full vision of where the children might be and so on. It is to give confidence to the schools, the pupils and their parents that these things have been properly looked at. Sometimes, you might find that parents think that where the bus stops to pick up their children is not the best place for safety reasons. They will be able to check whether the risk assessment considered that danger. It is quite an important part of building trust between the bus operators, schools, pupils and parents.

[96] **Peter Black:** When the education committee did its original inquiry into school transport, one of the grey areas identified was to do with drop-off and pick-up points. Clearly, the bus operator is responsible for what happens on the bus, and the school is responsible for what happens on its premises. However, the drop-off and pick-up points are not on the bus and are not on school premises. Will the regulations require the assessment to stipulate who is responsible for incidents at these drop-off and pick-up points?

[97] **The Deputy First Minister:** Yes, that is the intention.

[98] **Brian Gibbons:** Will there be any consequences to non-compliance on the part of the local authority? The bus operator may have to do it, but it might say, 'Thanks, but no thanks'. What would the cost of non-compliance be? Who carries the can for non-compliance?

[99] **The Deputy First Minister:** Would Bethan or Lynsey like to come in on that?

[100] **Ms Bateman:** It is envisaged that the regulations would place a duty on local authorities to ensure that the risk assessment is carried out. It would take what is currently voluntary guidance and place it on a statutory footing, so the legal responsibility would rest with the local authority. One imagines that they would impose this on bus operators as a condition of contract in each school contract, so that the bus operators would fill in the forms. Indeed, it is reported to me that, in many instances, this is happening anyway, but placing it on a statutory footing would help in many ways to make it clear that it is a set of duties. In the very rare case of a local authority not complying, we would have the power of duty over a local authority to take its functions from it.

[101] **Brian Gibbons:** That is fine. I was trying to establish whether local authorities could be legally empowered to do it as opposed to having a legal duty, but I think that you are saying that local authorities will have a statutory duty to do this.

11.00 a.m.

[102] **Jenny Randerson:** We will move on now to Jonathan Morgan.

[103] **Jonathan Morgan:** Good morning, Deputy First Minister.

[104] **The Deputy First Minister:** Good morning.

[105] **Jonathan Morgan:** I will deal first with the issue of driver training. Could you outline what training, if any, is currently provided for drivers of learner transport, and how the requirement in the proposed Measure might improve current practices?

[106] **The Deputy First Minister:** The current practice is that all drivers of buses, coaches and minibuses are required by the UK Government, through the Department of Transport, to undertake 35 hours of approved driver training every five years. The proposed Measure will enable Welsh Ministers to set up additional standards of driver training to cover skills such as working with children, compliance with seat-belt legislation and dealing with challenging behaviour. That would be in addition to the basic training that they currently have to undertake.

[107] **Jonathan Morgan:** Does the basic training at the moment include issues relating to children? Obviously, in the explanatory memorandum you have said that the training that could be referred to in this proposed Measure could cover customer service, equalities, working with children, child protection, and so on. Is there an element of that current training that covers those issues of child protection, for example?

[108] **The Deputy First Minister:** I am not sure, actually. The information that I have is that the current provision involves advanced training in rational driving based on safety regulations, application of regulations, health issues, road and environmental safety, and service and logistics. That makes me suspect that the issue you raise is probably not covered. I think that we probably need to come back to you on this, because I might have given a list that is not exhaustive. I need to be absolutely sure that that is not covered. However, the intention behind our regulation is that, whatever the basic training currently is, we would have additional requirements around the issues that I have mentioned.

[109] **Jonathan Morgan:** So, at the moment, we can assume that a driver of a bus that is ferrying children from home to school and back is not likely to have any more training in relation to the individuals that he is carrying than the level of training that you would ordinarily expect from someone driving a bus.

[110] **The Deputy First Minister:** I think that that is the case. That is the information that I currently have. However, if there are additional training requirements outside the list that I have given, then I will probably need to write to you to clarify.

[111] **Jenny Randerson:** Thank you, Deputy First Minister, for that. Christine would like to ask a supplementary question on this.

[112] **Christine Chapman:** You talked about looking at challenging behaviour. My question is whether this part of the proposed Measure would ideally look at issues around drivers, or even supervisors, addressing issues of pupils with special needs. I know, for example, that some authorities have voluntary arrangements for training for drivers and supervisors to understand challenging behaviours, particularly around special needs. Do we need to firm that up, bearing in mind that school transport sits in your department rather than the education department, and similarly in authorities, I do not think that school transport is within education? I am therefore concerned that we need more joined-up thinking on special needs, for example. I am thinking of a pupil with autism, for example, where a driver might make a situation worse because they are not fully au fait with the condition and how to deal effectively with a pupil with that condition.

[113] **The Deputy First Minister:** That is a good point, and we would want to ensure that the requirement is wide enough to capture the kind of condition that you describe. It is a fair point that you make, and I would like to see that covered.

[114] **Jenny Randerson:** We go back to Jonathan for the next question.

[115] **Jonathan Morgan:** I will move on to section 5, and the issue relating to supervisors



on learner transport. Section 5 allows for supervisors, and the proposed Measure states that it could be a member of staff. Could you clarify what type of staff you would envisage carrying out this role? Would it be a teacher? Would it be another member of the school staff, such as a teaching assistant?

[116] **The Deputy First Minister:** My understanding is that they would need to be dedicated supervisors, employed by the local authority specifically to supervise children during the school journey. Therefore, they would not be teachers or bus drivers. They would have to be dedicated supervisors. The expectation would be that they would not be teachers or teaching assistants.

[117] **Jonathan Morgan:** In relation to escorts on learner transport, the memorandum gives an example of requiring escorts to be present on all transport provided for primary school pupils. Is it your intention that escorts will be limited to certain stages of education and, if so, on what basis will this decision be made?

[118] **The Deputy First Minister:** The policy priority is for primary school children to have escorts and not to widen that any further. I alluded earlier to the initial evidence that we are getting that having a CCTV camera on the bus is a better way of ensuring good behaviour than having an escort, because the evidence that the CCTV camera provides is much more conclusive. The initial evidence that we have is that that is a more suitable way of dealing with bad behaviour. We have asked the Welsh Local Government Association to work with us on carrying out a number of evaluations on things such as CCTV cameras. The WLGA will be reporting back to us in detail in March next year.

[119] **Jonathan Morgan:** In the explanatory memorandum, you state that some 90,596 children aged between five and 16 travelled on a dedicated school transport in the year 2009-10. Is it possible to establish what proportion of that figure would cover those in primary school and how many individual journeys that would constitute? I am trying to get a figure in my own mind as to how many escorts might be required for the number of journeys undertaken by primary school pupils.

[120] **The Deputy First Minister:** I am pretty sure that we could have a breakdown of that figure. Obviously, I do not have it today, but I will ask for that to be made available to the committee.

[121] **Jonathan Morgan:** Thank you. Looking at the provision of supervisors, in my own experience—and, I am sure, in the experience of other Members sat around the table—some of the worst standards of behaviour tended to come from those in secondary school. I can remember that from my own school days. Is there a risk that by focusing on mandating the use of escorts on journeys for primary school pupils, you will perhaps miss the opportunity of enforcing better behaviour for those in secondary school? I know that we have mentioned CCTV, but, sometimes, the appearance of an adult can have a significant impact.

[122] **The Deputy First Minister:** Our original intention was to make sure that primary pupils have escorts. Introducing that requirement for secondary pupils as well would significantly increase the cost. We will need to evaluate all the evidence that we are gathering now, which, as I say, will be available. Initial evidence points to a particular direction, but we need to reserve judgment until March next year. By then, we will have looked at all the evidence that we have, such as the matters that you have mentioned about bad behaviour being more likely on a bus with mainly secondary rather than primary school pupils. That is the sort of evidence that we need to look at. Currently, we are not persuaded that we need to extend it. However, if the evidence shows otherwise, it would be foolish not to.

[123] **Jonathan Morgan:** Thank you, Deputy First Minister. I have one final question in

relation to section 6 on civil sanctions. In relation to the provision under the proposed Measure, do these follow any particular precedent and have any lessons been applied from the experience of other systems of civil sanctions?

11.10 a.m.

[124] **The Deputy First Minister:** We have looked at the guidance that was produced by the Ministry of Justice when drafting new legislation to tackle regulatory non-compliance. The introduction of the Regulatory Enforcement and Sanctions Act 2008 marked a change in the then UK Government's approach to the regulation of business. The provisions of that Act provide regulators with an extended toolkit of alternative civil sanctions, which were seen as more proportionate and flexible in its response to cases of regulatory non-compliance. Our proposed Measure was drafted in the spirit of that Act.

[125] We need to remember that there will be occasions when it is more appropriate to try to impose a civil sanction rather than a criminal sanction. We have included provision in the proposed Measure that allows for both, therefore it is then for the regulatory authority to consider which is the most appropriate in certain circumstances. The evidence from the 2008 UK Act is that, in many cases, the civil enforcement would be the most appropriate.

[126] **Brian Gibbons:** Paragraph 35 of the explanatory memorandum states that:

[127] 'A discretionary requirement cannot be imposed on a person for the same act or omission on more than one occasion.'

[128] What is the legal reality behind that, for instance with regard to a bald tyre? If someone sees a bald tyre on a bus, does it mean that the discretionary requirement can only be applied on one occasion? What are the implications if nothing is done about it and the same bus has another bald tyre on another wheel, or has defective lights?

[129] **The Deputy First Minister:** You have perhaps not referred to the best examples, because they would be a problem on any vehicles, whether they are learner transport vehicles or not. Given that we are introducing new regulation, the question that we could ask, and perhaps Lynsey could respond on this, is: in the circumstance where a bus that carries pupils to school would not be compliant with the regulations that we are seeking to impose, in addition to the normal road traffic regulations, what would that particular bit of the explanatory memorandum refer to? Would Lynsey like to comment on that?

[130] **Ms Edwards:** There is not a lot of detail on the face of the proposed Measure in relation to any enforcement regime that we may bring into force. What I would imagine would happen if such an offence was found to have been committed, and a discretionary requirement was placed upon a bus operator, for example for a bald tyre, and that was not then complied with, is that there would be a more serious penalty given, possibly a criminal sanction.

[131] **Brian Gibbons:** What I was thinking of was that that you could have a bald front left tyre on a bus one week, and the next week a bald front right tyre, and the bus company could basically just be moving the tyre around the bus.

[132] **Ms Edwards:** In those cases, I would imagine that they would be considered as separate offences.

[133] **Brian Gibbons:** Okay. Would the same apply for lights and so on?

[134] **Ms Edwards:** Yes.

[135] **Brian Gibbons:** Can you explain a little more about the circumstances of the publicising of enforcement action and what sort of things would an operator have to do or not do?

[136] **The Deputy First Minister:** The sanction would be publicised, whatever it might be, because the proceedings would be open to the public. The requirement would then be for the operator to satisfy the penalty and to have corrected the omission, whatever that might be. So, for example, if we were to impose a requirement that all buses should have seatbelts, if a bus operator ran a bus that did not have appropriate seatbelts, it would be subject to a sanction, and, in addition, would be required to ensure seatbelts on all buses from then on.

[137] **Brian Gibbons:** Paragraph 47 says that:

[138] ‘The regulations may make provision to enable the enforcement authority to require the person on whom the sanction has been imposed to publicise the fact’.

[139] I am trying to work out what sort of breaches would require that publicity and to get a feel as to whether you could put up a postage-stamp-size notice at the back of the garage when no-one could see it or whether you would have to display a large notice on the bus saying, ‘I’ve been nabbed for having a bald tyre’. I am trying to get a picture of what sort of offences are likely to be caught by this publicity requirement and what the purpose of it is. Is it to alert people that if they get on a certain bus they are at risk?

[140] **The Deputy First Minister:** The intention is to ensure that bus operators comply with new regulations that we will impose. Therefore, we want to make it clear that there will be a penalty for non-compliance and that they will be required to comply with the regulations from that point onwards. I am not sure that we can tell you precisely how that will be publicised now, because the regulations have not been introduced, but I would expect that any publicity around that would have to be such that people would become aware of it. How they would become aware of it is a matter for us to decide in regulation. I think that there would be a requirement that the publicity would be such that people would become immediately aware of it. However, it is important to stress that we do not need these regulations to ask bus drivers to comply with regard to bald tyres or on lights, because that is already enshrined in road traffic regulations. All that is covered. What we are saying in the proposed Measure is that there will be additional regulations that they do not have to comply with currently, but, when they come into force, they will. If you have a bald tyre on your bus, you do not have to wait for this legislation to be penalised.

[141] **Brian Gibbons:** Yes, but if you have a bald tyre, would you be obliged to publicise it under paragraph 47 of the explanatory memorandum?

[142] **The Deputy First Minister:** No, because, in my view, it only relates to the breach of the regulations that we will be introducing. Perhaps Lynsey would like to comment on that.

[143] **Ms Edwards:** There is a provision in paragraph 19 of the Schedule that relates to the publication of enforcement action, but that is publication by the enforcement authority, not the offender.

[144] **Brian Gibbons:** However, it says

[145] ‘to require the person on whom the sanction has been imposed to publicise the fact’.

[146] I am not saying that this explanatory memorandum is accurate; it may not be.

[147] **Jenny Randerson:** That is in paragraph 47 on page 41. Maybe that is another issue on which officials could come back to us, Deputy First Minister. We seek clarification on that. Brian wants to pursue another issue.

[148] **Brian Gibbons:** I do apologise, Chair. Paragraph 39, under ‘Stop notices’, says:

[149] ‘Regulations must make provision about compensation for loss suffered as the result of the service of a notice.’

11.20 a.m.

[150] That is, presumably, a stop notice. I can imagine circumstances in which a bus operator might feel that an inspector or even an authority has blackballed it or deliberately made life hard for it. So, an operator may feel that some of these stop notices might be vexatious and that it should have a right to compensation as a consequence. However, one would have thought that in the ordinary run of events, a stop notice would be put in place because something disastrous had happened. Therefore, why should there be compensation for a loss as a consequence? I am looking at paragraph 39. In what circumstances would a loss be compensated?

[151] **The Deputy First Minister:** Bethan, would you like to comment on that one?

[152] **Ms Bateman:** I am trying to find the reference.

[153] **Jenny Randerson:** It is paragraph 39 on page 40.

[154] **Brian Gibbons:** It is in the explanatory memorandum, under ‘stop notices’.

[155] **Ms Bateman:** Oh, in the explanatory memorandum. Thanks. I would like to write to you on this matter so that I can clarify it, but my understanding is that in circumstances where an appeal had been made against a stop notice and the stop notice was not upheld, compensation could be issued. For example, the stop notice could have been issued incorrectly. That is what it refers to. If there was a breach by an operator and a stop notice was served, there would not ordinarily be a case for compensation.

[156] **Brian Gibbons:** So, the compensation for a stop notice would be for exceptional circumstances, in which the operator would possibly feel hard done by?

[157] **Ms Bateman:** It would be only be where there was an appeal against a stop notice and it was overturned. If the stop notice was overturned, there could be compensation for the operator, but only in those circumstances. However, I would still like to consider that further.

[158] **Jenny Randerson:** We need more detail, and officials and the Minister may wish to look at that paragraph to see whether it could be made slightly clearer.

[159] **Peter Black:** If you read on, paragraph 39 goes on to state that:

[160] ‘The regulations must also provide for appeals against decisions not to award compensation or in relation to the amount.’

[161] If compensation was being paid pursuant to an appeal against the stop notice, the authority that heard the appeal would presumably have awarded the compensation. The paragraph indicates that compensation would sometimes be payable in relation to a stop notice when an appeal had not taken place. For example, a stop notice may have been issued because of an incident on the school site that is not the operator’s fault or something such as

that.

[162] **Ms Bateman:** We will write to you on this matter and look at it further.

[163] **Jenny Randerson:** Thank you very much, that is helpful. We move on now to further questions from Christine.

[164] **Christine Chapman:** Section 7 provides for regulations to appoint a person or body to be an enforcement authority. This includes a power to make modifications to any enactment applying to the enforcement authority. Could the Minister provide some detail as to who might be appointed as an enforcement authority?

[165] **The Deputy First Minister:** The intention is that an enforcement authority will be established under this legislation with a number of staff attached to it. They would be civil servants with a background in bus safety standards and regulations so that they would become the inspectors, as it were. So, the enforcement authority would be created as a Welsh enforcement authority in Wales with its own staff.

[166] **Christine Chapman:** So, you are not thinking about using existing authorities or agencies?

[167] **The Deputy First Minister:** No, we looked at that but we could not find an appropriate enforcement authority that could do it. Under these particular circumstances, you need people with particular expertise in learner travel and bus safety standards and regulations. So, we felt that it was better to have our own enforcement authority.

[168] **Christine Chapman:** Further to that, would there be any merit in appointing a cross-border organisation such as the Traffic Commissioners to assist in resolving any cross-border issues?

[169] **The Deputy First Minister:** We do not think that we would need that, because the enforcement authority would have enforcement powers and duties in relation to vehicles provided or contracted by Welsh local authorities or by the governing bodies of maintained schools. That is the case regardless of whether the vehicles are owned by English or Welsh bus companies. The determining factor is whether they are providing learner transport for schools in—*[Inaudible.]*

[170] **Jenny Randerson:** There is a technical problem that will take some time to—*[Inaudible.]* Would Members be happy to adjourn the meeting?

[171] **Christine Chapman:** I have another meeting to attend at 11.30 a.m..

[172] **Jenny Randerson:** You had virtually finished your questions, had you not? If so, we could resume without you.

[173] **Christine Chapman:** Yes, although I did not get my answer.

[174] **Jenny Randerson:** We will adjourn for about 10 to 15 minutes.

*Gohiriwyd y cyfarfod rhwng 11.27 a.m. ac 11.41 a.m.  
The meeting adjourned between 11.27 a.m. and 11.41 a.m.*

[175] **Jenny Randerson:** I call the meeting to order again. Unfortunately, we have been unable to resume the session with the Deputy First Minister. In the circumstances, all we can do is write to him with the remaining questions that we wish to ask. There are questions on

enforcement provisions, regulations and consultation on those, and on the territorial application of the proposed Measure. Peter has an additional question, which we will put in the same letter.

[176] **Peter Black:** I want to ask whether the enforcement authority would have its own standalone secretariat and what its status would be. Would it be a mini-quango in effect, or would it be just a civil servant or a group of civil servants in the Deputy First Minister's department? I want some clarification on that.

[177] **Jenny Randerson:** Brian, do you also have a question?

[178] **Brian Gibbons:** On enforcement, reference is made to 'reasonable time' in which to exercise the power of entry. I would like some clarity on what 'reasonable time' means. One interpretation is that it is just office hours, which seems unduly weak to me. Perhaps the definition should be a little more expansive to allow it to cover other circumstances.

[179] **Jenny Randerson:** Jonathan, do you also have a question?

[180] **Jonathan Morgan:** Yes, I have a question about the constitution of the enforcement authority. Do we take it that the enforcement authority would work by dealing with complaints or would there be a system of monitoring in force, whereby monitoring officers would undertake spot checks? I am not sure how that would work. I suppose that, in a sense, it comes down to the capacity of the organisation, and whether it is one man or woman sat in an office, or an organisation with the capacity to undertake that sort of work.

[181] **Jenny Randerson:** This will be a fairly substantial document in that there were a number of issues on which the Deputy First Minister had already agreed to write to us. So, there are lots of matters to be taken up, but I remind you that he will be back at the end of our set of evidence sessions, so we can take anything further up with him then. I thank the Deputy First Minister's officials, Bethan and Lynsey, for being here this morning. I thank all Members for their forbearance with regard to the technical problems. I remind you that the next meeting is next Thursday, when we will be taking further evidence on the proposed Measure.

*Daeth y cyfarfod i ben am 11.44 pm.  
The meeting ended at 11.44 p.m.*