



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

**Pwyllgor y Mesur Arfaethedig ynghylch Dysgu a  
Sgiliau (Cymru)  
The Proposed Learning and Skills (Wales) Measure  
Committee**

**Cyfnod 1  
Stage 1**

**Dydd Iau, 13 Tachwedd 2008  
Thursday, 13 November 2008**

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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi 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**

Christine Chapman	Llafur Labour
Jeff Cuthbert	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Andrew R.T. Davies	Ceidwadwyr Cymreig Welsh Conservatives
Janet Ryder	Plaid Cymru The Party of Wales
Kirsty Williams	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats

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

John Griffiths	Aelod Cynulliad, Llafur (Y Dirprwy Weinidog dros Sgiliau) Assembly Member, Labour (The Deputy Minister for Skills)
Grace Martins	Yr Adran Gwasanaethau Cyfreithiol, Llywodraeth Cynulliad Cymru Legal Services Department, Welsh Assembly Government
Mark Leighfield	Yr Adran Plant, Addysg, Dysgu Gydol Oes a Sgiliau, Llywodraeth Cynulliad Cymru Department for Children, Education, Lifelong Learning and Skills, Welsh Assembly Government

**Swyddogion Gwasanaeth Seneddol y Cynulliad yn bresennol**  
**Assembly Parliamentary Service officials in attendance**

Sarah Beasley	Dirprwy Glerc Deputy Clerk
Claire Griffiths	Clerc Clerk
Gwyn Griffiths	Cynghorydd Cyfreithiol Legal Adviser
Anne Thomas	Gwasanaeth Ymchwil yr Aelodau Members' Research Service

*Dechreuodd y cyfarfod am 9.32 a.m.*  
*The meeting began at 9.32 a.m.*

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

[1] **Jeff Cuthbert:** I welcome John Griffiths, the Deputy Minister for Skills, to the meeting. I apologise that I must leave this meeting before 11 a.m. because the King of Lesotho is attending a school in my constituency, and I need to be there. At the appropriate time, the committee will nominate a temporary Chair to take my place.

[2] **The Deputy Minister for Skills (John Griffiths):** I have just been with the King of Lesotho, which is why I am a bit late.

[3] **Jeff Cuthbert:** That is all right, thank you. I remind everyone present, including those in the public gallery, that this committee operates bilingually and that headsets are

available for the translation of Welsh into English, and also to amplify the sound. Channel 0 provides the amplified verbatim broadcast, and channel 1 provides the translation. If there is a fire alarm—we are not expecting a drill today—the ushers will lead us to a place of safety. I remind everyone sitting around the table to turn off mobile phones, pagers and any other electronic devices, as they interfere with the broadcast and translation systems. Finally, I remind everyone that there is no need to touch the microphones, because they will switch on and off automatically.

[4] Everyone is here, so there are no apologies for absence. Are there any declarations of interest? I see not.

9.33 a.m.

**Y Mesur Arfaethedig ynghylch Dysgu a Sgiliau (Cymru) 2008—Cyfnod 1,  
Sesiwn Dystiolaeth 8  
Proposed Learning and Skills (Wales) Measure 2008—Stage 1,  
Evidence Session 8**

[5] **Jeff Cuthbert:** This is the eighth and final oral evidence session of this Measure committee, and it forms part of our consideration of the general principles of Stage 1 of the legislative process. This is the second session that we have held with the Deputy Minister for Skills—the first session was on 14 October, when we adjourned the session because we did not have enough time to complete the questioning. So, we will proceed on that basis. I welcome you again, Deputy Minister, and also Grace and Mark who are here to support you. As I have mentioned, a temporary Chair will be appointed later on to take my place.

[6] If it is okay with you Minister, we will move straight into questions. I will ask the first questions, about Welsh-medium provision. We have received evidence that stresses concerns about the impact that the Measure will have on Welsh-medium provision. We would like to know what practical issues you have considered to ensure that Welsh-medium provision is secured, and that Welsh-medium schools are able to participate fully in the proposals. In addition, how do you propose to ensure learners' access to courses through the medium of Welsh post 16? You may wish to comment on one respondent's view that it would be better to delay the implementation of this Measure until the Welsh Assembly Government's all-Wales Welsh-medium education strategy is published.

[7] **John Griffiths:** We must recognise that—and I have said this many times—until Wales is a truly bilingual country, there will always be a great deal of difficulty and issues around the delivery of services through the medium of Welsh. That is a fact that we always have to face when trying to take forward any provision through the medium of Welsh. Obviously, we have 'Iaith Pawb', as the Welsh Assembly Government strategy, to make progress towards the truly bilingual Wales that we want to see.

[8] When we take forward any policy, we must address the Welsh-medium issues as best we can, and although we started from a low base in Welsh-medium provision in further education, we have made substantial progress. There is still a lot of progress to be made, but there has been an increase in the capacity to deliver further education through the medium of Welsh. We have invested, and are investing, moneys to achieve that. There is £1.2 million this year to increase capacity in further education through the medium of Welsh. There is a fairly well-established sabbatical scheme for teachers and lecturers who can speak Welsh, but are not confident about their ability to teach or lecture through the medium of Welsh. That scheme is designed to give them confidence, and addresses the technical vocabulary and other aspects of delivery needed. We have funded Coleg Meirion-Dwyfor to take a lead on videoconferencing across Wales, because we know that new technologies will be important if

we are to see the Measure made a reality through the medium of Welsh, and a greater choice provided. It has funding to take a lead on that. There is an existing infrastructure of videoconferencing equipment and new technologies in schools and further education colleges across Wales, which is obviously helpful.

[9] It is also true to say that we have seen substantial progress in the 22 area networks in Wales in terms of provision through the medium of Welsh. It is obviously the case that all of those networks, in being tasked to achieve the minimum entitlement by September next year, must concentrate on the providers in their areas that, at the moment or in the recent past, are and were furthest from reaching that minimum entitlement, to help them to make the progress that they need to make. Quite often, it is Welsh-medium providers that have been furthest away, although not always. For example, in Caerphilly, a Welsh-medium school is offering the greatest number of choices of the institutions there. However, in general, there have been problems. That has meant that a considerable amount of the funding that we give the 22 area networks has been used to increase Welsh-medium capacity. We have seen some substantial and radical improvements in choice. Through the introduction of the Measure, will see a substantial and impressive increase in Welsh-medium provision, which is what we want to see. We are confident that the minimum entitlement can be met through the medium of Welsh, as it can generally.

[10] The cross-border aspect is important for Welsh-medium education, and the Measure allows cross-border curricula and cross-border co-operation. Already, that co-operation and collaboration between Welsh-medium providers has increased quite notably again with the driver of the Measure.

9.40 a.m.

[11] The Welsh-medium education strategy is obviously a very important document and policy for the Welsh Assembly Government, which we are taking forward. I think that we have seen an improvement in provision and capacity, as I have just outlined. I think that it is positive for delivery through the medium of Welsh and it will be increasingly positive as we move towards September 2009 and beyond. Also, there is no legal entitlement to education through the medium of Welsh at present. Creating such an entitlement for the 14-19 age group would not be a strategic or coherent way of taking forward Welsh-medium education in Wales. We have to wait for the Welsh-medium education strategy to set out policy. We would certainly not want to delay, in any way, the benefits that this Measure will bring for students in both Welsh-medium and English-medium schools. We want that wider choice and that greater support in place as quickly as possible.

[12] **Jeff Cuthbert:** Thank you for that, John. I call on Andrew R.T. Davies on this point.

[13] **Andrew R.T. Davies:** I appreciate from what we have heard from other witnesses that the figures might not be that accurate, because, historically they tail off because the provision has not been there. People who have gone through secondary Welsh-medium education and have then taken the further education option, have just gone into English-medium further education. However, do we have an idea of the sort of demand there is for Welsh-medium further education? Have you done ground work or do you have preparatory figures that could say what you are ultimately working towards?

[14] Also, I heard what you said, Minister, but the Welsh Language Board at first said in its evidence that it was ambitious, but then on cross-questioning said that it was unattainable at present if the current timeframe was adhered to; that is, by starting in 2009. No-one is trying to detract from the benefits that the Measure will bring, as I think that everyone has signed up to that, but the real danger is that by going for an unattainable timeframe—to quote the Welsh Language Board—you might well derail your overall goal of trying to deliver to as

wide an audience as possible the benefits of the Measure that most people, if not all witnesses, have signed up to.

[15] **John Griffiths:** We are confident that September 2009 is an attainable implementation date. We are confident that the phasing and banding arrangements that we have introduced make that date attainable for the legal duties and the minimum entitlement. Originally, a September 2009 implementation date, without that phasing or banding, was envisaged. The introduction of phasing and banding obviously makes a very big difference. It provides that ability to manage and take forward the legal duties and the statutory entitlements in a way that we think is entirely achievable and attainable.

[16] **Andrew R.T. Davies:** With respect, Deputy Minister, the evidence that we have taken from the Welsh Language Board—

[17] **Jeff Cuthbert:** If you let John finish the point first, I will then come back to you, Andrew.

[18] **John Griffiths:** In terms of attainability, we have on-the-ground experience of 14-19 learning pathways, working with the 22 networks, which bring together all of the key stakeholders, which show very substantial progress. We have worked very closely with those networks in setting the banding and phasing arrangements. They tell us that it is attainable and achievable. All of the 22 areas have placed themselves within bands. I think that 14 of the 22 areas have placed themselves in bands A or B, rather than in band C. It is band A and B that involve the greater choice before we get to 2012, when all will meet the 30 courses entitlement. The fact that 14 have placed themselves in the more ambitious bands tells a story about the attainability of the September 2009 date.

[19] **Andrew R.T. Davies:** With respect, I presume that, in giving evidence, the Welsh Language Board had sight of the bandings, because the committee took evidence from it only a month ago. I appreciate that the Government has taken the decision that this will be achieved in 2009 whatever happens. However, given that the committee has taken evidence that this is ‘unattainable’—which is quite a strong word—we must exercise our judgment on that evidence, must we not?

[20] **John Griffiths:** I know that many of those who gave evidence to the committee feel that it is attainable. Obviously, it is for the committee to consider the various pieces of evidence before it and come to a view. However, working with the local networks that will be tasked with implementing the entitlement, we are confident that the timetable is realistic. As I say, the placement within the bands and the acceptance of placement within one of the three bands by all 22 authorities suggest that it is a reasonable requirement to achieve this policy by September 2009. Obviously, different organisations will have different viewpoints. I guess that that is always the case when any committee of the Assembly takes evidence on any matter.

[21] **Jeff Cuthbert:** Thank you. I am anxious to move on because this is the last chance that we will have to scrutinise you, Minister, and, within the time constraints that we have, I want to try to get through all of the questions. As you say, we have received a great deal of evidence, and we will weigh the evidence overall when preparing our report.

[22] We now move to the second group of questions from Christine Chapman.

[23] **Christine Chapman:** I want to ask about an individual’s entitlement. The draft of the Measure was amended to ensure greater clarity on the grounds for headteachers and principals in making a decision on entitlement for learners. As you know, the grounds include the pupil’s level of educational attainment, practicality as a result of other choices, the amount of

time likely to be spent travelling, disproportionate expenditure, and the pupil's or another person's health and safety. How will you ensure consistency in these decisions, and do you intend to issue guidance for headteachers and principals?

[24] **John Griffiths:** Thanks, Chris. Yes, we intend to issue guidance. Obviously, we want to see a consistent approach; we think that that is very important. As you said, we amended the text of the Measure to deal with this in line with the consultation responses, which suggested this change. I think that that shows that we have been receptive to consultation feedback and general views expressed by organisations across Wales in taking this forward. That is very much the partnership approach that we have tried to develop. However, it is important that guidance, in many respects under this proposed Measure, sets out our expectations and requirements so that we can achieve consistency. We know that, looking across Wales, although we have seen progress in all areas on the 14-19 learning pathways policy generally, at the moment, this is, I guess inevitably, more developed in some areas than in others. We want to ensure that all learners benefit from wider choice and greater support. Therefore, it will be important to achieve consistency, and this is one example of that.

[25] **Jeff Cuthbert:** To clarify that, you are talking about achieving consistency while being flexible, I presume?

[26] **John Griffiths:** Yes.

[27] **Jeff Cuthbert:** Clearly, there would be variations depending on the nature of study that the learner wished to pursue and the part of Wales that they happened to be in.

[28] **John Griffiths:** Yes, that is very much the case, Chair. We have tried to achieve a balance between consistency of approach and allowing for local circumstances and autonomy. That is the spirit in which we are taking the proposed Measure forward.

[29] **Christine Chapman:** The committee heard last week from Sir Adrian Webb. He recommended that two of the grounds listed in subsection 8(2) should be removed from the proposed Measure. These were 'disproportionate expenditure' and that the ground that the course of study should be 'reasonably practicable'. Would you consider removing these two?

9.50 a.m.

[30] **John Griffiths:** I looked at the evidence from Sir Adrian Webb. He is an authoritative witness on the subject, and, indeed, many others. We think that we have the balance right in terms of entitlement and disentitlement, allowing for a reasonable approach that factors in the matters that you, and others, have raised. I understand Sir Adrian's views, and I am sure that others will hold similar views, or opposing views, or still other views on this subject—as you can imagine, there are a number of factors that come into play. However, we feel that our proposals get the balance right, and that is how we intend to proceed.

[31] **Christine Chapman:** Finally, I wondered whether you feel there should be a complaints and appeals procedure. If so, could it be introduced by regulations made under section 28(3)? Would you need to amend the proposed Measure, or are the existing appeals procedures adequate?

[32] **John Griffiths:** We need a complaints procedure and appeals mechanism. We will probably deal with the issue in guidance, although we are open-minded on the subject, as we are in general. It is crucial to any process of entitlement or disentitlement and ensuring that legal rights are observed, that there is an appeals procedure, and that it is properly set out and detailed, so that everyone has clarity and certainty, and understands the process. We want to make that part of the Measure, because the issue of entitlement and disentitlement is crucial to

ensuring that learners have as wide a choice as possible. Nonetheless, we recognise the constraints upon schools, governing bodies and principals, so it is about achieving a balance. So, yes, there must be an appeals mechanism, and it must be set out in detail.

[33] **Janet Ryder:** I have a question on that detail. Hypothetically, if you received an appeal from a pupil who had been denied their choice on the grounds of reasonable practicality or disproportionate expenditure, who would define those clauses, and how would it be done?

[34] **John Griffiths:** That would also be dealt with in guidance, for greater clarity. There is always a trade-off between what you deal with on the face of the Measure and what you deal with in regulations and guidance, and the latter two allow a great deal more flexibility and speed while saving legislative time, which is a precious resource, as you know. So, we would set that out in guidance, because clarity is important.

[35] **Jeff Cuthbert:** Thank you. We move on to the next set of questions, also from Janet Ryder.

[36] **Janet Ryder:** A lot of the evidence that we have taken has been on learning support services, and the role of the learning coach. Some of the evidence supports the need for learning coaches to be independent from the school or FE institution. There appears to be some concern that the role may end up being tacked on to the roles of existing practitioners, rather than becoming a dedicated resource for the use and support of the students. Can you explain your intentions in the Measure regarding learning support services, and, specifically, where should responsibility for learning coaches lie?

[37] **John Griffiths:** We have made it clear that the learning coach function is just that—it is a function, rather than necessarily being an individual. There has been some misunderstanding around that. It means that you could have a number of professionals within a school delivering the learning coach function, rather than one particular person. It builds on existing practice in schools and colleges, where pastoral support is an important part of what those institutions do. It also brings in new elements, such as the emphasis on learning skills and emotional intelligence. There is a need to provide training modules—we have done so, and will continue to do so—to give people the necessary skills within institutions to provide the learning coach function.

[38] Impartiality is important and it is easy to understand concerns around that. That is why we intend to ensure that institutions demonstrate that impartiality. One good way of doing it is through the involvement of Careers Wales, which is an obvious organisation with expertise in this area that can give impartial advice. Careers Wales Online is a very good resource that can be used in that regard.

[39] So, the learning coach function is important and that is why training will continue to be provided. It is important that it is impartial and we intend to ensure that that is the case.

[40] **Jeff Cuthbert:** I understand the difference between the function and a post; I do not dispute that. When Sir Adrian Webb was here last week, he made the point that, with the current education and training regime, there is a tendency to say, 'I am going to be deemed successful if I put the needs of my institution first and I am seen to be supporting that'. I understand that view, as opposed to having the broader view of asking, 'How is my contribution to the overall needs of the consortia being judged? Am I fulfilling that role?'. So, it is fair to say that there is legitimate concern that if the learning coach, in fulfilling that function, also has a substantive role in the school or college, there would be a natural tendency to put the needs of that institution first—it does, after all, pay the wages. Do you not think that there is an issue to be addressed there?



[41] **John Griffiths:** Yes, I do think that there is an important issue to be addressed there, Chair. In this proposed Measure, we are looking for learner needs to be put first, and that has been at the forefront of everything that we have done and said, and everything that we will do and say, with all of the 22 networks and institutions involved, and in the guidance and everything else that we have issued, which has gone to every school and FE college. Having said that, we are not naive, and institutional self-interest or perceived self-interest can always play a part. That is why we need the requirement that impartiality is demonstrated, so that institutions can be challenged on the process involved. That is why Careers Wales, and Careers Wales Online, is important, because it is an organisation and resource with a great deal of experience and expertise in advising on career and future education and training choices and where that may lead. That is why the process must involve that impartiality and that is what we will require.

[42] **Jeff Cuthbert:** I call Janet Ryder on this question, and then Chris Chapman.

[43] **Janet Ryder:** My question is an extension of that, and is on whether that function is a function or a specific role that someone will play. Many different issues have come through in evidence from different groups. There have been issues around whether this role is to advise on career choice and, therefore, on choice of credits and the career pathway, and whether that impinges on individual institutions, or on whether it means that students may need to look outside of that institution. I suppose that you could group those issues around whether it is going to be support offered by Careers Wales as a service or whether it is a function that will continue to be provided by a careers teacher in a school.

10.00 a.m.

[44] The other concerns, which were quite serious, were about the support that individual students will need when they start to learn through a structure that is not from 9 a.m. to 3 p.m. or 9 a.m. to 4 p.m. in a school, on the same campus every day and according to a school timetable. When they have a lot of flexibility and they perhaps move around between institutions, a greater number of students than we estimate may need individual support to make sure that they are not lost in the system. For me, those were the two issues with what this learning culture should be. If you are going to take that pastoral care support side of a learning coach, and if pupils start to move between different places to learn, who will be responsible for checking those students' progress? Who will be responsible for bringing all the different timetables and reports together and for making sure that the students attend their courses? If that is not an individual role, but one that is carried out by myriad people, will those children not be even more lost in the system? How will you offer security for those children? Some of these young people, at 14 years of age, are still quite young children; some may not leave the school campus, but some will choose to leave it. How are we to avoid losing them in the system?

[45] **Christine Chapman:** May I come in on a similar point? When the idea of the learning coach came up originally, we were talking about a discrete role that could have been undertaken by a series of people, including careers advisers. However, as Janet said, there is the issue that every young person would have access, and not just if they wanted that. I am slightly concerned, because many young people do not always understand that they may be missing out, and it is important that the person with the learning coach role would go to them and work with them to ensure that they are not lost in the system. I am seeking some assurance that this role will not be watered down, because these young people really need this provision, and if we do not get this right, they will lose out, and we need to make sure that they do not.

[46] **John Griffiths:** First of all, Chris, you have done a lot of work to bring these

developments to fruition, and I thank you for that.

[47] It is important to build on what exists in our institutions in terms of pastoral care and general support and advice, because that is the essential building block that we can use. However, with the learning coach function and the training modules, we seek to take that to a new plane, and that is really important. As I said, it is about such things as learning skills and emotional intelligence, as you well know.

[48] All schools and colleges understand the importance of this support, and the fact that it will sometimes be a team that delivers the learning coach function will not result in any watering down of the value of the role, because it is building on current good practice and what is already there, but enhancing it and further developing it. It is going with the grain of current practice, which is always helpful whenever you introduce such things as this proposed Measure.

[49] Janet talked about 14-year-olds moving between different institutions, and the acid test is experience to date, because we have a lot of 14, 15 and 16-year-olds moving between schools and colleges now, and the support that is necessary to enable that to happen exists, and it is happening effectively. That has led to an increase in choice and an increase in available support and standards. So, experience to date is very positive across Wales, and it shows that we are able to widen choice and increase support through 14-19 learning pathways. We have to ensure that that continues, and that we build on it and strengthen it.

[50] I do understand the importance of that support role, Chris, and the fact that many learners are vulnerable, who have a number of issues and problems, and need a strong relationship with school staff. Staff need to understand those individual needs, and the additional factors that may be involved in the movement between institutions. I am not saying that any of this is easy to deal with, but practice to date has shown that we can effectively overcome any of these obstacles and implement the 14-19 learning pathways as we intend. The proposed Measure will pick up the pace with all of that and strengthen it.

[51] **Janet Ryder:** I want to move on to students with an additional learning need and students who might be attending special schools. Special schools have been excluded from the proposed Measure and therefore pupils who attend special schools will not be able to take advantage of its provisions. How will you ensure that you make adequate provision for pupils with additional leaning needs who are not in a special unit, or perhaps those within a special unit who want to take part in this, to enable them to participate in the learning pathways opportunities?

[52] **John Griffiths:** The difficulty that we have with this issue, Janet, is that some pupils in special schools receive all their education within a special school for a very good reason. To give those pupils an entitlement to move between different institutions, as would be involved in accessing their entitlement to greater choice, would not be feasible or sensible. Many of them would have to be disentitled, which would make a nonsense of the inclusion of those special schools in the Measure. So, it is about addressing the special educational factors of such provision.

[53] Many pupils with special educational needs are in mainstream schools, however, and will benefit from the proposed Measure. Some who are at special schools have dual registration, and so they will be able to benefit from it as well. So, there is some flexibility involved in the proposed Measure as far as these pupils are concerned, but we also understand the need to ensure the curriculum provision for special educational needs students who will, necessarily, have all their education in one institution. We would look to take forward and develop that provision as the proposed Measure is rolled out.

[54] **Janet Ryder:** Can you foresee any additional requirements in the proposed Measure for students in mainstream schooling who might have an identified special need, or are you satisfied that their needs will be adequately covered? For example, if they have a statement, will those statements be completely fulfilled and will all the provision be in place for them?

[55] **John Griffiths:** Mainstreaming speaks for itself, does it not? If we want to mainstream education for those pupils, they will have to be treated in the same way as any other pupil. That is what we would do under the proposed Measure. A pupil in a maintained school, not a special school, would have the same entitlement as any other pupil, which is the right approach. That is what mainstreaming is.

[56] **Janet Ryder:** To go back to the appeals procedure, if an appeal were to come in from the parent of a student who wanted to pursue a certain course, but the provider had said that it was not suitable, would you deal with that using guidance? How would that situation be dealt with? Would the guidance cover those circumstances, or would parents need to proceed to tribunals and appeals, which everyone wants to try to avoid?

[57] **John Griffiths:** It would clearly be unacceptable for any institution to say that a learner in mainstream education is not entitled to the course of their choice because they have a special educational need. That would clearly be unacceptable and probably illegal.

10.10 a.m.

[58] **Janet Ryder:** So, you would expect the provider to meet whatever needs there are.

[59] **John Griffiths:** Yes, as I said, mainstreaming is about ensuring that pupils other than those registered only at special schools get the benefits of the proposed Measure. That means all pupils at a maintained school.

[60] **Jeff Cuthbert:** May I make a point? I accept that pupils and learners with additional learning needs should have the same entitlement to learning as anyone else, but they may need extra support. In the scenario of placements on employers' premises or with work-based learning providers, that extra support might include ensuring that the employer or the employer's representative understands in sufficient detail the additional needs of a learner. Might that be a role for the learning coach or for Careers Wales? How could that be addressed? Has that been thought through?

[61] **John Griffiths:** As happens now, it is very much a matter of good communication between the institution at which the pupil studies and the employer. That is fairly routine now. However, it is also an aspect of the learning coach function to ensure that the additional needs that a pupil might have are factored into fulfilling their choice in the entitlement and general education and training of that pupil.

[62] **Janet Ryder:** The next set of questions is about excluded pupils. The evidence that we have received clearly shows that schools and further education institutions have different procedures for dealing with excluded pupils. Will the current arrangements for excluded pupils be adequate when the Measure is implemented, or do the current arrangements need to be reviewed?

[63] **John Griffiths:** There are long-established procedures for dealing with exclusions, in schools and further education colleges. We do not anticipate making changes to them. There are always issues with the way in which they work, but they are general issues that are not particular to the proposed Measure. We expect current practice to continue and we expect to deal with issues as they arise, as is currently the case.

[64] **Janet Ryder:** Can you confirm that it is your understanding that the same duty lies with a further education college if it excludes a pupil as that which lies with a school?

[65] **John Griffiths:** They both have their own well established procedures. Although there may be issues around them, I am not aware of huge or great concern as to the way in which those processes work at schools or further education colleges.

[66] **Janet Ryder:** We might want to come back on that to receive some legal clarification.

[67] **Jeff Cuthbert:** Certainly.

[68] **Janet Ryder:** Finally, in the explanatory memorandum, you assert that the Assembly's competence to pass this Measure comes from matters 5.4, 5.7 and 5.8 of Schedule 5 to the Government of Wales Act 2006. However, matter 5.13, which makes provision for securing collaboration between FE institutions, was not cited. While you do not have to quote the relevant matter to be able to rely on it, can you explain why you chose not to make reference to it in your explanatory memorandum?

[69] **John Griffiths:** The purpose of the explanatory memorandum is to explain what the proposed Measure would do and how it would do it. We did not refer to that particular matter, because this proposed Measure does not draw upon it. We have set out the matters that are directly relevant to the power that we need to take this proposed Measure forward, and they do not include that particular matter.

[70] **Jeff Cuthbert:** We will move on to the power to make regulations. Kirsty Williams has questions on this.

[71] **Kirsty Williams:** The proposed Measure would enable Welsh Ministers to make a number of regulations in a wide area. Can you please outline your proposed legislative timetable if your Measure's proposals are to be implemented by September 2009? What additional regulations, if any, will you need to present to the Assembly for approval, and when is that likely to happen?

[72] **John Griffiths:** The policy on 14-19 learning pathways has been in place since around 2004, and wider choice, co-operation and better support have been an integral part of that. We have had detailed discussions with all 22 local authority areas about the policy detail that will form the basis for the creation of regulations. Feedback that we have had from those 22 local areas has been incorporated into the policy detail. The revised detailed policy guidance relating to key stage 4 was discussed with network representatives on 21 October and has been issued to all stakeholders.

[73] Regulations will be issued following Royal Approval. However, the policy that will inform the basis of those regulations has already been issued to stakeholders, because we understand that those required to implement the Measure, when passed, need to know what it is that they are required to implement and we must allow time for planning. I emphasise that we are not talking about any surprises; we are talking about very well rehearsed proposals that have been developed over time.

[74] **Kirsty Williams:** I understand that, but my question was what additional regulations, if any, will need to be presented before the Assembly, and when is that likely to happen?

[75] **John Griffiths:** The proposed Measure still has to go through the legislative process here, Kirsty. There is much deliberation yet to be done. As I said, regulations will be brought forward after the Measure receives Royal Approval. The important issue is the content of the

regulations and that those required to implement the Measure are confident that they know in considerable detail what is required of them, what will be in the regulations, and what will inform the regulations. A huge amount of work has gone into ensuring that that will be the case.

[76] **Kirsty Williams:** Given that you have been able to issue such policy guidance to local authorities reflecting the guidance, surely you can tell us in more detail what additional regulations you will bring before us and when we are likely to see them.

[77] **John Griffiths:** All that they have to do is ensure that the system operates effectively, which I am sure we all understand. The formation of the local curriculum will be the subject of regulations, including pupils' choice of courses, the headteacher's decision as to entitlement, and the decision by headteachers to remove entitlement or, to disentitle. So, there will be no surprises in the subject matter of the regulations because all this has been very closely worked out with the 22 area networks, and not just to inform them but also to have a two-way dialogue resulting in change. Not only have the networks been informed of what will happen; they have also influenced it.

[78] **Kirsty Williams:** Some witnesses who have appeared before us have expressed concern at the possibility of brighter students being held back by the provision of a maximum entitlement. How do you intend to use the power to specify a maximum number of courses that a pupil may elect to follow?

[79] **John Griffiths:** We are down to practicalities in setting a maximum. If a student decided to study for 20 GCSEs, for example, there would be obvious issues of practicality, to put it mildly. As with all things, we are talking about reasonableness. The minimum entitlement is just that: a minimum entitlement.

10.20 a.m.

[80] There is a duty to maximise choice beyond that in the proposed Measure. An able student might well seek to study quite a number of subjects, as they currently do. Therefore, we are talking about a minimum entitlement but understanding that it is just that—a minimum entitlement—and more able students might well not only want to, but be encouraged to, exceed that.

[81] **Kirsty Williams:** The issue is that you are going to set a maximum number, or that you will have a power to set a maximum number. I take your point that we will be encouraging people to take more than the minimum if they are able and want to do so, but my question was about the other end of the scale and your ability to set a maximum number. I am interested to hear your views on what you might consider the maximum to be.

[82] **John Griffiths:** That is yet to be finally determined, but it is a matter of reasonableness. I think that everybody would understand the issues involved.

[83] **Kirsty Williams:** Turning to the issue of terms and conditions for practitioners, the Government has made huge progress, which I acknowledge, with regard to differences in pay between teachers and lecturers in the FE sectors, but we have received evidence on differential terms and conditions between teachers and lecturers in the FE sector. Do you think that the differences in those terms and conditions will cause any practical difficulties for collaboration? Do you envisage any additional training needs, particularly for the FE sector, to allow it to meet the stated aims of the legislation?

[84] **John Griffiths:** Again, experience to date is extremely valuable in looking at this area, because we see now, and have seen for some time, movement of staff between schools

and colleges. For a long time, FE lecturers have taught 14, 15 and 16-year-olds and, if I may say so, often the more difficult and challenging students within that age group. Therefore, practice to date shows that it is perfectly possible for these professionals to do a professional job. They have been doing it, they are doing it and they will do it. Co-operation and collaboration is all about that. When it comes to terms and conditions, the trade unions and individuals involved will have their own views, and there are practices, negotiations and established procedures to deal with all of that. However, with regard to the ability to do the job, current practice speaks for itself; education and training are being delivered effectively through this movement between schools and colleges.

[85] **Jeff Cuthbert:** I have a supplementary question on the training side. Do you see it as being a logical development to move towards, say, joint in-service training for teachers and lecturers and, perhaps, other providers, so that there is a common understanding of learners' needs?

[86] **Kirsty Williams:** My understanding of the situation in England is that qualifications have been developed for FE lecturers that address some of these concerns and allow them to practise teaching in both a school setting and FE colleges. My understanding is that proposals for such a qualification in Wales have been worked on and that they are sitting somewhere in Cathays park and have not been actioned. Could you give us an update on whether you will be moving forward on a qualification programme for FE lecturers? This could address some of the concerns that we have been talking about.

[87] **John Griffiths:** These are important areas. Of course we are concerned with professional development and training. We are always looking to improve on those and take them forward in close co-operation with the relevant trade unions. Whether there might be common INSET training is an open question as we take this forward. It is easy to understand the advantages of bringing together training when we are bringing together provision. That, and many related issues, will be addressed as the provisions of the proposed Measure are rolled out.

[88] We are, Kirsty, taking forward the credit and qualification framework for Wales; that work is ongoing. In fact, I dealt with some papers on that just this week. So, we are dealing with this. It is not sitting on a desk somewhere; it is being progressed at a ministerial level as well as at an official level. It is important. We understand the benefit for the professionals involved and the need to take it forward in a timely manner.

[89] **Kirsty Williams:** Finally, I would like to turn to the issue of Criminal Records Bureau checks. It has been suggested to us that a greater number of adults will require CRB checks as a result of this proposed Measure. Do you agree with that?

[90] **John Griffiths:** I do not think so. The idea, which I have heard expressed by some, that adult students in FE colleges would need to be CRB checked because there are 14 or 15-year-old pupils with them in the institution is not legally the case. The law is clear that it is only if adults are involved in a supervisory or other related capacity would CRB checks be necessary. The other staff have already been CRB checked.

[91] **Jeff Cuthbert:** Thank you. We will now move on to the next group of questions, which relate to an issue that did not exist when we met you back in October, namely the implementation group. I believe that the first meeting will be held tomorrow. These questions will be asked by Andrew R.T. Davies.

[92] **Andrew R.T. Davies:** I understand that you updated the Finance Committee last week on the implementation group. Jane Hutt, in her evidence to the Enterprise and Learning Committee, discussed the setting up of this implementation group. Could you give us an

update of where that group currently sits? The Chair has said that it will meet tomorrow. What is the first issue that that group can tackle in order to be effective? How will you work with this group in order to take the proposed Measure forward?

[93] **John Griffiths:** As I said earlier, Andrew, a huge amount of work has taken place in order to engage with a range of stakeholders through the 22 networks. However, more is being done through meetings with local authorities at official and ministerial level, and a huge amount of work has been done to ensure that there is effective engagement so that we take this forward in true partnership. Nonetheless, various concerns were expressed, for example, in evidence to Assembly committees around the implementation of the proposed Measure. Trade unions, for example, were concerned about a number of matters. So, we felt that the best thing to do was to have an implementation group—which will meet tomorrow for the first time, as the Chair has said—to deal with these concerns and issues.

[94] The subject matter for that first meeting is very much for the group to decide. We have a loose agenda. It is an exercise to allow my officials and me to hear the concerns of trade unions and others. We would then want to have a dialogue with regard to the way in which those concerns can be addressed. It is very much a listening exercise, and I hope that we will be able to come to a better common understanding of what will be involved in the implementation, to focus on the needs of the learners, which is what this is all about. That is the key message that we try to emphasise time and again. It is not about any institutional self-interest or the self-interest of any group; it is about the needs of the learners. That will obviously be a central part of my message.

[95] However, we know that some groups that gave evidence were not fully aware of what is involved and what has been proposed. Phasing and banding is an example of that. So, it is about better communication and making sure that—

[96] **Andrew R.T. Davies:** So, the group's purpose will not be the further training of these groups by the Government; it will be more of a listening exercise on behalf of the Government.

[97] **Jeff Cuthbert:** I think that we understand the thrust of the question.

[98] **John Griffiths:** I perish the thought, Chair.

[99] **Andrew R.T. Davies:** It will not be like China, where one might be offered further training.

[100] **Jeff Cuthbert:** We are not into retraining and re-education in that sense.

[101] **Andrew R.T. Davies:** So, it will be an ad-hoc group that will determine its own agenda and will, I presume, from what you have said, meet as and when required, rather than in a structured climate.

10.30 a.m.

[102] **John Griffiths:** I think that that is very much the case; that is how we intend to take things forward. We certainly do not intend to set up re-education camps across Wales.

[103] **Christine Chapman:** We welcome the implementation group development. Again, it is down to the Government to decide how the group sets the agenda, but I would be interested to know whether the group will include some of the people who have attended our meetings. What early priorities will the implementation group need to consider? The big issue for us is the timescale for all of this. That is the main concern that we have heard expressed. It would

be useful for the group to cross-check and to try to better understand the concerns expressed to us. Have you had any thoughts on that?

[104] **John Griffiths:** The organisations—the trade unions, Estyn and the WLGA—are the same range of organisations that gave evidence to you and to other Assembly committees on the proposed Measure. I am sure that some of the individuals who have given evidence to you and to other committees will be at tomorrow's meeting. Timescale will be the first item on the agenda. It is a general agenda, but I am sure that among the first issues raised will be achievability and whether this can be implemented by September 2009. We want to move forward together to ensure that that timetable can be met.

[105] **Janet Ryder:** My point is similar to Christine's point. We have heard from all of the groups. All of the evidence from you points to the fact that the networks have this in hand, have undertaken all the consultation, are sure what their areas are doing and have ensured that they can fulfil this timetable in their areas. However, the unions, which have to put this into practice—particularly the headteachers' and teachers' unions and, to be fair, some of the college unions and representatives—have said, 'We are not ready for this; we have not had the discussions and if we have had discussions, they have only just started'. If you take that down a level, as I am sure almost all of us have, to schools in our areas, they are saying that they have only just received this document and have not heard anything about it. If, on Friday, those unions tell you that they support the overall principle, but that they still have a great deal of work to do to implement this successfully and properly, which is what everyone wants, would you then consider pushing that timetable back?

[106] **John Griffiths:** I have said all along, Janet, that we have seen great benefits for learners in Wales in the proposed Measure. We want those benefits, which provide much greater choice and much better support, to be in place as quickly as possible. A great deal of work on this has already been undertaken across Wales and there have been impressive developments. So, there has been much progress to be reinforced and built on. We are not starting from scratch. We have introduced phasing and banding elements, rather than requiring 30 choices from September 2009, which is what was originally envisaged.

[107] With all of that background, we are confident, working with the networks and getting feedback from all 22 local authority areas in Wales, that implementing this by September 2009 is achievable and attainable. If that is the view that we have reached, based on evidence, it would be perverse of us not to press ahead for September 2009, given the benefits that implementation could give learners. This is about equality of opportunity, because some learners in Wales currently experience this greater choice to a greater degree than others. We want to ensure that that is in place for all learners, no matter where they live in Wales.

[108] The group is about working together to ensure that we get there by September 2009. In the areas of Wales that I have visited, I know that there has been greater enthusiasm in some schools than others, for all sorts of reasons. Some schools have shown me their timetables, which have been harmonised with those of other schools and the FE college, and have said, 'There we are: we have 43 choices—not just now, we have had them for some time—and our learners are really benefiting from all of this', but there are other schools that have said, 'Fine, you are doing that and we understand the reasons for it, but we are not very interested in it because we think that we are doing fine as we are'. Perhaps the schools that are in that position, because they have not made it their business to really engage with the process, may not be as knowledgeable about what is proposed as the schools that have engaged more enthusiastically. We do understand that there have been different levels of engagement with the 14-19 learning pathways. Of course, through the drivers of the entitlement, the Measure will ensure that all institutions in Wales that are engaged in education for 14 to 19-year-olds really will have to co-operate, collaborate and work together, for the benefit of all learners involved.



[109] What I am trying to say is that we have worked very closely with the networks—the schools and colleges are represented on them, as are the headteachers—but it has not just been about the networks as we have had other contact. Guidance went out, twice, to every school and college in Wales, quite some time ago. Obviously, some institutions will be less enthusiastic than others and that is why we must have these statutory drivers to make greater choice and better support a reality for every learner in Wales.

[110] **Jeff Cuthbert:** Given the importance of the implementation group and that this is the first opportunity that we have had to ask you about its work, I am going to let Janet come back in, in a moment. In addition to whatever follow-up question that Janet asks, how will the findings of that group's work feed in to future Stages of this Measure? I doubt that it will be able to feed much into Stage 1, but in terms of the amendment Stage, will there be a mechanism for that? Would you like to deal with that question now?

[111] **John Griffiths:** Yes, Chair. This group will provide a very valuable additional channel of communication between the Welsh Assembly Government and those who will be tasked with implementation and delivery. It will be part of the process that I think that I have generally described of communication between the Welsh Assembly Government, key stakeholders and those tasked with delivery. It is another additional element of that much wider process, all of which informs the process of taking forward the Measure.

[112] **Janet Ryder:** I am going to take you back to the evidence that we have received. I am finding it extremely difficult to reconcile this. I cannot see anything other than a big gap between what you are telling us and the evidence that we have had. It has not been from particular schools; it has been from unions that represent the whole of the teaching body, the headteaching body and the governing body. There seems to be a big gap between what you are telling us that the networks are saying has been done and what practitioners on the ground are experiencing. Why is that? The evidence is not from individual schools, but from the unions that are there to represent the whole of the teaching profession and the headteachers. Everybody who has come in has said, 'Yes, this is the right way to go', and, 'Yes, the sector has to change', but do you understand how much has to change to make this happen? They all seem to be saying, 'We certainly will get there and we want to get there, but it may take us just a little bit more time'. Why is that gap there? Why are we hearing such different things?

10.40 a.m.

[113] **John Griffiths:** It is ultimately for the committee to form its view on the evidence that you have received, as to what the realities are in terms of achievability and whether it can be implemented. I know that not all of the evidence that you have received has been as you have just described it, Janet. Obviously, opinions on both sides of the equation have been expressed as to whether September 2009 is a realisable implementation date or not.

[114] Some of the organisations that have given evidence to Assembly committees have done so without realising that there is to be phasing and banding. I am not sure to what extent that applies to the evidence that you have taken. However, we know that all 22 local authority areas have placed themselves in the bands, and 14 of them have decided to go for the more ambitious bands, as it were. A lot of progress has been made right across Wales over several years towards 14-19 learning pathways policy, which this proposed Measure will underpin on a statutory basis.

[115] Given all that, we are quite confident that September 2009 is an achievable date, and we now have the added element of this group, which will meet tomorrow. So I think that we can work together more effectively to close the perceived gap that you described and to ensure that we are all operating on a more informed basis, with a good channel of

communication, and that we go forward in the light of that. I assure the committee, Chair, that if we did not consider September 2009 to be achievable, then we certainly would not proceed on that basis. As an administration, we want this Measure to be a success as soon as the implementation is required. That is very much why the banding and phasing elements were introduced, and they are important to its achievability.

[116] **Jeff Cuthbert:** Before we move on to the final question, which is about strengthening the duties on headteachers, principals and governing bodies, from Andrew R.T. Davies, and which I suspect may provoke a few supplementary questions, it is probably best that I hand over the chairing of the committee so that I can make sure that I can get to St Cenydd School before the King does. I invite nominations for a temporary Chair to cover my absence.

[117] **Kirsty Williams:** I nominate Christine Chapman.

[118] **Jeff Cuthbert:** Are Members in agreement? I see that you are.

*Penodwyd Christine Chapman yn gadeirydd dros dro.  
Christine Chapman was appointed temporary chair.*

[119] **Christine Chapman:** Thank you. Andrew R.T. Davies, you have the final group of questions.

[120] **Andrew R.T. Davies:** Before I ask the final set of questions, I wanted to come in on question 15, and to push a bit further on the issue of the implementation group. I heard everyone else's remarks, because I asked the original part of that question.

[121] Minister, you said that people have a perceived image of difficulty with starting in September 2009. I suggest to you, Minister, that it is not a perceived image, but a very real concern that a cross-section of witnesses raised with us. You responded to the supplementary questions from Janet and Christine, and to the original question, and while I understand that the group has been set up to try to iron out the issues, it seems that even if it does present the real concerns that have been presented to us about the implementation date, you as a Government, as is your prerogative, have taken 2009 to be 'go', and frankly, retraining of your thoughts will be required to come around to our line of thinking. That is a dangerous start for a group that is supposed to be trying to engage and collaborate on this issue. From your answers—check the Record—although it took a long time to get there, this seems to be a non-negotiable point.

[122] **John Griffiths:** That is not the case at all, Andrew. I have said that I think that that group will be a very important channel of communication and an important part of the process of stakeholder engagement and engagement with those that will be required to implement the Measure. We take all of that in the round.

[123] When I talked about perceptions, I was talking about the perceived gap that Janet mentioned between the evidence to the committee and the feedback to us from the 22 networks. That was the perception that I was talking about, because Janet expressed it in that way. She said that she saw a gap between what I described as the feedback that we get from the 22 networks and the evidence that this committee has taken. On putting the implementation group in a more informed position, we know that some organisations have given evidence to Assembly committees without the knowledge that phasing and banding are proposed. That is crucial, because if you were talking about having 30 choices across Wales from September of next year, for all of the year groups involved, that is hugely different from providing 24, 26 or 28 choices for year 10 from September of next year.

[124] So, given that we know that there has sometimes been insufficient knowledge—and that is not a matter of blaming any organisation; it is just about understanding the basis on which some of the evidence was given—we want to ensure that everyone is better informed, but it is a two-way process. I want to be better informed as to what the difficulties will be in meeting the deadline of September 2009, but I also want to tell the group what the Welsh Assembly Government is doing and proposes to do to overcome those difficulties.

[125] **Andrew R.T. Davies:** Thank you, Minister. To go on to my final question—

[126] **Christine Chapman:** Before you do, I have a supplementary. To clarify, because I might have missed it, how often will the implementation group meet?

[127] **John Griffiths:** As Andrew mentioned in his take on it earlier, it is very much a case of ‘as and when’. We will have the initial meeting and we will see what happens at that meeting, and take it from there.

[128] **Christine Chapman:** I think the point is that on behalf of—[*Inaudible.*]—welcome any information from that particular group as the Measure progresses.

[129] **Andrew R.T. Davies:** The final question relates to the evidence that Sir Adrian Webb gave us a week last Tuesday. He believed that the Measure might be strengthened, and he particularly proposed placing a duty and accountability in the Measure on headteachers, principals and governing bodies in respect of moving towards a common timetable approach, to collaborate to deliver the minimum number of courses, to facilitate the movement of staff across institutional boundaries and to ensure generally well-informed and impartial careers advice. Do you agree that the Measure would be strengthened with these duties of accountability if they were added to the Measure?

[130] **John Griffiths:** What we sought to do under the Measure was to strike a balance between statutory entitlement, legal duty and sufficient flexibility to allow for local autonomy, that is, the autonomy of institutions and people in key positions to make decisions in the full knowledge of their institutional circumstances and local collaborative arrangements. So, there is always a balance to be struck in any legislation between legal duty and certainty and sufficient flexibility.

[131] On some of the aspects, when we talk about timetabling, the terms ‘common timetabling’ and ‘harmonised timetabling’ are used. Harmonised timetabling is what we are largely talking about in Wales, where, for example, you might have timetables fitting together on two days of the week, rather than a common timetable across the week. Common timetabling is unlikely to feature very much, because there are obvious difficulties; schools must deliver the national curriculum, which takes up a fair chunk of their time. However, timetabling is crucial and there is a need for a good fit. We all understand that, and the same also applies to travel arrangements.

[132] It is implicit in the Measure. It is just a fact of the Measure that you need these arrangements that Adrian referred to in place for the statutory entitlement to be delivered. It is part and parcel of the Measure. So, we are confident that, without having additional duties on the face of the Measure, what Sir Adrian very much, and rightly, wants to see happen will happen—there will be effective timetabling and effective travel arrangements.

10.50 a.m.

[133] **Andrew R.T. Davies:** The real issue, on the co-operation front, is that, unless these obligations are placed on principals and headteachers, we can talk all that we want about co-operation but no-one has come up with a magic panacea for how this co-operative model will

work. Sir Adrian was clear that you will fall at one of the first hurdles, because of the nature of the vested interests involved. However, from what you have said—that is your prerogative, because you are the Deputy Minister who is piloting this and you have the votes to push the proposed Measure through—you seem confident that situations of non co-operation will not materialise if these obligations are not placed in the proposed Measure.

[134] **John Griffiths:** There are proper legislative and other Assembly procedures to be gone through before the proposed Measure is passed, and I would not want to pre-empt any of them or take any of that for granted. We will see how it unfolds. In order for the entitlement under the Measure to be delivered, there will have to be proper co-operation and collaboration, on which there are duties in the proposed Measure. Timetabling, travel and all the other arrangements—

[135] **Andrew R.T. Davies:** Can you give us an example of how successful timetabling and co-operation between secondary and further education is working at the moment, as a model that others could use?

[136] **John Griffiths:** There are many good examples. Caerphilly is often mentioned, because it has made good process on co-operation and collaboration. In my patch of Newport, I know that some local schools have come together in clusters with the FE college to harmonise timetables, and they are currently delivering something like 43 choices.

[137] **Christine Chapman:** As there are no further questions from Members, I thank the Deputy Minister and his officials for attending. The clerk will send the draft transcript of today's proceedings to you for any corrections before it is published in its final form. If there are any points that you feel that you were not able to address fully, Deputy Minister, let us know and they can be included with the evidence. Thank you for coming to today's meeting.

10.52 a.m.

### **Cynnig Trefniadol Procedural Motion**

[138] **Christine Chapman:** I propose that,

*the committee resolves to exclude the public from the next phase of the meeting in accordance with Standing Order No. 10.37(vi), for item 5 and any future meetings on the key recommendations of the Stage 1 report on the Proposed Learning and Skills (Wales) Measure 2008.*

[139] I see that the committee is in agreement.

*Derbyniwyd y cynnig.  
Motion carried.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 10.53 p.m.  
The public part of the meeting ended at 10.53 p.m.*