



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

**Pwyllgor Deddfwriaeth Rhif 5**  
**Legislation Committee No. 5**

**Dydd Iau, 30 Medi 2010**  
**Thursday, 30 September 2010**

**Cynnwys**  
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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**

Lorraine Barrett	Llafur (yn dirprwyo ar ran Andrew Davies) Labour (substitute for Andrew Davies)
Alun Davies	Llafur Labour
Mark Isherwood	Ceidwadwyr Cymreig (Cadeirydd y Pwyllgor) Welsh Conservatives (Committee Chair)
Darren Millar	Ceidwadwyr Cymreig Welsh Conservatives
Leanne Wood	Plaid Cymru The Party of Wales

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

Rex Phillips	Swyddog Rhanbarthol, NASUWT Regional Official, NASUWT
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**Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol**  
**National Assembly for Wales officials in attendance**

Bethan Davies	Clerc Clerk
Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Leanne Hatcher	Dirprwy Glerc Deputy Clerk
Helen Roberts	Cynghorydd Cyfreithiol Legal Adviser
Siân Thomas	Gwasanaeth Ymchwil yr Aelodau Members' Research Service

*Dechreuodd y cyfarfod am 1.03 p.m.*  
*The meeting began at 1.03 p.m.*

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

[1] **Mark Isherwood:** Good afternoon and welcome to this meeting of Legislation Committee No. 5. We have received apologies from Andrew Davies, and I welcome Lorraine Barrett to the committee, who is substituting for him. We have also received apologies from Eleanor Burnham.

[2] I will start with the normal housekeeping announcements. No fire alarm test is forecast for today, and if the fire alarm sounds Members should leave the room by the marked fire exit and follow instructions from the ushers and staff. If you have not already done so, please switch off mobile phones, pagers and BlackBerrys because they interfere with the broadcasting equipment. The National Assembly for Wales operates through the media of Welsh and English, and headphones are provided through which instantaneous translation can be received. If anyone is hard of hearing, amplification of the sound can also be accessed through the headphones. Please do not touch any buttons on the microphones, because doing so can disable the system. Please ensure that the red light is showing before you speak.

1.04 p.m.

**Mesur Arfaethedig ynghylch Hawliau Plant a Phobl Ifanc (Cymru)—Cyfnod 1:  
Sesiwn Dystiolaeth 6  
Proposed Rights of Children and Young Persons (Wales) Measure—Stage 1:  
Evidence Session 6**

[3] **Mark Isherwood:** The purpose of today's meeting is to take further oral evidence in connection with the Proposed Rights of Children and Young Persons (Wales) Measure. This is the final evidence session to inform the committee's work in this respect. I am pleased to welcome the representative from the National Association of Schoolmasters and Union of Women Teachers. Please introduce yourself for the record.

[4] **Mr Phillips:** My name is Rex Phillips and I am the Wales organiser for the NASUWT.

[5] **Mark Isherwood:** I will ask the first question. You say in your submission that you trust that the proposed Measure will strike an appropriate balance between the rights of the child and the rights of the persons who work with and on behalf of children and young people. Can you elaborate on that further, please? Can you explain what underpins your views on this issue?

[6] **Mr Phillips:** Yes, certainly. First, the principle of involving pupils and young people in making decisions that affect their lives, as described in article 12 of the convention, is perhaps common sense. I do not think that there is a problem with the principle; it is the practice that stems from the principle that causes problems. In particular, for teachers and the members whom I represent, it is the practice that has arisen under student voice, learner voice, pupil participation and pupil voice. The construction of articles 12 and 13 recognises the need for an appropriate balance. Article 12 refers to the right to freedom of expression for children, but it says that the views of the child should be given due weight in accordance with their age and maturity. That provides a balance, in a way. Article 13 places a restriction on that freedom of expression by referring to the need to respect the rights and reputations of others.

[7] From the initiatives that have stemmed from the convention, such as student voice, we believe that we can evidence an abuse of that privilege. As a trade union, we have established seven principles that should be applied to such initiatives. Do you want me to go through those principles by way of explanation of what we consider to be the appropriate balance?

[8] **Mark Isherwood:** Yes.

[9] **Mr Phillips:** Fine. I will just run through them. The first is that student voice activities should make a positive and demonstrable contribution to the life of the school. The second is that student voice activities must not undermine teachers' professional authority or compromise other fundamental rights of children and young people. We think that that is extremely important. The professional authority of teachers is being undermined by the way in which student voice is currently being applied. Third, student voice activities should be a part of a system that values and respects the views of all members of the school community, including staff. Fourth, policies and practices on student voice must reflect the capacity of pupils to participate in particular activities and the extent to which they can reasonably be held accountable for the results of their actions. It is that accountability that needs to be enshrined in the system. At present, we believe that the way in which the system operates

means that students can make comments with impunity. Principle five is that student voice activities and policies must be consistent with and support work to promote equality and diversity and tackle discrimination and prejudice. The sixth is that approaches to student voice must be inclusive and give all pupils an opportunity to participate. The seventh is that student voice must not add to teacher and headteacher workload or school-level bureaucratic burdens.

[10] That is where we believe the balance comes in. I do not believe that the convention is the problem; it is the application of the convention that causes problems. I cannot put it better than our general secretary put it in her article in *The Times Educational Supplement*.

[11] ‘Children and young people attend school to learn, not to teach or manage the school. There are, therefore, tasks and responsibilities that cannot be allocated appropriately to pupils and require qualified adults.’

[12] Qualified and skilled adults, who are responsible for their decisions, are required to undertake those.

[13] ‘Observing teachers teaching is a prime example of this. Interviewing staff for posts or promotion is another. Involving pupils in such processes must be seriously questioned and challenged by the profession.’

[14] In what other profession are children used to make judgments about the professionals? For example, I am not aware of adult patients, let alone children, being involved in the appointment of GPs, but we seem to take an entirely different approach when it comes to children and schools. If it is considered that pupils are mature enough to be involved in the appointment of their teachers or make judgments on their professional practice, why are children not given the vote? Why are they not allowed to serve on juries? We all know the answers to those questions, but we seem to take an entirely different view in this context. I do not think that there is anything wrong with the convention, and I do not think that there will be anything wrong with the proposed Measure. However, I think that when you are constructing legislation, you need to look at how it can impact on others, and balances need to be built into it. As I said, I think that the balances are there, but the problem is making sure that there is an understanding of them when the legislation is enacted.

1.10 p.m.

[15] **Mark Isherwood:** That provides a very useful context. Alun, would you like to come in here?

[16] **Alun Davies:** Thank you for that, Mr Phillips, and for the written evidence that you submitted. Having read through your evidence and listened to you speaking here this afternoon, it strikes me that you just do not like this. Your dislike of it screamed out at me from your written evidence, and your tone this afternoon reinforces that. You seem to feel that this is a potential threat to the people whom you represent—your members. You have given some good examples of issues that have arisen for NASUWT members, examples to which other teaching unions have also referred at different times. In paragraphs 8, 9 and 10 on page 2 of the annex to your evidence, you seem to be very negative about this and about the concept of rights for children—and let us presume, in this context, that we are referring to those who are under 18 years of age. Could you respond to that?

[17] **Mr Phillips:** I do not think that we are negative about the concept of rights for children, but about where that concept goes. I make no apologies for saying this, but we are very negative about using pupils in the process of appointing staff and using pupils to observe lessons. That is not just my view; it is the view of our members. I have a dossier containing

243 examples of where the practice of student voice has been abused. They are not all negative examples, I have to say. However, just before our national conference, we ran an online survey to get information on how the practice had been rolled out, and some of the examples in the dossier are quite striking.

[18] You say that I am negative and that the NASUWT is also negative about this. However, that is an informed opinion that has come through from our members. I want to share one example with you from the document, which was compiled from submissions across the UK. This was provided by one of my colleagues in Wales, relating to the practice used for an internal appointment. The submission says:

[19] ‘A colleague was an internal applicant for a post at my school in April 2009, and a pupil panel was used during the selection procedure. He was informed by the headteacher early the next day that he had been unsuccessful. After hearing this, he went to his car to locate some resources, and was told by a passing year 8 pupil, “I hear that you did not get the job.”’

[20] If the headteacher had not seen him immediately beforehand, he would have been told that he did not get the job by the pupil. My colleague goes on to say that, during the interview, a panel of year 7 pupils asked the person a series of, frankly, banal and apparently ‘fed’ questions, which were of limited relevance and validity. These included asking why the person had gone into teaching, how the person would deal with misbehaving pupils, what the person did for fun, and what skills and experience the person had that were relevant to the post. The point made by my colleague is that it was beyond his understanding how an 11-year-old could possess the objective and interpretative competencies to consider the answers to such questions or their relevance to someone’s suitability for a teaching position. That is how many in the profession have received the way in which student voice has been developed. However, I want to make it absolutely clear that the problem does not lie with the students or with student voice; it is the way in which it is being used within schools for purposes that it was never designed to be used for.

[21] **Alun Davies:** You have spoken at length about that example, and I do not necessarily disagree with you, as it happens. However, let us put that to one side and agree that we have dealt with it and understand your point of view. Does the NASUWT as a union have wider concerns about this legislation? I understand the student voice issue, and we have dealt with that.

[22] **Mr Phillips:** No, I do not think so. Our concerns centre on the application, interpretation and translation of this into practice. I read out those seven principles, and we are not saying that we do not want those sorts of things to come into schools but that we will test them against certain standards. If they meet those standards, as a trade union we will be happy with that, but if they do not, we will oppose them. We are not saying that we do not subscribe to the convention or the protocols. In fact, quite the reverse is true: we have embraced them. As I said to you before, and I cannot repeat it often enough, the problem is their translation into practice at school level and their impact on our members.

[23] **Alun Davies:** So, you see this as some sort of Trojan horse.

[24] **Mark Isherwood:** The clock is against us and I am sure that the questions that we have will draw out your views and those of your members on the wider proposed legislation. Darren, do you have a quick question?

[25] **Darren Millar:** You keep referring to ‘student voice’, and you do a lot in your evidence. Of course, they are practices that are ongoing and that exist out there already, without the legislation, so why do you fear that the legislation will make the situation worse

for members of your union?

[26] **Mr Phillips:** Quite the reverse is true. In our response, we were hoping that the legislation could be used as a means of addressing some of the problems. These practices stem from the convention, which I think was introduced in 1991, and they have escalated since then. As I understand it, the legislation is enshrining that into Welsh law, which we wholeheartedly accept. However, we saw an opportunity to right some of the wrongs that have been done.

[27] **Darren Millar:** I see. This is about duties on the Welsh Ministers, is it not?

[28] **Mr Phillips:** Absolutely, yes.

[29] **Darren Millar:** I can understand where you are coming from on what you perceive to be excesses in the application of the UN Convention on the Rights of the Child, and that is already subscribed to across the United Kingdom so, of course, it is already part of our law. We are part of the United Kingdom and the UK Government subscribed to it. However, I think that perhaps you may be over-egging the pudding with some of the difficulties and challenges that it may have presented the profession. I have not seen many cases in my constituency, for example, of people citing the UNCRC as a problem that affects their ability to conduct their business as a teacher.

[30] **Mr Phillips:** I would not disagree with that, as they would not cite the convention. What they will cite is some of the practices that have stemmed from that. I have to return to that point. That is why we made much of student voice and the way in which other elements of legislation have been constructed by the Welsh Assembly Government, particularly the legislation on school councils. It amended the legislation on school governance in 2005 and provided for—by default, I believe, as we said in our evidence—associate pupil governors to be involved in staff appointments and in discussions that we believe are not appropriate for students or pupils to be involved in. The word ‘may’ was used in that legislation: they ‘may’ be excluded from taking part in those discussions. We believe that it should have read ‘must’.

[31] **Darren Millar:** This is not going to undo any of that, Mr Phillips. This piece of legislation is not going to undo the creation of school councils in schools across Wales.

[32] **Mr Phillips:** We are not suggesting that it should.

[33] **Darren Millar:** With respect, you are.

[34] **Mr Phillips:** With respect, no, I do not think that we are suggesting that. You mentioned the duty on a Minister to have due regard for other legislation. We could go back and have due regard for the legislation on school councils—and it is always in our remit as a trade union to ask for that to be amended or revisited. When a Minister exercises the due regard duty under this legislation, there would then be relevance to this legislation. That is why we have raised that issue here.

[35] **Mark Isherwood:** Leanne, do you want to come in with a question?

[36] **Leanne Wood:** Article 3 of the UNCRC specifically provides that children’s best interests are to be a primary consideration for policy and decision makers. Given that the wording of the UN convention text is explicit on the primacy of children’s rights, could it be argued that your concerns regarding the rights of adults are less relevant to this proposed legislation?

1.20 p.m.

[37] **Mr Phillips:** I would say ‘no’, as you would expect me to. I do not believe that you can look at article 3 in isolation; it is only one of the articles, and I come back to articles 12 and 13, which I believe contextualise the rights and place restrictions on those rights. So, I cannot answer ‘yes’ to your question and I return to the point that it depends on the convention being applied appropriately. As long as it is applied appropriately, it will address the concerns about the rights of adults. It follows, therefore, that if the convention applied appropriately will address the concerns about the rights of adults, one assumes that the proposed Measure will also do so.

[38] **Leanne Wood:** Is there another place where the rights of adults could be secured and protected, other than through this proposed Measure?

[39] **Mr Phillips:** I will try to turn that question around because I do not think that the legislation and the way that it is constructed should be able to be used to undermine the rights of adults. I return to my earlier point that I believe that there is already legislation in place, stemming from the convention, that has failed to protect the rights of adults. The legislation that I referred to earlier, which amended the regulations on school councils, provided certain powers and rights to associate pupil governors that we, as a trade union, believe were inappropriate. As I said, the regulations should have specifically excluded pupil governors from being involved in the listed activities in that legislation and the word ‘may’ should have been ‘must’.

[40] We met Estyn earlier in the week and, stemming from the way in which school councils operate, it states in its guidance on self-evaluation that:

[41] ‘Although pupils on school councils usually have a role in promoting environmental issues and healthier lifestyles, they are less involved in activities concerned with inclusion such as anti-bullying campaigns and bullying control systems.’

[42] We would agree with that; it is perfectly appropriate for pupils to be involved in those sorts of issues. Estyn, the school inspectorate, goes on to state that:

[43] ‘They are also less involved in influencing policy development, for example through helping to prepare the school improvement plan and appoint new staff members.’

[44] That is where there is tension on this issue. This has stemmed from the convention and then from school councils, and now we have the inspectorate supporting a system that allows pupils to be involved in the appointment of their teachers. That is the line that the NASUWT feels should not be crossed.

[45] **Leanne Wood:** Can you confirm something for the record? It is not children in schools making the decision on appointments; they have involvement in the process, but not the final say on appointments. Is that right?

[46] **Mr Phillips:** I understand what you are asking, but some of the feedback that we have received suggests that decisions have been taken based on what the pupils have said.

[47] **Darren Millar:** Is that not just sour grapes from people who have not been appointed?

[48] **Mr Phillips:** I would answer ‘no’ to that.

[49] **Darren Millar:** What proportion of those people were not appointed to the posts? What evidence do you have to back that up?



[50] **Mr Phillips:** I cannot give you the proportion of people, but I can give you some evidence. I read through an example last night. This concerned an unsuccessful candidate, but I am sure that there was evidence from a successful candidate as well. The candidate had been promoted by internal appointment in October 2009. The post was advertised externally and was subject to an interview by the school council. The candidate was asked about spare-time activities, which was felt to be a little unusual, as it had nothing to do with the candidate's ability to do the job. The school business manager chaired the meeting and encouraged the children to probe deeper into personal activities beyond school. The candidate did not mind the work-related questions, and although the situation itself was a little uncomfortable, it was not until one of the students started repeating what the candidate had said in the middle of lessons, and encouraged other students to ask personal questions, that the candidate realised that it had gone too far. So, that is the sort of experience that teachers are having in the appointment process. One of the other examples—

[51] **Darren Millar:** Rather than read out every example—

[52] **Mr Phillips:** I was not going to read out every example.

[53] **Darren Millar:** It might be helpful if you could tell us, perhaps in written evidence after this meeting, what proportion of those people were not appointed to the post in question.

[54] **Mr Phillips:** I could do that. That is not a problem.

[55] **Alun Davies:** We are scrutinising legislation rather than teachers' appointments processes and we need to recognise that. Mr Phillips, I think that you have some really fair points to make on this, but I do not think that this is necessarily the appropriate place in which to make them. I am concerned about how the union sees this issue, which its members feel very strongly about, rightly or wrongly. This proposed Measure is also about a lot of other things, and it is about the rights of children and young people in terms of the way that services are provided for them. Clearly, your expertise is education. You have discussed education, and we understand and accept that, but it would be useful for the committee if you also looked at other examples of areas where you believe this proposed legislation—not the existing statutory framework, which we understand and know about—would cause problems for you and your members.

[56] **Mark Isherwood:** There are more questions, and I think that you will be able to address Alun's points in that context, if that is okay.

[57] **Mr Phillips:** Yes.

[58] **Mark Isherwood:** I now call on Lorraine.

[59] **Lorraine Barrett:** Before I ask my question, Chair, I wish to say that I was involved with the appointment of the first Children's Commissioner for Wales. Around the table there were many senior civil servants, the Minister and two young people who had been through the care system and it worked perfectly well. I remember the applicant saying to me, 'They are the children that I am here to serve'. I am just making the point that it can work if it is done properly and sensitively. However, we take on board what Rex Phillips has said.

[60] Rex, you say that there is growing evidence that the translation into practice of article 12 of the UNCRC undermines the protections enshrined in article 13. Can you clarify how your concerns are relevant to the proposed Measure as it is currently drafted?

[61] **Mr Phillips:** This brings us back to the points that I have made. I do not think that it

is about the proposed Measure itself, as it is drafted. The point that we were making is about the application afterwards. I am afraid that I cannot move away from that. I do not think that we have been particularly negative about the proposed Measure in the responses that we have put in, only about aspects of it. I can see Alun Davies smiling, but it is about the aspects of the proposed Measure that affect our members. I am here to represent teachers. I was asked to provide evidence to you on behalf of the body of people that I represent, and that is what I am doing. I am not looking further than that in this instance.

[62] I believe that the proposed Measure relates to articles 12 and 13, which provide certain safety nets and safeguards in terms of the way in which initiatives that stem from this can be applied. Our concern is that there are not enough checks and balances in the system to allow those initiatives to be applied appropriately. You have just said, Lorraine, that you have been involved in this where it has worked. The question for us is whether children should be involved in those processes. As a trade union, we have made our judgment on that. We do not believe that they actually possess—as is stated in the document—the age and maturity to be involved in judgments about the professionalism of their teachers and about who should be appointed to their school.

[63] **Lorraine Barrett:** I know that we have covered some of this, but article 3 of the UNCRC requires signatories to ensure that the suitability of staff responsible for the care or protection of children,

[64] ‘shall conform with the standards established by competent authorities’.

[65] Do you have any specific concerns regarding the wording of the UN convention text in respect of ensuring the suitability of staff?

[66] **Mr Phillips:** No. I think that its construction is very specific. It relates to the institutions that have responsibility for the care or protection of children. Again, in terms of the members that I represent, I believe that those protections are in place and that they are in place through the new vetting and barring arrangements that are administered by the Independent Safeguarding Authority. How long the ISA will be in existence is currently a matter of conjecture, but it is there. I certainly think that protection is provided to ensure that the members whom I represent are suitable to work with children.

1.30 p.m.

[67] **Darren Millar:** I want to ask you about the issue of strategic decisions, which is referred to on the face of the proposed Measure. You helpfully provided a definition of what you consider to be a ‘strategic decision’ in your paper, and it was much more detailed than some of the other suggestions provided by witnesses. It probably goes much further than the suggested definition provided by the Deputy Minister. How did you arrive at that? It appears to me that you may be providing a definition that is too constrained.

[68] **Mr Phillips:** It was based on the first response that we put in to the Welsh Assembly Government. A list had been provided of those areas that could be considered by the First Minister or Ministers for the due regard duty. We stated that there were some notable exceptions to that, and listed them, but it seemed to me that the due regard duty was the right way forward. I was looking for a definition of ‘decisions of a strategic nature’ and assuming that it was on the face of the legislation, but I could not find it. I therefore tried to answer the question for myself. I said that it covered those areas that affect the lives of children and those who work with them.

[69] **Darren Millar:** There is no definition on the face of the proposed Measure at the moment, and that is one of the issues that we have sought evidence on—whether there should

be a refined definition in the legislation. Should there be a definitive statement as to what constitutes a 'strategic decision' on the face of the proposed Measure?

[70] **Mr Phillips:** It needs to be done, because that is the only way that you will determine how the proposed Measure will be applied. It would be one of the ground rules, I would say, for the First Minister and Ministers.

[71] **Darren Millar:** Do you think it needs to be done on the face of the proposed Measure rather than by regulation or ministerial decree afterwards?

[72] **Mr Phillips:** I think so. It needs to be transparent, because the Welsh Assembly Government is committed to transparency, so it needs to be there. I think that I qualified some of the things that we said about this issue of being 'on the face of the proposed Measure'; I was not altogether sure what was meant by that, but I have a better understanding now. In most legislation, you have a series of definitions, do you not? It needs to be there. We need to be clear about what areas the due regard duty would apply to and what areas it would not apply to. I have to say that it might apply to all of them, because I have tried to think of areas where you might not apply that, and it is difficult.

[73] **Alun Davies:** In your written evidence, you seem to welcome the requirement that Ministers have a duty of due regard. You say that it strikes the appropriate balance. Some of the evidence that we have received suggests that that due regard responsibility should be extended to cover all ministerial functions rather than decisions of a strategic nature. Were the committee to propose such an amendment, what would your view be?

[74] **Mr Phillips:** It comes back to what I said earlier: unless you define 'decisions of a strategic nature', you do not know what the parameters are. I thought about that for a little while last night and when you start thinking about this, you have to ask, 'Where would the due regard duty not apply?'. Would it apply to something like the badger cull, for example? I would have thought that that would be a decision of a strategic nature, although I do not know whether I am right about that. You could argue that it has nothing to do with the United Nations Convention on the Rights of the Child but, on the other hand, you could argue the emotional effect on children of knowing about the cull. So, in practice, I think that it will be difficult for Ministers to take decisions without having to apply the due regard duty.

[75] **Alun Davies:** Okay. Like Darren, I felt that your definition of 'strategic' was useful. So, you regard the duty of due regard as something that, almost by the fact of the legislation, will extend quite far across all the responsibilities and functions of Government. Is that right?

[76] **Mr Phillips:** I think so, yes. In fact, I think that that was the intention of the convention and the protocols. I think that that would have to happen. As I have said before, I think that, in practice, it will happen, because it would be very easy to find a link between most ministerial decisions and children.

[77] **Alun Davies:** Thank you for that; that is useful. My final question is about the duty to promote knowledge of the convention. In your written evidence, you seem to be saying that we need to go further than is being suggested in order to do that. How do you see the roles of Government, your members or the public in promoting greater knowledge of the convention?

[78] **Mr Phillips:** Inevitably, because children are involved, schools will be expected to promote children's knowledge of the convention. I imagine that that will be done through the personal and social education curriculum or other aspects of the curriculum. My only caveat—and you would probably expect me to say this—is that, if that is to be included in the curriculum and an expectation placed on schools and teachers, you will have to look at what is going to go, because you cannot continue to overload the curriculum. However, I think that

schools have a role to play in promoting that knowledge.

[79] **Alun Davies:** Are you and your members comfortable and happy with that?

[80] **Mr Phillips:** Yes, I cannot see that there would be a problem with their promoting knowledge of it. As I said, I do not think that the problem is with the children having the knowledge.

[81] **Alun Davies:** It is the working of it that is the problem. Okay, I will leave it at that. Thank you.

[82] **Leanne Wood:** I want to go back to this issue of decisions of a strategic nature. I thought that your definition was interesting and helpful. However, would the wording be better and clearer for everyone if the proposed Measure applied to all ministerial decisions, rather than only those of a strategic nature?

[83] **Mr Phillips:** Without knowing exactly what is meant by the phrase ‘a decision of a strategic nature’, I would have thought so, yes.

[84] **Leanne Wood:** You have taken it to mean all decisions.

[85] **Mr Phillips:** I have, yes. I do not know whether anyone can enlighten me on the difference between a decision and a strategic decision.

[86] **Leanne Wood:** We cannot help you with that, I am afraid.

[87] **Mr Phillips:** Okay. Thank you.

[88] **Mark Isherwood:** Before I ask my concluding question, I wish to ask the lawyers about the example of the decision on the badger cull. In your opinion, could that be interpreted that widely?

[89] **Mr Griffiths:** It could be. The wording that the NASUWT suggested was that a decision of a strategic nature would be

[90] ‘any decision that relates to policies, policy areas or service areas that affect, impact on, or involve children’.

[91] The words ‘impact on’ would mean that that could certainly be argued.

[92] **Alun Davies:** It certainly had an impact on my daughter. She made a criticism of my voting. [*Laughter.*]

[93] **Mark Isherwood:** Turning to our final formal question, why do you say in your submission that

[94] ‘The NASUWT sees merit in applying the provision to young people aged 18 to 24 but has questioned previously whether or not the capacity exists to accommodate such an approach.’?

[95] **Mr Phillips:** I was talking about the costs that would be associated with applying that—the costs of administration and application. I do not know whether anyone has costed applying the convention and its protocols to all ministerial decisions, as we have talked about today. I also believe that there may be a need to embrace that group because, within that group of 18 to 24-year-olds, there can be many vulnerable adults. There is merit in going

down that particular route. However, when I talk about capacity, it is related to costs and to the current economic climate. We are currently awaiting the comprehensive spending review. We do not know what will be visited on the National Assembly and the Assembly Government, but I think that we have a fairly good idea. However, I think that this has to be put in that context and that is a decision for others to make, but there is certainly merit in going down that particular route.

1.40 p.m.

[96] **Mark Isherwood:** Thank you very much. Are there any issues that we have not covered or any comments that you would like to add at this point, before we move to close the meeting?

[97] **Mr Phillips:** No, I think that I have had a fair crack of the whip, thank you very much. [*Laughter.*]

[98] **Mark Isherwood:** You kindly offered to provide the clerk with some further information in response to Darren's question. We would be grateful if you could let us have that as soon as possible. All that remains is for me to thank you for your contribution today. It was certainly useful and thought provoking, and it will be considered alongside the other evidence submitted to the committee. A draft of today's transcript will be sent to you for correction, if necessary, before it is finalised, although clearly that is purely for technical corrections. You cannot correct the content or withdraw what you said.

[99] **Mr Phillips:** Yes, I understand. I know what I have said. [*Laughter.*]

1.41 p.m.

### **Yr Aelod sy'n Gyfrifol am y Mesur Arfaethedig The Member in Charge of the Proposed Measure**

[100] **Mark Isherwood:** The next item on the agenda was to take further oral evidence from the Deputy Minister for Children, Huw Lewis, in connection with this proposed Measure, but unfortunately he is unavailable to attend today's meeting and he has rescheduled for next week.

1.41 p.m.

### **Dyddiad y Cyfarfod Nesaf—7 Hydref 2010 Date of Next Meeting—7 October 2010**

[101] **Mark Isherwood:** I will bring the formal part of the session to a close by announcing that the next meeting of the committee will be on Thursday, 7 October at 1 p.m., when we will take evidence from the Deputy Minister. In closing this formal session, I ask Members to remain in their seats as we will now go into private session.

1.42 p.m.

### **Cynnig Trefniadol Procedural Motion**

[102] **Mark Isherwood:** I move that

*the committee resolves to exclude the public from the remainder of the meeting in accordance*

*with Standing Order No. 10.37.*

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

*Derbyniwyd y cynnig.*

*Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 1.42 p.m.*

*The public part of the meeting ended at 1.42 p.m.*