



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

Y Pwyllgor Plant a Phobl Ifanc **The Children and Young People Committee**

Dydd Mercher, 11 Gorffennaf 2012
Wednesday, 11 July 2012

Cynnwys **Contents**

Cynnig i Ethol Cadeirydd Dros Dro ar gyfer Busnes Heddiw
Motion to Elect Temporary Chair for Today's Business

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introductions, Apologies and Substitutions

Bil Safonau a Threfniadaeth Ysgolion (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 5 School
Standards and Organisation (Wales) Bill: Stage 1—Evidence Session 5

Cynnig o dan Reol Sefydlog Rhif 17.42 i Benderfynu Gwahardd y Cyhoedd o Weddill y
Cyfarfod
Motion under Standing Order No. 17.42 to Resolve to Exclude the Public from the Meeting
for the Remainder of Business

Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal,
cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

These proceedings are reported in the language in which they were spoken in the committee.
In addition, a transcription of the simultaneous interpretation is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Angela Burns	Ceidwadwyr Cymreig Welsh Conservatives
Jocelyn Davies	Plaid Cymru The Party of Wales
Suzy Davies	Ceidwadwyr Cymreig Welsh Conservatives
Rebecca Evans	Llafur Labour
Julie Morgan	Llafur Labour
Lynne Neagle	Llafur Labour
Jenny Rathbone	Llafur Labour
Aled Roberts	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Simon Thomas	Plaid Cymru The Party of Wales

**Eraill yn bresennol
Others in attendance**

Keith Towler	Comisiynydd Plant Cymru Children's Commissioner for Wales
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**Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance**

Steve Davies	Cynghorydd Cyfreithiol Legal Adviser
Sarah Sargent	Dirprwy Glerc Deputy Clerk
Liz Wilkinson	Clerc Clerk

*Dechreuodd y cyfarfod am 9.13 a.m.
The meeting began at 9.13 a.m.*

**Cynnig i Ethol Cadeirydd Dros Dro ar gyfer Busnes Heddiw
Motion to Elect Temporary Chair for Today's Business**

[1] **Ms Wilkinson:** Good morning and welcome to everyone. The first item on the agenda is the election of a temporary Chair under Standing Order No. 17.22. I call for nominations.

[2] **Jocelyn Davies:** I nominate Julie Morgan.

[3] **Ms Wilkinson:** Thank you. Are there any other nominations? I see that there are none. I therefore declare that Julie Morgan has been elected as temporary Chair.

*Penodwyd Julie Morgan yn Gadeirydd dros dro.
Julie Morgan was appointed temporary Chair.*

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

[4] **Julie Morgan:** Thank you very much and welcome to the Children and Young People Committee. I have apologies from Christine Chapman and I am filling in for Christine this morning. I remind you that all mobile phones, BlackBerrys and pagers should be switched off. The National Assembly operates through the media of Welsh and English. There are headsets for simultaneous translation on channel 1 and sound amplification on channel 0. As this is a formal public meeting, Members do not need to operate the microphones themselves. In the event of an emergency, an alarm will sound and ushers will direct everyone to the nearest safe exit and assembly point.

9.15 a.m.

**Bil Safonau a Threfniadaeth Ysgolion (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 5
School Standards and Organisation (Wales) Bill: Stage 1—Evidence Session 5**

[5] **Julie Morgan:** During the first part of this morning's meeting we will be taking evidence from Keith Towler, the Children's Commissioner for Wales. Welcome to the meeting, Keith. We are very pleased to see you and we look forward to hearing your evidence. Thank you for submitting your paper, which committee members will have read. We have a lot of questions and limited time. We have approximately an hour, and we obviously want to get through as many questions as we possibly can. I therefore ask everyone to be as concise as they possibly can be.

[6] If it is all right with you, we will move straight to questions. I will start with the opening question. Could you expand on your concern, raised in your consultation response, that the proposed Bill does not appear to be seen within the context of the United Nations Convention on the Rights of the Child? Would you also clarify whether you believe that the Bill should include explicit reference to the UNCRC, and will you outline your reasons for this?

[7] **Mr Towler:** Yes, I would like to see the UNCRC made explicit in relation to the Bill. I am quite surprised that there are no references to the UN Convention on the Rights of the Child within it. Members will be aware of the Rights of Children and Young Persons (Wales) Measure 2011. I know that the due-regard duty did not come in until 1 May, and you could argue a technical point about when this Bill was introduced, but, nevertheless, there is a strong point here, which is about the extent to which the due-regard principle is being taken forward within the Bill.

[8] What I would like to leave you with today, I suppose, is that, if there is one thing that I would like you to consider within this, it is the extent to which the Bill takes on board the UN Convention on the Rights of the Child and looks at school reorganisation, school provision, school organisation and standards in relation to all issues that affect children and young people. In other words, this is not purely about attainment levels; this is about the health and wellbeing of children, and it is about safeguarding issues.

[9] I am quite surprised, for example, not to see reference within this to section 175 of the Education Act, particularly in relation to safeguarding children. I know that you have had evidence from Estyn, and you will have seen Estyn inspection reports that talk about what makes a good learning environment and what Estyn goes to look at in relation to school standards and the way that schools are organised. It seems to me that a rights-based approach in relation to school standards is essential, and we have the Rights of Children and Young Persons (Wales) Measure 2011, which provides a framework within which Ministers can pay

due regard to the UNCRC. So, I am disappointed not to see that in here. I do not in any way mean to say that I do not think that Ministers take account of the UNCRC. I know that they do. However, I would like it to be more explicit in relation to the Bill.

[10] **Julie Morgan:** You would like to see it mentioned specifically in the Bill.

[11] **Mr Towler:** Indeed. On the face of it, absolutely.

[12] **Julie Morgan:** We will now move on to questions from Jenny Rathbone.

[13] **Jenny Rathbone:** I think that it follows that you would also want that included as a reason for intervention.

[14] **Mr Towler:** Absolutely.

[15] **Jenny Rathbone:** Fine. I just wanted to talk to you about intervention. When intervention is occurring—the Minister has decided to intervene—at what point should pupils and parents be involved? This is a complex issue. As soon as the Minister intervenes, there are very heightened emotions involved. Would you like to talk us through how you think that it would operate? There are several layers or stages of intervention, are there not?

[16] **Mr Towler:** Absolutely. I guess that the intervention would be in the case of a failure. So, it starts from the position of not being a good news story and raises questions, I think, in terms of an intervention, about the extent to which pupils' voices and engagement with parents is central to the way in which the school operates. You would hope that a good school has good school councils and takes the participation principle seriously, and that that really plays an important part in the way in which that whole school ethos and culture is driven. I cannot see, particularly from a children's rights point of view, for example, in terms of an intervention, why children and young people, as pupils and learners within that school, would not get information about why the Minister was making the intervention and be fully involved in understanding what was happening in the school. The same goes for parental engagement. I visit an awful lot of schools, and I see fantastic schools that do huge amounts of work engaging with parents and families, which is brilliant—it really increases levels of attendance, not to mention attainment. However, I also see schools where that relationship is not working as any one of us would like. So, the central point around intervention is what has led to it in the first place, and to what extent children, young people and parents are part of the school culture. It is a complex issue. Estyn has raised it a number of times. To go back to the issue of a rights-based approach, I think that ethos is what drives that.

[17] In terms of how it would work, I think that applying the UNCRC as the ground for intervention—in other words, the Rights of Children and Young Persons (Wales) Measure 2011 and children's rights—is the starting point for a Minister in intervening. That rights-based framework is there because it enables a Minister to pay due regard to whether all children's rights are being delivered or not. If that is the basis for the intervention, then the engagement in the intervention needs to involve children and young people. They need to understand what is happening in their school. When those things do not happen—we see that in school reorganisation proposals, for example—children and young people can get completely confused by what is happening and do not get information. I have met children and young people in that situation. They know that teachers and parents are discussing these things without them. Any idea that those children and young people are not affected by these things is absolutely wrong; they are. So, to answer the question about intervention, what the Minister should use is the UNCRC, on the basis of making that intervention. The intervention would begin with the Minister providing information in a very clear format about why he or she is intervening, and what the process will be. That information needs to be understood by children, young people and parents, as well as by the headteacher, the governing body and the

teaching staff. That is a really critical point that is missing.

[18] **Jenny Rathbone:** I want to press you on this, because intervention will occur when there has been a failure of leadership by adults—the headteacher, the governing body, or, probably, both. It is often possible to quickly repair the situation by bringing in somebody on secondment—

[19] **Mr Towler:** Yes—fresh eyes.

[20] **Jenny Rathbone:** Extra governors might be brought in, and so on. I am just not clear as to how informing children about these brutal measures, which are absolutely necessary to safeguard the rights of children, will not just create a lot of anxiety about something where the children will not be involved in the decisions. They will not be involved in appointing the new leadership. There is a real danger here that you simply create anxieties for children without them having any power to do anything about it.

[21] **Mr Towler:** I would say that those anxieties exist whether we like it or not. Sometimes we underestimate what children and young people understand is happening within their school, because they do have some idea of what is going on. Anxieties increase when they do not understand fully, because no-one has sat down properly with them to make them understand what is happening within the school. Sometimes, when I end up talking to children and young people about things that are happening in the school that they are not sure about, they have all kinds of different bits of information that they are trying to piece together themselves. They find themselves in a situation where they are getting some stuff from adults—maybe that is family members, or teachers or governing bodies—but actually that anxiety is already there. There is an issue, too, about the way in which school councils work. Some school councils will have very effective relationships with the governing body, for example, so some children in the school council will have some idea of what is happening within a school. However, I do not think that you can go halfway towards letting children and young people know something that is happening; what needs to happen is a very clear and honest process, so that children understand what is happening. On the point that you make, about whether they will have any say in the final decision—it is, of course, not for a child to decide. However, for a child to have some understanding of what is happening in a school is critical.

[22] **Jenny Rathbone:** Inevitably, if a headteacher were to be replaced, that knowledge would be bound to be imparted to the children, because there would be an assembly where it was explained that X has gone and Y is coming, or somebody is acting for them, or whatever. It is quite difficult for me to see how a detailed discussion with primary school children about this would not just heighten anxiety.

[23] **Mr Towler:** I do not think that it needs to be a detailed discussion, but it needs to have no mystery to it. Seriously, children as young as five and six will spot mystery. They will know that things are not quite right. So, I am not suggesting for a minute that a Minister should turn up and give them a verbatim detailed understanding, but somebody needs to take responsibility. If children are at the heart of the school, and safeguarding children and improving their health and wellbeing is the central driver to all this, there needs to be some honesty with children. Children spot dishonesty, and they are as great as adults at conspiracy theories. They will run away with what is happening and form conclusions of their own. What I suggest is that information needs to be provided to children and young people at intervention that is clearly understood by them, because it fuels anxiety even more if they do not understand, and they pick things up. They will pick stuff up maybe from an angry parent or a parent who is very pleased. They will be picking up emotional responses from adults all around them.

[24] **Jocelyn Davies:** I suppose that you would agree with me that children, especially those aged four and five, will ask 'why, why, why?', so you would do just as well to give the answer as wait for the question to come. It is about preparation in advance, with material that is suitable to the age of the children.

[25] **Mr Towler:** Absolutely.

[26] **Jocelyn Davies:** That would be so that it is organised, rather than children making up their own answer to the question of why.

[27] **Mr Towler:** Also, we would see some school councils, for example, in some of the situations that Jenny described, that might take upon themselves a responsibility to start talking to other children, because they are there to represent their class, their form or whatever it may be. In those situations, the children and young people on those school councils need some information to do that.

[28] You are right that even very young children will ask why. We just need a very consistent answer and a clear set of ideas about what is happening in the school, about why it is happening, about how it will improve things for them, and about their opportunities as things progress through the school council and through other mechanisms to see the school progress in the way that it wants to. Otherwise, children will ask why, and like water through a crack, they will expose it if people are not being honest with them.

[29] **Jocelyn Davies:** This material needs to be prepared carefully and with some experience. Otherwise, as in Jenny's point, there is a real danger that anxiety will spread.

[30] **Mr Towler:** Yes. It needs to use simple language that can be clearly understood. Sometimes with smaller children, you could use drawings or cartoons about what is happening. Those kinds of things can really help. It is absolutely about it being simply expressed and with no mystery, being very clear that children and young people have an understanding of what is happening in their school and what the hope is for improvement. It does not necessarily need to focus on issues that are wrong and bad, but on how things are going to get really fantastic in the school. So, it can be positive, lively and expressive, and it can provide an opportunity for children to get excited about what is going to happen rather than worry about what is happening.

[31] **Jenny Rathbone:** The other issue that I am concerned about is that if you are pursuing competency or capability issues involving staff, it is extremely difficult to see how you could manage that situation, because the person against whom it is being pursued has a right to confidentiality. When governing bodies are told about these things, they are told about them in confidence, which means that they do not tell anybody else. That is very difficult for children to do. This is a very complicated issue, and I can see that being really difficult to manage.

[32] **Mr Towler:** I take your point completely, but increasingly in primary schools, for example, through the growth and development of the foundation phase, there is experiential learning. I was in Brynhyfryd Junior School last week, and I walked into the school and children as young as four and five could talk to me about children's rights. I walked into the room and they were saying, 'Hello, Keith Towler', because they recognised the children's commissioner. They are used to expressing their views and they are used to working in a situation where teachers and others are sitting down and listening to them about what is working in the school and what is not. It is fantastic. These are children who are working in a way whereby their emotions and expressions about how they are feeling are taken forward. There is a rights-based approach in the school, which places children's voices at the centre and provides the framework within which children have a fantastic learning experience. So, I

think that we agree about the complexity of the situation.

9.30 a.m.

[33] However, in primary schools in particular, we are creating a culture that is quite open in respect of the dialogue between teachers and children, which teachers enjoy and benefit from as much as children do. So, the point of intervention in a school is, as you say, an incredibly serious matter, and I do not think that you can divorce it from that kind of culture around pupil voice to create mystery. We have to find a way of negotiating through that so that children understand what is happening. Otherwise they will constantly come back to question why it is happening, as Jocelyn said. They will want to know why. It is better to have a plan for how that will work with children than to think that we cannot talk to children about what is happening. I take the point about confidentiality, and I am not suggesting for a minute that that would ever be breached, but there needs to be something so that children understand what is happening in their school and it makes sense to them at the point of intervention.

[34] **Angela Burns:** Good morning, Keith. Thank you very much for your paper. I have highlighted a couple of issues on the development of the statutory code on school organisation. It was interesting to listen to your comments to Jenny about children's awareness, understanding and ability to absorb levels of detail, even at quite a young age. I want to explore with you a bit more your concerns about the consultation. In your paper, you say that,

[35] 'in terms of the 09/2001 guidance...consultation with children and young people has been inconsistent in terms of implementation and variable in terms of practice. There is an opportunity through this process to improve the situation.'

[36] I would also like you to address your comment that

[37] 'the code should include a requirement for there to be a meeting proposed with the school council'.

[38] That again raises issues of age-appropriateness. I have one other point that I would like to explore after that, if I may.

[39] **Mr Towler:** The issue of children and young people's anxiety is often about communication—or a lack of communication. Contacts have come into the commissioner's office with cases to do with organisation proposals where there will be, from the local authority in question, a consultation plan, and a series of public meetings will have taken place that are not explicitly aimed at children and young people although some older young people will probably have gone along to those public meetings, and I hear reports that they may or may not have had their voice heard, depending on how the meetings went. I meet an awful lot of children and young people to talk about school reorganisation proposals—and I feel as though I am repeating myself—but they say that they just do not know what is happening. They are told that the consultation period has come to an end, but when is anybody going to go to talk to them? So, those are common themes that I get.

[40] I have met people who are in control of some of the consultation processes who say that they have been working really hard to try to ensure that children and young people are involved, and so they get very disappointed when they hear that kind of feedback. To pick up the point about school councils, they would say that they have tried to make a representation to the school council about it, and it is a really practical step for a school council to receive information from somebody outside the school, as it allows them an opportunity to reflect on it and give a view on what it thinks about an organisation proposal. Just rolling up on the day with very little preparation, providing a load of information, having that discussion and going

away again, without allowing the school council to reflect on it, to talk to classmates, maybe, and to think about it and come back, is a bit of a gap in the process. I get a sense overall that children and young people do not feel that they have been fully participating in something. They might have received a presentation, but sometimes they feel that their voice has not been heard in reply. So I think that it is more about communication, to some degree.

[41] We have also had one or two cases in the office of children and young people, maybe just a small group, getting in touch with us about a reorganisation proposal, and they start off with a very clear view, usually. To paraphrase, they might say, 'We don't want our school to close', or, 'Our school is about to close and we don't want it to'. When we ask why they do not want it to close, they say, 'Mr and Mrs so-and-so are going to lose their jobs', and so you begin to understand what agenda they are pursuing. Children and young people get caught between what adults are discussing, so it is about trying to unpick what they really feel about these issues and what the proposals might be for a new school and a new opportunity, which might be quite exciting. It is very difficult to gauge in a short time. Usually, children's anxiety has reached a certain point for them to get in touch with my office or make a representation elsewhere, because we have come to the eleventh hour for an organisation proposal. So, children and young people's involvement in these decisions cannot be at the end of the process; it has to be at the beginning. We need to think about the extent to which we prepare school councils to receive information, to think about it, to consult with other children and young people, to form a view, and to feed things back appropriately. What we are picking up on is that that does not happen.

[42] **Angela Burns:** I understood all that. Moving on, you make the comment that school councils will now be statutory objectors, which is obviously good news, but you also make the comment that it will be very difficult for children who are not involved in school councils to mobilise 10 peers to object. So, I would just like to turn that around slightly and say to you that we have also been discussing the fact that part of the aim of this legislation is to prevent the single adult objector from completely kyboshing proposals. Therefore, why should we say no single adult objector but, hey, a single child objector, who may or may not be put up to it by somebody else, is absolutely welcome? If we are seeking rights and parity, should it not be for everyone?

[43] **Mr Towler:** The thing about school councils is the variable state that they are in across Wales, and whether they are, like any democracy, truly representative of the whole school body. That is not always the case, I would say. I take the point completely: why afford a child a right that an adult does not have? I do think that there are specific issues that some children might wish to raise. I am thinking about two disabled children who might be in a small primary school who might have a very legitimate point to raise. Maybe, as for how that might happen, some advocacy to support a child to get a view heard could be really useful. I absolutely take the point, but I think it needs some consideration, as there might be a legitimate concern for a particular minority group or child, but they might not be able to mobilise 10 people who are in exactly the same position.

[44] **Angela Burns:** I have one final question, although I do take your point. Maybe one of the things that we might look at is perhaps mandating a school council to ensure that there is another little route in for those who are not engaged with, or have not yet gone to, the school or whatever and may not be a part of that process, so that they can put forward their representation and the school council is obliged to pass that on.

[45] Finally, you say that a code of practice should define what is expected from a school organisation proposal, and you talk about a general child rights impact assessment, which might be that kind of thing as well and might include a child poverty assessment. We all know of communities where the school is the community. Are there any other levels of detail that you would hope to see?

[46] **Mr Towler:** That goes back to my opening point and is why the due-regard principle in relation to the child rights Measure is so important in this. What that enables Ministers to start to think about is the extent to which a rights-based framework is being taken forward. So, are we absolutely clear that nothing is slipping back here as regards a child's right to education, and are we moving towards a progressive realisation of children's rights? That is why the rights-based framework is so important in thinking that through. It picks up the point that we were discussing earlier about the complexity of all of this. All of the professionals who are working in schools are trying to pursue that child-rights agenda. There is logical sense to this Bill applying those principles in the way in which this agenda moves forward. That provides the framework for that to be properly addressed as those things move forward.

[47] **Angela Burns:** Of course, the difficulty is in the weighting, is it not? I represent a rural area, and what can happen is that if you are a child who is not from a wealthy-ish family and you live a long way from your school, you have real trouble participating in after-school activities and sports and so on if you do not have transportation and access to a bus service and so on. So, you are talking about the right of a child to access all of those things that children living next door to their school have. How do you weight these things? That is the tricky element, is it not?

[48] **Mr Towler:** Yes, along with how you provide the opportunity to access those things. You are absolutely right. When I visit children and young people in rural schools, they will talk about how precious the lunch hour is because it is the only opportunity they will have to access some of those extracurricular activities that usually happen after the school day because they will be straight back on the bus afterwards. So, there is some creative thinking on what a rights-based framework looks like and how all children and young people can access the best range of opportunities open to them.

[49] **Jocelyn Davies:** Some of the points that I was going to raise have already been covered in terms of the categories of objectors. However, in page 6 of your submission, you talk about the possibility, which you have mentioned this morning, of adults influencing what children do. If you look at the categories, do you think that it is appropriate for school staff to be a category 3 while school councils are a category 2? In some respects, the latter is a higher status. Do you think that that could lead staff to be tempted to use the school council so that there is a higher status for their objections?

[50] **Mr Towler:** Possibly so. It is a complex and sensitive area to understand how a child or young person feels about what is happening in their school. There is no doubt in my mind that sometimes there is a bit of manipulation in a young person's mind that comes from adults. That is completely understandable. That goes back to the early point on what information is going to the child or young person. They pick up all kinds of confusing messages. Would adults manipulate a situation if the school council were placed in a category 2? Possibly so. Human nature would want to determine that you get the best possible angle to create an avenue for your argument. We have to be careful how we provide information and support for children and young people so that they completely understand what is happening in their school in order to form their own views. However, it is a complex, difficult and sensitive area. Sometimes, we underestimate the skills of the link teacher for the school council because the link teacher in school councils is often the individual who will work with the school council to set the agenda and find out what the priorities are for them and how they want to work. The link teacher will be doing that work on top of all of their other teaching duties. However, the role of the link teacher in facilitating that discussion is critical for children in school councils because the link teacher provides the structure within which that would happen. Sometimes, we overlook that role.

[51] **Jocelyn Davies:** We are talking about legislation—words on pieces of paper—and

we might be dealing with complex situations, but we have to find a way of solving those or mitigating the worst problems through the words on those pieces of paper. So, what would you suggest that those words should be? For example, you would like ‘due regard’ to be on the face of the Bill and you would like that due regard responsibility passed on to other people who will be making decisions, not just Welsh Ministers.

9.45 a.m.

[52] We know that the Rights of Children and Young Persons (Wales) Measure 2011 ensures that Ministers have to have due regard. Do you want to see it for other people? How would we address the concerns that you have regarding these categories? Is that possible, or do we just have to accept that we do not live in a perfect world and that these things are going to happen—in terms of the legislation? We cannot possibly use this legislation to put right all of the things that you have brought to us today.

[53] **Mr Towler:** In terms of the legislation, there is no doubt in my mind that the UN Convention on the Rights of the Child and the Rights of Children and Young Persons (Wales) Measure 2011 need to drive all of this. So, what we see happening in practice in primary schools and secondary schools is that teachers and all of the professionals who work in the school work within a rights-based framework within the school. I see that every time I go into a school. So, with regard to seeing that principle established in this Bill in terms of the practical application of the policy—the practice, and everything that flows from that—there has to be some consistency in that. I suppose that that is what I am saying.

[54] That provides safety for all professionals working within that process, and that enables people to start thinking, in a practical sense, about how they will support children and young people to understand these things and what the role of school councils would be within that rights-based framework so that you give due consideration to what children and young people are saying in any given circumstance. To go back to Jenny’s point, it might not be the decision-making responsibility; I do not think that anyone is saying that, but you really completely understand what children and young people are saying about any given situation that is happening within their school. That principle, which runs through the Measure and this Bill, enables practitioners to understand the basis upon which they should be working.

[55] **Jocelyn Davies:** Yes. So, we would not expect this Bill to address the situation where the link teacher to the school council used that in order to influence children. We cannot address that in legislation, because it would be impossible.

[56] **Mr Towler:** Absolutely. However, what would happen in the school is that you would start to think about your responsibility as the link teacher with the school council. They would think about what they had to do as the link teacher.

[57] **Julie Morgan:** Thank you, Jocelyn. Aled, you wanted to come in on this point.

[58] **Aled Roberts:** Mae’r Bil ar hyn o bryd yn dweud, o ran gwrthwynebwr yng nghategori 3, bod unrhyw ddeiseb ganddynt yn cyfrif fel un gwrthwynebiad yn unig. A ydych yn credu, wrth inni ystyried plant nad ydynt yn rhan o’r cyngor ysgol, y bydd hynny’n amharu ar hawliau plant i wrthwynebu’n effeithiol unrhyw gynlluniau?

Aled Roberts: The Bill states at present that, for category 3 objectors, any petitions from them count as only one objection. Do you believe, as we consider children that are not a part of the school council, that that will affect the rights of children to oppose any plans effectively?

[59] **Mr Towler:** Possibly, if we are in a situation where there is no avenue for those children and young people to lodge their objection. That was the point that I was making

earlier. I take the point about the distinction between children and adults in this, but if children are the service users in this situation—and I would say that they are at the heart of the school—there are ways in which we could think about supporting that. We have brilliant counselling services in schools—and we will no doubt talk about school-based counselling services later, and the role of advocacy in this for particular groups of children and young people. Some children, such as looked-after children, children in need, those leaving care, would have a statutory entitlement to advocacy. In relation to category 3 objections, we should enable children and young people, maybe with the help of an advocate, to get their message heard, whatever that message might be. It might be difficult to do that through the school council route; it might be difficult to get 10 friends who hold that same position as you within a particular school. So, I would have a concern about that.

[60] **Aled Roberts:** Hoffwn symud ymlaen i drafod addysg chweched dosbarth ac addysg anghenion arbennig. Nid oes llawer o fanylder yn eich tystiolaeth ynglŷn â'ch safbwynt chi o ran egwyddor. Deallaf eich bod yn awyddus i weld manylion yn cael eu rhoi gerbron gan y Gweinidog, ond, o ran egwyddor, a ydych yn cytuno bod gan y Gweinidog, neu y dylai fod gan y Gweinidog, yr hawl i ad-drefnu addysg chweched dosbarth yn y modd y mae'r Bil hwn yn rhoi'r hawl iddo ei wneud? Beth yw eich safbwynt chi ar ddarpariaeth addysg anghenion arbennig ar lefel rhanbarthol yn hytrach na lefel leol?

Aled Roberts: I would like to move on to discuss sixth-form education and special needs education. There is not much detail in your evidence regarding your position in principle. I understand that you are keen to see details being put forward by the Minister, but, in principle, do you agree that the Minister has, or that the Minister should have, the right to reorganise sixth-form education in the way in which this Bill allows him to do? What is your position on the provision of special needs education on a regional rather than a local level?

[61] **Mr Towler:** Again, I think that there is a distinction between what the legislative process is and what the policy issues are in relation to some of these matters in terms of special educational needs and sixth-form provision. Sixth-form provision in some parts of Wales has been highly contentious, with young people seeing the removal of their sixth forms and the further education route given preference. That discussion is had in a hugely emotional context, with young people conducting all kinds of campaigns to try to protect their sixth form.

[62] There are a number of issues in relation to this, particularly in relation to SEN provision in further education colleges and travel. On the question of whether to look at the best possible educational opportunity for our children and young people in sixth-form provision, we need to think a bit more cleverly than we are currently doing. I am not against looking at the idea of a regional approach to providing good opportunities and great educational activity, but what I pick up quite a lot is how much time young people are spending travelling under regional arrangements. So, in terms of a faculty approach to some of this, you might be doing an A-level in journalism in one building and then you will have English in the afternoon in another. There might be an hour and a half of travel time between the two and then, the following day, you will be doing exactly the same thing. While we are saying that those things are practical and achievable for children and young people, I am hearing disquiet, anecdotally, from young people about how much time they spend travelling.

[63] Some of those young people will be drivers, so they will vote with their feet and, having passed their driving tests, will not use school buses. That will mean that some headteachers will look at whether the take-up of school buses is sufficient to justify the travel. Then there are those who do not have a car. So, there is a series of issues here. It is not as simple as saying, 'That's what will happen over there and that will happen over here' without taking on board all of the support issues that need to be in place for all children and young

people to access what opportunities they want at sixth-form and FE level. There is an awful lot of thinking to do about how that works in practice.

[64] However, am I against the idea of regional approaches? No, I am not, but there are some real challenges that we need to face. To go back to my point about children and young people's voice in this and their direct experience of what it is like to be at the receiving end of doing things in different parts of the county, we ought to think about that, because their experience and what they say about it are important. For example, I would hear from some young people that, if they have that hour's travel between one lesson and another, they are thinking, 'Am I really going to go to that lesson? Am I really going to get on the bus and do that today? I don't really feel like it.' So, there is a difficulty with whether some young people fully embrace all the opportunities they have when they have to go to different institutions to do so, however well organised that might be.

[65] **Aled Roberts:** Rydym yn derbyn y cymhlethdod ond, o ran egwyddor, a oes yn well gennych y gyfundrefn bresennol lle mae'r awdurdod lleol yn gyfrifol am unrhyw gynigion i ad-drefnu neu, yn ôl y Bil hwn, fod yr hawl hwnnw gyda'r Gweinidog o ran addysg ôl-16? **Aled Roberts:** We accept the difficulty but, as a principle, do you prefer the current system where the local authorities responsible for any reorganisation proposals, or the proposition within this Bill, which is that the Minister has that right in terms of post-16 education?

[66] **Mr Towler:** To be honest, I feel more comfortable with the local authority having the ability to make the decision about what works best in its locality, but the working relationship between the local authority and the Minister needs to be closer. The Minister ought to be able to scrutinise and ask decent questions about what that is all about. However, I sense that dictating what will happen from a Wales level will be difficult to manage. That is my view.

[67] **Julie Morgan:** I will bring Jenny in now, and then we will have to move on.

[68] **Jenny Rathbone:** I wanted to ask how you prevent pupils from being used by other vested interests. For example, in the sixth-form situation, teachers who want to retain their sixth form will try to wind up pupils to oppose plans to deliver x, y or z subject elsewhere. It is difficult where pupils do not know the alternatives. They only know where they are and do not know how it looks a lot different somewhere else.

[69] **Mr Towler:** Indeed. It is difficult to manage that. There have been situations where I have met young people who left me thinking that they had been manipulated to a point of view to protect somebody's job or to protect a sixth form. Had they been given the opportunity to reflect on what further education opportunities there might be for sixth-form education in terms of all the things that could be offered? Perhaps not. They have tended to get information that makes them think that people will be made redundant and that they will have to get a bus and go 20 miles down the road. Is that really something that they would want to do? You can see how those situations arise.

[70] If you spend time talking to young people about broader issues, you can begin to work with them to see what opportunities might exist and to help them to form a view. However, you cannot just do it like that. They will have a relationship with the teacher or the adult. I have also come across teachers who have been brilliant; teachers who are potentially facing redundancy who work hard at making sure that their young people understood all the issues. They try to take out their personal position in supporting them to form their own view. It is very difficult for those young people not to form an allegiance with their teacher who they have known for a number of years. We are asking a lot from teachers in that circumstance. However, it is easy to see how young people can be manipulated in that way, to that level of thinking, without thinking what opportunities might be afforded by restructuring

things in a different way.

[71] **Julie Morgan:** We have a lot of questions, so if we could be short with the questions and shorter with the answers that would be great.

[72] **Mr Towler:** Sorry.

[73] **Simon Thomas:** Rydych wedi rhoi eich bys ar y broblem yn y drefn bresennol ynglŷn â'r Gymraeg mewn cynlluniau addysg a rhoi hynny ar lefel strategol. Efallai bod diffyg cyfatebiaeth rhwng hynny â phwrpas cynlluniau'r Llywodraeth i gynyddu'r ddarpariaeth o addysg Gymraeg. Nid yw un yn dilyn y llall o reidrwydd. A allwch, gan gofio geiriau'r Cadeirydd, ymhelaethu tipyn bach ar y broblem yr ydych yn ei gweld yn y fan hon? A oes modd cywiro'r Bil fel bod gwell cyfatebiaeth rhwng y ddau begwn o bolisi'r Llywodraeth?

Simon Thomas: You have put your finger on the problem in the present system as regards the Welsh language in education plans and placing that on a strategic level. There may be a lack of alignment between that and the purpose of the Government's plans to augment the provision of Welsh-medium education. One does not follow the other necessarily. Bearing the Chair's words in mind, will you elaborate a little on the problem that you see here? Could the Bill be amended so that there is better alignment between the two poles of the Government's policy?

[74] **Mr Towler:** There is a difference between planning for improving standards and increasing the opportunity to access Welsh-medium education. On the legislative opportunity here, requiring people to plan does not guarantee that young people are going to be able to access Welsh-medium education in the way that we would all want. Indeed, that is the stated aim of the Welsh-medium education strategy. There is an issue with what we are asking the duty bearers to do with this. If this is about increasing opportunities and about children and young people flourishing in Welsh-medium education, then it has to be about opportunities to access that provision. That seems quite simple to me. I cannot see that that will happen from the current position, where we are just looking at improving standards and planning to improve. There needs to be something that shows how access can be increased. I do not see that currently.

[75] **Simon Thomas:** Should that point be addressed in the Bill or would you rather see the Government address that in a separate piece of policy work?

[76] **Mr Towler:** That is a good question. We probably ought to address it in the Bill, but there is also a wider policy question. I am hedging my bets a bit, but it probably does need to be a bit tighter in the Bill.

[77] **Simon Thomas:** Do raising standards and access go hand in hand within the Bill for you?

[78] **Mr Towler:** Absolutely. If you do not have opportunities to improve access, then—do not get me wrong, raising standards and planning for that are really important. However, without real access and a proper relationship between the Welsh Government and local government in planning how that would happen—to improve access has just got to happen. You are right; that is probably more of a policy and guidance issue about how to make that happen in reality. The legislation just provides the opportunity within which the policy debate can happen.

10.00 a.m.

[79] **Simon Thomas:** This is my final question. I do not want to repeat things, but we then

get into the issues highlighted in the questions from Aled Roberts about access, preparation, journey times, particularly in rural areas, and the teaching of vocational subjects in Welsh. I assume that you agree with that general conclusion.

[80] **Mr Towler:** Absolutely. I can see no reason not to do that. I think that we need to build more opportunities, particularly with the vocational and the more academic qualifications, but we need to think about the impact of this on communities. There is one thing that I am starting to pick up on that kind of alarms me—this is soft, anecdotal evidence—and that is that I do not want children and young people to come through the education process thinking about Welsh as the language of academia and not applying that in their whole life and in their community life. That has to be about access and broadening access and opportunity.

[81] **Julie Morgan:** Thank you. We are going to move on to the issue of parents meetings now with Rebecca.

[82] **Rebecca Evans:** You say in your evidence paper that there is a consensus that removing the requirement for an annual parents meeting is a sensible decision. Do you think that the provisions in the Bill set out a suitable alternative in terms of the petition system?

[83] **Mr Towler:** Yes. Just from my own experience from talking to schools and parents about the annual meeting, I know that there is a frustration in some schools that the annual meeting results in nobody turning up to take part. However, to answer your question, I think it provides an opportunity to be quite creative about parental engagement. This goes back to my rights-based mantra in relation to the evidence that I have given today about how parents or families generally, including grandparents, are involved in school life. I see fantastic examples of that happening up and down Wales. I was in Goetre Primary School in Merthyr Tydfil recently, where the school reaches out to families. If children are not attending school or they are late getting to school, the school is taking the trouble to find out what is going on in that family and thinking about how they can support the family to get attendance levels up. As attendance levels improve, attainment improves. So, I think that the child-rights approach and parenting approaches that are mainstreamed through the culture of the school are much better at achieving parental or family engagement with the school than a single annual meeting.

[84] **Rebecca Evans:** So, there are examples of good parental engagement, but you will also have examples of where it is less good. Do you feel that the onus on parents to call for meetings might create further disengagement of parents?

[85] **Mr Towler:** Possibly. However, where it works well, I think that you would find that flourishing. This is part of the safeguarding of health and wellbeing process within the Bill. I think that the narrative in the Bill is perhaps a bit too narrow because, when we think about family and parental engagement, why families should take an interest in school and how they can get involved in school, schools have to be about safeguarding children, children's health and wellbeing and providing brilliant opportunities for children. Creating that situation at the earliest possible age with families is really significant and important. Therefore, where it currently does not work and where interaction between school and parents is problematic, this requires governing bodies, the school council itself and the headteacher to start thinking about their relationship and what work they should be doing to engage families in the work of the school, rather than waiting for that to happen because, in those cases, it is not going to happen unless the school makes an effort to do it. Would this provision make it more difficult for parents if they do not have that relationship with the school? Yes, it would.

[86] **Rebecca Evans:** You also say in your paper that you accept the figure of 5% of parents to trigger the meeting. We have heard in some evidence concerns that 5% in a small

school could be just one family while 5% in a large high school might be 50 parents. We have heard suggestions that a sliding scale might be more appropriate. Do you have a view on that?

[87] **Mr Towler:** I am not entirely sure. From my point of view—and this sounds like a really soft answer, but I do not mean it to be so—it has to be about the culture within the school. If the Bill drives local authorities to start thinking about what they want their schools to do and how they want their schools to work—ensuring that children’s voices are heard and family engagement—they need to be supporting schools to start thinking about the school within the community and how it will engage. Sliding scales might work or they might not—I do not know—but I think that there is a broader question here about how schools and governing bodies operate, and how, when problems occur for children and young people in relation to attendance and attainment, the school is working with families to overcome those. If parents have an issue with the school and want to raise things, that is much more likely to happen if they are engaged already with the school than when things get to an absolute pitch. Sliding scales might help—I do not know—but it seems to me that the broader question is about how schools operate within communities.

[88] **Julie Morgan:** Did you want to come in very swiftly, Jocelyn?

[89] **Jocelyn Davies:** Yes, just on the engagement between parents and school. I assume that you would not go as far as to expect there to be an obligation, in the legislation, on parents to engage with the school.

[90] **Mr Towler:** No; although, in practice, if you have a good policy on engagement, you see the engagement of parents and families with schools, focused on the child, providing opportunities for them as parents to improve their own literacy and numeracy. I see that all the time. Goetre Primary School is the last example of that.

[91] **Jocelyn Davies:** I think that we would all agree that good engagement between schools and families is really important, although perhaps it is not entirely restricted to parents. However, that is another issue that is probably a matter for guidance or school policy.

[92] **Mr Towler:** Absolutely.

[93] **Jocelyn Davies:** It is not something that we could put in the legislation. We could require schools to have a policy on engagement with parents, which would be a start, but this is not something that we could put in the legislation.

[94] **Mr Towler:** No.

[95] **Julie Morgan:** Thank you very much. We are now moving on to counselling. Suzy Davies has a question on that.

[96] **Suzy Davies:** Thank you for your written evidence. Obviously, you are very enthusiastic about the improvements in school counselling since the ‘Clywch’ recommendations.

[97] **Mr Towler:** That is fantastic.

[98] **Suzy Davies:** I note from your evidence that you think that this Bill is an opportunity to take things even further than it already appears to do. Bearing in mind that it is a school standards and organisation Bill, what do you think is missing from it that could make further improvements to counselling?

[99] **Mr Towler:** I think that the issue about developing guidance is absolutely fantastic.

We should just take one step back—and I take the point about brevity in the answers as well as in the questions. The independent evaluation of school-based counselling is overwhelmingly positive, with children and young people voting and talking about massive improvements in their own health and wellbeing as a result of accessing this service. I understand that there are waiting lists to access the service. In terms of the evaluation that the Ministers discussed after the primary school roll-out about rolling that out, there is an issue here. You are right; I am incredibly enthusiastic about school-based counselling services. With the rights-based approach and the Rights of Children and Young Persons (Wales) Measure 2011 working in relation to this Bill, I think that there are opportunities here to improve this even further. We have seen some commitments to think about children who are educated at home accessing this service, and children in private schools accessing the service. We had a case recently where a child in a private school needed to access counselling services, which were not available to them. The child was picked up by a community-based counsellor. There are issues about children educated at home. There is an opportunity to extend this service to more children and young people, and we should take it.

[100] **Suzy Davies:** That is why I particularly drew your attention to the title of this Bill, really, because this is about schools and school organisation. While I completely sympathise with your views on extending the idea of counselling being made available to young people, is this Bill the place to try to expand that?

[101] **Mr Towler:** I think that you need to make sure that things are connected. This is about school organisation and school standards, but it is also about the health, wellbeing and safeguarding of children. Without those things you just do not create the environment where attendance and attainment are increased. There is no way that you can take away the health, wellbeing and safeguarding of children from a Bill that is looking at standards within schools because the two are completely linked. You cannot separate them out. You have to create the positive environment within which children and young people will learn.

[102] **Suzy Davies:** Does it worry you, then, that the money for this is being absorbed into the revenue support grant rather than being—

[103] **Mr Towler:** I am not anxious about that because the opportunity to expand is there, and I know that Ministers will have to pay due regard to the Rights of Children and Young Persons (Wales) Measure 2011. If we saw regression, as an example of that, in access, then they would not be paying due regard to the Measure. I am less anxious about that in terms of RSG. What I want to see is this develop even further.

[104] **Suzy Davies:** You are concerned about the use of the phrase ‘reasonable provision’, though.

[105] **Mr Towler:** I am, yes: define ‘reasonable’.

[106] **Suzy Davies:** Well, the legal test is an objective test based on the circumstances presented, so it all depends on the man on the Cyncoed omnibus or the Cardigan omnibus or Caernarfon omnibus. Why would you like to see it specifically defined? Would it be better, in terms of certainty, to take out the word ‘reasonable’ and put a different word in?

[107] **Mr Towler:** Possibly. Then you will ask me what the word should be. I do not know what it would be.

[108] **Simon Thomas:** How about ‘not unreasonable’?

[109] **Mr Towler:** Yes, that would work. [*Laughter.*] Going back to the earlier point, this is adults determining what is reasonable. The evaluation of school-based counselling shows me

that young people think that it is incredibly reasonable to access that service whenever and however they need it, because it improves their health and wellbeing. We are talking about children going into schools and talking about domestic violence at home and all kinds of dreadful things that they want resolved or to talk about to enable them to feel comfortable in school. It is so important; I just cannot emphasise it enough. So, this is adults determining reasonableness. I would make a plea that children and young people should have their voice heard on that.

[110] **Suzy Davies:** Is that why you have a concern about the collation of anonymised demographic outcome data being part of a process of identifying what is reasonable? I raise that specific point, because one of the points that you make in your evidence is that the national strategy, of which you are very supportive, includes actions regarding data and outcome evaluation.

[111] **Mr Towler:** The answer is the same as that I gave in relation to Welsh-language education: it is about access. None of that data would demonstrate the level of access to the provision, in a sense—just the outcome of the provision. It becomes almost a self-fulfilling prophecy, without actually improving access to the opportunity to get hold of a counsellor when you need one.

[112] **Suzy Davies:** However, you do not disregard it as a factor to be taken into consideration.

[113] **Mr Towler:** It needs to be taken into account. However, I go back to the point that this is adults determining what is reasonable. If we have a rights-based approach, then where is the voice of the children and young people who are accessing this service in saying how reasonable it is?

[114] **Suzy Davies:** They would struggle to even understand what that phrase means, I think.

[115] **Julie Morgan:** We still have some very important questions on breakfasts and school meals. Would committee members be happy to continue for another 10 minutes to cover those? I see that you would.

[116] **Simon Thomas:** I droi at frechwastau am ddim, rwy'n meddwl bod gennych bryderon tebyg iawn, i ddweud y gwir, i'ch pryderon am gynghori mewn ysgolion. Rydych yn sôn am ei drosglwyddo i'r grant cynnal refeniw ac am ddarpariaeth newydd, o bosibl, a sut y gall hynny gael ei chreu. Gan fod amser yn brin, a allech roi syniad i ni o sut yr ydych yn meddwl y gall plant a phobl ifanc lleisio barn ynglŷn â'r darpariaeth o frechwastau mewn ysgolion, yn enwedig, efallai, os nad oes darpariaeth yn awr, ac y maent yn dymuno gweld darpariaeth yn y dyfodol? Bydd hynny yn cael ei newid yn y Bil, oni fydd?

Simon Thomas: To turn to free breakfasts, I believe that you have concerns that are very similar, in truth, to those you have about counselling in schools. You mention transferring it into the revenue support grant and possible new provision and how that could be created. As time is short, could you give us an idea of how you think that children and young people could voice an opinion as regards the provision of school breakfasts, particularly, perhaps, if there is no provision at present, but they wish to see provision in the future? That will be changed in the Bill, will it not?

[117] **Mr Towler:** I am not entirely sure that I understand the issue about a third of schools not taking up free school breakfasts. What is driving the concern about whether that will increase or not? Given all of the improvements in children's behaviour and learning, it seems a bit of a no-brainer to me. There is something about where this Bill fits with other things that

the Welsh Government is doing. For example, the tackling poverty action plan has clearly located within it free school breakfasts as part of an integrated approach. At a time when I am becoming more and more concerned about the number of families that are reliant on food banks and who cannot afford food, and at a time when I meet children and young people in schools who ask me about the price of food and why it is so expensive, and at a time when we need more and more of these children to access this service, it seems to me that we need to spend more time finding a way to increase the uptake.

10.15 a.m.

[118] **Simon Thomas:** Are you confident that the Bill makes sufficient provision to secure the current arrangements as a basis? Clearly, you have some concerns about whether it makes provision that allows for the increase. Are you confident about securing what we have currently, before we move on?

[119] **Mr Towler:** I guess so. There is an issue with the way in which a local authority's duty to provide breakfasts will or will not apply as it moves forward.

[120] **Simon Thomas:** So, we come back again to this issue of what is in the Bill and what is in policy. You have mentioned lots of other policy initiatives from the Government. Off the top of my head, what is in the Bill, basically, is that the trigger for free school breakfasts remains, but it is about how it works and the voice of children and young people in that trigger.

[121] **Mr Towler:** That would be pretty critical to that. Again, we would be in a situation where the trigger and the policy cannot be divorced from what children and young people are saying about free school breakfasts.

[122] **Simon Thomas:** Would you want the Minister to look at that again?

[123] **Mr Towler:** Absolutely. I think he should. I feel that I am repeating myself, but the due-regard duty in relation to Rights of Children and Young People (Wales) Measure 2011 is the framework by which you would do that.

[124] **Lynne Neagle:** My questions on free school breakfasts were covered, really, so I will just ask about the issue of flexible charging in the proposals, which you have welcomed. Can you say a bit more about which groups you think would be most likely to benefit from such a scheme?

[125] **Mr Towler:** I am in favour of this in principle. It is the discretion that individual schools and local authorities have that I would be interested in pursuing. The one group that immediately springs to mind is families with disabled children. I would make the obvious points that we are not talking just about families on benefits, but in-work poverty and the increased costs of having a disabled child. So, setting a financial barrier around that might not work in relation to what those increased costs might be in relation to some children with more profound disabilities and medical costs and all the rest of it. So, actually, the issue about the discretion for schools to be flexible in their charging is at the hub of this. That is an obvious group.

[126] With regard to how flexible charging works, it is about how the administration happens, who benefits and how it is made available. Whenever these discussions arise with children and young people, they will often talk about the stigma of taking the meal, because they will be seen to be taking the meal. So, it is about how that is done—I think that cards work quite well. Young people really do not like the fingerprint stuff that goes on, because they get carried away with all kinds of reasons for why fingerprints are taken. Non-

stigmatising routes to ensure that this flexible benefit happens have to be given hard consideration.

[127] **Lynne Neagle:** Do you have any views on the cost and feasibility of administering such a scheme?

[128] **Mr Towler:** I have not really looked at that.

[129] **Julie Morgan:** Are there any other questions? I see that there are not.

[130] Thank you very much, Keith, for answering our questions so fully this morning. You will be sent a transcript of the meeting to check for factual accuracy. Thank you very much.

10.19 a.m.

**Cynnig o dan Reol Sefydlog Rhif 17.42 i Benderfynu Gwahardd y Cyhoedd o
Weddill y Cyfarfod
Motion under Standing Order No. 17.42 to Resolve to Exclude the Public from
the Meeting for the Remainder of Business**

[131] **Julie Morgan:** I move that

the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order No. 17.42(vi).

[132] Are all Members content? I see that you are.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 10.19 a.m.
The public part of the meeting ended at 10.19 a.m.*