



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

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

**Dydd Mercher, 27 Mehefin 2012**  
**Wednesday, 27 June 2012**

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Cynnig o dan Reol Sefydlog Rhif 17.42 i Benderfynu Gwahardd y Cyhoedd o'r Cyfarfod  
Motion under Standing Order No. 17.42 to Resolve to Exclude the Public from the Meeting

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**

Christine Chapman	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Suzy Davies	Ceidwadwyr Cymreig Welsh Conservatives
Rebecca Evans	Llafur Labour
Julie Morgan	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**

Dr Alec Clark	Llywydd, Cymdeithas yr Athrawon a'r Darlithwyr Cymru President, Association of Teachers and Lecturers Cymru
Dr Philip Dixon	Cyfarwyddwr, Cymdeithas yr Athrawon a'r Darlithwyr Cymru Director, Association of Teachers and Lecturers Cymru
Elaine Edwards	Ysgrifennydd Cyffredinol, Undeb Cenedlaethol Athrawon Cymru—UCAC General Secretary, Undeb Cenedlaethol Athrawon Cymru— UCAC
David Evans	Ysgrifennydd, Undeb Cenedlaethol yr Athrawon Cymru—NUT Cymru Secretary, National Union of Teachers Cymru—NUT Cymru
Neil Foden	Aelod o'r Weithrediaeth, Undeb Cenedlaethol yr Athrawon Cymru—NUT Cymru Executive Member, National Union of Teachers Cymru—NUT Cymru
Jane Morris	Cyfarwyddwr, Llywodraethwyr Cymru Director, Governors Wales
Terry O'Marah	Cadeirydd, Llywodraethwyr Cymru Chair, Governors Wales
Rex Phillips	Trefnydd Cymru, Cymdeithas Genedlaethol yr Ysgolfeistri ac Undeb yr Athrawesau Wales Organiser, National Association of Schoolmasters Union of Women Teachers Cymru
Hopkin Thomas	Aelod o'r Weithrediaeth Genedlaethol ar gyfer De-orllewin a Chanolbarth Cymru, Cymdeithas Genedlaethol yr Ysgolfeistri ac Undeb yr Athrawesau National Executive Member for South West and Mid Wales, National Association of Schoolmasters Union of Women Teachers Cymru
Rebecca Williams	Swyddog Polisi, Undeb Cenedlaethol Athrawon Cymru— UCAC Policy Officer, Undeb Cenedlaethol Athrawon Cymru—UCAC

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

Stephen Davies	Cynghorydd Cyfreithiol Legal Adviser
Kayleigh Driscoll	Dirprwy Glerc Deputy Clerk
Claire Morris	Clerc Clerk
Sarah Sargent	Dirprwy Glerc Deputy Clerk
Liz Wilkinson	Clerc Clerk

*Dechreuodd y cyfarfod am 9.14 a.m.*  
*The meeting began at 9.14 a.m.*

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

[1] **Christine Chapman:** Bore da and welcome to the Assembly's Children and Young People Committee. I remind Members and witnesses to turn off their mobile phones and BlackBerrys. The Assembly operates through the medium of the Welsh and English languages, and there are headsets, so you can hear the simultaneous translation on channel 1 and get sound amplification on channel 0. As this is a formal public meeting, Members and witnesses do not need to operate the microphones themselves, and they will come on automatically. We have received apologies this morning from Angela Burns and Jocelyn Davies.

9.15 a.m.

**Bil Safonau a Threfniadaeth Ysgolion (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 4**  
**School Standards and Organisation (Wales) Bill: Stage 1—Evidence Session 4**

[2] **Christine Chapman:** The first item on the agenda is the Stage 1 evidence session on the School Standards and Organisation (Wales) Bill. This morning, we have a panel of witnesses from the Association of Teachers and Lecturers and UCAC, the National Union of Welsh Teachers. Can I ask you to introduce yourselves first, for the record?

[3] **Ms Williams:** Rebecca Williams, **Ms Williams:** Rebecca Williams, policy officer, UCAC.

[4] **Ms Edwards:** Elaine Edwards, **Ms Edwards:** I am Elaine Edwards, general secretary, UCAC.

[5] **Dr Dixon:** I am Philip Dixon, director of the Association of Teachers and Lecturers.

[6] **Dr Clark:** I am Alec Clark, president of the Association of Teachers and Lecturers.

[7] **Christine Chapman:** Welcome to you all. First of all, we are constrained, as usual, with time, and so I ask members of the committee, in view of the large number of areas that we have to cover, to be as concise as possible. If you would be happy to, I ask you to nominate a spokesperson from each organisation, so that we have time to get on with the questions.

[8] I start by thanking you for the papers that you have sent to us in advance, and Members will have read them. In relation to Part 2 of the Bill on standards, specifically to UCAC, can you expand on what you said about the Minister's assertion that the changes in the Bill in relation to intervention will raise school standards? You said that you felt that that was slightly overconfident.

[9] **Ms Williams:** Mae'n ddatganiad ysgubol braidd. Mae naill ai yn or-hyderus neu ychydig yn naïf. Mae'r Gweinidog yn gwybod, fel yr ydym ni, fod codi safonau ysgolion yn fusnes cymhleth iawn. Mae pob ysgol yn wahanol a phob cyd-destun yn wahanol. Rwy'n siŵr bod y Bil yn rhoi'r posibilrwydd o godi safonau ac efallai y bydd yn gwneud cyfraniad at godi safonau, ond mae'n ddatganiad moel ac ysgubol braidd i ddweud y bydd y darpariaethau yn y Bil yn codi safonau.

**Ms Williams:** It is rather a sweeping statement. It is either overconfident or a little naive. The Minister knows, as do we, that raising school standards is a very complex business. Every school is different and every context is different. I am sure that the Bill provides the possibility of improving standards and perhaps it will make a contribution to improving standards, but it is a rather stark and bombastic statement to say that the provisions in the Bill will certainly improve standards.

[10] **Christine Chapman:** Thank you. I will move on to other Members because we can now look at the specifics of this. I am going to ask Aled Roberts to come in.

[11] **Aled Roberts:** Rwyf eisiau cyfeirio at adran 2 a'r seiliau dros ymyrraeth, i ryw raddau. A yw'r ddau fudiad yn credu bod y seiliau ar gyfer ymyrryd yn briodol neu'n rhesymol, ac a ydynt yn ddigon clir o ran cael ysgolion i ddeall ar ba sail y bydd awdurdodau lleol neu'r Gweinidog yn ymyrryd yn y pen draw?

**Aled Roberts:** I want to refer to section 2 and the grounds for intervention, to an extent. Do the two organisations believe that the grounds for intervention are appropriate or reasonable, and are they sufficiently clear for schools to understand on what basis local authorities or the Minister will ultimately intervene?

[12] **Dr Dixon:** In general, we would say that they are pretty clear. Quite often, they are restating what is already there in disparate pieces of legislation and guidance. I would not say that we have a problem with it, but the only one that is not clear to us is ground 3 on parents'/children's behaviour. We think that it needs greater clarity about what sort of behaviour is being inferred there. That is the one that we thought needed a bit of tightening up, but the others, by and large, are clear to us, and, given the circumstances described there, pretty reasonable.

[13] **Ms Edwards:** Byddwn yn tueddu i gytuno, ond byddwn yn hapusach pe bai'r geiriad gwreiddiol ar gyfer sail 2 yn cael ei gadw. Mae'n cyfeirio at fethiant yn y ffordd y mae'r ysgol yn cael ei rheoli neu ei llywodraethu. Mae hynny'n rhy benagored. Mae pob math o bethau a allai fod ddim yn berffaith o ran sut y mae ysgol yn cael ei rheoli neu ei llywodraethu, ond na fyddai'n sail i ymyrraeth. Mae'r gwreiddiol yn cyfeirio at fethiant sy'n effeithio ar safonau, a dyna'r hyn y byddwn am ei weld.

**Ms Edwards:** I would tend to agree, but I would be happier if the original wording for ground 2 were retained. It refers to failures in the way in which a school has been managed or governed. That is too open-ended. There are all sorts of things that may not be perfect about the way in which a school is managed or governed, but they would not give grounds for intervention. The original version made reference to failures that have an impact on standards, and that is what I would prefer to see.

[14] **Aled Roberts:** A ydych eisiau ymhelaethu ar eich pryderon o ran y sail

**Aled Roberts:** Do you want to expand on your concerns about that ground, in respect of

honno o ran rheolaeth?

management?

[15] **Ms Edwards:** Rwy'n meddwl bod perygl o ymyryd yn rhy gynnar mewn sefyllfa sydd ddim yn mynd i ddatblygu i fod yn broblem o ran codi safonau.

**Ms Edwards:** I think that there is a risk of intervening too early in a situation that is not going to develop into a problem with regard to raising standards.

[16] **Dr Dixon:** We were interested in that section as well; we think that it is welcome. Again, to back up what Elaine has said, perhaps it needs some further clarification. Obviously, we will not mention names, but we have had schools, for instance, where it has been clear that the management has lost complete confidence in the staff. We are not just talking about one union wanting to grind an axe, but about all of the teaching unions feeling that there are problems. When we have raised those questions and aired them repeatedly with one of the local authorities, they have been ignored. Perhaps it needs to be clarified exactly when that point has come and what constitutes a breakdown in management and so on, and how those issues can be raised and voiced and aired.

[17] **Rebecca Evans:** Bearing in mind your answers to Aled Roberts, I wonder whether ATL in particular considers that the powers of intervention outlined in the Bill are reasonable and appropriate?

[18] **Dr Dixon:** I think that the powers outlined are fairly reasonable, and the exercise of those powers is fairly clear in the way that they would be implemented. I also think that a lot of this is a tidying-up exercise, as I said before, of some of the legislation and guidance that are already there.

[19] **Rebecca Evans:** I think that UCAC had some concerns that some of the powers are too open-ended and not clear enough; could you expand on that?

[20] **Ms Williams:** Mewn nifer o leoedd yn y Bil, mae adrannau sy'n caniatáu i awdurdodau lleol neu'r Gweinidog gymryd unrhyw gamau eraill, ac mae hyn i'w weld yn benagored iawn. Nid ydym eisiau i'r peth fod yn rhy gyfyng—mae'n rhaid bod rhywfaint o hyblygrwydd yn y camau y mae modd i bobl eu cymryd i fynd i'r afael â'r safonau. Fodd bynnag, mewn ambell i le—mae adrannau 4(9) a 9(2) yn enghreifftiau—rydym yn gweld bod diffyg rheolaeth, mewn ffordd, neu ei fod yn rhy benagored o ran grym. Mae angen rhyw fath o gyfyngiad.

**Ms Williams:** In a number of places in the Bill, there are sections that allow local authorities or the Minister to take any other steps, and that appears to be very open-ended. We do not want it to be too restrictive—there must be some flexibility regarding the steps that people can take to get to grips with standards. However, in certain areas—sections 4(9) and 9(2) are examples of this—we see that there is a lack of control, in a way, or that it is too open-ended with regard to the powers. There needs to be some sort of limitation.

[21] **Jenny Rathbone:** Picking up on what Dr Dixon said earlier, do you think that the Bill, as currently drafted, is going to address the sort of issue that you describe where everybody is expressing concern and the local authority is doing nothing?

[22] **Dr Dixon:** It is certainly intended to do that. One of the undercurrents, and possibly one of the more explicit parts, of the memorandum is about failure in local authorities. My reading of the Bill is that eventually, if we go through due process, it is fine. It says explicitly that the local authority should be the first point of intervention and it gives power to the Minister to intervene directly. That is to be welcomed, with the limitations that Rebecca outlines. We probably would have resolved certain situations much quicker had that power already been in existence.

[23] **Aled Robers:** Mae'r ddau ddarn o dystiolaeth yn awgrymu bod problem o ran methiant i ddiffinio'n ddigonol mewn rhai lleoedd. A oes gennych esiamplau o wledydd eraill lle mae'r grymoedd hyn wedi cael eu diffinio'n dynnach na'r hyn sy'n ymddangos yn y Bil hwn ar hyn o bryd?

**Aled Roberts:** The two pieces of evidence suggest that there is a problem regarding a failure to provide sufficient definition in some areas. Do you have any examples of other countries where these powers have been defined more tightly than in this Bill at present?

[24] **Ms Williams:** Nid wyf yn credu bod gennym esiamplau heddiw o wledydd eraill, ond un syniad sydd gennym yn hytrach na'r adrannau penagored hyn, sy'n caniatáu unrhyw gamau pellach, yw llunio rhyw fath o gynllun gweithredu ar y cyd rhwng yr ysgol a'r awdurdod neu'r Gweinidog. Byddai'r darn o waith hwnnw'n cael ei wneud ar y cyd, gyda'r ddwy ochr yn cytuno i broses a chynllun, yn hytrach na bod modd cymryd unrhyw gamau eraill a bod modd taflu'r camau eraill hynny i mewn ar unrhyw adeg yn y broses, a'r rheini'n gamau sydd ddim hyd yn oed yn berthnasol i'r seiliau dros ymyrryd sy'n cael eu rhestru.

**Ms Williams:** I do not think that we have examples from other countries with us today, but one idea that we have is that, rather than having these open-ended sections that allow any further steps to be taken, there could be some sort of joint action plan drawn up between the school and the authority or the Minister. That would be a joint piece of work, with both sides agreeing to a process and a plan, rather than it being possible to take any other steps and for it to be possible for those steps to be thrown in at any time during the process, and for those steps to not even be relevant to the grounds for intervention that have been listed.

[25] **Julie Morgan:** I am aware of really quite appalling situations in schools that have gone on for years, because there has been no resolution of what appears to be a failing in management. I want to be sure that what is in this Bill will prevent such situations from happening, as they are disastrous for children's education. So, are you sure that we will be able to get to grips with this?

[26] **Ms Edwards:** Un o'r rhesymau am y Bil yw bod teimlad cryf nad yw'r ddeddfwriaeth bresennol yn hollol eglur ac o'r herwydd mae awdurdodau lleol yn araf yn ymyrryd. Mae ganddynt y pwerau, ond maent yn araf yn ymyrryd. Y gobaith yw—a gallwn weld bod hwn yn rhywbeth a all ddigwydd yn sgîl y Bil—y bydd y ffaith bod y deddfau wedi'u symleiddio ac yn llawer mwy eglur yn ei gwneud yn haws i awdurdodau lleol ymyrryd.

**Ms Edwards:** One of the reasons for the Bill is that there is a strong feeling that current legislation is not entirely clear and, as a result, local authorities are slow to intervene. They have the powers, but they are slow to intervene. We hope that—and we can see that this is something that could happen as a result of this Bill—the fact that the laws have been simplified and are much clearer will make it easier for local authorities to intervene.

[27] Rwyf wedi bod yn trafod yn ddiweddar gydag un awdurdod lleol sydd wedi ymyrryd mewn ysgol ac mae'r camau yn cael eu dilyn yn bositif. Yr hyn a ddigwyddodd yn yr esiampl honno oedd bod cynllun gweithredu wedi'i lunio ac yr oedd holl gymuned yr ysgol wedi cydweithio arno, gan gynnwys y rhieni, y pennaeth newydd a staff yr ysgol. Mae cyfathrebu ac ati'n hanfodol. Os bydd pobl yn defnyddio'r grym—ac mae'n ymddangos y bydd y Bil yn annog pobl i ddefnyddio'r grym—byddwn yn gallu osgoi'r sefyllfaoedd yr ydych yn son

I have been in discussions recently with one local authority that has intervened in a school and the steps are being followed through positively. What happened in that example is that an action plan was put in place and the whole school community collaborated on it, including parents, the new headteacher and school staff. Communication and so on are essential. If people use the powers—and it appears as though the Bill will encourage people to use the powers—we will be able to avoid the situations that you have mentioned. However, in our opinion, things need to be

amdanynt. Fodd bynnag, yn ein barn ni, mae angen i bethau fod yn glir fel nad oes modd symud y pyst pan fydd rhywun yn dymuno gwneud hynny; mae angen targedau penodol a chynllun medrusrwydd ar gyfer ysgol y mae'n ymddangos y gallai fethu.

clear so that it is not possible for someone to move the goalposts when they feel like it; specific targets and a capability plan need to be in place for a school that looks as though it could be failing.

[28] **Dr Clark:** I think that there are two counteracting points on this. The task in Wales is easier in many ways than it is for our neighbours in England, in the sense that we still have a very structured education system and not the very plural economy that they seem to have there at the moment, and I am all for the former. However, there are also the shifting sands of the imminent implementation of consortia working and the development of that into the future. Clarity around this is important because it needs to dovetail in effectively, not only to the way that we are working now, but to the potential new ways of working across the four consortia and I would, therefore, urge caution.

[29] **Julie Morgan:** My next question is to Rebecca and Elaine. To what extent do the Minister's comments, that he intends only to use his powers of intervention on rare occasions and as a backstop, address your concerns about the power of Welsh Ministers to direct the closure of a school?

[30] **Ms Williams:** Mae dwy elfen i'r ateb. Rydym yn croesawu datganiad y Gweinidog, ond nid yw datganiadau'r Gweinidog presennol yn clymu Gweinidogion y dyfodol i'r un farn. Mae'r darpariaethau hyn yn caniatáu unrhyw un o Weinidogion y dyfodol i gau ysgolion, lle byddem yn dadlau bod wastad ffordd o fynd i'r afael â phroblemau mewn ysgolion a dulliau mwy adeiladol na'u cau. Mae dweud eich bod yn mynd i gau ysgol oherwydd safonau isel yn gyfystyr â dweud bod yr holl staff a'r holl lywodraethwyr yn anabl i wneud eu gwaith. Mae gan rhai ysgolion problemau mawr, ond mae grymoedd yn y Bil ei hun a fydd yn eich caniatáu i fynd i'r afael â phroblemau o'r fath ar gyrff llywodraethu, er enghraifft, ac maent yn bwerau cryf i roi bwrdd interim yn ei le. O ran y staff, fel arfer, bydd y broblem gydag arweinyddiaeth yr ysgol, er nid bob tro, ac mae ffyrdd a phrosesau o fynd i'r afael â hynny. Mae prosesau medrusrwydd ar gael ar gyfer arweinwyr a staff eraill mewn ysgol ac rydym yn gweld y darpariaethau hyn yn rhy eithafol ac yn ei chael yn anodd dychmygu sefyllfa lle na fydddech yn gallu mynd i'r afael mewn rhyw ffordd neu'i gilydd â phroblem safonau mewn ysgol.

**Ms Williams:** There are two elements to the answer. We welcome the Minister's statement, but the statements of the current Minister do not tie future Ministers to the same views. These provisions allow any future Ministers to close schools, but we would argue that there is always a means of getting to grips with problems in schools and more constructive methods than closing them. Saying that you will close a school because of low standards is akin to saying that all of the staff and all of the governors are unable to do their work. Some schools have major problems, but there are powers in the Bill itself that will allow you to address such problems on governing bodies, for example, and there are robust powers to put an interim board in place. In terms of the staff, usually, the problem will be with the school leadership, although not on all occasions, and there are ways and processes to get to grips with that. Capability measures are available for leaders and other staff in a school and we see these provisions as being too extreme and find it difficult to imagine a scenario where you could not get to grips, in one way or another, with a standards problem in a school.

[31] **Simon Thomas:** Yn benodol ar y pwynt hwn, mae'r Gweinidog wedi dweud wrth y Cynulliad mai ailddatgan y pwerau sydd ganddo eisoes yn unig y mae. Fel mae'n

**Simon Thomas:** Specifically on this point, the Minister has told the Assembly that he is only restating the powers that he already has. As it happens, he has never used those

digwydd, nid yw erioed wedi defnyddio'r pwerau hynny. A gytunwch â hynny a pham, felly, ydych am wanhau pŵer y Gweinidog?

powers. Do you agree with that and why, therefore, do you want to weaken the Minister's power?

9.30 a.m.

[32] **Ms Edwards:** Rwy'n credu bod y bygythiad eich bod yn gallu cau ysgol yn creu ansicrwydd yn y lle cyntaf. Y perygl sydd gennych os yw ysgol yn cael ei henwi yn un sydd angen ymyrraeth ddwys yw eich bod yn dechrau cael staff yn chwilio am swyddi mewn mannau eraill a rhieni yn symud eu plant i ysgolion eraill. Ni fydd hynny'n helpu i godi safonau yn yr ysgol. Mae perygl, felly, y bydd Deddf o'r fath yn tansellio gallu ysgol i godi safonau. Mae'r Bil yn gosod pwyslais ar ymyrraeth gynnar. Dylai'r Bil ganiatáu i ymyrraeth ddigwydd cyn ein bod yn dod i'r fath sefyllfa mewn ysgolion yn y dyfodol lle mae safonau'r ysgol yn mynd i lawr ac i lawr a nifer y plant yn gostwng o'r herwydd.

**Ms Edwards:** I think that the threat that you could close a school creates uncertainty in the first place. The risk if a school is named as one that requires intensive intervention is that staff will start to look for jobs elsewhere and parents will move their children to other schools. That will not assist in improving standards in the school. There is a risk, therefore, that such legislation could undermine a school's ability to improve standards. The Bill places an emphasis on early intervention. The Bill should allow intervention to happen before we get to such a situation in schools in future where the school's standards are going down and down with school numbers falling as a result.

[33] Os bydd nifer y plant mewn ysgol gynradd, er enghraifft, yn gostwng i 10 neu lai, gall y Gweinidog ei chau beth bynnag, oherwydd nid yw'n weithredol bosibl i'w chadw ar agor. O ran y safonau, mae'r Bil yn caniatáu i bobl ymyrryd llawer yn gynharach. Hefyd, os ydych yn cadw hwn, mae bron yn rhoi rhyw fath o *opt-out clause* i'r awdurdod lleol a'r Gweinidog i wneud eu gwaith. Gallai sefyllfa godi lle nad oes digon o arian yn mynd i mewn i'r consortia ac nad oes digon o gapasiti ganddynt o ran adnoddau a phersonél i roi cefnogaeth. Gallent ddweud eu bod yn rhoi blaenoriaeth i ysgolion penodol a'u bod am anghofio am ysgol benodol am eu bod am ei chau gan ei bod yn anos codi safonau ynddi.

If the number of pupils in a primary school, for example, fell to 10 or fewer, the Minister could close it in any case, because it is not operationally possible to keep it open. With regard to standards, the Bill allows people to intervene far earlier. Also, if you retain this, it almost gives the local authority and the Minister a kind of opt-out clause to do their work. There could be a situation where not enough money is going into the consortia and there is not enough capacity available with regard to resources and personnel to provide support. They could say that they are going to give priority to certain schools and that they are going to forget about a specific school and close it down because it is more difficult to raise standards there.

[34] **Ms Williams:** Un pryder arall yn sgîl hynny yw ei bod yn caniatáu cau ysgolion heb fynd drwy'r prosesau statudol arferol ar gyfer trefniadaeth ysgolion. Os bydd grym i gau ysgolion, byddai'n well gennym ei weld yn mynd drwy'r prosesau statudol arferol.

**Ms Williams:** One further concern in light of that is that it allows the closure of schools without going through the usual statutory processes for school organisation. If there is a power to close schools, we would prefer to see it going through the usual statutory processes.

[35] **Christine Chapman:** On that point, Suzy wants to come in, and then I will bring Julie back.

[36] **Suzy Davies:** I have a brief question, which you have half answered already. Are you concerned that there seems to be no requirement to consult with parents at all on section 16?



[37] **Ms Edwards:** Nid oes ystyriaeth ychwaith o gyfrwng iaith yr ysgol a lle mae'r ysgol agosaf. Dylai'r holl becyn hwnnw o le rydych yn mynd i ddarparu addysg i'r plant fod yn dilyn hyn. **Ms Edwards:** There is no consideration either of the language of the school or where the nearest school is. That whole package of where you are going to provide education for children should follow this.

[38] **Christine Chapman:** Julie, do you want to continue?

[39] **Julie Morgan:** Yes. My question is about intervening in a local authority. In your written evidence, you welcome the provisions for Ministers to intervene, but you are concerned about ground 3 in this part of the Bill. You say that the meaning of 'adequate standard' in ground 3 needs to be expanded upon. How would you like this to be addressed? Could you expand on that for us?

[40] **Dr Dixon:** At various places, the Bill uses words such as 'adequate' and so on. Those would be judgment calls, but we need some backup about how it would be judged. There is clearer evidence about using, for example, the dreaded word 'banding' in evidence for schools. We need to see what sorts of evidence would then be used in the judgments made about local authorities and what sorts of considerations there would be about whether an authority would be considered adequate or inadequate. There needs to be more backup in those determinations.

[41] **Julie Morgan:** Have you any suggestions about how you would go about defining this?

[42] **Dr Dixon:** You could look at various different things. One thing that jumps out would be using some of the Estyn judgments. You could also use the banding judgments, if an authority had more than a disproportionate number of band 4 and 5 schools in its area.

[43] **Julie Morgan:** So, do you think that there should be something specific about what 'adequate' is?

[44] **Dr Dixon:** Yes, as well as what they are being benchmarked against.

[45] **Dr Clark:** There seems to be two currencies of 'adequate' currently in Wales. You have the Estyn judgment of 'adequate' and you have the word that is used liberally in this document. Estyn's judgment of 'adequate' is built on a term of six years and on a revisit if a school is in a category. There are also two types of 'adequate' within Estyn-speak, if you think about it, because there are different types of categories that the school could fall under, depending on which area it is found to be adequate in, driven by the standards being the leading question in terms of what Estyn is judging. Again, the word 'adequate' can mean a myriad of different things in the document, which is a cause of concern.

[46] **Christine Chapman:** I want to move on to chapter 3, the school improvement guidance, on which Simon Thomas has some questions.

[47] **Simon Thomas:** A ydych yn derbyn bod angen canllawiau gwella ysgolion statudol? Os ydych yn derbyn hynny, sef yr hyn mae'r Bil yn bwriadu ei gyflwyno, a ydych yn meddwl bod digon o hyblygrwydd o fewn y system, fel sydd wedi'i amlinellu yn y Bil? **Simon Thomas:** Do you accept that there is a need for statutory school improvement guidance? If you do accept that, which is what the Bill intends to introduce, do you believe that there is sufficient flexibility within the system, as outlined in the Bill?

[48] **Dr Dixon:** That is a good question, and I will attempt to answer. It seems to us that, in certain circumstances, there would be a need to issue more statutory guidance to schools. Our concern would be that you could get to a model where you are told that there is only one way to teach certain disciplines or areas. We think that that would impugn the integrity and professionalism of staff and would possibly not take full account of local contexts. We would rather see a suite of measures so that you tell schools, on numeracy, for example, that certain things are proved to have worked and have raised standards in similar schools. Schools could then choose which one they think is best. There is a parallel here with the teaching of reading across the border, where the English Minister for education has decided that all children must learn to read by phonics. Phonics is a good way of teaching reading, but it is not the only way and it may not be the best way for every child. Therefore, you need a suite of methods for teaching literacy. The same is true in this context: you cannot say that there is only one way in which you can improve schools, but you could narrow it down and say that there are proven and tested ways, so schools would need to choose one of those ways, in collaboration with the local authority, and make a judgment about which is going to work best in their context.

[49] **Simon Thomas:** There is a specific part of the Bill on that—section 35, I think—which allows a school to deviate from the statutory guidance if it sets out the alternative policy. Do you think that that is a suitable alternative?

[50] **Dr Dixon:** That is there, but later in the Bill—I do not have the number—it says that the Minister can issue direction if he or she disagrees. Hopefully, you do not get to those situations, but if you do, the school should have some choice, because the management of the school can bring its judgment to bear about where it is.

[51] **Simon Thomas:** A yw UCAC yn cytuno? **Simon Thomas:** Does UCAC agree?

[52] **Ms Williams:** Dyma adran wannaf y Bil, efallai, a'r adran lle mae'r lleiaf o eglurder ynglŷn â'r bwriad. Nid yw'n hollol glir i ni ai un set o ganllawiau fydd ynteu a fydd pob set ychydig yn wahanol i bob ysgol. Mae rhyw fath o *mismatch* rhwng natur y canllawiau—mae'r memorandwm yn awgrymu mai casgliad o arfer da a phethau sydd wedi gweithio mewn ysgolion eraill ydynt—a'r sail statudol. Nid yw'r ddau beth yn eistedd yn gyffyrddus iawn gyda'i gilydd. **Ms Williams:** This is perhaps the weakest section of the Bill, and the section where there is least clarity about intent. It is not entirely clear to us whether there will be one set of guidelines or whether every set of guidelines will be a little different for every school. There is some mismatch between the nature of this guidance—the memorandum suggests that it would be a compilation of good practice and things that have worked in other schools—and the statutory basis. The two things do not sit comfortably together.

[53] **Simon Thomas:** A ydych yn sôn am arfer da a chanllawiau statudol? **Simon Thomas:** Do you mean good practice and statutory guidance?

[54] **Ms Williams:** Ie, gan na fydd arfer da yn trosglwyddo o reidrwydd i bob ysgol, a'r elfen statudol sy'n gwneud hynny'n anodd wedyn. I ddod yn ôl at gwestiwn hyblygrwdd, byddai gosod hyn ar sail statudol yn cyfyngu'n ormodol ar hyblygrwydd. Mae cwestiynau pellach yn codi ynglŷn â phwy yn union sy'n llunio'r canllawiau, ac a oes digon o arbenigedd a chapasiti yn y lleoedd cywir i wneud hynny. Mae gennym bryderon mawr am yr adran **Ms Williams:** Yes, because good practice does not necessarily transfer to all schools, and it is the statutory element that makes that difficult. Returning to your question on flexibility, placing this on a statutory basis would overly restrict that flexibility. There are further questions arising as to who exactly draws up the guidance, and whether there is adequate expertise and capacity in the right places to achieve that. We have major concerns about this section.

hon.

[55] **Ms Edwards:** Un pryder arall yw'r oedi. Os ydych yn rhoi cyfle i rywun wrthwynebu'r canllawiau a chreu rhai newydd eu hunain, a chyfle wedyn i'r Gweinidog wrthwynebu'r gwrthwynebiad, pryd mae'r codi safonau yn cychwyn os yw'r holl broses yn cael ei hoedi?

**Ms Edwards:** One other concern is the delay. If you give people an opportunity to oppose the guidance and to draw up new guidance of their own, and give the Minister the opportunity to object to the objection, when does standards improvement start if the whole process is delayed?

[56] **Simon Thomas:** Rydym yn gofyn y cwestiwn hwnnw'n aml iawn.

**Simon Thomas:** We ask that question very often ourselves.

[57] **Ms Edwards:** Rydym yn cytuno â'r syniad y dylai fod yn statudol i ddilyn cyfarwyddyd i greu cynllun gweithredu, ond mae eisiau edrych eto ar yr adran hon er mwyn bod yn sicr nad ydym yn clymu ein hunain i bethau nad ydynt yn weithredol ymarefol.

**Ms Edwards:** We agree with the concept that it should be statutory to follow guidance and to create an action plan, but this section needs to be looked at again to ensure that we do not tie ourselves to things that are not operationally practical.

[58] **Dr Clark:** I agree that this is probably the weakest area of the Bill. There is also a point about expertise. In terms of where the Government would search for that expertise—particularly around the modelling that seems to be the flavour now, and rightly so, about systems leadership, not about edict, but moving knowledge from areas of strong practice and expertise to areas of weaker practice—my concern is that the Bill is almost shutting a door. For example, the Government needs to clarify where it would search for that knowledge. The timing of this Bill also concerns me, because of the shifting sands. The consortia working will be the biggest change in education for a generation, because you are going from having 22 local education authorities, which have very distinct agendas, to four, which may go one way or another. That is a big issue, and dovetailing into that new way of working is important. I am concerned about where we are going to get that systems leadership and that expertise to drive standards in schools that are coasting and to lift the schools that are underperforming. Where do we go? If legislation all of a sudden shuts the doors to the movement of knowledge in systems leadership, then that model is broken before it has even started.

[59] **Simon Thomas:** Hoffwn eich cwestiynu'n benodol ar yr hyn a gynigir yn y Bil ynghylch ymgynghori ar y canllawiau hyn. Rydym i gyd yn ymwybodol mai'r consortia, o fis Medi ymlaen, fydd yn gyfrifol am ledaenu arfer da yn y rhanbarthau. Nid ydych yn hapus beth bynnag gyda'r ffordd mae'r opsiynau hyn yn cael eu pennu, ond beth am y cynigion yn y Bil ynghylch ymgynghori? A gredwch eu bod yn ddigon cryf, o ystyried y newidiadau sylweddol sy'n digwydd yn y system addysg?

**Simon Thomas:** I want to question you specifically on what is proposed in the Bill on consultation on these guidelines. We are all aware that it will be the consortia, from September onwards, that will be responsible for spreading best practice in the regions. You are not content anyway with how these options are set, but what about the proposals in the Bill in relation to consultation? Do you believe that they are sufficient, given the substantial changes that are under way in the education system?

[60] **Ms Edwards:** O ran beth yn union?

**Ms Edwards:** Regarding what exactly?

[61] **Simon Thomas:** O ran ymgynghori ar y canllawiau. Ar hyn o bryd mae gennym yr uned gwella ysgolion yn y Llywodraeth, y consortia a'r 22 awdurdod addysg. Sut y

**Simon Thomas:** In relation to consulting on the guidelines. At present, we have the school improvement unit within the Government, the consortia and the 22 education authorities.

bydd y Bil hwn yn cyflawni ei amcan o sicrhau bod pawb yn meddu ar yr arfer da sydd i fod i gael ei ledaenu ar draws Cymru?

How will this Bill achieve its aim of ensuring that everyone gets the best practice that is meant to be spread across Wales?

[62] **Ms Edwards:** Mae hwnnw'n gwestiwn eithaf anodd o ran gweithdrefnau a chyfathrebu. Os ydym yn ceisio creu rhywbeth statudol o'r math hwn, y perygl yw na fydd yn ymarferol i'w weithredu. Bydd gormod o amser yn mynd yn trin a thrafod yn ôl ac ymlaen, yn lle canolbwyntio ar anghenion ysgolion neu awdurdodau lleol unigol, a gweithio gyda hwy i baratoi'r hyn sydd ei angen arnynt.

**Ms Edwards:** That is quite a difficult question in terms of procedure and communication. If we try to create something statutory of this nature, the danger is that it will not be operationally practical. Too much time would be spent discussing back and forth, rather than concentrating on the needs of schools or specific local authorities, and working with them to prepare what they require.

[63] **Dr Dixon:** To echo what Alec said, the important thing is that the knowledge that is already in the system needs to flow. If we get a consultation that just goes back to the centre—in a process of cutting and pasting, weighing and balancing and so on—and then we say 'This is the answer', we are going to lose out. It is going to be a bit more of a palaver, where there are quite a few discussions. However, the professionals themselves should be key in those discussions—headteachers of very successful schools, teachers who are renowned for being successful teachers in the classroom and so on. We must capture that sort of knowledge and expertise and include it in the guidance, rather than having civil servants—not to be rude about it—making summaries of what they find to be good practice, or what they are told is good practice. There must be a more involved discussion so that the profession is engaged, and that the professionals identify the things that they know to work.

[64] **Simon Thomas:** Gan dderbyn eich bod yn feirniadol o sut mae'r broses hon yn gweithio, ar ddiwedd y broses, os ydych wedi canfod yr arfer da a bod ysgol sydd angen cymorth yn addas ar gyfer dull arbennig o arfer da, a dderbyniwch egwyddor y Bil y dylai fod dyletswydd statudol ar yr awdurdod i gyflawni hynny?

**Simon Thomas:** Accepting that you are critical of how this process operates, at the end of the process, if you have found best practice and that there is a school that needs support that fits into a particular method of best practice, do you accept the principle in the Bill that there should be a statutory duty on the authority to fulfil that?

[65] **Dr Dixon:** Yes, because that is the way to improve standards, and you will have credibility with the profession, which is important. It is not just someone coming with a cunning plan, but someone saying 'This is what has worked elsewhere in a similar context to which your school is in, so this is what has worked in relation to the difficulties and the issues that you have'. The best brokerage of that is the professionals in the 'successful' school sharing that themselves. That is what we have to try to develop in terms of best practice: how we spread that around the system from the professionals talking to consultants.

9.45 a.m.

[66] **Simon Thomas:** So, you are concerned a lot with the process that is set out in the Bill, not with the end.

[67] **Dr Dixon:** Not with the end, no.

[68] **Simon Thomas:** A yw UCAC yn cytuno â hynny?

**Simon Thomas:** Does UCAC agree with that?

[69] **Christine Chapman:** Before I bring Rebecca in, could I ask you for clarification,

Philip? You talked about professionals getting engaged: what are the barriers that prevent them from being engaged now?

[70] **Dr Dixon:** I think that Alec could probably answer that better, being still there in the school.

[71] **Dr Clark:** As a headteacher, one of the things that you particularly have as a barrier is the cost to a school that is successful. It is all well and good to say, 'I have a fantastic practitioner in literacy in my school', but if the local authority or the consortia come along and say 'We are going to pinch that practitioner for six months', that is obviously upsetting to my governors and everyone else, because little Johnny and Jessica will not get that expertise for six months. That is already being dealt with, and that will be more easily dealt with, in many ways, at a consortia level than it will at a local authority level, because I think that there will be a more diluting effect in the sense of where you go for your expertise. If you go to the same place all of the time, you create a huge impact on that institution, whereas if you can go to five or six local authorities there is a guarantee that there will be at least one in every local authority; I would say that there would be dozens in each local authority.

[72] It is about upskilling those people to want to come out of their schools to share their knowledge. There is also a willingness now that that will come from within. There has always been a culture of taking senior leaders out of schools, but I do not think that that is always where the knowledge has been. The knowledge is with the people who are still superb practitioners, and excellent practitioners, who are cutting the mustard on a daily basis and delivering excellence in their schools. We have lots of those within spitting distance of this place. We need to be able to move that around, but have that fluidity of approach, using guerrilla tactics, almost, and not fixing ourselves to the statutory stuff that does not always work and has been proved not to work. Let us start thinking about what works and what works best for the children of Wales, and if we want a knowledge economy, let us get on with it.

[73] **Jenny Rathbone:** Estyn already has, within its framework of inspection, questions around management and leadership and how well schools are collaborating with other schools, sharing good practice. So, I suppose that the Bill needs to address schools that are wilfully, or passively, failing to be intellectually up to the job.

[74] **Dr Dixon:** Yes, I think so. There are very few examples, thankfully. Quite often it is a question of time and leadership teams not being completely on the ball with latest developments. We have had one or two examples of schools that are almost in the situation that you are describing, and wilfully say 'This is the way that we have always done it and so we will carry on doing it in this way'. I think that those sorts of schools probably need to be exposed to some of the lead thinking and to be challenged by that. I suppose that what I am saying is that, when professionals talk to professionals, there is a different sort of dialogue, because it is a language that they understand, and those who want to be left to slumber realise that they cannot do that anymore.

[75] **Jenny Rathbone:** So, the Bill really needs to give Ministers the power to intervene where people have ignored the advice of other professionals.

[76] **Dr Dixon:** After a due process has been followed. That has been alluded to several times: the Bill needs to be clearer where the hurdles are, or where the points that have been missed are.

[77] **Ms Williams:** I ddod yn ôl at yr **Ms Williams:** Coming back to the principle egwyddor ynglŷn ag a ddylai arfer da fod yn of whether good practice should be statutory, statudol, byddwn yn fwy cyffyrddus pe bai'r I would be more comfortable if that good

arfer da hwnnw o fewn cyd-destun rhywbeth fel cynllun gweithredu, gyda thargedau penodol, camau a chefnogaeth yn rhan ohono, bod awgrymiadau o arfer da yn rhan o'r cynllun gweithredu a bod gweithredu'r cynllun yn statudol. Fodd bynnag, mae rhywbeth yn eisiau, o ran cyd-destun, yn y syniad o wneud darnau unigol o arfer da, ynddynt eu hunain, yn statudol. Mae angen proses debycach i bolisi medrusrwydd wedi'i gytuno ar gyfer athrawon ac ysgolion, gyda chamau a thargedau penodol. Mae rôl i arfer da yn y cyd-destun hwnnw, rwy'n credu.

practice was in the context of something like an action plan, with specific targets, steps and support, that suggestions of good practice were part of the action plan and that the implementation of the scheme was statutory. However, something is missing, in terms of context, in the idea of making individual pieces of good practice, in themselves, statutory. This needs to be a process closer to an agreed capability policy for teachers and schools, with specific steps and targets. There is a role for good practice in that context, I believe.

[78] **Christine Chapman:** Simon, did you have any further questions? If not, we will move on to school organisation. Suzy is next.

[79] **Suzy Davies:** School organisation is likely to raise a few issues, I would imagine. The critical document will be the code, of course. It will be quite a difficult document, I would imagine, as it is to apply to schools of different types. Who do you think should be designing this code? That question is to any of you.

[80] **Dr Clark:** I can certainly tell you what I think. It is probably not a bad idea to have a code, but, again, for good or bad, we have a more plural approach to things in Wales and we are in a period of transition. The writers of the code will have to consult deeply at every level, from schools down to the practitioners. We need to drill down to the practitioners, not just consult the senior management, because you are only scraping the surface of practitioners' views if you consult just the head at every school. You then have the 22 LEAs, and now you have the four consortia. It would be interesting if you had independent consultation across those areas, but you might get different answers from the three levels. You then need somebody to take that raw, initial evidence from consultation, crystallise it into something that asks specific questions, and then you have far more chance of something that is deliverable across those three levels of provision. There is a danger that, if you only choose to consult with a certain level of provision, you will get what they are roughly in agreement about in terms of what will work, but it might bear little or no resemblance to what the poor practitioner who has to deliver it thinks will work. It might bear little or no resemblance to what is going on in the four consortia, which are perhaps pushing ahead with their own agendas. The timing of things is very difficult, of course, because you do not have something set in stone to question, and anybody in the consortia who says, hand on heart, that they know exactly what it will look like in 24 months' time is a fibber.

[81] **Ms Edwards:** Byddem yn dweud y byddai'n amlwg yn rhywbeth i'r Gweinidog Addysg a Sgiliau wneud mewn ymgynghoriad â rhanddeiliaid perthnasol er mwyn sicrhau bod arbenigedd ar lefel leol ac ati wedi cael ei drafod. Hefyd, mae'n rhaid i mi ddweud yn awr, rhag ofn nad oes cyfle arall i'w godi, drwy'r Bil mae sôn am

**Ms Edwards:** We would say that it is clearly for the Minister for Education and Skills to do that in consultation with the relevant stakeholders in order to ensure that expertise at a local level and so on has been discussed. I should also say now, in case another opportunity does not arise, that throughout the Bill there is mention of consultation with

[82] 'ymgyngori â'r personau y gwelant yn dda'

'such persons as they see fit'

[83] ac mae'r geiriad hwnnw yn ein pryderi. Nid yw'n eglur bod eisiau

and that wording concerns us. It is not clear that all of the stakeholders involved in

ymgyngori â'r holl randdeiliaid sy'n schools need to be consulted. That includes ymwneud ag ysgolion. Mae hynny'n parents, of course, in relation to measures to cynnwys rhieni, wrth gwrs, ynghylch close a school, but also, in relation to matters mesurau i gau ysgol, ond, hefyd, ynghylch such as this, trade unions representing the materion fel hyn, undebau llafur sy'n school staff. cynrychioli staff yr ysgolion.

[84] **Suzy Davies:** That was going to be part of my next question, really, because you mentioned deep consultation, but there is no indication about how wide it should be, and whether it should include unions or education lawyers, for example. They will, of course, be the winners if this is not drafted properly. There is a massive spectrum of people who could be included, but there is no indication in the Bill as to who they should be. Is that as it should be, or would you rather see something stricter?

[85] **Dr Dixon:** We would rather have seen a clearer indication of what the code is meant to encompass, and some more detail about it. That is still another vague bit of the Bill. We are told that there will be a code, but we are not told a great deal about it. We are told some of the content that will be included, but not necessarily the form that it will take and so on. We would want to wait and see on that one, but certainly we think that the trade unions need to be consulted. Also, while we are talking about consultation, we are never quite sure sometimes how the weight is placed on consultation responses. We speak on behalf of thousands of members and frame our responses accordingly—that goes for us, UCAC and the other unions—but you could have an individual responding, so is that given the same weight? That is something that has never been explained completely.

[86] **Suzy Davies:** On local determination panels, do you think they will operate in as straightforward a way as the Minister seems to envisage?

[87] **Ms Williams:** Mae'r egwyddor yn iawn, ac rydym yn bendant o blaid yr egwyddor hwn o wneud rhagor o benderfyniadau yn lleol, ond mae'n anodd iawn gweld sut mae hyn yn mynd i weithio. Mae'n anodd dychmygu pwy yn union yw'r bobl sy'n mynd i fod ar y panel. Mae grŵp bach o bobl wedi'i heithrio rhag bod ar y paneli, ond pwy fydd arnynt, a sut mae modd dod o hyd i'r bobl hyn sydd heb unrhyw gysylltiad â'r awdurdod, yr ysgol, na'r cynigydd? Mae problemau a chwestiynau ymarferol mawr yn codi o ran yr adran hon.

**Ms Williams:** The principle is right, and we are definitely in favour of this principle of taking more decisions at a local level, but it is very difficult to see how this is going to work. It is difficult to imagine exactly who is going to be on the panel. A small group of people are excluded and will not be allowed to be on these panels, but who will be on them, and how will you find these people who have no connection with the authority, the school or the proposer? Huge practical problems and questions arise with regard to this section.

[88] **Dr Dixon:** Again, I completely agree with Rebecca. We thought that this was rather vague, and we put our thoughts on the matter in our submission. We need greater clarification. I can understand why the decision is better taken at a local level and so on and why perhaps the Minister wants to disburden himself of all the decisions coming to him, but this needs a lot more fleshing out before we can sensibly comment on whether or not it is going to work, especially, as Rebecca has said, with regard to the composition of the panel.

[89] **Jenny Rathbone:** Could you see a role for the consortia in this? Previous witnesses have said that having very local members on a panel is an absolute nightmare. A consortium would cover a wide area, and so you would be able to select people who did not have a vested interest in the outcome.

[90] **Dr Dixon:** I think that would work in principle. The problem, as you say, about very

local areas is that people get caught up in being either for or against proposals. If you have a broader perspective, which would come from within a consortium, that would give you perhaps more of a balanced view. So, there could well be a role for the consortia there.

[91] **Suzy Davies:** Who do you think should be advising these panels on their process and content—the expertise element of this? There is a huge potential here for enormous mistakes to be made.

[92] **Dr Dixon:** In our experience with other organisations—I do not know whether I should say this on the record—the more you can keep lawyers out, the better. Obviously, they would need a certain amount of legal expertise and guidance and so on. However, these are local determination panels and they need to weigh up the evidence as to what is best. I will leave it at that.

[93] **Ms Edwards:** Mae'n fwch pwysig arall yn y Bil. Rydym yn teimlo y byddai angen canllawiau clir ar gyfer y grwpiau hyn er mwyn gosod fframwaith i'r gwaith o leiaf, gyda threfn bendant i'w ddilyn a phethau y byddai rhaid iddynt eu hystyried. Os oes her wedyn i benderfyniad, mae atebolrwydd clir ac maent yn gallu dangos beth oedd y broses a'u bod wedi dilyn y canllawiau'n gywir. Wrth drafod gyda'n gilydd, rydym wedi codi'r cwestiynau hyn ynglŷn â'r heriau o ffeindio panel a fyddai'n hollol ddi-duedd ac yn cael ei weld yn hollol ddi-duedd. Efallai mai'r ffordd ymlaen fyddai cael panel sefydlog am gyfnod a wedyn bod un arall yn cael ei sefydlu. Mae paneli lleol ynglŷn â phethau fel gwahardd plant o ysgolion er enghraifft, ac maent yn cael arbenigedd mewn ffurf cyfreithiwr yn eistedd mewn ac ati. Mae'r adran hon o'r Bil yn peri pryder i ni.

**Ms Edwards:** It is another important gap in the Bill. We feel that clear guidance would be needed for these groups to set a framework for the work at least, with a specific system to follow and things that they would have to consider. If a decision is then challenged, there is clear accountability and they can demonstrate what the process was and that they followed the guidance correctly. In discussing this among ourselves, we have raised these questions of the challenges of finding a panel that would be totally unbiased and would be seen to be unbiased. Perhaps the way forward would be to have a fixed panel for a specific period and then establish another one. There are local panels for such things as excluding children from school, for example, and they have expertise in the form of a lawyer sitting in and so on. This section of the Bill concerns us.

[94] **Dr Clark:** Jenny clearly identified that there is a potential role here for the four consortia. Also, when you ask whom they will take advice from, 'as many people as possible' is probably the best answer, and not from one person in particular. I always think that the word 'guru' is for somebody who cannot spell 'charlatan'. If you are asking about where they take advice from, they also need to be in a position to take advice from many sources and have enough expertise within that panel. Again, the constitution of that panel is very important, because it will need to have the expertise from within to decide what is good advice and what is less than good advice. Also, what advice the panels give out and to whom is an area that concerns me. In the next 36 months, you are going to see something of a power struggle between consortia and local authorities; you are already seeing it to a certain extent. That situation will become exacerbated in the next two to three years. So, if the advice from these LDPs is to be acted upon, to whom will they be giving it and who will be pulling the strings to enact it? Remember, whatever advice they give is completely useless unless it filters down to the learner.

10.00 a.m.

[95] **Aled Roberts:** Rwyf eisiau symud **Aled Roberts:** I want to move on to UCAC's ymlaen i dystiolaeth UCAC ynglŷn â evidence on the rationalisation of school



rhesymoli lleoedd o fewn ysgolion. A ydych eisiau ymhelaethu ar eich safbwynt ynglŷn â'r ymchwiliad lleol? Rydych yn dweud bod yna *vacuum* i ryw raddau.

[96] **Ms Edwards:** Mae hynny o ran bod yr ymchwiliad lleol yn digwydd o fewn *vacuum*, heb gyngor, heb gyd-destun a heb wrando ar beth yw'r problemau a phwy fuasai'n cynnig ateb iddynt, a bod y Gweinidog yn gallu gwneud penderfyniad sydd yn mynd i'r gwrthwyneb i un y corff lleol ac ati. Mae'r materion hynny yn peri pryder i ni. Mae'n anghyson ag ymestyn pwerau lleol bod modd i'r Gweinidog benderfynu heb roi cyfle i fynd yn ôl eto at ymchwiliad lleol os oes newid i'r penderfyniad gwreiddiol. Dylai darpariaethau ar gyfer ymchwiliad lleol fod yn gymwys ym mhob achlysur lle mae newid os bu gwrthwynebiad a dylai fod cyfle i ymchwiliad lleol ystyried unrhyw beth ychwanegol yn hytrach na fod penderfyniad yn cael ei wneud os nad yw'r ymchwiliad gwreiddiol wedi cwmpasu pob peth posibl.

[97] **Christine Chapman:** Before you come in, Aled, Rebecca wants to come in first.

[98] **Ms Williams:** Yn gryno, mae hefyd diffyg manylder ynglŷn â phwy sy'n cynnal yr ymchwiliad a beth yw'r gweithdrefnau o gwmpas yr ymchwiliadau lleol, yn ogystal â'r pryderon y mae Elaine wedi eu crybwyll am bŵer y Gweinidog i beidio â chynnal yr ymchwiliad.

[99] **Aled Roberts:** Dyna'r pwynt roeddwn yn mynd i'w godi nesaf. A ydych yn meddwl bod angen mwy o eglurdeb ynglŷn ag yn union beth yw'r pwerau ac ym mha sefyllfa y cânt eu defnyddio, neu a oes gennych broblemau mewn egwyddor gyda'r cynigion hyn?

[100] **Ms Williams:** Nid oes gennym broblemau ganddynt mewn egwyddor. Y diffyg manylder yw'r broblem. Bydd angen i ni ddeall yn well yn union sut buasai'r cynigion hyn yn gweithio er mwyn gallu cytuno â hwy. Mae angen ffrwyno rhywfaint ar y pwerau sydd yn cael eu rhoi i'r Gweinidog yn y fan hon i ddiystyru neu benderfynu peidio â chynnal ymchwiliad, oherwydd nad oes trothwy ar gyfer gwneud y penderfyniad hwnnw. Mae'n rhyw fath o

places. Do you want to expand on your views regarding the local inquiry? You say that there is a vacuum to some extent.

**Ms Edwards:** That point is in reference to a local inquiry happening within a vacuum, without advice, context and without listening to what the problems are and who would address them, and the fact that the Minister can take a decision contrary to that of the local body and so on. Those issues cause us concern. It is inconsistent with extending local powers to allow the Minister to make decisions without an opportunity to go back again to a local inquiry if the original decision is changed. Provisions for a local inquiry should apply to all occasions when there is a change if there was opposition and there should be an opportunity for a local inquiry to consider anything additional rather than a decision being taken if the original inquiry has not covered all possible areas.

**Ms Williams:** Briefly, there is also a lack of detail about who holds the inquiry and what the procedures surrounding the local inquiries are, in addition to the concerns that Elaine has referred to about the Minister's power not to hold an inquiry.

**Aled Roberts:** That is the point that I was going to raise next. Do you think that greater clarity is needed in relation to what exactly the powers are and in what situation they can be used, or do you have problems in principle with these proposals?

**Ms Williams:** We do not have problems with them in principle. The lack of detail is the problem. We will need to better understand exactly how these proposals would work in order to be able to support them. There is a need to curb somewhat the powers that are given to the Minister here to disregard or decide not to hold an inquiry, because there is no threshold for making that decision. The wording is something like 'if the Minister sees fit'. That is not any kind of restriction.

eiriad fel 'os yw'n gweld yn dda'. Nid yw hynny'n unrhyw fath o gyfyngiad.

[101] **Ms Edwards:** Hefyd, rydym o blaid gwneud penderfyniadau ar lefel leol ac mae'r Bil o blaid hynny, felly mae ehangu pwerau'r Gweinidog yn y modd hwn yn ymddangos fel pe bai'n mynd yn erbyn prif bwrpas y Bil.

[102] **Aled Roberts:** Rydych yn symud ymlaen yn eich tystiolaeth i ddweud bod gennych bryder cyffredinol ynglŷn ag ailstrwythuro addysg chweched dosbarth. Hoffwn glywed mwy am hynny. A ydych yn gweld hyn fel ymateb gan y Gweinidog i'r hyn y mae ef yn ei weld fel diffyg symud o achos mynegiant barn leol yn erbyn unrhyw fath o ailstrwythuro?

[103] **Ms Edwards:** Mae llawer o ddatblygiadau wedi bod o ran addysg blwyddyn 12 a 13, addysg ôl-16, ledled Cymru oherwydd y Mesur Dysgu a Sgiliau (Cymru) 2009. Mae llawer o gydweithio rhwng ysgolion a cholegau addysg bellach ac mae llawer o gamau positif wedi cael eu cymryd. Mae llawer o waith wedi ei fuddsoddi mewn paratoi cwricwla lleol er mwyn ehangu'r ddarpariaeth o ran cyrsiau galwedigaethol, ehangu mynediad pobl ifanc at fwy o ddewis a sicrhau bod cydweithio. Mae buddsoddiad mawr o ran arian ac amser wedi bod i sicrhau amserlenni ar y cyd, staffio a phob math o bethau. Mae pobl ifanc wedi elwa ar y buddsoddiad hwnnw yn ein barn ni.

[104] Mae'n ofid inni fod ystyriaethau am flynyddoedd 12 a 13 yn anwybyddu'r datblygiadau hynny. Rydym hefyd yn teimlo bod blynyddoedd 12 a 13 mewn ysgol yn rhan hanfodol o nifer o'n hysgolion. Byddai eu tynnu allan o'r ysgol yn peryglu dyfodol gweddill yr ysgol o ran gallu darparu ar gyfer gweddill disgyblion yr ysgol. Nid ydych yn dysgu'r chweched dosbarth ar wahân i weddill yr ysgol; mae staff ac amserlen ar gael, sy'n effeithio ar bobl ifanc eraill.

[105] Mae'n ofid penodol o ran ysgolion cyfrwng Cymraeg. Nid oes darpariaeth cyfrwng Cymraeg mewn colegau addysg bellach. Wrth hynny, rwy'n golygu nad oes un coleg addysg bellach cyfrwng Cymraeg

**Ms Edwards:** Also, we are in favour of decisions being taken at a local level and the Bill is in favour of that, so enhancing the Minister's powers in this way appears to go against the main thrust of the Bill.

**Aled Roberts:** You move on in your evidence to say that you have general concerns about restructuring sixth-form education. I would like to hear more about that. Do you see this as a response by the Minister to what he sees as a lack of movement because of the expression of local opposition to any kind of restructuring?

**Ms Edwards:** There have been many developments in terms of education in years 12 and 13, post-16 education, throughout Wales because of the Learning and Skills Measure (Wales) 2009. There is now a great deal of collaboration between schools and further education colleges, and many positive steps have been taken. A great deal of work has been invested in the preparation of local curricula in order to expand the provision of vocational courses, to widen young people's access to greater choice and to ensure that there is collaboration. There has been great investment in terms of money and time to ensure joint timetabling, staffing and all sorts of other things. Young people have benefited from that investment in our opinion.

It is a cause for concern for us that considerations relating to years 12 and 13 ignore these developments. We also feel that years 12 and 13 in a school are a crucial part of many of our schools. Withdrawing them from a school would endanger the future of the rest of the school with regard to the provision for the other pupils in that school. The sixth form is not taught separately from the rest of the school; there are staff and timetables in place, which impact on other young people.

It is a specific concern with regard to Welsh-medium schools. There is no Welsh-medium provision in further education colleges. By that, I mean that there is no single Welsh-medium further education college in Wales.

yng Nghymru. Gall pobl ifanc gael mynediad at gyrsiau cyfrwng Cymraeg, ond ni allant gael mynediad at brofiad cyfan gwbl cyfrwng Cymraeg mewn coleg addysg bellach. Rydym yn bryderus am golli'r hyn sydd gennym mewn ysgolion cyfrwng Cymraeg yng Nghymru. Mae llawer o ystyriaethau ac rydym yn teimlo bod ehangu pwerau yn rhywbeth nad ydym yn gyfforddus yn ei gylch.

Young people can access Welsh-medium courses, but they cannot access a wholly Welsh-medium experience in a further education college. We have concerns about losing what we have at present in Welsh-medium schools in Wales. There are many considerations and we feel that enhancing powers is something that we are not comfortable with.

[106] **Christine Chapman:** We have just over five minutes left, and we have some other areas to cover, so I would like to move on to Jenny.

[107] **Jenny Rathbone:** I have a specific question on this important issue of school breakfasts and meals. ATL, you have expressed some concerns about a school's ability to stop providing free breakfasts in certain circumstances. The Bill provides for the governing body to request that the local authority provides free school breakfasts. They presumably have done their homework on the financial implications before they make that request but, equally, it seems to me that it would be important to give schools the powers to stop doing school breakfast if they are in deep financial trouble and they need to make some difficult decisions. I do not think that anyone is disputing the benefits to children of having those school breakfasts on offer.

[108] **Dr Dixon:** Our concern was that, if the breakfasts are considered to be a good thing in principle and that they enhance learning and, in certain areas, are giving a good start to the day for children who perhaps come from deprived backgrounds where that is not happening, you could not have a revolving door of provision, for whatever reason—we would want to see a door and, once you have gone through, you carry on providing breakfasts. So, governing bodies can decide to opt in, but it should not be the case that they can then decide to opt out. I take the point that you make about financial considerations, but perhaps some of the schools that need to provide the breakfast most would then say that they are up against this and that they need to find some more constructive ways of dealing with it and probably find more money to ensure—

[109] **Jenny Rathbone:** I am sure that that discussion would happen, but the point is that if you give governing bodies the authority to request free school breakfasts, surely you also need to give them the authority to make a difficult decision in the event that there are only one or two children taking it up.

[110] **Dr Dixon:** If you accept the principle that school breakfasts are a good thing, you allow people to opt in when they feel that they can do that, but there is no contradiction in saying that they then cannot opt out.

[111] **Jenny Rathbone:** That is potentially problematic. It gives school governing bodies powers in one sense but takes it away in another. The other thing that you expressed concerns about is the flexibility of the pricing mechanism for school meals.

[112] **Dr Dixon:** This was just a concern raised by some of our members that, once you had flexible charging and so perhaps the second and third child paid less, there would not be an increase in the base price as it were, so that other children would end up paying more. There would have to be a genuine cost borne by the local authority or the school, for example. You would not then have the situation where, perhaps, one child would end up paying more because they were subsidising others. That has to be rooted so that you could not then say that you are now offering flexible charging but, in fact, it comes at a cost to other children.

[113] **Jenny Rathbone:** We will reflect on that on the Bill.

[114] **Julie Morgan:** Does the Bill reflect what the financial implications will be, and what is your opinion of the impact assessment?

[115] **Dr Dixon:** Do Government policies ever cost what they cost on paper? [*Laughter.*] At certain sections in the memorandum, the Government admits that it does not have certain key pieces of data, which does not necessarily bode well. You have received other evidence suggesting that the LDPs could certainly cost more money than has been indicated. I do not have the expertise to comment, but the key thing is that judgments have to be made on available data. However, it seems to me that certain key parts of data need to be sought quite quickly to make a better judgment on the actual costs.

[116] **Ms Edwards:** Cytunaf â hynny. Hefyd, credaf rydym i gyd yn ymwybodol o adegau yn y gorffennol pan wnaethpwyd llawer o waith ar rywbeth, pan gafodd llawer o ddogfennau *glossy* eu cynhyrchu, a phan gynhaliwyd cynhadledd ar ôl cynhadledd, a chyfarfod ar ôl cyfarfod, ond, ar ddiwedd y dydd, ni chafodd y pethau hynny eu gweithredu'n gywir. Dyna pam y mae'n hanfodol bwysig i ailedrych ar y rhannau o'r Bil y teimlwn sy'n annelwig, neu sy'n anodd eu gweithredu, a dod i benderfyniad call ynghylch canllawiau statudol—os ydynt yn rhai statudol neu'n rhai sy'n cael eu creu yn lleol—oherwydd mae goblygiadau o ran costau yn hynny hefyd. Gall fod goblygiadau o ran cost pethau na fyddant yn ymarferol i'w defnyddio ar ddiwedd y dydd ac yn wastraff arian mewn system sy'n gwegian yn ariannol yn barod.

**Ms Edwards:** I agree with that. Also, we are all aware of occasions in the past when a great deal of work was done on something, when many glossy documents were produced, and when conference after conference, and meeting after meeting, were held, but, at the end of the day, those things were not implemented properly. That is why it is crucial that we review the sections of the Bill that we feel are ambiguous, or are difficult to implement, and to come to a proper decision on statutory guidance—whether they are to be statutory or whether they are to be drawn up locally—because there are also cost implications there. There are possible implications in relation to the things that are not practical at the end of the day and are a waste of money within a system that is already struggling financially.

[117] **Christine Chapman:** Thank you. The time is now up for this session. I thank all of you for attending. It has been an excellent evidence session, which will certainly help the Members give due consideration to the Bill. We will send you a transcript of the meeting so that you can check it for factual accuracy. Thank you.

[118] The committee will now take a short break and we will reconvene at 10.30 a.m..

*Gohiriwyd y cyfarfod rhwng 10.12 a.m. a 10.30 a.m.  
The meeting adjourned between 10.12 a.m. and 10.30 a.m.*

#### **Bil Safonau a Threfniadaeth Ysgolion (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 4 School Standards and Organisation (Wales) Bill: Stage 1—Evidence Session 4**

[119] **Christine Chapman:** We restart the meeting. Today, we are taking evidence from Governors Wales. Welcome. Could you introduce yourselves for the record, please?

[120] **Ms Morris:** I am Jane Morris, director of Governors Wales.

[121] **Mr O'Marah:** I am Terry O'Marah, chair of Governors Wales.

[122] **Christine Chapman:** Welcome to you both. Before we proceed, I wish to remind you that the Assembly operates through the medium of Welsh and English. There are headsets through which you can hear simultaneous translation. That is on channel 1, and channel 0 can be used to amplify the sound. You do not need to touch the microphones; they will come on automatically. First, thank you for submitting your paper in advance. Members will have read that so, if you are happy, we will go straight to questions.

[123] With regard to Part 2 of the Bill, can you expand on why you believe the existing process for intervention is ‘confusing and complex’, to quote your paper? To what extent do the changes provided for in the Bill address this?

[124] **Ms Morris:** The powers of intervention were set out in the School Standards and Framework Act 1998. There have been subsequent amendments in education Acts, and, alongside that, we have the code of practice on ‘LEA—School Relations’, and then came partnership agreements and so on. Taking all that on board, for local authorities looking at instigating intervention powers and so on, the process has been very complicated because there are bits here, there and everywhere. Therefore, the proposed bringing together of legislation in this Bill so that everything is compact and streamlined is very welcome and would certainly provide a consistent approach to any intervention instigated throughout Wales.

[125] **Christine Chapman:** We will now explore in detail some of the specifics.

[126] **Jenny Rathbone:** Does the way in which the Bill is phrased at the moment make sufficiently clear for governing bodies the grounds on which local authorities or the Minister may need to intervene in relation to what governing bodies are getting up to?

[127] **Ms Morris:** Obviously, eight grounds have been specified. What we need is guidance to provide further information on the implications and processes that will be followed. That is incredibly important. Key stakeholders need to be consulted on the guidance. Speaking personally, governors need to be made aware, perhaps through the mandatory training that will be introduced, of the intervention powers and processes that may be used, we hope as a last resort. If all of that happens and there is joined-up thinking, that would be one way forward.

[128] **Jenny Rathbone:** We have been made aware of some pretty substantive problems where local authorities have sat on their hands and not made themselves aware of what governing bodies are doing and whether they are carrying out their duties effectively. Will this Bill address that?

[129] **Ms Morris:** That might be the case. I am a firm believer that what has happened in the past is in the past and that we must take things forward to raise standards. Therefore, the way forward is to have a consistent approach so that everyone is aware of those processes that must kick in if, heaven forbid, they are needed. That is essential. As I said, there needs to be awareness among governors. It is hoped that, with everyone working together, that will happen. From the point of view of Governors Wales, what is important is that the support for schools is there right at the beginning and that schools’ governing bodies receive timely and accurate support as and when it is needed to help them with the raising standards agenda. We will be looking closely at the emergence of regional consortia improvement services in that respect, and on how they will also have an impact on intervention. We need to be mindful of that in the guidance that is produced.

[130] **Jenny Rathbone:** You are right that guidance will be important to ensure that governors and local authorities are clear on this. As far as you are concerned, do you think

that the Bill, as drafted, is reasonable and appropriate with regard to the powers of intervention of the Minister or local authority?

[131] **Ms Morris:** I think that it is reasonable and appropriate. That said, we would obviously want to be involved in any consultation on the guidance as it emerges.

[132] **Simon Thomas:** O ran hawl bresennol cyrff esgobaethol, yng nghydestun ysgolion eglwysig, i benodi llywodraethwyr ychwanegol os yw'r awdurdod yn penodi llywodraethwyr ychwanegol, mae'r Llywodraeth wedi dweud yn y Bil a'r memorandwm esboniadol nad yw'n gweld rheswm i'r grym hwn aros yn eile. Fodd bynnag, nid oes esboniad pam. Beth yw eich barn, fel corff, am hyn? A yw tynnu'r hawl honno i ffwrdd yn gam priodol?

**Simon Thomas:** With regard to the current right of diocesan bodies, in the context of church schools, to appoint additional governors if the authority appoints additional governors, the Government has said in the Bill and explanatory memorandum that it does not see a reason for this power to remain. However, no explanation is given as to why that is the case. What is your opinion, as a body, on this? Is withdrawing that right an appropriate step?

[133] **Ms Morris:** That is a very good question. We are mindful of the fact that, at this present time, if additional governors are appointed to a voluntary aided school, the governing body or the diocesan authority can appoint additional foundation governors as they have to be in the majority. As a body, we have had no responses or reaction to that, but that is not to say that there is not a response or a reaction out there. If that proposal were to go through, there could be implications for the instrument of government of VA schools, where it clearly says that foundation governors have to outnumber the other categories of governor. I would urge you, in the same way as you are seeking evidence from us today, to invite representatives of the diocesan authorities to comment on this issue in some way, shape or form.

[134] **Simon Thomas:** That particular aspect of the Bill could make a governing body go against its operating basis, as I think you pointed out.

[135] **Ms Morris:** You have to be mindful of that.

[136] **Simon Thomas:** There is almost a conflict across the legislation in that regard, is there not?

[137] **Ms Morris:** Yes, there is a potential conflict, and the lawyers would have to look at that very closely.

[138] **Simon Thomas:** We have heard that lawyers might have a field day on some aspects of this Bill, but that is another matter. [*Laughter.*]

[139] **Ms Morris:** I am sure that they will.

[140] **Simon Thomas:** Rydym yn sôn yn awr am gyrff llywodraethol sydd o dan ryw fath o weithdrefn ymyrraeth, boed yn penodi llywodraethwyr ychwanegol neu beth bynnag. Rydych wedi dadlau'n gryf yn y papur fod angen rhyw fath o system apêl yn y cyd-destun hwn, ac rydych yn sôn am gyfiawnder naturiol. Yn gyffredinol drwy'r Bil, mae sawl system apêl, sawl dull o apelio a mynd yn ôl ac ati, ond nid oes system o'r fath yn y cyd-destun hwn. Beth sydd gennych

**Simon Thomas:** We are now talking about governing bodies that are subject to some kind of intervention, whether it involves appointing additional governors or whatever. You have argued robustly in your paper that there needs to be some kind of appeals system in this context—you mention natural justice. In general, throughout the Bill, there are several appeals systems, several methods of appeal and recourse and so on, but there is no such system in this context. What do you

mewn golwg a pham ydych yn credu bod angen rhywbeth fel hyn? Byddai rhai yn dadlau os yw corff llywodraethol wedi methu â chodi safonau a darparu ar y lefel honno, mae dyddiau'r corff hwnnw ar ben, i bob pwrpas.

have in mind and why do you think that something like this is needed? Some would argue that if a governing body has failed to raise standards and make provision at that level, its days are numbered, to all intents and purposes.

[141] **Ms Morris:** That is a fair point. We put that in because I am mindful that, with the intervention process that exists, governing bodies can complain to the Welsh Ministers if they feel that the process is inaccurate, unfair or whatever. I suppose that I am also mindful that there could be a potential conflict with the support that may be provided by a person, or there could be issues regarding a methodology that has been instigated. It is about having some sort of recourse for governing bodies, if they felt that they had sufficient evidence to say, 'Actually, hang on a minute, we think that we are doing okay and can prove it through x, y and z', or some sort of mechanism where that could be taken up. I know that previous organisations have also mentioned an appeal mechanism. Whether that is an appeal mechanism or a mechanism to complain, I do not know, but something is probably needed. Where support intervention emerges or has to happen as a last resort, there needs to be trust and collaboration between all bodies. They should all be working to raise standards and so on, and that is very important.

[142] **Mr O'Marah:** It almost cycles back to one of the earlier answers. If you reach a point where there is intervention, in effect, the local authority has also failed, because it has failed in its support and the ongoing work that it should have been doing with the school to prevent the intervention. So, it may well be that a governing body says, 'Hang on, we did not get the right advice at the right time', and a vast range of situations could occur. Most of the time, hopefully, it will be very clear cut that things are wrong, but there will be situations where the ability to challenge the decision is needed, to say 'Hang on, this did not happen, that did not happen and this is a particular circumstance in this school, so have you taken that into consideration?' We need that safety valve, if you like.

[143] **Simon Thomas:** This is a slightly separate issue, but related to this Bill, I understand that the Government is talking about compulsory training for governors and clerking bodies and so forth. Would that not provide some of the early intervention as well? It comes short of the Bill, but it builds on what the Bill is talking about as well. Would you see that as an alternative to some of these steps?

[144] **Ms Morris:** I think that it goes hand in hand with any form of mandatory training for new governors, chairs and clerks. Governors being trained on the use of performance data is part and parcel of their being aware of their responsibilities, acting appropriately and doing what they should be doing. That is not to say that some of them are not doing what they should be doing at this point in time, but it has to be joined up.

[145] **Suzy Davies:** Jenny mentioned earlier that the school improvement guidance was very important. How do you feel about governors being subject to a school improvement guidance document that tells you how to exercise your functions and how to raise standards when you may have different ideas?

[146] **Mr O'Marah:** On raising standards in a school, you might all agree that standards are not high enough in the beginning and you agree a starting point, but there can be several different routes to promoting that improvement. Some of those will lie in the school and some outside of the school, such as the support that it is given. I suppose that you would hope that advice in the first instance had been taken on board in that initial support, and that certain things had been put right over time. I guess that the worst scenario that any of us could expect is for a local authority to go into a school and say, 'Sorry, you are not good enough; you have

to do this or there will be dire consequences'. Things should have happened well before you get to the stage of hearing, 'You have a year, and we think that you ought to be doing this to improve; in the following year, we will come back to look at it, as this needs to improve'. In the end, we always have to think of the quality of education being provided to the children, and if that is not good enough, strict measures have to be taken. They may be unpleasant, but they have to be done.

[147] **Suzy Davies:** You are given the choice. You can say that you do not want to follow the school guidance and that you have a better idea. As chair of governors, you are entitled to put that forward. Are you worried about how you need to prove that? Is it clear enough in this Bill how you would prove that your system is better, if you like?

[148] **Mr O'Marah:** In the end, it will be proved 12 or 24 months later when the performance of the school improves—or not. I suspect that it would be very difficult to prove in advance that method A or B would improve standards.

[149] **Suzy Davies:** And yet the Minister has the opportunity, if I understand this correctly, to look at it at the beginning, rather than at the end.

[150] **Mr O'Marah:** I think that there would be the opportunity to state the case and test out the argument, rather than someone coming in and telling you what you must do. I am concerned, talking personally now, because, taking the Bill as it is written, it is a bit confrontational and that is not the reality of what will happen in schools. As we keep saying, it is an ongoing relationship between the school improvement consortia or the local authority and the school, and you hope that that will take things forward before they reach this point of statutory intervention or a statutory audit of what to do. One hopes that there would be very few of these cases, because the process, being driven by the knowledge that this intervention power is there, will become more effective and efficient, and people will listen and take action.

10.45 a.m.

[151] **Ms Morris:** In the evidence that we submitted, we said that we welcome the statutory guidance to raise standards, to share best practice and to promote consistency. I think that that is absolutely true. The last sentence also says that there needs to be an element of flexibility. For my part, teaching is about initiative, innovation and looking at the best ways to deliver your subject. It would be a shame for good ideas to emerge and go to waste. I know that we can have best practice, but as teachers who deliver in their classroom area, they are striving to look at new ways of delivering, and there must somehow be room to reflect that in the guidance. The key is to ensure that, when that guidance is produced, you have excellent practitioners involved in developing that guidance. It will have to be updated and revised continually to reflect the best practice that is emerging.

[152] **Aled Roberts:** Mae rhai o'r undebau yn poeni y bydd y canllawiau hyn yn cynnwys y ffordd y mae athrawon yn dysgu. Mae ganddynt dystiolaeth yn Lloegr fod y Llywodraeth yn mynnu dysgu mewn un ffordd—yn sôn am ffoneg. A oes gennych unrhyw bryderon bod y canllawiau statudol yn galluogi'r Gweinidog i ddweud, 'Dyma'r unig ffordd yr wyf yn rhagweld y bydd yr ysgol hon yn gwella?' Roedd yr undebau yn pryderu am y ffaith bod gan y cyrff llywodraethu yr hawl i ddweud, 'Na, ein **Aled Roberts:** Some of the unions are concerned that the way in which teachers teach will be a part of this guidance. They have evidence in England that the Government is insisting on teaching in a certain way—talking about phonics. Do you have any concerns that the statutory guidance will enable the Minister to say, 'This is the only way that I can see this school improving'? The unions had concerns about the fact that the governing body was within its rights to say, 'No, this is our plan—will



cynllun ni yw hwn—a wnewch chi ystyried hwn?’ a bod cyfnod o oedi wrth i’r pethau hyn i gyd fynd yn ôl ac ymlaen. you please consider this?’ and that there could be a delay as all these things are sent back and forth.

[153] **Mr O’Marah:** I would hope that the guidance would follow that set by Estyn, which has no preferred model of teaching, provided that it is successful and that it works. Prescribing very specific methodologies is always fraught with difficulties, because teachers are individuals, and it stifles development, creativity and taking things forward. There may well be individual teachers who have specific problems, but that ought to have been dealt with internally in the school, under competence procedures, if they are just not good enough for the job. If we are talking about external intervention, I would have reservations about the imposition of a very detailed teaching methodology.

[154] **Aled Roberts:** In their evidence, the unions said that the way in which the Bill is drafted suggests that a Minister could follow that path, and that there is nothing at the moment that allows Estyn’s approach to be embodied in this legislation.

[155] **Mr O’Marah:** I would personally find that not helpful.

[156] **Ms Morris:** Clarity certainly needs to be provided on that. One size does not fit all. What works in one school will not work in another school. That needs to be addressed and reflected in any guidance.

[157] **Suzy Davies:** Would some of the concerns that you have expressed be resolved by the guidance being designed by people from a wide pool? I am trying to work out who the best people are to put this guidance together. Is it civil servants, practitioners or lawyers? You tell me who you think it is.

[158] **Ms Morris:** As I said earlier, practitioners need to be involved, but also a wider pool of people need to be involved such as from Estyn, lawyers and governors, and so on.

[159] **Mr O’Marah:** Estyn has a wealth of experience of looking at the quality of teaching and the outcomes, from its guidance on it.

[160] **Suzy Davies:** Are you slightly worried that the only consultees for this guidance will be such other persons as the Welsh Ministers think fit?

[161] **Ms Morris:** We were going to ask what that meant.

[162] **Mr O’Marah:** Yes.

[163] **Suzy Davies:** We will ask him that question, then. [*Laughter.*]

[164] **Ms Morris:** A wider pool of consultees would be the best way forward.

[165] **Christine Chapman:** I am going to move on to the code on school organisation.

[166] **Julie Morgan:** You welcome the code on school organisation and say that there should be consultation. Could you expand on that?

[167] **Ms Morris:** School organisation is an emotive subject. A consistent code that streamlines the process is important, but needs to be consulted on with a range of stakeholders. We support the code, but want more consultation.

[168] **Julie Morgan:** What are your views about the local panels?

[169] **Ms Morris:** That is an interesting one.

[170] **Mr O'Marah:** The local authority effectively deciding on who makes a decision about something that it has suggested seems a little incestuous and open to at least perceptions of bias in the process. Expanding that to the regional consortia area and having the members from partner authorities within the school improvement consortia—but not necessarily from the local authority—seems to us a far fairer and more open process.

[171] **Ms Morris:** It is the word 'local' that is problematic. Getting rid of the word 'local' and calling it a determining panel made up of, as Terry says, members of regional consortia or on a national basis, may be a way forward.

[172] **Julie Morgan:** Would you accept the word 'local' applying to the consortia?

[173] **Ms Morris:** That would be worth looking at.

[174] **Simon Thomas:** Do you see these panels as being standing panels, so that they build up an appreciation of the law and regulations, or do you see them as ad hoc panels, formed when proposals come forward?

[175] **Mr O'Marah:** I must admit that you have posed a question that I had not put to myself. I guess that I assumed that they were ad hoc panels, because the situation will not occur every week or every month.

[176] **Ms Morris:** I think that it would be on an ad hoc basis, but what is important is that the members of those panels have expertise and knowledge of processes. Otherwise, you are going to end up with one judicial review after the other. It is a complex process. Each case will be different, so having that expertise to adjudicate—for want of a better word—would be a sensible way forward.

[177] **Simon Thomas:** The Bill sets out the people who can be on the panel, but not their skills.

[178] **Ms Morris:** No, it does not. That may need to be considered.

[179] **Julie Morgan:** Do you think that it would be possible to get people with the expertise to serve on such panels?

[180] **Mr O'Marah:** There is no reason why a panel based on the size of the consortia, as opposed to being based on the size of a local authority, cannot have expertise. You would have a wider pool of legal, educational and governance expertise and it would be more independent than if it was from within a local authority.

[181] **Julie Morgan:** What about advice? Who would advise such panels? Who would be their clerks, to write it all down and be there to be challenged? Do you see that as being feasible?

[182] **Ms Morris:** If it is going to be done properly, it is going to have to be done in accordance with expertise, with a clerk who knows what to do, and legal advice and so on. I assume that that would have to happen, but I am not sure whether it has been included in the costs at the back of the Bill.

[183] **Mr O'Marah:** On a regional basis, you would have advising officers or clerks who were constant and members coming from across the region. The region has more resources to

have individuals with that responsibility.

[184] **Simon Thomas:** I droi at **Simon Thomas:** Turning to annual meetings, gyfarfodydd blynyddol, a oeddech wedi had you asked about getting rid of this gofyn am ddileu'r angen statudol hwn? statutory requirement?

[185] **Ms Morris:** No, we had not asked. It was put to us in the consultation, and in the White Paper. We responded that we supported getting rid of the annual parents' meeting. That was mainly due to anecdotal evidence over the years of people telling us that only one or two parents turned up to them. Although we have suggested looking at it in a variety of ways, it is still not working. As an organisation, we support that.

[186] **Simon Thomas:** Rwyf wedi bod i **Simon Thomas:** I have been to some of these ambell un o'r cyfarfodydd hyn fel meetings as a governor and as a parent, and I llywodraethwr ac fel rhiant, ac rwy'n derbyn accept that point. Having said that, are we not y pwynt. Wedi dweud hynny, a ydym yn colli losing a constant link? Placing the onus on dolen gyswllt gyson? Mae rhoi'r cyfrifoldeb parents to call a meeting means, to all intents ar rieni i alw cyfarfod yn golygu, i bob and purposes, that no meeting will ever be pwrpas, na fydd cyfarfod byth yn cael ei alw, called, unless there is an emergency in the oni bai bod argyfwng yn yr ysgol. A yw'n school. Is it not possible that the link will be bosibl y bydd y cyswllt yn cael ei golli rhwng rhieni a llywodraethwyr? Rwy'n derbyn bod that the link is deficient and weak, but y cyswllt yn ffaeledig ac yn wan, ond nid yw replacing it with a new weak system does not gosod system wan newydd yn ei lle yn solve the issue. gwella'r peth.

[187] **Ms Morris:** Governing bodies are accountable to quite a few stakeholders, parents obviously being one of the main groups. You need to remember that governors have to produce an annual report to parents, and I presume that that will remain—there has not been any reference to its going. It is still very much an accountable role that is being fulfilled. Schools very much look at how they engage with parents, and there is much good practice out there. They are continually looking at how they engage with their other stakeholders, and it becomes part of that parcel. I suppose that where we are coming from is that we are a little concerned, as you will have seen from our evidence, that parents could submit a petition, and so on, and that would usually imply that there is something wrong, so we need to be mindful of that. However, I would hope generally—again, there is an example of best practice on Estyn's website of a school, I think in Cardiff, that has a parents council—that that engagement is happening continually in a variety of ways in schools, and will be built on. The accountability role is being questioned but it will still be there, because the report has to be issued. It could still be that schools wish to have some sort of evening meeting with parents on the annual report—so be it.

[188] **Mr O'Marah:** Again, it depends on the detail that goes out in relation to guidance and so on. Why would parents petition a meeting? It would probably not be about good news. What sort of problems would they petition a meeting about? My view is that governors should have the right to refuse to hold a meeting. There would have to be some sort of reference back to the local education authority to support that. Could you hold an open meeting for parents to discuss the poor performance of an individual teacher? There are huge legal and employment issues in that. If you have a meeting and 40 or 50 parents turn up and demand a change in the school uniform, where do you take that as a governing body? If you assume that the school is a practising democracy, you would have to ballot all parents; a meeting could not make the decision. I just worry that, in some areas, this is raising false expectations, if you like, among parents who we do not know what sort of issues they will raise. They could be political with a small 'p' or a big 'p'. The things that parents most worry about are teachers and discipline. There is the potential here for conflict. It seems to be an imperfect solution to what was an

imperfect question in the beginning.

[189] **Simon Thomas:** That is the point that I was trying to make. I accept the point about good practice, but what we are looking at here is statutory. We are replacing a simple statutory obligation—which may have meant going through the motions in many schools, but was at least there—with a rather complex statutory alternative. I was just seeking your views on how that would work.

[190] **Ms Morris:** I just wonder whether it hinges on the word ‘petition’, and whether that needs to go and be changed to ‘request’.

[191] **Mr O’Marah:** There is some danger in the detail. It talks about 10% of parents of registered pupils, which is a meaningless figure. Is that both parents, and two votes to a child? Some children can have three or four parents, and some parents have three or four children in the school. In a small primary school, you rapidly reach your 10% with maybe four parents. That is one interpretation of what is in there. The detail in the guidance will be important, and I have some concerns that it will cause some friction.

11.00 a.m.

[192] **Christine Champan:** We discussed the definition of parents, and I will ask our lawyer to provide some clarity on that.

[193] **Mr Davies:** The definition of parents is very wide. You are right in saying that the number of parents, when counted, could include three, four or five parents to one child.

[194] **Mr O’Marah:** Those parents would have a legal right to be involved in the education of their children.

[195] **Mr Davies:** Yes; that issue has been raised by other stakeholders as well.

[196] **Jenny Rathbone:** I want to return to the importance of that partnership with parents that all schools should be seeking. Surely, this clause is a mechanism for parents to raise issues where that partnership is not working or has broken down in some way. I know that petitions are the lowest form of process, on one level, but I see the difficulty for parents who have tried to get their child’s class teacher to address the issue, who have tried to talk to the headteacher about it and it is still not happening—there is no dialogue and they still do not understand why x is not happening. There needs to be a mechanism whereby parents can insist on a public meeting at which all views can be aired and the extent of the problem can be clarified.

[197] **Mr O’Marah:** Again, it is about the detail regarding what can be covered, what sort of topics parents can raise and what topics they cannot raise, for which there are other avenues.

[198] **Jenny Rathbone:** Sure, but is it not the role of the governing body to work with parents to ensure—*[Interruption.]*

[199] **Mr O’Marah:** I am not saying that they should not work with them, but I do not think that this is the way to do it.

[200] **Jenny Rathbone:** If the governing body is not doing well, and the headteacher and the school as a whole are not having an active dialogue with parents, there has to be a mechanism to bring that out into the open.

[201] **Mr O'Marah:** Yes; there does.

[202] **Ms Morris:** We appreciate that. However, we do not know whether this is going to help that situation in any way. As Terry has said, one of our big concerns is that there have been some high-profile cases that have hit the press—not mentioning names—where parents have been protesting outside the school and so on. You would hope that such a situation could have been avoided, perhaps by this mechanism. That said, if there were something like a staff disciplinary issue, the information that could be imparted would be very limited, because due process would have to take its course; that is our concern. We would ask whether there are other complaints processes available in schools, rather than this mechanism. Again, it is about how schools communicate, about what happens if there is discourse and about the process that needs to be followed.

[203] **Christine Chapman:** I remind Members that we have about 10 minutes left, and we have a few other areas that I would like to cover. Aled, I know—

[204] **Aled Roberts:** Mr O'Marah has dealt with the point that I was going to raise.

[205] **Rebecca Evans:** You have said that the threshold for petitioning a meeting is too small, given that some smaller schools would only need five parents, say, to trigger a meeting. However, we have also heard evidence that the threshold might be too high—for example, in a large high school. How do you think that this could be addressed? Would you be in favour of a sliding scale, for example, because that has been suggested to us?

[206] **Ms Morris:** I note that that has been suggested. That would probably be quite a useful way forward. At the moment, the threshold that is in the Annual Parents' Meeting (Exemptions) (Wales) Regulations 2005 is 5%, and that threshold has been used for primary and secondary schools. I am mindful of all sides of the argument—I take on board what the chair of Governors Wales and representatives of other organisations have said. It is not an easy one, but as you said, a sliding threshold might be a useful tool to at least consider.

[207] **Christine Chapman:** Turning to the extent to which the provisions in the Bill will safeguard the continuation of the free school breakfast initiative and school-based counselling following the transfer of funding to the revenue support grant, what are your feelings on that?

[208] **Ms Morris:** As per our submission, we support that change. However, we are mindful of Governors Wales's stance that we have always believed that grants should be rationalised and so on. Putting it into the revenue support grant is probably a way forward and could reduce bureaucracy. I know that there are concerns that free breakfast funding may not be ring-fenced and so on as a result of that, but, overall, the way forward that is proposed seems to be the best option.

[209] **Christine Chapman:** Also, a provision is set out in section 89(2) that enables a local authority to decline a school's request to participate in the scheme, and the types of criteria that are likely to be used by an authority to determine whether it would be unreasonable to provide free breakfasts. Do you have any thoughts on that?

[210] **Ms Morris:** It is about what 'unreasonable' means and further information on the criteria, as has been picked up before, is important. Again, if a school has a free breakfast initiative, and it is very successful, that is fine. If they want to go along with the free breakfast initiative and it is declined, then what are the reasons for that? Again, further detail is needed.

[211] **Aled Roberts:** Rwyf eisiau sôn am y **Aled Roberts:** I want to discuss the cynigion ynglŷn ag hyblygrwydd prisiau proposals on flexibility in terms of charging prydiau ysgol. Rydych yn sôn yn eich for school meals. You mention in your

tystiolaeth bod gennych rai pryderon ynglŷn â biwrocratiaeth a bod rhaid cael canllawiau clir yn y pen draw. A oes gennych unrhyw awgrymiadau ynglŷn â pha fath o gyfundrefn fyddai'n gweithio'n effeithiol o fewn ysgolion? A ydych chi'n croesawu'r hyblygrwydd ei hun?

evidence that you have certain concerns about bureaucracy and the need for clear guidelines in the end. Do you have any suggestions in terms of what kind of regime would work most effectively within schools? Do you welcome the flexibility itself?

[212] **Ms Morris:** Flexibility is very important and it is a very interesting proposal that would be welcomed. The concern is the administration side of it within schools. Again, that is something that needs to be looked at—how that is going to work and whether it is going to be onerous and so on. The proposal is very commendable, but the devil is in the detail, is it not? I am not sure that I have any answers here today to assist you with that further.

[213] **Christine Chapman:** Are there any other issues that you would like to bring up that you feel we have not asked about in relation to the scrutiny of this Bill?

[214] **Ms Morris:** It would just be an observation. I mentioned at the beginning the code of practice on local authority and school relations, which is going to be no longer and has to be updated. I appreciate that, but there is some very useful information in that document that needs to be incorporated in future guidance in some shape or form. I would not necessarily want that document just to be lost. I know that it has been superseded in many areas, but there are some bits that are still extremely valid.

[215] **Mr O'Marah:** I would offer a point of guidance. If we go back to the first area of questioning, which was about intervention and the issuing of warning notices and so on, the Bill talks about issuing the warning notice and giving a copy to the head and so on, but it would be my view, based on Estyn experience, that if we were to reach that point, somebody from the authority should present that warning in person to the governing body. It should not just be a written report because the governing body has the right to ask questions and get out the detail that lies behind what might be a fairly tersely written report. That would be a big bonus.

[216] **Aled Roberts:** I wish to develop that theme as I am a governor in two primary schools. Is there an over-reliance on the headteacher as far as the interpretation of data is concerned? It is policy within the authority in which I live that although school improvement officers attend secondary school governors meetings, they do not attend primary school meetings, so you can get quite a long way down the path of problems within a school. If the headteacher is not particularly frank with regard to certain weaknesses perhaps, governors can be blind.

[217] **Mr O'Marah:** Yes, the head can be selective in which data they use. I run data training courses in my authority and there is a big difference between the knowledge that primary school governors and secondary school governors come to the session with. Secondary schools probably get too much data and primary schools often see only partial data. Although we have some queries about the mandatory training on performance data that is going to be introduced, data training for some governors in every school would certainly be very helpful in that area.

[218] Again, to give my personal view, because Governors Wales has not discussed this yet, I think that specific data ought to be published for governors in a specific graphic format so that we take the maths out of data, if you like, and a specific pack of data would be presented visually. That would allow governors to ask the questions they need to ask. I have discussed this with the Welsh statistics department.

[219] To go back to your original point, thinking about the scenario of a face-to-face meeting with someone from the authority who is saying that they are issuing a warning to the school, I have sat in front of a governing body to tell it that I am putting its high school into special measures and what surprised them was what they did not know. Some of the evidence was a shock to them. If the end point is the school not improving and the governors get the sack, when that notice is issued the governors deserve the right to have the full information and to ask questions such as, ‘Why do you say that?’ and ‘Where is your evidence for that?’ They need more than just a written report.

[220] That is one of the complaints that we get at Governors Wales about the new Estyn model, that the report at the end is to the chair of governors and one other, not to the full governing body. There is quite a strong feeling that, ‘It is our school; we get the blame if it fails, so we want the full pack of information at the beginning’.

[221] **Christine Chapman:** Thank you. On that point, we will draw the session to a close. Thank you both for attending. It has been an excellent session that has been very useful in our scrutiny of the Bill. Thank you very much.

11.13 a.m.

#### **Bil Safonau a Threfniadaeth Ysgolion (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 4 School Standards and Organisation (Wales) Bill: Stage 1—Evidence Session 4**

[222] **Christine Chapman:** We will now take evidence from the National Union of Teachers Cymru and the National Association of Schoolmasters Union of Women Teachers Cymru. I welcome you all to the meeting. Please introduce yourselves for the record.

[223] **Mr Thomas:** My name is Hopkin Thomas, from Bridgend.

[224] **Mr Phillips:** I am Rex Phillips, the Wales organiser for NASUWT.

[225] **Mr Foden:** I am Neil Foden, a member of the national executive of the union and chair of the NUT in Wales.

[226] **Mr Evans:** I am David Evans, the Wales secretary of NUT Cymru.

[227] **Christine Chapman:** Welcome to you all. Just to remind you, the Assembly operates through the media of Welsh and English. There are headsets available. Simultaneous translation can be heard on channel 1 and channel 0 is for sound amplification.

[228] Before we start, as you know, the Bill covers a large number of areas and we would like to be able to explore those within the limited time that we have. Therefore, I remind Members and witnesses to be as concise as possible when asking and answering questions. As organisations, could you appoint a spokesperson for each question? There will also be other questions. Are you happy to do that? I see that you are.

11.15 a.m.

[229] I thank you for submitting your papers in advance. I will start with a question to both organisations in relation to Part 2 of the Bill, on standards. What are your views on the existing arrangements in relation to intervention in schools causing concern? Do you agree that there is a need to consolidate and clarify the existing legislation to ensure that, when intervention is required, it is carried out in a timely and appropriate way? Would you like to start, Rex?

[230] **Mr Phillips:** Yes; thank you. The existing arrangements for schools requiring intervention are made through Estyn, which is the body that goes into schools to look at them and to decide whether or not there is a need for it to place a school in a category. However, another system is being introduced through the school standards unit and the consortia arrangements, where others will now go into schools and assess them and place them in bands. It is in relation to the idea, the principles and the process behind the intervention that we take issue with the proposals that are being put forward. As a trade union, we have questioned the credibility of the banding system, and that seems to be the driver in all of this. I know that the Minister has suggested that it will not be only banding information that is taken into consideration, but all the indicators show that it is the banding process that will determine whether or not there is a need to intervene in a school.

[231] When the intervention takes place, what comes with that intervention is a great cause of concern to us, simply because we know that there is an emphasis on looking at challenge within the schools, but it is support that is necessary and we are not convinced that the support is going to be there. If you look at the inspection system, you will see that Estyn goes into schools, looks at them and decides whether or not they will be in a category. I do not think that it says too much about what support mechanisms should follow after an inspection; therefore, there is an issue there.

[232] I would not argue with the idea that it is better to get in early if there are problems. However, I think what we need, and what schools have really called for, is for them to identify whether they have problems. If they do so, what they really require is a good advisory service that they can call upon and ask to come in to give them help, support and guidance, rather than have another group of quasi-inspectors coming in and telling them, 'Things are wrong in this school'.

[233] **Mr Foden:** We share some of those views. I think that local authorities have several difficulties. The first is that there are simply too much data available now. It is the same problem that heads and governing bodies face because, in terms of analysing the schools' performance, you would ideally want one set of agreed data in one location that is easily accessible. At present, schools must have regard to things like Fischer Family Trust estimates to plot or estimate future performance and their performance is then measured against those estimates. The difficulty there is that the Fischer Family Trust estimate is based upon on an estimate of future performance. For example, it might be based on key stage 2 results. You can then only match pupils who are in the catchment area at key stage 2. For example, you could have a Fischer Family Trust estimate that is based on less than 90% of a matched cohort. You then have the summary of secondary school performance data, the core datasets, and the quartile figures that inspectors use. There are simply too much data and, very often, they conflict with each other. You could, for example, have a school that performs well against its Fischer estimates, but that is in the third or fourth quartile. That clearly makes no sense in terms of using the existing data as a tool for determining where to intervene. There are too much data; they are in too many different places, and they often conflict.

[234] The NUT has corresponded with the standards unit about banding. I will not rehearse our objections to banding again. As I say, you could look at that correspondence, which is quite long and detailed. It outlines our principal objections. However, we are absolutely clear that banding is a flawed methodology and that it should not be used as the principal determinant of intervention in schools.

[235] There is a real problem about the capacity of local education authorities to intervene in schools. There are cases, of which the union is aware, where there have been quite serious management issues arising in primary schools, and where the local authority has convened a meeting of primary headteachers and said, 'Look, unless these issues are resolved, we will remove delegated powers from you'. The heads have basically said, 'Go ahead'. They have



actually called the authority's bluff because they know that the authority simply does not have the capacity to effectively manage schools in place of the governing body.

[236] To pick on a point that Rex made, we are also seriously concerned about the direction that some of the regional school improvement services are taking. The north Wales one, for example, is going to be heavily based on challenge, and we can see that there is going to be very little by way of support. It did not, for example, originally have any subject specialists in the secondary sector, or any phase specialists in the primary sector, and it is still heavily based on system leaders, who must now have subject expertise bolted onto their roles. So, that will cause serious problems. It is also the case that they are taking many of the people involved in school improvement out of the local authority, which further restricts the authority's ability to intervene and support schools where problems are identified.

[237] **Christine Chapman:** We obviously want to deal with the specifics of this, so we now move on to Simon Thomas.

[238] **Simon Thomas:** Hoffwn ddechrau gyda'r pwynt y mae Mr Foden newydd ei wneud ynglŷn â'r rhanbarthau a'r gwahaniaeth rhwng yr awdurdodau a'r rhanbarthau. Yr hyn sy'n dod yn fwy eglur yw'r gwahaniaeth rhwng y gwahanol ranbarthau, hynny yw nid oes cysondeb yn yr hyn y maent yn ei wneud o safbwynt penderfynu ar sail yr ymyrraeth a'r ansawdd. Sonioch hefyd fod y wybodaeth yn gwrthddweud ei hun o bryd i'w gilydd. Rydych wedi ateb y cwestiwn hwn i raddau yn eich atebion, ond a gredwch fod y Bil fel y saif ar hyn o bryd yn ddigon clir o ran y sail ar gyfer ymyrraeth?

**Simon Thomas:** I want to start with the point that Mr Foden just made about the regions and the differences between the authorities in the regions. What is becoming clearer is the difference between the various regions, in that there is no consistency in terms of what they do in deciding the basis for intervention and standards. You also mention conflicting data from time to time. You have answered this question to a degree in your answers, but do you believe that the Bill as it currently stands is clear enough in terms of the basis for intervention?

[239] **Mr Foden:** Mae sawl peth ynghlwm wrth berfformiad ysgol. Mae perfformiad ysgol, fel y dywedais yn gynharach, yn seiliedig ar nifer o fesuriadau gwahanol, a dyna natur y broblem. Nid oes cymaint o broblem o ran eglurder y Bil. Y broblem yw capasiti'r awdurdod i allu ymyrryd a darparu cefnogaeth, ac, wrth gwrs, cael cytundeb ar sail natur a lefel perfformiad ysgolion, gan fod cymaint o amrywiaeth yn y data sydd ar gael.

**Mr Foden:** There are many things involved with school performance. School performance, as I said earlier, is dependent on a number of different measurements, and that is the nature of the problem. The clarity of the Bill is not so much of a problem. The problem is the capacity of the authority to provide the intervention and support, and, of course, securing an agreement on the nature and level of school performance, given that there is so much variation and conflict in the available data.

[240] **Simon Thomas:** Hoffwn ychwanegu at hynny cyn bod Rex yn dod i mewn. Gan fod y Bil yn delio ag awdurdodau, a chan fod y delifro'n digwydd yn rhanbarthol, a oes anhawster ychwanegol yn y ffordd y byddai'r Bil yn cael ei weithredu petai'n dod yn Ddeddf?

**Simon Thomas:** I want to add to that before Rex comes in. Given that the Bill deals with authorities, and given that the delivery happens regionally, is there an additional difficulty in the way in which the Bill would be implemented if it were to be enacted?

[241] **Mr Phillips:** Yes, I think there is. When you, as a committee, consider and scrutinise this Bill, you must ask yourselves the following question: 'Is this a case of a Bill trying to

catch up and give legislative force to decisions that have already been taken by the Minister, such as decisions to set up the consortia and to put in place the standards unit?' You raise the interesting question, which I think we included in our consultation response, that local authorities have the employer function, while consortia do not. So, from our perspective as a trade union, without that employer function, they have no right to go into our members' classrooms.

[242] You will be aware that we are currently in dispute with the Welsh Government, and one of the issues being disputed is the idea of anyone going into a classroom to observe our members. That comes back to the point in the Bill that this is about producing an army of teacher watchers—although, as Neil said, they may not be there—who will go into schools, rather than people who go into schools to provide the necessary support and access to the necessary continuing professional development. That is where the weakness lies, in that you will have a difference of provision across the authorities. We expected the Welsh Government to have had a blueprint for this, rather than for it to suggest that each area determines how it is going to provide support, because you then end up with a mismatch of provision across Wales.

[243] **Christine Chapman:** Before you continue, there is a supplementary question from Rebecca.

[244] **Rebecca Evans:** My question is for the NUT. You state in your evidence that

[245] 'no consideration seems to have been given as to why local authorities have rarely used their existing powers of intervention'.

[246] Why is that the case? You state that there is evidence in England that it might be because they do not want to damage relationships with schools. Is that part of the issue in Wales, or is there something else?

[247] **Mr Foden:** I take you back to my answer to the first question that there are two issues. Local authorities were previously operating quite a complex and sophisticated matrix to measure the performance of schools. It was based on having a reasonable capacity at the centre to monitor schools and to look at school performance. So, authorities knew their schools well. Given that local authorities have basically had to cut and cut, and that there are now fewer staff at the centre, they know their schools less well and there is reluctance to intervene because they do not feel that they have the same degree of knowledge of the schools. You tend to get firefighting in the most serious cases. It is also the case, as I said before, that there are no data that are readily available and consistent with each other. However, the biggest problem in terms of intervention is not only in having enough people to know the schools, but having enough people to do something about it afterwards. Local authorities are reluctant to intervene because they do not have the capacity to manage the school afterwards.

[248] **Jenny Rathbone:** So, you are making an argument for having consortia, if the local authorities are not carrying out their duties. You have already talked to us about education authorities that challenge the school to do x or y or they will intervene, and then when the school does not do x or y, the authority still does not intervene. That has to be a good example of why we cannot go on like this. Clearly, if there is not sufficient challenge to headteachers and to school governing bodies and if the local authority is not fit-for-purpose, then we have to have some other mechanism for intervening because otherwise we are failing our children.

[249] **Mr Foden:** When we made our submission to the review of front-line services, a model that we posited was something similar to that which exists in the police service at the moment. For example, you have the North Wales Police Authority, where there is still local

democratic accountability because councillors are represented on the authority. However, the authority covers all six counties. We have to say that, on the strength of what we have seen with the development of the regional school improvement service, we are now taking a step back from that position because we believe that what is being proposed at the moment is quite fundamentally flawed, partly because it is too heavily based on challenge and not enough on support; what is being created is almost a mini Estyn. Any fool could walk into a school and say, ‘This, this and this is wrong,’ and then just leave the school basically to stew in its own juices without necessarily the capacity to bring about the improvement.

[250] However, there is also an issue about the model of this in terms of the sorts of personnel that are being recruited—I am not talking about individuals, but about the sorts of posts that they are looking to fulfil. There is a great deal of high-level challenge provided by system leaders, but, again, there seems to be a limited capacity to be able to support individual teachers in individual subjects or during individual phases in primary school. So, initially our position was to have a pan-north-Wales authority—because that was what we were talking about at the time—similar to the policy authority, but having seen how the regional school improvement services are developing, we now have more reservations.

[251] **Mr Evans:** In Wales, four different consortia are being set up. One proposes a company limited by guarantee, and there are different arrangements regarding the other three, so there is no uniformity in how they are being set up and in how they will deal with these issues. Ideologically, if you had consortia that were the same across the country and dealt with these issues in the same way, then perhaps that could work, but we are far from that at the moment.

[252] **Christine Chapman:** We need to turn to the specifics of the Bill, so I will bring Simon back in.

[253] **Simon Thomas:** Un o wendidau’r Bil yw nad oes unrhyw sôn am y consortia, felly mae’n rhaid i ni ddelio â’r hyn sydd yn y Bil. Heb fynd dros yr holl ddadleuon am fandio—ac yr wyf yn cytuno â chi ar hynny, ond mater arall yw hwnnw—mae’r Gweinidog wedi dweud yn glir ac yn honni nad bandio yw’r unig sail ar gyfer ymyrryd, ond y rhychwant o wybodaeth a fydd ar gael. Onid yw hynny’n ddigon o warant y bydd ymyrraeth ddim ond yn digwydd lle mae tystiolaeth fod angen ymyrryd?

**Simon Thomas:** One of the weaknesses of the Bill is that there is no mention of the consortia, so we have to deal with what is in the Bill. Without rehearsing all of the arguments on banding—and I agree with you on that, but that is another issue—the Minister has stated clearly and claims that banding will not be the only basis for intervention, but the range of information that will be available. Is that not an adequate guarantee that intervention will only be done where there is evidence that intervention is required?

[254] **Mr Foden:** Yn amlwg, mae bandio yn fater pwysig i’r Gweinidog a gwn fod yr awdurdodau wedi cael eu rhoi o dan bwysau i ddefnyddio bandio fel un o’r prif ffactorau. Rydym yn teimlo bod sail bandio mor ddiffygiol na fyddem yn hapus iddo gael ei ddefnyddio o gwbl.

**Mr Foden:** Clearly, banding is an important issue for the Minister and I know that authorities have been put under pressure to use banding as one of the main factors. We feel that the basis of banding is so deficient that we would not be happy for it to be used at all.

[255] **Simon Thomas:** Ddim hyd yn oed fel un o’r dangosyddion.

**Simon Thomas:** Not even as one of the indicators.

[256] **Mr Foden:** Na. Mae’n seiliedig ar set o ddata cul a gall fod yn rhy *volatile*

**Mr Foden:** No. It is based on a narrow set of data and it can be too volatile because there is

oherwydd mae tystiolaeth bod un ysgol, er enghraifft, a oedd ym mand 5 y llynedd ym mand 1 eleni ac un arall wedi mynd o fand 4 i fand 1. Mae'n berffaith bosibl y bydd ysgolion yn mynd i'r cyfeiriad arall. Os yw bandio'n cael ei ddefnyddio er mwyn penderfynu a oes problemau systemig mewn ysgol y mae angen eu datrys neu fel ryw gymorth i rieni ddewis ysgolion, yna mae'n methu ar y ddwy sail.

evidence that one school, for example, in band 5 last year was in band 1 and one has gone from band 4 to band 1. It is perfectly possible that other schools will go in the other direction. If banding is used to decide whether there are systemic problems in a school that need to be resolved or to assist parents in choosing schools, then it fails on both bases.

[257] **Mr Thomas:** My comment is on the consortia. There is such a variance in that there is a challenging arm in all of them but, in one, there is no support arm at all.

11.30 a.m.

[258] **Mr Phillips:** To come back to your question, it depends on what data the Minister is going to use. We have not had that discussion with them. When we have that discussion with them, we can look at that, but the fundamental flaw with the banding system that we all ought to be clear about is that it is not criterion referenced; it is norm referenced, so you always get schools in the bottom band. That is not a level playing field. When it was first set up, we were told quite clearly that there might not be schools in the bottom band if schools met certain thresholds. That is a much fairer system—if all schools in Wales met that threshold, there would be none in the bottom band. As long as the Minister is insistent that some are in the bottom band, there will be a problem with it. That is the flaw in it. It should be fairly simple to rectify.

[259] **Christine Chapman:** Everybody is aware of your views on that, which is fair enough. We need to return to the specifics of the Bill, because we are constrained with time, and I would like for you to have the opportunity to have a full hearing.

[260] **Simon Thomas:** Beth bynnag yw'r sail—ac mae gennym ein barn ein hunain ynglŷn â hynny—mae ymyrraeth yn mynd i ddigwydd ac mae grymoedd penodol yn y Bil ynglŷn â'r ymyrraeth hon. Mae grym newydd ynglŷn â rhoi cyfarwyddyd i'r corff llywodraethu i gydweithio ac i gymryd cyngor. Mae grym hefyd i'r Gweinidog roi cyfarwyddyd yn benodol i brifathrawon a gwneud yn siŵr bod prifathrawon yn ymateb i'r galw am ymyrraeth. Cymysgedd o rymoedd hen a newydd wedi'u hatgyfnerthu sydd yma. Beth bynnag yw'r sail am ymyrraeth, a ydych chi'n meddwl bod y grymoedd hynny yn briodol mewn achos lle mae ysgol yn cael ei barnu i fod mewn perygl o fethu?

**Simon Thomas:** Whatever the basis is—and we all have our own views on that—intervention is going to happen and there are specific powers in the Bill for this intervention. There is a specific new power in terms of directing the governing body to collaborate and take advice. There is also a power for the Minister to give direction directly to headteachers and ensure that headteachers respond to the demand for intervention. This is a combination of old and new powers which have been consolidated. Whatever the basis for intervention, do you believe that those powers are appropriate in a case where a school is found to be at risk of failure?

[261] **Mr Foden:** Unwaith eto, byddwn i'n dweud ei bod yn dibynnu ar ba sail y cafodd y penderfyniad ei wneud. Os cafodd ei wneud ar sail data nad ydynt yn hollol sicr a dibynadwy, mae problem. Hefyd, rwy'n credu bod Llywodraeth Cymru wedi mynd

**Mr Foden:** Once again, I would say that it would depend on the basis on which the decision was taken. If it was taken on the basis of data that are not entirely reliable, there is an issue there. I also feel that the Welsh Government has pushed the

ormod ar ôl y syniad o gydweithio. Mae gennym ni i gyd fel penaethiaid ysgolion uwchradd brofiad o gydweithio ar ôl 14 ac ar ôl 16. Er bod mwy o gyrsiau a dewisiadau wedi'u darparu i bobl ifanc, mae hynny wedi bod yn gostus ac mae wedi llyncu amser rheolwyr ysgolion. Fodd bynnag, hyd yn hyn, nid oes gen i dystiolaeth fod hynny wedi arwain at godi safonau'n sylweddol. Yn anffodus, mae llawer o'r gost yn gost cudd, oherwydd nid yw costau cyfarfodydd, costau amser dirprwyon sy'n cydweithio i gynllunio cwricwlwm na chostau teithio ac yn y blaen, yn ymddangos yn aml ar y fantolen ac rydym i gyd yn gwybod y bydd yr arian yn lleihau eleni a'r flwyddyn nesaf. Cyn bo hir, pan fydd yr arian yn sychu i fyny, yn anffodus bydd y cyrsiau cydweithredol yn sychu i fyny hefyd. Oni bai bod Llywodraeth Cymru neu lywodraeth leol yn fodlon darparu arian i sicrhau bod pobl yn gallu cydweithio, bydd cydweithio ar unrhyw sail yn anodd.

[262] **Simon Thomas:** Serch hynny, mae gorchymyn yn y Bil hwn i gydweithio o'r top i'r gwaelod i orfodi prifathrawon i gydweithio gyda'i gilydd. Oni ddylai hynny fod yn rhywbeth sy'n cael ei gynnwys mewn deddfwriaeth?

collaboration concept too strongly. We all, as heads of secondary schools have experience of collaboration on post-14 and post-16 work. Although there are more courses and options for young people, it has been costly, and it has taken up a great deal of school managers' time. However, to date, I have no evidence that it has led to a significant increase in standards. Unfortunately, much of the cost is hidden, because the cost of meetings, the time of deputies working to plan the curriculum, the travel costs and so on, do not often appear in the balance sheet, and we all know that the funding is to be reduced this year and the next. Before long, when the funding dries up, the collaborative courses will also dry up, unfortunately. Unless the Welsh Government or local government is willing to provide funds to ensure people are able to collaborate, collaboration, on any basis, will be difficult.

**Simon Thomas:** However, there is a requirement in this Bill to collaborate, from the top down, to force headteachers to collaborate. Is that not something that should be in place in statute?

[263] **Mr Phillips:** Schools do collaborate, and it is not so much that the power is there; it is how the power is used and the credibility of the direction that is given to schools. That is what you have to look at; having the power and saying that there must be collaboration is one thing, but someone's got to tell them how they are going to collaborate. It would be interesting to see how the Minister suggests that takes place. In this Bill, I see powers being given to the Minister and a lot of direction given to the Minister, but there is a great deal of abnegation of responsibility as well, because it is passing it on to other people. So, they could say, 'This is what we want you to do, but then we wash our hands of it, and we just expect you to do it. If it goes wrong, it is your fault, not ours'.

[264] **Jenny Rathbone:** You said earlier that your members did not allow anybody into your classroom. I do not understand how teachers can be committed to continuous professional development unless they are collaboratively looking at each other's practice and learning from each other on strategies for improving things with particular students. Secondary school teachers will be teaching different subjects, but there is room for collaboration. I do not understand why that is not embedded in the way that schools operate, which is why we have to bring local authorities in.

[265] **Mr Phillips:** I think that you misunderstood a bit of what I said. We are not opposed to the idea of peer observation if our members believe that it is in their interests to do that, and that is what they want to do. We are perfectly happy to accept that and look at a protocol for that. At this moment in time, though, where we stand is that we believe that the performance management system in a school should allow sufficient opportunity for our members to be observed by others who are qualified teachers. We require people who are qualified teachers and would know about teaching to be those who would observe our

members. We are perfectly happy to have up to three hours lesson observation in any performance management cycle, but the performance management process should provide sufficient information for schools to assess how teachers are performing. That is the purpose of performance management. What you do not need is others coming in, unless, of course, the schools invite them in, and that was the point that I was making—what we need is a service that the professionals in the classroom can call upon to give them the help, assistance and advice that they believe they need. No-one is going to argue against that, but, when this is enforced, there will be resentment and a problem, because it is undermining and questioning the professionalism of the school workforce.

[266] **Jenny Rathbone:** However, you accept that in some cases competency and capability have not been rigorously addressed by headteachers, and that has led to children not having the education that they should expect.

[267] **Mr Phillips:** You say that they have not been rigorously addressed; we deal with that type of casework on quite a regular basis, and it is increasing, I have to say, and will increase more and more as time goes on. There may well have been issues where heads have avoided putting people on capability procedures and have tried to address those problems by other routes, including more inappropriate routes such as redundancy, but we have dealt with all of that. We are not against the idea of having capability procedures at all. We will agree them, and any lesson observation under these capability procedures would be outside our three-hour limit. We have made that absolutely clear as a union: that and Estyn inspections. So, in terms of where we stand in our national action, we are clear on that and on the issue of lesson observation.

[268] **Christine Chapman:** David is next, and then Julie wants to come in.

[269] **Mr Evans:** Yes, just on this capability point, schools have those procedures in place and have had for a significant period. Rex is right—our experience as well is that we have seen plenty of that type of casework being handled by both our lay officials and our full-time officials, and, in essence, it has been on the increase. The whole purpose of capability and competency procedures is to be supportive and put people back in at a level at which you expect them to be operating. Sadly, on occasions, we have seen that that has not been the case. I will not go into any individual cases now, but what we would not like to see is a whole set of different tiers whereby a teacher is going to be judged, which could cause significant difficulties. They will not know which way to turn—who is going to be judging them, who is going to be assessing them, who will be making views and judgments on their particular professional standards.

[270] **Christine Chapman:** I will bring Hopkin in, and then Julie, and then go back to Simon.

[271] **Mr Thomas:** I think there is a difference between the collaboration that Neil was talking about, which was between schools, and the collaboration that you were talking about in the question, which was within a school. On collaboration between organisations, and the affordability that Neil was talking about, that is not across all schools. However, the issues that Rex was talking about, and then David, were in every school.

[272] **Julie Morgan:** I just want to be clear: is your main concern about the power to direct on these issues?

[273] **Mr Foden:** If I may use an analogy, the Minister could direct Rex and I to go scuba diving for treasure, but it would not be much use if neither of us could swim. The problem at the moment is that schools are facing situations where they may well be directed to do something, but the school might not have the capacity to do it, and there may not be the

support out there for schools, either. There are real capacity and resource issues at the moment. The power to direct is one thing; being able to make it work in practical terms on the ground is another.

[274] **Julie Morgan:** So, if supported by resources and other things, you do not object to the power to direct.

[275] **Mr Foden:** Provided it is also based on firm data and it is a secure judgment.

[276] **Mr Phillips:** We would agree with that—supporting a developmental approach to accountability is consistent with high standards, rather than the approach that we see coming, which is very punitive, judgmental and, in some respects, very threatening, when you talk about directions and enforcement.

[277] **Christine Chapman:** Let us try to tease some of the specifics out. I am going to move on, now, to another part of this: the chapter 3 school improvement guidance. I will ask Suzy to come in on this.

[278] **Suzy Davis:** With the school improvement guidance, I think it would be fair to say that half the purpose of this is to help schools to avoid intervention. However, before I ask my specific questions, I would like to ask Hopkin about the statement made in the evidence, in which you challenged the Minister's rationale for introducing the school improvement guidance in the first place. It is at point No. 4.

[279] 'The NASUWT takes issue with the suggestion that best practice does not spread quickly and that there is a reluctance to embrace change in order to raise standards.'

[280] That is not just an observation on the Minister; it is an observation on Estyn as well. What is your evidence for challenging Estyn's assertion that best practice does not spread quickly?

[281] **Mr Thomas:** I would turn that on its head and ask—

[282] **Suzy Davies:** I would like you to answer my question.

[283] **Mr Thomas:** I would ask: what evidence is there that it is not?

[284] **Suzy Davies:** It is in the Estyn report. That is why I am asking whether you have any evidence to challenge that. We have taken evidence from Estyn as well, you see.

[285] **Mr Phillips:** I think the evidence is there. When you talk of best practice, Estyn inspectors will go into schools and say that they have seen best practice in a lot of schools. If that best practice is not spreading, then the question would be why it is not spreading, and the answer would be that Estyn has not spread it. Surely, it is Estyn's role, if it sees best practice, to determine its spread. However, I do not think that Estyn comes at it from that perspective. I think that, in its report, Estyn is seeing what it considers to be best practice in one school, and, on seeing that it is not happening in another school, it has concluded that best practice is not spreading. I do not know. All we have done in our evidence is to take issue with that suggestion. By taking issue with it, we are asking, 'Where is your evidence on that? Where is your evidence to say that it does not spread quickly, other than what Estyn is saying because it has seen what it considers to be best practice in one school but not in another?' It may be that there is good practice, but it has just seen better practice somewhere else.

[286] If there is going to be best practice, then that is fine. Let us have that and let us have the people who can demonstrate that best practice go to our members, in schools, so that they

can observe them teaching and delivering on this best practice. If they can watch those people, they can then apply it to their delivery in the classroom.

[287] **Suzy Davies:** You do not have anything specific for this committee to say, ‘Here are some excellent examples of it spreading’. I am just trying to get at the need for the statutory guidance in the first place. I can see that there are mixed views as to whether it is necessary or not.

[288] **Mr Thomas:** There is not a vehicle for spreading good practice.

[289] **Mr Foden:** May I give you one quick example?

[290] **Suzy Davies:** By all means.

[291] **Mr Foden:** My school has recently been involved in a professional learning community, called Energy Island, which involves schools and the FE colleges across Gwynedd and Ynys Môn. Apparently, some offices of the Assembly are now going to use it as a good practice case study. We were able to do that only because there was funding for it. In order to free up teachers to have the time for those sorts of activities, cover needs to be provided, because the legislation now says that teachers can only be required to cover in unforeseen circumstances, and that happens only rarely. You therefore have to buy in supply cover. So, the whole notion of a PLC is fine, because it is a great way of bringing people from different schools in different authorities together, because the danger is that you become quite incestuous, in that you look only at your own authority, because they are the only people you see regularly. So, you can bring people in from different areas and different authorities, but it only works if it is funded.

[292] We have an internal PLC at the school at the moment, and we are involved in two external PLCs. Whether they will carry on for much longer I do not know, because we cannot afford to run them without additional grant funding.

[293] We had two really good whole-school in-service training days last week in which we showcased good practice from departments around the school. They were the two additional days on top of the usual five, but those days are now ending because the Minister has decided that next year, we are to go back to five instead of seven. So, again, there are resource issues. Teachers are more than happy to beg, steal or borrow other people’s good practice and ideas, but, again, that requires the time to do it, and there are not the resources to free people up.

11.45 a.m.

[294] The final point I would make is that local authorities very often do not know where the good practice is. We were able to list 10 areas in school where the advisory service or other professional bodies have said that this is potentially sector-leading practice, but my authority did not know about any of it.

[295] **Suzy Davies:** I do not mean to be rude, but is it not half the purpose of this guidance to say what the good practice is and how to share it?

[296] **Mr Evans:** We indicated in our response that sharing of best practice is always welcomed by the teaching profession. That is clear. The issue is knowing what that best practice is. I was present at a meeting not that long ago—Rex was there as well—with the head of the school standards unit, Brett Pugh. Significantly, a straightforward question was put to him—‘What is best practice?’—and Brett Pugh could not tell us. He could not even tell us how he was going to identify it and where it would come from, so there is a significant problem there. Best practice in one area is not necessarily best practice in another. The point



that we have made all along is that we should not be seeking to force or foist certain elements of practice upon a school in a particular area if it does not suit that school.

[297] **Suzy Davies:** I do not think that any of us would disagree with that point, but would any of the concerns that you are very clear on be addressed by a wide and deep consultation on who designs this school guidance in the first place, therefore allowing it to be flexible and responsive to different areas of the country, and also allowing it to be updated pretty quickly? Do you think that that would be a way of dealing with this?

[298] **Mr Phillips:** The way that it is consulted on is important. If you are going to consult on this, you have to consult with the people who are delivering. You have to consult at the point of delivery if you are going to put this in your guidance. However, if you put it in the guidance and say that that it is the best practice model, you have to make sure that the funding is available to allow teachers to have access to the professional development that they may need to introduce those best practice models into their classrooms. It will always come back to funding access to this professional development. You cannot have a system where you have a best practice model on a website somewhere and you just say, 'This is what we now expect you to do in your school'. I come back to the point I made earlier: if that model is out there, the best way of spreading it is for teachers not to observe teaching, but observe those that are using this best practice model to teach themselves or to have professional development training from them, and then be given the time to allow it to impact on their work in schools. The idea of having school improvement guidance is okay, but the issue is the detail in that guidance and the way in which it is consulted on. When you are drawing up the guidance, you have to assess the impact of what you are suggesting goes on in school on teachers' workload and working hours.

[299] **Suzy Davies:** Who do you think should be consulted on this to make it as flexible and as responsive as possible?

[300] **Mr Phillips:** The trade unions would certainly wish to be consulted, as would practitioners. You ought to be very wary of just consulting a group of academics on it. I say that quite openly, because they are not the ones who are delivering it—the people that deliver are the ones who you need to consult.

[301] **Mr Evans:** You asked NASUWT for evidence on this earlier. We brought up a point in our response as well on this particular issue, which is that no evidence is provided to support the assertion in the consultation document that this change is needed because some schools are reluctant to change their approaches. I do not think that that is true. That is on page 8 of the document.

[302] **Suzy Davies:** I am afraid that we have had that in evidence from Estyn.

[303] **Mr Evans:** What, they have provided you with the evidence? We have not seen that evidence to enable us to respond to it. It would be interesting to see it, because we see that as being highly insulting towards the profession.

[304] **Christine Chapman:** I want to move on, because I want to give you as much time as possible to look at all aspects of this. Suzy, do you have any further questions?

[305] **Suzy Davies:** I have one more question, but Simon wants to come in.

[306] **Simon Thomas:** I have a very specific question on something I want to understand. Please leave out the caveats—we understand the caveats. Do you accept that this guidance should be placed on a statutory basis? The evidence from NASUWT was clear that you were not convinced of that; I am not quite sure about the NUT. I just want to be clear about that.

[307] **Mr Phillips:** The reason why we were not convinced about it was because of the idea of ‘you will direct people and this is how it will be done in school’. It comes back to the point that was made that that undermines the professionalism of teachers. I believe that there should be a trust in the teaching profession to do this. I do not believe that it needs to be placed on a statutory basis.

[308] **Mr Evans:** I have just a slightly softer view on that. Significant caveats would have to be placed on it and we would want some real input into how that would be drawn up.

[309] **Simon Thomas:** So, you are questioning the detail rather than the principle.

[310] **Mr Evans:** We would need to see the specific detail.

[311] **Suzy Davies:** That is clear, so I will leave my last question.

[312] **Aled Roberts:** Rwyf eisiau symud ymlaen i drefniadaeth ysgolion, a gofyn i'r NASUWT yn benodol pam eich bod o blaid parhau â'r broses bresennol o benderfynu ar drefniadaeth ysgolion. **Aled Roberts:** I want to move on to school organisation, and ask the NASUWT specifically why they are in favour of continuing with the current procedure for determining school organisation proposals.

[313] **Mr Phillips:** The rationale that was given was that it was confused and that people found it difficult to steer their way through the process. Yet, on page 10 of the White Paper, the current process for making changes to school organisation is laid out very clearly. It is very clear and transparent. I looked through the Bill again this morning and have to say that I found it rather confusing. I could not find where in the Bill—and I accept that it might just be me—the right of appeal was if a local determining committee had made a decision. I remember that it was suggested in the White Paper that the matter could be taken to judicial review, which is extremely expensive. I also think that the proposals, as they are put in place, undermine the democratic accountability that should be in the system. We reserved judgment on the local determining panels when we put our evidence in because we wanted to see how the panels would be made up. Having now seen what is in the draft Bill, the suggestion that it would be members from an authority who were not previously involved in the decisions, or others, does not encourage much confidence in that process. You have to ask where that democratic accountability is.

[314] As someone who has been through school reorganisation and school closure—and I am looking at Julie now because we have been through that together—I think that everybody should have the right to challenge a decision that you think is fundamentally wrong, as we did at several points. There may be those who say that I am scarred by the process, but the current process does allow for proper decisions to be made. What I was seriously concerned about in this was that there was a suggestion about the time factor and the delays in this process. In my experience—and not just in that school with which I was involved, but as a paid official, in all the reorganisation proposals that we have been involved in—the delays have not been at the local authority level, or at that early consultative level, because that is set down in statute and there are timescales that have to be followed; the delay has always come at the end when it goes to the Minister. It has always been the Minister who has delayed the decision. It has never been the other, because timeframes have to be followed.

[315] So, what was laid out in the consultation document did not seem particularly confusing to me. It was a fairly straightforward process. I know that there are suggestions in here that they will want to speed up the process if it is a very small school, but again, you miss the point that there may be other ways of dealing with that. People must be allowed to make their objections and put in their proposals. For instance, if it is a small school with

fewer than 10 pupils, you could have a proposal to federate that school with other small schools in the area rather than just think 'Right, we will close that school'. The way in which this is constructed takes away the voice of the community and the voice of the people who would object to the proposals.

[316] **Christine Chapman:** I am going to move on now, because we are running seriously short of time. I would like concise answers and questions, please, because we want to get as much detail as possible.

[317] **Aled Roberts:** Gofynnaf i'r NUT hefyd. Rydych chi'n codi pryderon am y canllawiau o ran terfynu ysgolion bach. Mae Rex wedi gwneud ei safbwynt ef yn hollol amlwg. Beth yw'ch safbwynt chi o ran y cynigion hyn?

**Aled Roberts:** I will ask the NUT as well. You have raised concerns about the guidance on closing small schools. Rex has made his point of view very clear. What is your opinion on these proposals?

[318] **Mr Foden:** Rydym yn rhannu rhai o'r pryderon, a dweud y gwir. Mae dau beth neilltuol arall. Mae gennyf bryder am ryw fath o fandio pobl sydd eisiau gwrthwynebu. Hefyd gyda ysgolion bach, mae'n ddigon posibl bod y trothwy o 10 yn gallu creu sefyllfa lle, os oes ysgol fach iawn gyda dau neu dri o deuluoedd sydd â thri neu bedwar o blant, na fydd yr athrawon a'r rhieni gyda'i gilydd yn cyrraedd y trothwy. Felly, atebion anghywir i'r broblem yw'r hyn a gynigir.

**Mr Foden:** We share some of those concerns, to be honest. There are two other main points. I have concerns about a kind of banding of those people who want to oppose. Also, with small schools, it is quite possible that the threshold of 10 would create a situation where, if there is very small school with two or three families with three or four children, the teachers and parents together would not reach the threshold. Therefore, what is proposed is an incorrect answer to the problem.

[319] **Christine Chapman:** Aled, do you have any further questions?

[320] **Aled Roberts:** Mae NUT Cymru wedi dweud bod ganddi bryderon am y cynnig i alluogi awdurdodau lleol i leihau capasiti ffisegol yr ysgolion. A wnewch chi ymhelaethu ar hynny hefyd?

**Aled Roberts:** NUT Cymru has said that it has concerns in relation to the proposals to allow local authorities to decrease the physical capacity of schools. Will you expand on that as well?

[321] **Mr Evans:** It is outlined in our response. Our concern is the possibility that that would aid the dismantling of smaller schools and making them unsustainable. Our policy for a long time has been that there should be a good local school for every child and community. We would want to see that. Our concern is that that could be taken away.

[322] **Aled Roberts:** Yn olaf, soniodd Mr Foden am y ffaith bod categorïau o wrthwynebwyr. A ydych yn gyfforddus â'r syniad hwnnw neu a ydych yn meddwl y bydd yn creu problemau?

**Aled Roberts:** Finally, Mr Foden mentioned the fact that there are categories of objectors. Are you comfortable with that idea or do you think that it will create problems?

[323] **Mr Foden:** Na, nid ydym yn gyfforddus â'r categorïau.

**Mr Foden:** No, we are not comfortable with the categories.

[324] **Mr Phillips:** No. We felt that everyone should be in the same category.

[325] **Christine Chapman:** I am going to move on now to Julie Morgan.

[326] **Julie Morgan:** Rex, you have made your views clear about appeals, and we, together, bear the scars of a very long process. I want to be clear. Basically, do you think that there should be a right of appeal?

[327] **Mr Phillips:** Absolutely. There has to be a right of appeal. I believe also that the right of appeal should be to the Minister. I do not think that it should be to a judicial process because that is extremely costly. Again, coming back to the point that I made earlier, it is an abrogation of responsibility on the part of the Minister not to be the ultimate arbiter in this.

[328] **Mr Thomas:** It is about natural justice, as well.

[329] **Simon Thomas:** If you appeal to the Minister, you are keeping the same system as we have now.

[330] **Julie Morgan:** That is what Rex was saying earlier. He believes that the system is clear as it is. Is that not what you said?

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

[332] **Julie Morgan:** What about the local determining panels and the determination of who should be on those panels? Have you any comments about that?

[333] **Mr Evans:** We would like to see more detail on how they are going to be set up. There are concerns as to who will be on them, given the significant role that they will have and the decisions that they will make. Where are they going to be drawn from? Are they going to be drawn significantly from the profession? Who is going to have involvement in it? We have had many problems in recent years with people making decisions that affect education from people who are not necessarily from an education background. So, those would be some of our significant concerns on the make-up of that panel.

[334] **Mr Phillips:** I have one simple point on that. How do you ensure democratic accountability in that process if it is a local determining panel? That should be the test.

[335] **Aled Roberts:** Mae rhai tystion wedi awgrymu bod y paneli hyn yn gweithredu ar lefel consortia yn hytrach nag ar lefel leol. A fyddai'ch gwrthwynebiadau yn llai pe bai hynny'n wir—neu a fyddant yn cynyddu?

**Aled Roberts:** Some witnesses have suggested that these panels could operate on a consortia level rather than a local level. Would your objections be less if that were the case—or would they increase in number?

[336] **Mr Thomas:** Sail y gwrthwynebiad yw atebolrwydd democrataidd.

**Mr Thomas:** The basis of the objection is democratic accountability.

[337] **Rebecca Evans:** I would like to move on to look at Part 5 of the Bill, which deals with some of the miscellaneous school functions. In particular, NUT Cymru's evidence said, on the grant for free school breakfasts, that

[338] 'the lack of ring-fenced funding for this grant is a serious cause for concern, as local authorities have to make difficult choices given the financial constraints they are under.'

[339] To what extent do you think that the provisions in the Bill will safeguard the continuation of the free school breakfast scheme and the school-based counselling, following the transfer of funding to the revenue support grant? Further to that, we have also asked the Minister about the types of criteria that he envisages would be used by local authorities to demonstrate that it would be unreasonable to provide free school breakfasts. He said:

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[340] 'you could say that a lack of demand, disproportionate costs and staffing issues are factors that would affect the decision by a local authority. It is on that basis that the test of reasonableness would be made.'

[341] What are your comments with regard to that?

[342] **Mr Foden:** We certainly share some of the concerns that have been expressed about free school breakfasts. First, there is plenty of evidence in the past of sums starting off ring-fenced but not remaining ring-fenced and, by the time they got into the budget that was delegated to schools, they were part of the global sum. It became very difficult to justify expenditure or to demonstrate, for example, that the authority was delegating the correct amount of funding to ensure that that particular aspect of the work of the school continued, because you could not disaggregate it from other funding channels that came into the authority or came out of the authority into schools.

[343] We also have a number of other concerns. The nature of staffing difficulties, for example, is that they clearly vary from school to school. We ran a breakfast club on two occasions. The first was related to literacy activities, so we were bringing in children from deprived backgrounds, giving them a breakfast, structured intervention with a teacher, and then support work with a learning support assistant. So, we were creating three groups and rotating them. That worked really well. The improvements in the children's reading ages were dramatic. However, that stopped when the funding ran out. Funding was then delegated to set up just a breakfast club but the difficulty that we had then was that we could not find anybody to run it, so we were in the sad position of having to return the funding. There is a series of different issues that can cause a breakfast club not to be viable, some of which are staffing related. We would not want to see the Minister try to dictate a particular set of criteria, because there has to be a degree of flexibility so that an authority can say that it has looked at the circumstances of a particular school and it does not feel that it is practical to continue.

[344] One concern that you did not touch on but that I would like to raise now is that the last thing we want to see is the responsibility for the clubs being transferred from authorities to schools, because schools are already overburdened. The danger is that some of the funding delegated would be swallowed up in the management costs of trying to set up and run a club. There are clearly economies of scale to be achieved if that is retained by the LEA.

[345] **Rebecca Evans:** I want to move on to flexible charging for school meals, unless there are any further questions on that.

[346] **Aled Roberts:** May I just ask a question? If the levels of delegation increase to the targeted levels, is there not a danger in that, because, in reality, it is becoming increasingly difficult for local authorities to continue with their responsibility for many of these centralised services?

[347] **Mr Foden:** When it is delegated to the authority, what often happens is that the staffing at the centre goes. So, in the event that the schools have a problem with the service, there will not be anyone centrally whom you can call on. The other thing that we have noticed is the way in which the authorities delegate funding. The sums are arrived at in such a way—how can I put this delicately?—as to make it very difficult to buy from any other private providers. With personnel services, banking and so on, things are being gradually delegated to schools, but they cost so little to provide, apparently, according to the authority, that, by the time you get the delegated funding, you cannot go anywhere else, because you would not get the service for that sum of money. So, you are right, there are issues about the authorities' capacity to maintain somebody in place to advise schools, but there are also issues about the

sums delegated as well, which then creates capacity issues for the school. How do you manage all the additional services that you are supposed to run?

[348] **Mr Evans:** In essence, it would just be moving the problem on.

[349] **Rebecca Evans:** On flexible charging for school meals, the NASUWT paper says that it

[350] ‘is both misguided and misconceived and could lead to litigation.’

[351] It also says that flexible charging is ‘thwart with difficulties.’ Can you expand on what those difficulties are and how you think they could be addressed?

[352] **Mr Phillips:** I will try to do that. We have said that we agree with the idea in principle, that it has merit and that it is a laudable aim. However, it is a question of how you make the decision of who will pay less. That is the real issue on this, and it is about whether you will set up some kind of means testing to decide who will pay less. If I remember rightly, the Bill says that schools cannot charge more than the cost, but there is another section that says there should be no reason why one group of pupils should have to pay more to subsidise another. The harsh reality is that if one group is paying the cost and another group is not, an element of subsidy is coming in somewhere for those who are not paying the cost. I cannot tell you what form the litigation will take, but there needs to be an equality impact assessment of this—and I think that you are required to do that under equalities legislation now—to look at how this will affect one group rather than another.

[353] I notice that, again, it suggests that there could be flexible charging for new pupils at schools for a limited period of time. That is saying—to use the market speak—that new customers will pay less, but existing customers will continue to pay the going rate for something, which seems to me to be inherently unfair. I know that there is debate about that in terms of utilities and other areas at the moment. When the Assembly Government introduced the bus passes, it did not means test; it said that there would be free bus passes for all and there are free prescriptions for all. Is not the easiest way to do this—and I am happy to say straight away that this is not NASUWT policy, but my own view—to say, ‘Let us address this by giving everyone free school meals’, rather than have some kind of means testing? That is my problem with this, namely how do you judge that one family should pay less than another? How will you maintain equality across Wales between different local authorities and maybe different schools?

[354] **Mr Thomas:** This is so fraught with difficulties, where does one begin?

[355] **Mr Evans:** I will just highlight the difficulties: it will be difficult to administer that scheme and there is the possible knock-on effect of whether you will be stigmatising families on low income with this flexible charging. That will also be a huge problem.

[356] **Christine Chapman:** We have just over five minutes left. We need to discuss a couple of other issues, particularly parents’ meetings.

[357] **Julie Morgan:** The NUT suggested that the parent-governor might be the appropriate conduit for requesting a parents’ meeting, rather than a petition by parents. Could you expand on that?

[358] **Mr Evans:** I have sat as a parent-governor at a primary school and a secondary school. My view of my role at that time was that I was there to represent the parents. They knew who I was and what I did and the school knew what my role was going to be. That is the role for parent-governors; they should be the most appropriate conduit back to the parents.

There may be some difficulties in how they get to everyone or how they get that information out, but that hurdle is not insurmountable as compared with going down the route that is being suggested here.

[359] **Julie Morgan:** There might be a problem going through a particular parent-governor on particular issues.

[360] **Mr Evans:** There is more than one parent-governor in each school and their role should be defined—people should be aware of who is responsible for what.

[361] **Mr Foden:** Parents can also contact the school and ask for the addresses of the parent-governors.

[362] **Julie Morgan:** What are your views on the appropriateness of the 5% trigger to hold a parents' meeting?

[363] **Mr Foden:** In large schools, you will never get 5% of parents triggering a meeting. For our school of 1,300 pupils, if you take out the parent-governors and members of staff who are also parents, the average turnout has been three, except when we have encouraged parents to come because there is an issue that has been troubling the school; even on those occasions, we did not meet the 5% threshold. At the other end of the size scale, you also have a problem in that you could have a small number of parents in a small primary school with an axe to grind, who could generate a meeting and create huge problems, simply because they have met the threshold in a small school. We would feel happy to scrap the parents' meeting completely and allow parents to make proper use of parent-governors.

[364] **Julie Morgan:** The NASUWT expressed concern about the removal of the requirement to hold the parents' meeting.

[365] **Mr Phillips:** Yes, because it provides an opportunity for parents to meet to discuss things. We are concerned about what would come instead of that. I am also concerned about the 5% threshold, perhaps for different reasons. We know that it may not be met at parents' meetings, but, on the other hand, it gives groups that may not represent the views of the majority of parents the opportunity to try to bulldoze forward proposals through a governing body to maybe change the character or nature of the school. So, there are difficulties there.

[366] Under the current system, it does not take many governors to convene a governing body meeting; I cannot remember what the articles for governors are, but two governors can request a meeting and, at that meeting, they could make a decision to hold a parents' meeting if there was an issue at the school, which, as you have said, has been brought in by parent-governors or others.

[367] **Jenny Rathbone:** The financial implications of the Bill are obviously an issue. I am a bit confused about your positions—both of you—on this. On the one hand, you want uniformity of charging for school meals, but, on the other, you want to emphasise local democratic accountability. Giving people local democratic accountability means that they can choose different things for their locality. So, it is quite difficult to know—

[368] **Mr Phillips:** I found it difficult to wade through the section on charging and how much savings were going to be made on this. However, I am absolutely clear about what this Bill does not address, which is the issue of funding. If the Bill had addressed the big issues, we might not be having this conversation, because if there was enough funding in the system, we might be able to do some of the things that the Bill suggests. That comes back to Neil's point about capacity in schools, and capacity is generated by the funding. At the moment, schools in Wales are underfunded.

[369] **Jenny Rathbone:** However, if school governing bodies had more delegated funds, it would give them more capacity to make decisions that suited their individual schools better.

[370] **Mr Foden:** That very much depends on the degree of ring fencing and the strings that come attached. For the first time, this year, we have seen a reasonable increase in our school budget, and we have been able to start doing some of the things that we wanted to do six to 10 years ago. The problem very often was that a fair amount of money was swallowed up in the bidding process, the action planning process, the accountability process and the report-writing process. If you write an action plan, you have to push particular buttons and do particular things. So, it is all very well saying that the funding has been delegated to schools, but you will find that the degree of flexibility is limited, because to successfully secure the funding, you have to say that you are going to do certain things. Also, very often, there are certain things that you have to do, just because they are required by the bid. So, it is not always the case that delegated funds bring additional flexibility.

[371] **Christine Chapman:** On that note, we will draw this session to a close. Thank you for your evidence this morning; it has been a lively discussion. We will send you a transcript of the meeting so that you can check it for factual accuracy. Thank you for attending this morning.

12.12 p.m.

**Cynnig o dan Reol Sefydlog Rhif 17.42 i Benderfynu Gwahardd y Cyhoedd o'r  
Cyfarfod  
Motion under Standing Order No. 17.42 to Resolve to Exclude the Public from  
the Meeting**

[372] **Christine Chapman:** 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).*

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

*Derbyniwyd y cynnig.  
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 12.12 p.m.  
The public part of the meeting ended at 12.12 p.m.*