



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

**Pwyllgor Deddfwriaeth Rhif 3  
Legislation Committee No. 3**

**Dydd Iau, 14 Mai 2009  
Thursday, 14 May 2009**

**Cynnwys**  
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Proposed Education (Wales) Measure—Stage 1: Evidence Session 1

Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal, cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg. Mae hon yn fersiwn ddrafft o'r cofnod. Cyhoeddir fersiwn derfynol ymhen pum diwrnod gwaith.

These proceedings are reported in the language in which they were spoken in the committee. In addition, an English translation of Welsh speeches is included. This is a draft version of the record. The final version will be published within five working days.

**Aelodau'r pwyllgor yn bresennol**  
**Committee members in attendance**

Peter Black	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Christine Chapman	Llafur Labour
Andrew R.T. Davies	Ceidwadwyr Cymreig (yn dirprwyo ar ran William Graham) Welsh Conservatives (substitute for William Graham)
Janice Gregory	Llafur Labour
Helen Mary Jones	Plaid Cymru The Party of Wales
David Lloyd	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)

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

Jane Hutt	Aelod Cynulliad, Llafur (Y Gweinidog dros Blant, Addysg, Dysgu Gydol Oes a Sgiliau) Assembly Member, Labour (Minister for Children, Education, Lifelong Learning and Skills)
Huw Maguire	Rheolwr Polisi Mesur Anghenion Addysgol Arbennig Special Educational Needs Measure Policy Manager
Amina Rix	Gwasanaethau Cyfreithiol Legal Services

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

Fay Bowen	Clerc Clerk
Gwyn Griffiths	Cynghorydd Cyfreithiol Legal Adviser
Ruth Hatton	Dirprwy Glerc Deputy Clerk
Sian Thomas	Gwasanaeth Ymchwil yr Aelodau Members' Research Service

*Dechreuodd y cyfarfod am 9.30 a.m.*  
*The meeting began at 9.30 a.m.*

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

[1] **David Lloyd:** Bore da i chi i gyd. **David Lloyd:** Good morning everyone. I Fe'ch croesawaf i gyfarfod diweddaraf welcome you to the latest meeting of Pwyllgor Deddfwriaeth Rhif 3 yng Legislation Committee No. 3 at the National Nghynulliad Cenedlaethol Cymru. Yr ydym Assembly for Wales. We have received wedi derbyn ymddiheuriadau oddi wrth apologies from William Graham, and William Graham, ac mae Andrew R.T. Andrew R.T. Davies is substituting. Davies yn dirprwyo yn ei le. Felly, estynnaf Therefore, I extend a special welcome to

groeso arbennig i Andrew.

Andrew.

[2] Os bydd larwm tân, dylai Aelodau adael yr ystafell drwy'r allanfeydd tân a dilyn cyfarwyddiadau'r tywyswyr a'r staff. Nid ydym yn disgwyl prawf larwm tân y bore yma, felly os bydd sŵn uchel, bydd angen gadael ar frys.

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[3] Dylai pawb ddiffodd eu ffonau symudol, eu galwyr a'u 'mwyar duon', gan eu bod yn amharu ar yr offer darlledu.

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[4] Fel y bydd pawb yn gwybod bellach, mae Cynulliad Cenedlaethol Cymru yn gweithredu'n ddwyieithog. Mae clustffonau ar gael ar gyfer clywed cyfieithiad ar y pryd, ac, i'r sawl sydd yn drwm eu clyw, gellir hefyd addasu lefel y sain arnynt.

As everyone knows by now, the National Assembly for Wales operates bilingually. Headsets are available for simultaneous translation, and for those who are hard of hearing, they can also be used to amplify the sound.

[5] Peidiwch â chyffwrdd â'r botymau ar y microffonau, gan y gall gwneud hynny ddiffodd y system, a chofiwch sicrhau bod y golau coch yn ymddangos ar y microffon cyn ichi ddechrau siarad. Mae'r gwasanaeth cyfieithu ar y pryd ar gael ar sianel 1, ac mae'r trafodion gair am air, wedi'u chwyddleisio ar sianel 0.

Do not touch the buttons on the microphones, as doing so can switch off the system, and remember to ensure that the red light is showing on the microphone before you start speaking. The simultaneous translation service is available on channel 1, and the amplified, verbatim proceedings are channel 0.

9.31 a.m.

### **Mesur Arfaethedig ynghylch Addysg (Cymru)—Cyfnod 1: Sesiwn Dystiolaeth 1 Proposed Education (Wales) Measure—Stage 1: Evidence Session 1**

[6] **David Lloyd:** Diben y cyfarfod hwn yw cymryd dystiolaeth ar lafar ar y Mesur Arfaethedig ynghylch Addysg (Cymru). Croesawaf Jane Hutt, y Gweinidog dros Blant, Addysg, Dysgu Gydol Oes a Sgiliau, a'u swyddogion, Huw Maguire, rheolwr polisi Mesur anghenion addysgol arbennig, ac Amina Rix o'r gwasanaethau cyfreithiol.

**David Lloyd:** The purpose of this meeting is to take oral evidence on the Proposed Education (Wales) Measure. I welcome Jane Hutt, the Minister for Children, Education, Lifelong Learning and Skills, and her officials, Huw Maguire, the special educational needs Measure policy manager, and Amina Rix from legal services.

[7] Os yw'n iawn gyda chi, Weinidog, trown yn syth at y cwestiynau. Fel Cadeirydd, mae gennyf yr anrhydedd o ofyn y cwestiwn cyntaf. Pam mae angen cyflwyno deddfwriaeth i ganiatáu hawl i blant wneud apeliadau a hawliadau i Dribiwnlys Anghenion Addysgol Arbennig Cymru?

If it is okay with you, Minister, we will turn to the questions straight away. As Chair, I have the honour of asking the first question. Why is there a need to introduce legislation to allow a right for children to make appeals and claims to the Special Educational Needs Tribunal for Wales?

[8] **Jane Hutt:** There are three main reasons why there is a need to develop legislation that provides for the rights of children to appeal and make claims to the tribunal. First, it gives practical expression to the United Nations Convention on the Rights of the Child, in particular

article 12. Secondly, the legislation will enable us to ensure that the needs of children are considered by the tribunal. Current arrangements rely on the presumption that statutory agencies will be competent in their practice and administration and that parents will act to promote the best interests of their children. There may be hazards for some children if one or both of those essential ingredients are missing. Thirdly, there may be parents who, even with support, simply do not feel willing or confident or competent enough to pursue an appeal or claim. So, we need to amend the law, as it currently only gives parents the right to make appeals and claims to tribunal. Amending the law will give children the right to make an appeal or claim to the tribunal, which will ensure that they are placed on the same statutory footing as parents.

[9] **Janice Gregory:** What type of implementation issues do you anticipate in creating a universal right of appeal and claim for children that is not dependent on their age or their capacity? How does the proposed Measure take those issues into account?

[10] **Jane Hutt:** The pilot and evaluation phase is key to providing us with the information about how these rights can be communicated to children and young people and how they can be supported, not just in relation to the appeal and claim process but in ensuring that they understand their rights and how they are able to implement them. So, it is about the pilot and evaluation phase in relation to developing guidance, best practice, how to communicate effectively with children and young people, assessing the quality and capacity of the service and allowing an opportunity for training and development for key stakeholders. It is interesting that the tribunal—and I know that you are taking evidence from it—has already started training its members on issues such as how they could take on children’s rights. We need to ensure that, through the pilot schemes—because they will not be dependent on age—we can understand how that can be most effectively delivered. It is important to say that the proposed Measure gives children and young people a platform to voice their concerns, and ensures that their views are heard if parents and local education authorities do not engage with them. It also increases—and this is an implementation issue—their access to neutral information. The word ‘neutral’, and that requirement for neutral information, are in the minimum standards for the current parent partnership services. The proposed Measure will, for the first time, provide entitlement to access disagreement resolution services with regard to opportunities. The minimum standards for the disagreement resolution services are already contained in the SEN Code of Practice.

[11] **Janice Gregory:** You have touched on my next question, but could you expand on that? We are interested in how the proposed Measure will increase children’s entitlement and their participation in the processes and the decisions that will affect their education and—this is the part that you touched on—ensure that their voices are heard. Could you perhaps take that a little further?

[12] **Jane Hutt:** I do not know whether that leads on to issues about increasing children’s participation in decision-making processes per se in relation to special educational needs. There is a focus on tribunal appeals and claims, and, as you say, including the review of current tribunal regulations. It is timely that we introduce the proposed Measure, because it is in tandem with the wider review of statutory assessment and statementing, for which we have other pilot projects. It will also embed children’s participation in the statutory assessment process. We must go back to where this originally came from, and that was from the late children’s commissioner who, four years ago, first made the proposal that children with special educational needs should have the right to appeal to the tribunal in circumstances in which their parents do not exercise that right.

[13] We are also responding to the Equality and Human Rights Commission’s recommendation last July that we should act promptly, and that UK Governments—the Welsh Assembly Government has this responsibility—should ensure that looked-after children have

the independent right to appeal. We have done so much to open up the children's rights agenda in relation to participation. This is almost an obvious step. The former Education and Lifelong Learning Committee, which Peter Black chaired, also endorsed that recommendation. Enabling every child to access that right and not putting barriers in the way of any child in any circumstance in relation to accessing it is totally in accord with the seven core aims, and the UN Convention on the Rights of the Child. We are building good practice as to how we do that. We may come on to issues about advocacy. That and the 'case friend' are critical in ensuring that those rights can be realised.

[14] **David Lloyd:** Byddwn yn dod **David Lloyd:** We will come on to those matters later. Peter Black now has a gan Peter Black gwestiwn atodol yn awr. supplementary question.

[15] **Peter Black:** I fully understand the principles and the philosophy behind that, and, as you say, the ELLS committee endorsed that. In relation to the proposed Measure, is there any evidence that any children are missing out as a result of not having that right, and, if so, do you have any figures as to how many children you feel might have appealed if they had been acting independently of their parents?

[16] **Jane Hutt:** That is something for which I am sure that evidence from the tribunal and organisations will be important. It is interesting that we have a low number of appeals and claims, and over the last two years there has been a fall in that number. We anticipate, for example, 80 or so registered appeals this year. The explanatory memorandum is important here in laying out the current circumstances.

9.40 a.m.

[17] I do not know whether Amina would like to comment further on evidence, but what is clear is that this is extending a right. We also need to look at how we communicate the right to children and young people. The other work that we are doing to address statementing issues will identify whether the process that might lead to an appeal is being robustly assessed through the pilot schemes on access to statementing. However, I cannot give you more evidence on the lack of take-up at this point.

[18] **Peter Black:** Would it be possible for you to give us a written note on the evidence?

[19] **Jane Hutt:** Yes, certainly, in relation to any evidence that we might need to add.

[20] **Peter Black:** Thank you.

[21] **Jane Hutt:** However, the explanatory memorandum does give you quite a bit of information on this point.

[22] **Janice Gregory:** You have touched on my next question. However, I would like to ask you to expand a little further on a certain point. In the explanatory memorandum, the initiatives are clear and it states that there will be a review of the current tribunal regulations. You have mentioned the SEN code of practice for Wales and there will be a partial revision of that. I do not want to put words in your mouth, but, clearly, you think that the introduction of this proposed Measure is timely and you have touched on why you think that. However, I would like to give you the opportunity to expand on why you think that the proposed Measure is necessary and why it is needed now.

[23] **Jane Hutt:** Thank you very much, Janice. I have probably said a bit about that in advance of your question. I have mentioned the fact that I think that it is timely that we are doing this in tandem with the review of statutory assessment and statementing framework

pilot projects. It is embedding children's participation in the statutory assessment process. I have also mentioned the proposal of the children's commissioner. One point that I could perhaps have made in response to Peter is that we are aware that the tribunal has received inquiries about children making an appeal and the office of the children's commissioner has told us about cases in the past where an appeal by a child would have made a difference to the appeal. That is the crunch, is it not? If a child appealing would have made a difference, then we should be acting on that in terms of introducing a Measure of this kind.

[24] **Janice Gregory:** Jane, can you explain how the outcomes of other initiatives will impact upon the proposed Measure? You have mentioned the children's commissioner and statutory assessment, but do you think that there is potential for substantial amendments to be made to the legislation at a later date?

[25] **Jane Hutt:** That is interesting, because once this proposed Measure is enacted, the current tribunal regulations will be amended to encompass children's rights to appeal and claim. We are working with the tribunal to ensure that children's right to have their voices heard in the tribunal processes will be made more robust. We will have to update the chapter on pupil participation in the SEN code of practice for Wales—that is just in terms of what will happen as a result of enacting this proposed Measure. As a result of the implementation of the law to commence the pilot projects, we will have to bring back to the Assembly a report on the pilot projects. In time—although not through this proposed Measure—the other piloting that is going on in relation to statementing, for example, might lead to another Measure. This is just one proposed Measure that we need to be specific about, but other Measures may emanate from our other piloting work on the statementing process.

[26] **David Lloyd:** Trown yn nawr at **David Lloyd:** We will now turn to more gwestiynau mwy manwl ar wahanol detailed questions on different sections. adrannau. Mae gan Helen Mary Jones dri Helen Mary Jones has three questions on chwestiwn ar adrannau 1 a 9 o'r Mesur sections 1 and 9 of the proposed Measure. arfaethedig.

[27] **Helen Mary Jones:** The proposals before us today would allow for a child to appeal against a refusal to make an assessment of the child's educational needs that has been requested by the child's parents. However, children are not able to request an assessment of their needs in their own right. How does the proposed Measure take into account this potential anomaly in terms of the rights of the child to initiate the process as well as to make an appeal?

[28] **Jane Hutt:** As you know, at the moment, children's interests are protected by the fact that schools may ask local education authorities to undertake statutory assessments and, if the authority rejects the parent's request, under the proposed Measure, the child would be able to appeal against the local education authority's decision. We do not necessarily think that there is a potential anomaly relating to assessment. When we pilot the access to statementing assessment, it may emerge that we need more legislation in terms of the process to recognise special educational needs and what needs to be delivered. This proposed Measure concerns itself with giving children parity of rights in terms of having a right to go to the tribunal. There is no appeal right, as you know, to ask for an assessment, although parents and children can appeal a decision made by the LEA not to undertake a statutory assessment. The purpose of this proposed Measure is very specific.

[29] **Helen Mary Jones:** I welcome the purpose of the proposed Measure in that regard, but I wish to press you on the anomaly. Let me give you a practical example: you have a looked-after child, whom the school does not think needs an SEN assessment. The child's parents are not necessarily involved—if they were involved and were likely to be able to fight the child's corner, the child would not be looked after. The child and the child's foster parents may think that an SEN statement is required. Clearly, the question then is: who asks for the

statement? What happens if the school does not think that a statement is necessary, but the child—and I am thinking particularly of an older, competent child—and the foster carers do? I have witnessed a situation where a child and the foster carer think that an SEN statement is needed, but the social services department, the education department and the school disagree. So, how can that child appeal? I realise that we are, hopefully, talking about a very small number of children. You would not find many such situations, but I can think of two such cases in my professional career. Would such children have access to these rights? Would that be something that the piloting work around statementing could look at?

[30] **Jane Hutt:** That relates to the pre-tribunal decision-making processes. I was just looking again at the pilot projects, and it might be useful if I clarified how the pilot projects are looking at the statutory assessment process. I have said that it is important that this is done in tandem, but we are very specific here. The focus of the current review pilots includes quality assurance of additional learning needs provision to develop a comprehensive framework for the evaluation and monitoring of educational provision for children and young people with ALN. That is important for looked-after children. That will also bring in the responsibilities of the looked-after children co-ordinator at local level. There is also the support provided through RAISE and other schemes and the role of what was the special educational needs co-ordinator, which we hope will be changed to the additional learning needs co-ordinator.

9.50 a.m.

[31] We are also piloting the model for children and young people with less complex SEN to consider whether there could be an alternative statutory assessment for children and young people. I think that those pilots will take on board the very points that you are making about assessment, but the proposed Measure is focusing clearly on parity of rights in terms of access to an appeal to tribunal. I do not want to repeat myself, but it is important that children are now coming in line with their parents with the current right to appeal when an LEA will not make a statutory assessment. One of the questions that I am asking, and I am sure that will be asked usefully through the scrutiny of this proposed Measure, is why there are so few appeals to tribunal. I think that that is going to open up the whole discussion. I also want to know why, if you look at the tribunal report, there is variation across Wales. We may come to that in the piloting.

[32] **David Lloyd:** Indeed, or in later questioning.

[33] **Helen Mary Jones:** Minister, I think that we could probably all give you some really good casework examples as to why there are so few appeals. I think that question 7 has been answered, Chair, so I will move on to question 8, if I may.

[34] Section 1(4) of the proposed Measure states that:

[35] ‘The Welsh Ministers may provide by regulations for circumstances in which a child may not appeal.’

[36] You can imagine that that sets my hackles rising straight away, but there may very well be a need for it. What would you envisage those circumstances being and is there potential for the exclusion of groups of children with specific needs?

[37] **Jane Hutt:** I asked the very same question when I looked at sub-section 1(4). I have been assured by advice from officials that this sub-section does not have to be used. We could make such regulations, but I cannot envisage in what circumstances a child would not be allowed to appeal. I am advised that we may need to have this in law as a safeguard. If we want to explore that further, it could be in that circumstance where a child, effectively, lacks



competence—you know that I am not using competence criteria in the proposed Measure. It may be that Huw or Amina might want to give an example, but I think that it is a legal provision that does not have to be used, but it is there should a circumstance arise in which we might have to use it. We certainly do not anticipate excluding any groups of children and I hope that the pilot would show that we do not need to. I do not know whether Amina or Huw want to say anything on the legal side.

[38] **Ms Rix:** The pilot might show that there is a need for children's rights to be qualified, for example, that a child should have the permission of the tribunal to appeal. In which case, these regulations could make provision for that. So, the child may not be able to appeal unless he has the permission of the tribunal. We do not know; that is purely an example.

[39] **Mr Maguire:** I think that the policy is being developed to provide a universal right—that is certainly our intention. We do not foresee there being groups of children that we would exclude, but we do need to have evidence from the pilot about how things work. If, for instance, it looked as if detained children might not be able to make appeals, we would have to look at that. That is not our intention, but we may look at staying appeals or something like that, which there is provision for, while children were detained, for instance. However, we do not have any intention of doing so at the moment, or we would not have framed the proposed Measure on a universal basis.

[40] **Helen Mary Jones:** That is exactly my problem. When we are making law and giving Ministers powers, we have to be careful that we do not think of it as being about giving powers to our current Ministers. I have absolute confidence that our current Minister for children would not want to restrict the rights of children under any circumstances, but if there is no policy intention to restrict those rights and no evidence at this point to suggest that the rights should be restricted, then I am somewhat at a loss as to why we need this provision for Ministers to do something that they are telling us with absolute clarity that they have no intention of doing. It seems a bit anomalous.

[41] **Jane Hutt:** It is only there because of our desire to ensure those universal rights. I think that this is only there, to a certain extent, to protect a child. If it is the case that there may be circumstances where a child cannot appeal but we have to make arrangements, I think that the pilot project can test that. However, it is there to enhance, I hope, the opportunity to cover all children, but if we need to clarify that further, we could do so. It may be done through the evidence that you wish to seek from other stakeholders, such as the tribunal.

[42] **Helen Mary Jones:** This is an important point of principle, because what is on the face of the proposed Measure appears to contradict the Minister's clear intention. Suppose that this stays on the face of the proposed Measure and the pilot projects do not show up any evidence, this would leave a successor Minister who did not take her approach to children's rights with the power to restrict those rights. For the sake of process, perhaps we could ask the Minister and her officials to go away and think about some theoretical examples of what the pilot schemes might throw up. I am not a lawyer, but I am at a loss to understand how restricting someone's rights can ever protect them from anything. I cannot think of an example of that being the case, but there may well be. So, with your permission, Chair, may I request the Minister and her officials to go away and think of some theoretical examples—on the understanding that they are only theoretical examples because the piloting has not yet happened?

[43] **Jane Hutt:** I would certainly be happy to do that. The powers under section 10 enable us to amend the proposed Measure if that proves necessary. However, we will come back with any examples, as requested.

[44] **David Lloyd:** Diolch yn fawr. Mae'r **David Lloyd:** Thank you. The next questions

cwestiynau nesaf am adran 2 y Mesur are on section 2 of the proposed Measure, arfaethedig, a Christine Chapman sydd yn eu and they will be asked by Christine gofyn. Chapman.

[45] **Christine Chapman:** To add to Helen's remarks, I also have big concerns about that issue, and I would welcome clarification on it. My questions are related to section 2 on the notice and service of documents. What arrangements will local education authorities be expected to put in place to support children and young people to understand these documents?

[46] **Jane Hutt:** This is the notices section, which is about how we deliver this to ensure that children understand their opportunities and rights, and there will be very different age groups and circumstances. Local education authorities will be required—and that is the important point—to write to the parent and the child separately. There may be a situation in which the child is unable to understand the information, and that is where we must ensure that we engage with the advocacy opportunities.

[47] When it comes to the arrangements between a parent and child—and this is when we get into the piloting—parents may want to explore pure rights with their children, and, where the child has sufficient understanding, it can take note of the contents of the letters. The decision letters will provide evidence that children have been properly advised of their rights, but we will also expect decision makers to take actions to communicate the decision alternatively to ensure a child's understanding.

[48] I also asked officials about the numbers of children who go with their parents, and quite a few children already give evidence to tribunals with their parents, because their parents want them to give evidence. Through the pilot and evaluation phase, we will go straight into the training and guidance to ensure that children and young people receive child-friendly letters and approaches. They will have the opportunity to respond to the letters, and so we must ensure that there is support at hand for them to take it on board.

[49] **Christine Chapman:** Thank you. You have partly answered my next question, but you might want to add some other information. Given the varying needs of children with special educational needs across a wide range of age groups, how will this be delivered in practical terms to ensure that the individual needs of children are met? As I said, you have already given some examples, but I want to know whether there are others.

10.00 a.m.

[50] **Jane Hutt:** We will be accommodating very different needs, and the pilot and evaluation phase will be crucial for guidance and training. I have talked about the opportunities to give backing to children and young people who do not have the support of their parents, for whatever reason, be it the capacity or the level of engagement of those parents. I also wanted to say that, under sections 4 and 11, LEAs are already required to give effective communications as part of their responsibilities, and we are developing the role of the special educational needs co-ordinators, the learning support assistants and social workers, and there will be guidance on how they should communicate with children. This links back to the additional learning needs pilot schemes that are also looking at these issues.

[51] **Peter Black:** I want to look at sections 3 and 10 on case friends. First, can children and young people choose to appeal or make a claim with the assistance of a case friend or any other representative without parental consent? If not, what would be the implications for the child in progressing their appeal or claim?

[52] **Jane Hutt:** This is another area that we will need to explore through the pilot schemes. We recognise that there will need to be a careful balancing of parental responsibility

on the one hand and children's rights on the other, so we will give guidance on how a case friend can be appointed. For example, there will be forms that children and young people can fill in to signal the appointment of a case friend, but we do not want this to become an area of potential conflict between parents and children. At the moment, we suggest that parental consent may be required, but when it reaches the point of regulations, we envisage a parental approval element, which may be a 'yes' or 'no'. Parental consent would be helpful, and we want to reduce the potential for conflict, so guidance and clarity on how a case friend can be appointed is critical.

[53] **Peter Black:** Would that apply to both SEN appeals and claims in respect of disability discrimination?

[54] **Jane Hutt:** Yes, it would in both circumstances.

[55] **Peter Black:** Given that you envisage that parental consent would be required, can you see any potential relationship difficulties between case friends and parents? If so, how could they be overcome?

[56] **Jane Hutt:** I return to the point that we must be careful about saying that parental consent would be or may be required in the regulations. There is a fine balance there. On relationship difficulties, we envisage case friends making an appeal or claim on a child's behalf, should a parent not wish to do so for whatever reason. So, with or without parental consent, case friends can make an appeal. The issue is that the regulations include a duty to consider a child's views, currently resting with the local education authority, but the parent is also required to set out the child's views, and, when a child appeals, they may be expected to provide evidence of parental views about the matter of the appeal or claim. That will be a new area of parental and children's rights, very much at the sharp end of delivery, given the role of the case friend. If a parent does not want a case friend to have access to their child, that will cause a difficulty in relation to who makes the decision about access. We very much want to explore that through the pilot schemes.

[57] **Peter Black:** You have just contradicted yourself. You started by saying that you would require parental consent and now you say that the case friend can act without the consent of the parents. I am not entirely clear about which it is to be.

[58] **Jane Hutt:** I think that Amina may be better at clarifying this point. In this area, we need to test the relationship and look at how we can avoid conflict between parent and child, while ensuring that the child can exercise its rights. Do you want to try to clarify that, Amina?

[59] **Ms Rix:** Yes. Parental consent will be required for a case friend to act on behalf of their child, but if the appeal or claim is made by a young person, as long as that young person has full understanding of the situation, in view of his or her maturity, parental consent might not need to be obtained, which is a matter that will be covered in guidance.

[60] **Peter Black:** How will you assess whether the child has fully understood the issue? To be honest, it sounds a bit subjective.

[61] **Mr Maguire:** If a child could understand the process fully, it may be able to access the system without the support of a case friend, through their own offices. I do not think that we have said anywhere that we would require case friends, just that we may. There is currently a lack of any degree of evidence. I have spoken to advocacy providers particularly to try to work out what the current scenario would be. If a parent actively and persistently refused to allow a child to make an exclusion appeal, for instance, or to give an advocate access to their child, how would they deal with that? Clearly, they would try to resolve the issue with the parents and try to make the parents aware of the children's feelings and views.

Ultimately, if they resisted and still held to their position, the advocate accepts that they could not have access to the child. It is a matter of how we square that in a practical sense and that is very difficult.

[62] **Peter Black:** I suppose that you would have to have a hearing or something to determine that.

[63] **Mr Maguire:** That is a possibility, but, at the same time, we do not have a formal court system where a guardian or a litigation friend could be appointed. We continue to work with the tribunal and I know that it also has issues on this, but it is how we develop the regulations around the appointment of case friends that will be vital. We also have to take account of parental responsibility and child protection issues.

[64] **Helen Mary Jones:** I am now even more confused than I was at the beginning. In an ideal situation, the parents of the child will agree and the child may not need to make an appeal in its own right. It seems to me that the most likely set of circumstances in which a child is still living with its parents but is making an appeal in its own right is where the child and parents do not agree. A child can be perfectly competent to disagree about its educational needs without being competent to pursue a legal case, which is what we are talking about here, effectively. However, if we put in legislation a situation where the child can only get access if competent to do so, most young people will still need someone to guide them through this, if not a formal case friend; most people would. Therefore, if the appointment of a case friend is dependent on parental consent and the parents refuse consent, is there any point in giving the children these rights, as they will not be able to get support to access those rights? That is the worst-case scenario because, in an ideal scenario, both parents and child would be making an appeal jointly—and I am sure that that would be the normal situation. However, as you sometimes do, you could get parents whose views about what is in the best interests of their 13 or 14-year-old quite competent child are very different from what the child wants. Could you imagine a situation, for example, in which a middle-class family might not want the child to be labelled but the child very much wants help? If you then say that a case friend cannot be appointed unless the parents say that that is all right, in effect, the child does not have that right. I realise that this is very complicated, because we are moving from a welfare-based approach to children's welfare, predicated on the fact that some adult has to determine what is best for them, to a rights-based approach. I commend the Minister and her staff for trying to do this, but if the child needs mam and dad's consent to have a case friend, they will not be able to proceed, in a worst-case scenario.

10.10 a.m.

[65] **Jane Hutt:** That is very important feedback to us on the need for clarity on the balance between parental responsibility and children's rights. At this stage, it is something that would be most useful for me to take back to explore with my officials, to get further clarification.

[66] **Peter Black:** As you are taking that back, Minister, could you also have a look at why there is no detailed list in the proposed Measure of those who are eligible to be 'case friends'? Is that deliberate, or are you proposing to do that by regulation? What is your approach to that?

[67] **Jane Hutt:** We have cast a fairly broad net in relation to those who can act as case friends. Again, this is new; Wales is the first to develop the concept of the case friend. For example, there are times—this goes back to the point that we have just made—when both a child and a parent might lack the capacity, and there might be circumstances in which you have teachers, advocates, social workers, special educational needs co-ordinators, family members or family friends as case friends. We want to cast the net as wide as possible; it

could include learning support assistants, for example. That goes back to the issue about trying to ensure that there is informality but rigour in the whole tribunal process, so circumstance will dictate whether it is a teacher, a friend, a family member or whatever. We did not feel that it was appropriate to list those who were eligible on the face of the proposed Measure, because that could lead to leaving out certain individuals. However, the pilot phase will show us who is likely to emerge as being appropriate case friends, and we may then have to consider whether we need to be more prescriptive. At this point we do not want to limit—

[68] **Peter Black:** Are you looking at having basic, minimum qualifications for such a person?

[69] **Jane Hutt:** No.

[70] **Peter Black:** Obviously, you will want to insist that there will be a proper check of the child protection register.

[71] **Jane Hutt:** Yes.

[72] **Peter Black:** Would you want to put that in the regulations? It is important that you have minimum standards.

[73] **Jane Hutt:** Definitely. We will prescribe certain requirements in regulations. We will need to know that that person can meet those requirements, not just the basics. I do not know—Amina or Huw may be able to answer—to what extent that should ensure that the pilot phases lift off with the right kind of guidance. Those regulations and the prescription of basic, minimum standards will have to be there, will they not?

[74] **Ms Rix:** Yes, that is right.

[75] **David Lloyd:** Mae'r cwestiynau **David Lloyd:** The next questions are on nesaf ar adrannau 4 ac 11, ac Andrew R.T. sections 4 and 11, and Andrew R.T. Davies Davies fydd yn eu gofyn. will be asking them.

[76] **Andrew R.T. Davies:** Thank you, Minister, for your evidence so far. My questions can be rolled into one overarching question relating to sections 4 and 11, on advice and information. You touched on this in response to Christine's questions. I would be interested to hear about the rights of children who have special educational needs and their parents, and also disabled children, to get the information that you touched upon when you were telling Christine about the guidance that would be provided. Could you elaborate on how that information will be available? What type of guidance will you be issuing? Above all, will children be able to understand the advice and guidance that they are given? It is all well and good talking about it, but the issue is about having a format that is understandable for some of the most vulnerable people in the system.

[77] **Jane Hutt:** That does follow on from Christine's questions. I am sure that we will have some questions about advocacy, because this very much relates to the development of independent advocacy services, where local education authorities will have to discharge their duties appropriately, the partnership and information services that I have already mentioned, and the roles of the professionals who are already engaged with young people in this situation. The key point will be about the guidance and the communication that we develop, and making sure that those are child friendly. I would want children and young people to be engaged in developing that guidance.

[78] **Andrew R.T. Davies:** With respect, you talked about children, but my specific question was on people with special educational needs and disabled children. I would suggest

that there are two categories: there is the general category of information, but then there is the targeting of information so that people can understand it. I think that you were talking in general terms in your response to me, but I was hoping that you could give me more of a specific example of how you would develop an information stream for these two categories.

[79] **Jane Hutt:** That takes us back to the pilot schemes, which I have already mentioned. With those, we are looking, for example, at the role of the SENCO as we move from welfare-based to rights-based arrangements. There is a need for those professionals who are already involved in a disabled child's life to be very engaged in imparting this information and in ensuring that those children and young people have access to appropriate information. There are obviously different impairments that can restrict a child's or a young person's ability to engage. There can be quite difficult impairments relating to their lack of engagement in education, which can mean that they will need a very strong independent advocate to enable them to access this information. Through the responsibilities that we are laying down through the proposed Measure—the professional role, the piloting schemes that we are already undertaking on the statutory assessment process, and our commitment to engaging not only children and young people, but disabled children and young people, in the process—I think that we will get it right.

[80] **Andrew R.T. Davies:** So any guidance would be relevant to SEN appeals and disability discrimination law as well, would it?

[81] **Jane Hutt:** Absolutely.

[82] **David Lloyd:** Symudwn ymlaen at **David Lloyd:** We will move to questions on gwestiynau ar adrannau 5 a 12, gan Janice sections 5 and 12, from Janice Gregory. Gregory.

[83] **Janice Gregory:** Moving on to sections 5 and 12, which relate to the resolution of disputes, LEAs are currently required to make arrangements for the parents of children concerned to access parent partnership services. How do you anticipate local education authorities will demonstrate their compliance with the duties set out in these sections of the proposed Measure? How will their compliance be monitored?

[84] **Jane Hutt:** There will be a statutory duty on LEAs to comply with the new requirements. We will monitor how they inform children about the services. Officials will engage with the tribunal user group at stakeholder meetings and Association of Directors of Education in Wales meetings, providing feedback on compliance with the duties. The tribunal is important in monitoring how LEAs comply with the duties. We would expect it to be in the annual report, and we would expect regular contact between the tribunal and officials from the support for learners division.

[85] **Janice Gregory:** The proposed Measure will place a duty on local education authorities to reconfigure their existing services or arrangements to take into account children's appeals and claim rights. How will this short-term arrangement work as part of the pilot scheme? Have you made any decision as to where you will pilot this?

[86] **Jane Hutt:** The local education authorities have a duty under the Education Act 1996 to provide dispute resolution services. The new duties will be placed, from the outset, on authorities in the pilot scheme areas, so they will be required to implement the provisions of the proposed Measure. With regard to where they might be, it might be useful to say at this point that we think that the pilot schemes should take account of current arrangements and delivery, because, as I think that I said when I introduced the proposed Measure, there are areas with very low appeal numbers and areas with very high appeal numbers. We may want to have pilot schemes in areas at both ends of the spectrum.

[87] **Peter Black:** I have no doubt that the pilot schemes will provide the answer and that the Finance Committee will want to ask about this in more detail, but have you made any assessment of any additional cost to local authorities of implementing the proposed Measure, and do you propose to provide any additional resources?

10.20 a.m.

[88] **Jane Hutt:** We do not think that costs would be significant. We have to monitor expenditure throughout the pilot and evaluation phase. It is interesting that the tribunal, for example, because of the low numbers of appeals, has the capacity to engage very clearly in this. We have put funding—we can go on to discuss this—aside for the pilot schemes with regard to delivery.

[89] **David Lloyd:** Symudwn ymlaen i **David Lloyd:** We will move on to discuss drafod adrannau 6 ac 13. Mae gan Helen sections 6 and 13. Helen Mary has two Mary ddau gwestiwn ar yr adrannau hyn. questions on these sections.

[90] **Helen Mary Jones:** What consideration has been given to the implications of the overlap between this new duty on local authorities, as outlined in sections 6 and 13 of the proposed Measure, and the new model for delivering advocacy services for children and young people, in respect of the timing, the costs and the commissioning process? Do you envisage that the advocacy required by this proposed Measure would be commissioned under those arrangements?

[91] **Jane Hutt:** The pilot and evaluation phase allows for alignment with the developing new model for advocacy services. The key issue is that LEAs will have a duty to make arrangements under the proposed Measure for independent advocacy, and advocates will need to meet minimum standards. As you know, Helen Mary, the statutory duties are for looked-after children and care leavers, but SEN children do not have that statutory entitlement unless they have other needs in terms of being looked after, for example. So, the duty will be for them to make arrangements, and the two are going to align very clearly as we develop the new model for advocacy services.

[92] **Helen Mary Jones:** This brings us back to a discussion that we have had many times about when independence means independence. The new proposals, the model for delivering advocacy, in the proposed Measure place a responsibility on the children and young people's partnerships to lead the commissioning of advocacy, and we have discussed that in other contexts. How will those proposals ensure that the advocacy provisions are independent in the context of SEN, given that the authority will be defending the appeal? This really brings us back to pipers and tunes. How can the guidance emanating from this proposed Measure ensure that there is no compromise in the situation whereby, whether we like it or not, an advocacy service is paid directly by the county council that the child is taking to a tribunal for allegedly failing to meet his or her needs?

[93] **Jane Hutt:** That is why it is important that it is aligned with the development of the new model. We have established a national independent advocacy board. I know that the Children and Young People Committee, which you chair, Helen, will be reporting on its review, and I am sure that that will be very informative and will be helpful to us going forward. The commitment to independence is quite clear in this proposed Measure. It will place a duty on LEAs to provide access to independent advocacy support, including representation. It is going to test out the very challenge that you quite rightly put to me as Minister about independency. As you know, we currently have minimum standards for advocacy providers, and the pilot design group and the pilot projects will work together to ensure that standards of independence are met at all times, and the report will come back to us

on how successful that has been. This proposed Measure is very important to the delivery of the kind of independence that you have been calling for, Helen Mary.

[94] **Helen Mary Jones:** This will be an absolutely crucial test of that, because, in all circumstances, it will be the child needing advocacy under this proposed Measure, against the local authority that, in one way or another, is paying for the advocacy service. Will the guidance that you intend to put in place with this proposed Measure address what a child will be able to do if he or she feels that the fact that his or her advocate is being paid for by the very people whom they want the advocate to speak against means that the independence of the advocate is compromised? Can you ensure that, in that guidance, the child will not be second guessed, and that if the child is saying, 'I do not think that this person is independent, I want someone else', the child will get that someone else without there being a big discussion or without them having to justify it?

[95] **Jane Hutt:** That is a key point and is a criterion for the pilot design group. I am sure that you will report to us, but we will take that on board as it is helpful in relation to the guidance to be produced.

[96] **Mr Maguire:** We recognise the principle that the child should be able to change the advocate without reason and discussion. That is something that we would hold to.

[97] **Helen Mary Jones:** That principle has been widely acknowledged for a very long time. When you speak to children and ask them about how well they have been able to exercise that principle, they are not universally sanguine.

[98] **Jane Hutt:** That would also be a useful point for us to stress in the guidelines.

[99] **David Lloyd:** Symudwn ymlaen at y cwestiynau ar adrannau nesaf y Mesur arfaethedig, sef adrannau 7 ac 14. Mae gan Christine Chapman ddau gwestiwn ar y rheini. **David Lloyd:** We will move on to the questions on the next sections of the proposed Measure, which are sections 7 and 14. Christine Chapman has two questions on those.

[100] **Christine Chapman:** As you said, the question is to do with sections 7 and 14, on the tribunal procedure. The proposed Measure, as drafted, intends to have the same guidelines for children who are making appeals or claims as are currently applied to parents. Given the potential needs of the children and young people who may exercise their right to appeal, what consideration was given to extending the time for the process of making an appeal or disability claim?

[101] **Jane Hutt:** It is important to ensure that decisions are made quickly. That is often the key point in relation to making an appeal, because of the lack of opportunity and the restrictions and barriers that a child or young person might be experiencing. The focus is on meeting the needs of children and young people as quickly as possible. We have not considered extending the time. Under the current arrangements, as with parents, children would have two months from notification of a decision to submit an appeal. Those wishing to make a claim on disability discrimination have six months. Those are the current arrangements. If they dispute a decision, and if the resolution services are going to be engaged, that deadline is then extended to eight months. The important point is that, if we get it right as to how we reach out to children with the information, engagement and advocacy, it should be as speedy as possible. If there were an issue relating to a child needing more time, the tribunal has the power to consider waiving those timescales. Again, we could look at that in the pilot project. Usually, there is an anxiety to get on with it in relation to delivering the outcome of the appeal.



[102] **David Lloyd:** Helen Mary, a oedd **David Lloyd:** Helen Mary, did you want to gennych bwynt i'w godi? raise a point?

[103] **Helen Mary Jones:** The Minister has just responded to my point. I wanted to suggest that that might be tested out in the pilot project, because you could envisage a situation in which the parents would spend a lot of time considering whether they want to make an appeal. If they decide not to, the child may only have a short timeframe to make up his or her mind. However, I completely take on board what the Minister is saying, namely that the last thing that we want is for these processes to become long and drawn-out, because the child's needs are not being met while that is happening. So, perhaps the pilot projects could test that and see whether that throws itself up as an issue. It may not do so.

[104] **Christine Chapman:** Given that, previously, two thirds of all SEN appeals have concerned children of primary-school age, is it anticipated that that will be replicated by children-led appeals? If so, what are the practical implications of that situation on the need for the SEN tribunals to be conducted in a way in which the child can meaningfully participate?

[105] **Jane Hutt:** The last point of the question about the tribunal and how appropriate the hearings can be as regards their being child-friendly is important. I know that the tribunal has already committed to informality and has modified its procedures, as you will know and will obviously be able to explore. The pilot project is crucial in showing us what more we need to do to understand how children and young people can be supported in accessing services to help them make decisions. For example, the current parent partnership services and the disagreement resolution services may be important here, as is looking at the 'case friends'. However, we do not necessarily think that it will just be primary school-age children; we hope that the pilot will show that this can really open up.

10.30 a.m.

[106] In the pilot, we can look not only at those who go through an appeal, but those who might be considering an appeal but then do not opt for an appeal. The pilot will be able to embrace those young people and will assess why they did not take the next step. That is an important point to raise with the committee. It is not just about engaging with those who get to that stage, it is about engaging those who are considering appeals.

[107] **Christine Chapman:** There are a number of young people and families who do not know about the appeal system or think about lodging an appeal. Quite often, they need that support. It is about information and guidance to make it perfectly equitable.

[108] **Jane Hutt:** The legislation offers a new right in law for children in Wales, which we want to promote and which we would expect, through statutory duty, to promote at every level of the additional learning needs support and process.

[109] **David Lloyd:** Symudwn ymlaen at **David Lloyd:** We will move on to section adran 17. Mae'r cwestiwn cyntaf gan Peter 17. Peter Black has the first question. Black.

[110] **Peter Black:** On the pilots, can you explain if and how the initial pilots and evaluation phase will impact upon the proposed Measure? For example, could the findings of the evaluation lead to the proposed Measure having to be amended at a later date?

[111] **Jane Hutt:** Thank you, Peter. As you know, we decided to proceed with implementing the pilot phase followed by a full roll-out. It takes account of the way that we are proposing this based on the consultation process. It allows us to develop and configure key support services. The evidence from the pilots will have an impact. It may have a number

of effects that will impact on the proposed Measure. On making the changes, it is important that we assess the results of the pilot and report to the Assembly. In fact, we have to come back to the Assembly. The legal powers that the Ministers would have are outlined in Section 18. Would it be helpful if we touched on that for a moment? The power to amend the proposed Measure, which was your key point, will be subject to scrutiny by the Assembly under the affirmative procedure and it will enable the Assembly to scrutinise and debate the principles of the proposed changes to the proposed Measure. So, there would be an opportunity, if we feel that we need to amend the proposed Measure.

[112] **Peter Black:** So, you envisage circumstances in which you would use the powers in section 18 to amend the Measure if that was necessary. However, it would require the affirmative procedure of the Assembly to do that.

[113] **Jane Hutt:** Absolutely.

[114] **Peter Black:** How long do you envisage the pilot will last?

[115] **Jane Hutt:** It will go live from September 2010 for two years.

[116] **Peter Black:** Two years? Will you then—

[117] **Jane Hutt:** We could extend the period if we felt that it was appropriate.

[118] **Peter Black:** There are a small number of parental appeals, as we have already touched upon. Are you convinced that that two-year period would give sufficient evidence to allow for the full roll-out?

[119] **Jane Hutt:** As I said earlier in response to Helen Mary, it is possible that we will need to look at piloting in an area where there is a higher number of appeals and an area with a lower number of appeals. As I said earlier, we are not just looking at those who go to appeal, but those who are considering it and those who do not go to appeal. We will learn a lot from the low number pilot as well as the higher number pilot. We need to make sure that the pilots are robust enough. We have a pilot design group to ensure that we learn as much as possible from the pilot and extend it if necessary. However, as I said, Peter, there would be an opportunity if there were some unexpected findings to change the proposed Measure.

[120] **Peter Black:** What sort of geographical area will you look at for the pilot?

[121] **Jane Hutt:** I do not know whether I wish to comment on the geographical area with regard to whether it is rural or urban, for example. Huw might want to do that. The key point is to consider different experiences of LEA delivery of what leads or does not lead to appeals at tribunal.

[122] **Mr Maguire:** We would like to explore the opportunities of aligning our pilot in this project with the additional learning needs pilots to see if there is a degree of commonality and read across with those.

[123] **Peter Black:** Are those statementing pilots?

[124] **Mr Maguire:** Yes.

[125] **Helen Mary Jones:** On the piloting, and I realise that they are early days, I suggest to the Minister that it might be possible to include in the pilot an area where you have a substantial number of Welsh speakers. I have anecdotal evidence from constituency cases that there can be a higher level of appeals from Welsh-speaking families because the provision is

not available. It would be worth testing out whether that anecdotal evidence has a broader basis.

[126] **Jane Hutt:** That would be important wherever the pilot was with regard to entitlement.

[127] **David Lloyd:** Byddwch yn falch o glywed bod y ddau gwestiwn olaf ar adran 18 a phwerau Gweinidogion Cymreig. Mae adran 18(2) yn caniatáu i Weinidogion ychwanegu, dileu neu newid hawliau o dan y Mesur arfaethedig hwn. Ar yr olwg gyntaf, mae'r hawliau hynny yn edrych yn weddol eang. Felly, a fydd hyn yn galluogi Gweinidogion i wneud newidiadau sylweddol i'r Mesur arfaethedig yn hwyr yn y dydd?

**David Lloyd:** You will be pleased to hear that the final two questions are on section 18 and the powers of Welsh Ministers. Section 18(2) allows Ministers to add, remove or modify rights under this proposed Measure. At first glance, those rights seem quite broad. Therefore, does this enable Ministers to make significant amendments to the proposed Measure late in the day?

[128] **Jane Hutt:** There may be a need for a change in the proposed Measure in relation to the pilot. We are not prejudging the outcomes of the pilot in the evaluation phase, but it is important to have the flexibility to amend the proposed Measure to take account of interests. The purpose of that power is to enable Welsh Ministers to make further provision in relation to the rights of children to make appeals and claims in the light of the pilot and to modify those rights if certain issues become apparent. There is also a 24-month time limit for the use of the Order-making power, which starts from the end of the pilot phase. If we did not have the Henry VIII power, we would not be able to immediately implement any changes identified by the pilot evaluation phase. As I said, this relates to the fact that the power allows us to modify or remove rights, to amend or repeal provisions in the Education Act 1996 and the Disability Discrimination Act 2005. This also relates to the effectiveness of the pilot in terms of exercising the full powers under section 18. Our powers will be subject to scrutiny when we bring the pilot's report before the Assembly.

[129] **David Lloyd:** Mae gan Helen Mary gwestiwn atodol.

**David Lloyd:** Helen Mary has a supplementary question.

[130] **Helen Mary Jones:** Going back to our discussion on section 1(4) and that you might include, on the face of the proposed Measure, the issue of children not having a right to appeal, would it be possible for you to take that off the face of the proposed Measure as it is now, and if the pilot threw up circumstances where having the right were not in the child's best interest, would section 18 enable you to include that in regulations? I put it to you that, from a child's rights point of view, that might be a more acceptable way to proceed, namely to take it out of the proposed Measure now and then, if the pilots threw up a circumstance where it was better for a child to have its rights taken away, to include it at a later date, if section 18 enables you to do so. As I see it, section 18 allows you to remove rights.

10.40 a.m.

[131] **Jane Hutt:** I am not a lawyer and I need to ask my officials, but—

[132] **Helen Mary Jones:** I am just asking you to consider that really.

[133] **Jane Hutt:** I would consider it. I think that the only problem is that if it is not included in the proposed Measure, because the proposed Measure is going to deliver and guide the pilot, would it then be an issue that could be considered in the pilot? I do not know whether that would be the case, Amina.

[134] **Ms Rix:** Yes, I would agree that an issue may well arise during the pilot exercise itself. However, you have raised that and we can consider it.

[135] **David Lloyd:** Dyma'r cwestiwn penodol olaf, os na fydd cwestiwn atodol yn neidio i'r bwlch ar gefn hwn. Yn naturiol, mae nifer o ddarnau o ddeddfwriaeth yn mynd rhagddynt o hyd yn San Steffan ac yn y fan hon. Wrth i ni ystyried y Mesur arfaethedig hwn mae angen i ni ystyried effaith unrhyw Fesurau a darnau eraill o ddeddfwriaeth sy'n cael eu hystyried. Yn benodol felly, a oes goblygiadau yn deillio o'r Mesur Cyfleoedd Cyfartal sy'n mynd o flaen y Senedd ar hyn o bryd o ran y Mesur arfaethedig hwn?

**David Lloyd:** This is the last specific question, unless a supplementary question arises from it. Naturally, there are always several pieces of legislation under way in Westminster and here. As we consider this proposed Measure, we need to consider the effects of any Bills or other pieces of legislation that are being considered. Specifically on that, are there implications arising from the Equality Bill that is currently before Parliament for this proposed Measure?

[136] **Jane Hutt:** The Equality Bill, which I very much welcome, is intended to harmonise existing equality legislation. It will make provisions to require Welsh Ministers to make strategic decisions about the exercise of their functions in relation to those all-important issues, such as reducing socio-economic inequalities. We are currently considering any practical issues that might arise and may impact on the proposed Measure.

[137] **David Lloyd:** Mae cwestiwn byr gan Peter ynglŷn â'r termau a ddefnyddir. **David Lloyd:** Peter has a brief question about the terms that are used.

[138] **Peter Black:** I am just going off script a bit. Minister, when you were answering the questions, you referred to both 'special educational needs' and 'additional learning needs'. The report by the Education, Lifelong Learning and Skills Committee made a recommendation that we should try to refer to 'additional learning needs' in future; however, the proposed Measure refers to 'special educational needs' throughout. Is there a legal reason for that or are you thinking of changing the terms used at some stage?

[139] **Jane Hutt:** We are moving to change it, but Amina can explain the legal routes. We are going to do it through the proposed Measure, are we not?

[140] **Ms Rix:** Yes, the terminology used in the proposed Measure is 'special educational needs' because there is no law in Wales as yet to adopt the terminology 'additional learning needs'.

[141] **Jane Hutt:** We can use the proposed Measure to deal with that.

[142] **Ms Rix:** Yes, we can deal with it in any forthcoming proposed Measure.

[143] **Peter Black:** You would need another proposed Measure to change that: is that what you are saying?

[144] **Mr Maguire:** It will probably be in a more general proposed Measure, because this proposed Measure is very narrow in scope and we do not want to put the cart before the horse.

[145] **Peter Black:** I understand that. So, at this moment, you are using 'special educational needs' because that is the current terminology, but a future proposed Measure may well look at changing that.

[146] **Jane Hutt:** That is what we want to move to.

[147] **David Lloyd:** Diolch yn fawr. Yr wyf yn gweld nad oes unrhyw geisiadau ychwanegol am gwestiynau atodol, felly diolchaf yn fawr iawn i'r Gweinidog a'i swyddogion am eu cyfraniadau'r bore yma. Yn naturiol, mae nifer o bwyntiau wedi'u codi y mae angen eglurder penodol arnynt ac felly yr wyf am bwysu'n garedig ar y Gweinidog a'i swyddogion gan fod amserlen y pwyllgor hwn ar gyfer llunio'r adroddiad yn dynn iawn, felly buaswn yn gwerthfawrogi derbyn yr ymatebion ysgrifenedig cyn gynted ag sy'n bosibl. Diolch yn fawr iawn i chi ymlaen llaw.

**David Lloyd:** Thank you very much. I see that there are no additional requests for supplementary questions; therefore, I thank the Minister and her officials for their contributions this morning. Naturally, a number of points have been raised that require specific clarification and therefore I press the Minister and her officials gently to provide written responses as soon as possible because the timetable for this committee to finalise its report is very tight. I thank you in advance.

[148] Yr wyf am gloi'r cyfarfod gan hysbysu fy nghyd-Aelodau y bydd y cyfarfod nesaf ddydd Iau nesaf ac y bydd y pwyllgor yn clywed tystiolaeth gan Dribiwnlys Anghenion Addysgol Arbennig Cymru. Gyda fy niolchiadau i bawb, a'm diolchiadau i'r cyfieithwyr, yr wyf yn datgan bod y cyfarfod ar ben. Diolch yn fawr iawn i chi i gyd.

I will close the meeting by informing colleagues that the next meeting will be next Thursday when the committee will be taking evidence from the Special Educational Needs Tribunal for Wales. My thanks to everyone, including the interpreters. I declare the meeting closed. Thank you very much to all of you.

*Daeth y cyfarfod i ben am 10.44 a.m.  
The meeting ended at 10.44 a.m.*