



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

**Pwyllgor Deddfwriaeth Rhif 2**  
**Legislation Committee No. 2**

**Dydd Iau, 17 Mehefin 2010**  
**Thursday, 17 June 2010**

**Cynnwys**  
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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal, cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg. Darperir cyfieithiad i'r Gymraeg o rannau penodol o'r cyfarfod

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. A translation into Welsh is provided of specific parts of the meeting.

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

Lorraine Barrett	Llafur (yn dirprwyo ar ran Lynne Neagle) Labour (substitute for Lynne Neagle)
Michael German	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Gareth Jones	Plaid Cymru The Party of Wales
Val Lloyd	Llafur (Cadeirydd y Pwyllgor) Labour (Chair of the Committee)
Rhodri Morgan	Llafur Labour
Brynle Williams	Ceidwadwyr Cymreig Welsh Conservatives

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

Nerys Arch	Gwasanaethau Cyfreithiol, Llywodraeth Cynulliad Cymru Legal Services, Welsh Assembly Government
Bernat Joan i Mari	Yr Ysgrifennydd dros Bolisi Iaith, Llywodraeth Catalonia Secretary for Language Policy, The Government of Catalonia
Alun Ffred Jones	Aelod Cynulliad, Plaid Cymru (Y Gweinidog dros Dreftadaeth) Assembly Member, Plaid Cymru (The Minister for Heritage)
Dr Huw Onllwyn Jones	Pennaeth Uned Bolisi'r Iaith Gymraeg a'r Cyfryngau, Llywodraeth Cynulliad Cymru Head of Welsh Language and Media Policy Unit, Welsh Assembly Government

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

Stephen Davies	Cynghorydd Cyfreithiol Legal Adviser
Dr Robert Dunbar	Ymgynghorydd Arbenigol Expert Adviser
Gwyn Griffiths	Cynghorydd Cyfreithiol Legal Adviser
Owain Roberts	Dirprwy Glerc Deputy Clerk
Alys Thomas	Gwasanaeth Ymchwil yr Aelodau Members' Research Service
Gareth Williams	Clerc Clerk

*Dechreuodd y cyfarfod am 9.28 a.m.*  
*The meeting began at 9.28 a.m.*

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

[1] **Val Lloyd:** Good morning, everyone, and welcome to this meeting of Legislation Committee No. 2. The usual housekeeping rules apply.

9.29 a.m.

**Mesur Arfaethedig y Gymraeg (Cymru)—Sesiwn Dystiolaeth  
The Proposed Welsh Language (Wales) Measure—Evidence Session**

[2] **Val Lloyd:** The committee is continuing its scrutiny of the Proposed Welsh Language (Wales) Measure, and today we will be taking evidence from the Government of Catalonia, and, following that, from the Minister for Heritage. I welcome Mr Bernat Joan i Mari, who is the secretary of linguistic policy for the Government of Catalonia. Good morning.

[3] **Mr Joan:** Good morning and thank you very much.

[4] **Val Lloyd:** I remind Members that, if we experience technical problems, under Standing Order No. 10.25 the meeting will adjourn until the link is re-established. We will go straight into questions, if you are ready, Mr—how would you like me to address you?

[5] **Mr Joan:** My name is Joan, and Bernat is my first name. You can choose.

[6] **Val Lloyd:** Thank you. We will call you ‘Joan’, if you do not mind. Are you ready for us to ask questions, Senyor Joan?

[7] **Mr Joan:** Yes, I am ready.

[8] **Val Lloyd:** Could you provide a general description of the demographic position of Catalan in Catalonia?

9.30 a.m.

[9] **Mr Joan:** According to the figures from our last study of language use in 2008, 94 per cent of the population of Catalonia understand Catalan, 81.7 per cent can read Catalan, and 78.3 per cent can speak Catalan. This was a poll on capabilities in the Catalan language in Catalonia. In academic life, Catalan is used by 67.8 per cent of people with their partners in their studies. In the world of work, 63.3 per cent of people use the language, and, in the field of consumers, Catalan is used by about 50 per cent of people. These are the figures from the study of language use in 2008.

[10] **Michael German:** Good morning, Senyor Joan. I would like to ask you a question about the document you sent us. The very last sentence of paragraph 5 states:

[11] ‘we consider that it is important to have a public organisation to provide oversight of the development of promotion and dissemination measures and also to provide effective guarantees and guardianship of the linguistic rights of its citizens.’

[12] There are two parts to looking after language, are there not? One is promoting it to citizens, and, as you say, it is important to have a public body for that, and the second part is the regulation, which ensures that people follow the rules and the legislation. Do you have two separate organisations in Catalunya to do that work, or does one organisation promote the language to the citizens and ensure that the regulations are followed?

[13] **Mr Joan:** We have three different bodies. The first is the academy. As a body, it is concerned with the regulation of the language itself, including the dictionary, grammar and so on, and it deals with the standardisation and normalisation of the language. The academy is

called the Institut d'Estudis Catalans—the Catalan Institute of Studies. The Secretarí de Política Lingüística—the Secretariat for Linguistic Policy—is a body inside the Catalan Government and we provide the projects for law, Acts and other dispositions on language regulation. That is the legal framework, and all dispositions must, of course, be approved by the Catalan Parliament. We do the projects, and the Parliament is the competent body for developing those projects. The third body is the Consortium for Linguistic Normalisation—Consorti per a la Normalització Lingüística—and it has 22 centres all around Catalonia to disseminate the policy on language. On one side, this consortium has participation by the Catalan Government and, on the other side, participation by local powers, such as the municipalities—*consejos comarcales*—which are like your counties, and the *diputaciones provinciales*, which are provincial councils; I do not know whether you have an equivalent in the United Kingdom. This consortium, with the participation of the Government and local entities, is the organisation that arranges activities to promote the Catalan language all around Catalonia.

[14] **Michael German:** Just to be clear, if a company did not obey the law, would it be the Secretarí de Política Lingüística that would take action, or would it be the consortium?

[15] **Mr Joan:** It would be the Government in that case. If it were an issue related to consumers, it would be dealt with by the ministry of commerce, for instance. If it were related to industry, it would be dealt with by the ministry of industry. Each Minister has competence over language issues in the field of each ministry. However, it would be the Government in that case, and the Secretarí de Política Lingüística is part of the Government. The laws are linked with all of the ministries in our Government. In that case, it would be an issue of law, rights and the duties placed on the companies; it would not be an issue of civil activity. It is something different and is a matter for the Government.

[16] **Michael German:** I wish to ask you a different question about another part of your document in which you clearly talk about people's rights to use the language. There are two ways in which you can deal with this. For example, you could impose obligations on companies and public bodies. Do you see that as two different ways of approaching it or do you use both methods of giving rights and imposing obligations on companies?

[17] **Mr Joan:** That is a key point and an important issue because if you recognise a right, then there is, on the other side, an obligation. If I have the right to use the language in my municipality, someone has the obligation to provide someone who can attend to my needs in that language. The way to improve these kinds of dispositions is through consensus. We have been working in Catalonia on trying to improve the consensus on language issues, in the sense that if something is written in law—and we think that many things need to be written in law—then we need strong consensus on the issue, including social and political consensus in order to make the laws. We do not want them to be seen by the population as an imposition, but as a regulation, which then has to work in that way. For that reason, we are very proud of the fact that the main dispositions on language policy in the Catalan Government and Parliament have had the support of around 90 per cent of the Catalan Parliament—that is, the three parties that support the Government as well as the main party of the opposition. That is a good coverage for our language measures.

[18] **Michael German:** The laws that you make often describe the use of the language as being a right of the citizen. Would that be fair?

[19] **Mr Joan:** Yes, that is right. There is a field of the rights of the citizens and a field of language dissemination and promotion, which from the point of view of the legal system is something more ethereal. However, in fact, there are rights that have to be given.

[20] **Lorraine Barrett:** Good morning, Senyor Joan. Based on your written evidence, the

legislative framework for Catalan in Catalonia applies in a variety of ways to the private and voluntary sectors as well as to the state sector. You say that the introduction of services and information in Catalan is considered by most companies as a business opportunity that gives them a competitive advantage over their competitors.

9.40 a.m.

[21] We have received evidence from some representatives of the private sector in Wales who do not see the provision of Welsh-language services as a business opportunity or an advantage, but as a disadvantage to their competitive edge and also as an imposition of costs. They see it in those terms. Can you tell us what the Catalan experience has been of the impact on the private sector? You talk about it as positive, but, from the evidence that we have had in Wales, it is seen more as a negative.

[22] **Mr Joan:** That is another key point from my point of view. We have undertaken a large study on the impact of the use of the Catalan language on other languages in the private sector, the ELAN study, which we can provide for you, if you want. It provides evidence that Catalan is good for business, that is, in the context of multilingualism. Today, only one language is not enough. Day by day, we have enterprises that do business around Europe and the world. Globalisation provides us with an opportunity to do business everywhere. A good basis in multilingualism, that is, the use of several languages, is an opportunity for business and enterprises. We work to introduce Catalan in the private sector in the context of the use of several languages. We can show evidence that in Catalonia the enterprises that normally use the Catalan language and have the ability to use more languages are the enterprises that do better in business.

[23] Perhaps there was the same perception in Catalonia at the beginning, 25 or 30 years ago, that Catalan would be more of an obstacle than an opportunity, but time has shown that things are different. Having another language is a very important plus for enterprises, usually. I will give you an example: I was talking some months ago with a representative of American Airlines who said to me that the use of Catalan increased the profits of the company by 0.6 per cent in Europe. He told me, 'You don't know how much 0.6 per cent is for us. It is a great deal.'

[24] In the case of Wales, and adding the use of Welsh to the use of English, I would ask companies why having greater possibilities to do business should be perceived as negative. Will they lose customers or will they gain new customers? If the profit from gaining customers is greater than the cost of implementing the use of Welsh, that is good for business, because the balance is positive. From experience, it should work in that way.

[25] **Lorraine Barrett:** Thank you for that; it is very interesting. You mentioned that there was a more negative attitude 25 or 30 years ago in Catalonia. What was the percentage of Catalan speakers then? I wonder whether the negativity is because we have a lower percentage of Welsh speakers in Wales than Catalan speakers in Catalonia now.

[26] **Mr Joan:** The percentage of speakers was quite similar to the percentage nowadays, but we have had the immigration of more than 1 million people since 2000. There are 7.5 million inhabitants of Catalonia, but then there were around 5.5 million. The demographic change in Catalunya has been very great. We have quite a similar percentage of speakers, but have more than 1 million more inhabitants now in Catalunya. In total numbers, we have many more Catalan speakers now than we had then, of course.

[27] **Brynle Williams:** Good morning, Senyor Joan. I was fascinated with your last answer on how Catalan is improving commerce, which is something that we were discussing just before this session. In your written evidence you indicate that legislative action is

required to provide ‘positive discrimination’ in favour of the minoritised language and its speakers. In what ways does the Catalan legislative regime provide such positive discrimination, and what have been the implications of such discrimination?

[28] **Mr Joan:** There is positive discrimination in the field of education, for example. We have an education system provided in Catalan. Catalan is the main language of education. We study other languages such as Spanish, English and, very often, French and German, but we do not use them as a vehicle to teach general subjects in the education system. That has had validation by those who follow the implementation of minoritised languages in the European Union, because, as we can show, those who are educated in Catalan and who learn Spanish and English as subjects, can speak and write both Catalan and Spanish at the end of their education. They can deal with both languages at a good level.

[29] In the Valencian country, for instance, there is another system, whereby there are two different streams in education, one in Catalan and the other in Spanish. In both cases, Spanish in the one stream, and Catalan in the other, is taught a subject. Those who are taught in Catalan can speak and write Catalan and Spanish, and those who are educated in Spanish and who are taught Catalan just as a subject cannot deal with both languages in the same way. In this case, positive discrimination for Catalan in education helps our students to be more competent in Catalan, because Spanish is the dominant language in society. They study and learn it at school and also have the impact of the social use of Spanish. For that reason, they are able to speak and to write both languages.

[30] If we were to teach in both languages, or if people could choose, then people’s ability to act, speak and write in Catalan and Spanish would be different according to the model of education. Sometimes positive discrimination is necessary to put both languages on the same level.

[31] **Gareth Jones:** Yn eich tystiolaeth ysgrifenedig yr ydych yn dweud bod meithrin iaith sydd wedi’i lleiafrifo yn golygu na ellir gwadu bod angen rhai mesurau cymhellol neu orfodol. Pa fesurau o’r fath sydd wedi’u cynnwys yng nghyfundrefn ddeddfwriaethol Catalan, a beth oedd canlyniadau mesurau fel hyn, yn arbennig o ran yr unigolion a’r cyrff hynny sy’n gaeth iddynt?

**Gareth Jones:** In your written evidence you state that nurturing a minoritised language necessarily and undeniably entails certain coercive or mandatory measures. What measures of this sort are included in the Catalan legislative regime, and what have been the consequences of such measures, in particular for those individuals and bodies that are subject to them?

9.50 a.m.

[32] **Mr Joan:** You need to know the Catalan language to be a public servant. That is done in order to guarantee the right of the citizen to go to public offices and deal with those offices in the Catalan language. We also have the competence in the Catalan Government to require those in legal offices, such as *notarios*—I do not know the English term, but they are the people who regulate properties and so on—to have knowledge of Catalan. There is also a requirement on those in public bodies, in the education field, and on public radio and television, to have good knowledge of the language. Where citizens have a right to deal with institutions in different fields in Catalan, then there is an obligation on those institutions to provide services in Catalan.

[33] **Rhodri Morgan:** We are grateful for your evidence this morning, given the general parallels between Catalunya and Wales and also the specific parallel that exists between the Catalan and Welsh languages with regard to competition with world languages, namely Spanish in your case and English in ours. There is also a political parallel, with the establishment of devolution in Catalunya after the death of Franco and the emergence of

modern Spain, and the establishment of devolution in Wales a bit later than that in 1999. However, we must also accept that there are some situations where there are not parallels. For instance, we have the impression that Catalan has always been, numerically and percentage-wise, considerably stronger than Welsh. Is that also your impression?

[34] **Mr Joan:** The history of each country is its own history. The dynamics in each country are of course different; we cannot translate exactly the situation of Wales into that of Catalonia. There are some clear differences due to the impact of history and the changes in society and so on. I am pleased to collaborate with you while you improve your legislation on language, but I do not pretend that there is a full parallel between the languages, because each country has its own dynamics and society. We cannot translate exactly from one side into the other.

[35] **Rhodri Morgan:** I want to pursue the question of dynamics. The dynamics that we are looking at are the dynamics of legal linguistics and we are trying to see how that goes side by side with the psycholinguistics of the enthusiasm or lack of enthusiasm for speaking or retaining a minority language. It is the balance between the psycholinguistics and the legal linguistics that we are interested in and whether changing the law helps the language or creates resentment against the language. From what you have said about the situation in Catalunya, post the death of Franco, with the institution of a Catalan regional Government, the psycholinguistics were strongly positive towards re-establishing the Catalan language, therefore the legal linguistics that were applied came on top of a very positive social move towards everything Catalan being seen as good. Is that a fair description of the situation in Catalunya?

[36] **Mr Joan:** Yes, that is very clear. Even in the last part of Franco's dictatorship, there was a good dynamic in this sense of psycholinguistics. Having that good sensibility in our society offered a great chance for us in starting to establish the language Act and the language policy in Catalonia. The Catalan language had been one of the signs of resistance against dictatorship, and we had the sympathy of non-Catalan speakers even. It was useful in starting our language policy.

[37] **Rhodri Morgan:** Okay, but we are now looking at the non-Catalan-speaking people living in Catalunya, whether they are from the rest of Spain or are re-immigrants from Argentina or Ecuador. I am asking about these 1 million extra people who came in and who are not interested in Catalan and do not want to speak Catalan. They probably want to speak Spanish—I do not know; you tell us. Are they resentful? Is there a kind of adverse feeling among people who are supporters of Espanyol rather than Barça and who do not like too much of this talk of Catalan for the Catalans? I know that this morning is not a good morning to be talking to you about football, but give us some idea of whether there is any resentment in Catalunya about there being too much emphasis on Catalan, either from people who have moved in from Argentina or from the rest of Spain, or from those who were never keen on Catalan things and do not like the emergence of modern Catalunya.

[38] **Mr Joan:** It is a complex issue, because the characteristics of the immigrant population are complex. The first immigrants were mostly Spanish speakers, and they came from the depressed places of the Iberian peninsula. Generally, the parents do not speak Catalan, but the second generation, the sons, usually do. On the way to adopting Catalan as one's language, there are some key points that I think are worth citing. Why does a person start to speak Catalan? Why does a young man or woman start to speak Catalan if it is not his or her first language? Usually, it is because something changes in his or her life. For instance, a young person who is applying for a job and needs Catalan skills for that job will make the effort to learn. If a non-Catalan speaker becomes part of a couple with a Catalan speaker, he or she may start to learn Catalan to integrate with Catalan society. Another key point is having the first son or daughter. In a couple where one speaks Catalan and the other does not,



or where both are non-Catalan speakers but are able to speak Catalan, after the birth of the first son or daughter, they will usually incorporate Catalan into the family, because they want the child to be bilingual.

[39] **Rhodri Morgan:** What we are trying to get at is whether part of the population feels resentful about there being too much emphasis on Catalan. Do you have this position where, for a part of the population, the legal linguistic situation is now positive, but for another part of the population the psycholinguistic aspect of this is still wrong and those people think that Catalan is being rammed down their throats and do not like it.

10.00 a.m.

[40] **Mr Joan:** It exists. There is a small part of the population that has a resistance to learning Catalan, but it is not a great percentage. The normality of the use of Catalan means that there is less and less resistance, step by step: as we know more about each other, and interact more with each other, the less this resistance exists. It is very difficult in the non-Catalan-speaking regions of Spain, and it sometimes looks as though that is also the position in Catalonia, but there is a very great difference in language sensibilities between Catalonia and other Spanish autonomous communities. Language sensibility and use, and legislation, of course, are very different if you have two languages as opposed to just one.

[41] **Rhodri Morgan:** Do those in the private sector who are possibly doubtful of, or resentful about, the overemphasis on promoting the Catalan language in Catalunya try to claim that Barcelona's status as a world city of equal importance to Madrid, in commercial terms, is being held back by too much emphasis on Catalan? That is, Barcelona's almost equal position with Madrid—which is very different from the Cardiff-London position here—means that you are in some way holding back Barcelona's emergence as a true world city and perhaps the No. 1 city in the whole of Spain by an overemphasis on Catalan, whereas Madrid can be the capital of Hispanidad, as well as the capital of Spain?

[42] **Mr Joan:** In some fields, such as the book-printing industry, Barcelona is the first city in both the Catalan and the Spanish language. We do not renounce the facility of knowing the Spanish language and being active in Spanish industry, but we are proud of Catalan and want to be active in having the Catalan language in our enterprises and firms. Barcelona is the first city for the Catalan-speaking community. That is the main goal, not being the first city for the Spanish-speaking community. We do not denounce being competitive in the Spanish-speaking world also, and we are also very proud of being in the Commonwealth, of course.

[43] **Rhodri Morgan:** Finally, are there any aspects of your language legislation that you regard as not very effective? If you had the chance to rewrite your language legislation, is there anything that you would do differently with a view to improving its effectiveness at promoting the future of Catalan?

[44] **Mr Joan:** We have to be active in the implementation and improvement of the law day by day. Laws are not the Bible; they can be changed and, if we see that something does not work as we would like it to, we have to change it. In the next session of our legislature, we will have to make an adaptation to the new autonomous statute of Catalonia. There are some changes to the general frame of language in the new statute, and we are working towards the implementation of the legislation in that way. For instance, we now have a law for Occitan, a historical minority language, in the Parliament, and it is to be approved before the end of the summer. We have also improved the law on Catalan sign language, which was approved during the last month. We have to do many more things because of the changes to the statute. The key issue now, and where we should concentrate on improving our laws, is the social use of language. Catalan has found its way into public bodies, the media and education in quite a correct manner. However, in the social use of language, the Spanish

language has pre-eminence. There is no equilibrium and Catalan has not yet acquired a good position. We should be more effective and study how to have an impact and how to work to improve the social use of language. These are the main dynamic issues raised in the field of language policy in Catalonia.

[45] **Rhodri Morgan:** I think that I have time for one more question. On individual rights to demand services—this question applies to both Castilian and Catalan—if a Catalan person wants to use the law to demand a service in Catalan that he or she cannot get from the private sector, does he or she have the right to approach any agency of the Catalan Government to assist him or her in demanding those services from the private sector as reasonable? If you were a non-Catalan speaker and spoke only Castilian, and you were approaching a business that was quite keen on the use of the Catalan language, could you also use the same state agency to demand that you should have that service in Castilian?

[46] **Mr Joan:** Yes. There are offices under the responsibility of our Secretary of language policy. These are the language guarantee offices, to which all citizens can apply to preserve their language rights. In both cases—not having services in Catalan or not having services in Castilian—we do not have the ability to act against the enterprises, but we deliver the demands of the citizens made to these offices to the Ministries and then they act to preserve the language rights of everyone.

[47] **Rhodri Morgan:** Thank you very much. Muchas gracias. Diolch yn fawr. I am sorry about the football. [*Laughter.*]

[48] **Mr Joan:** Do not worry about the football. Switzerland is a very interesting model of confederation for us all, and the Swiss are good friends. [*Laughter.*]

[49] **Val Lloyd:** Senyor Joan, we have finished our questions. Is there anything more that you would like to add?

[50] **Mr Joan:** Only to wish you all the best in the implementation of this new Welsh language law. All the best for Wales, and may you do good work in your sessions. I hope that our discussions have added something to the information that you need to do your work. I will just say to all of you, ‘Diolch yn fawr’.

[51] **Val Lloyd:** Senyor Joan, you certainly have added to our discussion, and broadened our scope and interest. On behalf of committee members, thank you for your contribution. We will send you a transcript of what has been said for you to verify. Thank you.

[52] **Mr Joan:** Diolch yn fawr.

[53] **Val Lloyd:** We will now take a short break. I ask Members to be back at 10.30 a.m. sharp, because we have a considerable number of questions of importance for the Minister.

*Gohiriwyd y cyfarfod rhwng 10.10 a.m. a 10.30 a.m.  
The meeting adjourned between 10.10 a.m. and 10.30 a.m.*

### **Mesur Arfaethedig y Gymraeg (Cymru)—Sesiwn Dystiolaeth The Proposed Welsh Language (Wales) Measure—Evidence Session**

[54] **Val Lloyd:** Welcome back. I welcome Alun Ffred Jones, the Minister for Heritage, to this morning’s meeting. You are very welcome, Minister. I note that you are

**Val Lloyd:** Croeso yn ôl. Yr wyf yn croesawu Alun Ffred Jones, y Gweinidog dros Dreftadaeth, i gyfarfod y bore yma. Croeso cynnes i chi, Weinidog. Gyda chi mae

accompanied by Huw Onllwyn Jones, head of the Welsh language and media policy unit, and Nerys Arch, a senior lawyer with the Welsh Government.

Huw Onllwyn Jones, pennaeth Uned yr Iaith Gymraeg a Pholisi Cyfryngau, a Nerys Arch, uwch gyfreithwraig gyda Llywodraeth Cymru.

[55] We will continue taking evidence on the proposed Welsh language Measure. Are you ready, Minister?

Yr ydym am barhau i gymryd tystiolaeth ar Fesur arfaethedig y Gymraeg. A ydych yn barod, Weinidog?

[56] **The Minister for Heritage (Alun Ffred Jones):** Yes.

**Y Gweinidog dros Dreftadaeth (Alun Ffred Jones):** Ydwyf.

[57] **Val Lloyd:** Thank you. Brynle, I believe that you have some questions.

**Val Lloyd:** Diolch. Brynle, credaf fod gennych ambell gwestiwn.

[58] **Brynle Williams:** The Law Society underlined the need for clarity in the proposed Measure. What is your response to the view, heard from many witnesses, that the proposed Measure does not, in its present form, clearly confirm the official status of the Welsh language in Wales?

**Brynle Williams:** Pwysleisiodd Cymdeithas y Cyfreithwyr yr angen am eglurder yn y Mesur arfaethedig. Beth yw'ch ymateb i'r farn, a glywyd gan nifer o dystion, nad yw'r Mesur arfaethedig, ar ei ffurf bresennol, yn cadarnhau'n glir statws swyddogol y Gymraeg yng Nghymru?

[59] **Alun Ffred Jones:** I do not agree. Section 1, in clear and explicit terms, confirms that the Welsh language already has official status in Wales. This proposed Measure makes further provision with regard to that status. That is it.

**Alun Ffred Jones:** Nid wyf yn cytuno. Mae Adran 1, mewn termau clir ac eglur, yn cadarnhau bod gan y Gymraeg eisoes statws swyddogol yng Nghymru. Mae'r Mesur arfaethedig hwn yn gwneud darpariaeth bellach mewn perthynas â'r statws hwnnw. Dyna fel mae pethau.

[60] **Brynle Williams:** In his written evidence, Emyr Lewis suggested that the following statement be inserted into the proposed Measure:

**Brynle Williams:** Yn ei dystiolaeth ysgrifenedig, awgrymodd Emyr Lewis fod y canlynol yn cael ei fewnosod yn y Mesur arfaethedig:

[61] 'Welsh and English are the official languages of Wales, and have equality of status'.

'Y Gymraeg a'r Saesneg yw ieithoedd swyddogol Cymru, ac mae eu statws yn gyfartal'.

[62] Would you be amenable to amending the proposed Measure so that such a statement is included? If not, why not?

A fyddech yn fodlon gwella'r Mesur arfaethedig fel bod datganiad o'r fath yn cael ei gynnwys? Os na fyddech, pam hynny?

[63] **Alun Ffred Jones:** The work of this committee has generated significant and welcome interest. I have listened carefully to the evidence presented to you, and I look forward to reading your views and suggestions. I do not think that I can elaborate on that.

**Alun Ffred Jones:** Mae gwaith y pwyllgor hwn wedi ennyn diddordeb sylweddol sydd i'w groesawu. Yr wyf wedi gwrando'n ofalus ar y dystiolaeth a gyflwynwyd i chi, ac edrychaf ymlaen at ddarllen eich safbwyntiau a'ch awgrymiadau. Ni chredaf y gallaf ymhelaethu ar hynny.

[64] **Brynle Williams:** To what extent do you agree that the inclusion of such a statement would bring practical and symbolic

**Brynle Williams:** I ba raddau yr ydych yn cytuno y byddai cynnwys datganiad o'r fath yn achosi manteision ymarferol a symbolaidd

benefits as well as conferring cultural, social and psychological benefits?

[65] **Alun Ffred Jones:** I believe that the Measure, when made, will of itself have a significant impact. The proposed Measure provides for the establishment of a high-profile champion for the Welsh language who will be able to investigate cases of interference with the freedom to communicate in Welsh, with significantly strengthened powers to ensure organisations' compliance with the duties that are to be imposed on them. People will gain confidence from the fact that they are entitled to use Welsh in these contexts, safe in the knowledge that they can take the matter up with the commissioner if their rights are denied or their freedoms interfered with. Of course, I am going to listen carefully to all the evidence presented to this committee, and I look forward to hearing the committee's views.

[66] **Brynle Williams:** Meri Huws, chair of the Welsh Language Board, told us:

[67] 'Credaf y gwelwn ddatblygiad cyfreithiol dros amser. Mae'n fwy neu lai yn amhosibl rhagweld beth fyddai hynny yn y dyfodol ond byddai datganiad cyfreithiol yma ynglŷn â statws y Gymraeg.'

[68] To what extent do you agree with Meri Huws's point about the legal value of such a statement?

[69] **Alun Ffred Jones:** In my previous appearance before this committee, I voiced the opinion that there was legal value to the provisions set out in section 1 of the proposed Measure. The fact that the Welsh language enjoys legal recognition in Wales is set out in section 1 of the proposed Measure. This, together with this Government's policy of promoting the Welsh language in Wales, as an essential and enduring component of the history, culture and social fabric of our nation, could be factors of relevance to the interpretation by the courts in England and Wales of antidiscrimination legislation.

[70] **Brynle Williams:** The Law Society stated that

yn dod â manteision diwylliannol, cymdeithasol a seicolegol?

**Alun Ffred Jones:** Credaf y bydd y Mesur, ar ôl cael ei wneud, yn cael effaith sylweddol. Mae'r Mesur arfaethedig yn darparu ar gyfer sefydlu hyrwyddwr amlwg ar gyfer y Gymraeg a fydd yn gallu ymchwilio i achosion o ymyrraeth â'r rhyddid i gyfathrebu yn Gymraeg, gyda phwerau llawer cryfach i sicrhau bod sefydliadau yn cydymffurfio â'r dyletswyddau a fydd yn cael eu gosod arnynt. Bydd pobl yn magu hyder yn y ffaith bod ganddynt hawl i ddefnyddio'r Gymraeg yn y cyd-destunau hyn, gan fod yn dawl eu meddwl y gallant fynd i'r afael â'r mater ymhellach gyda'r comisiynydd os nad ydynt yn derbyn eu hawliau neu os ymyrrir ar eu rhyddid. Wrth gwrs, yr wyf am wrando'n astud ar yr holl dystiolaeth a gyflwynir i'r pwyllgor hwn, ac edrychaf ymlaen at glywed barn y pwyllgor.

**Brynle Williams:** Dywedodd Meri Huws, cadeirydd Bwrdd yr Iaith Gymraeg, wrthym:

'I believe that we would see legal development over time. It is almost impossible to anticipate what that would be in the future, but there would be a legal statement here on the status of the Welsh language.'

I ba raddau yr ydych yn cytuno gyda phwynt Meri Huws am werth cyfreithiol datganiad o'r fath?

**Alun Ffred Jones:** Yn fy ymddangosiad blaenorol ger bron y pwyllgor hwn, mynegais y farn fod gwerth cyfreithiol i'r darpariaethau a nodir yn adran 1 y Mesur arfaethedig. Mae'r ffaith bod y Gymraeg yn mwynhau cydnabyddiaeth gyfreithiol yng Nghymru yn cael ei nodi yn adran 1 y Mesur arfaethedig. Gallai hyn, ynghyd â pholisi'r Llywodraeth hon o hyrwyddo'r Gymraeg yng Nghymru, fel elfen hanfodol a pharhaus o hanes, diwylliant a gwneuthuriad cymdeithasol ein cenedl, fod yn ffactorau perthnasol i ddehongliad y llysoedd yng Nghymru a Lloegr o ddeddfwriaeth gwrthwahaniaethol.

**Brynle Williams:** Nododd Cymdeithas y Cyfreithwyr:

[71] ‘Signalling the law is not what we need. We need clear legislation. We need to be clear that problems that can be foreseen are dealt with at the time of law making and that we do not leave any queries and issues as grey areas.’

‘Signalling the law is not what we need. We need clear legislation. We need to be clear that problems that can be foreseen are dealt with at the time of law making and that we do not leave any queries and issues as grey areas.’

[72] What is your response to the Law Society’s view that the proposed Measure is not clear legislation in respect of the status of the Welsh language?

Beth yw’ch ymateb i farn Cymdeithas y Cyfreithwyr nad yw’r Mesur arfaethedig yn ddeddfwriaeth glir mewn perthynas â statws y Gymraeg?

[73] **Alun Ffred Jones:** I do not agree that the proposed Measure is unclear. I repeat that section 1 makes clear and explicit provision in relation to the official status of the Welsh language.

**Alun Ffred Jones:** Nid wyf yn cytuno bod y Mesur arfaethedig yn aneglur. Pwysleisiaf eto fod adran 1 yn gwneud darpariaeth glir ac eglur mewn perthynas â statws swyddogol y Gymraeg.

[74] **Gareth Jones:** Gwrandewais yn ofalus ar eich ymateb i’r cwestiynau pwysig hynny. Maent yn bwysig gan fod bron bob un o’r tystion yn eu cydnabod fel rhywbeth sy’n angenrheidiol i atgyfnerthu sefyllfa neu statws yr iaith Gymraeg yng Nghymru. Fodd bynnag, mae’n amlwg eich bod yn anghytuno â hynny. Mae’n creu rhywfaint o benbleth i mi, gan mai dyna yw’r dystiolaeth hyd yma—yr wyf yn derbyn y byddwch yn astudio’r dystiolaeth honno yn ofalus. I fod yn gwbl agored, a yw’n fwriad yn y Mesur arfaethedig i wneud dim am statws y Gymraeg na’r ffaith bod y Gymraeg yn iaith swyddogol? Mae’r mynegbost yn yr adran honno yn dweud ‘Dyma fel mae pethau yng Nghymru, a dyma fel y bydd pethau, doed â ddelo, cyn belled ag y mae’r Mesur arfaethedig hwn yn y cwestiwn’. Yr hyn yr ydym yn chwilio amdano yw’r prif neges yr ydych wedi ei rhoi, sef y bydd y Mesur arfaethedig yn hwyluso cyfle i gwmnïau a mudiadau yng Nghymru defnyddio mwy ar yr iaith Gymraeg ac yn eu gorfodi’n statudol i wneud hynny. Ai dyna yw prif bwrpas y Mesur arfaethedig, ac nad yw’n ymwneud â’r statws na’r sefyllfa sy’n bodoli cyn belled ag y mae’r iaith yn y cwestiwn yng Nghymru heddiw?

**Gareth Jones:** I listened carefully to your response to those important questions. They are important because almost all witnesses have recognised these issues as being necessary in order to reinforce the position or status of the Welsh language in Wales. However, it is obvious that you disagree with that. It is causing me some confusion, because that is the evidence that we have received to date—I accept that you will study that evidence carefully. To be completely open about this, is it the intention in the proposed Measure to do nothing about the status of the language or the fact that Welsh is an official language? The signpost in that section says ‘This is how things are in Wales, and this is how things will be, come what may, in terms of this proposed Measure’. What we are looking for is the main message that you convey, that the proposed Measure will facilitate the opportunity for companies and organisations in Wales to make greater use of the Welsh language and to give them a statutory duty to do so. Is that the main purpose of the proposed Measure, and that it has nothing to do with the current status of the Welsh language as it exists in Wales today?

[75] **Alun Ffred Jones:** Mae Rhan 1 y Mesur arfaethedig yn dweud yn glir iawn ein bod yn cadarnhau statws swyddogol yr iaith Gymraeg yng Nghymru. Mae’r Mesur arfaethedig hefyd yn sefydlu swydd comisiynydd, a fydd yn hyrwyddo a

**Alun Ffred Jones:** Part 1 of the proposed Measure states very clearly that we confirm the official status of the Welsh language in Wales. The proposed Measure also establishes the role of commissioner, who will promote and develop the use of the

datblygu'r defnydd o'r Gymraeg, ac mae'n creu fframwaith i greu safonau, a fydd yn golygu bod gan siaradwyr Cymraeg yr hawl i ddefnyddio'r Gymraeg mewn ystod eang o sefyllfaoedd gyda sefydliadau a chwmnïau. Felly, yr wyf yn credu bod y Mesur arfaethedig yn bellgyrhaeddol ac yn gam mawr ymlaen i gynyddu'r defnydd o'r Gymraeg. Wrth gynyddu'r defnydd o'r Gymraeg ac ehangu ystod y defnydd hwnnw, yr ydych yn cadarnhau ac ehangu statws y Gymraeg. Proses yw statws, ac nid digwyddiad.

[76] **Gareth Jones:** Pam, felly, fod anghydweld ynglŷn â'r dehongliad sylfaenol hwnnw yr ydych yn ei roi? Nid yw tystion sydd wedi bod gerbron ac sydd wedi rhoi tystiolaeth ysgrifenedig i'r pwyllgor yn gweld y Mesur arfaethedig yn yr un goleuni â chi o ran statws swyddogol a chyfartal yr iaith. Pam fod yr anghydweld hwnnw yn bodoli?

[77] **Alun Ffred Jones:** Yr wyf wedi gweld y dystiolaeth ac yr ydym yn edrych ymlaen yn eiddgar at weld argymhellion y pwyllgor hwn a'r cyfiawnhad drostynt, a hefyd effaith cyfreithiol unrhyw ddatganiad gwahanol yr ydych am ei weld, gan mai Mesur arfaethedig cyfreithiol y hwn.

[78] **Michael German:** To pursue that point for a moment, you have just pointed out that the section upon which you are hanging the official status of the Welsh language is 1.1 of Part 1 of the proposed Measure, which says that the proposed Measure makes further provision about the official status of the Welsh language in Wales. Are you saying that that, therefore, confirms official status? Can you point to where it says in previous legislation that Welsh is an official language in Wales?

[79] **Alun Ffred Jones:** The official status of the language in Wales is seen in parts of various Acts of Parliaments, but also in its usage in official circumstances, be it the teaching of Welsh in schools, its use in the National Assembly, and myriad other examples.

Welsh language, and creates a framework to create standards, which will mean that Welsh speakers have the right to use the Welsh language in a broad range of situations with institutions and companies. Therefore, I believe that the proposed Measure is far-reaching and a major step forward in increasing the use of the Welsh language. By increasing the use of the language and enhancing its use, you confirm and enhance the status of the Welsh language. Status is a process, not an event.

**Gareth Jones:** Therefore, why is there disagreement about that basic interpretation that you have provided? Witnesses who have provided oral and written evidence do not see the proposed Measure in the same light as you in terms of official status and equality of status. Why does that disagreement exist?

**Alun Ffred Jones:** We have seen the evidence and we look forward very much to seeing the committee's recommendations and the justification for them, and also the legal impact of any different statement that you want to see, as this is a legal proposed Measure.

**Michael German:** Gan ddilyn y mater hwnnw am eiliad, yr ydych newydd ddweud mai'r adran yr ydych yn ei chysylltu â statws swyddogol y Gymraeg yw 1.1. o Ran 1 y Mesur arfaethedig, sy'n dweud bod y Mesur arfaethedig yn gwneud darpariaeth bellach am statws swyddogol y Gymraeg yng Nghymru. A ydych yn dweud bod hynny, felly, yn cadarnhau statws swyddogol? A allwch gyfeirio at ble y mae'n dweud mewn deddfwriaeth flaenorol fod y Gymraeg yn iaith swyddogol yng Nghymru?

**Alun Ffred Jones:** Gwelir statws swyddogol yr iaith yng Nghymru mewn rhannau o Ddeddfau Seneddol amrywiol, ond hefyd yn ei defnydd mewn amgylchiadau swyddogol, drwy addysgu Cymraeg mewn ysgolion, ei defnydd yn y Cynulliad Cenedlaethol, ac enghreifftiau eraill rif y gwllith.

10.40 a.m.

[80] **Michael German:** Could I have an example of where it says in an Act that Welsh is an official language?

**Michael German:** A gaf fi enghraifft o ble mae'n dweud mewn Deddf bod y Gymraeg yn iaith swyddogol?

[81] **Alun Ffred Jones:** The Government of Wales Act 2006 states that, under equality of treatment,

**Alun Ffred Jones:** Mae Deddf Llywodraeth Cymru 2006 yn nodi, o dan driniaeth gyfartal,

[82] 'The Assembly must, in the conduct of Assembly proceedings, give effect, so far as is both appropriate in the circumstances and reasonably practicable, to the principle that the English and Welsh languages should be treated on a basis of equality'.

'The Assembly must, in the conduct of Assembly proceedings, give effect, so far as is both appropriate in the circumstances and reasonably practicable, to the principle that the English and Welsh languages should be treated on a basis of equality'.

[83] That is a clear reference in the Government of Wales Act.

Mae hynny'n gyfeiriad clir yn Neddf Llywodraeth Cymru.

[84] **Val Lloyd:** Mike, if I can refer you to Part 1 of the proposed Measure, it says in section 1(2) that—

**Val Lloyd:** Mike, os caf fi eich cyfeirio at Ran 1 o'r Mesur arfaethedig, mae'n dweud yn adran 1(2) fod—

[85] **Alun Ffred Jones:** Apparently, this is the first time that the term 'official status' appears in legislation as regards the Welsh language.

**Alun Ffred Jones:** Yn ôl pob tebyg, dyma'r tro cyntaf i'r term 'statws swyddogol' ymddangos mewn deddfwriaeth mewn perthynas â'r Gymraeg.

[86] **Michael German:** That is the confusion that I am trying to address. You have just said that the words, 'official status', appear for the first time, but they do so in the context of making 'further provision about the official status' of the language. You would assume, therefore, that if you are making further provision about official status, there had been previous provisions regarding official status. I am grateful for your clarification that the words, 'official status', have not been used about the Welsh language in any previous legislation. That is correct, is it?

**Michael German:** Dyna'r dryswch yr wyf yn ceisio mynd i'r afael ag ef. Yr ydych newydd ddweud bod y geiriau, 'statws swyddogol', yn ymddangos am y tro cyntaf, ond maent yn gwneud hynny yn y cyd-destun o wneud darpariaeth bellach am statws swyddogol yr iaith. Byddech yn rhagdybio, felly, os ydych yn gwneud darpariaeth bellach am statws swyddogol, bod darpariaethau blaenorol wedi bod mewn perthynas â statws swyddogol. Yr wyf yn ddiolchgar am eich esboniad nad yw'r geiriau, 'statws swyddogol', wedi'u defnyddio am y Gymraeg mewn unrhyw ddeddfwriaeth flaenorol. Mae hynny'n gywir, onid ydyw?

[87] **Alun Ffred Jones:** It is as far as I know.

**Alun Ffred Jones:** Ydy cyhyd ag y gwn i.

[88] **Dr Jones:** However, as the Minister said, there is previous legislation that imposes duties on organisations to use Welsh—

**Dr Jones:** Fodd bynnag, fel y dywedodd y Gweinidog, mae deddfwriaeth flaenorol sy'n gosod dyletswyddau ar sefydliadau i ddefnyddio'r Gymraeg—

[89] **Michael German:** It was the words 'official status' that I was asking about. As long as we have that clear, I am satisfied.

**Michael German:** Yr oeddwn yn gofyn am y geiriad 'statws swyddogol'. Cyhyd â bod hynny'n glir, yr wyf yn fodlon.

[90] I will turn now to the independence of the commissioner. The Welsh Language Board told us that a large part of the regulatory work that the commissioner would undertake, and a large part of the work that the board currently undertakes, relates to Government itself. It would be difficult for the commissioner to regulate Government work independently. We have had other witnesses who have said the same thing. Do you agree?

[91] **Alun Ffred Jones:** No, I do not agree. The commissioner will play a significant role in delivering Parts 4 and 5 of the proposed Measure, which deal with the imposition of duties upon persons through standards, and the enforcement of those standards. In so doing, he or she will deal with a wide range of organisations, including the more than 550 organisations that currently operate Welsh language schemes. This demonstrates that a large part of the commissioner's work will not involve the Government, and he or she will be able to operate independently of Government as that work is undertaken. With regard to the independence of the commissioner from the Government, I have sent this committee a note setting out the provisions in the proposed Measure that establish and safeguard that independence.

[92] **Michael German:** If I remember rightly, when you first gave us evidence you likened the role of the commissioner to that of other commissioners—the Commissioner for Older People in Wales, the Children's Commissioner for Wales, and so on. However, Emyr Lewis told us that there is a basic difference between their role and the role of the language commissioner, in that the language commissioner will be able to impose sanctions on Welsh Ministers—for example, a civil penalty under section 76(3)(e)—or even bring proceedings against Welsh Ministers as part of his or her regulatory functions. These other commissioners do not have that sort of power. Do you agree with Mr Lewis that there is a difference between the other two commissioners and this commissioner, in that this commissioner has regulatory powers over the Government, including penalties of

Yr wyf am droi'n awr at y comisiynydd annibynnol. Dywedodd Bwrdd yr Iaith Gymraeg bod rhan fawr o'r gwaith rheoleiddio y byddai'r comisiynydd yn ei wneud, a rhan fawr o'r gwaith y mae'r bwrdd yn ei wneud ar hyn o bryd, yn ymwneud â'r Llywodraeth ei hun. Byddai'n anodd i'r comisiynydd reoleiddio gwaith y Llywodraeth yn annibynnol. Yr ydym wedi cael tystion eraill sydd wedi dweud yr un peth. A ydych yn cytuno?

**Alun Ffred Jones:** Na, nid wyf yn cytuno. Bydd y comisiynydd yn cyfrannu'n allweddol at gyflawni Rhannau 4 a 5 y Mesur arfaethedig, sy'n ymdrin â gosod dyletswyddau ar bobl drwy safonau, a gorfodi'r safonau hynny. Drwy wneud hynny, bydd yn ymdrin ag ystod eang o sefydliadau, gan gynnwys mwy na 550 o sefydliadau sy'n gweithredu cynlluniau iaith Gymraeg ar hyn o bryd. Mae hyn yn dangos na fydd rhan fawr o waith y comisiynydd yn ymwneud â'r Llywodraeth, a bydd yn gallu gweithredu'n annibynnol i'r Llywodraeth wrth wneud y gwaith hwnnw. O ran annibyniaeth y comisiynydd o'r Llywodraeth, yr wyf wedi anfon nodyn i'r pwyllgor hwn yn nodi'r darpariaethau yn y Mesur arfaethedig sy'n sefydlu a diogelu'r annibyniaeth honno.

**Michael German:** Os cofiaf yn iawn, pan fu i chi roi tystiolaeth i ni am y tro cyntaf yr oeddech yn dweud bod rôl y comisiynydd yn debyg i rôl comisiynwyr eraill—Comisiynydd Pobl Hŷn Cymru, Comisiynydd Plant Cymru, ac ati. Fodd bynnag, dywedodd Emyr Lewis wrthym fod gwahaniaeth sylfaenol rhwng eu rôl hwy a rôl y comisiynydd iaith, gan y bydd y comisiynydd iaith yn gallu gosod sancsiynau ar Weinidogion Cymru—er enghraifft, cosb sifil o dan adran 76(3)(e)—neu hyd yn oed ddwyn achos yn erbyn Gweinidogion Cymru fel rhan o'i swyddogaethau rheoleiddio. Nid oes gan y comisiynwyr eraill hyn bŵer o'r fath. A ydych yn cytuno â Mr Lewis bod gwahaniaeth rhwng y ddau gomisiynydd arall a'r comisiynydd hwn, o ystyried bod gan y comisiynydd hwn bwerau rheoleiddio dros y Llywodraeth, gan gynnwys cosbau fel sydd wedi'u hamlinellu?



the sort that he has outlined?

[93] **Alun Ffred Jones:** It is true that the Children's Commissioner for Wales and the Commissioner for Older People in Wales cannot place sanctions on Welsh Ministers. There are, however, existing examples of other commissioners or similar bodies able to place sanctions on Government Ministers where those same Ministers make appointments to those bodies. These include the Health and Safety Executive and the Equality and Human Rights Commission. There is no off-the-shelf model for commissioners. This model is tailor-made for the Welsh situation.

[94] **Michael German:** A multitude of our witnesses have said that the position of the commissioner will only be sufficiently independent if he or she is appointed under much broader conditions than those outlined in the proposed Measure. Are you prepared to reconsider this matter when redrafting the proposed Measure before it is put before the Assembly, to accommodate those positions and ensure that independence for the commissioner on the face of this proposed Measure?

[95] **Alun Ffred Jones:** I am satisfied that the procedures set out in the proposed Measure are appropriate with regard to appointing the commissioner. I have sent a note regarding that to the committee, as I said. It should be borne in mind that part of the commissioner's role will be to promote and facilitate the use of Welsh, and he or she will therefore play an important role with regard to delivering the Government's policy aims for the language. I would expect the commissioner to work closely with the Welsh Assembly Government, giving advice and developing projects to help promote the use of Welsh. I know, however, that this has been the subject of much debate since the proposed Measure was laid before the Assembly and I will of course be interested to hear this committee's view on the matter.

[96] **Michael German:** Some of the language bodies were concerned that there is no statutory principle or purpose to drive the work of the commissioner, such as that for

**Alun Ffred Jones:** Mae'n wir na all Comisiynydd Pobl Hŷn Cymru a Chomisiynydd Plant Cymru osod sancsiynau ar Weinidogion Cymru. Fodd bynnag, mae enghreifftiau cyfredol o gomisiynwyr eraill neu gyrff tebyg yn gallu gosod sancsiynau ar Weinidogion y Llywodraeth lle mae'r union Weinidogion hynny yn gwneud penodiadau i'r cyrff hynny. Mae'r rhain yn cynnwys yr Awdurdod Gweithredol Iechyd a Diogelwch a'r Comisiwn Cydraddoldeb a Hawliau Dynol. Nid oes model parod ar gyfer comisiynwyr. Mae'r model hwn wedi'i deilwra'n arbennig ar gyfer y sefyllfa yng Nghymru.

**Michael German:** Mae llawer o'n tystion wedi dweud y bydd swydd y comisiynydd ond yn ddigon annibynnol os yw'n cael ei benodi o dan amodau llawer mwy cyffredinol na'r rhai a amlinellir yn y Mesur arfaethedig. A ydych yn barod i ailystyried y mater hwn wrth ailddrafftio'r Mesur arfaethedig cyn ei gyflwyno ger bron y Cynulliad, i ddarparu ar gyfer y swyddi hynny a sicrhau annibyniaeth ar gyfer y comisiynydd ar wyneb y Mesur arfaethedig hwn?

**Alun Ffred Jones:** Yr wyf yn fodlon bod y gweithdrefnau a nodir yn y Mesur arfaethedig yn briodol o ran penodi'r comisiynydd. Yr wyf wedi anfon nodyn ynglŷn â hynny i'r pwyllgor, fel y dywedais. Dylid cofio mai rhan o rôl y comisiynydd fydd hyrwyddo a hwyluso defnydd o'r Gymraeg, ac felly bydd yn gwneud cyfraniad pwysig at gyflawni nodau polisi'r Llywodraeth ar gyfer yr iaith. Byddwn yn disgwyl i'r comisiynydd weithio'n agos gyda Llywodraeth Cynulliad Cymru, gan roi cyngor a datblygu prosiectau i gynorthwyo i hyrwyddo'r defnydd o'r Gymraeg. Gwn, fodd bynnag, fod hyn wedi bod yn destun cryn ddadlau ers cyflwyno'r Mesur arfaethedig ger bron y Cynulliad ac yn amlwg bydd gennyf ddiddordeb clywed barn y pwyllgor ar y mater.

**Michael German:** Yr oedd rhai o'r cyrff iaith yn bryderus nad oes egwyddor neu ddiben statudol i yrru gwaith y comisiynydd yn ei flaen, fel yr un ar gyfer y comisiynydd

the children's commissioner in section 72A of the Care Standards Act 2000. Is that statutory principle to drive the work of the commissioner important? Do these witnesses have a point that might need addressing in future?

[97] **Alun Ffred Jones:** The proposed Measure is clear with regard to the role of the commissioner. The commissioner will have statutory powers to promote and facilitate the use of the Welsh language. That is in section 3. That will also enable the commissioner to encourage best practice in relation to the use of Welsh by persons who deal with, or provide services to other persons. The commissioner will also play a very significant role in delivering Parts 4 and 5 of the proposed Measure, which deal with the imposition of duties on persons through standards, and the enforcement of those standards. The commissioner will be able to investigate alleged cases of interference with people's freedom to use Welsh with one another. So, there is a clear direction of travel for the commissioner and it is clear that his or her purpose will be to promote and facilitate the use of Welsh and create rights for Welsh speakers.

[98] **Michael German:** I will move on a little now to promotion and the regulatory role of the commissioner. A large number of witnesses have told us that they think that it would be difficult—and some would say complex—for one person, the commissioner, to combine the promotional and regulatory role as enshrined in this proposed Measure. How do you propose to address those concerns?

[99] **Alun Ffred Jones:** There are two views. One is that the two roles should be combined, and retained along the current model. The other is that they should be separate. We are in discussions with the Welsh Language Board and others on this matter. I can say that I am not minded to retain the Welsh Language Board or establish another body in order to undertake any promotional role that may not be appropriate for the commissioner. As I have said, however, the balance with regard to the regulatory and promotional role is something that I am discussing with the board and

plant yn adran 72A o Ddeddf Safonau Gofal 2000. A yw'r egwyddor statudol i yrru gwaith y comisiynydd yn ei flaen yn bwysig? A oes gan y tystion hyn bwynt y gallai bod angen rhoi sylw iddo yn y dyfodol?

**Alun Ffred Jones:** Mae'r Mesur arfaethedig yn glir o ran rôl y comisiynydd. Bydd gan y comisiynydd bwerau statudol i hyrwyddo a hwyluso'r defnydd o'r Gymraeg. Mae hynny yn adran 3. Bydd hynny hefyd yn galluogi'r comisiynydd i annog arferion gorau mewn perthynas â'r defnydd o'r Gymraeg gan bobl sy'n ymdrin â phobl eraill neu'n darparu gwasanaethau iddynt. Bydd y comisiynydd hefyd yn cyfrannu'n sylweddol at gyflawni Rhannau 4 a 5 o'r Mesur arfaethedig, sy'n ymdrin â gosod dyletswyddau ar bobl drwy safonau, a gorfodi'r safonau hynny. Bydd y comisiynydd yn gallu ymchwilio i achosion honedig o ymyrryd â rhyddid pobl i siarad Cymraeg gyda'i gilydd. Felly, mae cyfeiriad amlwg i'r comisiynydd ac mae'n glir mai ei ddiben fydd hyrwyddo a hwyluso'r defnydd o'r Gymraeg a chreu hawliau ar gyfer siaradwyr Cymraeg.

**Michael German:** Yr wyf am symud ymlaen ychydig yn awr at rôl rheoleiddio'r comisiynydd. Mae nifer fawr o dystion wedi dweud wrthym y byddai'n anodd—a byddai rhai'n dweud cymhleth—i un unigolyn, y comisiynydd, gyfuno'r rôl hyrwyddo a rheoleiddio fel sydd wedi'i chynnwys yn y Mesur arfaethedig. Sut ydych yn bwriadu mynd i'r afael â'r pryderon hynny?

**Alun Ffred Jones:** Mae dwy farn. Un farn yw y dylid cyfuno'r ddwy rôl, a'u cadw ochr yn ochr â'r model cyfredol. Y farn arall yw y dylent fod ar wahân. Yr ydym yn cynnal trafodaethau â Bwrdd yr Iaith Gymraeg ac eraill ar y mater hwn. Gallaf ddweud y byddai'n well gennyf beidio â chadw Bwrdd yr Iaith Gymraeg neu sefydlu corff arall er mwyn cyflawni unrhyw rôl hyrwyddo a allai fod yn briodol ar gyfer y comisiynydd. Fel y dywedais, fodd bynnag, mae'r cydbwysedd o ran y rôl rheoleiddio a hyrwyddo yn rhywbeth yr wyf yn ei drafod â'r bwrdd ac eraill, a byddaf yn ymgynghori ar

others, and I will be consulting with regard to promoting the use of Welsh when I publish the Government's draft Welsh language strategy later this year. I will be interested to hear the committee's views on the matter.

[100] **Michael German:** May I pursue that a little? Some people think that you should separate the roles, but are also concerned about to where that promotional role might go. I am pleased to hear that you are having discussions about this matter. The concern is that, if the promotional role was absorbed into the Government, Government does not necessarily do promotion awfully well. It is not part of its remit. Witnesses have been worried that the expertise of the Welsh Language Board in terms of promotion would be diluted if it were part of Government. Have you absolutely ruled out the possibility of creating a separate promotional body? You said that you were minded not to. Have you absolutely ruled it out at this stage, or are you saying that you need to take further advice on these matters?

[101] **Alun Ffred Jones:** What I just said was that I am minded not to form another body. That would probably be unnecessary. In terms of promoting the language, it should be remembered that most of the work of promoting Welsh is not undertaken by the board itself; it is undertaken by organisations such as the Urdd, the *mentrau iaith*, the National Eisteddfod, young farmers clubs and the *papurau bro*—a whole host of bodies.

10.50 a.m.

[102] **Alun Ffred Jones:** There are also many other Government-funded bodies involved, including the Welsh Books Council, as well as S4C and Radio Cymru. All of those are involved in one way or another with promoting the language. Therefore, it should not be seen as something that happens in a single body, whatever that body might be.

[103] **Michael German:** However, the co-ordination of that promotion must rest somewhere. If you are reconsidering the issue, I am trying to establish whether you consider that the co-ordination of that

hyrwyddo'r defnydd o'r Gymraeg pan fyddaf yn cyhoeddi strategaeth iaith Gymraeg ddrafft y Llywodraeth yn ddiweddarach eleni. Mae gennyf ddiddordeb clywed barn y pwyllgor ar y mater.

**Michael German:** A gaf fi ddilyn y mater hwnnw rywfaint? Mae rhai pobl yn credu y dylech wahanu'r rolau, ond hefyd yn bryderus ynglŷn â chyfeiriad posibl y rôl hyrwyddo. Yr wyf yn falch o glywed eich bod yn cynnal trafodaethau ar y mater hwn. Y pryder, pe bai'r rôl hyrwyddo yn cael ei hamsugno i'r Llywodraeth, yw nad yw'r Llywodraeth yn dda iawn yn hyrwyddo pethau. Nid yw'n rhan o'i chylch gwaith. Mae tystion wedi bod yn bryderus y byddai arbenigedd Bwrdd yr Iaith Gymraeg o ran hyrwyddo yn cael ei lastwreiddio pe bai'n rhan o'r Llywodraeth. A ydych wedi gwrthod y posibilrwydd o greu corff hyrwyddo ar wahân yn llwyr? Yr ydych wedi dweud y byddai'n well gennych beidio. A ydych wedi gwrthod y syniad yn llwyr ar hyn o bryd, neu a ydych yn dweud bod angen i chi dderbyn cyngor pellach ar y materion hyn?

**Alun Ffred Jones:** Yr hyn yr wyf newydd ei ddweud yw y byddai'n well gennyf beidio â ffurfio corff arall. Mae'n debyg na fyddai angen hynny. O ran hyrwyddo'r iaith, dylid cofio nad y bwrdd ei hun sy'n gwneud y mwyafrif o'r gwaith o hyrwyddo'r Gymraeg; ond sefydliadau eraill fel yr Urdd, y mentrau iaith, yr Eisteddfod Genedlaethol, clybiau ffermwyr ifanc a'r papurau bro—llu o gyrff.

**Alun Ffred Jones:** Mae hefyd nifer o gyrff eraill a gyllidir gan y Llywodraeth yn cyfrannu, gan gynnwys Cyngor Llyfrau Cymru, yn ogystal ag S4C a Radio Cymru. Mae'r rhain i gyd yn cyfrannu mewn un ffordd neu'i gilydd at hyrwyddo'r iaith. Felly, ni ddylid ei ystyried fel rhywbeth sy'n digwydd mewn un corff, pa bynnag gorff ydyw.

**Michael German:** Fodd bynnag, mae'n rhaid i rywun fod yn gyfrifol am gydgyssylltu'r gwaith hyrwyddo. Os ydych yn ailystyried y mater, yr wyf yn ceisio sefydlu a ydych yn ystyried y dylai'r Llywodraeth fod yn gyfrifol

promotional role should rest within Government.

[104] **Alun Ffred Jones:** The strategy, which we will be released later this year, is designed precisely to give direction to the task of promoting of the use of the Welsh language. The strategy has been developed alongside the Welsh Language Board and other interested parties.

[105] **Michael German:** The problem with the strategy is that it is not part of a Measure, and the problem with that is that strategies have a shorter lifespan than Measures. Do you think that it ought to be within the proposed Measure so that, somehow, it is enshrined?

[106] **Alun Ffred Jones:** No, I do not think so. I think that that would muddy the waters. It should rest elsewhere.

[107] **Lorraine Barrett:** Minister, several witnesses have expressed concern about the transition from the board to the commissioner and whether there might be a hiatus. Can you tell us how you intend to address those concerns? Have you thought about how to achieve a seamless transition?

[108] **Alun Ffred Jones:** Obviously, we are in discussions with the Welsh Language Board to address these issues. It makes sense for the board to think about the changes that lie ahead and to begin thinking about how to prepare the ground in order to ensure a smooth transition. However, we have not seen any evidence to support the view that organisations would pay less attention to their language schemes and the provision of Welsh-language services during that transitional period. Indeed, we may see more attention being paid to this work as organisations respond to the commissioner's standard investigations and prepare themselves for the more robust enforcement regime that will be available to the commissioner.

[109] **Lorraine Barrett:** I accept your comment that organisations will continue as they are during that period, but I think that one of the most important issues about the transition period is the staff. What about

am gydgyssylltu'r gwaith hyrwyddo hwnnw.

**Alun Ffred Jones:** Nod y strategaeth, a fydd yn cael ei chyhoeddi'n ddiweddarach eleni, yw rhoi cyfeiriad i'r dasg o hyrwyddo'r defnydd o'r Gymraeg. Mae'r strategaeth wedi'i datblygu law yn llaw ochr yn ochr â Bwrdd yr Iaith Gymraeg a phartion eraill sydd â budd.

**Michael German:** Y broblem gyda'r strategaeth yw nad yw'n rhan o Fesur, a'r broblem gyda hynny yw bod gan y strategaethau oes lai na Mesurau. A ydych yn credu y dylai fod o fewn y Mesur arfaethedig er mwyn sicrhau, rhywsut, ei bod yn rhan annatod ohono?

**Alun Ffred Jones:** Na, nid wyf yn credu hynny. Credaf y byddai hynny'n gwneud pethau'n aneglur. Dylid ei chadw yn rhywle arall.

**Lorraine Barrett:** Weinidog, mae llawer o dystion wedi mynegi pryder am y pontio o'r bwrdd i'r comisiynydd ac a fyddai bwllch o bosibl. A allwch ddweud wrthym sut y bwriadwch fynd i'r afael â'r pryderon hynny? A ydych wedi meddwl sut byddwch yn sicrhau pontio di-dor?

**Alun Ffred Jones:** Yn amlwg, yr ydym mewn trafodaethau gyda Bwrdd yr Iaith Gymraeg i fynd i'r afael â'r materion hyn. Mae'n gwneud synnwyr i'r bwrdd feddwl am y newidiadau yn ein hwynebu a dechrau meddwl am sut i baratoi ar gyfer sicrhau cyfnod pontio llyfn. Fodd bynnag, nid ydym wedi gweld unrhyw dystiolaeth i ategu'r farn y byddai sefydliadau yn talu llai o sylw i'w cynlluniau iaith ac i ddarpariaeth gwasanaethau Cymraeg yn ystod y cyfnod pontio hwnnw. Yn wir, efallai y byddai mwy o sylw'n cael ei roi i'r gwaith hwn wrth i sefydliadau ymateb i ymchwiliadau safonol y comisiynydd a pharatoi eu hunain ar gyfer y drefn orfodi fwyaf cadarn a fydd ar gael i'r comisiynydd.

**Lorraine Barrett:** Derbyniaf eich sylw y bydd sefydliadau'n parhau fel y maent yn ystod y cyfnod hwn, ond credaf mai un o'r materion pwysicaf am y cyfnod pontio yw'r staff. Beth amdanynt hwy? Mae gan Fwrdd

them? The Welsh Language Board has 80 members of staff. What will happen to them? How are you going to handle their transition? They are obviously concerned about their jobs, and there is an issue about how many staff the commissioner's office might need. I know that you cannot discuss their employment situation in detail at the moment, but I think that we are all concerned about the future of the staff. So, what will happen to the staff during the transition period and how many staff do you envisage the commissioner's office employing?

[110] **Alun Ffred Jones:** We have established an implementation project with the Welsh Language Board so that we can discuss with it the impact of the proposed Measure on its staff and the workload of its staff. I cannot say how many people will be employed by the commissioner, but it is likely that most of the staff currently working for the board will transfer to the commissioner. I mentioned the concerns regarding the combining of the regulatory and promotional roles, but we have established the implementation project in order to discuss with the board the possible impact on the workload of its staff, and we will continue to work with the board to ensure that, as far as possible, there is a seamless transition.

[111] **Lorraine Barrett:** You mentioned the workload. Looking back to when the post of the Public Services Ombudsman for Wales was created, something that some of us remember well, the number of complaints increased. That was possibly because the creation of that post increased the profile of those issues. Given that the Welsh language commissioner could well attract similar sort of attention, do you have any idea about the likely workload of the commissioner?

[112] **Alun Ffred Jones:** It is difficult to precisely predict the impact of the proposed Measure. However, the system of standards will lead to more clarity with regard to the duties placed on people. This, in turn, will make it easier to dispose of cases of alleged non-compliance. Having said that, the increased clarity will make it easier for organisations to know what they should be

yr Iaith Gymraeg 80 aelod o staff. Beth fydd yn digwydd iddynt hwy? Sut byddwch yn ymdopi â'u pontio? Maent yn amlwg yn bryderus am eu swyddi, ac mae faint o staff a allai fod eu hangen yn swyddfa'r comisiynydd yn fater o bwys. Gwn na allwch drafod eu sefyllfa gyflogaeth yn fanwl ar hyn o bryd, ond credaf ein bod i gyd yn bryderus am ddyfodol y staff. Felly, beth fydd yn digwydd i'r staff yn ystod y cyfnod pontio a faint o staff yr ydych yn ei ragweld y bydd swyddfa'r comisiynydd yn eu cyflogi?

**Alun Ffred Jones:** Yr ydym wedi sefydlu prosiect gweithredu gyda Bwrdd yr Iaith Gymraeg er mwyn i ni allu trafod effaith y Mesur arfaethedig ar ei staff a llwyth gwaith ei staff. Ni allaf ddweud faint o bobl a fydd yn cael eu cyflogi gan y comisiynydd, ond mae'n debyg y bydd mwyafrif y staff sy'n gweithio i'r bwrdd ar hyn o bryd yn symud at y comisiynydd. Yr wyf wedi crybwyll y pryderon ynghylch cyfuno'r rolau rheoleiddio a hyrwyddo, ond yr ydym wedi sefydlu'r prosiect gweithredu er mwyn trafod gyda'r bwrdd yr effaith bosibl ar lwyth gwaith ei staff, a byddwn yn parhau i weithio gyda'r bwrdd i sicrhau, cyn belled â phosibl, bod cyfnod pontio di-dor.

**Lorraine Barrett:** Yr ydych wedi crybwyll y llwyth gwaith. Wrth edrych yn ôl i'r cyfnod y sefydlwyd swydd Ombwdsmon Gwasanaethau Cyhoeddus Cymru, rhywbeth mae llawer ohonom yn ei gofio'n dda, cynyddodd nifer y cwynion. Yr oedd hynny o bosibl oherwydd bod creu'r swydd honno wedi cynyddu proffil y materion hynny. O ystyried y gallai comisiynydd y Gymraeg ddenu'r un math o sylw, a oes gennych unrhyw syniad ynglŷn â llwyth gwaith tebygol y comisiynydd?

**Alun Ffred Jones:** Mae'n anodd rhagweld union effaith y Mesur arfaethedig. Fodd bynnag, bydd y system o safonau yn arwain at fwy o eglurder o ran y dyletswyddau a roddir ar bobl. Bydd hyn, yn ei dro, yn ei gwneud yn haws cael gwared ar achosion o beidio â chydymffurfio. O ddweud hynny, bydd mwy o eglurder yn ei gwneud yn haws i sefydliadau wybod yr hyn y dylent fod yn ei

doing, and the codes of practice that the commissioner can publish will help them plan how to do so.

[113] **Val Lloyd:** Brynle would like to ask a question here.

[114] **Brynle Williams:** Pryderaf ychydig, Weinidog, ynghylch y syniad o ddiddymu bwrdd yr iaith. Byddai hynny'n gosod mwy o ddyletswyddau ar y comisiynydd. A ydym yn colli cyfle yn y cyd-destun hwn o ran gosod dyletswydd benodol ar y bwrdd i gydweithio â chyrrff eraill i hyrwyddo'r iaith? Mae'r gwaith y mae'r bwrdd wedi ei gyflawni yn y gorffennol wedi bod yn hynod o lwyddiannus. Bydd gan y comisiynydd digon o waith o ran ymdrin â safonau ac yn y blaen heb y gwaith hwn o hyrwyddo.

[115] **Alun Ffred Jones:** Yr wyf wedi ceisio ateb y cwestiwn hwn drwy ddweud bod y Mesur arfaethedig hefyd yn caniatáu i'r comisiynydd wneud y gwaith o hybu'r Gymraeg. Byddai'n bosibl, felly, i'r comisiynydd wneud y ddau fath o waith, yn yr yn modd ag y mae'r bwrdd yn rhedeg cynlluniau iaith ar yr un llaw ac yn hyrwyddo'r Gymraeg ar y llaw arall. Nid oes rhaid i hynny ddigwydd, fodd bynnag, ac mae'n bosibl y byddai'n well i'r comisiynydd ganolbwyntio ar y gwaith o sefydlu'r safonau, gwaith ymchwil, gwaith yn ymwneud ag ymholiadau cyffredinol neu benodol a'r gwaith o ddelio â chwynion. Byddai'r gwaith o hyrwyddo felly yn digwydd rhywle arall. Mae hynny'n fater sydd i'w benderfynu.

[116] **Brynle Williams:** Diolch am yr ateb hwnnw, Weinidog.

[117] **Lorraine Barrett:** I have a question on the advisory panel to the Welsh language commissioner, Minister. Some witnesses have questioned whether it is needed at all; the Wales Governance Centre asked that question. Customer Focus Wales has put some recommendations to the committee on the need for the advisory panel to reflect the diversity in Welsh-language communities, and said that standing consumer panels should inform the work of the commissioner and the advisory panel. What are your views on those proposals?

wneud, a bydd y codau ymarfer y gall y comisiynydd eu cyhoeddi yn eu cynorthwyo i gynllunio sut i wneud hynny.

**Val Lloyd:** Hoffai Brynle ofyn cwestiwn yma.

**Brynle Williams:** I am a little concerned, Minister, about the idea of abolishing the language board. That would place more duties on the commissioner. Are we missing a trick in this context in terms of placing a specific duty on the board to co-operate with other organisations to promote the Welsh language? The work that the board has done in the past has been extremely successful. The commissioner will have plenty to do in terms of dealing with standards and so forth without this promotion work.

**Alun Ffred Jones:** I have tried to answer this question by saying that the proposed Measure also allows the commissioner to do the work of promoting the Welsh language. It would be possible, therefore, for the commissioner to do both kinds of work, in the same way as the board runs language schemes on the one hand and promotes the Welsh language on the other. That does not have to happen, however, and it may be better for the commissioner to concentrate on the work of establishing the standards, research, work related to general or specific inquiries and dealing with complaints. The promotional work would therefore happen somewhere else. That is a matter to be decided upon.

**Brynle Williams:** Thank you for that answer, Minister.

**Lorraine Barrett:** Mae gennyf gwestiwn ar banel cynghori comisiynydd y Gymraeg, Weinidog. Mae rhai tystion wedi cwestiynu a oes ei angen o gwbl; gofynnodd Canolfan Llywodraethu Cymru y cwestiwn hwnnw. Mae Customer Focus Wales wedi cyflwyno rhai argymhellion i'r pwyllgor ar yr angen i'r panel cynghori adlewyrchu amrywiaeth cymunedau Cymraeg, a dywedodd y dylai paneli defnyddwyr sefydlog hysbysu gwaith y comisiynydd a'r panel cynghori. Beth yw eich barn ar y cynigion hynny?

[118] **Alun Ffred Jones:** It is not the intention that the advisory panel should be a bureaucratic burden on the commissioner. It will serve a non-executive role and act as a sounding board, whereby the commissioner can discuss and test some ideas. It will not be involved in the day-to-day work of the commissioner. At the same time, the commissioner will be able to draw on the expertise of any person, or groups of persons, should he or she require that expertise as he or she considers a particular issue. I do not know whether I am answering your question.

[119] **Lorraine Barrett:** I will leave that for now. The Customer Focus Wales recommendations stated specifically that the advisory panel should reflect the diversity in Welsh-language communities. Perhaps you can have a look at that.

[120] **Alun Ffred Jones:** I would certainly expect the advisory panel to have a range of expertise, although it is a comparatively small body, and that will help as part of the checks and balances with regard to the commissioner's role.

[121] **Lorraine Barrett:** You mentioned the size of the advisory panel. Could you say something about why you went for a panel with at least three but no more than five members? That is quite specific, is it not? I wonder what your thinking was on that.

[122] **Alun Ffred Jones:** Having a membership of no more than five will ensure that the panel does not become unwieldy and a bureaucratic burden for the commissioner to manage, rather than being a sounding board, which it is intended to be. It will also reduce the costs for the commissioner if it is a comparatively compact body. Savings made against the costs of the current board could then be diverted to fund any other activity that the commissioner thinks is appropriate.

11.00 a.m.

[123] **Lorraine Barrett:** Something that many of us cannot quite understand is why Schedule 4, paragraph 8(2) requires Welsh Ministers to consult the commissioner on the

**Alun Ffred Jones:** Nid yw'n fwriad i'r panel cynghori fod yn faich biwrocraidaidd ar y comisiynydd. Bydd yn gwasanaethu rôl anweithredol ac yn gweithredu fel man i drafod syniadau, lle gall y comisiynydd drafod a phrofi rhai syniadau. Ni fydd yn cyfrannu at waith dydd i ddydd y comisiynydd. Ar yr un pryd, bydd y comisiynydd yn gallu manteisio ar arbenigedd unrhyw unigolyn, neu grwpiau o bobl, pe bai angen yr arbenigedd hwnnw wrth ystyried mater penodol. Wn i ddim a wyf yn ateb eich cwestiwn.

**Lorraine Barrett:** Yr wyf am adael hynny yn awr. Nododd argymhellion Customer Focus Wales yn benodol y dylai'r panel cynghori adlewyrchu'r amrywiaeth mewn cymunedau Cymraeg. Efallai y gallwch edrych ar hynny.

**Alun Ffred Jones:** Byddwn yn sicr yn disgwyl i'r panel cynghori fod ag amrywiaeth o arbenigedd, er ei fod yn gorff cymharol fach, a bydd hynny'n cynorthwyo fel rhan o'r pwyso a'r mesur o ran rôl y comisiynydd.

**Lorraine Barrett:** Yr ydych wedi crybwyll maint y panel cynghori. A allwch ddweud rhywbeth ynglŷn â pham eich bod wedi dewis panel gydag o leiaf dri ond dim mwy na phum aelod? Mae hynny'n eithaf penodol, onid ydyw? Beth oedd eich bwriad yn hynny o beth?

**Alun Ffred Jones:** Bydd cael aelodaeth o ddim mwy na phump yn sicrhau nad yw'r panel yn rhy afrosgo ac yn faich biwrocraidaidd i'r comisiynydd ei reoli, yn hytrach na bod yn fan i drafod syniadau, fel y bwriedir iddo fod. Bydd hefyd yn gostwng y costau ar gyfer y comisiynydd os yw'n gorff eithaf bach. Gellid cyfeirio arbedion a wneir yn erbyn costau'r bwrdd presennol i ariannu unrhyw weithgarwch arall sy'n briodol yn nhyb y comisiynydd.

**Lorraine Barrett:** Rhywbeth na all llawer ohonom ei ddeall yn iawn yw pam mae Atodlen 4, paragraff 8(2) yn ei gwneud yn ofynnol i Weinidogion Cymru ymgynghori

dismissal of advisory panel members but not, apparently, before their appointment. That seems a bit strange.

[124] **Alun Ffred Jones:** Ministers are not required to consult the commissioner before appointment; that does not mean that they will not. The whole point of the advisory panel is that it acts as a sounding board for the commissioner, to act as a check and a balance, and to ensure that the strategic direction taken by the commission is reasonable. As such, the panel will require a degree of independence from the commissioner. That is why the panel members will be appointed by Ministers. However, with regard to dismissing panel members, it will be possible for Ministers to dismiss them on the grounds that they are unable or unwilling to act as a member of the panel or unfit to continue as a member, for whatever reason.

[125] **Lorraine Barrett:** Okay, I will leave it at that.

[126] **Val Lloyd:** I have some questions that focus predominantly on standards. We have heard quite a lot from different witnesses regarding their views on standards. The Welsh Language Board stressed the constructive relationship that arose from the process of developing schemes and said that it felt that, if we moved to standards, internal dialogue would not occur to the same extent. We also heard from a number of companies, including British Telecom, British Gas and the Confederation of British Industry, that the voluntary approach is working and that the new compliance regime could undermine those existing constructive relationships and be a setback, as only minimum standards would have to be adhered to. What is your response to the evidence that the current approach is working and that the compliance regime could undermine existing progress and have unintended detrimental effects?

[127] **Alun Ffred Jones:** The proposed new system will not prevent those who do not fall under the standards from carrying on with their voluntary schemes or policies. We would still encourage businesses that are not

â'r comisiynydd wrth ddiswyddo aelodau'r panel cyngori ond nid yn ôl pob tebyg, cyn eu penodi. Mae hynny'n ymddangos yn rhyfedd braidd.

**Alun Ffred Jones:** Nid yw'n ofynnol i Weinidogion ymgynghori â'r comisiynydd cyn penodi; nid yw hynny'n golygu na fyddant yn gwneud hynny. Holl ddiben y panel cyngori yw ei fod yn gweithredu fel man i drafod syniadau ar gyfer y comisiynydd, i weithredu fel dull o bwysu a mesur, a sicrhau bod y comisiwn yn dilyn cyfeiriad rhesymol. Felly, bydd angen rhywfaint o annibyniaeth o'r comisiynydd ar y panel. Dyna pam y bydd Gweinidogion yn penodi aelodau'r panel. Fodd bynnag, o ran diswyddo aelodau'r panel, bydd yn bosibl i Weinidogion eu diswyddo ar y sail nad ydynt yn gallu neu'n barod i weithredu fel aelodau o'r panel neu eu bod yn anaddas i barhau fel aelodau, am ba reswm bynnag.

**Lorraine Barrett:** Iawn, yr wyf am adael y mater.

**Val Lloyd:** Mae gennyf rai cwestiynau sy'n canolbwyntio'n bennaf ar safonau. Yr ydym wedi clywed cryn dipyn gan wahanol dystion am eu barn ar safonau. Pwysleisiodd Bwrdd yr Iaith Gymraeg y berthynas adeiladol a ddeilliiodd o'r broses o ddatblygu cynlluniau a dywedodd ei fod yn credu, pe baem yn symud i safonau, na fyddai trafodaethau mewnol yn digwydd i'r un graddau. Clywsom hefyd gan nifer o gwmnïau, gan gynnwys BT, Nwy Prydain a Chyddfederasiwn Diwydiant Prydain, bod y dull gwirfoddol yn gweithio ac y gallai'r drefn gydymffurfio newydd danseilio'r perthnasau adeiladol hynny sy'n bodoli'n barod a bod yn gam yn ôl, gan mai â safonau gofynnol yn unig y byddai angen cydymffurfio. Beth yw eich ymateb i'r dystiolaeth bod y dull cyfredol yn gweithio ac y gallai'r drefn gydymffurfio danseilio cynnydd presennol ac achosi effeithiau niweidiol anfwriadol?

**Alun Ffred Jones:** Ni fydd y system newydd arfaethedig yn atal y rhai hynny nad ydynt yn cyrraedd y safonau rhag parhau â'u cynlluniau neu eu polisiau gwirfoddol. Byddem yn dal i barhau i annog busnesau



covered by the proposed legislation to provide services in Welsh. Voluntary schemes are exactly that: voluntary. Where there is no statutory requirement to have a scheme, there are no means of enforcement. Those organisations that have voluntary schemes clearly see value in them and can continue with them. I would expect the commissioner to endorse and support that. With regard to the argument that organisations have a sense of ownership of their schemes, the aim of the proposed Measure, through the introduction of standards that create specific duties, is to provide rights for Welsh speakers to receive services in Welsh and to ensure that those rights are clearly understood. The proposed new system, based around standards, will create enforceable duties as opposed to the qualified commitments contained in schemes. I expect that organisations will need to adopt some kind of action plan to meet the required standards. The proposed Measure provides the flexibility to require organisations to have such plans.

[128] **Val Lloyd:** I wish to clarify that. Minister, are you saying that you expect the standards to be set at a higher level than the current arrangements?

[129] **Alun Ffred Jones:** That will be a matter for the commissioner to decide initially and for the Assembly to approve. The standards are there to build on the successes of the Welsh language schemes, which have had a positive effect in developing a range of Welsh-language services and on the development of bilingual services in the public sector. As Professor Colin Williams pointed out in the conclusion of his publication, 'From Act to Action: Language Legislation in Finland, Ireland and Wales', although bilingual services have improved dramatically, there has been a lack of consistency and quality, which prevents the public from receiving an equitable service. So, although the flexibility of the system of agreeing a language scheme is to be welcomed, the element of compliance needs to be strengthened, and that is the main purpose of the standards system.

nad ydynt wedi'u cwmpasu gan y ddeddfwriaeth arfaethedig i ddarparu gwasanaethau yn Gymraeg. Mae cynlluniau gwirfoddol yn golygu'n union hynny: maent yn wirfoddol. Lle nad oes gofyniad statudol i fod â chynllun, nid oes unrhyw ffordd o orfodi. Mae'n amlwg bod y sefydliadau hynny sy'n gweithredu cynlluniau gwirfoddol yn ystyried eu bod yn werth eu cael a gallant barhau i'w gweithredu. Byddwn yn disgwyl i'r comisiynydd gymeradwyo a chefnogi hynny. O ran y ddatl bod gan sefydliadau synnwyr o berchnogaeth o'u cynlluniau, nod y Mesur arfaethedig, drwy gyflwyno safonau sy'n creu dyletswyddau penodol, yw darparu hawliau i siaradwyr Cymraeg dderbyn gwasanaethau yn Gymraeg a sicrhau bod yr hawliau hynny'n cael eu deall yn glir. Bydd y system newydd arfaethedig, sy'n seiliedig ar safonau, yn creu dyletswyddau y gellir eu gorfodi yn hytrach na'r ymrwymadau amodol sydd wedi'u cynnwys mewn cynlluniau. Yr wyf yn disgwyl y bydd angen i sefydliadau fabwysiadu rhyw fath o gynllun gweithredu i gyflawni'r safonau gofynnol. Mae'r Mesur arfaethedig yn darparu'r hyblygrwydd i'w gwneud yn ofynnol i sefydliadau weithredu cynlluniau o'r fath.

**Val Lloyd:** Yr wyf am fod yn glir am hynny Weinidog, a ydych yn dweud eich bod yn disgwyl i safonau gael eu gosod ar lefel uwch na'r trefniadau cyfredol?

**Alun Ffred Jones:** Bydd hynny'n fater i'r comisiynydd benderfynu yn y lle cyntaf ac i'r Cynulliad ei gymeradwyo. Mae'r safonau yno i adeiladu ar lwyddiannau'r cynlluniau iaith Gymraeg, sydd wedi dy'anwadu'n gadarnhaol ar ddatblygiad amrywiaeth o wasanaethau Cymraeg ac ar ddatblygiad gwasanaethau dwyieithog yn y sector cyhoeddus. Fel y dywedodd yr Athro Colin Williams yn y casgliad i'w gyhoeddiad, 'From Act to Action: Language Legislation in Finland, Ireland and Wales', er bod gwasanaethau dwyieithog wedi gwella'n sylweddol, bu diffyg cysondeb ac ansawdd, sy'n atal y cyhoedd rhag derbyn gwasanaeth teg. Felly, er ein bod yn croesawu hyblygrwydd y system o gytuno ar gynllun iaith, mae angen cryfhau'r elfen gydymffurfio, a dyna brif ddiben y system safonau.

- [130] **Val Lloyd:** Thank you. That is very clear, Minister. The Welsh Language Board expressed concerns that:
- [131] ‘Standards would place expectations on organisations’—
- [132] something you have just confirmed—
- [133] ‘and therefore that dialogue, that allows schemes to grow within organisations, would not take place’.
- [134] and feared that the body in question might lose its sense of ownership. What would you say to that?
- [135] **Alun Ffred Jones:** Before any standards can be imposed, there will be extensive dialogue and consultation with those bodies. The dialogue does not cease because we are imposing standards. I repeat that I would expect that organisations will need to adopt some kind of action plan to meet the required standards in any case. I repeat again that what we are doing is building on the success of the language schemes, and the standards will grow out of those schemes and the requirements within them.
- [136] **Gareth Jones:** Yr oeddech yn sôn y bydd trafodaeth helaethach ar y safonau. Onid oes perygl inni greu haen o fiwrocratiaeth o ran hynny, sef eich bod yn trafod pethau yn hytrach na fod twf yn y defnydd ymarferol o’r iaith Gymraeg? A fydd yr holl drafodaethau ymgynghorol pellach yn creu biwrocratiaeth yn hytrach na sicrhau bywiogrwydd yr iaith Gymraeg?
- [137] **Alun Ffred Jones:** Ar hyn o bryd, mae trafodaethau unigol yn gorfod digwydd gyda’r oddeutu 500 o gyrff sydd â chynlluniau iaith. Mae’r cynlluniau hynny i fod i gael eu hadnewyddu bob tair blynedd, ac felly mae’r broses bresennol yn un eithaf llafurus. Yr ydym yn gobeithio y bydd y drafodaeth a fydd yn arwain at greu’r safonau yn digwydd un waith ac y bydd y safonau yn eu lle wedyn. Felly, bydd pawb yn eu deall, byddant yn eglur a bydd pawb yn gallu parhau â’r gwaith o baratoi’r gwasanaethau
- Val Lloyd:** Diolch. Mae hynny’n glir iawn, Weinidog. Mynegodd Bwrdd yr Iaith Gymraeg bryderon y byddai:
- ‘safonau yn gosod disgwyliadau ar gyrff’—
- rhywbeth yr ydych newydd ei gadarnhau—
- ‘ac felly ni fyddai’r ddeialog honno, sy’n galluogi cynlluniau i dyfu o fewn y sefydliad, yn digwydd’
- ac yr oedd yn bryderus y gallai’r corff dan sylw golli ei synnwyr o berchnogaeth. Beth fyddech yn ei ddweud ar hynny?
- Alun Ffred Jones:** Cyn y gellir gosod unrhyw safonau, bydd trafodaethau ac ymgynghori eang â’r gyrff hynny. Nid yw’r trafodaethau yn dod i ben am ein bod yn gosod safonau. Pwysleisiaf eto y byddwn yn disgwyl y bydd angen i sefydliadau fabwysiadu rhyw fath o gynllun gweithredu i gyflawni’r safonau gofynnol beth bynnag. Pwysleisiaf eto mai’r hyn yr ydym yn ei wneud yw adeiladu ar lwyddiant y cynlluniau iaith, a bydd y safonau yn tyfu allan o’r cynlluniau hynny a’r gofynion ynddynt.
- Gareth Jones:** You mentioned that there will be further discussion on the standards. Is there a risk that we will create an extra layer of bureaucracy in that regard, namely that you will be discussing issues rather than there being an increase in the practical use of the Welsh language? Will all those further consultative discussions create bureaucracy rather than ensure the vitality of the Welsh language?
- Alun Ffred Jones:** At present, individual discussions must happen with the approximately 500 bodies that have language schemes. Those schemes are supposed to be renewed every three years, so the current process is quite labour-intensive. We hope that the discussion leading to the creation of the standards will happen only once and the standards will then be in place. Therefore, everyone will be able to understand them, they will be clear and everyone will be able to get on with the work of providing services

yn y gobaith o helaethu'r defnydd o'r gwasanaethau hynny yn y Gymraeg.

in the hope of expanding the use of those services in Welsh.

[138] **Val Lloyd:** We had very interesting evidence from an energy company, E.ON UK plc, which suggested that the standard could be in the form of a charter mark whereby companies are accredited according to the level of the Welsh-language services they provide, and that this charter mark would give a transparency about the level of services and allow customers to make easy and consistent comparisons. Therefore, it will be up to individual companies to position themselves in the competitive market. It argued that it would lead to flexibility and would not lead to disproportionate costs. What are your views on that?

**Val Lloyd:** Cawsom dystiolaeth ddiddorol iawn gan gwmni ynni, E.ON UK ccc, a awgrymodd y gallai'r safon fod ar ffurf nod siarter lle mae cwmnïau yn cael eu hachredu yn ôl lefel y gwasanaethau Cymraeg a ddarparant, ac y byddai'r nod siarter hwn yn rhoi tryloywder am lefel y gwasanaethau ac yn caniatáu cwsmeriaid i wneud cymariaethau hawdd a chyson. Felly, cyfrifoldeb cwmnïau unigol yw rhoi eu hunain yn y farchnad gystadleuol. Dadleuodd y byddai'n arwain at hyblygrwydd ac na fyddai'n arwain at gostau anghymesur. Beth yw eich barn ar hynny?

[139] **Alun Ffred Jones:** I welcome that creative idea, but the proposed Measure has been developed on the basis of standards being imposed. However, there is nothing to prevent a standard from being drawn up that, should the commissioner consider it appropriate to recommend it, would be based on a benchmark of some sort whereby organisations will agree plans about how they will achieve a given target. So, there is flexibility within the proposed Measure, and I welcome E.ON's interest and imagination.

**Alun Ffred Jones:** Yr wyf yn croesawu'r syniad creadigol hwnnw, ond mae'r Mesur arfaethedig wedi'i ddatblygu ar sail gosod safonau. Fodd bynnag, nid oes unrhyw beth yn atal llunio safon, pe bai'r comisiynydd yn ei hystyried yn briodol i'w hargymell, a fyddai'n seiliedig ar ryw fath o feincnod lle bydd sefydliadau yn cytuno ar gynlluniau ynglŷn â sut byddant yn cyflawni targed penodol. Felly, mae hyblygrwydd yn y Mesur arfaethedig, a chroesawaf ddiddordeb a dychymyg E.ON.

[140] **Val Lloyd:** We also heard from British Telecom that it considers that the standards in the proposed Measure allow for variety between sectors and regions, and in timetables and so on. Is this interpretation of standards correct? If so, does the principle of providing consistency for Welsh speakers in terms of the services they can expect to receive in Welsh come into play?

**Val Lloyd:** Clywsom hefyd gan BT ei fod yn ystyried bod y safonau yn y Mesur arfaethedig yn caniatáu amrywiaeth rhwng sectorau a rhanbarthau, ac mewn amserlenni ac ati. A yw'r dehongliad hwn o safonau'n gywir? Os felly, a yw'r egwyddor o ddarparu cysondeb ar gyfer siaradwyr Cymraeg o ran y gwasanaethau y gallant ddisgwyl eu derbyn yn Gymraeg yn berthnasol?

[141] **Alun Ffred Jones:** It is possible. Sorry, will you repeat the last part?

**Alun Ffred Jones:** Mae'n bosibl. Mae'n ddrwg gennyf, a allwch ailadrodd y rhan olaf?

[142] **Val Lloyd:** Perhaps I should just ask the basic question and allow you to answer it. I rolled my supplementary question into it. Basically, is BT's interpretation of standards correct?

**Val Lloyd:** Efallai y dylwn ofyn y cwestiwn syml a gadael i chi ei ateb. Yr wyf wedi cynnwys fy nghwestiwn atodol ynddo. Yn syml, a yw dehongliad BT o safonau yn gywir?

[143] **Alun Ffred Jones:** That there could be variations?

**Alun Ffred Jones:** Y gellid cael amrywiadau?

[144] **Val Lloyd:** That you could have variety between sectors, regions and so on?

**Val Lloyd:** Y gallech gael amrywiadau rhwng sectorau, rhanbarthau ac ati?

[145] **Alun Ffred Jones:** It is possible that there will be variations. However, I would expect there to be consistency within sectors. Where it is possible to identify a function that is performed similarly by all organisations, there could be a universal standard. However, the system can recognise the linguistic variations that exist within Wales. For example, it may be that the same standards apply rigidly with regard to correspondence and signage, but more flexibly regarding face-to-face, oral contact in different parts of Wales.

**Alun Ffred Jones:** Mae'n bosibl y bydd amrywiadau. Fodd bynnag, byddwn yn disgwyl cysondeb o fewn sectorau. Lle mae'n bosibl nodi swyddogaeth a gyflawnir yn yr un modd gan bob sefydliad, gellid cael safon gyffredinol. Fodd bynnag, gall y system gydnabod yr amrywiadau ieithyddol sy'n bodoli yng Nghymru. Er enghraifft, efallai y bydd yr un safonau'n union yn gymwys o ran gohebiaeth ac arwyddion, ond yn fwy hyblyg o ran cysylltiad wyneb yn wyneb, llafar mewn gwahanol rannau o Gymru.

11.10 a.m.

[146] **Val Lloyd:** That leads on quite nicely to a supplementary question. We have asked this question of many witnesses: do you envisage someone living in Monmouth having the same access to Welsh-language services as someone living in Gwynedd?

**Val Lloyd:** Mae hynny'n arwain yn ddigon hwylus at gwestiwn atodol. Yr ydym wedi gofyn y cwestiwn hwn i sawl tyst: a ydych yn rhagweld rhywun sy'n byw yn Sir Fynwy yn gallu cyrchu gwasanaethau Cymraeg yn yr un modd â rhywun sy'n byw yng Ngwynedd?

[147] **Alun Ffred Jones:** The commissioner will have a crucial role in language planning and will act in the interests of the Welsh language. That will not necessarily lead to the same provision in all areas. The flexibility to specify different standards for different local authorities is required to ensure that the standards imposed are reasonable and proportionate and to allow for regional variations to be taken into account. For example, what is reasonable and proportionate in the case of Gwynedd might not be reasonable and proportionate for Monmouth.

**Alun Ffred Jones:** Bydd gan y comisiynydd swyddogaeth hollbwysig wrth gynllunio iaith a bydd yn gweithredu er budd y Gymraeg. Ni fydd hynny o reidrwydd yn arwain at yr un ddarpariaeth ym mhob ardal. Mae angen yr hyblygrwydd i nodi gwahanol safonau ar gyfer gwahanol awdurdodau lleol er mwyn sicrhau bod y safonau a osodir yn rhesymol ac yn gymesur a chaniatáu ystyried amrywiadau rhanbarthol. Er enghraifft, efallai nad yw'r hyn sy'n rhesymol a chymesur ar gyfer Gwynedd yn rhesymol a chymesur ar gyfer Sir Fynwy.

[148] **Brynle Williams:** On this charter mark by E.ON, while we must have certain standards, do you not think that companies would possibly raise the bar themselves if they were allowed to do so? By having that charter mark—which exists in commercial industries and particularly in the agricultural industry and food production—under which certain standards are set, companies may not be satisfied and will want to go one better. Is there any mileage or merit in that? If not, that is fair enough.

**Brynle Williams:** O ran y nod siarter hwn gan E.ON, tra bod yn rhaid i ni gael safonau penodol, oni chredwch y byddai cwmnïau yn gwella'r safon eu hunain pe baent yn cael gwneud hynny? Drwy gael y nod siarter hwnnw—sy'n bodoli mewn diwydiannau masnachol ac yn enwedig yn y diwydiant amaethyddol a chynhyrchu bwyd—lle pennir safonau penodol, efallai na fydd cwmnïau yn fodlon ac am fynd gam ymhellach. A oes unrhyw bwrpas neu werth yn hynny? Os nad oes, mae hynny'n ddigon teg.

[149] **Alun Ffred Jones:** Companies and

**Alun Ffred Jones:** Mae croeso i gwmnïau a

organisations are welcome to raise the bar and provide a gold-plated service if that is their wish. The point of the standards would be to ensure consistency, where that is necessary for the provision of Welsh-language or bilingual services.

[150] **Val Lloyd:** I have one final question on standards. Much of the evidence that we heard suggested that there is relatively little clarity with respect to the actual obligations that organisations will be subjected to. So, is it possible to say with certainty that the standards will provide greater clarity and consistency?

[151] **Alun Ffred Jones:** I believe so. The proposed Measure sets out a clear framework for the imposition of duties, made by Welsh Ministers through subordinate legislation, and they will be subject to further, more detailed, impact assessments. There is the option that a framework proposal will provide flexibility to enable standards to respond promptly to changes, for example, technological advances, without the need to amend the Measure each time. The commissioner will play a significant role in the development of the standards and of the imposition and consultation with persons required to comply with standards before they are imposed and, importantly, in the means of challenge that is required for the imposition of duties to be within the Assembly's legislative competence.

[152] **Val Lloyd:** I am not quite certain what you were saying there, Minister. Are you considering the imposition of minimum standards, which would apply across the board, to all organisations, subject to the legislation, or are you thinking about the development of more detailed provision in the proposed Measure itself, which would guide the development of core obligations?

[153] **Alun Ffred Jones:** There will not be a single standard that applies to all organisations, otherwise that would be on the face of the proposed Measure. We think that this flexible approach will mean that, within certain sectors, there will be consistency of provision, but where it is needed, there can be greater flexibility.

sefydliadau wella'r safon a darparu gwasanaeth euraidd eu hunain os mai dyna'u dymuniad. Pwynt y safonau fyddai sicrhau cysondeb, lle mae hynny'n angenrheidiol er mwyn darparu gwasanaethau Cymraeg neu ddwyieithog.

**Val Lloyd:** Mae gennyf un cwestiwn terfynol ar safonau. Yr oedd llawer o'r dystiolaeth a glywsom yn awgrymu nad oes fawr ddim eglurder o ran yr ymrwymadau go iawn y bydd sefydliadau'n ddarostyngedig iddynt. Felly, a yw'n bosibl dweud yn sicr y bydd y safonau yn darparu gwell eglurder a chysondeb?

**Alun Ffred Jones:** Credaf hynny. Mae'r Mesur arfaethedig yn nodi fframwaith clir ar gyfer gosod dyletswyddau, a wnaed gan y Gweinidogion drwy is-ddeddfwriaeth, a byddant yn amodol ar asesiadau o effaith pellach, manylach. Mae'r opsiwn y bydd cynnig fframwaith yn darparu hyblygrwydd fel y gall safonau ymateb yn gyflym i newidiadau, er enghraifft, datblygiadau technolegol, heb yr angen i wella'r Mesur bob tro. Bydd gan y comisiynydd swyddogaeth bwysig yn datblygu a gosod y safonau ac ymgynghori â phobl y mae'n ofynnol iddynt gydymffurfio â safonau cyn eu gosod ac, yn bwysig, yn y ffordd o herio sy'n ofynnol er mwyn i'r gosod safonau fod o fewn cymhwysedd deddfwriaethol y Cynulliad.

**Val Lloyd:** Nid wyf yn hollol sicr beth yr oeddech yn ei ddweud yn fanna Weinidog. A ydych yn ystyried gorfodi safonau gofynnol, a fyddai'n gymwys i bawb, i bob sefydliad, yn amodol ar y ddeddfwriaeth, neu a ydych yn meddwl am ddatblygu darpariaeth fanylach yn y Mesur arfaethedig ei hun, a fyddai'n llywio datblygiad rhwymedigaethau craidd?

**Alun Ffred Jones:** Ni fydd yr un safon unigol a fydd yn gymwys i bob sefydliad, neu byddai hynny ar wyneb y Mesur arfaethedig. Credwn y bydd y dull hyblyg hwn yn golygu, o fewn sectorau penodol, y bydd darpariaeth gyson, ond lle mae ei angen, gellir cael mwy o hyblygrwydd.

[154] **Brynle Williams:** Scottish Power wished to see a duty to consult on the regulations setting the standards to be included in the proposed Measure, and Consumer Focus Wales wished to see a duty to consult the general public in developing standards. What is your response to these proposals?

**Brynle Williams:** Yr oedd Scottish Power am weld dyletswydd i ymgynghori ar y rheoliadau sy'n pennu'r safonau i gael eu cynnwys yn y Mesur arfaethedig, ac yr oedd Llais Defnyddwyr Cymru am weld dyletswydd i ymgynghori â'r cyhoedd wrth ddatblygu safonau. Beth yw eich ymateb i'r cynigion hyn?

[155] **Alun Ffred Jones:** It will not be possible, in accordance with section 46 of the proposed Measure, to impose duties on any person unless the commissioner has consulted with that person or unless he or she is satisfied that that person has already been consulted or has been given the opportunity to be consulted. That is a lot of consultation.

**Alun Ffred Jones:** Ni fydd yn bosibl, yn unol ag adran 46 o'r Mesur arfaethedig, i osod dyletswydd ar unrhyw berson oni bai bod y comisiynydd wedi ymgynghori â'r person hwnnw neu ei fod yn fodlon bod ymgynghori eisioes wedi bod gyda'r person hwnnw neu ei fod wedi cael y cyfle i ymgynghori. Mae hynny'n llawer o ymgynghori.

[156] **Brynle Williams:** Why is there no specific duty in section 25 to consult the commissioner on the regulations for developing standards in the proposed Measure?

**Brynle Williams:** Pam nad oes dyletswydd benodol yn adran 25 i ymgynghori â'r comisiynydd ar y rheoliadau ar gyfer datblygu safonau yn y Mesur arfaethedig?

[157] **Alun Ffred Jones:** In the majority of cases, we expect that the procedure set out in the proposed Measure will be followed in that the commissioner will undertake a standards investigation and send a copy of his or her standards report to Welsh Ministers. However, there may be cases where Ministers feel that another organisation might be better placed to consult with a particular person or sector. For example, Ministers may seek advice from an academic institution in relation to setting standards for a complex or specialist sector. As such, the proposed Measure offers Ministers the discretion to make standards without consulting the commissioner. At the end of the day, however, it will not be possible, in accordance with section 46 of the proposed Measure, to impose duties on any person unless the commissioner has consulted with that person or that the commissioner is satisfied that the person has already been consulted.

**Alun Ffred Jones:** Yn y mwyafrif o achosion, disgwyliwn y bydd y weithdrefn a nodir yn y Mesur arfaethedig yn cael ei dilyn o ran y bydd y comisiynydd yn cynnal ymchwiliad safonau ac yn anfon copi o'i adroddiad safonau at Weinidogion Cymru. Fodd bynnag, hwyrach y bydd rhai achosion lle bydd Gweinidogion Cymru yn teimlo y gallai sefydliad arall fod mewn gwell sefyllfa i ymgynghori ag unigolyn neu sector penodol. Er enghraifft, gall Gweinidogion dderbyn cyngor gan sefydliad academiaidd mewn perthynas â gosod safonau ar gyfer sector cymhleth neu arbenigol. I'r perwyl hwnnw, mae'r Mesur arfaethedig yn cynnig y rhyddid i Weinidogion wneud safonau heb ymgynghori â'r comisiynydd. Yn y pen draw, fodd bynnag, ni fydd yn bosibl, yn unol ag adran 46 y Mesur arfaethedig, gosod dyletswyddau ar unrhyw unigolyn oni bai bod y comisiynydd wedi ymgynghori â'r unigolyn hwnnw neu fod y comisiynydd yn fodlon bod yr unigolyn eisoes wedi'i ymgynghori.

[158] **Brynle Williams:** David Rosser of the CBI suggested that a test of what is meant by 'reasonable and proportionate' could be included in the proposed Measure. He suggested that the prime test was the cost of provision against the number of users. What is your view on the proposition of including a

**Brynle Williams:** Awgrymodd David Rosser o CBI y gellid cynnwys prawf o ystyr 'rhesymol a chymesur' yn y Mesur arfaethedig. Awgrymodd mai'r prif brawf oedd cost darpariaeth yn erbyn nifer y defnyddwyr. Beth yw eich barn ar y cynnig o gynnwys prawf ar beth sy'n rhesymol a

test on what is reasonable and proportionate in the proposed Measure, and do you agree with David Rosser's suggested test?

[159] **Alun Ffred Jones:** Under section 61 of the proposed Measure, the commissioner, when undertaking a standards investigation, must have regard to the need to secure that requirements for persons to comply with standards will not be unreasonable or disproportionate. Also, under sections 53 and 54, persons may challenge future and existing duties on the grounds that the requirements to comply with them are unreasonable or disproportionate. Persons may also appeal their challenge to the Welsh language tribunal if they are unsatisfied with the commissioner's response. In addition, following the commissioner's decision in an enforcement case, as I said, a person may appeal against the commissioner's decision to the tribunal on the grounds that the enforcement action is unreasonable.

[160] **Brynle Williams:** In respect of standards, we have received evidence from a representative of liquid petroleum gas suppliers indicating concerns about competitiveness, pointing out that they were not in competition with mains gas suppliers, as they are servicing many rural areas, but with oil and wood suppliers, who were not included in the legislative competence Order and, therefore, cannot be included in the proposed Measure. This was confirmed by British Gas. Would you consider removing LPG suppliers from the proposed Measure until such time as its competitors—oil and coal suppliers—can be included?

[161] **Alun Ffred Jones:** It is important that the proposed Measure reflects the whole competence as laid out in matters 21.1 of Schedule 5 to the Government of Wales Act 2006. It will be for the commissioner to consider whether standards are required for such companies as part of his or her standards investigation. The fact that it is included does not mean that any standards will be imposed.

[162] **Gareth Jones:** Dywedodd yr Athro Colin Williams wrthym:

chymesur yn y Mesur arfaethedig, ac a ydych yn cytuno â'r prawf a awgrymwyd gan David Rosser?

**Alun Ffred Jones:** O dan adran 61 y Mesur arfaethedig, mae'n rhaid i'r comisiynydd, wrth gynnal ymchwiliad safonau, ystyried yr angen i sicrhau na fydd gofynion i bobl gydymffurfio â safonau yn afresymol nac yn anghymesur. Hefyd, o dan adrannau 53 a 54, gall pobl herio dyletswyddau cyfredol ac yn y dyfodol ar sail bod y gofynion i gydymffurfio â hwy yn afresymol neu'n anghymesur. Gall pobl hefyd apelio eu her i driwiwnlys y Gymraeg os nad ydynt yn fodlon ag ymateb y comisiynydd. Hefyd, yn dilyn penderfyniad y comisiynydd mewn achos gorfodi, fel y dywedais, gall person apelio yn erbyn penderfyniad y comisiynydd i'r triwiwnlys ar sail bod y camau gorfodi yn afresymol.

**Brynle Williams:** Mewn perthynas â safonau, yr ydym wedi derbyn tystiolaeth gan gynrychiolydd cyflenwyr nwy petrolewm hylifedig yn mynegi pryderon am y gallu i gystadlu, gan nodi nad oeddynt mewn cystadleuaeth â phrif gyflenwyr nwy, gan eu bod yn gwasanaethu llawer o ardaloedd gwledig, ond â chyflenwyr olew a phren, nad oedd wedi'u cynnwys yn y Gorchymyn cymhwysedd deddfwriaethol ac, felly, ni ellid eu cynnwys yn y Mesur arfaethedig. Cadarnhaodd Nwy Prydain hyn. A fydech yn ystyried tynnu cyflenwyr nwy petrolewm hylifedig o'r Mesur arfaethedig tan y gellir cynnwys eu cystadleuwyr—cyflenwyr olew a glo?

**Alun Ffred Jones:** Mae'n bwysig bod y Mesur arfaethedig yn adlewyrchu'r cymhwysedd cyfan fel y cyflwynir ef ym materion 21.1 o Atodlen 5 i Ddeddf Llywodraeth Cymru 2006. Tasg y comisiynydd fydd ystyried a oes angen safonau ar gyfer cwmnïau o'r fath fel rhan o'i ymchwiliad safonau. Nid yw'r ffaith ei fod wedi'i gynnwys yn golygu y bydd unrhyw safonau'n cael eu gosod.

**Gareth Jones:** Professor Colin Williams told us that:

[163] ‘Cyn i’r Mesur arfaethedig ymddangos, rhaid imi gyfaddef fy mod yn disgwyl i’r safonau fod yn haen arwyddocaol a symbolaidd—nid i ddisodli cynlluniau iaith, ond i’w gwarchod fel bod safonau cenedlaethol yn perthyn i’r system addysg, y gwasanaeth iechyd, y Llywodraeth ac yn y blaen. Dyna sut yr wyf yn dal i’w gweld’.

‘Before the proposed Measure appeared, I have to admit that I expected the standards to be a symbolic and significant layer—not to replace language schemes, but to protect them so that national standards would be applied to the education system, the health service, the Government and so on. That is how I still view them’.

[164] Fodd bynnag, gan fod deddfwriaeth ar waith, dywedodd y CBI y byddai angen i’r safonau ddisodli’r cynlluniau gan y byddai angen i’r safonau fod yr un mor gymwys i bob cwmni cystadleuol neu gallent wynebu her gyfreithiol. Sut ydych chi’n ymateb i’r ddwy farn sylfaenol wahanol hyn?

However, the CBI said that, now that legislation was in place, standards would have to replace schemes because standards would have to apply in the same way to all competing companies or they could be open to legal challenge. How do you respond to these fundamentally different views?

[165] **Alun Ffred Jones:** Ein barn ni yw y bydd y safonau hyn yn rhoi eglurder ynghylch y gwasanaethau y gall pobl eu disgwyl oherwydd ein bod yn gosod gofynion penodol ar gyrff mewn ffordd sy’n llawer mwy eglur na’r cynlluniau iaith presennol.

**Alun Ffred Jones:** Our opinion is that these standards will provide clarity regarding the services that people can expect to receive because we are placing specific requirements on bodies in a way that is much clearer than the current language schemes.

11.20 a.m.

[166] Credwn hefyd y bydd gosod a chytuno ar safonau, yn y tymor hir ac yn y tymor canolig, yn llai o faich biwrocraidaidd ar y cyrff hyn ac ar y comisiynydd, a fydd yn cymryd lle’r bwrdd.

We also believe that, in the medium and long term, setting and agreeing on standards will be less of a bureaucratic burden for these organisations and for the commissioner, who will replace the board.

[167] **Gareth Jones:** Er mwyn bod yn glir, felly, yr ydych yn dweud bod—

**Gareth Jones:** Just to be clear, therefore, you are saying that—

[168] **Alun Ffred Jones:** Mae’n ddrwg gennyf, nid atebais eich cwestiwn. Mae Colin Williams yn dweud y dylai’r safonau hyn eistedd ar ben y cynlluniau iaith presennol. Credaf fod yn rhaid mynd am y naill neu’r llall. Credwn y bydd y safonau hyn, sy’n ddatblygiad ar y cynlluniau iaith, yn creu llawer iawn mwy o eglurder i’r defnyddiwr yn ogystal ag i’r corff sy’n gorfod paratoi’r gwasanaeth. Fel yr wyf eisoes wedi ei ddweud, byddem yn disgwyl y byddai gan unrhyw gorff, wrth ymgyrraedd at y safonau hyn, gynllun mewdol a strategol ei hun ynghylch sut y bydd yn cyrraedd y safonau hynny. Dyna yw pwrpas y cynlluniau iaith presennol.

**Alun Ffred Jones:** I am sorry, I did not answer your question. Colin Williams says that these standards should exist alongside current language schemes. I believe that we have to go for one or the other. We believe that these standards, which are a development on the schemes, provide far greater clarity for the user as well as for the organisation that has to provide the service. As I have already said, we would expect any organisation, in aiming to achieve the standards, to have an internal and strategic plan as to how it will reach those standards. That is the purpose of the current language schemes.

[169] **Gareth Jones:** Er mwyn bod yn glir—ac nid wyf yn ceisio bod yn glyfar drwy

**Gareth Jones:** For the sake of clarity—and I am not trying to be clever in making this



wneud y pwynt hwn o gwbl—o wrando arnoch, mae'n ymddangos eich bod yn cydnabod fwy neu lai y bydd y safonau'n adeiladu ar y cynlluniau iaith.

[170] **Alun Ffred Jones:** Dyna'r hyn yr ydym yn ei gredu, sef ein bod, drwy'r Mesur arfaethedig, yn adeiladu ar y gwelliant amlwg a gaed ers Deddf 1993 ynglŷn â gwasanaethau dwyieithog yng Nghymru drwy ei gwneud yn fwy eglur pa wasanaethau sydd ar gael i ddefnyddwyr gan wahanol gyrff neu gwmnïau. Mae'n fater o eglurder, ond pwysleisiaf nad yw'n golygu eglurder i'r cwsmer yn unig, ond i'r corff ei hun ynglŷn â'r hyn a ddisgwylir ganddo.

[171] **Gareth Jones:** Diolch am hynny. Mae hynny'n arwain at yr hyn a ddywedodd IAITH, sef y ganolfan cynllunio iaith, wrthym, sy'n datblygu'r pwynt yn eich ateb ychydig ymhellach. Dywedodd, ni waeth beth fydd natur y safonau, i'w gosod ar waith yn ymarferol o fewn sefydliad, bydd angen rhyw lun ar gynllun gweithredu, a bod hyn yn ddim mwy na llai na ffurf ar gynllun iaith. Gofynnwyd a fydd gan y cynllun gweithredu hwnnw yr un grym statudol â'r hyn sydd gan gynlluniau iaith Gymraeg ar hyn o bryd. Heb statws statudol i gynlluniau gweithredu byddai'r Mesur arfaethedig yn gwanhau'r sefyllfa gyfredol.

[172] Mae tystion eraill wedi dweud pethau tebyg, gan gynnwys un a ddywedodd y bydd y Mesur arfaethedig yn wannach na'r Ddeddf bresennol os na fydd gan y safonau ryw fath o gynlluniau iaith cyfatebol, ac yr ydych wedi ateb y pwynt hwnnw. Beth yw eich barn am yr elfen statudol y mae'r ganolfan gynllunio iaith wedi cyfeirio ati?

[173] **Alun Ffred Jones:** Ni allaf gytuno â'r gosodiad y byddai'r safonau hyn yn wannach na'r cynlluniau iaith presennol, sy'n amrywio o gorff i gorff. Adeiladu ar lwyddiant y cynlluniau yw'r bwriad. Nid wyf am ailadrodd y pwynt ynglŷn ag eglurder. Byddai unrhyw gorff yn mabwysiadu rhyw fath o strategaeth wrth ymgynraedd at y safonau hyn, fel y byddent yn ei wneud mewn meysydd eraill hefyd. Nid ydym yn credu ar hyn o bryd fod angen cynnwys unrhyw beth yn y Mesur arfaethedig

point—from listening to what you have said, you seem to be acknowledging more or less that these standards will build on the language schemes.

**Alun Ffred Jones:** That is our belief, namely that, through the proposed Measure, we are building on the clear improvement that has been seen since the 1993 Act with regard to bilingual services in Wales, by making it clearer which services various organisations or companies provide to users. It is a question of clarity, but I would stress that it is not a question of clarity for the consumer only, but for the organisation itself as to what is expected of it.

**Gareth Jones:** Thank you for that. That leads us on to what IAITH, the Welsh centre for language planning, has told us, which elaborates somewhat on the point that you have made in your answer. It said that, regardless of what the standards are, some kind of action plan will be necessary to put them into practice within an organisation, and that this is no more and no less than a form of language scheme. It asked whether that action plan will have the same statutory force as the current Welsh language schemes. In the absence of statutory force for action plans, the proposed Measure would weaken the current position.

Other witnesses have made similar comments, including one who said that the proposed Measure would be weaker than the current Act if the standards do not have some sort of corresponding language schemes, and you have answered that point. What is your opinion on the statutory element that the Welsh language planning centre has referred to?

**Alun Ffred Jones:** I cannot agree with the assertion that the standards would be weaker than current language schemes, which vary between organisations. The intention is to build on the success of the schemes. I will not repeat the point on clarity. An organisation would adopt some kind of strategy in aiming to reach the standards, just as it would in other areas. We do not believe at present that anything needs to be included in the proposed Measure above and beyond what is already in it.

ymhellach i'r hyn sydd ynddo.

[174] **Dr Jones:** Mae adran 26 yn y Mesur arfaethedig yn ei gwneud yn glir y gall y comisiynydd osod dyletswydd ar gorff i baratoi cynllun sy'n gosod allan sut y bydd yn cyrraedd pwynt pan y bydd yn ufuddhau i safon. Felly, mae'r broses o fod yn berchen ar y gwaith yn dal i fod. Nid yw'n fater o ddweud 'Dyna'r safon; i ffwrdd â chi', oherwydd gall y comisiynydd ddweud 'Dyna'r safon; dangoswch inni yn awr sut yr ydych yn cynllunio i gyrraedd y safon honno'.

**Dr Jones:** Section 26 of the proposed Measure makes it clear that the commissioner can impose a duty on an organisation to prepare a plan that sets out how it will reach that point of complying with a standard. Therefore, the process of owning the work still exists. It is not a question of saying 'There is the standard; off you go', because the commissioner can say 'There is the standard; now show us how you are planning to achieve it'.

[175] **Gareth Jones:** A fydd y datblygiad hwnnw'n cael ei fonitro?

**Gareth Jones:** Will that progress will be monitored?

[176] **Dr Jones:** Bydd. Bydd y comisiynydd yn gallu gosod safonau cadw cofnodion a phenderfynu pa fath o wybodaeth y bydd angen ei dderbyn gan gorff er mwyn monitro cynnydd.

**Dr Jones:** Yes. The commissioner will be able to impose record-keeping standards and determine the type of information that is required from an organisation in order to monitor progress.

[177] **Gareth Jones:** Yn eich ateb, yr ydych yn cyfeirio at y ffaith y bydd y cynllun yn datblygu dros gyfnod o amser. Os yw'r comisiynydd wedi gosod y safonau a'i fod yn fodlon i'r corff weithio tuag at eu cyrraedd, a fydd hynny'n cael ei fonitro yn y cyfamser i sicrhau ei fod yn symud i'r cyfeiriad cywir, ynteu a ddywedir, 'Dewch yn ôl ataf ymhen dwy flynedd' neu beth bynnag?

**Gareth Jones:** In your answer, you refer to the fact that the scheme will develop over a period of time. If the commissioner has set the standards and is happy for the organisation to work towards reaching them, will that be monitored in the meantime to ensure that it is moving in the right direction, or will it be told, 'Come back to me in a couple of years' time' or whatever?

[178] **Dr Jones:** Bydd. Gall y comisiynydd osod y safonau o ran cadw cofnodion a gellid llunio rheoliadau yn nodi'r math o wybodaeth y mae'n rhaid i gorff ei darparu i'r comisiynydd. Felly, cytunir ar y safon gan y Cynulliad. Bydd y comisiynydd yn gosod y safon ar y corff ac yn dweud, 'Dyma'ch dyddiad gosod chi. Yr wyf am eich gweld yn cyrraedd y safon. Mae gennych chwe mis, blwyddyn, dwy flynedd neu beth bynnag i'w chyrraedd. Yr wyf am eich gweld yn paratoi cynllun yn dangos sut y byddwch yn mynd ati i gyrraedd y safon'. Mae modd mynnu hefyd fod y corff yn cadw cofnod o sut y gwreiddir y safon a darparu mathau arbennig o wybodaeth i'r comisiynydd fel y gellir monitro'r cynnydd.

**Dr Jones:** Yes. The commissioner will be able to set record-keeping standards and there could also be regulations specifying the kind of information that a body will have to provide to the commissioner. Therefore, the standard will be agreed by the Assembly. The commissioner will impose the standard on a body and say, 'This is your imposition day. I want to see you reaching this standard. You have six months, a year, two years or whatever to reach it. I want to see you preparing a plan to show how you intend to reach the standard'. It will also be possible to require the body to keep a record of how it is complying with the standard and provide certain types of information to the commissioner so that progress can be monitored.

[179] **Gareth Jones:** Mae'r cwestiwn hwn yn gwbl berthnasol i'r cwestiwn a ofynnodd

**Gareth Jones:** This question is relevant to the question asked by Lorraine earlier

Lorraine yn gynharach ynghylch staffio a lefel staffio swyddfa'r comisiynydd.

regarding staffing and the staffing levels at the commissioner's office.

[180] **Alun Ffred Jones:** A hoffech imi ymateb ar y pwynt hwnnw?

**Alun Ffred Jones:** Did you want me to respond to that?

[181] **Gareth Jones:** A ydych yn cytuno? Yr wyf yn ceisio rhagweld faint o dasg a gorchwyl fydd hynny ledled Cymru o safbwynt yr holl gyrff hyn. Yr ydym wedi gofyn cwestiwn am lefel y staffio. O'r ateb hwnnw, byddwn yn tybio y bydd yr elfen ddatblygol yn golygu y bydd cryn dipyn o staff i gynorthwyo'r comisiynydd.

**Gareth Jones:** Do you agree? I am trying to anticipate how much of a task that that will be across Wales in terms of all of these organisations. We have already asked a question regarding staffing levels. From that response, I suspect that that developmental element will mean that there will be quite a few staff assisting the commissioner.

[182] **Alun Ffred Jones:** Bydd gan y comisiynydd y staff angenrheidiol ond yr ydym yn rhagweld y byddai ar tua'r un lefel â'r hyn sydd gan y bwrdd ar hyn o bryd gan fod y bwrdd yn monitro 500 o gynlluniau unigol.

**Alun Ffred Jones:** The commissioner will have the necessary staff in place, but we anticipate that it will be around the same level as the number currently employed by the board as it is currently monitoring some 500 individual schemes.

[183] **Gareth Jones:** Mae adran 41 yn cyflwyno Atodlen 9 i'r Mesur arfaethedig, sef gweithgareddau y mae'n rhaid pennu safonau cyflenwi gwasanaethau mewn perthynas â hwy. Yr oedd Scottish Power yn cynnig newid y geiriau 'mae'n rhaid' i 'gallai'. Beth yw eich ymateb i hynny? Yr oedd Bwrdd yr Iaith Gymraeg yn teimlo bod angen ychwanegu rhai elfennau ychwanegol fel materion yn ymwneud â staffio ac ymdrin â chwynion. Beth yw eich barn chi am hynny?

**Gareth Jones:** Section 41 introduces Schedule 9 to the proposed Measure, namely activities for which service delivery standards must be specified. Scottish Power proposed changing the word 'must' to 'may'. What is your response to that? The Welsh Language Board felt that some additional elements needed to be included, such as staffing matters and dealing with complaints. What is your view of this?

[184] **Alun Ffred Jones:** Gan ei fod yn fater technegol, hoffwn droi at Huw i ateb y cwestiwn.

**Alun Ffred Jones:** As this is a technical issue, I will turn to Huw to answer this question.

[185] **Dr Jones:** Mae adran 41 yn gosod dyletswydd ar Weinidogion Cymru i sicrhau bod unrhyw reoliadau a wnânt o dan adran 38 yn darparu bod safonau o ran darparu gwasanaeth sy'n ymwneud â phob gweithgaredd sydd wedi'i restru yn Atodlen 9 yn gymwys i berson, dim ond os yw'r person hwnnw'n gwneud y gweithgareddau hynny. Mae'n ateb eithaf technegol ond os darllenwch y Cofnod maes o law, efallai y bydd yn gliriach. Pwrpas hynny wedyn yw sicrhau nad yw Gweinidogion yn methu â gwneud set cynhwysfawr y gellir eu gosod ar berson. Felly, mae'n ffordd o sicrhau bod Gweinidogion yn cynnwys popeth y gellid ei gynnwys yn y safonau.

**Dr Jones:** Section 41 places a duty on Welsh Ministers to ensure that any regulations that they make under section 38 provide for standards in terms of service provision that relate to all of the activities listed in Schedule 9 to be applicable to a person, but only if that person carries out those activities. It is quite a technical response, but if you read the Record, it may become clearer to you. The purpose of that is to ensure that Ministers do not fail to provide comprehensive standards that could be imposed on a person. Therefore, it is a way to ensure that Ministers include everything that could be included in the standards.

[186] Yn dilyn y broses honno, nid oes raid i'r comisiynydd ddefnyddio'r holl safonau hynny gyda phob corff. Bydd elfen o ddisgresiwn gan y comisiynydd. Rhaid i'r Gweinidog ddarparu set lawn o arfau i'r comisiynydd. Gall y comisiynydd wedyn ddewis yr arfau y mae'n dymuno eu defnyddio gyda chorff penodol. Er enghraifft, efallai fod corff go fach wedi'i leoli yn Lloegr, dyweder, sydd yn darparu gwasanaeth eithaf cyfyng i'r cyhoedd, ond bod y comisiynydd yn meddwl, 'Y cyfan y mae angen imi ei wneud gyda'r corff hwn yw sicrhau ei fod yn ateb gohebiaeth yn y Gymraeg'. Fodd bynnag, mae set lawn o arfau ar gael i'r comisiynydd.

[187] **Gareth Jones:** Gwnaethoch sôn am Weinidogion. A ydych felly yn cyfeirio at Weinidogion ar draws gwahanol adrannau?

[188] **Dr Jones:** Yr wyf yn sôn am Weinidogion Cymru a fydd yn gorfod sicrhau bod y rheoliadau a wnânt yn cynnwys yr holl safonau posibl.

11.30 a.m.

[189] **Alun Ffred Jones:** Mae'r broses yn glir. Mae'r comisiynydd yn paratoi ei adroddiad ar sector ac yn gwneud ei argymhellion i'r Llywodraeth. Mae'n rhaid i'r safonau hynny wedyn gael sêl bendith y Cynulliad, a bydd trafodaeth arnynt yn y Cynulliad. Bydd y comisiynydd wedyn yn penderfynu sut y bydd yn eu defnyddio mewn unrhyw sector.

[190] **Gareth Jones:** Yr ydym newydd dderbyn tystiolaeth o Gatalwnia, a derbyniaf fod gwahaniaethau, ond—

[191] **Alun Ffred Jones:** Y gwahaniaeth mwyaf yw y siaredir Catalaneg gan 90 y cant o boblogaeth y rhanbarth.

[192] **Gareth Jones:** Derbyniaf hynny, ond yr oedd yr hyn a ddywedwyd am Weinidogion yn allweddol; gallai'r Gweinidog dros yr economi, er enghraifft, fod yn gyfrifol am yr iaith Gymraeg o fewn y portffolio hwnnw. Hynny yw, pan siaradwn am safonau ym myd busnes yng Nghymru, byddem yn meddwl am y comisiynydd, nid y

Following this process, there is no requirement for the commissioner to use all of those standards with every organisation. There will be an element of discretion for the commissioner. The Minister has to provide a full set of tools for the commissioner. The commissioner can then decide which of those tools to use with a specific organisation. For example, there may be a relatively small organisation located in England, say, that provides quite a limited public service and the commissioner may think, 'All that I have to do with this body is to ensure that it responds to correspondence through the medium of Welsh'. However, there will be a full toolkit available to the commissioner.

**Gareth Jones:** You mentioned Ministers. Are you therefore referring to Ministers across various departments?

**Dr Jones:** I am referring to Welsh Ministers, who will have to ensure that the regulations that they make include all possible standards.

**Alun Ffred Jones:** The process is clear. The commissioner makes a report on a sector and makes recommendations to the Government. Those standards will have to be approved by the Assembly, and there will be a discussion on them in the Assembly. The commissioner will then choose how he or she then applies those in any sector.

**Gareth Jones:** We have just received evidence from Catalonia, and I accept that there are differences, but—

**Alun Ffred Jones:** The greatest difference is that Catalan is spoken by 90 per cent of the region's population.

**Gareth Jones:** I accept that, but what was said about Ministers was key; the Minister for the economy, for example, could have responsibility for the Welsh language within that portfolio. That is, when we speak about standards in business in Wales, we would think of the commissioner, not the Minister. That is why I was listening carefully when

Gweinidog. Dyna pam yr oeddwn yn gwranddo'n ofalus arnoch yn sôn am Weinidogion. Derbyniaf fod gennym un Gweinidog sydd â'r cyfrifoldeb, ond a fyddai'r Mesur arfaethedig hwn yn caniatáu i Weinidogion ymrwymo i ofynion y Mesur arfaethedig a sicrhau bod busnesau yn ymateb yn bositif i'r iaith Gymraeg drwy'r safonau, o un adran i'r llall? Mae gan bob adran rywfaint o gyfrifoldeb dros y Gymraeg, ond a ragwelwch fod sgôp o fewn y Mesur arfaethedig hwn i ehangu hynny, oherwydd ymddengys o'r dystiolaeth a gawsom fod hynny'n fwy effeithiol, er na allaf brofi hynny?

[193] **Alun Ffred Jones:** Bydd gan y comisiynydd hawl i wneud ymchwiliad i unrhyw agwedd sy'n ymwneud â'r Gymraeg ac i gyflwyno'r adroddiad hwnnw i'r Llywodraeth ac unrhyw Weinidog neu grŵp o Weinidogion. Bydd rhaid i'r Gweinidogion hynny roi sylw dyladwy i'r adroddiad hwnnw wedyn. Felly, bydd gan y comisiynydd bwerau eang a all fod yn berthnasol i unrhyw bortffolio o fewn y Llywodraeth.

[194] **Dr Jones:** Byddai modd i'r comisiynydd argymhell gosod safonau hybu'r Gymraeg ar Weinidogion Cymru, fel bod cyfrifoldeb ar y Gweinidogion hynny i hybu'r Gymraeg.

[195] **Gareth Jones:** Byddent wedyn yn atebol i'r comisiynydd.

[196] **Dr Jones:** Yn hollol.

[197] **Rhodri Morgan:** Mae'n siŵr eich bod wedi darllen tystiolaeth corff statudol defnyddwyr Cymru, sef Llais Defnyddwyr Cymru, sy'n gofyn am safonau clir o ran cadw cofnod er mwyn sicrhau bod y broses o fonitro a gwerthuso ar sail tystiolaeth glir. A gredwch mai hollti blew ydyw hyn gan Lais Defnyddwyr Cymru neu a gredwch fod hynny'n hollbwysig?

[198] **Alun Ffred Jones:** Byddai'n well i ti gymryd y cwestiwn hwn, Huw, gan ei fod yn fater technegol.

[199] **Dr Jones:** O dan y Mesur arfaethedig, byddai modd gosod dyletswyddau o ran cadw cofnodion ar bob

you mentioned Ministers. I accept that we have one Minister with responsibility, but would this proposed Measure allow Ministers to commit to the requirements of the proposed Measure and thereby ensure that businesses respond positively to the Welsh language through the standards, from one department to another? All departments have some responsibility for the Welsh language, but do you anticipate that there is scope in the proposed Measure to expand on that, because that seems to be more effective, from the evidence that we received, although I cannot prove that?

**Alun Ffred Jones:** The commissioner will have a right to conduct an inquiry into any issue relating to the Welsh language and to present that report to the Government and any Minister or group of Ministers. Ministers will then have to have due regard for that report. Therefore, the commissioner will have a broad range of powers that could be applied to any portfolio within the Government.

**Dr Jones:** The commissioner could recommend imposing promotion standards on Welsh Ministers, so that there would be a broader responsibility on those Ministers to promote the Welsh language.

**Gareth Jones:** They would then be accountable to the commissioner.

**Dr Jones:** That is right.

**Rhodri Morgan:** I am sure that you have read the evidence from Wales's statutory consumer body, Customer Focus Wales, which asks for clear standards regarding record keeping so that monitoring and evaluating can be done on the basis of clear evidence. Do you believe that Customer Focus Wales is splitting hairs or do you believe that that is crucial?

**Alun Ffred Jones:** It would be better for you to take this question, Huw, given that it is a technical issue.

**Dr Jones:** Under the proposed Measure, it would be possible to place duties with regard to record keeping on all organisations that

corff sy'n derbyn hysbysiad cydymffurfio, os ydynt yn Atodlenni 5 a 6 neu 7 ac 8. Mae modd gosod y ddyletswydd hon ar bob corff a fydd yn gorfod ufuddhau i'r safonau, ac felly byddem yn disgwyl i'r comisiynydd wneud hynny, fel y bydd yn gallu monitro'r cydweithredu â'r safonau.

[200] **Rhodri Morgan:** Beth yw'ch ymateb i gynnig Cymdeithas Llywodraeth Leol Cymru yn ei thystiolaeth ysgrifenedig ynglŷn â nifer y cyrff cyhoeddus a ddylai ysgwyddo'r ddyletswydd o hyrwyddo defnydd ehangach o'r Gymraeg? Mae'r Mesur arfaethedig, ar ei ffurf bresennol, yn rhoi'r ddyletswydd ar y Llywodraeth ac ar lywodraeth leol yn unig, ond cred CLILC y dylai'r ddyletswydd fod yn ehangach. Beth yw'ch ymateb i'r gred honno?

[201] **Alun Ffred Jones:** Y bwriad oedd i'r safon arbennig hon fod yn berthnasol i gyrff sydd mewn sefyllfa i ddylanwadu yn eang ar gymunedau lleol, a dyna pam y cyfeiriasom at y ddau sector hynny yn unig. Yr wyf yn hapus i ystyried sectorau neu gyrff eraill, os yw'r pwyllgor yn teimlo y byddai hynny'n llesol.

[202] **Rhodri Morgan:** Cwynodd Scottish Power yn ei dystiolaeth nad oedd cyfeiriad at unrhyw eithriadau cyffredinol ar gyfer digwyddiadau eithriadol, gan nodi bod ei ganolfan galwadau Cymraeg weithiau yn methu yn dechnegol. A ydych wedi ymateb i'r mater hwn, wedi darllen y dystiolaeth? A ddylai fod rhyw fath o eithriad neu gymal sy'n delio ag eithriadau fel y rhain?

[203] **Alun Ffred Jones:** O dan adran 54, gall person herio'r ddyletswydd os nad yw mewn sefyllfa i'w chyflawni—neu os nad yw'n rhesymol gwneud hynny—oherwydd sefyllfa arbennig. Yr enghraifft a roddwyd i mi oedd pe bai uned gyfieithu neu uned Gymraeg unrhyw gorff yn ennill lotri'r EuroMillions ac yn peidio troi i fyny yn y gwaith am bythefnos, byddai hynny yn achos digon teg i'w gyflwyno i'r comisiynydd i esbonio pam methodd yr uned â chyflawni'i dyletswyddau; credwn fod adran 54 yn caniatáu hynny ar hyn o bryd.

[204] **Rhodri Morgan:** Yn ei dystiolaeth, mynegodd E.ON bryder mai dim ond 14

receive a compliance notice, be they in Schedules 5 and 6 or 7 and 8. This duty could be placed upon all organisations that will have standards placed upon them, and therefore we would expect the commissioner to do so, so that he or she could monitor compliance with the standards.

**Rhodri Morgan:** What is your response to the Welsh Local Government Association's proposal in its written evidence with regard to the number of public bodies that should bear the duty to promote the wider use of the Welsh language? The proposed Measure, as currently drafted, only places the duty on the Government and local government, but the WLGA believes that there should be a wider duty. What is your response to that belief?

**Alun Ffred Jones:** The intention was that this particular standard would be pertinent to organisations that are in a position to have a broad influence on local communities, and that is why we made reference only to those two sectors. I am happy to consider other sectors or bodies if the committee feels that that would be beneficial.

**Rhodri Morgan:** Scottish Power complained in its evidence that there was no reference to any general exemptions for exceptional circumstances in the standards, stating that its Welsh-language call centre sometimes fails technically. Have you responded to this matter, after reading the evidence? Should there be some sort of exception or clause that deals with exceptions such as these?

**Alun Ffred Jones:** Under section 54, any person can challenge the duty if they are not in a position to discharge it, or if it is unreasonable for them to do so, due to particular circumstances. The example that was given to me was that if the translation unit or Welsh language unit of any body won the EuroMillions draw and did not show up at work for a fortnight, that would be a valid case for them to present to the commissioner to explain why the unit failed to fulfil its duties; we believe that section 54 allows for that to happen at present.

**Rhodri Morgan:** In its evidence, E.ON expressed concern that the commissioner will

diwrnod—pythefnos, felly—o rybudd fydd angen i'r comisiynydd ei roi cyn dechrau ymchwiliad safonau o dan adran 60(2). A allwch roi esboniad o'r ffordd y daethoch i'r penderfyniad mai pythefnos fyddai'r cyfnod hwnnw?

[205] **Alun Ffred Jones:** Mae'r pythefnos hwnnw'n rhoi rhyw fath o *heads up* i gorff bod y comisiynydd yn dechrau ymchwiliad i faes arbennig ar ddiwedd y cyfnod hwnnw. Nid yw hynny'n golygu bod rhaid i'r corff hwnnw wneud unrhyw beth o fewn y pythefnos heblaw dechrau paratoi ar gyfer yr ymweliad neu'r sgwrs ffôn, neu pa ffurf bynnag bydd yr ymgynghoriad yn cymryd; ni chredwn fod angen mwy o amser i wneud hynny.

[206] **Michael German:** I want to look at Schedule 7 and the definition of telecommunications. You define telecommunications services as any service or company providing access to any form of communication by means of electrical, magnetic or electromagnetic energy, except for radio, television or broadcasting. It appears to me that that definition encompasses Skype, Facebook, Twitter and Yahoo. Is it your intention that they should be included in the proposed Measure?

[207] **Alun Ffred Jones:** I have no intention of issuing a placement of duties. Whether those companies fall within the definition that was linked to the type of technology that runs those sites is a technical question that will need to be checked. Interestingly, Facebook already hosts activities through the medium of Welsh. However, there is no intention that they should have a duty placed on them.

[208] **Michael German:** How will you make clear in the legislation that that is not your intention? I am grateful for the definition, but it needs to be included somewhere in the legislation, does it not?

[209] **Alun Ffred Jones:** I understand that this is a very technical area and I am not competent to answer your question. It is also a fast-moving area and it is, therefore, very difficult to encapsulate all intentions here. Do you have anything to add on this matter,

only need to give 14 days—a fortnight—of notice before commencing an inquiry into standards under section 60(2). Can you explain how you reached the decision that that period should be a fortnight?

**Alun Ffred Jones:** That fortnight gives some sort of heads up to an organisation that the commissioner will commence an inquiry into a particular matter at the end of that period. It does not mean that that organisation needs to do anything during the fortnight other than to start preparing for the visit or the phone call, or whatever form the inquiry will take; we do not believe that any more time is required to do that.

**Michael German:** Yr wyf am edrych ar Atodlen 7 a'r diffiniad o delathrebu. Yr ydych yn diffinio gwasanaethau telathrebu fel unrhyw wasanaeth neu gwmni sy'n darparu mynediad i unrhyw ffurf ar gyfathrebu drwy ynni trydanol, magnetig neu electromagnetig, ac eithro radio, teledu neu ddarlledu. Ymddengys i mi bod y diffiniad yn cynnwys Skype, Facebook, Twitter a Yahoo. Ai eich bwriad yw y dylent eu cynnwys yn y Mesur arfaethedig?

**Alun Ffred Jones:** Nid wyf yn bwriadu cyhoeddi dyletswyddau. Mae a yw'r cwmnïau hynny yn cael eu cwmpasu yn y diffiniad a oedd yn gysylltiedig â'r math o dechnoleg sy'n cynnal y safleoedd hynny yn gwestiwn technegol y bydd angen ei archwilio. Yn ddi-ddorol, mae Facebook eisoes yn cynnal gweithgareddau drwy gyfrwng y Gymraeg. Fodd bynnag, nid oes bwriad gorfodi dyletswydd arnynt.

**Michael German:** Sut byddwch yn nodi'n glir yn y ddeddfwriaeth nad hynny yw eich bwriad? Yr wyf yn ddiolchgar am y diffiniad, ond mae angen ei gynnwys rhywle yn y ddeddfwriaeth, onid oes?

**Alun Ffred Jones:** Deallaf fod hyn yn faes technegol iawn ac nid wyf yn gymwys i ateb eich cwestiwn. Mae hefyd yn faes sy'n symud yn gyflym ac mae, felly, yn anodd iawn crynhoi pob bwriad yma. A oes gennych unrhyw beth i'w ychwanegu ar y

Huw?

[210] **Dr Jones:** As the Minister says, it is not the intention to see companies such as Skype being placed under duties for the voice-over-internet protocol. I am not entirely sure how you could make that clearer in the proposed Measure. Schedule 7 transfers to the proposed Measure the competence provided by the LCO for the Assembly, and Schedule 8 then attempts to focus in on the types of organisations that standards could be imposed on in the provision of public telecommunications services.

[211] **Michael German:** I do not want to stump you. Given the Minister's assurance that there is no intention of including those companies, it would be helpful for you to say that you are going to go away and look at how that could be done in the legislation, because it has to be clear. That would be helpful and I would be happy with that.

[212] **Alun Ffred Jones:** We will consider the matter and come back to you, if that would be helpful.

[213] **Val Lloyd:** Before I bring Lorraine in on this, Minister, I want to go back to the issue of compliance that Rhodri raised at the beginning. We heard from the Internet Services Providers' Association about its concern that only six months are to be given to ensure compliance with the standards under section 45(3), and only 28 days are to be given to appeal to the tribunal under section 57(3). Could you clarify why those time limits were chosen?

11.40 a.m.

[214] **Alun Ffred Jones:** Six months is the minimum period; it could be longer. We should always bear in mind the requirement to be reasonable and proportionate in relation to these issues.

[215] On the 28-day deadline, the tribunal has the discretion to extend that period to hear appeals.

mater hwn, Huw?

**Dr Jones:** Fel y dywedodd y Gweinidog, nid y bwriad yw gweld cwmnïau fel Skype yn cael eu gosod o dan ddyletswyddau ar gyfer y protocol llais dros y rhyngrwyd. Nid wyf yn hollol sicr sut gallech wneud hynny'n gliriach yn y Mesur arfaethedig. Mae Atodlen 7 yn trosglwyddo'r cymhwysedd a ddarperir gan y GCD a gymeradwywyd i'r Cynulliad i'r Mesur arfaethedig, ac mae Atodlen 8 yna'n ceisio canolbwyntio ar y mathau o sefydliadau y gellid gosod safonau arnynt wrth ddarparu gwasanaethau telathrebu cyhoeddus.

**Michael German:** Nid wyf am eich drysu. O ystyried sicrwydd y Gweinidog nad oes bwriad i gynnwys y cwmnïau hynny, byddai'n ddefnyddiol i chi ddweud eich bod am fynd i ffwrdd ac edrych ar sut gellid gwneud hynny yn y ddeddfwriaeth, oherwydd mae'n rhaid i hynny fod yn glir. Byddai hynny'n ddefnyddiol a byddwn yn hapus gyda hynny.

**Alun Ffred Jones:** Byddwn yn trafod y mater ac yn dod yn ôl atoch chi, pe bai hynny'n ddefnyddiol.

**Val Lloyd:** Cyn i mi ofyn i Lorraine gyfrannu at hyn, Weinidog, yr wyf am fynd yn ôl at y mater o gydymffurfio a gododd Rhodri ar y dechrau. Clywsom gan y Gymdeithas Darparwyr Gwasanaethau Rhyngrwyd am ei phryderon mai dim ond chwe mis fydd yn cael eu rhoi i sicrhau cydymffurfiaeth â'r safonau o dan adran 45(3), a dim ond 28 niwrnod fydd yn cael eu rhoi i apelio i'r tribiwnlys o dan adran 57(3). A allwch egluro pam y dewiswyd y terfynau amser hynny?

**Alun Ffred Jones:** Chwe mis yw'r cyfnod lleiaf; gallai fod yn hwy. Dylem wastad gofio'r gofyniad i fod yn rhesymol a chymesur mewn perthynas â'r materion hyn.

O ran y terfyn amser 28 niwrnod, mae gan y tribiwnlys y rhyddid i ymestyn y cyfnod hwnnw i wrando ar apelau.



- [216] **Lorraine Barrett:** Sections 43 to 51 deal with compliance notices and explain what information they should contain and the procedure for dealing with them. We have heard some evidence noting confusion as to who would receive a compliance notice in practice. A good example is that of the Royal Mail. On a practical level, would compliance notices be sent to every sub-postmaster or sub-postmistress, or would the notices be sent only to Royal Mail headquarters, with it being up to it to disseminate?
- Lorraine Barrett:** Mae adrannau 43 i 51 yn ymdrin â hysbysiadau cydymffurfio ac yn egluro pa wybodaeth y dylid ei chynnwys a'r weithdrefn ar gyfer ymdrin â hwy. Clywsom dystiolaeth yn nodi dryswch ynglŷn â phwy fyddai'n derbyn hysbysiad cydymffurfio yn ymarferol. Enghraifft dda yw'r Post Brenhinol. Ar lefel ymarferol, a fyddai hysbysiadau cydymffurfio yn cael eu hanfon at bob is-bostfeistr neu is-bostfeistres, neu a fyddai'r hysbysiadau'n cael eu hanfon i bencadlys y Post Brenhinol yn unig, er mwyn iddynt hwy eu dosbarthu?
- [217] **Alun Ffred Jones:** Leaving aside the question of whether the sub-postmasters and sub-postmistresses are employees of Royal Mail, the relevant compliance notice would be sent to the person who is legally responsible for complying with the standard, and that would have been thrashed out with the commissioner. It may be an individual or a group. In this case it depends on whether sub-postmasters and sub-postmistresses are employees of Royal Mail, and the legal relationship between them. So, I cannot give an answer on that specific issue, but I will prepare a note for you on that.
- Alun Ffred Jones:** Gan anwybyddu'r cwestiwn a yw is-bostfeistri neu is-bostfeistresi yn weithwyr cyflogedig i'r Post Brenhinol, byddai'r hysbysiad cydymffurfio yn cael ei anfon at y person sy'n gyfreithiol gyfrifol am gydymffurfio â'r safon, a byddai hynny wedi'i drafod a'i gytuno gyda'r comisiynydd. Gallai fod yn unigolyn neu grŵp. Yn yr achos hwn mae'n dibynnu ar a yw is-bostfeistri ac is-bostfeistresi yn weithwyr cyflogedig i'r Post Brenhinol, a'r berthynas gyfreithiol rhyngddynt. Felly, ni allaf roi ateb ar y mater penodol hwnnw, ond byddaf yn paratoui nodyn i chi ar hynny.
- [218] **Lorraine Barrett:** I suppose that a better example would have been that of Crown post offices.
- Lorraine Barrett:** Mae'n debyg y byddai swyddfeydd post y Goron wedi bod yn well enghraifft.
- [219] **Alun Ffred Jones:** We will provide a note.
- Alun Ffred Jones:** Byddwn yn darparu nodyn.
- [220] **Lorraine Barrett:** In your letter to the Chair of 14 June, you indicate that, in relation to standards investigations, the commissioner
- Lorraine Barrett:** Yn eich llythyr at y Cadeirydd ar 14 Mehefin, yr ydych yn dweud, mewn perthynas ag ymchwiliadau safonau, y bydd y Comisiynydd
- [221] 'will consult with the organisations concerned',
- yn ymgynghori â'r sefydliadau dan sylw,
- [222] and
- Ac y gall
- [223] 'may consult any other interested parties'.
- ymgyngori ag unrhyw bartïon eraill â budd.
- [224] Why is it, therefore, that the commissioner is not required to consult other interested parties and the public? How is the term 'interested parties' to be interpreted?
- Pam, felly, nad yw'n ofynnol i'r comisiynydd ymgynghori â phartïon eraill sydd â budd a'r cyhoedd? Sut bydd y term 'partïon â budd' yn cael ei ddehongli?
- [225] **Alun Ffred Jones:** It was considered
- Alun Ffred Jones:** Ystyriwyd ei bod yn

advisable not to compel the commissioner to consult interested parties at this stage in the preparation of standards, because, in some instances, it might be totally impractical to expect him or her to do so. There will be a number of opportunities during the process when persons will be able to contribute their views on any proposal. Obviously, it is right and proper that the organisations affected by the duties are consulted fully.

[226] **Dr Jones:** It is appropriate for the commissioner to have discretion with regard to consulting any other person who might have an interest in the matter. For instance, the commissioner may feel that the public need not be consulted with regard to record-keeping standards. The commissioner may feel that ensuring that organisations keep a record with regard to complying with the standards and the number of complaints is an administrative matter. So, there is discretion for the commissioner to think 'This is a matter between me and the organisations involved. Maybe I do not need to consult too widely on this one.' However, he or she can if it is considered appropriate to do so.

[227] **Lorraine Barrett:** Again, in your letter to the Chair, you indicate that, as part of the standards investigation, the commissioner will be able to take into account the progress achieved following 15 years' experience of language schemes. Why is the commissioner not required to consider such experience?

[228] **Alun Ffred Jones:** It may not be the case that all standards bear such a close resemblance to the contents of schemes. However, the letter explaining how a standard might be made shows how some standards may build on elements of a scheme. In that context, it would be reasonable to expect the commissioner to take advantage of information available about the progress achieved following 15 years' experience of the language schemes.

[229] **Lorraine Barrett:** You make considerable reference to that; indeed, provisions in existing Welsh language schemes seem to supply the basis for work on standards. So, what substantive differences

ddoeth peidio â gorfodi'r comisiynydd i ymgynghori â phartion â budd yn ystod y cyfnod hwn wrth baratoi safonau, oherwydd, mewn ambell achos, gallai fod yn gwbl anymarferol disgwyl iddo neu iddi wneud hynny. Bydd nifer o gyfleoedd yn ystod y broses pan fydd pobl yn gallu cyfrannu eu syniadau ar unrhyw gynnig. Yn amlwg, mae'n iawn a chywir ymgynghori'n llawn â'r sefydliadau a fydd yn cael eu heffeithio gan y dyletswyddau.

**Dr Jones:** Mae'n briodol i'r comisiynydd gael rhyddid o ran ymgynghori ag unrhyw unigolyn arall a allai fod â budd yn y mater. Er enghraifft, gallai'r comisiynydd deimlo bod angen ymgynghori â'r cyhoedd o ran safonau cadw cofnodion. Gallai'r comisiynydd deimlo bod sicrhau bod sefydliadau yn cadw cofnodion o ran cydymffurfio â'r safonau a nifer y cwynion yn fater gweinyddol. Felly, mae rhyddid i'r comisiynydd feddwl 'Mae hwn yn fater rhyngof i a'r sefydliadau dan sylw. Efallai nad oes angen i mi ymgynghori'n rhy eang ar hyn.' Fodd bynnag, gall wneud hynny os yw'n credu bod hynny'n briodol.

**Lorraine Barrett:** Eto, yn eich llythyr at y Cadeirydd, yr ydych yn crybwyll, fel rhan o'r ymchwiliad i safonau, y bydd y comisiynydd yn gallu ystyried y cynnydd a gyflawnwyd yn dilyn 15 mlynedd o gynlluniau iaith. Pam nad yw'n ofynnol i'r comisiynydd ystyried profiad o'r fath?

**Alun Ffred Jones:** Efallai na fydd yn wir fod pob safon mor debyg â hynny i gynnwys cynlluniau. Fodd bynnag, mae'r llythyr sy'n egluro sut gellid gwneud safon yn dangos y gallai rhai safonau adeiladu ar elfennau cynllun. Yn y cyd-destun hwnnw, byddai'n rhesymol disgwyl y comisiynydd i fanteisio ar wybodaeth sydd ar gael am y cynnydd a wnaed yn dilyn 15 mlynedd o brofiad o'r cynlluniau iaith.

**Lorraine Barrett:** Yr ydych yn cyfeirio cryn dipyn at hynny; yn wir, ymddengys bod darpariaethau mewn cynlluniau iaith Gymraeg cyfredol yn rhoi'r sylfaen ar gyfer gwaith ar safonau. Felly, pa wahaniaethau

would standards make as compared with Welsh language schemes? Would it not be possible for the existing framework of language schemes to deliver substantive changes similar to those that you would expect standards to deliver?

[230] **Alun Ffred Jones:** The substantive difference between schemes and standards is that standards would be specific duties as opposed to qualified commitments negotiated on an individual basis. This will lead to rights in the provision of services. Standards will lead to greater clarity and consistency in the services that we can expect to receive in Welsh. They will be able to apply to whole sectors and even, in some cases, all bodies.

[231] **Lorraine Barrett:** The process that you outline in your letter, and which is set out in the proposed Measure, anticipates the involvement of two organisations in the preparation of standards, as opposed to the involvement of only one at present, namely the Welsh Language Board. How will the new framework deliver a more streamlined and administratively simpler method for extending the use of Welsh?

[232] **Alun Ffred Jones:** I am in danger of repeating myself, but Ministers have a key role to play insofar as standards have to be the subject of statutory instruments to provide the required statutory basis. That is an essential component of our approach. However, it is the commissioner who carries out the standards investigations, presents the reports and proposes the standards. I believe that that provides checks and balances within the system and provides the statutory basis that will lead to enforceable standards that will provide greater clarity and consistency in relation to Welsh-language services.

[233] **Dr Jones:** It echoes the situation in the Welsh Language Act 1993, which says that

[234] 'the Board shall issue guidelines as to the form and content of schemes'.

[235] Therefore, the board is involved in drawing up the guidelines. The Act states that no guidelines shall be issued by the board

gwirioneddol y byddai gwasanaethau yn eu gwneud o gymharu â chynlluniau iaith Gymraeg? Oni fyddai'n bosibl i fframwaith cyfredol y cynlluniau iaith gyflawni newidiadau sylweddol cyffelyb i'r rhai y byddech yn disgwyl i safonau eu cyflawni?

**Alun Ffred Jones:** Y gwahaniaeth sylweddol rhwng cynlluniau a safonau yw y byddai safonau yn ddyletswyddau penodol yn hytrach nag ymrwymadau amodol a drafodir ar sail unigol. Bydd hyn yn arwain at hawliau o ran darpariaeth gwasanaethau. Bydd safonau'n arwain at well eglurder a chysondeb yn y gwasanaethau y gallwn ddisgwyl eu derbyn yn Gymraeg. Byddant yn gallu bod yn gymwys i sectorau cyfan a hyd yn oed, mewn ambell achos, i bob corff.

**Lorraine Barrett:** Mae'r broses yr ydych yn ei hamlinellu yn eich llythyr, ac a nodir yn y Mesur arfaethedig, yn rhagweld cyfranogiad dau sefydliad wrth baratoi safonau, yn hytrach na chyfranogiad un yn unig ar hyn o bryd, sef Bwrdd yr Iaith Gymraeg yn bennaf. Sut bydd y fframwaith newydd yn darparu dull wedi'i resymoli a'i weinyddu'n symlach ar gyfer ehangu'r defnydd o'r Gymraeg?

**Alun Ffred Jones:** Mae yna berygl i mi ailadrodd fy hun yma, ond mae gan Weinidogion swyddogaeth allweddol gan fod yn rhaid i safonau fod yn destun offerynnau statudol i ddarparu'r sylfaen statudol ofynnol. Mae hynny'n elfen hanfodol o'n dull. Fodd bynnag, y comisiynydd sy'n cynnal yr ymchwiliadau i safonau, yn cyflwyno'r adroddiadau ac yn cynnig y safonau. Credaf fod hynny'n darparu dull o bwysa a mesur o fewn y system ac yn darparu'r sail statudol a fydd yn arwain at safonau y gellir eu gorfodi a fydd yn darparu gwell eglurder a chysondeb mewn perthynas â gwasanaethau Cymraeg.

**Dr Jones:** Mae'n adleisio'r sefyllfa yn Neddf yr Iaith Gymraeg 1993, sy'n dweud

'bydd y Bwrdd yn cyhoeddi canllawiau ynghylch ffurf a chynnwys cynlluniau'.

Felly, mae'r bwrdd yn cyfrannu at lunio'r canllawiau hyn. Mae'r Ddeddf yn nodi na fydd unrhyw ganllawiau'n cael eu cyhoeddi

unless a draft has been approved by the Secretary of State—so Ministers are involved. It also states that the Secretary of State shall lay before Parliament a copy of the draft guidelines, and it provides for a negative resolution procedure. Therefore, there is an echo of the procedure that has been in existence since 1993. However, it is the board that drives the process forward in agreeing schemes, as the commissioner will impose duties.

[236] **Rhodri Morgan:** Hoffwn ofyn i chi am orfodi safonau a chosbau sifil yn adran 82(4). Mae'r adran yn dweud y gall cosb sifil o ddim mwy na £5,000 gael ei rhoi. A allwch egluro a fydd yr uchafswm cosb sifil o £5,000 yn berthnasol i bob trosedd neu fethiant gan gwmni?

[237] **Alun Ffred Jones:** Na fydd. Bydd gan y comisiynydd bob math o ddulliau o fewn ei awdurdod er mwyn ymdrin ag unrhyw gŵyn neu unrhyw dramgwyddo ar safonau. Byddem yn disgwyl gweld proses raddedig a synhwyrol cyn ein bod yn cyrraedd y man lle mae cosb yn cael ei gosod. Gall hynny fod yn unrhyw beth o alwad ffôn sy'n esbonio'r hyn sydd wedi digwydd mewn sefyllfa arbennig i ymchwiliad llawn. Yn y pen draw, £5,000 yw'r swm mwyaf y gellir ei osod os oes rhywun yn tramgwyddo.

[238] **Rhodri Morgan:** Os oes pum trosedd, a ydym yn siarad am £25,000 neu am £5,000 fel uchafswm?

[239] **Alun Ffred Jones:** Os oes pum trosedd wahanol, byddwn yn tybio y byddai hynny'n bum achos gwahanol.

[240] **Ms Arch:** A allaf dynnu eich sylw at adran 82(2) ynghylch cosbau sifil? Pan fydd y comisiynydd yn ystyried a fyddai'n briodol defnyddio cosb sifil, mae'r Mesur arfaethedig yn sicrhau y dylai roi sylw i rai materion penodol cyn gwneud y penderfyniad hwnnw. Mae is-adran (2) yn rhestru'r materion hynny. Rhaid iddo ystyried pa mor ddifrifol yw'r mater y mae'r gosb sifil i'w rhoi mewn cysylltiad ag ef.

gan y bwrdd oni bai bod drafft wedi'i gymeradwyo gan yr Ysgrifennydd Gwladol—felly mae Gweinidogion yn cymryd rhan. Mae hefyd yn nodi y bydd yr Ysgrifennydd Gwladol yn cyflwyno copi o'r canllawiau drafft gerbron y Senedd, ac mae'n darparu ar gyfer gweithdrefn penderfyniad negyddol. Felly, mae adlais o'r weithdrefn sydd wedi bodoli ers 1993. Fodd bynnag, y bwrdd sy'n gyrru'r broses hon ymlaen wrth gytuno ar gynlluniau, wrth i'r comisiynydd osod dyletswyddau.

**Rhodri Morgan:** I would like to ask you about enforcement of standards and civil penalties in section 82(4). It states that a maximum civil penalty of £5,000 can be applied. Could you please clarify whether the civil penalty maximum of £5,000 will be applicable to each individual offence or failure by a company?

**Alun Ffred Jones:** No, it will not. The commissioner will have all sorts of means at his or her disposal to deal with any complaints or non-compliance with standards. We would expect to see a gradual and sensible process taking place before we get to the point where a penalty is imposed. That could be anything from a phone call to explain what has happened in any given situation to a full inquiry. Ultimately, £5,000 is the maximum that can be imposed for non-compliance.

**Rhodri Morgan:** If there are five offences, are we talking about a maximum of £25,000 or £5,000?

**Alun Ffred Jones:** If there are five distinct offences, I would have thought that there would be five different cases.

**Ms Arch:** May I draw your attention to section 82(2) on civil penalties? When the commissioner considers whether it would be appropriate to impose a civil penalty, the proposed Measure ensures that he or she should have regard to specific issues before taking that decision. Sub-section (2) lists those matters. He or she should consider the seriousness of the matter in respect of which the civil penalty is to be imposed.

11.50 a.m.

[241] **Rhodri Morgan:** Yr hyn yr wyf yn ceisio cyfeirio ato yw hyn: os mai grŵp o droseddau sy'n wynebu'r comisiynydd—nid pethau cwbl ar wahân, ond pethau mewn grŵp—a ydym yn sôn am £25,000 fel uchafswm neu £5,000?

**Rhodri Morgan:** What I am trying to get at is this: if the commissioner is faced with a group of offences—not entirely separate, but in a group—are we talking about £25,000 as a maximum or £5,000?

[242] **Ms Arch:** Os oes pum achos ar wahân o ddiffyg cydymffurfio neu bum tramgwydd ar wahân, yna byddai'n bosibl gosod cosb sifil o hyd at £5,000 ym mhob achos. Fodd bynnag, cyn i'r comisiynydd osod cosbau sifil, mae'r Mesur arfaethedig yn gofyn iddo ystyried difrifoldeb y tramgwydd ac amgylchiadau'r unigolyn.

**Ms Arch:** If there were five separate issues of non-compliance or five separate breaches, then it would be possible to place a civil penalty of up to £5,000 in each case. However, before the commissioner imposes civil penalties, the proposed Measure requires him or her to consider the seriousness of the breach and the circumstances of the individual.

[243] **Rhodri Morgan:** A fyddai modd i chi anfon nodyn at y pwyllgor yn esbonio'r gwahaniaeth rhwng trosedd unigol, enghreifftiau hollol ar wahân o bum trosedd neu droseddau sy'n ailadrodd yr un trosedd mewn grŵp, gan ddweud a fyddai'r grŵp yn y canol yn golygu y gallai'r uchafswm fod yn llawer uwch na £5,000?

**Rhodri Morgan:** Could you to send a note to the committee explaining the differences between a single breach, separate examples of five breaches or breaches that account for repeat breaches in a group, saying whether or not the group in the middle could lead to a maximum penalty that is much higher than £5,000?

[244] **Dr Jones:** Mae hefyd yn bwysig cofio, dan adran 97, fod angen i'r comisiynydd gyhoeddi dogfen polisi gorfodi sy'n gosod sut y mae'n bwriadu defnyddio'r ystod o ddulliau gorfodi a fydd ar gael, i'w gymeradwyo gan Weinidogion. Felly, er enghraifft, pe bai'r ddogfen honno'n dweud, 'Yr wyf yn bwriadu gosod cosb o £5,000 ar gorff bob tro y mae'n troseddu', efallai y byddai gan Weinidogion rywbeth i'w ddweud. Felly, mae hynny'n rhoi rhyw fath o *check and balance* er mwyn sicrhau bod y dulliau hyn yn cael eu defnyddio mewn ffordd resymol a chymesur.

**Dr Jones:** It is also important to remember that, under section 97, the commissioner is required to publish an enforcement policy document that lays out how he or she intends to use the range of enforcement tools available, to be approved by Ministers. So, for example, if the document stated, 'I intend to impose a penalty of £5,000 each time an organisation does not comply', Ministers might have something to say. Therefore, that provides some sort of check and balance to ensure that these methods are used in a reasonable and proportionate way.

[245] **Rhodri Morgan:** Efallai eich bod hefyd yn gyfarwydd â'r dystiolaeth a roddwyd gan Ganolfan Llywodraethiant Cymru:

**Rhodri Morgan:** You may also be familiar with the evidence given by the Welsh Governance Centre:

[246] 'The nature of the standards must be clear so that they can be enforced. At the same time they must be reasonable and proportionate depending on the nature of particular bodies otherwise they might be considered to be illegal, because they are unreasonable. To meet this requirement, it

'The nature of the standards must be clear so that they can be enforced. At the same time they must be reasonable and proportionate depending on the nature of particular bodies otherwise they might be considered to be illegal, because they are unreasonable. To meet this requirement, it may prove difficult

may prove difficult to establish an overall effective enforcement regime when there could be a variety of standards applicable.'

to establish an overall effective enforcement regime when there could be a variety of standards applicable.'

[247] Beth yw eich ymateb i'r awgrym neu'r honiad y gallai amrywiaeth safonau achosi problemau o ran sefydlu cyfundrefn orfodi a fyddai'n cael ei hystyried yn deg, effeithiol a dealladwy i bawb ar draws y sectorau gwahanol?

What is your response to the suggestion or allegation that a variety of standards could cause problems in establishing an enforcement regime that would be considered fair, effective and intelligible to everyone across the different sectors?

[248] **Alun Ffred Jones:** Mae'r gyfundrefn er mwyn sicrhau cydweddiad â'r dyletswyddau hynny'n mynd i fod yr un peth ac yn gyson i bawb. Felly, mae cysondeb o fewn y broses honno, er y gall y dyletswyddau fod yn wahanol o gorff i gorff. Credaf ein bod wedi ceisio sicrhau ein bod yn chwilio am gysondeb, lle mae hynny'n bosibl, ond bydd amrywiaeth oherwydd natur ieithyddol Cymru. Bydd hynny'n adlewyrchu'r drafodaeth a fydd wedi digwydd, ac felly bydd cytundeb ar y dyletswyddau. Ni chredaf fod achos i bryderu ynghylch hynny, gan fod y dyletswyddau ar gyfer pob corff yn hollol glir.

**Alun Ffred Jones:** The system that ensures compliance with those duties will be the same and consistent for everyone. Therefore, there is consistency within that process, although the duties can differ from organisation to organisation. I believe that we have tried to ensure that we are looking for consistency, where that is possible, but there will be variations because of the linguistic nature of Wales. That reflects the discussion that will have taken place, so there will be agreement on the duties. I do not think that there is a cause for concern in that regard, given that the duties for each body are completely clear.

[249] **Gareth Jones:** Trof at Ran 6 a'r rhyddid i ddefnyddio'r Gymraeg, a chyfeiriaf at un neu ddau o sylwadau Emyr Lewis. Yn ogystal, dywedodd David Rosser, o Gydffederasiwn Diwydiant Prydain Cymru, fod hwn, mwy neu lai, yn achos o ddefnyddio morthwyl trwm i gracio cneuen fach. Galwodd yr Athro Colin Williams Ran 6 yn nonsens llwyr. I ba raddau yr ydych yn derbyn beirniadaeth Emyr Lewis y gallai Rhan 6 arwain yn anfwriadol at y gyfraith yn

**Gareth Jones:** I will turn to Part 6 and the freedom to use the Welsh language and refer to one or two comments made by Emyr Lewis. In addition, David Rosser from the Confederation of British Industry Wales said that this was, more or less, like using a sledgehammer to crack a small nut. Professor Colin Williams called Part 6 a complete nonsense. To what extent do you accept Emyr Lewis's criticism that Part 6 could inadvertently lead to the law

[250] 'dechrau dyfarnu ar y sefyllfaoedd lle mae hi, a lle nad yw hi, yn briodol i bobl sy'n dymuno siarad Cymraeg gyda'i gilydd wneud hynny'?

'deciding on the situations in which it is, and in which it is not, appropriate for people who wish to speak Welsh to each other to do so'?

[251] **Alun Ffred Jones:** Yr ydym wedi ceisio ffordd ganol yn y fan hon. Pe baech yn ceisio mynd i lawr y llwybr o greu trosedd am atal rhywun rhag siarad Cymraeg, byddai rhybudd Emyr Lewis yn debygol o fod yn berthnasol iawn. Yr ydym yn ceisio cydnabod y gallai sefyllfa godi, er nad yw sefyllfa o'r fath yn codi'n aml, lle mae person yn teimlo yr amharwyd ar ei ryddid i siarad Cymraeg.

**Alun Ffred Jones:** We have sought the middle way here. If you tried to go down the path of creating an offence for preventing someone from speaking Welsh, Emyr Lewis's warning would likely be very relevant. We seek to recognise that a situation could arise, even though such a situation does not often arise, where a person feels that his or her freedom to speak Welsh has been impeded.

[252] Felly, mae lle i'r comisiynydd gynnal ymchwiliad a llunio adroddiad ar hynny, sydd o leiaf yn goleuo'r sefyllfa. Yr ydym wedi dweud y byddem yn adolygu'r broses hon pe baem yn teimlo nad oedd y drefn yn gweithio neu pe bai'n aneffeithiol. Mae hynny'n hollol groes i'r hyn a ddywedodd David Rosser, sef ein bod yn defnyddio gordd i dorri cneuen. Mae'n ffordd hollol gymesur o ddelio â sefyllfa nad yw'n ymddangos yn gyffredin.

[253] **Gareth Jones:** Yr wyf yn derbyn y cymedroldeb y bu ichi gyfeirio ato, ond nid yw hynny'n mynd yn ddigon pell—cyhyd ag y mae cymdeithas yr iaith yn y cwestiwn, beth bynnag. I ba raddau y cytunwch â'r gymdeithas pan ddywed:

[254] 'Nid yw'r cymalau sydd yn delio â'r rhyddid i ddefnyddio'r Gymraeg yn werth eu cadw oni bai y bydd gan y Comisiynydd bwerau i orfodi neu gosbi'?

[255] **Alun Ffred Jones:** Yr ydym yn anghytuno â'r farn honno.

[256] **Gareth Jones:** Yr ydych newydd egluro hynny. Wedi'r holl drafodaethau a'r dystiolaeth a gawsom a'r dyfyniadau hynny, a ydych yn teimlo y dylai Rhan 6 gael ei dynnu allan o'r Mesur arfaethedig?

[257] **Alun Ffred Jones:** Na, ac yr wyf wedi ceisio esbonio'r rhesymeg dros y Rhan hwn. Credaf y byddai'n ddoeth gweld a yw'r hyn yr ydym wedi ei awgrymu yn effeithiol neu yn berthnasol. Os yw'n amherthnasol, ni fydd unrhyw ddefnydd ohono ac os yw'n annigonol, daw hynny i'r amlwg a chaiff Llywodraethau'r dyfodol benderfynu a oes angen deddfu yn y maes.

[258] **Gareth Jones:** Diolch am yr ateb hwnnw. Trof at hawliau a gwneud iawn. Dyma eich dyfynnu chi yn awr, Weinidog. Dyma a ddywedasoich wrth y pwyllgor ym mis Mawrth:

[259] 'Yr ydym yn sôn am y dyletswyddau a osodir ar gyrff, sy'n cael eu disgrifio fel safonau yn y Mesur arfaethedig...dyna ddull cyfraith Prydain o roi hawliau i unigolion. Os oes dyletswydd, mae'r unigolyn yn gallu disgwyl y gwasanaeth hwnnw yn Gymraeg

So, we are ensuring that the commissioner is able to carry out an inquiry and report on that, which would at least shed light on the situation. We have stated that we would review the process if we felt that this system was not working or was ineffective. That is the exact opposite of what David Rosser said, namely that we were using a sledgehammer to crack a nut. It is a proportionate way of dealing with a situation that does not appear to be common.

**Gareth Jones:** I accept the proportionality to which you just referred, but that does not go far enough—as least as far as the language society is concerned, at any rate. To what extent do you agree with the society when it states that:

'The clauses that deal with the freedom to use the Welsh language are not worth retaining unless the Commissioner has powers of enforcement or punishment'?

**Alun Ffred Jones:** We disagree with that opinion.

**Gareth Jones:** You have just explained that. Given all the discussions and the evidence that we have received and those quotations, do you think that Part 6 should be removed from the proposed Measure?

**Alun Ffred Jones:** No, and I have tried to explain the rationale behind that Part. I think that it would be wise to wait and see whether what we have suggested is effective or relevant. If it is irrelevant, no use will be made of it and if it is inadequate, that will become apparent and future Governments will be in a position to decide whether legislation is required in the area.

**Gareth Jones:** Thank you for that answer. I now turn to rights and redress. I will quote you now, Minister. This is what you told the committee in March:

'We are talking about the duties placed on bodies, which are described as standards in the proposed Measure...that is the means by which British law gives rights to individuals. If there is a duty, the individual can expect to receive that service in Wales in Welsh or in

neu'n Saesneg yng Nghymru, ac felly, mae ganddo hawliau, oherwydd os nad yw'n cael y gwasanaeth yn ôl y diffiniad, mae ganddo hawl i apelio at y comisiynydd, sydd â dyletswydd i ymchwilio ac i gymryd y camau priodol.'

English, and, therefore, has rights because if he or she does not receive the service according to the definition, he or she is entitled to appeal to the commissioner, who has a duty to investigate and to take appropriate steps.'

[260] Yr ydym wedi gofyn i wahanol dystion a ydynt yn cytuno â'ch dehongliad, ac nid yw hynny'n wir am y rhan fwyaf ohonynt. Dyma sut yr ymatebodd Emyr Lewis:

We have asked various witnesses whether they agree with your interpretation, and most of them do not. This was how Emyr Lewis responded:

[261] 'Os wyf wedi deall y Gweinidog yn iawn, y mae'n dweud bod yr hawl i fynd at y comisiynydd yn ddigon o rwymedi, neu iawn, ynddo'i hun, ac nid oes angen iawn pellach ar y dinesydd. Yr wyf yn digwydd anghytuno â'r Gweinidog ar y pwynt hwnnw...Os y bwriad yw i greu hawliau, mae angen cael rhyw fath o ddeilliant sy'n gwneud iawn i'r sawl a ddiodefodd.'

'If I have understood the Minister correctly, he is saying that the right to go to the commissioner is in itself sufficient redress, or compensation, and that the citizen does not need further compensation. I happen to disagree with the Minister on that point...if the intention is to create rights, there needs to be some kind of outcome that compensates the wronged citizen.'

[262] Hynny yw, mae cystal â dweud os yw'r comisiynydd yn dedfrydu, mae popeth yn iawn, ond nid oes hawl gan yr unigolyn a wnaeth y gŵyn yn y lle cyntaf tra bod gan y corff y mae'r comisiynydd wedi dyfarnu arno yr hawl i apelio. Nid yw hynny'n gytbwys, a dyna sut yr wyf i'n gweld hynny hefyd. I ba raddau yr ydych yn derbyn barn Emyr Lewis, ac a fydddech yn fodlon cryfhau'r Mesur arfaethedig o safbwynt gwneud iawn i'r dinesydd?

That is, he is virtually saying that if the commissioner passes judgment, that is fine, but the individual who made the complaint in the first place has no right, but the body that the commissioner has made a decision about has the right to appeal. There is an imbalance, and that is also how I see it. To what extent do you accept Emyr Lewis's opinion and would you be prepared to strengthen the proposed Measure in respect of citizen redress?

[263] **Alun Ffred Jones:** Mae dwy ffordd o ddod at y sefyllfa hon. Drwy sefydlu dyletswyddau neu safonau sy'n cael eu goruchwylio gan gomisiynydd, yr ydym yn ceisio sefydlu system o hawliau; mae'r hawliau i'w mwynhau gan gymuned gyfan ac yn cael eu gorfodi ar ei rhan, sef, yn yr achos hwn, siaradwyr Cymraeg. Hynny yw, hawliau cyfansawdd ydynt, nid hawliau unigol i'r sawl sydd eisiau herio'r materion hyn yn y llys ac sy'n gallu gwneud hynny. Wrth roi dyletswydd ar gyrff i gyflwyno gwasanaeth i'r unigolyn, mae'r ddyletswydd honno'n gorwedd gyda chomisiynydd sy'n gweithredu ar ran grŵp o bobl. Y comisiynydd sydd wedyn yn gweithredu os bydd unigolyn yn teimlo nad yw'r gwasanaeth hwnnw wedi'i gynnig iddo.

**Alun Ffred Jones:** There are two different ways of approaching this situation. By establishing duties or standards that are safeguarded by a commissioner, we are trying to put in place a system of rights; those rights are to be enjoyed by and are enforced on behalf of an entire community—in this instance, Welsh speakers. That is, these are composite rights, not individual rights to those who want to challenge these issues in the courts and those who are able to do that. By placing duties on bodies to provide services to individuals, the duty lies with the commissioner who is acting on behalf of that group of people. It is the commissioner who is then to take action if an individual feels that that service was not offered to him or to her.

12.00 p.m.



[264] Gall unrhyw un wneud y gwŷn honno i'r comisiynydd. O'i wneud fel arall, a rhoi'r cyfan ar yr unigolyn, byddai rhai unigolion efallai'n teimlo nad ydynt yn ddigon abl i herio'r peth mewn tribiwnlys neu lys barn. Nid dyna'r ffordd yr ydym eisiau edrych ar y broses hon, ond drwy osod hawliau torfol. Credaf mai dyna'r ffordd briodol o fynd ymlaen a'r ffordd mwyaf cymwys i fwyafrif ein dinasyddion.

[265] **Gareth Jones:** Dyna'r benbleth i ni, o wrando ar y dystiolaeth. Derbyniwn eich bod yn ymrwymedig a'ch bod yn argyhoeddedig mai'r hawliau torfol hynny yw'r ffordd ymlaen. Yr wyf wedi gwranddo, a deallaf pam yr ydych yn ystyried mai honno yw'r ffordd ymlaen. Er hynny, mae'r dystiolaeth yr ydym ni wedi ei derbyn yn cyfeirio at y teimlad nad yw hawliau'r unigolyn yn cael sylw yn y Mesur arfaethedig, a bod gorbwyso ar hawliau torfol. Gwelaf y benbleth lle bo natur y Mesur arfaethedig yn y cwestiwn. Mae'n gwestiwn sylfaenol o'r hyn y mae'r Mesur arfaethedig yn ceisio ymdrin ag ef.

[266] **Alun Ffred Jones:** Pe baech eisiau mynd i gyfeiriad cwbl wahanol, gallech osod dyletswydd gyffredinol a'i gadael i unigolion a chyrrff benderfynu beth sy'n rhesymol ac yn gymesur. Yn fy marn i, nid yw hynny'n deg i fwyafrif ein dinasyddion, gan nad oes ganddynt y gallu, yr arian na'r amser i herio bob tro y maent yn teimlo bod corff wedi'u tramgwyddo neu heb gynnig gwasanaeth priodol. Drwy'r Mesur arfaethedig hwn, byddwn yn gosod y dyletswyddau ar y cyrrff priodol, a rhaid iddynt fod yn gymesur, ac wedyn, bydd gan yr unigolion yr hawl i dderbyn y gwasanaeth. Os nad ydynt yn derbyn y gwasanaeth y cytunwyd arno gan y comisiynydd drwy'r safonau hyn, bydd ganddynt le i fynd, sef at y comisiynydd. Bydd y comisiynydd wedyn yn penderfynu'r ffordd briodol i gorff neu berson weithredu i wneud iawn am y tramgwydd. Gallai hynny olygu bod corff neu berson yn newid ei ffordd o weithio drwy gyfrwng cyfarwyddyd polisi a datblygu polisi, neu, yn y pen draw, os bydd corff eisiau'r sylw drwg gallai gael ei landio â chosb.

[267] Hyd yn oed pe bai unigolion o dan

Anyone can make that complaint to the commissioner. If we were to do it in another way, and leave it all down to the individual, some might feel unable to pursue a challenge in a tribunal or court of law. That is not how we want to view this process, as we want to establish collective rights. I believe that that is the appropriate way to proceed and it is the option that best suits the majority of our citizens.

**Gareth Jones:** That is the dilemma for us, having heard the evidence. We accept that you are committed and that you are convinced that these collective rights are the way forward. I have listened, and I understand why you consider that to be the way forward. Nevertheless, the evidence that we have received refers to the feeling that individuals' rights are not addressed in the proposed Measure, and that collective rights are being overemphasised. I see the dilemma where the nature of the proposed Measure is concerned. It is a fundamental question of what it is trying to deal with.

**Alun Ffred Jones:** If you wanted to go in a different direction, you could impose a general duty and leave it up to individuals and organisations to decide what is reasonable and proportionate. In my opinion, that that is not fair to the majority of our citizens, because they do not have the ability, the money or the time to challenge every time they feel that an organisation has wronged them or denied them a proper service. Through this proposed Measure, we will impose duties, which must be proportionate, on relevant bodies and then the individual will have the right to receive the service. If they do not receive the service as agreed by the commissioner through the standards, they will have somewhere to go, that is, to the commissioner. The commissioner will then determine the appropriate action for the organisation or person to take as compensation for the transgression. That could be to change their way of working though policy guidance and development, or, ultimately, if the organisation wanted the negative attention, it could be penalised.

Even if individuals were to challenge

drefn wahanol yn herio rhywbeth, gallai corff benderfynu dioddef yr her gan feddwl nad yw'n golygu dim iddo, achos ei fod yn ddigon mawr a phwerus i'w anwybyddu a thalu pa iawndal bynnag a fynnir. Nid yw hynny'n gwella'r sefyllfa, sut bynnag, gan y gall corff gario ymlaen yn union fel ag yr oedd o'r blaen. Credaf fod y system a gynigir yn y Mesur arfaethedig yn rhoi llawer mwy o gryfder i achos rhywun sydd eisiau defnyddio gwasanaeth cyfrwng Cymraeg.

[268] **Rhodri Morgan:** Dyma'r cwestiwn olaf, efallai. Pam ydych wedi benderfynu peidio â chynnwys adran yn y Mesur arfaethedig am addysg cyfrwng Cymraeg? Yr ydych siŵr o fod wedi darllen tystiolaeth Mudiadau Dathlu'r Gymraeg yn cwyno am gynghorau megis Rhondda Cynon Taf nad ydynt yn cydnabod hawl pobl i ddisgwyl, gofyn am a mynnu cael addysg cyfrwng Cymraeg. Pan oedd y Mesur arfaethedig hwn ar y gweill, a oeddech wedi ystyried rhoi addysg cyfrwng Cymraeg ynddo dim ond ichi benderfynu wedyn nad oedd yn ymarferol gwneud? Beth oedd y broses feddyliol wrth iddo gael ei ddatblygu yn y gwasanaeth sifil?

[269] **Alun Ffred Jones:** Wrth iddo gael ei ddatblygu, yr oedd y strategaeth addysg Gymraeg hefyd yn cael ei datblygu'n gyfochrog. Penderfynwyd mai'r strategaeth addysg Gymraeg oedd y ffordd briodol o ddatblygu—

[270] **Rhodri Morgan:** Felly, onid oeddech eisiau gweu'r ddau gyda'i gilydd i greu disgwyliad statudol o ran addysg cyfrwng Cymraeg a'i roi yn y Mesur arfaethedig?

[271] **Alun Ffred Jones:** Dyna a benderfynwyd. Bydd gan y comisiynydd yr hawl i gynghori Gweinidogion am addysg o dan adran 3(2)(h). Bydd yn rhaid i Weinidogion gymryd sylw o'r cyngor hwnnw. Byddai rhywun yn tybio y bydd gan y comisiynydd ddiddordeb mawr yn natblygiad y strategaeth addysg Gymraeg a sut y mae'n cael ei gweithredu ar lawr gwlad, oherwydd y mae'n ymwneud â dyletswydd ehangach y comisiynydd i hyrwyddo'r Gymraeg. Credaf y bydd cadw llygad ar sut mae Llywodraeth y dydd yn cyflawni gofynion y strategaeth o ddiddordeb mawr i'r

something under a different regime, an organisation could decide to tough it out by thinking that it does not mean anything to it, because it is big and powerful enough to ignore it and pay whatever compensation is required. That does not improve the situation, however, as the organisation could carry on exactly as before. I believe that the system in the proposed Measure lends much more strength to the case of someone who wants to use a service through the medium of Welsh.

**Rhodri Morgan:** This is the final question, perhaps. Why did you decide not to include a section in the proposed Measure on Welsh-medium education? You have most likely read the evidence of Celebrating Our Language complaining about councils such as Rhondda Cynon Taf that do not recognise people's right to expect, ask for and insist on Welsh-medium education. When this proposed Measure was being drafted, did you give any consideration to including Welsh-medium education, only to decide later that it was not practicable to do so? What was the mental process as it was developed in the civil service?

**Alun Ffred Jones:** As it was being developed, the Welsh-medium education strategy was also being developed in parallel. It was decided that the Welsh-medium education strategy was the appropriate way to develop—

**Rhodri Morgan:** So, did you not want to dovetail the two to get a statutory expectation regarding Welsh-medium education included in the proposed Measure?

**Alun Ffred Jones:** That is what was decided. The commissioner shall have the right to advise Ministers on education under section 3(2)(h). Ministers will have to take heed of that advice. One would expect the commissioner to take a great deal of interest in the development of the Welsh-medium education strategy and in how it is implemented on the ground, because it relates to the commissioner's wider duty to promote the Welsh language. I believe that keeping an eye on how the Government of the day is fulfilling the requirements of the strategy will be of great interest to the commissioner, and

comisiynydd, a bydd ganddo'r hawl wedyn i wneud argymhellion ynghylch effeithiolrwydd y Llywodraeth yn y maes hwnnw pe bai'n teimlo bod hynny'n berthnasol.

he or she will then have the right to make recommendations based on the Government's effectiveness in that area, if that is felt to be appropriate.

[272] **Val Lloyd:** Minister, we have come to the end of our questions. Is there anything that you would like to add?

**Val Lloyd:** Weinidog, yr ydym wedi dod i ddiwedd ein cwestiynau. A oes unrhyw beth yr hoffech ei ychwanegu?

[273] **Alun Ffred Jones:** Diolch yn fawr am yr holi. Yr wyf yn edrych ymlaen at dderbyn eich argymhellion, ac at roi ystyriaeth lawn iddynt.

**Alun Ffred Jones:** Thank you very much for the questioning. I look forward to receiving your recommendations, and to considering them in full.

[274] **Val Lloyd:** Thank you for your contribution in answering our questions frankly. You will receive a draft transcript of the proceedings for verification purposes.

**Val Lloyd:** Diolch am eich cyfraniad yn ateb ein cwestiynau'n onest. Byddwch yn derbyn trawsgrifiad drafft o'r trafodion at ddibenion gwirio.

12.06 p.m.

### **Cynnig Trefniadol Procedural Motion**

[275] **Val Lloyd:** Before committee members leave, can I ask you to agree to exclude the public from future meetings, so that we can discuss the nature of our report?

*the committee resolves to exclude the public from future meetings in accordance with Standing Order No. 10.37(vi).*

[276] I see that you are all agreed. I declare the meeting closed.

*Derbyniwyd y cynnig.  
Motion agreed.*

*Daeth y cyfarfod i ben am 12.06 p.m.  
The meeting ended at 12.06 p.m.*