



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

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

**Dydd Mercher, 13 Ionawr 2010
Wednesday, 13 January 2010**

Cynnwys
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The Proposed National Assembly for Wales (Legislative Competence) (Transport)
Order 2010

Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal,
cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

These proceedings are reported in the language in which they were spoken in the committee.
In addition, an English translation of Welsh speeches is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Peter Black	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Alun Cairns	Ceidwadwyr Cymreig (yn dirprwyo ar ran William Graham) Welsh Conservatives (substitute for William Graham)
Helen Mary Jones	Plaid Cymru The Party of Wales
David Lloyd	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)
Joyce Watson	Llafur Labour

Eraill yn bresennol
Others in attendance

Mike Bagshaw	Trenau Arriva Cymru Arriva Trains Wales
David Cunningham-Jones	Ymgyrch Stuart Stuart's Campaign
Peter Daniels	Consortia Trafnidiaeth Rhanbarthol Regional Transport Consortia
Pat Harris	Belt Up School Kids (BUSK)
Tony McNiff	Cyddfederasiwn Cludiant Teithwyr Cymru Confederation of Passenger Transport Wales
John Pockett	Cyddfederasiwn Cludiant Teithwyr Cymru Confederation of Passenger Transport Wales
Bob Saxby	Cymdeithas Swyddogion Cydgysylltu Trafnidiaeth Cymru Association of Transport Coordinating Officers Wales
Michael Vaughan	Trenau Arriva Cymru Arriva Trains Wales

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

Fay Bowen	Clerc Clerk
Stephen Davies	Cynghorydd Cyfreithiol Legal Adviser
Owain Roberts	Dirprwy Glerc Deputy Clerk
Siân Thomas	Gwasanaeth Ymchwil yr Aelodau Members' Research Service
Graham Winter	Gwasanaeth Ymchwil yr Aelodau Members' Research Service

*Dechreuodd y cyfarfod am 9.02 a.m.
The meeting began at 9.02 a.m.*

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introduction, Apologies and Substitutions

- [1] **David Lloyd:** Bore da a chroeso i gyfarfod diweddaraf Pwyllgor Deddfwriaeth Rhif 3. Diben cyfarfod y bore yma yw trafod a chymryd tystiolaeth ar y Gorchymyn Arfaethedig Cynulliad Cenedlaethol Cymru (Cymhwysedd Deddfwriaethol) (Trafnidiaeth) 2010. Mwy am hynny yn y man.
- [2] Yn naturiol, oherwydd y tywydd garw, yr ydym wedi derbyn ymddiheuriadau am fod yn hwyr gan Helen Mary Jones—bydd hi yma yn nes ymlaen—ac hefyd gan William Graham. Nid oes gennym newyddion o Christine Chapman o ddyfnderoedd yr eira yng nghwm Cynon.
- [3] Ynghylch y panel cyntaf sydd gerbron y bore yma, yr ydym wedi derbyn ymddiheuriadau gan Daisy Seabourne a Bryan Jeffreys. Fodd bynnag, yr wyf yn falch i groesawu Bob Saxby i'r cyfarfod a chlywn mwy gan Bob yn y man.
- [4] Mae gennyf y cyhoeddiadau arferol i'w gwneud. Os bydd larwm tân yn canu, dylai Aelodau adael yr ystafell drwy'r allanfeydd tân penodol, a dilyn cyfarwyddiadau'r tywyswyr. Nid ydym yn disgwyl prawf y bore yma. Mae digon o bethau eraill yn mynd ymlaen.
- [5] Dylai pawb ddiffodd eu ffonau symudol, eu galwyr a'u 'mwyar duon', gan eu bod yn amharu ar yr offer darlledu. Bydd pawb yn ymwybodol bod Cynulliad Cenedlaethol Cymru yn gweithredu'n ddwyieithog. Mae clustffonau ar gael i'r perwyl hwn, er mwyn clywed y cyfieithiad ar y pryd. Gellir hefyd addasu lefel y sain ar y clustffonau ar gyfer pobl sy'n drwm eu clyw.
- [6] Peidiwch â chyffwrdd y botymau ar y microffonau, oherwydd gall hynny amharu ar y system, a sicrhewch fod golau coch yn disgleirio ar y microffon cyn ichi gychwyn siarad. Mae'r cyfieithiad ar y pryd ar gael ar
- David Lloyd:** Good morning and welcome to the latest meeting of Legislation Committee No. 3. The purpose of this morning's meeting is to discuss and take evidence on the Proposed National Assembly for Wales (Legislative Competence) (Transport) Order 2010. More on that shortly.
- Naturally, because of the inclement weather, we have received apologies for lateness from Helen Mary Jones—she will be here later—and from William Graham. We have no news at the moment from Christine Chapman from the depths of the snow in the Cynon valley.
- On the first panel before us this morning, we have received apologies from Daisy Seabourne and Bryan Jeffreys. However, I am happy to welcome Bob Saxby to the meeting and we will hear more from Bob shortly.
- I have the usual announcements to make. If there is a fire alarm, I ask that Members leave the room via the designated fire exits, and follow the instructions of the ushers. We are not expecting a fire drill this morning. Plenty of other things are going on.
- All mobile phones, pagers and BlackBerrys should be switched off, as they interfere with the broadcasting equipment. You will all be aware that the National Assembly for Wales operates bilingually. Headsets are available for this purpose, to hear the simultaneous translation. The headsets can also be used to adjust audio levels for people who are hard of hearing.
- Do not press the buttons on the microphones, because that can affect the system, and ensure that the red light shows on the microphone before you start to speak. The simultaneous translation is available on channel 1 and the

sianel 1 a darllediad gair am air ar sianel 0.

verbatim broadcast is available on channel 0.

[7] Cyfarchaf yn ffurfiol, ac yn y cnawd fel petai, Helen Mary Jones. Ailadroddaf felly mai diben cyfarfod y bore yma yw cymryd tystiolaeth ar lafar ar y Gorchymyn Arfaethedig Cynulliad Cenedlaethol Cymru (Cymhwysedd Deddfwriaethol) (Trafnidiaeth) 2010. Yr oeddem i glywed yn wreiddiol gan dyst o Gymdeithas Llywodraeth Leol Cymru ac o Gymdeithas Cyfarwyddwyr Addysg Cymru, ond fel y dywedais eisoes, mae amgylchiadau'n golygu nad ydynt yn gallu bod gyda ni'r bore yma.

I now welcome Helen Mary Jones formally, and in the flesh so to speak. I therefore reiterate that the purpose of this morning's meeting is to take oral evidence on the Proposed National Assembly for Wales (Legislative Competence) (Transport) Order 2010. We were originally to hear evidence from the Welsh Local Government Association and from the Association of Directors of Education in Wales, but as I said earlier, circumstances mean that they cannot be with us this morning.

[8] Yr ydym hefyd yn mynd i glywed tystiolaeth gan Gymdeithas Cydgysylltwyr Trafnidiaeth Cymru yn y sesiwn gyntaf hon ac y mae Bob Saxby yma yn cnawd.

We are also going to hear evidence from the Association of Transport Coordinating Officers Wales in this first session and Bob Saxby is here in the flesh.

[9] Yr ydym hefyd yn disgwyl yn y sesiwn gyntaf hon Peter Daniels o'r consortia trafnidiaeth rhanbarthol. Bydd ar gyswllt fideo o ogledd Cymru. Fodd bynnag, ar hyn o bryd, mae yntau hefyd gyda rhaw yn ei law yn ceisio cael ei gar allan o'r eira. Felly, gobeithio y bydd yn gallu ymuno â ni yn nes ymlaen. Byddwn yn torri am tua 9.30 a.m. i geisio sefydlu cyswllt fideo gyda'r gogledd.

We are also expecting in this first session Peter Daniels from the regional transport consortia. He will be on a video link from north Wales. However, at the moment, he is also, spade in hand, trying to dig his car out of the snow. Hopefully, he will be able to join us later. We will take a break at around 9.30 a.m. to try to establish the video link with the north.

9:05 a.m.

**Gorchymyn Arfaethedig Cynulliad Cenedlaethol Cymru (Cymhwysedd
Deddfwriaethol) (Trafnidiaeth) 2010
The Proposed National Assembly for Wales (Legislative Competence)
(Transport) Order 2010**

[10] **David Lloyd:** Yr unig dyst sydd yma yw Bob Saxby. Yr ydym yn falch iawn o'ch gweld chi, Bob. Pe na byddech yma, byddai pethau braidd yn ddu y bore yma.

David Lloyd: The only witness here is Bob Saxby. We are happy to see you, Bob. If you were not here, things would be quite bleak this morning.

[11] Mae tair sesiwn y bore yma, felly mae tipyn o gwestiynau i fynd drwyddynt a gofynnaf fi y cwestiwn cyntaf. Mae'r cwestiynau cyntaf yn ymdrin â theithio rhatach. Yr ydym i gyd yn gwybod bod dwy elfen i'r Gorchymyn cymhwysedd deddfwriaethol arfaethedig: teithio rhatach a theithio diogel ar gyfer dysgwyr. Dechreuwn gyda theithio rhatach. Yn eich barn chi, a oes angen y Gorchymyn cymhwysedd deddfwriaethol arfaethedig hwn neu a oes

There are three sessions this morning, so there are many questions to get through and I will ask the first. These first questions deal with concessionary travel. We all know that there are two elements to this proposed LCO: concessionary travel and safe travel for learners. We will start with concessionary travel. In your view, is the proposed LCO necessary or does the Welsh Government already have sufficient powers?

gan Lywodraeth Cymru eisoes ddigon o bwerau?

[12] **Mr Saxby:** In my view, the proposed LCO is necessary because of the differences between the way in which Wales and England handle concessionary travel. I was on the working group and the steering group that set up the Welsh scheme. I also sat on the group that set up the English scheme at the beginning because I was chairman of ATCO for the UK at that time. It chose not to ring-fence its funding, which made a fundamental difference to how its scheme has developed. It has had hundreds of appeals and some difficulty, although, as far as the users are concerned, the scheme works.

[13] **David Lloyd:** Thank you. The next set of questions are from Peter Black.

[14] **Peter Black:** Do you agree with the terms of the proposed Order? If not, do you think that they are too broad, too narrow or about right?

[15] **Mr Saxby:** I think that they are about right.

[16] **Peter Black:** Do you agree that legislation is required to ensure the ‘long-term sustainability’ of the concessionary travel scheme?

[17] **Mr Saxby:** Yes, I think so. Recently, we have struggled with the fact that the cost of the scheme has been going up considerably. If that increase continues, it may well become unaffordable. We have come up with a solution—and ATCO has played a big role in that—to cap the funding. However, the Assembly needs to be able to control it completely, therefore the powers that it seeks are appropriate.

[18] **Peter Black:** How would the proposed Order impact on local authorities’ involvement in negotiations with the transport operators on the future operation of the scheme?

[19] **Mr Saxby:** That depends on what the Assembly chooses to do with the powers. I cannot emphasise strongly enough that those of us at the sharp end, who deal with implementing the scheme, must be involved in negotiations. The Welsh scheme, from the outset, has always been a national scheme in that it was negotiated nationally by one group of people, involving bus operators, local authorities, the Assembly and the WLGA. That is why it has been so successful—it has worked smoothly compared with the English scheme, for example. It is vital that we continue that involvement. Even if the scheme were administered centrally, it would still need to involve those of us who deal with it locally.

[20] **Peter Black:** Would the cap cause problems for any of the parties concerned?

[21] **Mr Saxby:** We hope not because that has been negotiated with the operators. Some of the options that were talked about may well have had undesirable consequences in terms of an increase in fares for fare-paying passengers or of services being withdrawn. The plan from April is to keep things as they are rather than allow them to continue growing because that would be unaffordable.

[22] **David Lloyd:** Mae’r cwestiynau **David Lloyd:** The next questions are from nesaf o dan ofal Joyce Watson. Joyce Watson.

[23] **Joyce Watson:** Good morning, Bob, and thank you for coming. I know that you have answered this to an extent, but for the record, do you agree that legislation in this area is necessary to enable the Welsh Government to control the costs of the concessionary fares scheme?

[24] **Mr Saxby:** Yes.

[25] **Joyce Watson:** Why, in your view, has the Welsh Government concluded that the existing powers to make regulations are inadequate to control the budget?

9.10 a.m.

[26] **Mr Saxby:** Some of the options that we talked about when we were trying to control the costs of the scheme are not doable under existing legislation. Those options are necessary if the Assembly Government is to have wider choices on how to control the cost.

[27] **David Lloyd:** Yr ydym yn mynd yn ôl at Peter Black am y tri chwestiwn nesaf. **David Lloyd:** We go back to Peter Black for the next three questions.

[28] **Peter Black:** You have indicated that you are content with the scope of the proposed Order insofar as it relates to concessionary travel. Should the definition of ‘bus services’ include the TrawsCambria long-distance coach network?

[29] **Mr Saxby:** At the moment, the TrawsCambria network is very much integrated with the local bus service in many areas, so if it were not included, that would affect people’s shorter, local journeys in certain areas. If the TrawsCambria network were a completely separate coach service that did not perform a local function, then excluding it would be an option, as would offering a lower fare for pass holders, rather than making the services free. However, unless TrawsCambria were unravelled from the local bus network, doing so would make things quite complicated.

[30] **Peter Black:** So, for the sake of neatness and administration, it is useful if that definition includes that long-distance coach network.

[31] **Mr Saxby:** Yes.

[32] **Peter Black:** Do you agree that the proposed Order should be limited to Welsh rail services provided under the Wales and border franchise? What about rail services by First Great Western, Virgin Trains, or any open-access services, for example?

[33] **Mr Saxby:** At the moment, concessionary passes are only valid on some local lines such as the Conwy valley and Cambrian coast lines and so on. That is what has always been envisaged as appropriate. If the Assembly Government wished to extend concessionary travel to all rail services I am sure that that would be popular among pass holders, but it would come at a considerable cost. That would need to include First Great Western and Virgin Trains, and so on, but I do not envisage that anyone thinks that that is likely to be required.

[34] **Peter Black:** Looking at the legislative competence here, would it be useful if it were expanded to make that an option in future?

[35] **Mr Saxby:** Yes.

[36] **David Lloyd:** Mae’r tri chwestiwn olaf i Bob—a bydd Bob yn rhydd i fynd wedyn—gan Joyce Watson. **David Lloyd:** The last three questions to Bob—and Bob will then be free to go—are from Joyce Watson.

[37] **Joyce Watson:** The community transport association has raised concerns in its written evidence that the proposed Order makes no specific reference to community transport. Should the scope of matter 10.2 be extended to include community transport?

[38] **Mr Saxby:** It probably should, in that community transport could then be brought on board. In my area, we use community transport services to replace little parts of the bus network, and therefore allow free travel as part of this scheme. It is a small scale initiative, but that does happen. The Local Transport Act 2008 also gives us more scope for using community transport to operate local services. It would be appropriate to include that.

[39] **Joyce Watson:** Do you agree with the Confederation of Passenger Transport UK that the current appeal arrangements are unsatisfactory, and that the proposed Order will provide an opportunity to correct that?

[40] **Mr Saxby:** It is difficult to say in Wales because we have yet to go through our first appeal. In fact, the first appeal hearing in Wales is on 21 January, and I am one of those giving evidence because my authority is one of the three being appealed against. Until we have gone through that procedure, it is difficult to say whether it is adequate or not. It is a case of feeling our way in Wales because it is the first appeal. They have had hundreds in England, but they do not seem to have hearings; all parties send off their evidence and the result comes down from on high. *[Laughter.]*

[41] **Joyce Watson:** I will not comment on England. What impact, if any, will the proposed Order have on the possibility of future harmonisation of concessionary travel schemes throughout the UK?

[42] **Mr Saxby:** That would depend on what the Assembly Government decides to do. For instance, England has announced that it will harmonise the qualification age with the pensionable age. If we did not do that in Wales, it would probably make it more difficult to have a UK-wide scheme. I am an advocate of a UK-wide scheme because it can bring large economic benefits to Wales, certainly with regard to tourism. I also feel that, nationally, the cost of it is insignificant compared with the cost of concessionary travel overall. I have pointed out to English Ministers that if an old lady from Manchester is in Llandudno using her bus pass, she is not using it in Manchester, so the cost to UK plc is probably insignificant. The benefits to Llandudno of her coming on holiday there, if she has chosen to go there because she can use her bus pass, can be considerably more than the cost of recompensing the operator.

[43] **Joyce Watson:** There are other issues too, such as border issues for people living on the border. Several people write to me regularly saying that they feel discriminated against because the town in which they shop, which is the nearest to them, is just over the border.

[44] **Mr Saxby:** The Wales scheme allows for people to travel into England, for instance you can use the bus routes from Flintshire to Chester, and come back, as long as you are coming back to Wales. The cost of that is picked up by the Welsh scheme at the moment. It would improve things considerably for people who live on the border, because they would have much more flexibility in what they wanted to do. It would also improve the administration of the scheme, because my staff spend an awful lot of time dealing with applications for passes from people in England who have a caravan somewhere, say in Conwy. There are then arguments about how long they are in the caravan and about the location of their actual residence. Therefore, all those arguments would disappear because they would have valid bus passes anyway.

[45] **David Lloyd:** Dyna ddiwedd y cwestiynau ar deithio rhatach yn y sesiwn hon i Bob Saxby. Diolchaf yn fawr i Bob am ei gyfraniad ac am ateb y cwestiynau mor drylwyr a goleuedig. Cyn gorffen, a oes **David Lloyd:** That is the end of the questions on concessionary travel in this session to Bob Saxby. I thank Bob for his contributions and for answering the questions so thoroughly, and in an enlightening way.

gennyh unrhyw sylwadau ychwanegol, neu sylwadau am rywbeth y dylem fod wedi ei ofyn ichi? Before we end this session, do you have any other comments, or comments on something that we should have asked you?

[46] **Mr Saxby:** I would like to emphasise the importance of involving those at the sharp end like myself. If the concessionary travel scheme were administered nationally, it may or may not be cheaper than doing it the way that it is done at the moment. I have made inquiries about what happens in Scotland, where it is done nationally now. The local authorities still do all the processing of the applications for passes and so on, which is the time-consuming bit and is what costs the most. We all have our own machinery for issuing passes at the moment so, in theory, having a central one is cheaper. Scotland outsources all of that and it is done in Hull. I do not know whether that is better or worse. Some of the authorities tried using the bureau in Hull but found it quite expensive, and have gone back to doing it themselves. I also point out that if you do not have people with local knowledge scrutinising the claims for reimbursement from operators, you can fail to spot things that are not obvious initially, but those of us who know the operators that we are dealing with can spot things and stop the claims that should not be going through.

[47] **David Lloyd:** Diolch am y sylwadau hynny, Bob, a diolch unwaith eto am eich cyfraniad y bore yma. Bydd y clerch yn anfon trawsgrifiad o drafodaethau'r bore yma atoch er mwyn ichi eu darllen a'u cywiro lle bo angen. Ni allwch newid na gwyrddroi hanes, ond gallwch sicrhau bod y cofnod yn gywir. Gyda hynny o eiriau, diolch am eich cyfraniadau. **David Lloyd:** Thank you for those comments, Bob, and thank you again for your contribution this morning. The clerk will send you a transcript of today's proceedings for you to read and correct if necessary. You cannot change history, but you can ensure that the record is correct. With those few words, I thank you for your contribution.

[48] Cyhoeddaf, o achos y tywydd, bod oedi gyda'n fideo-gynadledda gyda gogledd Cymru, yn sir Ddinbych, ac yn benodol gyda Peter Daniels, a oedd â rhaw yn ei law y tu allan i'w dŷ ychydig yn ôl. Cawn doriad yn awr am 10 munud o leiaf, felly yn unol â Rheol Sefydlog Rhif 10.25, cynigaf ein bod yn gohirio'r cyfarfod am chwarter awr. I announce that, due to the weather, there is a delay with our video-conferencing with north Wales, in Denbighshire, specifically with Peter Daniels, who was still digging himself out of his house this morning. We will have a break now for at least 10 minutes, therefore in accordance with Standing Order No. 10.25, I propose that we defer the meeting for 15 minutes.

*Gohiriwyd y cyfarfod rhwng 9.20 a.m. a 9.34 a.m.
The meeting adjourned between 9.20 a.m. and 9.34 a.m.*

[49] **David Lloyd:** Galwaf y cyfarfod i drefn eto. Croeso'n ôl i chi gyd. **David Lloyd:** I call the meeting to order again. I welcome you all back.

[50] I warmly welcome Peter Daniels, who is representing the regional transport consortia. He is joining us by way of a video link with the north, as we say down here in Cardiff. *Croeso.* I take it, Peter, that you can hear us and see us.

[51] **Mr Daniels:** Yes, thank you.

[52] **David Lloyd:** This is an evidence-taking session of Legislation Committee No. 3 on the Proposed National Assembly for Wales (Legislative Competence) Order (Transport) 2010. We started earlier and have just had a break to link up with you up there. There are two main parts to the proposed Order; one is about concessionary travel, which we covered in our earlier session. Our questions are on the other main part of the proposed legislative

competence Order, which refers to learner transport safety, and Assembly Members have been allocated questions to ask you on that aspect. If it is okay with you, we shall kick off. We aim to finish this session by 10 a.m. It will be brief and focused, and I can assure you that everyone will be soft and malleable with you. Without further ado, if you are happy for us to kick off, Peter, Helen Mary Jones has the first questions.

[53] **Helen Mary Jones:** Well done and thank you, Peter, for getting in. When Dai was making the comments about being focused and to the point, he was talking to us, not to you.

[54] In your written evidence, you said that you broadly support the principle of the National Assembly for Wales having increased legislative powers over learner transport. Can you expand on your reasons for that view?

[55] **Mr Daniels:** I look at matters from the point of view of a transport professional and of a parent. I represent parents throughout north Wales whose children use school transport. I feel, as does Taith, that anything that will improve school transport is definitely a bonus. There are issues that you as an Assembly and the Welsh Assembly Government need to consider, particularly in relation to funding and so on. However, in principle, we support the proposed LCO.

[56] **Helen Mary Jones:** In your view, is the scope of the proposed legislative competence Order correct? Are there any omissions from its scope?

[57] **Mr Daniels:** I thought long and hard about this last night, and I do not feel that there are any omissions. I was thinking about things such as the length of contracts for school transport, which is an example of a possible omission, but each tendering authority can deal with that separately anyway. So, I do not think that there are any omissions.

[58] **Helen Mary Jones:** Is anything included that you think should not be included?

[59] **Mr Daniels:** It is a matter for debate later as to whether the Assembly and the Welsh Assembly Government are able to deal with some of the issues that you are looking at.

[60] **Helen Mary Jones:** Have any issues been identified or lessons learned from the implementation of the Learner Travel (Wales) Measure 2008 so far that you think should inform the scope of the proposed Order?

[61] **Mr Daniels:** As transport professionals we have learned lessons in areas other than that of the proposed LCO. We have learned lessons about dealing with some of the difficult issues that we have had to face, such as parents who have split up and so on, so it is really only in areas such as that that we are learning lessons as we go along. I do not think that there are any other issues that are relevant to the proposed LCO.

[62] **David Lloyd:** The next questions are under the care of Joyce Watson.

[63] **Joyce Watson:** Good morning. The explanatory memorandum states that the current legislative competence excludes

[64] ‘the use, construction and equipment of vehicles used for learner transport’.

[65] Will any proposed Measure that arises from the powers sought in the proposed Order still be effective if the technical standards for the construction of vehicles remain non-devolved?

[66] **Mr Daniels:** This area, in relation to what Wales can and cannot do, is quite difficult.

Again, in principle, I would support anything that improves school transport matters in Wales.

9.40 a.m.

[67] We have already worked on this together, but it is a complicated area. There is European legislation to consider and I am unsure as to what powers the Assembly and the Welsh Assembly Government have to ensure, for instance, that particular types of seat belts and particular types of vehicles are used.

[68] Looking at this from the perspective of parents and the headteachers, it is fair to say that they are all keen to see the end of the use of double-decker buses. A number of authorities have already made significant moves to eliminate their use and I am not entirely sure whether, given the European legislation that we face and given the construction and use that we have of these buses, we can necessarily or easily eliminate the use of double-decker buses through the proposed LCO. However, if Wales feels strongly about the issue of double-decker buses, I do not think that there is a reason why the Assembly cannot suggest and guide local authorities in that direction, provided that there is funding available, of course, and not just in terms of revenue funding but funding to convert small premises in which, at the moment, they may struggle to get in more vehicles. In a nutshell, I am trying to say that these are good proposals, but given the UK and European elements, the Assembly needs to consider, perhaps through consultation with its stakeholders, whether it can take on some of these powers.

[69] **Joyce Watson:** In your written evidence, you all strongly emphasise the need for thorough consultation and sound research before any further decisions are taken relating to learner transport. In your view, is the proposed Order appropriate for any future Measures that might be envisaged?

[70] **Mr Daniels:** I said just now that parents and headteachers are keen to see double-deckers not being used for school transport. That is an issue that we need to face. Can you repeat the first part of your question?

[71] **Joyce Watson:** In your written evidence, you all strongly emphasise the need for thorough consultation and sound research before any further decisions are taken relating to learner transport.

[72] **Mr Daniels:** Parents and headteachers are keen to see the end of the use of double-deckers. From a professional perspective, many colleagues feel that there is no reason why double-deckers, for example, could not be used on routes where there has been an appropriate risk assessment. That is where further consultation would be of benefit. I do not know of any body of evidence to suggest that double-deckers are in themselves unsafe. There are issues about behaviour, particularly on the top deck of double-decker buses, and, in the north, thanks to funding from the Assembly Government, we are currently in the middle of a pilot scheme that aims, as scientifically as possible, to determine whether closed-circuit television is a better way of managing behaviour on double-decker and single-decker buses than providing a supervisor or escort, or whether both or neither should be used as a control. That is the sort of thing that we and you need to consider together before taking the view that double-deckers should be banned indefinitely from all routes. I know that that would cause some colleagues some concern and, although a number of authorities have made great strides in dealing with that sort of thing, by providing 70-seat single-deckers, for instance, that are newer and more fit for purpose, there would be issues, particularly around funding. Engaging operators, schools, parents and professionals in local authorities will build up that body of knowledge.

[73] **David Lloyd:** The next two questions, questions 18 and 19, are from Peter Black.

[74] **Peter Black:** The proposed Order seeks powers to regulate some modes of transport but not others, for example local authority contracted buses, but not service buses. Do you agree with the modes of transport included in the LCO?

[75] **Mr Daniels:** The way in which local authorities tender their school transport can be complicated. Most pupils in rural areas, for instance, travel on closed school contracts that are dedicated for entitled pupils only. In rural areas such as Denbighshire and most of Flintshire—those authorities for which I am directly responsible—every inter-urban bus service and rural bus service carries fare-paying pupils and adults as well as entitled pupils. Parents see no distinction between a closed school contract and a bus with fare-paying passengers, even if that is operated commercially. They understand it as school transport in the round, and therefore the Welsh Assembly Government needs to ensure that it covers all areas. The legislative competence Order considers closed school contracts in the main, and that could lead to what I have called in my written evidence a two-tier system. You have to guard against that.

[76] There are two forces pulling in opposite directions here. On the one hand, we have powers between us to easily improve closed school transport, that is, transport for entitled pupils only. On the other hand, if that means a deterioration in the rural bus network, particularly at peak times, for those people travelling to work and for those pupils paying a fare, then that would be to the detriment of those other groups. My concern is that, unless we can find a way between the two, or a way of supporting both kinds of school transport, then parents will see one kind of school transport as preferred over another, and that will cause stresses and strains within the system as parents perhaps lose trust in local bus services; we could then lose those. It is a difficult one to balance. Local bus services as provided on brand new vehicles have features such as three-point lap and diagonal belts, but they cannot and will not seat so many passengers as a 70-seat vehicle, because of the Disability Discrimination Act 2005 and associated regulations and guidance. We would prefer the Assembly Government to consult with stakeholders and consider the financial implications of this if it were to apply across the board, and if we were to have pupils transferring from local bus services to closed school contracts.

[77] **Peter Black:** When the Minister gave evidence to us before Christmas, he was quite clear that the LCO would only give powers to the Welsh Government to impose safety rules, and so on, on closed-contract bus services. Therefore it does not apply to normal service buses at all. Of course, many children in urban as well as rural areas use service buses to get to school. Would there be practical difficulties if we were to recommend that the LCO be extended to give the Ministers additional powers in relation to service buses?

[78] **Mr Daniels:** There would probably be practical difficulties, particularly when you consider commercial bus services carrying both entitled and fare-paying pupils—again, this is more of an urban issue. Given the way that the industry is structured, where there are fewer entitled pupils on commercial services than authorities, the Welsh Assembly Government, and the Assembly will have less of an influence. So, yes, there will be practical difficulties. Again, consultation would, I trust, bring that kind of thing out, and, indeed, the funding implications that will follow on from that.

[79] **Peter Black:** So, effectively, that two-tier service will continue because it is not practical to impose these sorts of regulations on a normal service bus.

[80] **Mr Daniels:** I apologise—I missed the first part of that sentence.

[81] **Peter Black:** So, effectively, that two-tier service that you were talking about will continue because it is not practical to impose these sorts of regulations on a normal service bus.

[82] **Mr Daniels:** I guess that depends on the Assembly, the Welsh Assembly Government and local authorities. Local authorities could take the view, for instance, that we could abandon pupils on local bus services, but there would be a financial resource implication there, because, effectively, we would need two vehicles to operate the same run, or we would have to abandon fare-paying passengers in rural areas. It is a difficult one. I feel that we should be trying, where we can, to improve standards for both sides, but it is a question of whether the proposed LCO allows us to do that. I doubt whether that is the case.

9.50 a.m.

[83] **David Lloyd:** Joyce has the next couple of questions.

[84] **Joyce Watson:** Can you explain the significance of including taxis and private hire vehicles in the context of the proposed Order? How do you envisage that you would use the powers in the proposed Order to address safety issues for those two types of transport?

[85] **Mr Daniels:** Local authorities already have—the videoconference picture has gone a bit snowy there; am I still with you?

[86] **David Lloyd:** Yes indeed.

[87] **Mr Daniels:** Local authorities already have significant powers to improve taxi licensing conditions, and every vehicle that we use with eight seats or under is duly licensed through local taxi licensing. I would aim for the proposed LCO to unify standards wherever possible among the 22 local authorities. Given the large number of authorities in Wales, we all have to use licensed vehicles from other authorities for school transport. That is a good thing; it helps the market. However, because standards are variable, I would like the proposed LCO, if possible, to try to unify some of those key standards throughout Wales, so that a minimum standard is applicable. That is the area that I would like the proposed LCO to have a bearing on as regards taxi licensing.

[88] Throughout this answer the picture on my screen has been wavering; I do not know if that has got through to you.

[89] **David Lloyd:** Yes.

[90] **Helen Mary Jones:** We heard you.

[91] **Joyce Watson:** Do you agree with the exclusion of learner travel by rail from the scope of the proposed Order?

[92] **Mr Daniels:** On this one, I have to declare that I have no experience of pupils travelling to school by rail. I have never, in my 22 years in local authorities, used rail as a way of transporting pupils. I would therefore like to pass on that question, if I may.

[93] **Peter Black:** We talked earlier about the potential for legislation following this proposed LCO. When the previous education committee reported on school transport, it suggested that a lot of the additional safety measures that it wanted, and which this proposed LCO will enable in future legislation, could be delivered through the contracts that local authorities have with the bus operators. Is that the preferred route to go down? Have local authorities in your consortium tried to do that?

[94] **Mr Daniels:** Yes, the six local authorities in my consortium have tried to do that, and indeed, we have all been successful to some degree—with one exception, perhaps. It depends

on resources, and those authorities that have been able to fund improvements have done so quite successfully through their tendering cycles. Two authorities in particular have made great strides in this regard, especially with primary school and college transport. So, the precedent is there in north Wales to do that. However, like many things, we could not have done that without improved resources. I have mentioned this three or four times, but consultation on this could be useful, and the Assembly and the Welsh Assembly Government need to budget this over the next five, 10 or 15 years. That is the kind of timescale that we are looking at to make these sorts of improvements—longer contracts employing better vehicles over a seven to 10 to 15-year period.

[95] **David Lloyd:** Joyce, I think that your question 23 on the two-tier system has been answered.

[96] **Joyce Watson:** Yes.

[97] **David Lloyd:** We move on to the last question, Peter, which falls to me. To clarify, is it your understanding that the proposed Order applies only to home-to-school transport, or also to those vehicles owned and operated by educational establishments themselves, such as school minibuses? If school minibuses are included, does this cause any concerns or issues that will need to be addressed?

[98] **Mr Daniels:** It is certainly my understanding that the proposed LCO applies to certified public service vehicles—buses, coaches and minibuses that are operated for hire and reward rather than school transport vehicles. However, in some parts of north Wales, in my own authority, we use vehicles that are owned in partnership between the school and the local education authority to take pupils between their homes and school. They are a useful resource, not least during snowy weather, when schools are trying to get pupils home quickly. So, it is something that is worth bearing in mind.

[99] Were that to be the case, the implications then rest more, perhaps, with the schools themselves rather than the LEAs or the councils. School-owned minibuses tend to be purchased through charitable donations, through fundraising. Any additional onus on the school could place an extra burden not just on the school budget, but on parents and parent teacher associations trying to fund these vehicles. Generally speaking, school-owned minibuses, particularly in the secondary sector, are of a high standard as it is. They are as good as, if not better than, some of the PSVs, because they tend to be newer. Nevertheless, it is an important area to consider.

[100] **David Lloyd:** Thank you, Peter. That is the end of our formal list of questions to you as regards the learner transport safety aspect of this proposed LCO. Have you any comments to add, in case we have missed something out or have not emphasised something sufficiently in your view?

[101] **Mr Daniels:** I think that I am okay. May I just apologise for my lateness? I did not get an opportunity to do that at the beginning. Thank you for holding on for me even though I was slightly late.

[102] **David Lloyd:** There are absolutely no worries about that, Peter, because we are missing two other witnesses this morning courtesy of the snow down here in the south. Hearty congratulations and thanks for making it through the drifts that you have there in the north. We are very grateful for your contribution this morning and for your readiness to get through all possible hazards to make it to the videoconferencing centre. Thank you very much indeed.

[103] I will bring this part of our evidence session to a close by saying, Peter, that we will send you a transcript of the deliberations this morning for you to correct any minor anomalies

that you feel need to be corrected. Needless to say, you cannot change the course of history and totally rewrite something or change something that you wish you had not said, but please correct any deficiencies. However, with our very able record team, I do not anticipate any deficiencies. However, the transcript will be sent to you for your contribution as regards any corrections that are required. Thank you very much indeed, Peter.

[104] We will now break until 10.15 a.m., when the second session of questioning will begin.

*Gohiriwyd y cyfarfod rhwng 9.58 a.m. a 10.15 a.m.
The meeting adjourned between 9.58 a.m. and 10.15 a.m.*

[105] **David Lloyd:** Galwaf y cyfarfod i drefn unwaith eto gan ailagor trafodaethau ar gyfer ail sesiwn y bore o gyfarfod Pwyllgor Deddfwriaeth Rhif 3 Cynulliad Cenedlaethol Cymru. Diben y cyfarfod hwn, fel y cyhoeddais yn gynharach y bore yma, yw cymryd tystiolaeth ar lafar mewn cysylltiad â'r Gorchymyn arfaethedig yn ymwneud â thrafnidiaeth. Mae dwy brif ran i'r Gorchymyn arfaethedig hwn—un rhan ar deithio rhatach a'r rhan arall ar ddiogelwch trafndiaeth i ddysgwyr. Yr wyf yn falch o weld bod ein tystion wedi cyrraedd ar gyfer yr ail sesiwn. Golygodd y tywydd na allai dau o'n tystion fod yn bresennol yn gynharach, ond yr wyf yn falch o weld y pedwar tyst sydd o'n blaenau. Diolch yn fawr i chi am fentro allan yn y tywydd garw er mwyn bod gyda ni'r bore yma.

David Lloyd: I call the meeting to order once again and reconvene proceedings in this second session of this morning's meeting of the National Assembly for Wales's Legislation Committee No. 3. The purpose of this meeting, as I said earlier this morning, is to take oral evidence in relation to the proposed legislative competence Order on transport. There are two substantive parts to the proposed Order—one part is on concessionary travel and the second on learner transport safety. I am glad to see that our witnesses have arrived for our second session. Due to the adverse weather conditions, two of our witnesses were not able to make it earlier, but I am pleased to see the four witnesses before us. Thank you very much for venturing out in this inclement weather to join us this morning.

[106] Mae gennym Michael Vaughan a Mike Bagshaw o Drenau Arriva Cymru, a John Pockett a Tony McNiff o Gydffederasiwn Cludiant Teithwyr. Croeso i'r pedwar ohonoch. Mae cyfres o gwestiynau sydd eisoes wedi eu didoli ymysg yr Aelodau sy'n bresennol ac sy'n ymdrin ag ystod y Gorchymyn arfaethedig. Bydd y cwestiynau cyntaf yn ymwneud â theithio rhatach ac, fel y byddaf yn cyhoeddi, wedi'r 12 cwestiwn cyntaf byddwn yn symud ymlaen at ddiogelwch trafndiaeth dysgwyr. Felly, bydd y 12 cwestiwn cyntaf ar deithio rhatach, a dechreuaf i gyda'r cwestiwn cyntaf. Gall bawb ateb, ond os yw rhywun wedi rhoi ateb cyflawn, nid oes raid ychwanegu rhywbeth yn unig er mwyn ychwanegu rhywbeth. John, a wyt ti eisiau dweud rhywbeth?

Joining us this morning are Michael Vaughan and Mike Bagshaw from Arriva Trains Wales as well as John Pockett and Tony McNiff from the Confederation of Passenger Transport. A warm welcome to all four of you. We have a series of questions that have already been allocated to the Members present and which cover the range of issues contained in the proposed Order. The first questions will cover concessionary travel and, as I will notify you, after the first 12 questions we will move on to learner transport safety. So, the first 12 questions will be on concessionary travel, and I will start with the first question. Everyone is welcome to respond, but if someone has given a complete answer, there is no need to add something for the sake of adding something. John, do you wish to comment?

[107] **Mr Pockett:** Bydd Tony'n ateb yn bennaf ar gwestiynau ynghylch teithio rhatach, a deliaf i gyda materion cludiant

Mr Pockett: Tony will respond in the main to questions on concessionary travel, and I will deal with school transport issues.

ysgol. Fodd bynnag, bydd y ddau ohonom yn cyfrannu yn ôl yr angen. However, we will both chip in as the need arises.

[108] **David Lloyd:** Iawn. Mae rhyw fesur o gyfyngiad ar yr amser, oherwydd mae gennym sesiwn arall a fydd yn dechrau ar ôl 11 a.m., felly dylai'r sesiwn hon fynd ymlaen tan 11 a.m.. Symudwn at y cwestiwn cyntaf, felly. Yn eich barn chi, a oes angen— **David Lloyd:** Fine. We face some time constraints this morning, because we have another session that is due to start after 11 a.m., so this session should go on until 11 a.m.. We will move on to the first question, therefore. In your view, is it necessary—

[109] **Mr Vaughan:** I am sorry, is there any translation available?

[110] **David Lloyd:** There is, indeed.

[111] **Mr Vaughan:** Okay, I beg your pardon.

[112] **David Lloyd:** So, my effusive welcome to you, Michael, lasting several sentences, has been lost.

[113] **Mr Vaughan:** I am a partial Welsh speaker.

[114] **David Lloyd:** So, some of my effusiveness was not lost on you.

[115] Yn eich barn chi, a oes angen y Gorchymyn arfaethedig ynteu a oes gan Lywodraeth Cynulliad Cymru ddigon o bwerau? Pwy sydd eisiau dechrau ar hynny? In your view, is the proposed Order necessary, or does the Welsh Assembly Government have sufficient powers? Who wants to kick off on that?

[116] **Mr McNiff:** I will kick off. To be fair, the intent behind the explanatory memorandum accompanying the proposed LCO makes a lot of sense. There are certain administrative issues associated with the provision of concessionary fares that it may be considered useful to deal with. There are some legal issues to do with the position of the Government as an appellate body in relation to concessionary fare issues where there would be some advantage to taking those powers. The substance of what is paid under concessionary fares, or their very nature, is more of a funding issue, and therefore it is difficult to understand how that will benefit from additional legislation. That would obviously be the subject of a Measure, and there is not really any idea within what has been set out thus far of how that would work, so it is difficult to make a judgement on that.

10.20 a.m.

[117] **Mr Vaughan:** Arriva Trains' view is that, currently, we have exclusive contracts to provide concessionary fare schemes—that is, the four that we have—and we are fairly happy with the arrangements as they stand.

[118] With regard to the proposed Order, I do not think that it would change anything in the way that we deal with the Welsh Assembly Government.

[119] We have no particular issue with the Learner Travel (Wales) Measure 2008. We have a compliance system currently to ensure schoolchildren's safety. The proposed Order would not therefore affect our arrangements in that respect.

[120] **David Lloyd:** The questions at this point are concentrating on the concessionary fares. We will come on to the learner travel aspect later. Helen Mary, you have the next question.

[121] **Helen Mary Jones:** Again focusing on the concessionary travel aspects, do you agree with the terms of the proposed Order? If you in any way disagree with the proposed Order, would that be because it is too narrow or too broad with regard to concessionary travel?

[122] **Mr McNiff:** We would support what is there, thus far. As I have said, the devil is more in the detail with regard to what comes after. In terms of the carving of the ability to make legislation in relation to this particular area, if the intent as set out in the explanatory memorandum highlights accurately the level of the Government's intent in this area, then we would accept that it is probably phrased as well as it should be in the current format. If the intent is something different, then it would be useful to know what that would be.

[123] **Helen Mary Jones:** However, of course, at this stage of the process, you cannot know that, because the intent is for future Governments. The matter for us is whether the powers should rest here and, if so, what those powers would be, and not what a future Government might decide to do with them. From your point of view, you need to know what a future Government would decide to do, but we cannot take a view on that, unless we end up being the Measure committee when a proposed Measure comes forward. [*Laughter.*]

[124] **Mr McNiff:** I suppose my point is that, to an extent, intent has been set out in the explanatory memorandum, and in that sense, if that is the thrust of what is intended to be delivered, we would be happy that it is set out in a manner that would allow it to be done.

[125] **Mr Vaughan:** The issue for us would be what would transpire at the end. It is about the impact on us, rather than what the proposed Order is saying.

[126] **Helen Mary Jones:** We could talk about the process for a long time, but I promised the Chair that I would not do that today.

[127] It has been put to us that legislation is required to ensure the long-term sustainability of the concessionary travel scheme. Do you agree that legislation is needed to do that?

[128] **Mr McNiff:** No. 'Not necessarily' is the honest answer to that. In the context of what we have done recently in CPT's tripartite discussions with the Assembly Government and ATCO in relation to the concessionary fare scheme as it will operate from April, we have demonstrated that we are able to work in partnership. For these kinds of things, there will always be a necessity to work in partnership because the consequences of actions will have very little to do with legislation; they will have more to do with funding, so I do not therefore think that the legislation, as such, is necessary to achieve that. On the other issues, yes; but in terms of sustainability and funding, I do not think so.

[129] **David Lloyd:** Are you all right with that one?

[130] **Mr Vaughan:** Yes; I agree with what Mr McNiff said on that. We are quite happy with the arrangements that we have for concessionary fares. We have an excellent working relationship with the Welsh Assembly Government, and I believe that that relationship will ensure the sustainability of the schemes.

[131] **Helen Mary Jones:** How would the proposed Order impact on local authorities' involvement in future negotiations with the transport operators on the future operation of the concessionary travel schemes?

[132] **Mr McNiff:** From a bus perspective, it would make it less complicated, shall we say, in certain contexts. However, returning to a point that I made previously, local authorities deliver services in local areas on the ground, and they therefore have local knowledge of what

is going on in their area. It is therefore important that local authorities are seen as part of a tripartite relationship in respect of the provision of local bus services—and that is right. In essence, it would be wrong to go down a path that, by necessity, excluded them from that process. However, with regard to the administration and the provision of information, there is a benefit in having a single point of accountability, which relates to obtaining that information, as there would be more clarity. Dealing with 22 local authorities that are collating information in order to be able to inform debate, for example, is difficult at times. As far as the provision of the scheme on the ground is concerned, they would need to be involved.

[133] **Mr Vaughan:** I agree entirely with what you are saying. However, item 21 in the explanatory memorandum suggests that the Welsh Assembly Government will deal directly with the deliverer on the issue of reimbursements and arrangements, and we would prefer that.

[134] **David Lloyd:** Ni soniais ar **David Lloyd:** I did not mention at the start of ddechrau'r sesiwn bod Alun Cairns yma, yn the session that Alun Cairns is here, dirprwyo ar ran William Graham. Croeso, substituting for William Graham. Welcome, Alun. Mae'r ddau gwestiwn nesaf dan dy ofal Alun. You have the next two questions. di.

[135] **Alun Cairns:** Do you agree, Mr McNiff, that legislation in this area is necessary to enable the Welsh Government to control the cost of the concessionary fares scheme?

[136] **Mr McNiff:** As I said previously, I do not think that that is the case; the cost of the scheme is directly proportionate to the delivery of services on the ground, which is an operational issue, as opposed to being administrative or legislative. There could be legislation to control cost, but the consequence of that is likely to be borne out in the availability of services on the ground—these things have a direct relationship with them. Obviously, with powers, it is possible to legislate, but the consequences of that legislation, if it sought purely to control the cost of the scheme, would be borne out in the provision of services on the ground. That is not necessary. The recent tripartite discussions between the Assembly, local authorities and CPT, on behalf of the bus industry, were a much better forum for having an impact on cost, while maintaining the maximum availability of services on the ground.

[137] **Alun Cairns:** If you do not feel that legislation is necessary, what fears do you have in respect of legislation that could come about as a result of the proposed Order?

[138] **Mr McNiff:** Our biggest fear, which we have on an ongoing basis, is that the level of funding available will be restricted and pulled back further, or that the concessionary schemes may be expanded to a wider series of areas, but with the same funding pot available, thereby diluting the availability of funding on the ground and having a direct impact on services. That would be our concern.

[139] **Alun Cairns:** My understanding of that is that you fear that legislation could force you to do it, rather than you having the negotiations that take place currently.

[140] **Mr McNiff:** That is correct.

[141] **Alun Cairns:** Mr Vaughan, do you have anything that you wish to add?

[142] **Mr Vaughan:** We would share that concern. We are fairly happy with the current arrangements as we work directly with the Welsh Assembly Government and get reimbursed for the concessionary schemes that we apply. We are fairly happy with that. Ergo, we think that legislation would not have any effect on that—we would like to think that that would be

the case.

[143] **Mr Bagshaw:** One of the issues relates to the capacity of the trains, that is, ensuring that we have enough capacity to accommodate the scheme. If we do not have that, people have a poor experience and we are not able to accommodate passengers, and fare-paying passengers are left behind. At the moment, we have constructive dialogue with the Welsh Assembly Government through which we plan the capacity and put certain restrictions in place—for example, during summer periods, we might restrict concessionary fares. We would welcome the continuation of that dialogue, and would be concerned if legislation prevented us from doing that, as it enables us to plan capacity and to ensure that the issue of concessionary fares is planned in a robust way.

[144] **Alun Cairns:** As both organisations are, in effect, singing the same tune in relation to this, this might be an unfair question, but I will still pursue it. In your view, why, if there are tripartite meetings and if there is constructive dialogue, has the Welsh Government concluded that existing powers to make regulations are inadequate to control the budget?

10.30 a.m.

[145] **Mr McNiff:** On the basis of the information put in front of us in the explanatory memorandum, that is not what it has done. The intent behind obtaining the powers, as it seems to me in what has been set out thus far, has been largely related to the administrative issue of seeking to get information from local authorities. The intent is also to address some of the current inconsistencies, shall we say, in terms of the Welsh Assembly Government being both the initiator of the scheme, at one level, and an appellate body in relation to the appeals that derive from it. We are aware that there have been discussions about the value and cost of the scheme, but we do not perceive that as being the rationale behind the carving out of the additional powers. If indeed that is the case, it would have been useful to have seen that within the explanatory memorandum, when we may well have taken a different view on it.

[146] **Alun Cairns:** To probe a little further, in the previous evidence session, the Deputy First Minister stated, in reference to the Welsh Government,

[147] ‘while we want to maintain existing entitlement, we need to control the budget.’

[148] Would you prefer the proposed LCO not to include an element where he could effectively impose issues on you in relation to concessionary fares and budgetary matters?

[149] **Mr McNiff:** We have demonstrated recently that we can work in partnership with the Assembly and with the local authorities to come up with a level of delivery on the ground that is proportionate to the cost that the Assembly is able to pay. We have done that without a legislative framework behind it. Therefore, the existing arrangements have demonstrated that they are capable of working. That is all I can say on that matter at this point in time.

[150] **Alun Cairns:** What this committee is concerned about—this is the crux of the matter—is where the power should lie. Should it lie here, where the Minister can potentially make changes to ‘control the budget’—to use his phrase—or would you prefer the proposed LCO to be restricted so that it would not allow him to effectively control the budget? Do you think that the power should remain in Westminster? That is the nitty-gritty of what we are concerned about: where the power should lie. Or do you not care where it lies as long as it is not introduced?

[151] **Mr Pockett:** If we accept the initial premise that the competence should be transferred, I think that whatever is included in a subsequent proposed Measure, the power should lie here. There is no good in half the power being in Westminster. If we are talking

about clarity, that would not lead to any clarity. Any legislation that is drafted without clarity is generally poor legislation. If we had to deal with someone under statute, we are firmly of the view that it would be better for us to deal with that person here than in Westminster.

[152] **David Lloyd:** The questions are stacking up a bit now; Peter has the next set.

[153] **Peter Black:** You have indicated that you are happy with the scope of the legislation in terms of local bus services and Welsh rail services provided by Arriva Trains Wales. Do you think that the definition of bus services should include the TrawsCambria long-distance coach network?

[154] **Mr McNiff:** This relates to funding to a degree. We are aware that funding is an issue and that there is a limit to what is available within the pot for concessionary fares. The TrawsCambria network, by definition, is an across-Wales network. It therefore seeks to do a different thing to a local bus network, which is seeking to enable concessionary travellers to access areas that they need to access, close to their homes. The problem with extending the definition to include a national network is that it would then be seeking to do something different, namely to provide people with the ability to travel from one part of Wales to another on a commuter-type basis rather than according to a social-inclusion-type arrangement. Seeking to do that, against the backdrop of a difficult funding environment, would only dilute the pot available to provide for the real intention of the scheme, which is to allow people with concessionary fares to access places close to their home under the scheme. So, I think that it would be wrong to include that.

[155] **Peter Black:** So, there are two issues. One is that it is a different type of network, and the other is the funding issue. However, if the power were to come to the Assembly at some stage in the future whereby the nature or the funding of the scheme were to be changed and expanded, would you object to the Assembly having the power to do that?

[156] **Mr McNiff:** It goes back to the point that John made earlier that we have no particular issue with powers being devolved to Wales. In many respects, we have a Welsh scheme which stops at the Welsh boundaries, and there is therefore logic to the powers associated with that scheme being devolved to Wales. What you do with those powers is another issue altogether.

[157] **Peter Black:** I would guess that the availability of concessionary fares on the TrawsCambria service would set up a rival to Arriva Trains Wales.

[158] **Mr Vaughan:** No. We are trying to hook up with the TrawsCambria service as well, so that needs to be taken into account for the impact it could have on rail services and the Traws Cambria service.

[159] **Peter Black:** Sticking to the rail network, do you think that that the proposed Order should be limited to Welsh rail services provided under the Wales and borders franchise, or should we be looking to expand it to other services such as those provided by First Great Western or Virgin?

[160] **Mr Vaughan:** We have no particular view on that. By including cross-country trains, such as Virgin Trains and First Great Western, you could expand the opportunity for people in Wales to travel. How that works out in the complexities of revenue attribution, and so on, is a matter for another day, but the principle could be the same.

[161] **Mr Pockett:** What we have been saying in relation to the TrawsCambria service and rail travel is that there is a finite pot. The TrawsCambria service is a marvellous aspiration. If we could all travel for nothing, it would be superb—everyone would experience the best

social inclusion. However, there are restrictions, and we must be realistic about those, particularly at the moment.

[162] **Helen Mary Jones:** The question for me is whether the TrawsCambria network should be specifically excluded, bearing in mind the question that Peter Black asked earlier about the powers. There would then be a question about whether you would want to include, through a Measure or through a policy, the TrawsCambria network, or whether you could afford to include it. In the context of what you said earlier, John, about it making sense that if you are dealing with a Welsh service, you may as well be dealing with the Assembly Government. It is not a question of whether it would make sense or would be practical to include the TrawsCambria service—it might not; the question is whether or not in the future it would make sense for the Government to be able to legislate about local buses and train services, but not about the coach network.

[163] **Mr Pockett:** I think that we have made that point quite strongly, namely that the powers should be with the Assembly.

[164] **Mr McNiff:** It is not just due to clarification—there are other coach services such as the National Express and the shuttle services between Swansea and Cardiff; there are a number of alternative coach services which provide city-to-city or town-to-town commuter-type arrangements. It is important to note that, in the context of concessionary travel, they provide something that is very different to the scheme's original intent, which is access to local services for local people.

[165] **David Lloyd:** Joyce sydd â'r **David Lloyd:** Joyce has the final set of cwestiynau olaf yn y rhan hon, cyn inni questions in this part of the session, before symud ymlaen at ddiogelwch trafnidiaeth we move on to learner transport safety. dysgwyr.

[166] **Joyce Watson:** The Community Transport Association raised concerns in its written evidence that the proposed Order

[167] 'makes no specific reference to community transport'.

[168] Do you think that the scope of matter 10.2 should be extended to include community transport?

10.40 a.m.

[169] **Mr McNiff:** We have concerns in relation to community transport, in as much as, with the ability to access funding of that type, such as concessionary fare values on a per-passenger basis, some of the constrictions and restrictions that are associated with the provision of public service vehicles should also come with it. An uneven playing field potentially exists within the community transport arrangements, and that is of interest to members of the CPT Wales. There has been an increase in the number of services operated under the kind of arrangement conferred by community transport section 19 permits and contracts in recent years. There is concern that if they are to access concessionary funding and that kind of arrangement, it should come with an increase in the regulatory regime that covers it, which is proportionate to that for public service operators.

[170] **Mr Pockett:** We do not think that they should have the penny and the bun. If they want the funding, we think that it would be common sense for them to be subject to the same safety, construction, and regulatory regime as that which applies to the bus industry as a whole.

[171] **Mr McNiff:** We make that point in the context of the level of funding available, as opposed to the call for the powers.

[172] **Joyce Watson:** This is a question to Arriva Trains. Do you agree with the Confederation of Passenger Transport Wales that the current appeal arrangements are unsatisfactory and that the proposed Order will provide an opportunity to correct them?

[173] **Mr Vaughan:** I was not sure what dissatisfaction the CPT was expressing. In terms of an appeal procedure, if we were to fall in with a mandatory aspect of concessionary fares, we would want to ensure that there is a robust appeals procedure. That is the only response that I can give on that.

[174] **Mr Pockett:** We have lobbied all along against what we thought was an unfair scheme, under which the Welsh Minister can determine a scheme and if an operator, whoever it may be, disagrees with it, the Welsh Minister is also the person to whom the operator makes an appeal. We believe that the scope of this proposed Order rectifies that.

[175] **Joyce Watson:** What impact, if any, do you think the proposed Order will have on the possibility of future harmonisation of concessionary travel schemes throughout the UK?

[176] **Mr McNiff:** In that sense, the scheme in Wales is seen as a model scheme elsewhere. It is one of those areas where Wales is leading, as opposed to following. It is for others to harmonise with us, rather than for us to be worrying about harmonising with places elsewhere. In that sense, providing the Assembly with powers to legislate in an area where, demonstrably, it is best in class in the UK at the moment, is probably not a bad thing.

[177] **David Lloyd:** Diolch yn fawr. **David Lloyd:** Thank you. We will now move on to another section of the proposed Order, relating to learner transport safety. The first questions are from Helen Mary Jones.
Symudwn ymlaen at adran arall yn y
Gorchymyn arfaethedig hwn, sy'n ymwneud
â diogelwch trafnidiaeth dysgwyr. Mae'r
cwestiynau cyntaf yng ngofal Helen Mary
Jones.

[178] **Helen Mary Jones:** Do you support the principle of the National Assembly for Wales having increased legislative powers over learner transport?

[179] **Mr Pockett:** The one-word answer to that is 'yes'. I do not think that we need to say any more.

[180] **Mr Vaughan:** We do not have a particular view on that or have issues with it. I think that I mentioned earlier that we are already compliant in that aspect.

[181] **Helen Mary Jones:** In the context of both sets of organisations feeling that it is right for the Assembly to have more power, is the scope of the proposed Order correct, and has anything been omitted from the proposed Order that you would like to see included?

[182] **Mr Vaughan:** Perhaps it would be a matter of having clarity on vehicles and equipment, and just to ensure that item 25 in the memorandum refers to technical specifications for UK rail vehicles and so forth.

[183] **Mr Pockett:** I agree with Mike. That is something that we highlighted in our written evidence. Perhaps I could refer to that later, but I think that we are broadly content with the scope.

[184] **Helen Mary Jones:** The explanatory memorandum, to which we have already

referred this morning, states that the current legislative competence excludes

[185] ‘the use, construction and equipment of vehicles used for learner travel’.

[186] Are you content that the proposed Order provides sufficient scope in respect of these issues to sufficiently improve the safety of learners on their journeys?

[187] **Mr Pockett:** The answer to that is ‘yes’. We are increasingly looking to European legislation to set standards and I think that that backs up what we think.

[188] **Mr Vaughan:** I just want to make one point on safety measures or constraints, in that there may be a cost if you are enabling other things to happen to make schoolchildren safer, particularly on physical issues. There is a clause within the franchise agreement, which is no net loss, no net gain, so the cost would have to be covered by the Welsh Assembly Government.

[189] **Helen Mary Jones:** That, again, is something that would have to be dealt with by negotiation; it goes back to the question of whether the Government ought to have the power and then the next stage would be how it would use it.

[190] **Mr McNiff:** That is one area in relation to power that you need to be careful about, in as much as there is a market for buses—and, I assume, trains as well—that expands well beyond the boundaries of Wales. So, with regard to manufacturers, we need to be careful that we do not go down the line of seeking to have Welsh versions, such as left-hand or right-hand drive arrangements—and I appreciate that that is an exaggeration—specifically for Wales. Whether the cost is borne by the operators or by the Assembly, that would have an impact on the provision and the availability of vehicles and the market within Wales for the provision of those services. So, it is an area that is increasingly governed more by European legislation, and an area that the Welsh Assembly probably ought to defer to in relation to Europe.

[191] **Helen Mary Jones:** That is not optional, unless we want to be non-compliant, which we certainly cannot afford to be. *[Laughter.]*

[192] **Joyce Watson:** Or if we want to be independent.

[193] **Helen Mary Jones:** Independent nations within Europe, Joyce, are still bound by European legislation. A country the size of Luxemburg, which is about as big as Gwent, is still bound by European legislation although it is independent within the union.

[194] Finally, in your view, is the proposed Order appropriate for any future Measures that you envisage the Government might want to bring in? In a sense, that is more a question for the Government than for you.

[195] **Mr Pockett:** We hear various stories, but in order to deal with the reality of the situation we must say ‘yes’. What are the possible future Measures?

[196] **Helen Mary Jones:** They are the Measures as suggested in the explanatory memorandum, which is what the current Government would intend to do. Would the competence give the Government the power to bring forth those Measures?

[197] **Mr Pockett:** Yes, I believe that it would.

[198] **Mr McNiff:** There needs to be clarity with regard to that phrase within the legislation. There is concern within the Confederation of Passenger Transport Wales that it is a little unclear in relation to technical specifications and what it is that the Assembly is

attempting to do. For example, if one says that there is an overriding element within the legislation, then it could be read to suggest that anything that adheres to technical specifications for vehicles within the UK or Europe is acceptable, which may then prevent the Assembly from doing what it may need to do or want to do politically in order to restrict the [*Inaudible.*].

[199] **David Lloyd:** Helen, your question 41 follows on directly from what Tony has just said. Do you want to pursue it?

[200] **Helen Mary Jones:** No; I think that that answer has covered it, Chair.

[201] **Mr Pockett:** We are not saying that we are right, and we are not saying that the legislation as drafted is wrong. However, throughout this process, which started with that sad accident in 2002, what has become clear to us and to everyone is the lack of clarity in what existed. We are highlighting that there is still a lack of clarity in the legislation being drafted, as Tony said. There is talk about phasing out double-decker vehicles but, under the provisions that you have in the proposed Order, we do not think that you, or at least the Government, could do that. It is clarity that we all want; we are not here to catch anyone out. We make people aware of this and of whether other proposals are brought forward. The European aspect is that the intention was to create a more level playing field, so that Liechtenstein or wherever—and I am just trying to think of somewhere small—could not draw up regulations that allowed only buses from Liechtenstein, or wherever, to be used there. However, there is a big pitfall there.

10.50 a.m.

[202] **Helen Mary Jones:** The point of sessions such as this is so that we can go back to the Government to ask for more clarity if we think that it is needed.

[203] **David Lloyd:** Peter, I see that you have a supplementary question on this.

[204] **Peter Black:** Would you clarify that, because when we asked the Deputy First Minister about this particular exclusion, the explanation given was that it is in the legislation specifically to prevent the Assembly from trying to change what the European Union lays down as the technical standards for buses? With service buses, you can exclude double-deckers via the contracts, if you want to. However, this is to do with the technical specifications. Having travelled on buses in Malta, I can say that not all buses around Europe meet the same specifications.

[205] **Mr McNiff:** Do you expect us to comment on that? [*Laughter.*]

[206] **David Lloyd:** We are not discussing the technical standards, or otherwise, of buses in Malta, which some of us have also travelled on. The last series of questions is from Alun Cairns, which also cover another important point.

[207] **Alun Cairns:** With your permission, Cadeirydd, may I briefly clarify what Mr Pockett said about double-decker buses, namely that the proposed Order is too restrictive and would not allow that to happen for whatever reason? Would he support the proposed Order if it could be phrased, for example, in such a way as to allow double-decker buses to be forbidden from use for school transport?

[208] **Mr Pockett:** That is a much broader question. There is a feeling that double-decker vehicles are intrinsically less safe, but we see no body of evidence for that. In fact, we have seen things that possibly point to the contrary. I refer you to last year's Welsh national transport awards at which Cardiff Bus won an award for its double-decker vehicles for

Fitzalan High School. That showed that it was not the construction of a vehicle with a double deck that is important. I used to go to Pontypridd grammar school on a double-decker—

[209] **Alun Cairns:** That is the answer to a question that I did not ask. What I want to know is this: if a way could be found to draft the proposed Order in such a way as to grant the power to the Assembly, and therefore to the Minister, to rule out double-decker buses—or not, because he or she might decide in future that every bus should be a double-decker—would the Confederation of Passenger Transport support that?

[210] **Mr McNiff:** In response to that, I would ask why a Minister would want the power to rule on different types of vehicle. So, John's answer is pertinent. It is to do with the reason why the power would be wanted in Wales. The explanatory note talks about specific issues in Wales, which, by definition, suggests that they are different elsewhere. We have not seen anything that suggests that there are different issues in Wales on this point.

[211] **Alun Cairns:** We do not draft legislation based on the phrasing used in the explanatory memorandum. We try to draft it so that it has the greatest possible effect. I still do not understand whether you would be supportive of the powers to rule on double-decker buses lying here or not—yea or nay?

[212] **Mr Pockett:** As a general point, yes, we would be.

[213] **Alun Cairns:** Okay, that is helpful.

[214] **David Lloyd:** Symudwn at y **David Lloyd:** We will now move to the cwestiwn yr oeddech i fod i'w ofyn yn awr, question that you were meant to be asking, Alun. Alun.

[215] **Alun Cairns:** The proposed LCO seeks the powers to regulate some modes of transport but not others, for example, local authority contracted buses but not service buses. Do you agree with the modes of transport included in the proposed LCO?

[216] **Mr Pockett:** This has arisen since 2002. I do not think that politicians appreciated that a large number of learners travelling on buses to school—it is roughly half, although I do not know the exact figures—do so on non-school bus services. You ask whether, if there is to be a power, it should lie here and 'I suppose so', is the answer.

[217] As for whether the modes of transport included are sufficient, that is a can of worms, because it opens up everything, and there is the aspect of expectations, because this proposed LCO has, over a number of years, had quite a high profile, and I think that the public expects all buses taking children to school to be subject to these regulations, but that is plainly not the case. So, again, there is a lack of clarity.

[218] **Alun Cairns:** Would you support an extension of the powers if it could be phrased in such a way as to allow the Minister to legislate on service buses that carry schoolchildren?

[219] **Mr Pockett:** I find that difficult. What I have to say to that, Mr Cairns, is that we firmly believe that the power to legislate over all of it should be transferred here from Westminster. The individual Measures that will be proposed can be argued at a later stage.

[220] **Alun Cairns:** We will settle for that for the moment.

[221] In its written evidence, the south-west Wales integrated transport consortium said that there is a concern that the proposals will raise public expectations, as there will be no powers over the type of vehicles used on scheduled public transport services, which a large number of

schoolchildren use each day to access education and training. What, in your view, would be the position of non-school contract services, for example, which are paid for by the local education authority? The question is a kind of repetition of what we have already covered.

[222] **Mr McNiff:** It is, and I think that there is a little misunderstanding here again, as the vast majority of school contracts within Wales are operated as registered services. That also confuses the situation as regards the distinction between a school-registered service, albeit under contract and subsidised by the local authority, and a registered service that is provided under tender by a local authority. School contracts are also registered services and so, if somebody turned up and wanted to board a school contract bus at a particular point, generally speaking, it would have to have a fare table and that person should be allowed to travel on it. That is a little-known fact, but that is the situation. There is a little inconsistency regarding the distinction between a school service and a registered service. You made a valid point earlier, which is that where contractual restrictions can be placed on the use of those vehicles at certain points—for example, if operators took benefit from the funding associated with that travel—they would need to change certain things, but that does not change their status as registered services.

[223] **Alun Cairns:** Mr Pockett mentioned that people would be surprised to learn of the number of children travelling to school on service buses, paid for by local authorities. Do you have a broad figure, proportion, or number for those children using service buses?

[224] **Mr Pockett:** I assume that those figures would be held by local authorities. Throughout this process, for the past seven or eight years, the proportion that has been bandied about is about half and half. I think that the ratio is 49:51, so it is reasonably high. If I may be rude and make a suggestion, perhaps you could ask the local authorities that, as it is they who pay for the travel.

[225] **Alun Cairns:** That figure is alarming, because of the other ratios that come out of it.

[226] Do you have a view on the effect of including taxis and private hire vehicles in the scope of the proposed Order?

[227] **Mr McNiff:** Yes, we do have a view on that, and it goes back to our view on community transport, as well. If the ultimate aim here is to legislate for safety and for the provision of transport for learners, it seems inconceivable that taxis and private hire arrangements would not also be brought under the scope of any legislation associated with it. At the end of the day, the position is that schoolchildren are travelling on vehicles to get to their place of learning and it really does not matter whether it is a passenger vehicle service, a private hire vehicle, or a taxi arrangement.

[228] **Alun Cairns:** I have a final question for Arriva Trains Wales. Do you have a view on the exclusion of learner travel by rail from the scope of the proposed Order?

[229] **Mr Vaughan:** No. As I said earlier, we are fairly confident that we are compliant in that respect anyway.

[230] **David Lloyd:** Daw hynny â'r cwestiynau ffurfiol a ddosrannwyd i'r Aelodau i ben. Diolch i'r pedwar ohonoch am eich cyfraniadau. A hoffech wneud unrhyw sylwadau ychwanegol cyn inni gloi'r rhan hon o'r sesiwn—efallai rhywbeth nad ydym wedi'i bwysleisio'n ddigonol neu nad ydym wedi'i ofyn o gwbl?

David Lloyd: That brings today's formal questions that were distributed among Members to a close. I thank the four of you for your contributions. Do you have any further comments that you would like to make before we bring this part of the session to a close—perhaps something that we have not emphasised enough or not asked at all?

[231] **Mr Pockett:** Nid wyf yn meddwl hynny. Hoffwn ddiolch ichi am y cyfle i ddod yma ac i ymhelaethu ar y dystiolaeth ysgrifenedig a gyflwynwyd gennym. Os bydd unrhyw beth arall yn codi, mae croeso ichi gyfeirio unrhyw ymholiadau atom drwy'r clerc, a byddem yn falch o fod o gymorth.

Mr Pockett: I do not think so. I would just like to thank you for the opportunity to come here and to expand on the written evidence that we submitted. If anything else should arise, you would be welcome to direct any inquiries to us through the clerk, and we would be pleased to be of assistance.

11.00 a.m.

[232] **David Lloyd:** A yw Trenau Arriva Cymru yn hapus?

David Lloyd: Is Arriva Trains Wales happy?

[233] **Mr Vaughan:** I just want to thank you for the invitation this morning. I will leave some evidence on the Learner Travel (Wales) Measure 2008 safety principles that we are applying, in case Members would like to look at that later.

[234] **David Lloyd:** Diolch yn fawr. Bydd hynny'n werthfawr iawn.

David Lloyd: Thank you. That will be extremely helpful.

[235] Diolch unwaith eto am eich cyfraniadau y bore yma. Bydd y clerc yn anfon trawsgrifiad o drafodion y bore yma atoch chi i'w gywiro, os bydd angen. Yn naturiol, ni allwch wyrdroi hanes a newid yn syfrdanol yr hyn yr ydych wedi'i ddweud y bore yma, ond gallwch wneud mân gywiriadau i'r Cofnod, a fydd yn eich cyrraedd drwy law'r clerc. Diolch yn fawr.

I thank you again for your contributions this morning. The clerk will send you a copy of the transcript of this morning's proceedings for you to correct, if necessary. Naturally, you cannot change the course of history and change substantially what you said this morning, but you may make minor amendments to the Record, which will be sent to you via the clerk. Thank you.

[236] Cawn doriad byr am ychydig funudau gan nad yw'r tystion nesaf wedi cyrraedd.

We will now break for a few minutes, as the next witnesses have not arrived.

*Gohiriwyd y cyfarfod rhwng 11.01 a.m. a 11.15 a.m.
The meeting adjourned between 11.01 a.m. and 11.15 a.m.*

[237] **David Lloyd:** Croeso i drydedd rhan cyfarfod Pwyllgor Deddfwriaeth Rhif 3. Galwaf y cyfarfod i drefn eto, gan obeithio bod y cyfarpar cyfieithu yn gweithio. Fel y gwyddoch, diben y cyfarfod hwn yw gwrandao ar dystiolaeth lafar mewn cysylltiad â'r Gorchymyn arfaethedig yn ymwneud â thrafnidiaeth. Yr ydym wedi clywed gan sawl tyst eisoes y bore yma, ac yr ydym yn awr yn ein trydedd sesiwn. O'n blaenau, mae David Cunningham-Jones o Ymgyrch Stuart. Croeso, David. Hefyd, yr ydym yn disgwyl Pat Harris, o BUSK. Mae hi yng Nghaerdydd yn rhywle, yn ymlwybro drwy'r eira a'r rhew, felly, bydd yma pan fydd hi'n gallu. O ran amseru'r cyfarfod hwn, mae'n rhaid inni fwrw ati. Byddwn yn canolbwyntio yn y rhan hon o'r sesiwn, a fydd yn mynd â ni tan 12.30

David Lloyd: Welcome to the third part of this meeting of Legislative Committee No. 3. I call the meeting to order and hope that the translation equipment is working. As you know, the purpose of this meeting is to hear oral evidence with regard to the proposed Order dealing with travel. We have heard from several witnesses already this morning, and we are now in our third session. Appearing before us is David Cunningham-Jones from Stuart's Campaign. Welcome, David. Also, we expect Pat Harris, from BUSK. She is somewhere in Cardiff, trudging her way through the snow and ice, so, she will be here when she can. With regard to the timing for this meeting, we have to move on. We will concentrate in this part of the session, which will take us to 12.30

p.m., ar y darn yn y Gorchymyn arfaethedig sy'n ymwneud â diogelwch trafndiaeth dysgwyr.

p.m., on that part of the proposed Order that is to do with learner travel safety.

[238] Yn ôl ein harfer, fi fydd yn gofyn y cwestiwn cyntaf. Ategaf y croeso i David Cunningham-Jones. Croeso i chi. Yn eich tystiolaeth ysgrifenedig, David, yr ydych yn cefnogi, yn sylfaenol, yr egwyddor y dylai Cynulliad Cenedlaethol Cymru gael mwy o bwerau deddfwriaethol yn y meysydd hyn. A allwch esbonio'ch rhesymau am eich cefnogaeth?

As is our custom, I have the first question. I reiterate the welcome to David Cunningham-Jones. Welcome to you. In your written evidence, David, you support, basically, the principle that the National Assembly for Wales should have more legislative powers in these fields. Can you give your reasons for your support?

[239] **Mr Cunningham-Jones:** Yes. Stuart's Campaign has been fighting for a higher standard of bus service since our tragic accident in 2002. More significant are the findings of the coroner's court in 2004, which stipulated that some of the measures were to be looked into by the Assembly. The policy review of school transport, which was issued in April 2005, highlighted some of these issues, and it was fully accepted by the National Assembly to be taken forward. I believe that it is fully responsible for our transport in Wales, and we should be able to legislate for that.

[240] **David Lloyd:** Great. I thank you for that. I welcome Pat. Thank you for fighting your way through storms and snow this morning.

[241] **Ms Harris:** My apologies for being late.

[242] **David Lloyd:** We have just kicked off the session. I do not know whether you heard David's answer. The question asked was whether you support the broad principle that the National Assembly for Wales should have increased legislative powers in this area of learner transport safety.

[243] **Ms Harris:** Are you referring to the type of transport that the Assembly would like to see used?

[244] **David Lloyd:** Yes, in terms of the powers that would give more control over the safety of learner travellers.

[245] **Ms Harris:** It would be a move forward if the Assembly were able to legislate on the type of transport used. It is what decision the Assembly would make if it were to obtain those additional powers that would concern BUSK. The type of transport currently used is a mixture of everything. The use of double-decker buses in particular raises several safety issues, and it is not the vehicle that is unsafe, but the type of journey it is used for. If the Assembly were to legislate to keep double-decker buses in use, how would it see that legislation taking place? By that, I mean, would the Assembly require good quality CCTV on board? Would it require additional training for young people who would use this type of transport? Would it require safety belts to be fitted, and if so, would that be done by the manufacturer of the vehicle?

11.20 a.m.

[246] Also, I am concerned that double-decker buses were built for town service routes; they were never intended to be used as dedicated transport for children. There is a huge difference between a dedicated double-decker bus taking children to and from school each day and a double-decker bus on a town service route that stops and starts all the time to pick

up a mixture of the general public, which is more acceptable way, if you are using double-decker buses. The other point is that if you decide not to go ahead and legislate for the use of double-decker buses, it is important to bear in mind two issues. There are currently not enough vehicles available to replace double-decker buses. The only way around that is that if we were to stop using double-decker buses, the local authorities would require sufficient funds to give long-term contracts to operators who would then have the confidence to invest in the type of vehicles that we would like to see, namely single-decker buses. That is an important point. However, the other point to bear in mind is that 70-seat, single-decker buses, which require one driver, are fine, but if you need two smaller vehicles to replace a double-decker bus, you are talking about twice as many drivers and there is national shortage of drivers. So, those are important issues that the Assembly would need to look at when seeking additional powers.

[247] **David Lloyd:** Thank you for that full answer. There are other matters of detail to follow. Peter Black has the next questions.

[248] **Peter Black:** On the powers that the Assembly is trying to draw down—obviously the legislation will follow—are you content that we are drawing down enough powers? Are there any omissions or things that we should add to the scope of the proposed LCO that we need to have power to legislate over?

[249] **Ms Harris:** The information that I was given more or less referred to the type of vehicles that were being used. If the Assembly sought these powers and obtained them, I would like it to include other issues, as outlined in the written evidence that I provided. I will give you two examples. One relates to the recommendation that the Assembly made some time ago to reduce the power of school governors relating to school start and finish times, and to pass that to local authorities so that they could decide on those in some instances. I think that that needs to be included. I think that children across Wales need to be dealt with in a consistent way—I am thinking about the punishments that are given. I think that you say somewhere in your code that it would be down to individual headteachers to decide on punishment. I feel strongly that we should have a Wales-wide sanctions policy so that every child, no matter what their postcode, knows what is expected of them behaviour-wise and knows exactly what the punishment would be for the offence committed, so that everyone is treated in the same way.

[250] **Mr Cunningham-Jones:** Generally speaking, I think that enough powers are included in the proposed LCO as it is. There are some issues around public service transport, but the question there is whether you would allow local authorities, where they are purchasing seats, to use that public transport and for what purpose. Essentially, the powers are there, but the proposed LCO could be widened to encompass other areas.

[251] **Peter Black:** So, you would like it to include public service transport provision.

[252] **Mr Cunningham-Jones:** Where children use public service transport, I would like it to cover those children.

[253] **Peter Black:** As you know, the Assembly has already passed the Learner Travel (Wales) Measure 2008. Are you aware of any issues that have arisen from the implementation of that change in the law that might help to inform what we are doing here today in terms of the scope of the powers that we are drawing down?

[254] **Ms Harris:** Are you referring to what is currently going on or to what has gone on over the last year or so to improve school transport safety?

[255] **Peter Black:** A Measure was passed in 2008.

[256] **Ms Harris:** I know that a number of local authorities in Wales are currently conducting various trials. For example, Monmouthshire County Council has a training scheme for all of their schools, both primary and secondary schools. That training session teaches young people how to travel more safely by road, whether by school transport or in the family car—any journey to get to and from school by road. That has had quite an impact. The evidence on that has been provided to the Welsh Assembly recently. The success rate of its training is reflected in the fact that the attitudes of young people have changed. One bus driver, who still does school runs recently said to me that he did not know what had been said to the children on his coach, but since they had had the training they were wearing their seat belts without being told. That is some of the feedback coming out of that. I am aware that some authorities are doing different things and doing different trials: Pembrokeshire, for example. I expect that authority to get back to me and tell me how it is progressing. Following the measures that were suggested and introduced, a lot of authorities are taking a more serious look at improving school transport across a range of issues.

[257] **Mr Cunningham-Jones:** Generally, I think that it is too early to assess whether the implementation has been a success. There are many schemes in place under the Learner Travel (Wales) Measure 2008 to improve such transport and the behaviour of the children. For me, the issue is around what Pat alluded to previously, namely our consistency across the 22 local authorities. The message given to the children needs to be consistent, as does its application in terms of deterrents or punishments—whatever you want to call them. We will only know about the success of such measures with time—it is too early to say.

[258] **David Lloyd:** Mae'r cwestiynau **David Lloyd:** The next questions are with nesaf o dan ofal Alun Cairns. Alun Cairns.

[259] **Alun Cairns:** Part of my question has been covered in the answers to Peter, but I want to get it on the record. The proposed Order seeks powers to regulate some modes of transport, but not others: for example, local authority contracted buses are included, but not service buses. In your written evidence, Mr Cunningham-Jones, you said that every child covered by the Order should be afforded the same level of safety standards, regardless of the mode of transport used—whether it is a service bus or not. Do you therefore agree with the modes of transport included in the Order, or should that list be extended?

[260] **Mr Cunningham-Jones:** Public transport is a wider issue than just school transport—certainly wider than school transport as purchased by the local authority. If we step back for a minute and look at the transport that is purchased by local authorities, there has to be consistency, so you start with saying that every child has to have a seat, and a seat belt, and so on. The type of transport that you then put in place is dependent on whether they can meet those criteria. Whether it is a taxi, a minibus or a contracted bus, or seats purchased on a public service bus, they should all comply with that safety standard. Obviously, if public transport cannot meet that standard, it should be excluded from use, in my view. Whether the Order should include public transport is a wider issue than the one that our campaign is trying to cover, but from my point of view, if you apply the highest safety standards for everyone on public transport, then you cannot go wrong.

[261] **Alun Cairns:** Ms Harris, do you have anything to add to that?

[262] **Ms Harris:** I agree with David. It is important, no matter what mode of transport is used—public, contracted, minibus or taxi, even including minibuses that are owned by schools and driven by teachers—that it meets a high standard of safety. The drivers should also be adequately trained and that includes school teachers, who sometimes drive minibuses.

[263] **Alun Cairns:** To return to you, Mr Cunningham-Jones, in the Minister's evidence to

this committee, it was confirmed that circumstances where local authorities issue termly or yearly bus passes to children so that they can travel to school on normal service buses would not be covered by the scope of the proposed Order. Do you have any information about the number or proportion of children in this category, who travel to school in this way? I know that you also have views about when a service bus is a service bus, and when it is a school bus. This issue was partly covered in the last session, but I would be interested to hear your take on it. Could you begin with the proportion of pupils travelling to school on service buses? It was suggested earlier that it was about 50 per cent.

11.30 a.m.

[264] **Mr Cunningham-Jones:** I do not know the proportion. I think that that kind of use of public transport can be a wolf in sheep's clothing. Public transport routes are adapted to encompass the opening and closing times of schools. In fact, totally different routes are run, using totally different buses, which are fully occupied by children. So, I cannot see how you can say that they are public service routes. I understand that they are deemed to be public service routes because of the subsidising of some of the public service buses that run throughout the day in some local areas. I fully accept that; it is something that should be commended because we all need these public services to carry on. However, at the points where children are on and off those buses, especially in cases where the local authority is buying those seats, they should adhere to the standards that are set.

[265] **Alun Cairns:** So, what we are saying, just to clarify for the record, is that many service buses will carry schoolchildren exclusively, but they are called service buses even though, in reality, the route has been amended to pick up at the school, where the normal service bus generally does not.

[266] **Mr Cunningham-Jones:** That is absolutely correct. The classic example is Stuart's bus. Generally, in its day, that was a type of village minibus that ran every hour throughout Cowbridge and to Pontyclun. At school times, it did not start in Cowbridge; it started at Cowbridge lower school, and it only stopped at Cowbridge upper school, Ystradowen and Pontyclun. At the school-route time, the bus used was a double-decker bus with 100 children on board. So, it certainly did not bear any resemblance to the normal service operated by that bus.

[267] **Alun Cairns:** That is helpful. For the record, what concerns me—and I think there may be legal reasons as to why this is being done—is that the legislation tends to be focused on the design of buses rather than on practices relating to children. I think we are looking through the wrong end of the telescope in many ways. As Mr Cunningham-Jones said earlier, a child travelling to school on a bus deserves to have a proper seat and a seat belt. However, if the legislation was centred on the child rather than on the bus, it would be easier to get where we want to get to. I do not know if there are legal reasons behind that, and maybe we can consider the issue again. We are deciding whether routes are registered or not and whether buses are school buses or not, whereas it would be far simpler if the legislation could say that a child travelling to school needs X, Y and Z. That would be the easier way: to focus on the child rather than focus on the bus.

[268] **Mr Cunningham-Jones:** I think X, Y and Z can include stipulations around the bus type, its construction and age, and relate to drivers and assistants. It can include everything.

[269] **Alun Cairns:** Exactly. Do you have anything to add, Ms Harris?

[270] **Ms Harris:** Broadly speaking, I agree with what David is saying. To call a bus a school bus because there are only schoolchildren aboard is incorrect in many cases because many of these 'school buses' are actually service routes. They are registered with the local

authority, which means that any member of the public can get on. It just so happens that most people, most members of the public, would not dare get on one. I would not get on a bus full of children because, quite frankly, they terrify me. I do not know anybody that would want to get on one; anybody sitting in this room, for example. That is one of the reasons why they remain, more or less, dedicated school buses instead of being registered with the local authority as service routes.

[271] We need to look again at that, decide whether children are going to travel on registered bus routes and, if they are, decide upon the ratio of schoolchildren to other members of the public that will be travelling together. That is a key issue. To give you a brief example, when my son was 15, I did not send him to school on a double-decker bus with 100 other children because I knew my 15-year-old son would misbehave. He would not have misbehaved because he wanted to cause anyone any harm; it would have been high jinks. So, he still went to school on a double-decker bus, but I paid for him to go on a registered service route so he would be with members of the public, because I felt that that was safer. In an ideal world, he would not have been on a double-decker bus at all.

[272] **Alun Cairns:** In many cases, I am sure a school bus driver would have the shock of his life if a member of the public wanted to get on. He probably would not even have a cash box to take money off them, in spite of it being a registered route.

[273] **Mr Cunningham-Jones:** There is another difficulty here. If we are stipulating that every child should have a seat belt and so forth, and the service is open to the public, how do we gauge whether we have sufficient seating?

[274] On one day no-one might get on, but the next day there may be 30 members of the public trying to get on. So, there are issues in that respect, which the local authority would have to surmount if it wanted to go down that route.

[275] **David Lloyd:** The Minister is coming to our next meeting, and this issue will, no doubt, be one of the main thrusts of the questions in that meeting.

[276] Joyce has the next questions, some of which have been covered partially.

[277] **Joyce Watson:** They have been covered, but I will ask them for the record. You may respond briefly, as you have already answered the questions, really. Taxis and private hire vehicles are included in the proposed Order. In your opinion, is it reasonable to include powers to address learner safety issues for those two types of transport?

[278] **Mr Cunningham-Jones:** Quite simply, yes.

[279] **Joyce Watson:** I knew that, because you said it earlier. *[Laughter.]* However, this is a matter of record. Do you agree with the exclusion of learner travel by rail from the scope of the proposed Order?

[280] **Mr Cunningham-Jones:** Again, this goes back to public transport issues and whether you cover the whole public transport network. I am unclear as to how many children would use trains to get into school. It would be difficult to get that power as well, but if you do not ask, you do not get.

[281] **Joyce Watson:** Sorry, I am not clear about the answer that you have given. The question is specific; I am not trying to put you on the spot, but am just trying to get a reflection of your view. Do you agree with the exclusion of learner travel by rail from the scope of the proposed Order?

[282] **Mr Cunningham-Jones:** I am unsure of the percentage of children who would use the train as a transport mode to and from school. How many people is it affecting? If it affected 50 per cent of children—but we know that it does not—it would have to be included. If it affected 1 per cent, could that 1 per cent be taken in school buses and so on? To extend the power to cover trains would be difficult, and could stall the legislation, which I would be against.

[283] **Joyce Watson:** I just wanted to pursue that, but I think that you finished by saying—and I want to be fair and to ensure that I have understood you—that if children are travelling by train— you would be happier if they were moved, if possible, onto transport that was covered by the proposed LCO. I know that some children travel to and from school by train; I live in a rural area and I see them doing so.

[284] **Mr Cunningham-Jones:** Absolutely. Again, it goes back to the fact that if a local authority is purchasing transport for a child, it has to abide by the standards that are set. If trains cannot meet that standard, the local authority cannot use them.

[285] **Helen Mary Jones:** I fully take on board what you say, Mr Cunningham-Jones, which is that you would not want to see rail included if it were to hold up the whole process, because so many more people travel by bus. Bearing in mind that the numbers of children who travel by train are not large, but, as Joyce has said, some children travel by train in rural areas where it might be quite difficult to find an alternative, if rail could be included without messing up the process and causing a problem of that nature—and I am not saying for a minute, Chair, that I think that it can; we would have to ask the Minister about that—in principle, should it be included?

[286] **Mr Cunningham-Jones:** Absolutely.

[287] **David Lloyd:** Pat, do you have any views on that?

[288] **Ms Harris:** Any mode of transport that is used to get children to and from school should be included, if at all possible. Their safety is just as important as that of a child who travels by road.

[289] **Helen Mary Jones:** I think that what I take from this therefore is that safety should be ensured, and the question for these witnesses is whether the proposed legislative competence Order is the right way in which to make sure that the Assembly has the power to do that.

[290] **David Lloyd:** Helen Mary also has the final question.

[291] **Helen Mary Jones:** I think that Mrs Harris has already answered it. There seems to be a lack of clarity as to whether the proposed legislative competence Order would draw down power over aspects such as school minibuses, which you mentioned. You have said that it should cover school minibuses when they are being driven by teachers or volunteers, or however that is done. Mr Cunningham-Jones, do you agree that the power should be there to have the same type of regulations for school minibuses?

11.40 a.m.

[292] **Mr Cunningham-Jones:** Yes, absolutely.

[293] **David Lloyd:** A oes unrhyw **David Lloyd:** Do Members have any other gwestiynau eraill gan Aelodau? Gwelaf nad questions? I see not. oes.

[294] **Ms Harris:** May I add one thing? On why it is important to include school minibuses, some training courses in the UK are being delivered to schools by commercially based companies who ‘train’ schoolteachers. However, they are not training them—they are just assessing them by, for example, taking them out for an hour around the block and saying ‘Yes, you’ll do’, and giving them a certificate. The schoolteachers are not trained properly by a fully qualified minibus driving instructor, but the schools think that they are fine to drive a minibus. The deeper questions that should be asked of these teachers with regard to their health is whether they are diabetic, do they have heart problems, and so on. Many schools allow teachers to drive minibuses because they have driven for years, without even questioning them or looking at their driving licence. They could have points on their licence for drink-driving, drug-driving, dangerous driving or speeding, or have the wrong attitude to be driving children in a minibus. However, none of that comes out because they are not required to be professional drivers who drive passenger carrying vehicles. That is why I think that it should be looked at and questioned. It is important that the Assembly understands that.

[295] **David Lloyd:** Diolch yn fawr iawn am yr eglurhad hwnnw. Dyna ddiwedd y sesiwn ffurfiol o ofyn cwestiynau. A oes gennych unrhyw sylwadau ychwanegol i’w gwneud cyn cloi? A oes rhywbeth nad ydym wedi ei bwysleisio’n ddigonol? Gwelaf nad oes a bod pawb yn hapus. Bydd y clerch yn anfon trawsgrifiad drafft o’r cofnod atoch er mwyn ichi sicrhau eich bod yn hapus gyda’r cofnod o’r cyfarfod. Diolch ichi am eich cyfraniadau ac am ateb y cwestiynau mewn ffordd mor fendigedig.

David Lloyd: Thank you very much for that explanation. That brings us to the end of the formal question session. Do you have any additional comments to make before we draw the meeting to a close? Is there anything that we have not emphasised sufficiently? I see that there are no further comments and that everyone is happy. The clerk will send you a draft transcript of the record for you to ensure that you are satisfied with the record of the meeting. Thank you for your contributions and for answering the questions in such an excellent manner.

[296] Yr wyf yn dod â’r cyfarfod i ben drwy gyhoeddi mai’r prif dyst yn y cyfarfod nesaf fydd y Dirprwy Brif Weinidog a’r Gweinidog sydd â gofal dros y Mesur arfaethedig hwn. Fodd bynnag, mae cymhlethdod gyda’i ddyddiadur ar gyfer bore Mercher nesaf, felly ar hyn o bryd mae trafodaethau tu ôl i’r llenni ynglŷn â phryd yn union y bydd cyfarfod nesaf y pwyllgor hwn, gan ddibynnu ar oblygiadau dyddiadur y Dirprwy Brig Weinidog. Felly, byddwn yn cysylltu drwy e-bost i drefnu manylion y cyfarfod hwnnw. Gyda hynny o sylw, diolch i chi gyd am eich sylw a’ch presenoldeb, a diolch eto i David Cunningham-Jones a Pat Harris am eu cyfraniad i’r pwyllgor. Diolch hefyd am y cyfieithu ac am sylw a chefnogaeth y clerchod a’r cynghorydd cyfreithiol. Diolch ichi am eich gwaith caled.

I bring the meeting to an end by announcing that the main witness in the next meeting will be the Deputy First Minister and the Minister responsible for this proposed Measure. However, there is a complication with his diary for next Wednesday morning, so there are behind-the-scenes discussions taking place as to when this committee will next meet, depending on the Deputy First Minister’s diary obligations. Therefore, we will contact you via e-mail to arrange the details of that meeting. With those comments, thank you all for your attention and attendance, and thank you again to David Cunningham-Jones and Pat Harris for their contribution to the meeting. Thank you also for the interpretation and for the work and support of the clerks and the legal adviser. Thank you for your hard work.

*Daeth y cyfarfod i ben am 11.43 a.m.
The meeting ended at 11.43 a.m.*