



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

**Pwyllgor Deddfwriaeth Rhif 4**  
**Legislation Committee No. 4**

**Dydd Iau, 4 Tachwedd 2010**  
**Thursday, 4 November 2010**

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

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

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

Peter Black	Democratiaid Welsh Liberal Democrats	Rhyddfrydol	Cymru
Christine Chapman	Llafur Labour		
Brian Gibbons	Llafur Labour		
Jonathan Morgan	Ceidwadwyr Welsh Conservatives		Cymreig
Jenny Randerson	Democratiaid Rhyddfrydol Cymru (Cadeirydd y Pwyllgor) Welsh Liberal Democrats (Committee Chair)		
Rhodri Glyn Thomas	Plaid Cymru (yn dirprwyo ar ran Bethan Jenkins) The Party of Wales (substitute for Bethan Jenkins)		

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

Bethan Bateman	Prif Ddadansoddwr Polisi - Trafnidiaeth, Llywodraeth Cynulliad Cymru Principal Policy Analyst - Transport, Welsh Assembly Government
Lynsey Edwards	Cyfreithiwr, Adran yr Economi a Thrafnidiaeth, Llywodraeth Cynulliad Cymru Lawyer, Department for the Economy and Transport, Welsh Assembly Government
Ieuan Wyn Jones	Aelod Cynulliad, Plaid Cymru (y Dirprwy Brif Weinidog a'r Gweinidog dros yr Economi a Thrafnidiaeth) Assembly Member, the Party of Wales (the Deputy First Minister and Minister for the Economy and Transport)
Bob Saxby	Cadeirydd, Cymdeithas Swyddogion Cydgysylltu Trafnidiaeth Cymru Chairman, Association of Transport Coordinating Officers Cymru

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

Sarah Beasley	Clerc Clerk
Gwyn Griffiths	Uwch-Gynghorydd Cyfreithiol Senior Legal Adviser
Siân Hughes	Gwasanaeth Ymchwil yr Aelodau Members' Research Service
Sarah Sargent	Dirprwy Glerc Deputy Clerk

*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] **Jenny Randerson:** Good morning and welcome to this meeting of Legislation Committee No. 4. We have received apologies from Bethan Jenkins, and I welcome Rhodri Glyn Thomas who is attending as a substitute for her. I will make the usual housekeeping announcements. If a fire alarm should sound, please obey the instructions from the ushers when you leave the room. Please remember to turn off your mobile phones, pagers and BlackBerrys because they interfere with the broadcasting equipment. We operate through the media of Welsh and English, and headphones are provided for instantaneous translation and for amplification. The interpretation is on channel 1 and the verbatim is on channel 0. Please do not touch any of the buttons on the microphones because they come on automatically.

9.04 a.m.

**Mesur Arfaethedig ynghylch Diogelwch ar Gludiant i Ddysgwyr (Cymru)—  
Cyfnod 1: Sesiwn Dystiolaeth 4  
Proposed Safety on Learner Transport (Wales) Measure—Stage 1: Evidence  
Session 4**

[2] **Jenny Randerson:** I welcome Ieuan Wyn Jones, the Deputy First Minister and Minister for the Economy and Transport. It is good to see you here in person, Deputy First Minister.

[3] **The Deputy First Minister and Minister for the Economy and Transport (Ieuan Wyn Jones):** Yes, and I apologise for the fact that the last time that we met I was cut off unceremoniously before the end of the session.

[4] **Jenny Randerson:** I am sure that we will deal with any issues outstanding this morning. I welcome the Deputy First Minister's officials, Bethan Bateman, the principal policy analyst for transport, and Lynsey Edwards from the legal services department. We will move straight to questions and I will start. We have heard evidence from SNAP Cymru and Stuart's Campaign that there should be more detail on the face of the Proposed Safety on Learner Transport (Wales) Measure. Has there been any outcome from your discussions with lawyers about including the fitting of seat belt provisions on the face of the proposed Measure?

[5] **The Deputy First Minister:** It is always my preferred option to put as much detail as is proper on the face of the proposed Measure. The constraints that we have in this particular case, in order to secure the passage of the proposed Measure before the Assembly election, mean that we are doing it through framework legislation, and a lot of the detail will follow through regulation. I made a promise to the committee that I would look to see whether we could include parts of the proposed Measure that we would do by regulation on the face of the proposed Measure. A particular one was the issue of seat belts. We face considerable time constraints. The proposal that I am currently considering is to ask officials to draft an amendment to that effect. The legal advice that I currently have is that, for that to be included in the proposed Measure, it would have to be notified to the European Commission because it is an issue of technical standards. It means that if I were to do that, it would also need to be presented to the European Commission by the Department for Business, Innovation and Skills, because we are not a member state. Under those circumstances, it means that the notification would have to happen, and once the European Commission was satisfied about it, it would then require a period of consultation. So, you can see that the timescale is extremely tight. I have given officials instructions to look at a proposed amendment, and I propose to keep the committee informed of the progress of that.

[6] **Jenny Randerson:** It is very helpful to know that you are pursuing the issue of amendments, and I know that some of our witnesses will be very pleased to hear that, but we understand the constraints. On another issue, Minister, the Welsh Local Government Association's evidence stated that the routes of some public service buses are extended at school opening and closing times specifically to serve the school run. Would this be encompassed by the proposed Measure?

[7] **The Deputy First Minister:** No, it would not because our competence does not extend as far as public service vehicles. Therefore, it could only apply to contracted services between the local authority and an operator.

[8] **Jenny Randerson:** We now move to questions from Christine Chapman.

[9] **Christine Chapman:** We have heard evidence that travel during the school day should be included within the proposed Measure to ensure that any additional safety measures would apply equally to children travelling during the school day and as part of the school run. How do you respond to this?

[10] **The Deputy First Minister:** The way in which the proposed Measure is drafted means that it only deals with home-to-school transport, which was our intention when we drafted it. I understand that travel happens during the day, but the proposed Measure would not cover that. If we were to include that—which is not our intention at the moment—we would need an entirely new regulatory framework to deal with it. Under the current proposed Measure, the regulatory framework deals with the local authority and the school contractor. If we brought travel during the day into the remit of the proposed Measure, we would need to look at things such as the responsibility of teachers and schools. That would change entirely the nature of the regulatory framework, and therefore we would need to do that. A Government may want to look at that at some future point, but it is not our intention to do it in this proposed Measure.

[11] **Jenny Randerson:** Christine, before you move on to your next question, Peter wants to ask a supplementary question.

[12] **Peter Black:** Minister, you have already said that this is enabling legislation, and you have also said in previous evidence that the intention is to roll it out over a period of time in stages. Given that that is the approach that you have taken to this legislation, what is the harm in inserting a clause at this stage relating to transport during the school day that you could build on through future regulation, when the regulatory framework is in place?

9.10 a.m.

[13] **The Deputy First Minister:** As I have said, the reason for this is that the policy driver from the beginning, going back to the original Learner Travel (Wales) Measure 2008, was to deal with issues relating to home-to-school transport. That is the way in which we have drafted the proposed legislation, and we have no intention of taking it further under the current proposed Measure. You are quite right that this would be framework legislation. However, we still want to limit this to home-to-school-transport because of the way in which the proposed Measure has been drafted, and because of the relationship between local authorities and contractors. Currently, we have no plans to extend this to the school day, because of the new regulatory framework. It may be that a future Government would want to look at it, but it is not our intention.

[14] **Peter Black:** Do you see the inconsistency to which I refer?

[15] **The Deputy First Minister:** Of course I do. I understand the point that you are making.

[16] **Peter Black:** You are regulating for children to travel to school, but travel during the school day is going to become more frequent because of the 14 to 19 agenda.

[17] **The Deputy First Minister:** I think that we would want to consult a bit more widely on this issue, with schools, for example, but it would be a different form of consultation. The current form of consultation would be with local authorities and bus operators. Widening the scope would change the nature of the consultation entirely, because we would have to deal with schools, and possibly with governing bodies. Our current intention is not to do that.

[18] **Jenny Randerson:** Brian also wants to ask a question on this.

[19] **Brian Gibbons:** The last point was well made. People would be a bit surprised if the proposed legislation were suddenly expanded. However, I want to make a point that follows on from the first point that Peter made. I am not sure that, in legal terms, this is such a big step. If you look at the interpretation of section 13, you will see that the relevant bodies include school governors.

[20] **The Deputy First Minister:** Only in very limited circumstances. I will ask Lynsey to come in on this, but my understanding is that it only relates currently to schools that have direct contracts with bus operators. By and large, they would be grant-maintained schools.

[21] **Brian Gibbons:** That is the point that I am making, namely that this legislation in fact already covers governing bodies in relation to transport. So, Peter's point about slightly expanding it is not a seismic shift. However, it would be bad governance at this stage to suddenly bring it in, although I am quite sympathetic to the point that Peter made.

[22] **The Deputy First Minister:** Lynsey, would you like to add something?

[23] **Ms Edwards:** Yes. To clarify what the Deputy First Minister said, currently, the proposed Measure deals with placing duties on local authorities and the governing bodies of maintained schools. In relation to the home-to-school transport element, the proposed Measure is one that will introduce an amendment to the existing Learner Travel (Wales) Measure 2008. Section 5 of the existing learner travel Measure places a duty on local authorities only in relation to home-to-school transport. In legal terms, that is the reason why this is restricted to that area, because that is the scope of the learner travel Measure as it stands at the moment.

[24] **Christine Chapman:** I wish to follow on from that point and clarify something. I am not sure whether the proposed legislation covers a situation where transport is organised as part of arrangements for an educational visit of two or more days' duration, and where the pupils are taken directly home rather than being dropped off at the school. That is one example. I am also talking about the use of minibuses to take pupils home directly after they have been to a sporting event or after-school club. How would that work?

[25] **The Deputy First Minister:** No, that would not be covered. It has to be a direct journey from the school to the home or from the home to the school.

[26] **Christine Chapman:** Would a minibus journey not be covered, if pupils have stayed on for an after-school club or a sporting event?

[27] **The Deputy First Minister:** I see what you mean. I think that we would need to check that one. Lynsey, would you like to add something?

[28] **Ms Edwards:** If it is a school-owned minibus, then it is not contracted by the local authority and it would not be covered.

[29] **The Deputy First Minister:** Let us say that it is a contracted service, but that it leaves the school later than the normal school day, it would be useful to clarify whether that would be covered. If it is a contracted service, it would normally leave the school at about 3 p.m. to 3.30 p.m. If the school asks the contractor to come at 5 p.m., would that be covered?

[30] **Ms Edwards:** In that circumstance, I would say that it would be.

[31] **The Deputy First Minister:** We are happy to clarify that. Let us be clear about this: if it is not a contracted service, but a school minibus or transport that the school itself has organised, it would not be covered. If it involves a contractor, but it is not a home-to-school journey, it would not be covered. The question now is whether it is covered if a contracted service takes someone home after school hours. That is the only one that we need to clarify.

[32] **Christine Chapman:** As I said, there is an inconsistency and it could be confusing.

[33] **The Deputy First Minister:** Yes.

[34] **Christine Chapman:** Okay. I will move on now to additional learning needs. How do you respond to the evidence from SNAP and the National Association of Head Teachers Cymru's questioning of whether the proposed Measure sufficiently addresses the needs of young people with additional learning needs?

[35] **The Deputy First Minister:** I think it does. What you must remember of course is that, behind the proposed Measure, statutory guidance is already in place from the original learner travel Measure, which identifies what consideration needs to be given to pupils with special educational needs. Statutory guidance to deal with how that should be handled is already in place, so it is not necessary to replicate that in this proposed Measure.

[36] **Christine Chapman:** Do you intend to make specific provision for learners in special schools up to the age of 19?

[37] **The Deputy First Minister:** My understanding—and Lynsey can clarify this—is that the legislation can only apply up to the age of 16, and the statutory guidance covers how you should deal with people with special educational needs with regard to their travel to school. So, provided that the bus complies with this legislation, the guidance deals with what extra arrangements need to be in place for children with special educational needs. So, a trip to the special school is covered by two things: the Measure and the guidance. However, I want to clarify the issue of the age.

[38] **Ms Edwards:** Again, we are working within the remit of the current learner travel Measure, which only deals with children up to the compulsory school age of 16. So, again, the amendment to the proposed Measure is limited by what is already in place.

[39] **Brian Gibbons:** If a young person is part of the 14-19 pathways or an alternative curriculum, and their first placement of the day is in a college rather than a school, and if that person is under 16—which would not be uncommon, particularly in the new curriculum—what would happen? Could the child be brought to college if that was part of the alternative curriculum?

[40] **The Deputy First Minister:** My understanding is that that would not happen because the only people covered by the eventual Measure would be a local authority or a grant-

maintained school. So it would not cover further education establishments.

[41] **Brian Gibbons:** Increasingly, we recognise that the academic curriculum is not suitable or appropriate for everyone. Some youngsters under 16 have college placements and do not go to school. What you are saying is that those under 16 who have a college placement as part of their schooling as the first event of the day will not be covered, even if it is under a contracted service.

[42] **The Deputy First Minister:** The problem is that I cannot see the local authority paying for the transport of a pupil to a place that is not a local authority-owned establishment. That is the issue. I think that we need to clarify who would be paying for the service and how it would be contracted. If it is a service that goes to a college, my assumption would be that that would be paid for by the college.

9.20 a.m.

[43] **Brian Gibbons:** It would in the case of a college pupil, but as part of the transformational agenda young people might, for example, have taster sessions in bricklaying, which would be provided at a college rather than at the school.

[44] **The Deputy First Minister:** I still do not understand how a local authority would pay for a child to go to a college.

[45] **Jenny Randerson:** Local authorities do in certain circumstances.

[46] **The Deputy First Minister:** If they do, I am happy to take that away and look at it. If there is a situation where there is a service that is contracted by the local authority that takes a pupil from home to an educational establishment, and which is paid for by the local authority, there is an arguable case for it to be in the legislation. I would need to confirm that with you.

[47] **Jenny Randerson:** I think that, as part of the new flexible curriculum, local authorities are now doing that. It would be useful if you could have a look at it.

[48] **The Deputy First Minister:** Yes, we will clarify that.

[49] **Christine Chapman:** I would like to pursue the issue of the age limit, because that concerns me. The age is important in the case of young people with additional learning needs, because the proposed Measure could leave out sections of young people as a result of the lack of flexibility. That could be very problematic for a lot of our young people who have additional learning needs.

[50] **The Deputy First Minister:** The proposed Measure applies to a child up to the age of 16. Section 579(1) of the Education Act 1996 defines a child as

[51] ‘a person who is not over compulsory school age’.

[52] **Christine Chapman:** Would that be done with amendments?

[53] **The Deputy First Minister:** I suppose that we would have to amend the education legislation in order to do that. The proposed Measure is based on the compulsory school age and the statutory obligation for school transport. Those are the two issues, and we cannot go outside that scope in the proposed Measure.

[54] **Christine Chapman:** So, that would not be one for you, it would be one for—



[55] **The Deputy First Minister:** I assume that that must be the case.

[56] **Ms Bateman:** Local authorities can make discretionary provision, but we would be talking about changing the entitlement levels, which at the moment for those under the age of 16 are set at 1 mile for primary school pupils and over 2 miles for secondary school pupils; it would relate to that narrow aspect. If we brought it out again, it would require a different approach from that that has been adopted previously.

[57] **The Deputy First Minister:** It is highly unlikely that a service would contain pupils who were all over the age of 16—the likelihood is that, on the journey, there would also be pupils under the age of 16. So, the transport would have to be covered by the legislation.

[58] **Peter Black:** If the discretionary provision is a contracted service, it is covered by the proposed Measure. Is that correct?

[59] **The Deputy First Minister:** If it is a contracted service, yes.

[60] **Peter Black:** Even if the pupils are aged over 16.

[61] **The Deputy First Minister:** Technically, it would not be covered if all the pupils were over the age of 16. It would only be covered if some of the pupils were under 16.

[62] **Peter Black:** So, a contracted service for pupils who were all over the age of 16 would not be covered. That can happen in special schools, for example.

[63] **The Deputy First Minister:** They would not be covered

[64] **Peter Black:** Even though it is a contracted service.

[65] **The Deputy First Minister:** Yes.

[66] **Ms Bateman:** It would be covered by the statutory and operational guidance and the advice on special educational needs.

[67] **The Deputy First Minister:** In other words, in relation to children with special educational needs, do not look only at the proposed Measure; look at the statutory guidance that is already in place.

[68] **Brian Gibbons:** Something has occurred to me—unfortunately, perhaps. Although it would not be common, presumably it would not be rare for some people not to have finished their GCSEs, for example, by the age of 16. I accept that most would, but those who had not, because of sickness or for whatever reason, would not be covered by the proposed Measure.

[69] **The Deputy First Minister:** No, they would not.

[70] **Jonathan Morgan:** During the evidence sessions, some respondents said that they were concerned about who would be responsible for enforcing the wearing of seat belts, whether in buses, taxis or private-hire vehicles. Where do you envisage the responsibility for this will lie in each of these cases?

[71] **The Deputy First Minister:** I may need some legal help here. The position is that, under the proposed Measure, the requirement is to have buses with seat belts. As a legislature, we do not have the competence to deal with the non-wearing of seat belts, which is covered by UK legislation. We can give you the details of the precise regulations. The UK legislation deals with the fact that children over the age of 14 have a responsibility to wear a seat belt.

So, the two things that are not covered by the proposed Measure are the technical specification of the precise seat belts that could be fitted and the penalty for not wearing a seat belt, which is outwith our competence. The only thing that this proposed Measure can do is ensure that buses have seat belts fitted. The only penalties that we can impose are in relation to the non-provision of seat belts on buses.

[72] **Jonathan Morgan:** For clarification, in the case of any child under the age of 14, there is nothing that you can do to enforce the wearing of a seat belt. You can merely ensure that seat belts are provided.

[73] **The Deputy First Minister:** Looking back, what we said as part of the Learner Travel (Wales) Measure 2008 was that the expectations on pupils were made clear in the travel behaviour code. Local authorities and schools are the only ones that could impose a sanction, if that code were not adhered to. However, there is no statutory provision under regulations that we can use, because it is outwith the Assembly's competence.

[74] **Jonathan Morgan:** We have also heard evidence that much of the dedicated school transport would not be suitable for the safe retrofitting of seat belts and that, under an EC directive, some vehicles cannot be adapted. How do you respond to those concerns?

[75] **The Deputy First Minister:** We heard that that had been said, but we have been unable to find any piece of legislation that says that seat belts cannot be fitted. Two things need to be remembered here: we cannot find any piece of UK or European legislation that says that seat belts cannot be fitted; and with regard to the safety of vehicles, if vehicles are retrofitted with seat belts, not only do they have to pass the test of having seat belts, they have to pass a test that they are safe to be driven—they would have to be examined again by the appropriate authorities and would not be allowed on the road if, having been retrofitted with seat belts, they were not suitable for use as school transport.

[76] **Jonathan Morgan:** One of the concerns that has been raised with me—I am not an engineer, but I will try to put this as accurately as I can—is that buses, as with any other vehicle, are constructed in a way that reflects how things are weighted within the vehicle. In order to maximise the safety of those vehicles, the construction reflects the particular weighting of its various component parts. If a bus does not have seat belts and you fit them—we are not just talking about the strap, but the necessary equipment to hold the seat belt in place—you automatically alter the weighting of the vehicles. It is a very interesting point. As I say, I am not an engineer, so I am not qualified to expand on that, but the argument has been made clearly by some people that there may be difficulties in retrofitting, simply because it would alter the weight balance in those vehicles. I do not know whether that is something that needs to be taken into consideration.

[77] **The Deputy First Minister:** Obviously, it is something that needs to be taken into consideration, but, with respect, that might be something that has to be taken into consideration by the bus operators. If this legislation is passed, which would mean that the buses would have to be fitted with seat belts, the operators can either retrofit or change their fleet. Those are the two ways in which it can be done. If I may say so, the likelihood is that we are talking about much older vehicles. There comes a point at which vehicles need to be replaced.

[78] **Jonathan Morgan:** With respect, you use the words 'change their fleet' as lightly as I might say that I have changed the brand of coffee that I drink. I accept that to get to a position where buses are safe this needs to be done, but—

9.30 a.m.

[79] **The Deputy First Minister:** When I say ‘change their fleet’ I do not mean the entire fleet. The likelihood is that, within a bus operator’s fleet, there will be some vehicles that are new and some that are older. Therefore, in applying the legislation, you either retrofit if it is safe to do so, or you comply with the legislation in some other way. If they are retrofitted, they would have to go through another test before they were allowed on the road. Do you wish to comment at this point, Bethan?

[80] **Ms Bateman:** Yes. It is important to make the distinction between coaches and buses. They are very different. When seat belts are fitted to coaches, those vehicles are, by and large, amenable to retrofitting of seat belts because they have a stronger construction. When they are fitted, the fitters will look not only at fitting the seat belt but at how it actually joins onto the chassis of the bus. It is quite a rigorous process. Due to floor strain, there are issues that some buses will not be amenable to retrofitting; therefore, you will be talking about renewing those. We have tried to quantify how large that issue might be. At the moment we have a big unknown, because we need to distinguish between buses and coaches, but it appears that a large amount of the bus stock in Wales is actually coaches, particularly in mid Wales and the more rural areas. Coaches are being used that would have, at one time, been used to take people on holidays and so on. Therefore, we think that they would be amenable, whereas there will be a very small class of buses that are not amenable to retrofitting.

[81] **The Deputy First Minister:** To clarify the point about the numbers, the best information that we currently have is that, out of a fleet of 3,295 buses, which are contracted buses, we know that 2,894 buses have seat belts. Therefore, the number of buses without seat belts is relatively low in comparison with the total. The proportion is low.

[82] **Jonathan Morgan:** One of the further issues on which we received evidence was that seat belts, where they would need to be fitted, need to be appropriate to the age of the user. Essentially, in an accident, if a small child is wearing an adult seat belt, the belt can cause as much damage as the accident itself. How do we ensure that, where a bus operator is required to fit seat belts, they are appropriate to the service being provided? Presumably, there will be operators who will use a bus for ferrying children back and forth between the home and the school and, during the day, use that bus for other purposes. How do we get that balance? I presume that the regulations would require them to provide transport that is appropriate to the age group of the customers.

[83] **The Deputy First Minister:** The difficulty is that, although we can specify that buses need to have seat belts, the competence that we currently have does not extend to the type of seat belt. Therefore, we cannot specify that under our legislation. However, under general UK legislation, the seat belts will have to comply with the general legislation. I am not clear as to whether that includes a requirement to be age specific. Do you know, Lynsey?

[84] **Ms Edwards:** The current seat belt legislation in place is the Road Vehicles (Construction and Use) Regulations 1986, which specify which seat belts should be fitted to which vehicle up to a certain point. They state, for example, that any coach that is used after 1 October 1998 must be fitted with a lap belt, a disabled person’s belt or a child restraint. It does not specify which one must be fitted. Therefore, in effect, the operators are given a choice. That is the position in UK legislation and we do not have competence to amend that. We are restricted by what is already there.

[85] **Jonathan Morgan:** To clarify your last point, Lynsey, are you saying that you do not have the competence to state that it has to be a seat belt? Can you only specify that it has to be a restraint of some sort?

[86] **Ms Edwards:** We have competence to say that it must be fitted with a seat belt, but

we do not have competence to state which type.

[87] **Brian Gibbons:** This is extremely worrying. I am just wondering where the duty of care for a bus operator comes in. To take Jon's point, and what the Deputy First Minister said, you just have to provide a seat belt. I do not know whether it is true or not, but if we accept that some seat belts are probably more dangerous in an accident than not having seat belts, surely a duty of care must be owed either by the local authority or the bus operator, who should say that seat belts are worn at people's own risk. Where does the duty of care come into that, because surely some of those seat belts, if they cannot be appropriately modified, are dangerous? There must be a duty of care to ensure that bus users do not place themselves at risk.

[88] **The Deputy First Minister:** It is difficult for me to speculate on that, because it is outwith the competence of the proposed Measure, and we do not necessarily want to pass comment on that. I understand Brian's point, and I understand that it is a matter of concern, but it is entirely outwith our competence to address that issue, and so it is difficult for me to speculate on where the duty of care lies.

[89] **Brian Gibbons:** I would have thought that we would need to know that, in guidance.

[90] **The Deputy First Minister:** Yes.

[91] **Peter Black:** I understand that you do not have the legal competence to specify the type of seat belt, but surely you have the competence to specify, either in the proposed Measure or in the regulations, who has the duty of care?

[92] **Ms Edwards:** The responsibility for the standard of seat belts lies with the UK Government. There is nothing that we can do to ensure that school transport is fitted with child restraints; that is outwith our competence.

[93] **Peter Black:** Who has the duty of care under UK legislation? Is it the bus operator?

[94] **Ms Edwards:** I am not sure, so I would need to come back to you, but I assume that it is the owner of the vehicle.

[95] **Jenny Randerson:** It would be helpful if you could clarify that for us.

[96] **The Deputy First Minister:** That must be the case, because if our legislation states a need for seat belts on a contracted service and that UK legislation then states the type of seat belt that could be included, the only person who could be liable would be the operator. That seems pretty obvious.

[97] **Brian Gibbons:** As part of the risk assessment that must be undertaken for these bus journeys, which we will come onto later, and in view of the scrutiny that we have undertaken, is it the intention that a risk assessment of seat belts be carried out to give an indication of whether they are safe to use? That seems to be a way forward, but I wonder whether that is specifically catered for.

[98] **The Deputy First Minister:** The responsibility in relation to risk assessments lies originally with the local authority but, under that general umbrella, the operator could be responsible for certain aspects of that risk assessment, such as pick-up points, bus stops and things like that. However, that would have to be post collaboration with local authorities. Schools may need to be a part of the risk assessment under certain circumstances, for example for what happens on the school ground. I am happy to take away the idea that part of that risk assessment could be looking at appropriate seat belts. We need to be careful that we do not go

outside the legal competence that we currently have, but I am happy to take that away and respond to the points made.

[99] **Brian Gibbons:** That would be a completely new dimension to this, but the law of unintended consequences could be at play here. The well-intentioned purpose of providing seat belts could, unintentionally, place children at greater risk.

[100] **The Deputy First Minister:** I just want to make the point that I cannot imagine, although I may be wrong, a bus operator wanting to put inappropriate seat belts on his buses as that would be opening himself up to all sorts of risks.

[101] **Brian Gibbons:** The problem is that if the bus is a dual-purpose bus—perhaps taking children to school in the morning and then adults to Asda during the day before going back to the school in the afternoon—the operator would not wilfully be doing it, but that would be the inevitable consequence, particularly if the bus company wanted to stay solvent.

9.40 a.m.

[102] **The Deputy First Minister:** The current UK legislation is that all buses up to a certain age must have seat belts. That is already in legislation. I have not come across whole hosts of incidents in which inappropriate seat belts have led to serious accidents, so we need to look at the record to ascertain whether that has been the case since seat belts were made mandatory on buses. What was the date of that?

[103] **Ms Edwards:** On buses, it was 1 October 2001.

[104] **The Deputy First Minister:** We could look back through the records since 2001. Our legislating that seat belts need to be on buses is not new. We are saying that they have to be on contracted school services. Let us be honest, Brian. Of the 3,200 current vehicles, 2,800 already have seat belts, so we are talking about a very small number that does not. I would be happy for us to go back and check whether there have been accidents on those 2,800 that have led to the kind of consequences that you mentioned, but we will probably find that there are not many.

[105] **Jenny Randerson:** It would be helpful if the Deputy First Minister could check that and take those concerns forward in that way.

[106] **The Deputy First Minister:** I will indeed.

[107] **Peter Black:** To finish that important point, the Deputy First Minister referred to all the buses that already have seat belts, but they are not necessarily age-appropriate seat belts. My concern is that you should look at making the risk assessments that are carried out age appropriate so that they cover not just seat belts but the whole thing.

[108] **The Deputy First Minister:** We will see whether we can do that.

[109] **Ms Bateman:** It may be worth adding that page 17 of the risk assessment covers the age appropriateness of seat belts within the UK legislation. It is worth emphasising that local authorities can go further in their contractual conditions and stipulate that they want three-point, all-age seat belts, which would be the ideal standard. So, although we cannot do it in a statutory sense, local authorities can, and those that have done so have contracts that stipulate that there should be three-point, all-age seat belts. We have a minimum requirement of a lap belt for all students within the UK and the EU frameworks.

[110] **Peter Black:** It is a recommendation in this, as opposed to being mandatory.

[111] **Ms Bateman:** We do not have the statutory basis—

[112] **Peter Black:** I understand that, but my point was that the risk assessment could cover this.

[113] To move on to my question, the committee has heard that there is no evidence that double-decked buses are less safe than single-decked buses, and that phasing out their use could cause capacity issues at school sites and bus depots and contribute to greater traffic congestion and engine emissions. In fact, one piece of evidence that we heard was that the disembarkation points at schools could accommodate double-deckers, but there would not be enough room for all the buses to get in if they were single-deckers. How do you respond to those concerns?

[114] **The Deputy First Minister:** We again need to recognise the numbers of buses involved, which you will find in the explanatory memorandum. There are 132 known double-decker buses, as against how many single-decker buses?

[115] **Ms Bateman:** Around 3,300.

[116] **The Deputy First Minister:** So, the numbers are again relatively small. In fairness, we must say that the concern is not particularly about the newer double-deckers, which are fitted with excellent services such as seat belts and closed-circuit television, but about the older double-deckers. It is more difficult to control unruly behaviour on two decks than one. I looked at the advice and evidence given to a previous Assembly committee that that was an issue that it wanted to be addressed. So, in fairness, we ought to say that the numbers are pretty low and the main concern is about the older rather than the newer double-deckers.

[117] **Peter Black:** My next question adds a different dimension to this—

[118] **Jenny Randerson:** Before you move on, Jonathan has a supplementary question.

[119] **Jonathan Morgan:** You said that 132 is a low number in comparison with the overall number. It may not be relatively low if a good chunk of those 132 belongs to one or two companies. Can you tell me which bus operators run the bulk of those 132? Presumably, for example, Cardiff Bus runs a lot of fairly modern double-deckers as service buses but also as school buses.

[120] **The Deputy First Minister:** I understand the point that you are making. As I understand it, the two that have the newer fleets, or a substantial proportion of the new fleets, would be Cardiff and Newport. That is my understanding of the position. I cannot tell you the other numbers off the top of my head. I do not know whether we have the geographical spread. However, as I said, the main concern is not about the newer fleet but the older fleet.

[121] **Jonathan Morgan:** How can you know that there are 132 if you do not know where they are?

[122] **The Deputy First Minister:** We do know, but I do not have that information in front of me.

[123] **Ms Bateman:** We surveyed each local authority and then aggregated the figures on an all-Wales basis. To encourage them to be as frank as possible, we said that we would not release the data by local authority but as all-Wales figures. However, we have the local authority data, so if we impact-assessed removing double-decked vehicles, for instance, we would be able to identify where those vehicles were.

[124] **Jonathan Morgan:** I still think that Peter's question has not been answered. Where is the evidence to suggest that double-decked buses are less safe?

[125] **The Deputy First Minister:** The issue is the behaviour. Let us be honest, on occasion, there is unruly behaviour, and that is more difficult to deal with on a double-decker than on a single-decker. That is just a fact of life. So, the basis of this is that it is more difficult to deal with that on the older double-deckers than on a new one. The evidence that we have is that where the newer vehicles, particularly double-deckers, are fitted with closed-circuit television and seat belts, the behaviour of the pupils is a lot better.

[126] **Peter Black:** Personally, I am sympathetic to that argument. I think that the next question adds another dimension. Can you clarify whether the Disability Discrimination Act 1995 requirement for all public service buses to be operated using wheelchair-accessible vehicles by 2017 will apply to dedicated school transport?

[127] **The Deputy First Minister:** I understand that the Disability Discrimination Act has now been repealed by the Equality Act 2010. The original regulations, the Public Service Vehicles Accessibility Regulations 2000, as amended, remain in force and contain certain requirements as to the changes that must be made to public service vehicles to make them more accessible to disabled people. Those regulations apply to public service vehicles that are used for regulated services that are local and scheduled. It is our current understanding that dedicated school transport does not come within that definition. So, on contracted school services, these regulations do not apply, which I must confess is a bit surprising to me.

[128] **Peter Black:** To me, too.

[129] The Welsh Local Government Association agreed that there should be legislation regarding the safety requirements of taxis, but that it should include detail on whose responsibility it would be to meet these requirements. Examples would be the fitting of seat belts, although I assume that most taxis have seat belts fitted already, and whether enhanced Criminal Records Bureau checks are undertaken by taxi companies. Will that level of detail be included in future legislation, such as regulations?

[130] **The Deputy First Minister:** Lynsey, would you like to take that question?

[131] **Ms Edwards:** The responsibility would lie with the operator. We cannot say at the moment what will be included in future regulations, but we would consider any recommendations.

[132] **Ms Bateman:** Issues have been raised about whether booster seats are routinely used in such vehicles when children are carried. Several other issues relating to those vehicles have also been raised, such as students trying to leave the vehicle in congested traffic, and so on. However, at this point, I do not think that we have firmed up that regulation. We wanted an enabling Measure so that we could look not only at buses but also increasingly at taxis and private-hire vehicles, which are used particularly for children who have special educational needs. The issue relating to booster seats has been reported, but while making those regulations we would consult with those who have raised issues and look at them again.

[133] **Peter Black:** Presumably, CRB checks would not be the responsibility of taxi companies but of local authorities.

[134] **Ms Edwards:** I am afraid that I do not know the answer to that.

[135] **Peter Black:** Can we clarify that? I would be surprised if the taxi companies were

responsible for CRB checks. They will obviously be responsible for applying for them, but ensuring that they are in place is the key issue.

9.50 a.m.

[136] **Jenny Randerson:** I now turn to Rhodri Glyn Thomas.

[137] **Rhodri Glyn Thomas:** Diolch yn fawr iawn, Gadeirydd. Dywedodd Cymdeithas Arweinwyr Ysgolion a Cholegau yn ei dystiolaeth ei bod yn croesawu'r posibilrwydd o'r defnydd o gamerau cylch cyfyng, ond cododd hefyd y cwestiwn o berchenogaeth y lluniau hynny—ai'r awdurdod lleol a'r cwmni cludiant fyddai'n berchen arnynt, nteu'r ysgolion?

**Rhodri Glyn Thomas:** Thank you very much, Chair. The Association of School and College Leaders said in its evidence that it welcomed the possibility of the use of CCTV, but it also raised the question of the ownership of the footage—would the local authority and the transport company have ownership, or would it be the schools?

[138] **Y Dirprwy Brif Weinidog:** Y cwmni cludiant fyddai'n berchen ar y lluniau, ond mi fyddai cytundeb rhwng y cwmni cludiant a'r awdurdod lleol i ryddhau'r wybodaeth i'r awdurdod lleol pe byddai achos yn codi lle byddai angen cael y lluniau oherwydd digwyddiad ar y bws.

**The Deputy First Minister:** The transport company would have ownership of the footage, but there would be an agreement between the transport company and the local authority to release that information to the local authority should a case arise in which the footage was needed because of an incident on the bus.

[139] **Rhodri Glyn Thomas:** Felly, byddai hynny'n sicrhau na fyddai'r cwmni cludiant yn gallu rhwystro rhyddhau'r lluniau hynny petai'r lluniau'n digwydd gosod y cwmni cludiant mewn sefyllfa anodd.

**Rhodri Glyn Thomas:** So, that would ensure that the transport company could not prevent the release of that footage if it were to place the transport company in a difficult situation.

[140] **Y Dirprwy Brif Weinidog:** Byddai'n rhaid wrth gytundeb gyda'r awdurdod lleol y byddai'r lluniau ar gael.

**The Deputy First Minister:** There would have to be an agreement with the local authority to make the footage available.

[141] **Rhodri Glyn Thomas:** A fyddai unrhyw bosibilrwydd o ddefnyddio'r lluniau ar gyfer hyfforddiant?

**Rhodri Glyn Thomas:** Would there be any possibility of using the footage for training purposes?

[142] **Y Dirprwy Brif Weinidog:** Nid dyna'r bwriad yn y ddeddfwriaeth. Bwriad y ddeddfwriaeth yw sicrhau nad oes ymddygiad afreolus ac yn y blaen. Nid wyf yn siŵr a ellid eu defnyddio ar gyfer hyfforddiant. Bydd yn rhaid imi gymryd cyngor ar hynny.

**The Deputy First Minister:** That is not the intention in the legislation. The intention of the legislation is to ensure that there is no unruly behaviour and so on. I am not sure whether it could be used for training. I will have to seek advice on that matter.

[143] **Rhodri Glyn Thomas:** Beth fyddai'n digwydd petai'r cytundebau hyn yn cynnwys taci neu gerbyd llog preifat?

**Rhodri Glyn Thomas:** What would happen if these agreements included a taxi or a private hire vehicle?

[144] **Y Dirprwy Brif Weinidog:** Ni fyddwn yn tybio y byddai angen y math hwnnw o gamerau ar gerbydau sy'n cario cyn

**The Deputy First Minister:** I would not think that there would be a need for those kinds of cameras on vehicles carrying so few



lleied o bobl. people.

[145] **Jenny Randerson:** Before we move on, Brian wants to ask a supplementary question.

[146] **Brian Gibbons:** You say that the images cannot be used for training—

[147] **The Deputy First Minister:** I did not say that; I said that I would need to go away and respond later.

[148] **Brian Gibbons:** I am sorry. Equally, could you also clarify whether the images could be used, for example, for disciplinary action, as opposed to maintaining order on the bus?

[149] **The Deputy First Minister:** They could be used for disciplinary action, yes.

[150] **Brian Gibbons:** Against the pupils or staff on the bus?

[151] **The Deputy First Minister:** Presumably, but the intention here is not to use it for a purpose wider than the proposed Measure, although I assume that, if they are on the bus, they could be used for those purposes.

[152] **Brian Gibbons:** Yes, but if the images are in the ownership of the bus company, will there be any legal duty on the bus company to hand them over, except for the purposes covered in this legislation?

[153] **The Deputy First Minister:** No.

[154] **Brian Gibbons:** So, conceivably, if there are circumstances in which accusations are made against the bus staff, the bus company could hold on to the film.

[155] **The Deputy First Minister:** If it is in relation to an incident on a school journey, on the contracted service, then anything covered by that would be subject to the agreement with the local authority.

[156] **Brian Gibbons:** Okay, so anything that would be recorded on the journey would be available to the local authority.

[157] **The Deputy First Minister:** If a complaint is made about a particular incident.

[158] **Peter Black:** One of the headteachers who gave evidence said that if an incident is drawn to his attention on the school bus, he would want to be able to access the CCTV footage within a few hours, so as to be able to resolve the issue. Will that be possible, or would you have to include that in guidance as part of the contract? How would you go about that?

[159] **The Deputy First Minister:** I suppose that it would simply depend on the nature of the agreement that the local authority has with the bus operator. If a local authority feels it necessary to have early access to that, then that will be covered by—

[160] **Peter Black:** Will you be issuing guidance to that effect?

[161] **The Deputy First Minister:** Yes.

[162] **Peter Black:** The second point is that you have set out in your letter some detail about the legal issues around CCTV, which is very helpful. You will know that where some

local authorities operate CCTV systems in town centres and so on, they also have their own voluntary code of practice in terms of what happens to the footage. For example, Swansea council has a voluntary code, which means that it does not make that footage available to any outside body. Will you be encouraging the adoption of similar voluntary codes of practice on the use of CCTV, in order to add additional protection regarding how the footage should be used?

[163] **The Deputy First Minister:** You are right, because there are conflicting issues here. There is the issue of making sure that children are safe on buses, and there is the wider civil liberties issue regarding the images. We would want to make sure that they would only be used in appropriate circumstances. If a voluntary code could be set up that would prevent their being used more widely than that, we would encourage that.

[164] **Peter Black:** The last thing that we want to see is one of these television programmes with footage from school buses.

[165] **The Deputy First Minister:** That is exactly right. I fully appreciate that.

[166] **Rhodri Glyn Thomas:** A symud ymlaen at y cyfrifoldebau o ran asesiadau risg diogelwch, ai'r awdurdod lleol ynteu gorff llywodraethol yr ysgol ddylai fod yn gyfrifol am eu cynnal?

**Rhodri Glyn Thomas:** Moving on to the responsibilities in respect of safety risk assessments, should the local authority or the school's governing body be responsible for undertaking them?

[167] **Y Dirprwy Brif Weinidog:** Yr wyf yn meddwl ei bod yn rhaid i'r cyfrifoldeb aros gyda'r awdurdod lleol, ond gallai rhan o'r cyfrifoldeb hwnnw gael ei rhannu gan gwmnïau bysiau ac ysgolion, fel yr eglurais yn gynharach. Mae'n dibynnu ar ba ran o'r asesiad y byddant yn gyfrifol amdani. Er enghraifft, gallai'r cwmni bysiau fod yn gyfrifol am edrych ar y daith y mae plant yn mynd arni i fynd i'r ysgol a lle mae plant yn cael eu codi a'u gollwng. Yna, byddai'r ysgol yn gyfrifol am edrych ar yr hyn sy'n digwydd ar iard yr ysgol. Fodd bynnag, yn gyffredinol, yr awdurdod lleol fyddai â'r prif gyfrifoldeb.

**The Deputy First Minister:** I think that the responsibility has to remain with the local authority, but part of that responsibility could be shared by the bus companies and the schools, as I explained previously. That depends on which part of the assessment they would be responsible for. For example, the bus company could be responsible for looking at the route that children take to get to school and where they are picked up and dropped off, whereas the school would be responsible for looking at what is happening on the school yard. However, in general, the local authority would have the main responsibility.

[168] **Rhodri Glyn Thomas:** Mae Cymdeithas Genedlaethol y Prifathrawon wedi codi rhai pryderon gyda ni, oherwydd mae'n tybio y gallai corff llywodraethol gael ei ddynodi'n gorff perthnasol o dan y Mesur arfaethedig.

**Rhodri Glyn Thomas:** The National Association of Head Teachers has raised some concerns with us, because it believes that a governing body could be designated a relevant body under the proposed Measure.

[169] **Y Dirprwy Brif Weinidog:** Yr unig gyrrff llywodraethol a fyddai'n dod o dan y ddeddfwriaeth hon yw cyrrff llywodraethol ysgolion a ariennir yn uniongyrchol nad ydynt yn rhan o'r awdurdod lleol.

**The Deputy First Minister:** The only governing bodies that would fall under this legislation are governing bodies of schools that are funded directly and are not part of the local authority.

[170] **Brian Gibbons:** In its evidence to the committee, the Welsh Local Government Association said that it thought that further consideration should be given as to whether the

responsibility for ensuring that drivers are trained should rest with the local authority or with the contractors. Who do you think should be primarily, or statutorily, responsible?

[171] **The Deputy First Minister:** I think that the primary responsibility should lie with the operator. I would expect that the local authority, in its contract with the operator, would make it clear that it expects the drivers to be properly trained. In a sense, the local authority would need to make sure that its contract with the operator is fully adhered to. Clearly, I would not expect local authorities to be directly responsible for training drivers.

[172] **Brian Gibbons:** The WLGA also told us that a home-to-school transport module had been developed by the South West Wales Integrated Transport Consortium, and that it included issues such as training for dealing with children who have special educational needs and so on. Do you think that there needs to be statutory provision to cover training that would put drivers in a better position to work with children who have special educational needs?

[173] **The Deputy First Minister:** The proposed Measure makes it clear that driver training is an essential part of the legislation. As for how that is dealt with, I am not sure whether Bethan or Lynsey would like to clarify that.

[174] **Ms Bateman:** At the moment, the UK Government has required drivers to obtain an approved certificate of professional competence subject to 34 hours of training. SWWITCH has looked at building up a module based on that that fits the needs of schoolchildren and children with special educational needs. One way for the legislation to go, which seems to be a sensible approach, would be to adopt the SWWITCH good practice and make it a statutory course in Wales, but within the CPC framework. That is very much what we are working towards.

[175] **The Deputy First Minister:** It would be a module within the existing framework.

[176] **Ms Bateman:** Yes. Therefore, it would be the responsibility of the operator, who would also pay for the training, but we would develop specific training for schools and SEN issues, and use the SWWITCH model, and use the legislation to roll it out.

10.00 a.m.

[177] **Brian Gibbons:** Would it be a statutory requirement for the drivers to undertake those modules?

[178] **Ms Bateman:** That is what we could do through regulation.

[179] **Brian Gibbons:** Is that both for SEN and managing children in general?

[180] **Ms Bateman:** Yes.

[181] **The Deputy First Minister:** The legislation will allow us to make those regulations.

[182] **Brian Gibbons:** So, is that the intention?

[183] **The Deputy First Minister:** Yes.

[184] **Brian Gibbons:** Good. The Association of Transport Coordinating Officers Cymru raised the issue of training pupils. I understand that this is good practice in a number of areas. We have been told in written evidence that there is good evidence that behaviour improves quite dramatically as a consequence of training pupils in the school setting. Do you have a view on that?

[185] **The Deputy First Minister:** Yes, I think that that would be good practice, but there would be no regulations under this proposed Measure that would put that on a statutory footing. In terms of good practice, it is clearly essential.

[186] **Ms Bateman:** We have the travel behaviour code, which is statutory, and the early results are very encouraging. There has been quite a significant improvement in behaviour, and looking back to some of the issues that kicked this whole process off, it was very much to do with the behaviour of schoolchildren and whether they were contributing to accidents. So, early signs are that the behaviour code has been very successful. We would like to evaluate that going forward, but the results are very positive so far.

[187] **Brian Gibbons:** Yes, the results are good.

[188] **The Deputy First Minister:** Of course, what we must remember is that this legislation deals with the types of vehicles that could be used, but it also builds on the previous legislation, which was all about the behaviour code.

[189] **Brian Gibbons:** I have one more question on this aspect, if I may, although it will probably be dealt with in more detail in the Finance Committee this afternoon. With regard to the implementation of things such as fitting seat belts, installing CCTV, and replacing double-decker buses, is the thinking of the Assembly Government on this that these should be achieved by a certain date?

[190] **The Deputy First Minister:** There are two issues. One is that it will be phased, not only according to a timetable that we will set but according to the length of the contracts a local authority has. We want to ensure that we do not impose obligations on local authorities in the middle of a contract with a bus operator or put a duty on a bus operator to do things that are not currently part of its contract. It will also be phased because there are cost implications and we need to ensure that those are properly assessed.

[191] **Brian Gibbons:** So, do you have any mental picture of when this change to CCTV, seat belts and so on will be achieved? Will it be 10 years before we can reasonably expect everything to be compliant, or will it be five years or two?

[192] **The Deputy First Minister:** That is something that we are currently looking at, but the intention is to start with seat belts, obviously, and I have said to the committee that I am looking at an amendment to try to put it on the face of the proposed Measure. That would be the first area, and the issue of CCTV would follow, and the issue of double-decker buses would follow that. I would not want to be tied to specific dates now, but I can say that the intention is that we will deal with the issue of seat belts first.

[193] **Brian Gibbons:** Will the money be allocated through a general formula that treats all local education authorities equally, or will it be allocated on the basis that the people who have not met the standards up to now are likely to get preferential treatment compared with those who have already put in the effort and reached the standards?

[194] **The Deputy First Minister:** The intention is that we will bring everybody up to the standard. We need to be very careful that we do not reward those who have not come up to the standards at the expense of those who have. However—and this is something that we may want to explore in the Finance Committee—we have not finally decided how we would want to do that. To give an example of one way you could do it, let us assume that we are talking about CCTV, which we know would be dealt with through regulation—seat belts might or might not—at the point at which you make that regulation, you would make a thorough assessment of the number of vehicles that would need to be covered by the legislation.

Through the consultation, you would agree on a period within which it should be delivered. You would then work out the full cost, per vehicle, of doing it. The best that we could do, perhaps, is look at the proportion of the cost that would be needed to deliver it. At that point, we would need to have a thorough assessment of the requirement, and how much of a contribution we could make towards that cost.

[195] **Jonathan Morgan:** The proposed Measure talks about supervisors as members of staff of relevant bodies. Should these supervisors be bus operators' staff, if they have gone through the necessary training? Alternatively, should they be volunteers, such as parents?

[196] **The Deputy First Minister:** We want to make sure that all supervisors are appropriately managed and trained, and that checks are undertaken. I do not think that we have a specific view on who the supervisors should be. That would be a matter for the bus operators and local authorities to determine. Provided that they are appropriately managed, trained and checked, who these people are is not a matter for us to decide.

[197] **Jonathan Morgan:** When you gave evidence to the committee on 7 October, you said that your policy priority was for primary school children to have escorts. We have received a mixed response on this, with some suggesting that escorts should be on all buses and others saying that there ought to be flexibility to decide which routes are the most pressing ones. How do you respond to those ideas?

[198] **The Deputy First Minister:** We have made a policy decision that the priority is primary school children, rather than those at secondary school. That remains our position. We also have to remember the cost. If we were to make this a requirement for secondary schools as well, the costs would increase significantly. We do not feel that that is a burden that we can pass on to local authorities at this stage.

[199] **Jonathan Morgan:** Do you not think that it would be better to have flexibility for those parties who are securing the contract for school transport provision to make a determination on which routes are the more pressing ones? You are saying that there ought to be flexibility for local authorities and bus providers to determine between them who the escorts are—though I do not know how they are to do that or how the cost would be covered, which is another interesting issue. Surely, therefore, they should have the flexibility to determine which routes to cover.

[200] **The Deputy First Minister:** The local authority could still do it, even though there is no statutory requirement as such. This is only the minimum. This is us saying that, in the short term and on cost grounds, we could not justify imposing a duty on local authorities to have supervisors on buses that are on secondary school routes. However, if local authorities choose that option, it is a matter for them.

[201] **Jonathan Morgan:** Before the publication of this proposed Measure, I am interested in knowing what evidence you examined before coming to this view. What issues and problems relating to the transportation of primary school children on buses have led you to think that there is a requirement for mandatory escorts?

[202] **The Deputy First Minister:** For the sake of argument, let us agree that, in a perfect world, having escorts on every bus would be the best solution.

[203] **Jonathan Morgan:** Well—

[204] **The Deputy First Minister:** Okay, let us assume that I think that that is the case, Jonathan, if you wish to query it. Most of the evidence that we have seen suggests that people would like to see more escorts on buses. The question then is, in practice, whether that can be

delivered. I suppose that the answer is ‘yes’, but we would be imposing a significant cost on local authorities. Our view is that, when you consider priorities, it seems appropriate to us that priority should be given to the youngest children rather than the oldest children. That is the decision that we made. The cost would be quite significant if we were to do it in another way. However, that does not mean to say that, if local authorities wish to do it, they cannot. It is up to them.

[205] **Jonathan Morgan:** The question that I am getting at is this: what was raised with you, before the proposed Measure was drafted, that suggested that mandatory escorts on all bus routes for primary schools were absolutely essential? Were there examples of poor behaviour or safety issues? I know that these children are younger and more vulnerable; I accept that. I am just trying to get at why you have arrived at such a fixed view on this issue.

10.10 a.m.

[206] **The Deputy First Minister:** A whole range of issues come to mind. The first is that we want to promote safe routes to schools. Let us be honest: the majority of journeys to primary schools could be undertaken by parents in their own cars. We want to persuade parents that it is better to allow children to travel by bus, if they can. It is much easier to persuade parents that travelling by bus is safe and secure if there is an escort on the bus. Therefore, we would expect the proportion of children who are taken to school by bus to increase if parents felt that the journey was safe. One of the reasons why parents currently take children to school by car is that they do not perceive that it would be safe to take the current journey on another mode of transport. The safer that we can make school transport, the better it is not only for children, but for the environment.

[207] **Brian Gibbons:** The Welsh Local Government Association said in its written evidence that it was not clear whether a local authority that had contracted out a service would be equally liable with the contractor for a breach of the regulations. Can you provide clarification on that point? Would the buck stop with the contractor?

[208] **The Deputy First Minister:** The proposed Measure would enable regulations to be made that provide for the local authority and the transport provider, in certain circumstances, to be guilty of a criminal offence. So, it could be both.

[209] **Brian Gibbons:** However, equally, could there be a situation in which only the provider would be guilty and the local authority would not be vicariously liable?

[210] **The Deputy First Minister:** It depends on the circumstances, does it not? In certain circumstances, the bus operator would be liable.

[211] **Brian Gibbons:** Would that be just the bus operator?

[212] **The Deputy First Minister:** Yes, just the bus operator.

[213] **Brian Gibbons:** The WLGA also suggested that instead of setting up a completely different tribunal to hear appeals, an existing organisation might be a useful alternative—it suggested the passenger transport forum. What are your views on that?

[214] **The Deputy First Minister:** I do not think that the passenger transport forum would be appropriate because it was never intended as a body that would handle complaints. There are procedures that need to be followed that would be difficult for that body to deal with. We are happy to look at various ways of doing it. One way would be to set up your own enforcement authority and tribunal. We could see whether there is another enforcement authority that we could contract and whether there is an existing tribunal that could be

adapted for the purpose. We are perfectly open-minded on that.

[215] **Peter Black:** I will move on to the enforcement authority. In their evidence, the WLGA and the Confederation of Passenger Transport suggested that the Vehicle and Operator Services Agency would have the capability to undertake the work of the proposed enforcement authority and that it would be less costly to employ extra staff at VOSA than to set up another authority. What are your views on that?

[216] **The Deputy First Minister:** We did not know when we were providing evidence previously whether VOSA would exist after the cull of various bodies that was being proposed by the UK Government. Now that we know that VOSA is likely to survive, it is an option that we have to consider.

[217] **Peter Black:** That is a fairly weak argument, to be honest, Deputy First Minister.

[218] **The Deputy First Minister:** No, it is not. Let me make this clear: one option is to set up your own enforcement authority and tribunal; the other option is to use an existing enforcement authority and tribunal system. We are happy, as I made clear, to look at both options. We needed to be satisfied that if we were to hang our coat on one, it would be in existence when we did so.

[219] **Peter Black:** I am trying to remember, but I do not think that the proposed Measure provides much detail on the enforcement authority. You said in your letter that you are anticipating that there would be five members of staff based in your department.

[220] **The Deputy First Minister:** Yes, if we do it ourselves.

[221] **Peter Black:** However, you are now open to looking at different ways of doing that.

[222] **The Deputy First Minister:** Yes, we are.

[223] **Peter Black:** My final question is in relation to offences and the liability of officers and partners. That section provides that you can make regulations whereby officers of a body corporate, or partners in a partnership, may be personally liable for offences committed under sections 14A or 14B by the body corporate or partnership, as well as the body corporate or partnership itself. We have had evidence that there are concerns as to how this will impact upon individual schools. The National Association of Head Teachers and the Association of School and College Leaders said that they were concerned as to whether individual school governors and the headteacher could be liable for criminal offences and the imposition of sanctions. Can you clarify who will be an officer and a partner for the purposes of this section? Are all school governors intended to be covered by this? If not, can you clarify who is to be regarded as the officer of a governing body?

[224] **The Deputy First Minister:** That is quite a technical question.

[225] **Peter Black:** I know that it is.

[226] **The Deputy First Minister:** I am afraid that I will have to ask Lynsey to reply.

[227] **Ms Edwards:** School governors are considered as members of the governing body. They are not officers; therefore, they would not be prosecuted under any provision.

[228] **Peter Black:** What about the headteacher?

[229] **Ms Edwards:** The headteacher is also a member of the governing body. Therefore, in

that sense, the answer is ‘no’.

[230] **Peter Black:** Therefore, in relation to an offence in relation to a particular school, who will be considered to be the appropriate officer or partner?

[231] **Ms Edwards:** Are you talking about maintained schools or schools in general?

[232] **Peter Black:** This regulation only applies to maintained schools, does it not? I am referring to schools that are covered by this legislation.

[233] **The Deputy First Minister:** Let us assume, for the sake of argument, that if the contract is with the local authority, it is the local authority that is responsible. In the case of a grant-maintained school, and if there was a breach of the regulation, who in the grant-maintained school will be the responsible officer under the purposes of the legislation? Is that something that we might want to come back to?

[234] **Ms Edwards:** Yes, I think so.

[235] **The Deputy First Minister:** I think that we need to come back to you on that.

[236] **Jenny Randerson:** When you come back, perhaps you could also give consideration to the fact that it is my recollection that a headteacher cannot be a member of a governing body. The legislation may have changed recently, but it certainly was the case that headteachers were not always members of the governing body; they simply attended the governing body. That also needs to be taken into account.

[237] **The Deputy First Minister:** I will come back to you on that.

[238] **Peter Black:** Headteachers will say that they all have a huge responsibility in terms of health and safety and this could potentially be an additional one to add to that.

[239] **The Deputy First Minister:** In the local authority, an appropriate officer would sign a contract on behalf of the local authority. The issue is who would sign the contract on behalf of a grant-maintained school and I think that we need to come back to you on that.

[240] **Peter Black:** Who would be responsible in the local authority? Would it be the officer?

[241] **The Deputy First Minister:** No, the local authority itself would be responsible.

[242] **Peter Black:** Would it be responsible as a corporate body?

[243] **The Deputy First Minister:** Yes.

[244] **Brian Gibbons:** The headteachers were concerned that lead governors should not be designated or should not be seen to be officers—in other words, the lead governor for special educational needs and so on. It would be useful, in your reply, if you were to make sure that clarity is provided on that as well.

[245] **The Deputy First Minister:** We we have a number of issues on which we need to return to you, Chair.

[246] **Jenny Randerson:** Thank you very much indeed. I think that we have had the opportunity to ask a very wide range of questions. Thank you very much for your information and for offering to come forward with further information. As usual, there will be a draft



transcript of today's proceedings for you to check before it is finalised. Thank you very much for coming in. We will now adjourn for quarter of an hour in order to ensure that we are prepared for the video link. In fact, if we could return by 10.30 a.m. that would possibly give us enough time.

*Gohiriwyd y cyfarfod rhwng 10.19 a.m. a 10.30 a.m.  
The meeting adjourned between 10.19 a.m. and 10.30 a.m.*

[247] **Jenny Randerson:** I welcome, via video link, Bob Saxby, chairman of the Association of Transport Co-ordinating Officers. Thank you for agreeing to give evidence this morning. Can you hear us satisfactorily?

[248] **Mr Saxby:** Yes, very well, thank you.

[249] **Jenny Randerson:** I will start with my questions. For the record, could you confirm whether you think that there is a need for the proposed Measure, and whether it will meet the Welsh Government's stated policy objectives in relation to the safety and quality of learner transport?

[250] **Mr Saxby:** First, thank you for the opportunity to give evidence. As transport professionals, that is much appreciated. ATCO certainly supports the principle of the proposed Measure. Anything that improves safety, albeit of a mode of transport that is very safe, is welcome, and anything that improves quality and aims towards modal shift is also to be welcomed. We have been striving for that aim for years.

[251] **Jenny Randerson:** In your written evidence, you query whether consideration should be given to establishing car exclusion zones around schools at peak times. Would you like to expand on that suggestion?

[252] **Mr Saxby:** When you look at the safety statistics, walking and cycling are not particularly safe modes of transport compared with the others, and it occurs to us that that is because there is a lot of traffic, particularly at the beginning and the end of the school day. In themselves, walking and cycling are extremely safe modes of transport, but it is the conflict with cars, in particular, that causes problems. Therefore, while we fully support measures to improve bus safety, it would further improve safety to have a bit of stick as well as carrot in terms of car use. There may be places where it is impossible to implement, but there will be others where the road network will allow you to restrict access within, say, half a mile of the school, particularly a primary school, to certain vehicles only—buses and taxis organised by the local authority. That would certainly be inconvenient for some people, but it would give a bigger incentive for people to walk, cycle or use the bus. When I was working in London years ago, one of the councillors in Newham asked how much inconvenience a child's life was worth.

[253] **Jenny Randerson:** Thank you. We move on to questions from Jonathan Morgan.

[254] **Jonathan Morgan:** In your evidence you say that a higher standard on school vehicles will strengthen the call for the provision of dedicated transport, which could result in an increase in costs or a threat to rural bus services. I am just wondering whether you could further explain your concerns.

[255] **Mr Saxby:** Particularly in rural areas, the public bus network is very dependent on school traffic. You will find in a rural authority that almost every bus on the road is carrying schoolchildren at the beginning and the end of the school day. Part of that fleet goes on to provide the public service throughout the rest of the day. Without that income, the public bus network would have to make significant cuts to services in rural areas. It would increase costs

for school transport because, generally, the cost of dedicated buses is more than the public bus service, whether it is commercial or tendered. If we did end up having to provide separate buses for all schoolchildren, it would undermine the rural bus network in all of our rural areas, and it would have some effect in urban areas as well.

[256] **Jonathan Morgan:** In your written evidence, you say that there is a grey area between dedicated school bus and tendered public bus services. Could you explain your understanding of the difference and whether that should be made more explicit on the face of the legislation that we are looking at?

[257] **Mr Saxby:** It does need to be spelled out. At the moment, many buses that are effectively school buses are registered as public services that any fare-paying passenger can go along and use. In many cases they are rarely used by fare-paying passengers. In some cases, that might be the only bus that serves a village and it might be the only way of getting out of that village. We feel that we need a proper definition if local authorities are to know which ones the standards that we are looking for need to be applied to, although we would like standards that apply to both. So, we suggested that the definition might be a low-floor bus—which is what we should all be specifying for public services these days; we will have to do so in a few years' time, because of legislation—and it is used for things other than school journeys, then it is a public service bus and does not come under the dedicated school bus definitions. This is so that we know which services we need to apply the standards to.

[258] **Jonathan Morgan:** The Deputy First Minister has said that the Government's intention is for the proposed Measure to apply only to home to school transport, and vice-versa, and not to travel during the school day between different places of education or training. Do you have any views on this?

[259] **Mr Saxby:** Our view would be that safety does not depend on who is paying for the trip or who is organising it. Therefore, logically, it should apply to such trips.

[260] **Brian Gibbons:** With regard to your response to a previous question, I thought that it was pretty clear that the proposed Measure was saying was that any bus that accepts fare-paying passengers, in other words a bus servicing a registered bus route, is not dedicated school transport. Is that your understanding?

[261] **Mr Saxby:** That is how it would be defined at the moment, but if we take that definition, a large number of buses that carry only schoolchildren would then be deemed not to be a dedicated school bus, because they are registered. That would be a way for authorities to get around the proposed measures; all you have to do is register it as a service, and then it is not a dedicated school bus. That is not in the spirit of what we are trying to do. We know what we mean by 'dedicated school buses' and most people would say that, if it is only carrying schoolchildren and it runs only on schooldays, it is a dedicated school bus. However many such buses are registered as local services.

[262] **Brian Gibbons:** However, for the purposes of the proposed Measure, if it was registered as a local service, then under the proposed Measure, it is not dedicated school transport. Do you agree that that is the case?

[263] **Mr Saxby:** That is the situation at the moment.

[264] **Brian Gibbons:** So, it is pretty clear from the point of view of what we are talking about. You have raised a slightly different, but important, practical issue in terms of viability. However, any bus that is accepting fare-paying passengers on an individual basis and is registered is not covered by the proposed Measure.

[265] **Mr Saxby:** I would agree with that view. That is the situation as it stands. All we are pointing out is that that might be a way for authorities that do not have the resources to avoid having to implement the measures that you are putting in place—simply by registering a service.

[266] **Brian Gibbons:** It is a loophole.

[267] **Mr Saxby:** Yes, it is.

[268] **Jenny Randerson:** We will now move on to questions from Rhodri Glyn Thomas, which will be asked in Welsh. I believe that you have translation facilities.

[269] **Mr Saxby:** Yes. We have tested the system, so hopefully it will work.

[270] **Jenny Randerson:** It should work properly, but let us know if it is not.

[271] **Rhodri Glyn Thomas:** Mae cael gwregysau diogelwch ar fysiau, mewn egwyddor, yn beth da, ond os nad ydynt yn cael eu gwisgo, nid oes fawr o werth iddynt. Yn eich papur, yr ydych yn cyfeirio at y broses o orfodi plant i wisgo gwregysau diogelwch ac yr ydych yn gofyn pwy fydd yn gyfrifol am wneud hynny. A allwch ymhelaethu ar y pwynt hwnnw?

**Rhodri Glyn Thomas:** Having seat belts on buses is, in principle, a good thing, but if they are not being worn, they are of little value. In your paper, you refer to the process of forcing children to wear seat belts and you ask who will be responsible for doing that. Can you elaborate on that point?

10.40 a.m.

[272] **Mr Saxby:** At the moment, the legal position is that the user is responsible. There is no legal requirement to wear a seat belt on a bus, as there is in a car. It would be physically impossible for a driver to ensure that everyone is wearing their seat belt. Even if the driver walked up and down the bus to check at the beginning of a journey, the seat belts could be taken off afterwards. Supervisors may have more of an opportunity to do this. The legal position can still become quite difficult, particularly with small children, if they need to be helped to put a seat belt on or take it off. At the moment, the legal position is that the user is responsible. That places a responsibility on children and their parents to ensure that they use the facility. Our role, as we see it, is just to ensure that it is provided and available, and that we encourage its use.

[273] **Rhodri Glyn Thomas:** Yn eich barn chi, pwy ddylai fod yn gyfrifol am orfodi plant i wisgo gwregysau diogelwch?

**Rhodri Glyn Thomas:** Who do you think should be responsible for enforcing the wearing of seat belts by children?

[274] **Mr Saxby:** I think that the legal responsibility should be with the children and parents. They are the only ones who can absolutely ensure that it is done. If we had a supervisor on every bus—which I do not think is being proposed—they could have some role in it. However, I think that a situation in which supervisors are held legally responsible is probably not enforceable, given that any child could take their seat belt off at any time and the supervisor cannot check all the children all the time.

[275] **Rhodri Glyn Thomas:** Yng nghydestun ysgolion meithrin, felly, gallai hynny arwain at sefyllfa lle byddai plant mor ifanc â phedair oed neu'n iau fod yn gyfrifol am wisgo gwregys ar fws. Yr wyf yn derbyn eich

**Rhodri Glyn Thomas:** In the context of nurseries, therefore, that could lead to a situation where children as young as four, or younger, were responsible for wearing seat belts on buses. I accept your legal point: I do

pwnt cyfreithiol: ni chredaf ei bod yn bosibl gosod y cyfrifoldeb ar unrhyw un arall.

not believe that it is possible to impose the responsibility on anyone else.

[276] Mae ystod oedran y plant a fydd yn teithio ar y bysiau hyn yn codi mater arall y cafwyd trafodaeth weddol hir yn ei gylch yn ystod ein sesiwn flaenorol, sef yr angen am wregysau priodol ar gyfer plant o bob oedran. Mae'r ystod hon yn ymestyn o blant tair oed i unigolion 19 oed, er bod y Mesur arfaethedig hwn yn ymwneud â phlant hyd at 16 oed yn unig. Yn eich tystiolaeth yr ydych yn cyfeirio at wregys tri phwynt. A fyddai gwregys tri phwynt yn bodloni'r gofynion hynny, o ran yr ystod oedran?

The age range of children who will be travelling on these buses raises another matter that was discussed at some length in our previous session, namely the need to have age-appropriate seat belts. This age range stretches from three-year-old children to 19-year-olds, although this proposed Measure only relates to children up to the age of 16. In your evidence, you refer to three-point belts. Would a three-point belt satisfy those requirements, in terms of the age range?

[277] **Mr Saxby:** As I understand it, there is a problem of adjusting three-point belts for pupils of different sizes, whereas lap belts would fit everybody but they are not as good as three-point belts. In some authorities, there are already vehicles with lap belts that are carrying children of various ages on different runs—going to a secondary school and then on to a primary school, and vice versa. That works. However, if they were to use three-point belts, either they would not fit properly or, a lot of time, somebody would need to go around making the adjustments, which is not practical. I am pointing out that, if three-point belts are specified as the minimum requirement, it limits the scope for doing such double-tripping, which removes some efficiency from the network.

[278] **Rhodri Glyn Thomas:** Mater arall a drafodwyd y bore yma gyda'r Dirprwy Brif Weinidog oedd y mater o geisio cael gwared ar fysiau deulawr. Yn eich papur, nid ydych yn mynegi'r argraff eich bod yn argyhoeddedig bod bysiau deulawr, o reidrwydd, yn fwy peryglus na bysiau un llawr. Yr ydych yn dweud y dylid ystyried cynlluniau peilot goruchwylwyr a chamerau cylch cyfyng cyn cymryd y cam o gael gwared ar fysiau deulawr i gludo plant. A allwch esbonio pam, yn eich barn chi, nad yw bysiau deulawr yn fwy peryglus?

**Rhodri Glyn Thomas:** Another issue that was discussed with the Deputy First Minister this morning was the issue of seeking to replace double-decker buses. In your paper, you do not give the impression of being convinced that double-decker buses are necessarily more dangerous than single-decker buses. You say that CCTV and supervisor pilot schemes should be considered before taking the step of replacing double-decker buses used to transport children. Could you explain why you do not believe that double-decker buses are more dangerous?

[279] **Mr Saxby:** You can have behavioural problems on vehicles of any size. I recall that, when I was in Gwynedd, we had problems on a little 16-seater in the Dolgellau area. It depends on the children and the operator. Using single-deckers does not necessarily mean that you will have good behaviour where it was not good before. We have tried various measures. There was a pilot scheme in north Wales to test the effects of CCTV and supervisors, one versus the other, on double-deckers, to see whether that improved behaviour. The conclusion was that there was not much difference with CCTV. Although it helped greatly in sorting out incidents when they occurred, they found that supervisors did have an effect on behaviour. Our view is that, if we provide CCTV and supervisors—although supervisors would perhaps be provided on a roving basis, so that they are not always on the bus; you would not know when they would turn up—that might be more effective in improving behaviour than simply using single-deckers instead of double-deckers.

[280] On the physical safety of vehicles, double-deckers are extremely strong vehicles and,

depending on the kind of collision that the vehicle is in, you could be better off on a double-decker than on a single-decker. I know of incidents where that has been the case.

[281] **Brian Gibbons:** In your written evidence, and indeed in the evidence that we have heard from other witnesses, the point has been made that a properly maintained bus that has decent decor and so on is more likely to guarantee safety than merely criteria relating to age. Could you elaborate on that?

[282] **Mr Saxby:** That is our view. I recall a check that was made by the Vehicle and Operator Services Agency at a school on Anglesey once. About a dozen vehicles were checked, and the only one that received an immediate prohibition was the one new bus there. That just indicates that it is the standard of maintenance that is important and not the age of the vehicle. We are aware that VOSA implements only its minimum standards on school vehicles at the moment. If the Assembly wished to have higher standards enforced, we think that getting VOSA to enforce those higher standards and having more VOSA inspectors around would be more cost-effective than specifying a requirement for newer vehicles, and it would guarantee safety to a much larger extent.

[283] **Brian Gibbons:** Thank you; that is interesting. You also make reference to the yellow bus standards and specifications, but you say that there is not really much difference between a bus that meets the yellow bus specification and a bus that has all the specified features, the difference being the use of a register and seat allocation. Could you expand on that?

[284] **Mr Saxby:** Yes. Most of the other features, such as seat belts, CCTV and so on, are mentioned separately and could be imposed on their own. Regarding seat allocation, we tried a system called ZOOM in north Wales, which was extremely popular with parents. It involved pupils having a smartcard, so the bus would know that they had got on, and the parents could go onto the internet and enter a password to check whether their child had got on the bus. It gives the parents great assurance about where their child is. As it is done with a smartcard, it is all done automatically and can be checked at any moment. That system was quite costly. We were not surprised that it was popular, but it was costly. To do that everywhere would cost a lot of money—we can provide you with figures at a later stage if you wish.

[285] In some areas, there are registration systems that are currently worked manually. There are seat allocation systems, and there are a few schools where you will find a plan of buses up on the wall, with individual children's names allocated to seats. That can work, but it still requires quite a bit of effort on the part of schools. If there are supervisors on buses, it is a lot easier, because they can ensure that the right children are in the right seats.

[286] **Brian Gibbons:** That is interesting. In your evidence, you say that the Assembly should consider the plethora of regulations that are used by local authorities in relation to safety requirements for taxis and private hire vehicles. Could you say a little more about that and where it would fit into the priorities?

[287] **Mr Saxby:** All I can say is that we are aware that authorities do have different standards, in the same way as they do for buses at the moment. We feel that there would be some scope for applying a uniform minimum standard. ATCO would be very happy to work with the Assembly in sorting out what such a standard might look like. We can produce codes of good practice, but we are unable to enforce anything, whereas you are.

10.50 a.m.

[288] **Brian Gibbons:** So, the key point is that a coherent set of minimum standards across Wales is what is needed. It is about national uniformity as much as anything else.

[289] **Mr Saxby:** That is it, yes.

[290] **Brian Gibbons:** Lovely. Thanks very much indeed.

[291] **Jenny Randerson:** Before we move on to the next set of questions, for Members' information, we are in touch with ZOOM and we are hoping to get some information from it, which will probably be very helpful. Let us move on to questions from Christine Chapman.

[292] **Christine Chapman:** I want to ask some questions on CCTV. In your evidence, you say that there is no specific evidence that CCTV has controlled behaviour on buses. Can you expand on this? Do you support the use of CCTV on learner transport? If so, why?

[293] **Mr Saxby:** In our evidence, we are referring to the pilot schemes, which probably did not go on for long enough to give substantial figures for before and after to be able to demonstrate the effectiveness of CCTV. However, since writing that, I have trawled around all the authorities in Wales and found some that can say that they have definitely had fewer incidents after specifying that CCTV be used on all of their vehicles. In my area, I found that our biggest school bus operator was doing this anyway and off its own bat because it felt that it helped it to sort out incidents and get compensation where there was damage to vehicles and so on. It certainly works in that respect because you can identify culprits very easily and, with the co-operation of the school, you can sort things out. So, we are very supportive of the use of CCTV. It is not a particularly expensive thing to provide these days and it certainly helps to sort out incidents. It also gives people a bit more confidence.

[294] **Christine Chapman:** Thank you. In that case, do you think that CCTV should be focused on buses carrying secondary school pupils or should it be used for all age groups?

[295] **Mr Saxby:** Where we have used it, we have generally found that the behavioural problems are worse on vehicles used by secondary school pupils, so we certainly think that it should be used on those. This is one of the measures that could be applied to service buses as well. Some bus operators specify CCTV for all of their new vehicles because they can see how useful it is in sorting out incidents, regardless of whether they involve schoolchildren or other passengers. It helps to inspire some passenger confidence, particularly if they see a notice that there is CCTV fitted.

[296] **Christine Chapman:** We think about CCTV as being used to identify pupils who behave badly, but could evidence on CCTV also apply to adults who behave badly?

[297] **Mr Saxby:** It certainly could. That is why some of the bus operators fit vehicles with CCTV off their own bat. They also find that it helps in the litigious age that we live in. I am aware of an incident in Liverpool in which a double-decker bus broke down on a dual carriageway. Not even the driver was in the vehicle when a lorry ran into the back of it, but when the story appeared in the press, Arriva received more than 30 claims for compensation from passengers who said that they were on the bus. Arriva was able to demonstrate that they were not, so there are certainly lots of advantages to CCTV. It brings great benefits.

[298] **Christine Chapman:** Moving on to the safety risk assessments, Mr Saxby, the Deputy First Minister's officials explained at an earlier committee meeting that local authorities would not necessarily undertake the risk assessments but could impose that as a condition of a bus company's contract. In its written evidence, BUSK said that requiring a transport company to carry out a risk assessment would remove the local authority's or the school's legal obligation. What are your views on this? Who do you think should be responsible for carrying out a risk assessment?

[299] **Mr Saxby:** Risk assessments are being carried out at the moment in a number of authorities. Generally, it is written into the contractors' contracts that they need to carry out the risk assessment. It is a partnership really, because they carry out their risk assessment and then come to the authorities with comments on where they think the risks are. Many of the risks are to do with pick-up points and so on, which the local authorities then need to mitigate. One of the reasons for it being done by the contractor is that the assessment needs to be for the particular vehicle that it is going to use. We could only do a generic one as a local authority, unless we waited until a contractor has won the contract and then did a risk assessment based on a particular vehicle.

[300] **Christine Chapman:** So, you do not think there is any confusion about the local authority doing it as well? That is quite clear for you, is it?

[301] **Mr Saxby:** It works okay as it is, being done on a voluntary basis at the moment between the operators and the local authorities, with the operator having the responsibility under his contract. We do find with some of the smaller operators that we need to hold their hand and take them through the process, but we find it a very useful exercise because it makes them very aware of what the risks are.

[302] **Christine Chapman:** Moving on to aspects of driver training, we have heard evidence that the responsibility for providing driver training should rest with transport operators because they employ the drivers. Do you have any views on this?

[303] **Mr Saxby:** I think there may be a legal position that says that that should be the case. Having said that, it can be more efficient for some aspects of driver training to be organised by local authorities. It is another thing that can be covered by putting it in the conditions of contract that drivers must be trained in certain aspects. It depends on the circumstances in their area and what individual operators do. Some operators already train their own drivers to a very high standard, whereas others would need to be required to do so.

[304] **Christine Chapman:** Do you accept the fact that training, while clearly being about safety on learner transport, is also about working with children? We have talked quite a lot in this committee about children with additional learning needs and the training needs of drivers in that respect.

[305] **Mr Saxby:** Yes, certainly it does, and there are standard training packages, such as MiDAS for dealing with disabled passengers and so on. So, there is certainly a need for that, and there may be some other specialised aspects that no company is doing at the moment that could best be organised by a local authority. We have also found that, in one area, local authorities organise training for the pupils themselves, and that has been very effective and useful.

[306] **Peter Black:** Looking at supervisors on learner transport first, in his evidence to the committee, the Deputy First Minister said that the Government's policy priority was for learner transport for primary school children to be provided with supervisors or escorts. Do you support the use of supervisors on learner transport, and do you have any views on whether escorts should be provided for pupils at specific stages of their education?

[307] **Mr Saxby:** We have found that where we have had to provide supervisors, it was generally to overcome behavioural problems involving secondary pupils. Having said that, we think that providing supervisors on routes that primary schoolchildren travel would very much aid parents' confidence in putting their children on school transport. For that reason, that is probably the best place to start, while still saying that we may need supervisors where there are particular behavioural problems for other ages. It would certainly be extremely useful for smaller children. We would need a clear definition of how many children are

travelling before you need to provide a supervisor, and that is another measure that could apply equally to service buses, as well as to dedicated school buses, if we wanted to avoid too much of a two-tier system.

[308] **Peter Black:** Thank you. Moving on to the enforcement authority, the Deputy First Minister told the committee that the enforcement authority would have around five staff based in the Welsh Government and that they would actively enforce the regulations by, for example, undertaking spot checks on vehicles. Do you think it appropriate for this role to be carried out by civil servants, or could it be part of VOSA's role if sufficient resources were made available? The Deputy First Minister indicated earlier that he has an open mind as to who should take this role on at the moment.

11.00 a.m.

[309] **Mr Saxby:** Our view is that VOSA already does its own safety checks. If we had separate ones employed by the Assembly, there would be a degree of duplication; we think that it would be more cost-effective to pay VOSA to employ more inspectors and for it to inspect to a higher standard. Our discussions with VOSA and the traffic commissioner have shown that that is a desirable thing to do. We think that that would be a very cost-effective way of dealing with it, in the same way that the Assembly already pays VOSA to provide three bus compliance officers for bus punctuality.

[310] **Peter Black:** Are five members of staff sufficient?

[311] **Mr Saxby:** Given that there are quite a large number of school buses it possibly is not sufficient, but it is certainly a lot better than the current situation. I think that we would need to sit down to look at numbers and see how often they could check each individual bus. There are figures in the report on the proposed Measure in terms of the number of vehicles, so we could work out how often each individual vehicle would be checked on that basis. If it is done by VOSA, we need to bear in mind that it already checks all vehicles, in theory, at certain intervals. Having it done by VOSA would mean that that was done more often and, therefore, by definition, it would improve safety standards.

[312] **Peter Black:** My last question relates to the financial implications. Can you expand on the concerns that you raise in your written submission about the cost implications of the proposed Measure, including indirect costs?

[313] **Mr Saxby:** We are 22 small unitary authorities with fairly sparse staff resources. Some of the things in the proposed Measure would require quite a bit of additional input from our staff. We already find that the work that we are doing on risk assessments—while it may be the operator that does the original risk assessment—throws up a lot of work for the authority in sorting out mitigating measures. One of the concerns that we have is that there is not sufficient staff at present and there may be additional staff costs to be taken into account. We are also quite often criticised for not doing sufficient monitoring at present to ensure that our contract standards are being adhered to. That would worsen because we would have more things to monitor. Again, staff costs may be involved. The other aspect is that some schools are physically incapable of taking single-decker buses as opposed to double-decker buses because single-decker buses are generally a lot longer than double-decker buses and not as easily manoeuvrable. Therefore, there may be capital costs there in adapting schools if we wish to use single-decker buses instead of double-decker buses.

[314] **Brian Gibbons:** In relation to direct costs as opposed to the indirect, do you have a view as to how those direct costs should be met? We know that the upgrading could cost up to £8.5 million or £9 million, according to the Deputy First Minister. How do you think that the money should be allocated? Should it be allocated to the bus operators directly, to the local



authorities that are not in compliance, or should it be a general grant across all local authorities because all of them have to make the same investment?

[315] **Mr Saxby:** It is a difficult one for officers to comment on. It is really more of a matter for the WLGA to sort out the distribution of money. It needs to be via local authorities because it is a question of what we specify in our contract conditions, rather than direct grants to operators, which I think would be quite difficult to sort out. In terms of how it is done with local authorities, I recall that when the change in the distance requirement for primary school children over eight years of age was implemented, all authorities received an amount of money that corresponded to the theoretical cost of implementing that even though most of us were already doing it. If you implemented these measures on the same basis, the cost would be very much higher than those indicated in the paper. However, if money is only supplied to the areas that are not currently achieving the standards, it does not seem very fair on those that are achieving the standards. That is more of a political thing for the WLGA to address.

[316] **Jenny Randerson:** To return to the point that you made about double-deckers, we heard evidence this morning from the Deputy First Minister that the number of double-decker buses currently in use is relatively low, and there are far fewer of them than there used to be. Are you aware of any concentrations of double-decker buses in specific local authorities, where they use a lot of double-deckers, or do you think that those remaining double-decker buses are fairly evenly spread throughout Wales?

[317] **Mr Saxby:** There are concentrations of double-decker buses, and I am certainly aware of authorities that do not have any double-decker buses in operation. The more rural the authority, the fewer double-decker buses there are, just because the number of pupils means that they are not required. There are a lot of double-decker buses in my area and along various parts of the north Wales coast. I am not so familiar with south Wales, but I know that there are authorities that still make great use of double-decker buses. Even where we have tried to replace them with single-decker buses, the practical difficulties that we have come up against, and the financial aspects, have often prevented us from doing so.

[318] **Jenny Randerson:** That brings our questions to an end. Are there any other issues that you would like to mention to us that you have not had the opportunity to discuss?

[319] **Mr Saxby:** We have covered most of the aspects that I had written down as additional things. We do have some concerns about the effect on small operators if they need to put in a lot of investment suddenly. It has also been pointed out to us that some authorities have contracts that go on for as long as seven years, so implementing it without terminating contracts early, which can bring financial penalties, may take that long. The other aspect is that college transport is not included in this proposed Measure, so we would question whether it should be included.

[320] **Jenny Randerson:** Thank you very much; that is very helpful. Thank you, Mr Saxby, for your contribution. A draft transcript of today's proceedings will be sent to you for correction prior to publication. Thank you for the opportunity to listen to your ideas.

[321] This morning's meeting concludes our oral evidence. Therefore, our next meeting, which will be on Thursday, 18 November, will start our consideration of key issues that have arisen in the evidence, and will lead on to our discussion on our Stage 1 report.

11.07 a.m.

**Cynnig Trefniadol  
Procedural Motion**

[322] **Jenny Randerson:** I move that

*in accordance with Standing Order No. 10.37(vi), the committee resolves to exclude the public from all future meetings at which it will be deliberating on the content, conclusion and recommendations of its report on the proposed Measure.*

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

*Derbyniwyd y cynnig.  
Motion agreed.*

*Daeth y cyfarfod i ben am 11.07 a.m.  
The meeting ended at 11.07 a.m.*