



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

**Pwyllgor Deddfwriaeth Rhif 5
Legislation Committee No. 5**

**Dydd Mercher, 12 Ionawr 2011
Wednesday, 12 January 2011**

Cynnwys
Contents

- 4 Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions
- 4 Mesur Arfaethedig ynghylch Addysg (Cymru)—Cyfnod 1: Sesiwn Dystiolaeth 1
Proposed Education (Wales) Measure—Stage 1: Evidence Session 1
- 26 Cynnig Trefniadol
Procedural Motion

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

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

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Lorraine Barrett	Llafur Labour
Eleanor Burnham	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Mark Isherwood	Ceidwadwyr Cymreig (Cadeirydd y Pwyllgor) Welsh Conservatives (Committee Chair)
Ann Jones	Llafur Labour
David Melding	Ceidwadwyr Cymreig Welsh Conservatives
Leanne Wood	Plaid Cymru The Party of Wales

Eraill yn bresennol
Others in attendance

Leighton Andrews	Aelod Cynulliad, Llafur, Y Gweinidog dros Blant, Addysg a Dysgu Gydol Oes Assembly Member, Labour, Minister for Children, Education and Lifelong Learning
Mary Davies	Uwch-reolwr Trefniadaeth Ysgolion, Llywodraeth Cynulliad Cymru Senior School Organisation Manager Welsh Assembly Government
David Lloyd Thomas	Pennaeth, Is-adran Llywodraethu a Chyllid Refeniw Ysgolion, Llywodraeth Cynulliad Cymru Head of School Governance and Revenue Funding Branch, Welsh Assembly Government
Simon Morea	Cyfreithiwr, Llywodraeth Cynulliad Cymru Lawyer, Welsh Assembly Government
Ceri Planchant	Cyfreithiwr, Llywodraeth Cynulliad Cymru Lawyer, Welsh Assembly Government

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

Claire Griffiths	Dirprwy Glerc Deputy Clerk
Siân Hughes	Gwasanaeth Ymchwil yr Aelodau Members' Research Service
Bethan Roberts	Cynghorydd Cyfreithiol Legal Adviser
Liz Wilkinson	Clerc Clerk

Dechreuodd y cyfarfod am 9.04 a.m.
The meeting began at 9.04 a.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introduction, Apologies and Substitutions

Mark Isherwood: Bore da; croeso. Good morning and welcome to today's meeting. We have had apologies for absence from Andrew Davies. I welcome Ann Jones, who is substituting for him. We have also had apologies from Alun Davies, and I welcome Lorraine Barrett, who is substituting for him. I also welcome David Melding in his first attendance as one of our new members.

Before moving on to the next item on the agenda, I must remind you that the committee operates bilingually. You can use the headsets to listen to the translation of Welsh contributions or as an induction loop if you are hard of hearing. Channel 1 provides the translation.

Please switch off any mobile phones, pagers, BlackBerrys or other electronic devices, because they interfere with broadcasting and translation systems. Please do not touch the microphones, as to do so will disable the system. They will come on automatically.

9.05 a.m.

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

Mark Isherwood: The purpose of today's meeting is to take oral evidence from Leighton Andrews, the Minister for Children, Education and Lifelong Learning, in connection with the Proposed Education (Wales) Measure. Members will recall that the proposed Measure was referred to this committee by the Business Committee in accordance with Standing Order No. 23.21. The role of this committee, as set out in Standing Orders, is to consider and report on the general principles of the proposed Measure. The committee must report to the Assembly no later than 21 January 2011 in accordance with the deadline set by the Business Committee.

I welcome Leighton Andrews, the Minister, who is accompanied by David Lloyd-Thomas, head of the school governance and revenue funding branch, Simon Morea, a Welsh Assembly Government lawyer, and a number of other officials who will contribute if required. Please remember that the Minister is available only until 10.30 a.m.. Therefore, given the number of questions that we have to get through, I ask Members to be as precise as possible in their questions, and I ask the Minister and other respondents to be concise in their responses. If time is available at the end of the session, I will be happy to return to issues that Members feel have not been adequately covered. If the officials who are not seated at the table, namely Ceri Planchant, Mary Davies, Bethan Webb and Claire Rowlands, need to speak, there will be a changeover with officials who are seated at the table and time will be required for that.

I will start the questions. Why do you believe that it is important to make collaboration commonplace and a natural and more frequent feature in the education system in Wales?

The Minister for Children, Education and Lifelong Learning (Leighton Andrews): You will recall that one of the first things I did as the Minister for education was to commission a review of the cost of administering the education system in Wales—it was carried out for us by PricewaterhouseCoopers. The report looked in detail at the opportunities for savings within the education system and ways of making the education system more efficient and more effective. Throughout that extensive report, which has been well received in the Assembly, there was a strong emphasis on collaboration. We believe that it is important that we have an approach within education in Wales of institutions being prepared to work together where they are delivering education objectives. That is the reason why we are putting

collaboration at the heart of the proposed Measure.

Mark Isherwood: To move to what you have described as ‘the collaboration objective’, namely the effective and efficient use of public resources, we have received evidence stating that

‘It is not obvious from the proposed Measure how collaboration will improve the educational experience of young people in Wales, either as far as raising the academic standards nor improving the building stock of schools and colleges’.

Section 2 sets out that collaboration objective. How did you arrive at it?

Leighton Andrews: As I explained in my answer to the first question, it derives very much from the work that was undertaken for us by PwC. It is clear to us that we can deliver more efficiently for learners if institutions collaborate rather than compete, and that is our objective. It is fair to say that there are general duties on the Minister for education and education bodies to work to improve standards for learners, and as they are set out in other legislation, we did not feel the need to reiterate them within the proposed Measure.

Mark Isherwood: In view of the existing duties on local authorities in relation to collaboration and the current legislation that is applied to this, which enables governing bodies of schools and further education institutions to collaborate, why do you believe that the duty to collaborate provided in section 3 of the proposed Measure is necessary?

Leighton Andrews: It is important that we have an understanding across the education system that there are common responsibilities. If we did not have the proposed Measure, which brings together existing legislation and reinforces it, different laws would apply to local authorities, FE institutions and schools. So, the proposed Measure places a common duty on all education bodies.

9.10 a.m.

Ann Jones: According to the explanatory memorandum, school governing bodies are not taking up the opportunity that is provided under the existing legislation to collaborate. Can you give us an indication of how many schools, colleges and so on have collaborated? What work have you undertaken to identify the reason for the lack of collaboration under existing arrangements?

Leighton Andrews: It is hard to pin down the full extent of collaboration across Wales. We have asked Estyn to look at the extent of local authority collaboration. It reported to me about two months ago, and we have shared that information publicly. In respect of collaboration within the education system, there are examples of collaboration between further education institutions and schools. For example, Carmarthenshire has established joint committees of governors using collaboration regulations, while two school collaborations are planned in Ceredigion. Bridgend is looking to establish joint committees over the next few months, and there is informal school-to-school collaboration in a number of authorities.

Ann Jones: So, if all that is going on, what are the barriers that have prevented local authorities or other school bodies in other parts of Wales from collaborating? What barriers have you identified?

Leighton Andrews: There is an issue of inertia in large parts of Wales. One problem that we have currently in respect of governance, for example, is that the principal responsibility of governors is to the institution on whose board they sit. As a result, people look first to their own institution before thinking about how they could better deliver services for learners,

irrespective of whether the service is being delivered by that institution or another. That may be particularly true in the 14 to 19 area, where we think we still have a significant degree of competition.

Ann Jones: Are you content that you and your department have exhausted all avenues available before resorting to making collaboration a statutory duty in section 3?

Leighton Andrews: We have held a number of events at which we have run workshops to encourage collaboration between governors, and we have done similar things through the school effectiveness framework with teachers and headteachers. We have also worked with governor support officers in local authorities. So, we have taken extensive steps to spread an approach to collaboration. We have to bear in mind that the proposed Measure will ensure that education bodies have a duty to consider collaboration—that is the driving emphasis here. So, we are putting a spur behind them to do that.

Ann Jones: We have received evidence that has raised concerns that the collaboration agenda may not be viable in rural areas. Is there a difference between rural and urban areas in this respect in your view?

Leighton Andrews: There may be a difference, but I do not accept that it is not viable. If you look at some of the work being done by some local authorities, for example on purchasing across a number of schools, and at the work that is being done by local education authorities in north Wales to see how they can deliver a school improvement service across a number of local education authorities, including several that would be described as rural, you will see that there are opportunities. They may not always be the same, but education bodies have the ability to collaborate in rural areas.

Eleanor Burnham: Wrth gyflwyno tystiolaeth i'r pwyllgor, awgrymodd Llywodraethwyr Cymru fod angen asesu effaith gyffredinol trefniadau cydlafurio presennol ar berfformiad ysgolion a chanlyniadau dysgwyr. A fu ichi ystyried cynnal asesiad o'r fath cyn cyflwyno'r Mesur arfaethedig?

Eleanor Burnham: In evidence to the Committee, Governors Wales suggested that an assessment of the overall impact of existing collaboration arrangements on school performance and learner outcomes was needed. What consideration did you give to undertaking such an assessment before bringing forward the proposed Measure?

Leighton Andrews: I do not think that we need a formal assessment. As I said, one of the first things I did as Minister for education was to commission a review of the cost of administering the education system, with a concern to drive resources to the front line. That was an extensive piece of work, which involved interviewing 100 stakeholders in the education system. If you read the PwC report in detail, you will see an emphasis throughout on the benefits to be gained from collaboration between schools, between schools and further education, and between local authorities.

Eleanor Burnham: Mae tystiolaeth wedi'i chyflwyno i'r pwyllgor sy'n awgrymu bod gweithio mewn partneriaeth a pharodrwydd i gydweithio yn allweddol i gydlafurio llwyddiannus, a bod y pethau hyn yn cael eu cyflawni orau pan fydd pawb dan sylw yn eu gwneud o'u gwirfodd. Beth yw eich barn am hynny? Yr wyf wedi clywed honiadau mai materion sy'n berthnasol i gyllid yw'r unig rai yr ydych yn eu hystyried.

Eleanor Burnham: Evidence presented to the committee suggests that working in partnership and a willingness to work together are the key to successful collaboration, and that these are best achieved when all parties are volunteers. What are your views on that? I have heard claims that you are only considering aspects that relate to finance.

Leighton Andrews: It is obviously preferable if people volunteer to collaborate, and that would be our desire across the piece. However, the proposed Measure does not force collaboration. What it does is require education bodies to consider collaboration, with an expectation that that will lead them to identify opportunities to work together that will mean a more efficient and effective use of public resources. We are not seeking to oblige people unnecessarily, but we have to take the results of the PwC review seriously, and we are doing so as a department. We have a number of working groups looking at how we achieve savings in administration, and we need to ensure that that is taking place throughout the system.

Eleanor Burnham: Yn olaf, ar hyn o bryd, a oes perygl y gallai rhoi dyletswydd statudol ar gyrff addysg i gydlafurio fod yn wrthgynhyrchiol?
Eleanor Burnham: Finally, at the moment, is there a danger that placing a statutory duty on education bodies to collaborate could be counterproductive?

Leighton Andrews: As I said, we are placing a statutory duty on them to consider collaboration; that is the starting point here. We all know that we face challenging financial circumstances and that pupil numbers are declining at secondary level. There is extensive and unnecessary—indeed, nugatory—competition between institutions, particularly in the 14-19 sector. We have sought to drive collaboration through a number of the measures that we have implemented as an Assembly Government over the last three and a half years, and what we are ensuring here is that we have a full suite of legislative powers, so that if collaboration is not being properly considered, we have the tools to require education bodies to consider it.

Eleanor Burnham: I have listened to a lot of arguments in the media, particularly on the radio, and a lot of people are concerned about the demographics. You have just said that the birth rate is declining at the moment, but will this suite of measures be flexible enough to be able to cope when the demographics change and the birth rate perhaps increases?

Leighton Andrews: Yes, because the whole point of this is that we need to get a grip on planning education provision in a period of decline, but it will also ensure that local education authorities and other education bodies discuss their future planning needs, and they will also be able to do that if numbers rise significantly in future. The difficulty with the current system, which we have developed over the years, is that it requires local education authorities and others to plan for their own institution or territorial area. For example, we have seen people develop plans for schooling that did not take account of the needs of neighbouring boroughs. I have had that put to me on a number of occasions, for example, regarding the provision of Welsh-medium education, where a decision by a local authority to open a Welsh-medium secondary school without giving proper thought to the local authority next door has led to difficulties for a well-used Welsh-medium secondary already in existence. What we are trying to do here is to get people to plan on a collaborative basis and think about the real needs of their own area, without restricting themselves to that.

Mark Isherwood: I welcome Leanne to the meeting; I understand that you have had traffic problems. Thank you for being with us. Could you take up the questioning?

Leanne Wood: Section 3(1) requires an education body to consider from time to time whether the exercise of its powers of collaboration would further the collaboration objective. How frequently do you envisage an education body undertaking such a consideration?

Leighton Andrews: We would probably want to seek to set out some indication in statutory guidance. ‘From time to time’ is a convenient legal phrase that pops up in lots of legislation.

9.20 a.m.

We already have provision, for example, for children and young people’s plans for local

authorities, and we expect them to be conducted on roughly a three-year basis. I would expect local education authorities to be looking at their duty to collaborate at least once within the electoral cycle, at a minimum, given that that is a sensible planning period. I also expect schools, further education institutions and others to be thinking about their duty to collaborate annually as they draw up their plans for the year ahead.

Leanne Wood: Would all schools in an area be asked to make this consideration at the same time?

Leighton Andrews: How that is implemented is a matter that we will probably need to pursue within guidance and discuss with stakeholders. However, we are increasingly seeing schools look at some co-ordination on a cluster basis. We are seeing secondary schools looking at the co-ordination of timetables to deliver 14-19 education in particular across a number of schools. So, there is a degree of joint planning going on, and this can be accommodated within that.

Leanne Wood: How do you envisage an education body going about this consideration in practice?

Leighton Andrews: It is a matter for them to look at that, as I say, as their governing bodies consider their plans for the following year. That would be the starting point for some schools. Some FEIs will have three-to-five-year plans and it would be sensible for them to consider those obligations in the course of drawing up those plans.

Leanne Wood: You mentioned the current climate that schools are operating within, with the constraints to budgets, competition and falling rolls. You must clearly consider those, but what other factors would you expect an education body to take into account as part of this consideration?

Leighton Andrews: Course provision must be a driver and serving the interests of the learner must be the starting point. We still have a situation in many parts of Wales where there is an emphasis on existing provision and on how you can encourage people to stay on at an institution. We repeatedly hear, with regard to careers advice, for example, how young people are very often encouraged to stay on in a particular school, even though it may be better for them to pursue other options at an FEI or through work-based learning. So, this is part of changing that culture.

Leanne Wood: In evidence to this committee, the Association of School and College Leaders Cymru said that if the duty is to be placed on schools, there must be a requirement for clear evidence that cost savings will be generated before the enforcement of collaboration can proceed. Section 3(2) provides that if collaboration would further the collaboration objective, the education body must exercise its power of collaboration. What conditions do you envisage would need to be met in order for an education body to be required to exercise its power of collaboration?

Leighton Andrews: We set out in section 2 the collaboration objective, that is, the effective and efficient use of public resources to provide education and training suitable for the needs of young people over the age of 19.

Leanne Wood: So, the evidence would have to be there that cost savings would be made.

Leighton Andrews: The evidence would have to be there that this was the most effective and efficient use of public resources. That probably covers the point that you are making.

Leanne Wood: Would an education body be expected to demonstrate that collaborative

arrangements would be mutually beneficial?

Leighton Andrews: No.

Leanne Wood: Okay. How would compliance with the section 3 duty be monitored? Who would monitor it? How would the proposed Measure provide for the monitoring and what would be the consequences for an education body that failed to comply with the duty?

Leighton Andrews: Any education body would continue to be inspected by Estyn or the Wales Audit Office, as is currently the case with regard to compliance. Schools that failed to comply would be subject to the intervention powers that local authorities already have, which are pretty extensive. If we felt that education bodies, such as local authorities, had failed to discharge their duty, we have powers already under the Education Act 1996 in respect of local authorities and schools and under the Further and Higher Education Act 1992 in respect of further education institutions.

Leanne Wood: So, you have further powers if you need to use them, but there are already powers in existence that you can use for this.

Leighton Andrews: Yes.

Leanne Wood: Thank you.

David Melding: Minister, I wish to turn to the issue of foundation schools. One of the main purposes of the proposed Measure is to prevent the creation of further foundation schools. The explanatory memorandum draws attention to the effect that foundation schools have had on the admissions system in Wales. You state that you are concerned about this and that you want to stop the situation worsening. Given that we have 12 foundation schools in Wales out of a total of nearly 1,700 schools, how emphatic was the evidence that these 12 schools have profoundly disturbed admission procedures?

Leighton Andrews: We have eight secondary schools out of a total of 223 secondary schools, so perhaps that is where the emphasis ought to be placed. Let me start by outlining the admissions system as it is currently organised in Wales. Local authorities obviously have the responsibility for enabling parents to express a preference. The situation as it currently stands is that local authorities issue preference forms, but, of course, so do foundation schools for return direct to the school. Therefore, local authorities are reliant on foundation schools informing them about the resultant allocation of places. That can happen only after the places have been allocated, and that sometimes results in local authorities having to issue reminders to parents, when they fear that parents have not submitted a preference form, which, frankly, is duplicating things and is wasteful. We think that there is a danger of duplication in the allocation of places.

On the other side, there is also a danger of parents not being allocated a place for their child. A parent might apply to a foundation school, but it could be oversubscribed, and they might therefore not have the opportunity to apply for a place at the nearest community school. Equally, if the community school is oversubscribed, places will be allocated first to those who submitted applications by the closing date, and the parent missing out on a place at the foundation school for their child may therefore miss the opportunity of sending them to the community school.

On the other hand, you may get particularly well informed parents returning an application form for a community school and also to a foundation school and being allocated both places. So, if both schools were originally oversubscribed, you would have a parent holding a place in the school that could have gone to another pupil. The reality of this situation is that,

although it may happen infrequently, there are opportunities for duplication and problems with the allocation of places.

David Melding: Thank you for that answer, Minister. We will return to some of the very important practical issues that you raised with regard to how admission policies work. However, I want to return to the strategic issue. Let us take secondary schools as the example, as most of the foundation schools are secondary schools. Currently, less than 4 per cent of secondary schools are foundation schools, so 96 per cent are community schools. What evidence have you found that that 4 per cent is causing a disproportionate number of surplus school places in the system and therefore requires the attention of this proposed Measure? On the face of it, it is a fairly heavy-handed way of approaching an issue, to do so through legislation rather than the other means that you have at your disposal to tighten up admission procedures and how various schools and LEAs collaborate.

Leighton Andrews: I do not want to rest the case for preventing the change of category to foundation schools simply on the admissions issues. It is my view that we have a comprehensive system in Wales and that that should be the system that drives our educational work at secondary level. The issue that I am trying to grapple with is very much about how we ensure a secondary system that is focused on issues of quality and opportunities for learners, rather than the outmoded market arguments around choice.

9.30 a.m.

We have had examples in the past; the present examples are foundation schools, some of which have been over capacity, operating alongside schools with diminishing rolls. That has led local authorities, in some cases, to close schools with low pupil numbers for less than strategic reasons, even where other considerations, such as the preservation of provision in a particular locality, would have argued otherwise. You need effective planning for admissions and school places and the current operations of foundation schools militate against that.

David Melding: That is a much more dignified answer than hinting that there is evidence that there has been a real problem with admission systems. I think that what you fear is that there may be a problem should foundation schools prove to be very popular and proliferate so that 20 per cent to 40 per cent of secondary schools in Wales become foundation schools. That would create a big ideological divide between you and me, because I believe that there should be choice in the system and if that is the preference of governors, parents and pupils, then that is how it should be allowed to develop. However, you are in charge, you won the election, and you have a different political view, which I respect. However, why hint that we have problems with admission procedures and surplus places and that this small number of schools has created a disproportionate problem? I do not think that they have yet, have they, although they might in the future?

Leighton Andrews: I do not agree with you; I think that there have been problems. However, as I said, I do not rest the case for this change simply on the issue of admissions.

David Melding: That is on the record; that is fair enough. I am not going to tempt you away from that position to acknowledge that there is not much empirical evidence, so we will just have to allow people to read the Record and make their own judgments. However, I think that I am bound to ask why, if there have been problems with admission procedures and co-ordination, you do not approach that in a more technical way. You referred to problems about parental choice and pupils not getting into a community school because they have waited so long to hear from a foundation school. Why not approach this through existing mechanisms? You may think that you have already answered this question by saying that you do not much like foundation schools, but there could have been a way of ameliorating some of the problems in the system that has different categories for schools.

Leighton Andrews: I suppose that one could address some of the admissions issues through the amendments to the school admissions code, but this is largely about the planning of school places and of provision on a collaborative basis. In our approach to education, we are seeking to eliminate unnecessary competition. The existence of foundation schools creates an element of competition that is unhelpful to our education objectives.

David Melding: Again, I appreciate your candour and I will not detain the committee with my contrary views. However, there is one issue that I feel that I need to test. Say that five secondary schools are federated at the initiation of the local education authority, and one of those secondary schools is a foundation school, it will then be in a new structure with one governing body. At some point, the new federation could change the status of one of its members. That is, the foundation school could, in effect, be abolished. I am not saying whether or not this is desirable, but, within the proposed Measure, it would be possible to abolish foundation schools. That is my interpretation. If I am wrong, I would really appreciate your saying on the record that that is not possible and that I have misinterpreted the law.

Leighton Andrews: I do not think that it can happen in quite the way that you are suggesting. If schools are federated under a single body, then a federated governing body could put forward a proposal to change the category of the school once it had federated. They would have the power to make proposals to change the category and that would include a foundation school within the federation. However, we are not seeking to use federation as a means of changing the category of existing schools. In the proposed Measure, I could have brought forward a proposal to abolish all foundation schools, but I chose not to do that.

David Melding: However, a future Minister may have a different intention.

Leighton Andrews: If I may just finish the point for clarity, if a federated governing body wanted to change the category of school, it would have to comply with the current law and it would have to put forward proposals to Welsh Ministers for determination. There would have to be proper consultation, publication of notices and determination.

In practical terms, you would have to ask how likely it would be that a governing body of a federation would propose a change of category unless all the schools in that federation were content with the change, because, ultimately, if there was opposition, it would make itself felt within the consultation. So, I do not anticipate that this will be a major issue.

Lorraine Barrett: You started to talk about this with David Melding just now, but can you say a little more about how you intend to address the current complications in the school admissions system within the foundation schools that exist? The proposed Measure will not get rid of foundation schools, so that issue will continue to exist. Can you expand on how you will deal with that?

Leighton Andrews: You are right to say that some of those issues will remain in the areas where we have existing foundation schools. We made some changes in 2009 to the admissions and admissions appeal code, which will help with some of this. All admission authorities, including foundation schools, within each local authority area must now have common dates for the return of application forms and for notifying parents of the outcomes of applications. Local admission fora have been given an increased role in monitoring compliance with the admissions codes, and those admission fora are made up of representatives from all admissions authorities in an area, including foundation schools, and they are responsible for ensuring fair access. Admission fora are a relatively new initiative, and I would hope that they would be of assistance in this. Therefore, I would hope that some very recent changes that we have made would help.

Lorraine Barrett: Unlike David Melding, I share your view on foundation schools, so why have you not taken this opportunity to abolish all foundation schools?

Leighton Andrews: I reflected on this before drawing up the proposed Measure, and we also looked at the evidence that was submitted in the course of the consultation. I felt that, ultimately, given that we have only a small number of foundation schools at this stage, as David Melding pointed out, to undertake forced changes of category was probably more trouble than it was worth, to put it bluntly.

Lorraine Barrett: Okay. That may be a debate for another day. It has been suggested that foundation schools help to increase educational standards. What work did you undertake prior to the introduction of the proposed Measure to assess the overall performance of foundation schools in Wales?

Leighton Andrews: I know that people suggest that. We have, as you know, eight foundation schools in the secondary sector, five of which have most or all of their key stage 4 results in the highest-performing 50 per cent for their free school meals group, but three schools are in the lowest-performing 50 per cent. Out of a sample of eight schools, I am not really sure what that tells us. Our objective is to ensure that all schools in Wales are well led, capably managed, have motivated staff and are delivering for learners. I do not really see evidence to suggest that foundation schools are better at this than others.

Lorraine Barrett: My last question in this section would not necessarily be a question that I would ask myself, but I have been asked to ask how you would respond to the suggestion given in evidence that there may be a danger that preventing the creation of further foundation schools could have an impact on choice and deprive local communities of a say in their education?

Leighton Andrews: Let me start with my philosophical take on this, which is that the language of learner choice, which has been around in the education system for 20 years, has led to a wrong emphasis in educational policy. I am interested in quality and rigour, which I regard as more important than choice, to put it bluntly.

9.40 a.m.

What we are seeking to achieve, and what we need to be seeking to achieve, in Wales, is an education system that delivers for learners. That means that we want quality teaching and quality leadership in schools, whatever category the school is. The danger when you have, for example, a proliferation of courses and competition between too many institutions with too many small classes, is that you do not necessarily get the quality of teaching and support that you need for learners. Therefore, my approach as Minister for education is to move away from the ideology of choice towards an ideology of quality, rigour and performance.

Lorraine Barrett: Thank you very much, Minister.

Eleanor Burnham: Symudwn ymlaen at yr ail ran a'r bennawd gyntaf ynglŷn â ffedereiddio. Pam y dymunwch wneud ffedereiddio cyrff llywodraethu ysgolion yn rhywbeth cyffredin yn y gyfundrefn addysg yng Nghymru?

Eleanor Burnham: We will move on now to the second part and the first heading on federation. Why do you want to make the federation of school governing bodies commonplace in the education system in Wales?

Leighton Andrews: Federation will put in place unified governance for a number of schools and will be beneficial in terms of improving the quality of governance of schools, and, I hope, the quality of leadership as well.

Eleanor Burnham: Ar beth ydych wedi seilio'r farn hon?

Eleanor Burnham: On what have you based that opinion?

Leighton Andrews: We have some evidence from England, interestingly, on the experience of federation, and we know that we have difficulties in many parts of Wales in finding a suitable range and number of school governors. A number of people in local government and beyond have said to me that they think the bringing together of school governors is creative in terms of ensuring co-operation between schools and that it enables people to think beyond a single institution. I think that that is very important for learning.

Eleanor Burnham: Mae'r rheoliadau presennol yn galluogi hyd at bump o ysgolion i ffedereiddio o dan un corff llywodraethu. A allwch gadarnhau nad yw'r Mesur arfaethedig yn pennu uchafswm ar gyfer nifer yr ysgolion a all ffedereiddio? Os felly, beth yw'r rhesymeg sy'n egluro'r gwahaniaeth hwn?

Eleanor Burnham: The current regulations enable up to five schools to federate under a single governing body. Can you confirm that there is no upper limit in the proposed Measure on the number of schools that can federate? If so, what is the rationale for this difference?

Leighton Andrews: There is no limit in the proposed Measure. If we were to put in a limit, we would do so through regulations. There is a limit of five in the current regulations, but that could be changed. The enabling legislation in the Education Act 2002 does not set limits either; it was simply a policy choice when we drafted regulations.

Eleanor Burnham: A fydd aelodau o'r corff llywodraethu yn dod o'r gymuned gyfan, a sut ydych yn mynd i allugoi hynny i ddigwydd? A fydd amrywiaeth o lywodraethwyr wedi ffedereiddio?

Eleanor Burnham: Will members of the governing body come from the community as a whole, and how will you ensure that that happens? Will there be a variety of governors after federation?

Leighton Andrews: Clearly, we would seek to ensure that governing bodies drew from a wide range of different parts of the community, and we would do that through regulations.

Eleanor Burnham: Yn olaf, yn y memorandwm esboniadol, nodwch yn glir nad oes unrhyw ysgolion yng Nghymru wedi ffedereiddio o dan un corff llywodraethu ers i'r rheoliadau ddod i rym yn Ebrill 2010. A allwch gadarnhau a oes unrhyw ysgolion wrthi'n ffedereiddio o dan y trefniadau presennol, a pam y credwch fod cyrff llywodraethu wedi methu â ffedereiddio, ac/neu wedi bod yn gyndyn i wneud hynny hyd yn hyn? Pa waith mae Llywodraeth Cymru wedi'i wneud i annog cyrff llywodraethu i fanteisio ar ddeddfwriaeth bresennol ac ystyried ffedereiddio? Mae'n ddrwg gennyf fod y cwestiynau i gyd gyda'i gilydd, ond mae cymaint ohonynt, yr wyf am fwrw ymlaen.

Eleanor Burnham: Finally, in the explanatory memorandum, you note clearly that no schools in Wales have federated under a single governing body since the regulations came into effect in April 2010. Will you clarify whether there are any schools in the process of federating under existing arrangements, and why do you think governing bodies have been reluctant and/or unable to federate to date? What work has been undertaken by the Welsh Government to encourage governing bodies to take advantage of existing legislation and consider federation? I am sorry that all those questions are together, but we have so many questions, I want to press ahead.

Leighton Andrews: A number of federation pilot schemes are under way across Wales, in partnership with the Welsh Local Government Association, in Gwynedd, Wrexham, Blaenau Gwent, Rhondda Cynon Taf and Carmarthenshire. As I understand it, in Neath Port Talbot, a

cluster of schools in the Afan Valley is looking at federation as one option. The regulations have been in effect only since April 2010, so, in a sense, it is early days. However, in terms of why governors are reluctant, we have historically had a situation where governors are closely aligned with a particular institution. A federation requires a different mode of thinking.

Eleanor Burnham: That is why I asked in my previous question how you will ensure that you will have the mix of people from the various communities that will probably make up a federation.

Leighton Andrews: I do not see why that is a problem.

Eleanor Burnham: I am not suggesting that it is a problem; I am just asking how you will ensure that that happens.

Leighton Andrews: In drawing up plans for a federated governing body, we would expect local stakeholders to play a role.

Mark Isherwood: I wish to seek some clarification. You referred to the five pilot schemes, saying that it is early days, so we are not yet clear about what the successes, or potential problems, might be. I believe that your explanatory memorandum states that it is not yet known at first hand exactly how successful a school federation might be in Wales. Given the merits test of legislation, namely that it should clearly have the opportunity to meet its stated objective, does this legislation do that, given that you admit that that basic evidence base has not yet come forward with its results?

Leighton Andrews: I believe that it does. What we are doing is completing a suite of legislation. At the moment, there is an opportunity for governing bodies to come together to federate. Given what we have subsequently seen through the PwC report about the need to drive collaboration further, we clearly have a gap in legislation currently, which would not allow us to fulfil that policy objective of driving collaboration. That is why we are seeking these new powers in this proposed Measure.

Mark Isherwood: Okay, thank you.

Leanne Wood: The explanatory memorandum states that the process of federation is complicated, and is potentially burdensome and off-putting for governing bodies. It has not been in place that long. What evidence do you have to support that assertion?

Leighton Andrews: We have run several workshops at Governors Wales conferences about federation. We have also publicised the opportunities, and our officials have had feedback from governors, as well as from governors' support officers in local authorities. Governors—and particularly their support officers—have advised my officials that they are put off federation because of the work involved in putting together a federation proposal and consulting on it.

Leanne Wood: Did you consider simplifying the existing process of federation and retaining the voluntary element, as an alternative to the provisions of this proposed Measure?

Leighton Andrews: We have obviously looked at the options that are available to us. The proposed Measure maintains the existing voluntary system, but it now provides a role for local authorities to take federation forward, which the current law does not allow. If we are going to do something about the pace of change that is necessary in Wales in education, it is important that we have a full suite of policies, and that local authorities and others are able to plan strategically ahead. The passage of this proposed Measure will allow them to do that effectively.

Leanne Wood: Okay, thank you. You refer in the explanatory memorandum to the pilot schemes; the Chair has just referred to them, too. Can you give us some idea of the likely timing of these pilot schemes?

Leighton Andrews: They started in autumn 2010. We expect, as a result of that work, that federations will be established by September 2011. I believe that that will provide us with good case studies for the future.

Leanne Wood: Okay. Given that you state in the explanatory memorandum that you do not know at first hand exactly how successful federation might be in Wales, why have you decided not to wait for the outcome of the pilot schemes in September before deciding whether there is a need for further legislation in this area?

Leighton Andrews: We have been working on this process for some time now. As you will be aware, a large part of our proposals in this proposed Measure is the result of an LCO that has been through the Assembly and through Parliament. Therefore, we have been thinking about these issues for some time, but we have not had the full range of powers that we needed to undertake the changes that we wanted.

9.50 a.m.

We have to ensure that, if we think there may be blockages, we have the ability to unpick them. If we do not have the legislative powers to do that, then we cannot do that. As a Government, we have to ensure that the bodies responsible for the local planning of education have the requisite range of powers necessary to undertake developments that we believe will be for the improvement of the system.

Leanne Wood: In effect, you are saying that there may not be obvious blockages now, but you foresee blockages in the future and you want to be able to provide measures to remove them.

Leighton Andrews: I think that it is important that we have a full suite of powers. We are not doing this outside of a context; we are doing it within a context where we know that change is still needed within the education system. We have had the PricewaterhouseCoopers review of the cost of administering the education system. We have a body of evidence therefore about the need for greater collaboration; we know that there are weaknesses in governing bodies at present; we know that there have been difficulties of recruitment; and we believe in getting institutional governors to think beyond the needs of their specific institution and focus on where the needs of the learner may be fulfilled, in whatever institution. All of those are major cultural issues for the reform of the education system. Unless we have a full range of powers, we cannot drive the changes needed.

David Melding: The primary legislation that allows voluntary federation has been on the statute book for some time. You referred to the Welsh Assembly Government's regulations, which are recent, but the primary legislation was made either in 2002 or 2004—I cannot remember which.

Leighton Andrews: It was 2002.

David Melding: If there had been a strong desire locally for voluntary federations in that period of eight years, would I be justified in inferring that you, or a predecessor, would have brought forward the regulations in a more timely manner to permit it?

Leighton Andrews: I think that I would answer that rather differently. The approach that we

adopted in Wales at that point had been not to pursue federation in the same way as it had been pursued in England. Therefore, we looked at evidence, as it was starting to emerge from England, as to what had been happening in terms of federation, and we brought forward regulations when we felt that there was some evidence of the value of federation. We have been able to do that partially under the powers that we had prior to this point. Perhaps my emphasis, particularly since the receipt of the PwC report, is that I need to drive change faster; therefore, I want to see the full suite of powers.

David Melding: It is very interesting that you have acknowledged that the Welsh Assembly Government was not convinced that federation was necessarily an optimum model for Wales—let us just leave it at that. However, you now are convinced, but you seek a very fundamental change, which would, or at least could, see the power of initiation for federation lie with the local authorities. That is a big change, because a local authority would be in a position to take the lead and secure or enforce—to use a harsher word—some reluctant schools into a federation. I am sure that you will respond by saying that you do not expect local authorities to act irrationally to create havoc in their communities, but that is a big shift, from a voluntary system based on schools seeking federation with partners to a local authority having powers of initiation. What justifies that approach, given that your predecessors were perhaps previously unconvinced about the merits of federation in the first place?

Leighton Andrews: I do not expect local authorities to react irrationally to create havoc in their communities.

David Melding: No. That would be my hope, too.

Leighton Andrews: We must think about federation in a positive way. People tend to suggest in the questioning that it is a negative thing. Federation, for example, could be an alternative to a school closure. It is one of a number of ways of coping with the challenges that we face with falling rolls. The federation of governing bodies often leads to the federation of school leadership, with a single headteacher across a number of schools. Several communities have found that preferable to losing a local school. So, we must see this as a positive opportunity for the future planning of school provision. Where local authorities bring forward proposals, we would expect them to go through appropriate forms of consultation.

David Melding: I will now do something that lawyers say you never should, namely ask a question to which you know the answer. Are there any other jurisdictions in the United Kingdom that permit local education authorities to take the initiative in forming federations? Perhaps your lawyers can advise us.

Leighton Andrews: I will send you a note on that.

Mr Morea: There are none in England, Minister, but I do not know about Scotland and Northern Ireland.

David Melding: The point is that it will potentially be very different to what happens in other parts of the United Kingdom, which is why we have devolution and is not an objection in itself. However, it is a big change in the practice of school organisation in Wales, is it not? You must acknowledge that. It will probably be the biggest additional power received by local education authorities in a generation.

Leighton Andrews: I am not sure about that. It is an additional tool that allows effective planning of school organisation at a local level. As you are aware, I am already making some changes to school organisation proposals through other means, and I anticipate, on the basis of the statement that I made on school organisation last summer, that I will introduce a further proposed Measure in the next Assembly, depending on the outcome in May. We have to

implement a number of changes to ensure that we have the right framework.

David Melding: We would all agree that federation can be an excellent model, and we also share the hope and expectation that local education authorities will not act irrationally. So, how would they rationally demonstrate a need and desire for federation? What sort of indicators would you expect to see?

Leighton Andrews: We would set that out in regulations, and we might also need to provide statutory guidance so that local authorities would need to have a proper dialogue with the schools that they were proposing to federate and with other relevant bodies locally in the context of diocesan authorities and so on. As far as I can see, we would expect a process to take place locally in which there was a real dialogue between local authorities and schools in the lead-up to this.

David Melding: There are other stakeholders, with parents and pupils being the most important. The Children's Commissioner for Wales has raised the issue of how the views of pupils at the schools affected will be taken into account. I know that you have said that you will develop this in regulations, but it is important for this committee, when we are dealing with the principles of these matters, to have some indication of your thinking. In fairness, over the last 10 or 15 years, pupils have been seen as people who have valuable insights into how education is run and it has been recognised that we need to involve them in decisions. So, how will the rights of children be reflected? It would be your desire to ensure that that happens, presumably.

Leighton Andrews: We have the Proposed Rights of Children and Young People (Wales) Measure progressing at the moment and we have put great emphasis on the voice of children and young people in school organisation, in the internal governance of schools and so on. We would seek to do that through regulations.

David Melding: So, could we reasonably expect to see some reference to canvassing the views of pupils in the regulations?

Leighton Andrews: There is a need to ensure that the interests of learners are taken into account in the context of the regulations.

David Melding: I am surprised by how tepid you are about it. I would have thought that you would be keen to say, 'Yes, absolutely' and 'We want to be innovative in how we do this'.

10.00 a.m.

Leighton Andrews: I want to be clear that there are a number of considerations that we have to put in place in regulations. I do not want to make the regulations today. What I am trying to illustrate is that we have a commitment to the voice of young people being enabled in the organisation and planning of their education. We have demonstrated that through the policies that we have implemented. So, in a sense, I take that almost as axiomatic, really.

David Melding: Another key group is parents and guardians. Will there be reference to their views in the regulations?

Leighton Andrews: I am not going to write the regulations today, David.

David Melding: They represent a key group, come on. As a point of principle, I think that you can say something on that.

Leighton Andrews: They are an important group, but other members of the community are

also important. I am not going to specify today—

David Melding: I agree with that—

Leighton Andrews: I am not writing the regulations today. We will discuss the regulations when we discuss the regulations. Clearly, any sensible approach is going to need to look at ensuring that local authorities, as you said, behave in a rational manner. That means that they look at a proper dialogue with schools. There will then be an issue about other stakeholders, and we can look at how we deal with that in regulations. However, if you look at the current regulations, you will see that they are already in there.

David Melding: Okay, I think that I have got as much out of you on that as I am going to get in this session. What happens if the LEA proposes a federation and one or more of the governing bodies of the potential federated schools objects? Would they have any rights above simply issuing a press release? What would happen?

Leighton Andrews: As I said, I would expect local authorities to talk to the schools and governing bodies and to work with local schools to achieve some consensus on this. I would not expect them to act irrationally.

David Melding: However, they certainly would not have any powers of delay or veto would they? They would have to go along with it eventually, would they not?

Leighton Andrews: No, they would not have powers of veto.

Eleanor Burnham: Mae gennyf bryder gan nad wyf yn credu fy mod wedi gweld unrhyw beth ynglŷn â gwarchod a datblygu darpariaeth addysg drwy gyfrwng y Gymraeg. Mae nifer o fannau ar draws fy rhanbarth yn y gogledd sy'n fwy Cymreig nag eraill. Yr ydych yn sôn am ffedereiddio, sydd, yn fy marn i, yn ffordd dda i symud ymlaen, ond mae pryder mewn rhai ardaloedd na fydd darpariaeth Gymraeg ar gael. Yr wyf yn siŵr y bydd gennych enghreifftiau eich hun o hynny. Nid wyf wedi gweld llawer o ddim yn cyfeirio at hynny, felly byddwn yn hoffi ychydig o wybodaeth os oes modd.

Eleanor Burnham: I have a concern because I do not think that anything has been said about protecting and developing the provision of Welsh-medium education. There are various places across my region in north Wales that are more Welsh-speaking than others. You are talking about federation, which, in my opinion, is a good way forward, but there is concern in some places that Welsh-medium provision will not be available. I am sure that you have your own examples. I have not seen much reference to this, so I would like a bit more information if possible.

Leighton Andrews: I am sorry, but I do not understand why the federation proposals would affect that in any way whatsoever.

Eleanor Burnham: Concern has been expressed in some of the responses that we have received about federation within certain communities, where there is perhaps more of a Welsh aspect in one geographical area and more English spoken in another—something that you have surely come across and of which I can give you examples. That is why certain areas have not gone down the route of losing their sixth forms to further education colleges. In some areas, the FE colleges might tend to be more English-speaking. I am surprised that you are surprised by my question. I think that it is a very important question, and I would like it to be answered. If you cannot answer it now, I hope that we will be able to answer it along the way, because it is a fundamental question for many communities.

Leighton Andrews: First, I have just answered it. However, let me just say with respect to

post-16 education that I issued a statement last year making it clear that we did not expect any proposals for transformation to affect existing provision of Welsh-medium education, and I would certainly expect the same to apply in the context of federation. The point is that the proposals for federation do not change the law in any respect regarding the language base of schools. So, I do not really see that there are any dangers inherent in what we are proposing. However, if the committee felt that there were particular dangers, we would obviously be interested to hear about them.

Eleanor Burnham: I have read the documents and their responses, and that is all I am raising, Chair.

Mark Isherwood: There may be an opportunity to deal with it later.

Ann Jones: We have touched on the issue of a school governing body wishing to object to an LEA plan to federate. Would individual schools or governing bodies have a right of appeal?

Leighton Andrews: No.

Ann Jones: So, they would not be able to stand alone if they thought that they had a just cause in doing so. For example, if a faith school was included in an LEA's proposition to federate, but people did not want it to be federated and wanted to keep it as a stand-alone school, there would not be a mechanism by which they could object. Is that what you are saying?

Leighton Andrews: In the case of faith schools, there are safeguards to protect the interests of church authorities and the persons who appoint foundation governors. So, if a local authority was going to proceed with a federation involving a voluntary-aided or a foundation school, it would need to seek the agreement of the diocese or the person who appoints the foundation governors.

Ann Jones: So, it would give them protection, but it would not give another school the same protection.

Leighton Andrews: Clearly, local authorities will have to consult with the governing bodies of the schools. At the end of the day, someone has to take the decision, and I do not anticipate local authorities acting irrationally. Given that there are different categories of school, the proposed Measure has to reflect a difference of approach in respect of the specific categories. With regard to local authority maintained schools, at the end of the day we give specific planning responsibilities to local authorities, and I do not see a way through other than to ensure that there is effective dialogue. As I say, we would expect local authorities to behave rationally, and if the governing body of a school felt that a local authority had behaved irrationally, there would of course be means open to it, through judicial review or indeed by coming to Welsh Ministers, to take up the matter of the way in which the local authority had behaved. So, there are those kinds of get-outs.

Ann Jones: Section 12(5) provides for confirmed proposals to be modified at the request of such persons as may be prescribed by regulations. I know that you said that you would not write regulations today, but could you give us an explanation of the rationale for that and an indication of who 'such persons' would be? Would I be such a person?

Leighton Andrews: Section 12 is really about providing safeguards to local authorities to modify the proposals that are being put forward. They could modify the proposals after they have consulted with governing bodies, staff, parents or pupils—or local representatives; perhaps we should write that in.

Ann Jones: So, we do not really know who ‘such persons’ are.

Leighton Andrews: We have not written the regulations yet.

Ann Jones: The term ‘such persons’ is a lovely term, is it not? It can mean anyone and no one, really.

Leighton Andrews: We can specify. If the committee has views, I am open to them.

Ann Jones: Fine, so we could give you our views on who such persons should be.

Leighton Andrews: Yes.

Ann Jones: Moving on to section 13 of the proposed Measure, section 13(b) provides for regulations to set out circumstances when the schools in a federation can be treated as a single school. Does that not defeat the object of federation?

Leighton Andrews: No. The point is that federation is about schools coming together under a single governing body. They do not lose their individual identity, ethos, language medium or anything else. Section 13(b) means that schools can be considered as a single school other than for school admissions or school organisation proposals. So, for example, there could be a single budget across all schools, and some schools have talked about having that. You can imagine where that would be beneficial, for example in respect of sharing administrative support, buying collectively and so on.

Lorraine Barrett: I have my own views on faith schools in the proposed Measure, but I will not go down that road now. In what circumstances do you envisage a school being permitted to leave a federation that is established under the proposed Measure, or a federation being dissolved?

Leighton Andrews: We would set out regulations to define that, and we would envisage following the current regulations, which would allow a school to leave a federation if it chose to do so. If it wanted to leave a federation that had been implemented by the local authority, we might need to establish a minimum period of time in which the school had to stay in the federation or we might say that the local authority had to agree to the request. As I say, we can discuss those issues when we get to the regulations.

10.10 a.m.

Lorraine Barrett: With regard to low pupil numbers, can you say a bit more about the importance of making it easier for local authorities to federate those schools?

Leighton Andrews: There are some local authorities with a large number of very small schools. Without seeking to define it here and now, you do not want to have the same level of burden in establishing a federation where there are more small schools than schools of a different size. What we are seeking to do is to reduce the burden for local authorities in designing federations where they have a range of small schools.

Lorraine Barrett: Do you intend to allow them to undertake that process without consultation?

Leighton Andrews: I envisage the process to be streamlined, but I still expect local authorities to have appropriate dialogue with schools.

Lorraine Barrett: Would that include parents?

Leighton Andrews: It would clearly include governing bodies, which would include parents.

Lorraine Barrett: Okay, and it could then be up to governing bodies to consult further before making decisions that might be against the wishes of a community.

Leighton Andrews: Decisions are often made against a community's issues.

Lorraine Barrett: I know.

Leighton Andrews: I clearly do not expect these federations to take place overnight.

Leanne Wood: My question is on the link with the Proposed Rights of Children and Young Persons (Wales) Measure with regard to consulting children. Would the proposed Measure on children and young persons' rights provide for full consultation with pupils involved in a change in their school, as proposed in this proposed Measure?

Leighton Andrews: The proposed Measure on children and young persons' rights binds Welsh Ministers specifically, rather than local authorities; I think that I am right in saying that. So, I do not think that it is directly relevant, but the important thing, as I said in answer to an earlier question, is that we have recognised, throughout our work in education, the importance of taking on board the views of children and young people.

This is not just about children, but about parents and governing bodies as well, and one of the difficulties is that there is inevitably an automatic sympathy with the institution in which you are based. So, the wider community's interests must be represented and considered in the decisions that are taken.

Leanne Wood: In evidence, Governors Wales stated that it believes that local authorities are better placed and informed to make a responsible decision, working in conjunction with the relevant governing bodies, and that it is hoped that this direction to federate would only be used as a last resort. Why do you consider it necessary to include in the proposed Measure a power for Welsh Ministers to direct the federation of small schools? In what circumstances do you envisage that power being used?

Leighton Andrews: The reason why we are putting it in is really as a backstop power; we would not expect to use these powers often. It is clear to us that federation is likely to be advantageous to small schools and we are keen for it to be progressed. Federation can offer opportunities to make savings, share expertise and raise standards. I would expect local authorities to use the powers that we are giving them in this proposed Measure to achieve that for small schools, but if they do not, in a very limited number of circumstances, it is important that Ministers retain the right to direct if we feel that a local authority is not fulfilling its responsibilities.

Leanne Wood: So, it will be a last resort.

Leighton Andrews: Yes, it will be very much a power of last resort. I do not think that Welsh Ministers, on the whole, would want to use it very often, to put it candidly. I certainly would not.

Leanne Wood: That is fair enough.

Ann Jones: If you do not envisage using it, is it necessary to have it in, or are you just belt-and-bracing for someone who may come after you?

Leighton Andrews: I did not say that I would not use it; I said that I would not want to use it often. As members of this committee, you will be well aware that local education authorities do not always carry out the responsibilities for which they are charged.

Ann Jones: Absolutely. I could write something about that, but I will not.

Mark Isherwood: However, they sometimes then rise to the challenge admirably.

Leighton Andrew: Indeed.

Ann Jones: Let us not go down that route.

Mark Isherwood: Leanne has the next questions.

Leanne Wood: Why is the power of direction limited to the federation of small schools, and what consideration did you give to extending the powers to enable Welsh Ministers to direct the federation of any maintained schools?

Leighton Andrews: As I have said, we would not envisage using this power often. We would only use it if action to federate had not been taken locally. The power would allow us to federate a small school with a maintained school that was not a small school, but the drive has to be on the small school side, because that is where the advantages lie. However, I do not want Welsh Ministers to be seen to be about to unleash federation across Wales; this power must be used in limited and specific circumstances.

Leanne Wood: Okay, thank you. Much of the detail in relation to how local authorities go about proposing, establishing, leaving or dissolving a school federation is to be included in future regulations. Are you happy that you have struck an appropriate balance between what is on the face of the proposed Measure and what will be a matter for subsequent regulations?

Leighton Andrews: Yes, I believe so. What we envisage—and this might be helpful to the committee—is that the regulations that will be drafted as a result of this proposed Measure would be similar to the regulations that currently exist in respect of federation. For example, they include the process that schools must follow to leave or dissolve a federation. We have been through a process on this previously, and we would expect to follow a similar process in drafting regulations in the future.

Leanne Wood: Okay.

David Melding: Do you believe that it would be helpful if we could have had clarity, or have included in the proposed Measure certain issues that would have to be referred to in regulations, such as who is to be consulted? I believe that that would help a lot. There are profound powers involved in this, and I have some sympathy with much of the direction here—I am not an obdurate anti at all. However, regulations leave many powers with Ministers, and sometimes do not attract the scrutiny that they should as a result. You can do something about that, in the way that the regulations are treated in the Assembly, and I am sure that you will want to reassure us of that. However, might it not have been better to have sketched some more detail and to have put that on the face of the proposed Measure, particularly around consulting people, and who the categories of people are?

Leighton Andrews: I do not know whether it would be helpful to the committee, Chair, but we could circulate the existing regulations, so that people could see the categories that are covered there. If the committee then has views on that—

David Melding: That is an elegant non-answer. [*Laughter.*]

Leighton Andrews: I am glad that it was elegant. You have described me so far as dignified and elegant this morning, so that is a bonus. [*Laughter.*]

David Melding: I have put my concern on the record. I am satisfied.

Eleanor Burnham: Mae pryder ynglŷn â'r diffyg amser sydd ar gael ar gyfer yr ymgynghoriad hwn. Yr wyf newydd fod yn darllen rhai o'r ymatebion yr ydym wedi eu derbyn, a rhannaf y pryder ynglŷn â hyn. Gallai'r amseru fod wedi bod yn well; digwyddodd yr ymgynghoriad dros y Nadolig, a oedd yn ddiffyg yn fy marn i. Fodd bynnag, o ystyried y gofynion presennol ar awdurdodau lleol i ddarparu gwybodaeth a hyfforddiant i lywodraethwyr, pam y credwch fod angen mwy o ddeddfwriaeth yn y maes hwn?

Eleanor Burnham: There is concern about the lack of time that is available for this consultation. I have just been reading some of the responses that we have had, and I share the concern about that. The timing could have been better; the consultation took place over Christmas, which was a mistake, in my opinion. However, in view of the current requirements on local authorities to provide information and training to governors, why do you believe further legislation in this area is necessary?

Leighton Andrews: What we are seeking to do, across the piece, in respect of—

Eleanor Burnham: You have not answered my first question.

Leighton Andrews: The timing of business is not a matter for me.

Eleanor Burnham: I just wanted to register that point.

Leighton Andrews: There is nothing for me to answer therefore, Chair.

Eleanor Burnham: Okay.

Mark Isherwood: The committee will no doubt have views on this for private discussion. If the Minister wants, he can answer the primary questions.

10.20 a.m.

Leighton Andrews: Thank you. What we are trying to do in respect of the proposals on governance is to respond to issues that were raised by the Enterprise and Learning Committee in its report on school governance. It set out the importance of improving governor training, and we know that what is currently offered varies across Wales. So, we want to improve the standard of training for governors. Current law leaves what is offered to the discretion of local authorities. There is no law at present on the training of clerks. I know that the Enterprise and Learning Committee, for example, noted the importance of high-quality clerking for governing body performance. So, we want to try to introduce some minimum standards.

Eleanor Burnham: Yn ôl darpariaethau'r Mesur arfaethedig, gallai rheoliadau ei gwneud yn ofynnol i awdurdod lleol ddarparu hyfforddiant gorfodol i lywodraethwyr ysgol. A allwch roi arwydd o'r mathau o hyfforddiant yr ydych yn rhagweld y byddant yn dod yn orfodol i lywodraethwyr?

Eleanor Burnham: The proposed Measure provides that regulations may require a local authority to provide mandatory training to school governors. Can you give an indication of the types of training you envisage will be made mandatory for governors?

Leighton Andrews: Yes, there are two areas in particular that we would want to start with.

The first is induction training for all governors and the second is training for chairs.

Eleanor Burnham: A fu ichi ystyried ddyletswydd ar Weinidogion Cymru i ymgynghori â phartion perthnasol cyn cyflwyno rheoliadau ynghylch hyfforddiant gorfodol i lywodraethwyr?

Eleanor Burnham: What consideration did you give to including in the proposed Measure a duty on Welsh Ministers to consult interested parties before bringing forward regulations in relation to mandatory training for governors?

Leighton Andrews: I do not think that it is necessary. We have had widespread and extensive discussions around school governance as a result of the work done by the Enterprise and Learning Committee. We have worked with stakeholders over many years, we support Governors Wales, and it has carried out a stakeholder working party this year, which has looked at model staff disciplinary procedure and guidance, and we will continue to engage with all stakeholders as we develop our training and clerking provisions. We know that we need to consult them to get it right.

Lorraine Barrett: Minister, the Welsh Local Government Association has raised concerns that compulsory training for governors could create a problem with retention and, indeed, recruitment, which it says is a problem in many authorities. Do you have any data on the problem of the recruitment and retention of governors?

Leighton Andrews: It is an issue that Estyn has looked at and it will certainly continue to look at it as it undertakes reviews under its common inspection framework. There is a lot of anecdotal evidence and we have all probably heard about the recruitment of governors in our own constituencies. It is problematic and it is a challenge.

Lorraine Barrett: Can you do anything within the proposed Measure to negate that? The feeling is that people will be even more put off if they feel that they will be made to undergo training. I do not know if you can build in anything to reassure them.

Leighton Andrews: The problem is that being a school governor is a responsible role. If people are not prepared to undertake training, they should not do it.

Lorraine Barrett: Can you ensure that the training that would be provided would be of a high quality so that governors might feel that they have really benefited from it because it has not only helped them in their role, but as individuals, to grow and to gain experience?

Leighton Andrews: Through regulations and support, we would seek to set out clear training standards. We would expect Estyn to have a role in inspecting local authorities' support for governors, including governor training, as it does at present. We know that there is demand among local authorities for greater collaboration to provide governor training, and some innovative suggestions are coming forward in that regard.

Why do we want high-quality governance? We want high-quality school governance so that we have good leadership and so that we drive up standards in schools. We want governors to engage with the data that they have about their schools on performance; we want governors to understand what is and what is not happening in schools; we want governors to get an understanding of best practice for their type of school and we want them to understand what is achievable by applying best practice. That requires responsibility. Governors have a real role in driving up performance, and that is what I am ultimately focused on.

Leanne Wood: Chair, may I come in—

Mark Isherwood: Perhaps if you want to finish your line of questioning, Lorraine, and then

we will—

Leanne Wood: It relates directly to that point.

Mark Isherwood: If you are quite sure, as we have only a few minutes left.

Leanne Wood: Some governors will jump at the opportunity to have additional training, and that is great, but others will find it very difficult because of time constraints. It could mean that they cannot continue to serve as a governor. If you already find it difficult to recruit and retain governors, could this reduce the pool of governors in Wales who are prepared to do this work?

Leighton Andrews: I do not know. My expectation is that if you look at the whole range of policies that we have in the proposed Measure, some of what we are proposing will entail the federation of governing bodies. So, in a sense, we are reducing the pool of governors through that. I hope that we will have a sizeable pool of committed and dedicated governors—

David Melding: Training gives governors confidence as well; in my experience, parent governors take up the training particularly well.

Leighton Andrews: The other thing that I am concerned about is that there is a proper balance between the governors and the head. I do not want there to be a situation where governors feel dependant on the head, or where they are always being led by the head. Those are real issues in terms of challenging performance and creating opportunities for leadership.

Lorraine Barrett: I think that we all recognise that scenario, Minister. I have only one more question because you have answered my other question. The WLGA suggested that an alternative approach would be to bring forward legislation that could bind governors to have regard to professional advice and provide a compulsion to conform to a direction when given. I am not sure whether the professional advice would come from the local education authority or whether they would be expected to buy it in. How do you respond to that?

Leighton Andrews: Local authorities can already provide governors with advice on anything, and I do not think that having a new duty would add to this, because if a governing body does not heed advice, local authorities already have quite extensive intervention powers if they think that the standards of governance and management of the school are poor. My concern is that they do not always use them.

Lorraine Barrett: My last question relates to the point that Leanne made. Can you clarify what would be the consequences for governors if they did not undertake compulsory training? Would they be expected to stand down, or could there be some other means of persuading them to undertake it, because you would lose a lot of expertise if they were not able to undertake training?

Leighton Andrews: What we expect to do is to place an obligation on governors by amending the relevant regulations. We would do that to coincide with the commencement date for this part of the proposed Measure, which will be September 2012. There is no question here that we have expectations of governors; if they do not take on training, we would expect them to stand down.

Mark Isherwood: I have two final questions, which I will try to keep short and summarise. How do you respond to evidence from Wrexham County Borough Council that an alternative approach to the provisions of the proposed Measure would be a universal clerking service provided by local authorities? Finally, the All Wales Centre for Governor Training and Research stated that the vast majority of governing bodies have minimal impact on school

performance, and that the proposed Measure is not radical enough.

Leighton Andrews: I do not see the Wrexham proposal as being an alternative to the proposed Measure, but I do see it as an opportunity. A universal clerking service provided by local authorities on a collaborative basis should be welcomed.

On the point about the proposed Measure not being radical enough, I think that it is a start. It fulfils some of the issues that were raised by the Enterprise and Learning Committee. There are further issues that I might want to look at, but we are conscious that there are limits to the timing of the proposed Measure, and we have therefore not necessarily gone through the full range of every aspect of governance. For example, one of the issues that I have in mind is what the responsibility of governors should be—should it be to the specific institution that they serve or should it be to the interests of the learner and the community, which would be a different set of obligations? Those are things that I would want to explore in the future, but we are limited by what we can do in this particular proposed Measure.

10.30 a.m.

Mark Isherwood: You will be pleased to hear that that brings us to the end of our formal questions. Therefore, it falls to me to thank you and your officials for your contribution to the meeting this morning. A copy of the draft transcript will be sent to you by the clerk for checking and comment before being finalised and published. Good luck with your next session.

Leighton Andrews: Straight on to the Finance Committee. Thank you.

10.31 a.m.

Cynnig Trefniadol Procedural Motion

Mark Isherwood: I move that

the committee resolves to exclude the public from the remainder of the meeting, and from all future meetings at which we will be deliberating on the content, conclusions and recommendations of our report on the Proposed Education (Wales) Measure, in accordance with Standing Order No. 10.37(vi).

I see that Members are in agreement.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 10.31 a.m.
The public part of the meeting ended at 10.31 a.m.*