



Cynulliad Cenedlaethol Cymru
The National Assembly for Wales

Pwyllgor Deddfwriaeth Rhif 2
Legislation Committee No. 2

Dydd Iau, 20 Mai 2010
Thursday, 20 May 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.

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

Eraill yn bresennol
Others in attendance

Ben Davies	Trenau Arriva Cymru Arriva Trains Wales
Tony McNiff	Cyddfederasiwn Cludiant Teithwyr Cymru Confederation of Passenger Transport Wales
John Pocket	Cyddfederasiwn of Passenger Transport Confederation of Passenger Transport Wales
Mike Vaughan	Trenau Arriva Cymru Arriva Trains Wales
Simon White	Un Llais Cymru One Voice Wales

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

Stephen Davies	Cynghorydd Cyfreithiol Legal Adviser
Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Owain Roberts	Dirprwy Glerc Deputy Clerk
Dr Alys Thomas	Gwasanaeth Ymchwil yr Aelodau Members' Research Service
Gareth Williams	Clerc Clerk

Dechreuodd y cyfarfod am 9.27 a.m.
The meeting began at 9.27 a.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

[1] **Val Lloyd:** Good morning and welcome to this morning's meeting of Legislation Committee No. 2. The committee is continuing its scrutiny of the Proposed Welsh Language (Wales) Measure, and the purpose of today's meeting is to take evidence from town and community councils and the bus and railway sectors.

[2] Unfortunately, due to a misunderstanding on our part, National Rail Enquiries is unable to attend today. It was keen to give oral evidence but, because of our tight timetable,

we are unable to accommodate it on any other date. However, we have a number of issues that we would like to raise with it, based on its written evidence, and we will be writing to seek its views on those points.

[3] I remind everyone that we are not expecting a fire alarm this morning, so if you hear an alarm, please make your way to the exit. Please turn off all mobile phones and the like, because they interfere with the broadcasting equipment. You can obtain translation on channel 1 and amplification on channel 0 of the headsets.

[4] Brynle Williams is unable to join us this morning; he has sent his apologies, but we do not have a substitution.

9.28 a.m.

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

[5] **Val Lloyd:** I am pleased to welcome Simon White, who is the chief executive of One Voice Wales. We will move immediately to questions, and I will ask the first one. Do you agree with the intent of the proposed Measure?

[6] **Mr White:** Before I answer in detail, I should clarify for your information that I am on secondment to One Voice Wales from the Welsh Assembly Government. I do not feel constrained in any way by that, but I think that it is information that I should make clear to the committee. I will, obviously, try to answer your questions as objectively as possible.

[7] The stated objectives in the explanatory memorandum appear sensible and worthwhile. In a situation where we are striving for citizen-centred public service delivery, it clearly makes sense to have those services delivered consistently. For example, you would expect individuals to be able to access services such as health and social services consistently within a unitary authority area.

9.30 a.m.

[8] However, in addressing the issue of consistency, we need to take into account the level of linguistic diversity that we have in Wales. That clearly means going down to a finer level of detail. When you get down to the level of individual community and town councils, you can get quite a degree of difference in the amount of Welsh spoken between two neighbouring communities. That came out in particular when Pembrokeshire County Council was undertaking a review of its community boundaries recently. It proposed a merger of Ambleston and Spittal, and there was quite a lot of concern in those communities, particularly in Ambleston, where people felt that they might be subsumed by a larger community and lose their tradition of working more through the medium of Welsh. So, it is important that the standard is capable of recognising diversity at that level. That is a particular challenge.

[9] **Val Lloyd:** Can you give us an idea of the levels of Welsh language services provided by your members across Wales?

[10] **Mr White:** First and foremost, the level of Welsh language provision reflects the communities that they serve. In areas of Gwynedd, such as the Llŷn Peninsula and so on, many councils work almost entirely through the medium of Welsh. That will not be the case elsewhere, but provision does tend to reflect the situation in the local community. Even within a single community, there is not a completely homogenous situation. So we receive queries from members of the public from time to time about having information provided in a language that is not currently available from their community or town council. That is

inevitable whatever system you end up with. At the moment, at least there is a fair degree of flexibility in the model schemes prepared by the Welsh Language Board that are available for community councils to adopt.

[11] **Michael German:** Presumably, those councils that provide services through the medium of Welsh promote and advertise those services. Is there a general picture of how the councils that provide those services promote them to the communities that they serve?

[12] **Mr White:** Again, it will differ from community to community. In areas where the Welsh language is particularly strong, in a sense, it is automatic that services are provided through the medium of Welsh. That is what the local population would probably expect to see. For example, if the council was organising a local event, it would predominantly be advertised and co-ordinated, and perhaps reported on, through the medium of Welsh. Some of those community councils play almost an informal policing role, looking at what other organisations are doing in their areas. They would be quite ready to point it out to other public bodies if they felt that services were not being provided in Welsh for those communities where they ought to be. They have an influential lobbying role to play in those circumstances.

[13] More broadly, many councils will make donations to their local eisteddfod committee, for example, supporting the language in that way. If they have adopted a Welsh language scheme, it would be advertised on their website and on the council's notice board in the village or community. So, they promote the use of Welsh in different ways. I would give the example of Pontypool Community Council, which funds an inter-school eisteddfod. I think that it is in its twelfth year of running that now. In the recent one, three secondary schools and nine primary schools took part, and the local Welsh advisory service commented on the high standard of Welsh that was being used in those competitions. So, that is a good example of the way in which a community council that it is perhaps not in such a strong Welsh-speaking area is promoting the use of Welsh within the locality.

[14] **Michael German:** Obviously, this would have a major impact upon your members. Did you negotiate or discuss this with the Welsh Assembly Government during the preparation of the proposed Measure or following its publication?

[15] **Mr White:** Not during the preparation. I have had discussions with officials from the Welsh Assembly Government and the Welsh Language Board following the publication of the proposed Measure. That was to get a better understanding of the likely impact upon the sector.

[16] **Michael German:** Did they invite you in, or did you ask to go along?

[17] **Mr White:** We received information on the roadshow events and we forwarded that information to all of our member councils across Wales. So, hopefully, that message got out to members. We did not receive a specific invitation to comment on the pre-drafting of the document.

[18] **Michael German:** About one in 10 of your councils in Wales use Welsh exclusively to conduct their business.

[19] **Mr White:** Yes, more or less.

[20] **Michael German:** Do you think that the proposed Measure will impact upon their work?

[21] **Mr White:** It could do, because the existing arrangements can have an impact. There are areas where we occasionally get calls from non-Welsh speakers who wish to have

information provided in English by their council. That can be a difficult process to resolve within those communities. I wonder whether the move to a rights-based approach will lead to an increase in that type of inquiry. Presumably, non-Welsh speakers will feel that they have as much of a right to request material in English as Welsh speakers have to request material in Welsh. So, potentially, it could be an issue.

[22] From a citizen-centred, public service perspective, you might say that you want information to be provided in the language of choice of the citizen requiring it. However, as one of the objectives of the proposed Measure is to promote the use of Welsh, and the Welsh heartlands are important for the security of the language in the future, it is important to note that there could be an impact upon those communities in that they might have to produce more information in English as a result of the proposed Measure in the same way that other areas might need to produce more in Welsh.

[23] **Rhodri Morgan:** I have a general question first. In your introduction, you referred to being a seconded civil servant from the Assembly Government, which does not inhibit you from saying your piece this morning and answering questions. However, I would like to ask you a variant of that question. How does One Voice Wales, as the corporate, joint body for the 500 community and town councils, establish that it is speaking with one voice? In other words, is the evidence that you have given this morning based on a mandate from at least a majority of the 500 community and town councils? If so, how do you achieve sufficient backing from enough of the community and town councils to enable you to answer questions on behalf of One Voice Wales rather than simply speaking personally?

[24] **Mr White:** Unfortunately, the timescale that we had to work to in providing evidence to the committee this morning has not allowed us to have a detailed consultation with our members. So, this evidence is based on the experience that I have had over the last four years of working within the organisation and being aware of different tensions and situations across Wales. The view is based on that experience and I would always try to base it on that experience rather than express a personal view. However, we have circulated this to members of our national executive committee, to the chair of our policy committee, and others. I would certainly stand by it as a reasonable picture of the experience that the organisation has had over the last four years.

9.40 a.m.

[25] **Rhodri Morgan:** I am sure that that is true. I was just trying to establish whether it was or was not, and I think that you are now telling us that this is not the corporate view of One Voice Wales.

[26] **Mr White:** It has not been possible to do that because we have not had the length of time that we would need to produce that sort of view.

[27] **Rhodri Morgan:** As a matter of interest, aside from the use of e-mail and other modern technologies, how often does One Voice Wales get together to give a corporate view on anything? Is it once a year, or more often than that?

[28] **Mr White:** We have an annual general meeting once a year, where the major policy decisions and motions are discussed. We also have area committees that meet quarterly across Wales, a quarterly meeting of larger councils, and we have a national executive committee—supported by a policy committee—that meets quarterly. I will be referring this back to the policy committee; in fact, it has already gone to the chair of the policy committee. The policy committee will then have an opportunity when it meets on 11 June to review this. If there are any significant variations or comments, we could feed those back to this committee.

[29] **Rhodri Morgan:** If the policy committee thinks that you have gone beyond your mandate or misinterpreted the generality of the views of the 500 community and town councils—or a branch or region of them, or the larger councils as distinct from the smaller ones—they will clip you around the ear a few times and tell you to give us supplementary written evidence, then. Would that be possible?

[30] **Mr White:** Yes, we would be very happy to do that.

[31] **Rhodri Morgan:** In light of all that, do you have a view yourself, or a view that you think would be backed by your members, on the post of the Welsh language commissioner, as a fundamental part of the new scheme, and the abolition of the Welsh Language Board, which is the other side of the coin?

[32] **Mr White:** That is an area where, clearly, there is considerable debate, given the other evidence that I have seen that has been given to the committee. I looked at the fact that existing commissioners, such as the older people's commissioner and the children's commissioner, are appointed by the Assembly Government, while the Auditor General for Wales and the Public Services Ombudsman for Wales are Assembly appointees. There seems to be consistency, at least, in having commissioners appointed by the Assembly Government and the holders of other functions appointed by the National Assembly. We should be aiming for clarity and consistency from the public's perspective. If we have a commissioner who is appointed by the Assembly, it will start to muddy the waters. It would be useful to have consistency in those sorts of matters. Beyond that, I could not say much more.

[33] **Rhodri Morgan:** In a way, that moves us on to my next question, which is on the appointment method. I think you have already answered it. However, I would like to confirm your views on the consistency of the principle governing when commissioners and so forth should be appointed by the Assembly, and when they should be appointed by Assembly Ministers. Is it your view that such appointments should only be made by the Assembly when they are specifically set up to be counterweights to the Government, as with the ombudsman and the auditor general? With those two, it is almost their *raison d'être* to challenge the decisions of the Assembly Government, either over maladministration, poor value for money, irregularity, impropriety and so forth. The commissioners, such as those for children and young people and, in this case, the Welsh language, are meant to have a degree of independence, but they are, in a way, not a counterweight to Government. Is that a fair description of the two principles of appointment?

[34] **Mr White:** I would have to say that I would wish to have a further discussion on that in our policy committee and come back to you. The important thing is that we try to have a consistent approach.

[35] **Rhodri Morgan:** Okay. I turn now to a related question on the functions of the commissioner. We have received evidence that some witnesses would prefer for the promotional and regulatory sides to be separate. Others, meanwhile, have taken the view that there might not be two jobs here. You cannot justify two separate appointments. If you had the regulatory and compliance functions distinct from the promotional functions, the commissioner might only need to turn up for work one day a month, so you could not expect a good-quality appointment. You can see the logic of saying that the two functions should be split. Do you have a view on that?

[36] **Mr White:** In principle, it probably makes sense to split the roles. However, I think that it could be seen as a bit of a luxury in the current financial climate, when there are clearly going to be pressing constraints on public finances. Therefore, it is about getting the balance right. I do not think that that is a decision for us to comment on—it is up to those making the appointment. I can see the logic of them being separated, but I am not sure that it can be

justified financially.

[37] **Rhodri Morgan:** Your submission praises the work of the Welsh Language Board. On the assumption that this legislation goes through in roughly its draft form, how do you suggest that continuity of the best aspects of the work of the Welsh Language Board—which you or your members have praised—can be sustained and not lost when the switchover to the commissioner happens?

[38] **Mr White:** I can draw on personal experience to answer this question. I used to work for the west Wales Training and Enterprise Council, which became part of Education and Learning Wales, which was then merged into the Welsh Assembly Government. I was also very close to the change from the Welsh European Programmes Executive to the Welsh European Funding Office. It is important that the collective memory of the organisation is not lost. Inevitably, that collective memory lies within the organisation's staffing structure. It is a while ago now, but when WEPE moved into WEFO, a fair number of experienced staff disappeared into other roles in the Welsh Assembly Government.

[39] **Rhodri Morgan:** Are you saying that not enough effort was made to retain the body of expertise?

[40] **Mr White:** Yes. The important thing is to maintain that expertise.

[41] **Rhodri Morgan:** Is that not just a civil servant's view—it is all about the officers and not about the directions that they are given?

[42] **Mr White:** No, it is not. If you are setting up a new organisation—unless you want that organisation to be radically different from what you had before; I get the impression from the explanatory memorandum that we are looking at evolution rather than revolution—you would want to see the experience carried forward.

[43] **Rhodri Morgan:** Therefore, it is about maintaining the critical mass of experts who are capable of continuing to deploy their accumulated expertise.

[44] **Mr White:** Yes.

<p>[45] Gareth Jones: Bore da, Mr White. Gan droi at Ran 4, sy'n ymwneud â safonau, yn eich tystiolaeth yr ydych wedi rhoi llawer o sylw i safonau, y trawsnewid o'r cynlluniau iaith i safonau a'r hyn all hynny ei olygu. Mae'n gam sylweddol ac yn gam newydd. A ydych yn credu y byddai'r fframwaith safonau arfaethedig yn welliant ar y system bresennol o gynlluniau iaith o ran darparu gwasanaethau yn y Gymraeg?</p>	<p>Gareth Jones: Good morning, Mr White. Turning to Part 4, which relates to standards, your evidence pays much attention to standards, the transformation from Welsh language plans to standards and what that could mean. It is a new and significant step. Do you believe that the proposed standards framework would be an improvement on the current system of language schemes when providing Welsh-language services?</p>
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[46] **Mr White:** It offers the potential to reduce bureaucracy; that is the principle behind replacing schemes with standards. Avoiding what might be seen as protracted discussions to arrive at a scheme could be a saving. We would wish to have standards that were at least as flexible as the three model schemes that have been set out by the Welsh Language Board. I am also slightly concerned about the four different types of standards that would apply to community councils. You could have an operational standard, a reporting standard, a policy standard and there is another one, but I am afraid that it has escaped my memory at the moment. Additionally, there could be codes of practice issued for implementing each of those standards. So, while the principle of a standard looks attractive, there is a slight concern that it

could lead to more, rather than less, bureaucracy. At the moment, you have one document: that is your agreed Welsh language scheme and it is clear to members of the council and the public if they want to see that scheme. We need to ensure that we are not making things more complicated when we are trying to make them simpler.

9.50 a.m.

[47] **Gareth Jones:** O wrando ar yr ateb hwnnw, yr wyf yn meddwl eich bod wedi ateb y cwestiwn sydd gennyf i ddilyn, sef cwestiwn ar ba mor rhwydd yw'r safonau i gynghorau cymuned eu deall. A ydych yn rhagweld cymhlethdodau cyn belled ag y mae hynny yn y cwestiwn? Nid yw'n faes hawdd i'w ddeall.

Gareth Jones: In listening to that answer, I believe that you have already answered my follow-up question, on how easy it is for community councils to understand the standards. Do you foresee that there will be complications as far as that is concerned? It is not an easy matter to understand.

[48] **Mr White:** Absolutely; the broad picture—the shift from a scheme to standard—looks straightforward, as does an enhanced enforcement regime with more options, because there is clearly some sense in that. The other point that I would make, going back to the previous question, is that the board has been working with councils on a group-by-group basis, and that has worked fairly well; the board has gone out and has spoken to our area committees, or to our larger local councils committee. It has also had an opportunity to engage with councils, and we have found that that has worked well, particularly in helping councils to have ownership over their schemes, because it is a shift in the approach. It might be seen as more of an imposition on a council that they now have to operate to this standard, as opposed to the developmental process of putting a scheme together, where the council reflects on its services and what it can, or maybe cannot, deliver through the medium of Welsh, and ends up with a document that it then has ownership of. It is important that we somehow try to maintain that buy-in to the scheme.

[49] **Gareth Jones:** Diolch am yr ateb hwnnw. Lle'r ydych yn cyfeirio at y safonau hyn yn eich tystiolaeth, yr ydych hefyd yn cyfeirio at gae chwarae gwastad; a allwch ymhelaethu ar eich pryderon y byddai'r Mesur arfaethedig yn creu cae chwarae gwastad?

Gareth Jones: Thank you for that answer. In reference to these standards in your evidence, you also refer to a level playing field; could you expand on your concerns that this proposed Measure would create a level playing field?

[50] **Mr White:** My concern was how the concept of a level playing field was going to be applied. My understanding, from reading the explanatory memorandum, is that the level playing field concept was primarily referring to private sector organisations that might become involved in this process, and the need to maintain a fair marketplace. Community and town councils do not compete with one another—they may do so in friendly ways, but not directly—so this idea of a level playing field is less important than having services that meet the needs of the communities; you can never have a completely level playing field because those needs will differ.

[51] **Gareth Jones:** Yr wyf yn troi at fy nghwestiwn olaf, sy'n ymwneud â'r hawl i herio'r hysbysiad cydymffurfio; a ydych yn fodlon ar yr hawl i herio hysbysiad cydymffurfio fel ag y mae ar hyn o bryd yn y Mesur arfaethedig?

Gareth Jones: I now turn to my final question, on the right to challenge compliance notices; are you content with that right as it currently stands in the proposed Measure?

[52] **Mr White:** I do not have any particular issue with that right as it is set out in the

proposed Measure. My concern is with the practical implications of bringing 735 community and town councils within the scope of a standard where there are 209 councils with approved schemes at the moment. Almost overnight, you will double the number of public bodies that would be subject to this standard, over and above those that are subject to monitoring by the Welsh Language Board. There is, therefore, a practical implication for the commissioner, in terms of interacting with that vastly increased number of bodies, especially if some—perhaps in the areas of Wales where less Welsh is spoken—experience some resistance or problems of implementation; suddenly, you have a problem of administrative logjams.

[53] **Rhodri Morgan:** You mentioned in your opening statement that one of the curious possible unintended consequences of this proposed Measure in establishing a culture or mood music of rights would be that people who do not speak Welsh in communities that are overwhelmingly Welsh-speaking, where the local community council meetings usually take place in Welsh, such as in the deepest Llŷn peninsula, or near the mountains of Gwynedd and so forth, could suddenly start banging the table and, insofar as the proposed Measure is conferring new rights on Welsh speakers to demand services through the medium of Welsh in less Welsh-speaking areas, say, ‘What about us?’ They could decide to go down to the meeting of the local town council, which is taking place entirely in Welsh, and demand that there is simultaneous translation and that it provides services in English. They would never have thought of doing that before because they had accepted that they live in an area that is overwhelmingly Welsh-speaking, even though there are not that many of them left. Could you talk a little more about that?

[54] **Mr White:** This is not a theoretical situation. An e-mail has come in this week from a member of the public on this issue. That is precisely what was being asked for, namely minutes or summaries of minutes. Previously, a summary was put in the local paper in English, but that was stopped and now there is just a summary in Welsh. So, if the proposed Measure is promoted as a rights-based change in how services are provided, in those situations it might lead to greater awareness and take-up by individuals.

[55] The other question that I would ask about the proposed Measure is: how will it change existing arrangements under the Welsh Language Act 1993 to treat Welsh and English on the basis of equality? I am aware of the fact—and I think that the Welsh Language Board referred to this in its evidence—that that has happened under the existing legislation. We always go back to councils and point out what the Act says. At the moment, the Welsh Language Board has not written to community and town councils in Gwynedd, as I understand it, although it has covered Anglesey, Ceredigion, Carmarthenshire and other areas. I think that that was done because it thought that there was no pressing need for Welsh language schemes to be developed in Gwynedd, because the Welsh language and culture are strong there. Therefore, if there is a standard that applies across Wales, in areas such as Gwynedd you are setting up a system that does not apply at the moment, because councils there will not have Welsh language schemes. That is why there could be a significant shift in the number of people who are looking for more information in English.

[56] **Rhodri Morgan:** I am only aware of the way in which non-Welsh speakers in very Welsh-speaking areas are assisted to follow proceedings, even though there is not full translation apparatus. For example, if you were particularly interested in a planning application for something next door to your house, and you went to the planning committee and saw that it was being held in Welsh, a clerk of the council would be deputed to sit next to you and to whisper to you to give you a running commentary on all the proceedings. From your experience, when a community council or town council is consulted on a planning application, would the same assistance be given when it is discussing what view to give the planning department of the authority that has the final say?

[57] **Mr White:** Yes, it is fair to say that quite a lot of councils have informal

arrangements for coping with that situation.

[58] **Rhodri Morgan:** Does that seem to work okay?

[59] **Mr White:** Yes. The queries that we get are relatively few and far between. That leads me to think that, as far as this particular sector is concerned, there is an element of ‘if it ain’t broke don’t fix it’ about it. The only issue is that only 209 councils are covered by schemes at the moment, whereas there are over 500 that are not covered by schemes. So, there is an issue there.

[60] **Rhodri Morgan:** The 209 that are covered by schemes tend to be in the more anglicised as opposed to the more Welsh-speaking areas.

[61] **Mr White:** They tend to be in the west of Wales, broadly speaking. The board wrote to councils in Anglesey, Ceredigion, Carmarthenshire, Pembrokeshire and Neath Port Talbot. It also wrote to those in Montgomeryshire, but it has not written to councils in Brecon and Radnorshire. So, councils in mid and south-east Wales have not really been approached, except for some larger councils in the past year. We have worked with the board as it has wanted to start targeting larger councils as opposed to doing it on an area-by-area basis. So, for example, I think that Rhyl Town Council and Penarth Town Council have been written to. The board is writing to a number of larger councils now and are working with them.

10.00 a.m.

[62] **Rhodri Morgan:** That is a very fine body. *[Laughter.]*

[63] **Lorraine Barrett:** I know that, as a former member of Penarth Town Council for many years.

[64] What are your views on the enforcement regime and the enforcement of standards in terms of the penalties that could be imposed on an organisation given that the Welsh Language Board has been fairly successful in applying a co-operative approach to the public sector by taking a firm but friendly hand in dealing with any issues that arose? Do you think that this enforcement regime and penalties system will work?

[65] **Mr White:** The important point is that it needs to be proportionate and reasonable. If you have a situation where a maximum fine of £5,000 is given to a community council that has set a precept of less than £10,000—and half of the community councils in Wales have a precept of £10,000 or less—clearly, it would be a very significant issue. Hopefully, we will never get to that situation, but it is important that the scale at which community and town councils operate is capable of being reflected in the proposed Measure as it is finally applied.

[66] **Lorraine Barrett:** Do you think that the proposed Measure contains adequate checks and balances in respect of the reasonable and proportionate test and the appeals process?

[67] **Mr White:** It is quite complicated, reading through it. The process of those checks and balances is quite complicated. The fact that there will be a right of redress and that there will be consultation on the particular standard to be applied is an opportunity for councils as a whole to comment. Once you get into the enforcement regime, there are opportunities to appeal and so on. That is fairly consistent with other arrangements, such as those operated by the ombudsman and so on. In principle, that is okay, but it is just a question of ensuring that it is applied in a reasonable way.

[68] **Lorraine Barrett:** Looking at the finance, you have given us what are probably some startling figures, and £10,000, when you think about it, is not that much to play around with if

extra pressures are being placed on the council. Are you content that the regulatory impact assessment makes a realistic assessment of the financial implications of the proposed Measure for community councils?

[69] **Mr White:** I have had a look at this and I think that there is probably an understatement, particularly for councils that have not adopted schemes as yet, which is, as I say, over 500 councils across Wales. The explanatory memorandum talked about a cost of around £1,000 for small, public sector organisations. It may be that councils produce more written information than other public bodies in general, but if you take an eight-page set of full council minutes of approximately 3,000 words being produced 12 times a year and you had that translated relatively modestly at a cost of £50 per 1,000 words, then you are talking about £1,800 to produce those minutes bilingually. If you then add on top the cost of the agendas and then other committees' minutes that might also need to be translated, then the translation costs alone could go well above the £1,000 noted in the explanatory memorandum. If you were to go down the route of simultaneous translation for meetings, there would be further costs again. So, I imagine that the additional cost of £1,000 might have been based on organisations that are already operating schemes, but because the majority of councils do not operate such schemes at the moment, there would be quite a large additional cost. The point I would have to make is that that additional cost would fall entirely on the local payers of the precept, because community and town councils are funded almost 100 per cent from their local communities as opposed to unitary authorities, which are 80 per cent funded by the revenue support grant from the Assembly Government. So, that would be a much more direct cost that would be borne by the citizens, which goes back to ensuring that whatever requirement is put in place reflects the needs of the communities so that individual citizens do not feel that they are being unduly charged for something that they might not feel is appropriate.

[70] **Lorraine Barrett:** A couple of community councils come to mind as we talk. Are there any other financial implications to the proposed Measure for your organisation or for its individual members, or any other implications of any kind that you think will impact on them?

[71] **Mr White:** I have to make the plea that if the proposed Measure is introduced, councils should have access to some form of grant support to allow them to meet its requirements. Fortunately, now that the National Assembly for Wales (Legislative Competence) (Local Government) Order 2009 has been approved, the Assembly Government has the competence to make direct grants, so maybe this is an example of how, if it is looking to promote this as a policy, it needs to ensure that this is properly supported in the communities where it is being applied.

[72] **Lorraine Barrett:** That is a good point, because I was thinking of the level playing field issue. You say that it is impossible to have a level playing field—

[73] **Rhodri Morgan:** If you cannot afford the playing field.

[74] **Lorraine Barrett:** Yes, because different councils are subject to different demands. I was going to ask whether you thought that there needed to be some sort of support for those councils that have more demands on them, or even those that do not have many demands on them at the moment from the Welsh language perspective, but could have in the future. They are starting from a different level, on that playing field, than some of the councils. However—this is something that we could take note of, Chair—I was interested to hear that the councils that operate through the medium of Welsh do not automatically provide translation facilities. I was aware of that, but it is of interest and should be noted.

[75] **Mr White:** It is for the same reason of cost. I am sure that they would be happy to,

but there is a cost implication to doing that. It works both ways.

[76] **Val Lloyd:** Mr White, we have reached the end of our questions. Is there anything that you would like to add that has not already been covered?

[77] **Mr White:** I do not think so. As I said, I have the feeling that the existing arrangements in the sector have worked reasonably well, and we could cause quite a lot of concern out there if we do not ensure that the new standards are capable of being administered as flexibly as the schemes that the Welsh Language Board currently promotes and works on with councils. I will ensure that any dissent from anything that I have said today will come back to you after I have had an opportunity to discuss it at our policy committee on 11 June.

[78] **Val Lloyd:** We will send you a draft transcript of today's meeting for verification. You can expect that in about seven days. It now remains for me, on behalf of committee members, to thank you very much for coming today and for giving your evidence.

[79] Surprisingly, we are ahead of time, and our next set witnesses have not arrived yet. Should they arrive early, I will try to restart the meeting slightly earlier than—

[80] **Rhodri Morgan:** Is there anything that we were going to do at the end of the meeting that we could slot into the next 20 minutes?

[81] **Val Lloyd:** We would have to go into private session now to do that. Are Members content with that? I see that you are.

10.08 a.m.

Cynnig Trefniadol Procedural Motion

[82] **Val Lloyd:** I move that

the committee resolves to exclude the public from part of the meeting in accordance with Standing Order No. 10.37(vi).

[83] I see that the committee is in agreement.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 10.08 a.m.
The public part of the meeting ended at 10.08 a.m.*

*Ailymgynullodd y pwyllgor yn gyhoeddus am 10.43 a.m.
The committee reconvened in public at 10.43 a.m.*

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

[84] **Val Lloyd:** I welcome our witnesses to the meeting. Mr John Pocket is from the Confederation of Passenger Transport Wales. Mr Tony McNiff is also representing the confederation. Mr Ben Davies and Mr Mike Vaughan are from Arriva Trains Wales. You are welcome, gentlemen. During this session, we treat you as a panel. There will be some

individual questions, and if one is directed to another panel member, and you want to contribute, please feel free to do so.

[85] I will start the questions. This question is to all of you. Do you agree with the intent of the proposed Measure? Does anyone want to start?

[86] **Mr Davies:** On the intent, yes, we broadly agree with it in principle. We see it as trying to establish some consistency in the way schemes and, eventually, standards are delivered in terms of the Welsh language. We are looking for consistency where schemes are currently self-determined by the various businesses and bodies.

[87] **Mr McNiff:** In part, from our perspective, we agree with the issue of consistency and we agree with anything that reduces administrative demands. We are not sure about the position in terms of enforcement—in fact, we positively do not agree with the issue of enforcement. So, it is a curate's egg from our perspective—there are parts of it with which we would agree and parts of it that we would not.

10.45 a.m.

[88] **Val Lloyd:** I am sure that you will get opportunities as we go along to elaborate on that. I have a question for Mr Davies or Mr Vaughan. What services do you currently provide in Welsh?

[89] **Mr Vaughan:** We currently offer a fairly comprehensive bilingual suite of services. It includes publications, pocket timetables, posters, customer information systems, a website and customer relations interfaces. If you send us a letter in Welsh, we will reply in Welsh. So, we offer quite a substantial Welsh language service in general.

[90] **Val Lloyd:** The next question is to Mr McNiff or Mr Pocket, whoever of you wishes to reply. Can you give the committee an idea of the level of Welsh language service provided by your members across Wales?

[91] **Mr Pocket:** Our members are not under any compulsion to provide a Welsh language service, but a number of companies—particularly bigger companies such as Tony's company, First Cymru, and Arriva in north Wales—have voluntary language schemes that have been in existence for some time. I am sure that people can recall seeing smaller coach operators especially that have put their names on their coaches in Welsh and they have done so voluntarily, such as Brodyr Richards in Aberteifi, Seren Arian in Caernarfon and Jones Login. They are all reputable companies. Traveline, which is the provider of the bus information service and is a partnership between the Welsh Government, the operators and local authorities, provides a fully bilingual service.

[92] **Val Lloyd:** As a follow-up to my earlier question to Arriva, do you actively promote the Welsh language services that you provide?

[93] **Mr Vaughan:** We do not actively promote it in the sense of going out there and saying, 'We have Welsh language services' and so on, but we do regard it as an integral part of the commercial business that we operate. We also recognise that there is a demand for the services that we offer.

[94] **Val Lloyd:** My final question in this section is to the Confederation of Passenger Transport Wales. To what extent do your members actively promote the Welsh language services that they provide?

[95] **Mr McNiff:** Again, it is a mixed picture. We do not see ourselves as an organisation

that is there to actively promote the Welsh language provision—we are there to provide a service to the public in terms of public transport, generally speaking. Having said that, you can press a button on the website of my organisation that will give you a fully bilingual provision of information. There are also other areas, such as the provision of liveries that give a designation that we are in Wales as opposed to England. So, in that sense, we do not proselytise, but the provision is there and available.

[96] **Rhodri Morgan:** This is a question for the pair of witnesses from Arriva. You are part of a giant pan-European group and many areas that Arriva serves will be monoglot areas, and others will be bilingual. I am thinking, for example, of Galicia or Mallorca where you will have Castilian, Mallorquin and Galician. You will no doubt be able to refer to many other areas that Arriva serves in its hugely diverse operation that have more than one language—some might even have three languages. What consultation have you had with some of your colleagues who run services in other bilingual, or possibly even trilingual, areas within the Arriva group to see how they handle the language issue in Galicia, Mallorca or wherever else they might operate?

[97] **Mr Vaughan:** That is quite a comprehensive question. We operate a number of different transport services within Europe, including Portugal, and you mentioned Mallorca. In terms of the group view, each company is independent. So, Arriva Trains Wales is an independent company, franchised to the Welsh Assembly Government, and, equally, in some of the European locations, there is a similar operation.

10.50 a.m.

[98] So, there is generally no cross-functional view with regard to language policy. I know that in Mallorca, for example, the transport company—Arriva—conducts its publicity in three languages, as you mentioned. So, it uses German, English and Spanish, but not Mallorquin. I hope that I pronounced that correctly.

[99] **Rhodri Morgan:** It is Mallorquin, which is a variant of Catalan. It is a Latin language, half way between French and Spanish. So, you say that it conducts its publicity in two tourist languages and in Spanish, but not in Mallorquin.

[100] **Mr Vaughan:** It is essentially in Spanish because 80 per cent of the legislation and so on comes from the centre of Spain. The remaining 20 per cent of issues are determined in Mallorca, for example, in terms of tailoring that legislation as they see fit. So, the supply and demand in Mallorca is to provide for English and German tourists and then obviously the Spanish and, thereby, it uses three languages for publicity.

[101] **Rhodri Morgan:** So, it does not include the minority language?

[102] **Mr Vaughan:** No.

[103] **Mr Davies:** However, we also work at a local level, in local communities, to deal with their various dialects.

[104] **Mr Vaughan:** It is slightly more complicated by the fact that it is not just language, but dialects, that they have to deal with as well.

[105] **Rhodri Morgan:** Absolutely. Mallorquin is not the same as Catalan; it is a variant of it. I guess that Galicia is slightly easier to deal with. Do you know what the situation is in Galicia?

[106] **Mr Vaughan:** No, not entirely, but I think that the policy would remain the same,

with regard to the demand and what is fit for purpose locally with regard to the languages used.

[107] **Rhodri Morgan:** What we are trying to get at is the difference between demand and what you may call regulation being ‘imposed on you’ by the Galician regional statutory authority or Government, similar to that of Wales. Do you have any idea of whether there is regulation in Galicia that tells you that services must be provided and promoted in both languages—Spanish and Galician?

[108] **Mr Vaughan:** The truthful answer to that is that I do not have the detail on that.

[109] **Rhodri Morgan:** Could you e-mail your opposite number in Galicia to get that information? Is that difficult for you to do?

[110] **Mr Vaughan:** No, it is not. Tony Williamson is the managing director for that area.

[111] **Rhodri Morgan:** Tony Williamson? Very good.

[112] **Michael German:** That is not a very Galician name, is it? [*Laughter.*]

[113] **Mr Vaughan:** I think that he is from the north-east originally.

[114] **Rhodri Morgan:** So, that is something that you could provide us with. What level of consultation have you had with the civil service officials in Wales? You will come within the net of the proposed Measure, so what will be the relatively easy and pain-free things for you to do and what will cause more of a problem for you with regard to cost, complications, or worries about legal implications and so on?

[115] **Mr Vaughan:** In short, we generally just kept up a dialogue to say that this is on the radar. That started in November 2008, ahead of the legislative competence Order process, and more recently to advise them that we have a proposed Measure that will effectively become a law.

[116] **Mr Davies:** We had a discussion last month with regard to some of the difficulties. Some of the difficulties include the proximity of some of our stations, which means that there is a problem with bilingual on-train announcements. For example, in my area, which is Deganwy to Llandudno Junction, it is rather difficult to announce first in Welsh and then in English, because the train would have gone through the station by that time. So, I am trying to work on that difficulty, to try to simplify it, so that we can still have a bilingual announcement. Everything is bilingual on our stations, but there is that added problem on the trains. It is not too much of a problem digitally, but there is also the matter of the Welsh-language-speaking conductor. Although we have a remit out there, anybody who is Welsh and who is comfortable speaking Welsh can use their native tongue to make announcements on trains. The problem is putting both languages together, on-train, when there is only a small hop between stations.

[117] **Rhodri Morgan:** I understand. When my older brother went to live in London for the first time in the mid-1950s, it took him 18 months to understand what the conductor was saying at his local station. It was, ‘Nottin’ ‘ill; ‘aven o’ virtue’—Notting Hill; haven of virtue. It was a standard thing for conductors to say on the tube trains. It meant that there was a large area of street trade in Notting Hill. It took him a long time to understand this London dialect. You knew what station you were at, but you had no idea what they were saying, as a country boy from Wales.

[118] On the imposition of new standards on one side and the promotion of the availability

of existing services on the other, BT, Royal Mail and, I think, the Confederation of British Industry as a whole have strongly expressed the view that there are lots of Welsh language services available now that are not greatly used and that it would therefore be better to focus on ensuring that they are fully used, rather than finding wizard new ways of introducing new duties in relation to the Welsh language. Do you have a view on that?

[119] **Mr Vaughan:** I suppose it depends on who is to lead the promotion of the Welsh language and implement the standards. The proposed Measure indicates that the Welsh language commissioner would take the lead on promoting and facilitating the use of the Welsh language. To go back to a previous question, as we said, we do not actively promote the services that we offer. We see them as supplementary to the customer services that we provide. I would say that it is a fair point that we are perhaps not making the best use of the services that we offer. Perhaps we should be doing a little bit more to make sure that people know that these services are available.

[120] **Val Lloyd:** I would like to bring in the confederation to answer this question and the previous one.

[121] **Mr Pockett:** On the consultation issue, the answer is 'very little'. I had one meeting with Dr Huw Onllwyn Jones when this was first mooted. I expressed some concerns at the time. This was a little while ago now. So, to be succinct, the answer is that there was just one meeting. We raise issues on a less formal basis, but there has been very little formal consultation.

[122] **Val Lloyd:** What about the second question that Rhodri Morgan asked?

[123] **Mr Pockett:** Tony is probably best placed to answer that.

[124] **Mr McNiff:** I think that it is true that we should be encouraging the use of the facilities we already have. Take the Traveline facility as an example. I sit on the Traveline board, and it was presented to us last week that 5 per cent of the users of the Traveline service conduct their transactions in Welsh, and yet that is a fully bilingual service where people are given the opportunity to conduct their discussion in Welsh. If that indicates the general level of demand across the country for people to be able to conduct their business in Welsh, there is a question about whether there is a need to develop further means of doing this or whether we should be seeking to look at the promotional aspects and whether, through the Government, we should be looking into the use of existing facilities. As I said, at First Cymru, we have a Welsh-language website. We do not have figures on how often that website is used. We also have a facility so that people who ring in to speak to someone can conduct their conversation in Welsh. That facility is rarely requested.

[125] **Mr Vaughan:** I just wish to add something on the issue of website use. Around 0.2 per cent of the hits on our website are for the Welsh language.

[126] 11.00 a.m.

[127] **Mr Davies:** To date, we have had 364,000 hits from 1 January, and I think that 400 of them were for Welsh.

[128] **Rhodri Morgan:** On a wider issue, CPT Cymru has expressed doubts about the proposals in its evidence. The expression that you use is,

[129] 'that there are significant dangers in politicising the Welsh language in this way',

[130] because of the structure of a commissioner being accountable to Welsh Ministers

rather than to the Assembly as a whole. Do you wish to amplify that? What is the danger of politicisation that you see in having the commissioner appointed in that way?

[131] **Mr McNiff:** Our concern is about what the commissioner is there to do, more than anything else. Our concern is that a commissioner might have as an objective targeted increases for the use of Welsh in the services that we provide and some punitive methodology to enforce that. An administration that also has that aim as a political aspiration is in danger of politicising the whole area, as opposed to seeing it as a cultural development within Wales as a whole. There is an element, from my perspective, that the language debate in Wales is mature enough for it to be accepted that we should be seeking to try to improve the use of Welsh where appropriate, where it is needed, and where it is desired, as a non-political issue rather than as some aspiration to hit specific targets by specific times that, if they are not achieved to specific standards universally across the country, will be taken up by a commissioner who will have been appointed by the First Minister. That is our concern.

[132] **Rhodri Morgan:** If the Welsh language commissioner were appointed by the Assembly as a whole, rather than by Welsh Ministers in the Government, would it not be more likely that the political football problem would be made even more acute? In having to be accountable to the Assembly as a whole, with its four political parties plus one independent all striking different poses, the competition to say that the commissioner should set lower targets, higher targets, unenforceable targets, non-punitive targets or whatever means that neither the commissioner nor the people with whom he or she would have to deal would have an idea, until they had heard the next debate, as to which way the tide was going to flow.

[133] **Mr McNiff:** It would be reflective of the community in which we live, to a degree. There is no overall position with regard to the speaking of the Welsh language across the whole of Wales. As I understand it, there is no major political debate raging about the use of the Welsh language generally within Wales. I think that it is pretty much supported on a cross-party basis that the use of the Welsh language within Wales is, generally speaking, a good thing. I think that it is the methodology that is the issue, and how that is actually brought about over a period of time. Therefore, we see this more as a legacy issue and an overall issue for an Assembly that is there for the long term rather than a political issue, which is there for the life of the administration.

[134] **Mr Pocket:** There is a precedent of sorts. I know that the circumstances are different, but we have a little community of commissioners, if you like. We have the children's commissioner and the older people's commissioner, and soon there may be a language commissioner. The first two are accountable to the Assembly; they come to present their annual reports.

[135] **Rhodri Morgan:** I do not think that you are right about that. Let me put it this way: the previous evidence that we heard from One Voice Wales and the Association of Community Councils was completely contrary to that. That is, there is a family of commissioners, as you rightly say, but those who are accountable to the Assembly do not have the title 'commissioner' as such and are seen as counterweights to the Government. They are the ombudsmen and the auditor general. They are there to challenge the Government and find maladministration, financial maladministration or bad value for money. The commissioners for children and older persons are appointed by Welsh Ministers, not by the Assembly as a whole. That was the evidence given to us by One Voice Wales, but you could see a divide between those that are intended to give the Government a thumping from time to time and the commissioners for whom that is not the main job. There was logic to it. You could argue the opposite, of course, as there are always two arguments. However, the commissioners who are meant to be a counterweight are appointed by the Assembly. The commissioners who are there to move on a Government agenda and be champions for a

specific group—but nevertheless in line with the Government’s policy—are appointed by Welsh Ministers and not by the Assembly.

[136] **Mr McNiff:** Our point is that we do not see this as a party-political issue. We see the development of Welsh in Wales as a cross-party issue that is there for the long term. The Welsh Language Act was enacted in 1993. A lot of work has been done by the Welsh Language Board to develop the use of Welsh over a number of administrations. We see that it would take a number of administrations still to integrate fully the use of Welsh in Wales. It is more appropriate, therefore, to see this as an Assembly issue.

[137] **Rhodri Morgan:** That is an interesting point, and you have put it very powerfully. I would like to ask you one further question about the structure of the commissioner’s role, which combines a regulatory role and a promotional role. Do you have a view as to whether those are two essentially separate roles that should not be combined in one job, or do you not see that as a problem?

[138] **Mr McNiff:** It is a real problem. The promotion of the language is the important issue. I suppose that it depends what success looks like here. If success means working together in partnership with an organisation that is seeking to promote the use of Welsh in Wales, then that is what it should be. It is difficult to work in partnership and to open one’s heart, shall we say, to the promotional aspects of the development of it with the policeman who is going to come and find you if you do not do it. That is a real problem. These two things should be seen as distinct issues so that promotion can be done without the threat of regulatory enforcement. We do not believe that the regulatory enforcement aspect is necessary.

[139] **Val Lloyd:** Does Arriva want to come in on the last few points? You do not have to. Please do not feel compelled to do so, but you are welcome to do so if you wish.

[140] **Mr Vaughan:** In short, we do not have a particular view on that. We see it as an internal management problem in relation to the way in which you want to promote the language and enforce that. We are more curious about what the standards will be.

[141] **Val Lloyd:** You are not alone in that. [*Laughter.*]

[142] **Mr Vaughan:** From the evidence that I have seen on the website, everyone seems to be saying that. We are more concerned about how they will be discharged and whether there will be a code of practice rather than the internal management to bring this about.

[143] **Lorraine Barrett:** We are coming to the standards, and I have some questions on them. As you know, the proposed Measure would establish a new system for placing duties in relation to the Welsh language in the form of standards, which are yet to be defined. My question is for both organisations. Do you think that the standards framework proposed will improve on the current system of language schemes in providing services in Welsh? I think that Mr McNiff has just touched upon this issue.

[144] **Mr Vaughan:** I would like to think that it would, because a reference to a level playing field is made in the proposed Measure. We see that as a good step forward. Again, it would be nice to see what the standards would be. However, we are used to standards and to a compliance-based methodology system in the mechanics of the company. That sits fairly well with what we are used to. As long as the standards that are applied afford consistency with regard to the Welsh language, we are fairly happy with that.

[145] **Mr McNiff:** I fundamentally disagree. The work of the Welsh Language Board with the current standards has not been completed. I do not think that it has run its course. More

recently, the Welsh Language Board has had a lot of success in developing standards, particularly in the private sector. It recognises that we do not all run at the same pace. There is a danger with standards-based positions of setting generalised standards across the whole of Wales, when it is clear that the use of Welsh, or even the desire to use it, is not at a uniform level across Wales. It also allows us to improve continuously at different rates; it allows us to work with the Welsh Language Board to ensure that, even in those areas where the Welsh language is not used to a great extent, it can be used that much more by working in partnership. The danger of standards is that, if they seek to be homogeneous and pander to the lowest common denominator relating to the use of Welsh across Wales, they could set back the use and development of the Welsh language. We work well with the Welsh Language Board. We do not understand why, when the board is starting to get to grips with certain areas and getting some success in its work with private sector organisations like ourselves, it is now considered to have fulfilled its purpose.

11.10 a.m.

[146] **Lorraine Barrett:** Okay, thank you. My next question is to the confederation. In your written evidence, you suggest that the current process allows members to plan and integrate additional requirements into their business plans and introduce higher levels of Welsh-language usage for a minimal cost. How are such higher levels of useage accomplished for minimal cost, and why would you not get a similar outcome under the proposed Measure?

[147] **Mr McNiff:** There is an example in the explanatory memorandum. Point 8.27(iii) talks about bolt-on measures being more expensive than planning more generically in areas where you can increase the use of the language over time. A classic example from my company's perspective is the development of the metro service in Swansea. We have just introduced £3.2 million worth of investment in vehicles. Had we gone ahead without an agreement with the Welsh Language Board, delivery would probably have been wholly in English. Information on one side of the vehicles is wholly in Welsh. The whole of the route is branded in Welsh on one side and in English on the other. That is a very positive, powerful statement that we are in Wales and that Welsh is a language that has equal status within Wales. If we had to retrofit that, it would have been very expensive indeed.

[148] **Mr Pockett:** I refer you also to smaller companies, mainly coach companies in west and north Wales. I am sure everyone has seen that one side of their vehicles is in English and the other side is in Welsh, or this will be seen on the front and the back. It is done at minimal cost because, given the awareness now of Wales and the Welsh language, they do it when they buy the vehicles. It is done at a minimal cost when they buy the vehicles, rather than having to go through a renewal process.

[149] **Lorraine Barrett:** Are you saying that by having a commissioner instead of the Welsh Language Board, you would not have the opportunity to have that ongoing dialogue?

[150] **Mr McNiff:** We do not know, because of what the standards may suggest. Let me give you an example. I am now showing you a timetable of ours, which has a bilingual cover. The inside cover is also bilingual, but the detailed information is not. This is because the provision of information to the travelling public is more important than emphasising the fact that we are in Wales. That is the issue. We do not know if a standard might be introduced to say that all of that information would need to be bilingual. If it did, it would make our timetable the size of the wholly bilingual one used in Carmarthenshire. My 80-year-old mother can understand our timetable, but she would not even be able to carry the Carmarthenshire one, and she certainly would not understand it.

[151] **Lorraine Barrett:** Thank you; that is helpful. I am not sure, Chair, that I need ask my

next question, on how easy it is to understand the standards that will be applied to the witnesses' organisations and members.

[152] **Val Lloyd:** I think we know the answer to that. We can take it as read.

[153] **Lorraine Barrett:** Okay, I just wanted to make sure.

[154] Moving on, in your view, would the provisions in the proposed Measure contribute to guaranteeing the level playing field that we have talked about?

[155] **Mr Vaughan:** I made one related point in our submission. It was a question to the committee more than anything else. If standards are to be applied, we wonder whether they will be applied fairly to everybody. The proposed Measure mentions tailoring those standards so that they are fit for purpose, whatever the intention is. This is a question for the committee to answer. We could not understand that part.

[156] **Val Lloyd:** I do not think that the committee can answer it, unless Members want to try.

[157] **Lorraine Barrett:** We will leave the question on the record.

[158] **Val Lloyd:** Yes. This is what we are trying to tease out ourselves.

[159] **Mr McNiff:** If there are differing standards, we do not understand how consistency is dealt with within the explanatory memorandum. Dealing with the point about a level playing field, it depends who you consider the competition to be. We are providers of public transport. Our major competitor is the car. That is the area in which we are competing. In terms of modal shift and environmental issues, we are trying to get more people to use public transport. If we increase the cost burden on our members, that will potentially result in higher prices or the reduction of marginal services, which diminishes our ability to compete with the car. Even with trains, the point is made within Arriva's submission that, because of the franchise arrangement, the costs of this would fall on the Welsh Assembly Government. With us, it falls on our members' own budgets, which is what is contemplated within the explanatory memorandum. How can this possibly be an equal playing field, if it increases the cost of bus travel? It becomes a tax on bus travel, as opposed to car and train travel, and air travel, which, as I understand, is excluded from this completely.

[160] **Lorraine Barrett:** I have a question for the confederation again. In your written evidence, you raise the question of the regulatory implications of the proposed Measure for public transport operators providing cross-border services between Wales and England. In your view, should the proposed Measure apply to them, particularly operators based in England?

[161] **Mr Pocket:** We say plainly that it should not. These are marginal; there are a couple of operators over the border in Hereford of whom I can think. At the end of our submission, we make the point that this proposed Measure would do nothing at all to enhance the service that we are here to provide, which is public transport. I can see a great danger that companies—without naming them—based over the border in, say, Kington or Wem, would withdraw the service. There would be no enhancement of the service. Our answer to that would be, very strongly, 'no'.

[162] **Lorraine Barrett:** Do you have any views about the way in which organisations such as yours will be issued with a compliance notice? Should it be dependent on the size of the organisation or whether it already has a voluntary language scheme in place?

[163] **Mr Vaughan:** I refer to a previous answer. We are used to a compliance-based system. The franchise is operated on a compliance-based system. So, we are fairly relaxed on the mechanisms of, for example, delivering improvement notices. As long as there is a fair discharge of what the rights are, and everything that goes with that, we are happy.

[164] **Mr McNiff:** We have made the point that we disagree with the compliance mechanism in principle and would wish that not to be the case. We want to work in partnership. Unlike a franchise arrangement, our whole methodology is to work in partnership with the authorities in order to try to improve public services.

[165] **Mr Vaughan:** That is the distinct difference between your business and ours, as a franchise. There is that distinction, which you have mentioned earlier.

[166] **Lorraine Barrett:** Is it fair to say that there is a similar feeling among all the confederation's operators?

[167] **Mr Pocket:** I always put the opening paragraph about our governance in written submissions. We consult with members and ask them to contribute, so we reflect their views. There is a wealth of support for many voluntary things that have been introduced, but there is strong opposition to any imposition.

[168] **Lorraine Barrett:** I was not being critical. That question has been asked to other umbrella bodies.

11.20 a.m.

[169] **Mr Pocket:** Absolutely.

[170] **Michael German:** I would like to turn to the costs for business and requests for exclusions from the current proposed Measure. I am going to start with the exclusions, and will ask Arriva Trains Wales about them first. In your written evidence, you refer to matter 20.2; while that is not the proposed Measure, it is what it proposes, which is giving the commissioner the power to investigate alleged interferences with the freedom of persons in Wales to use Welsh with one another. I am sure that you know that paragraph, but in your evidence, you ask that safety communications between operational staff should not be affected by that matter. In other words, you would want the right to say to any two persons who are communicating safety information to each other that they should do so in English only. You would not allow them to speak in Welsh to each other, despite the fact that they could both be Welsh speakers; that is what I want to find out, so could you expand on that?

[171] **Mr Vaughan:** Perhaps this is not the right analogy, but within the airline industry, communication from an aircraft to the ground is done in English. In the railway industry, we have to deal with not just our own staff but with other operators as well. While we are very happy for anyone who wants to conduct their conversations in Welsh to do so—that is not an issue—if there is to be dialogue that involves safety, not only between other train operators but involving Network Rail and other industry partners, we would want to see that English is maintained in those dialogues.

[172] **Michael German:** I can understand that people for whom Welsh is not their first language would not necessarily understand the communication if it was in Welsh, but why would you want to restrict a driver and a guard, for example—both of whom you knew were speaking Welsh in their normal everyday life—to speaking in English?

[173] **Mr Vaughan:** In terms of everyday conversations—

[174] **Michael German:** No, I am talking about instructions. For example, if the driver said 'I am going to have to stop, because there is a red light ahead, and we are going to be delayed by it', and it was an operational or a safety matter, would you require that conversation between the guard and the driver to be in English?

[175] **Mr Vaughan:** Yes, because the railway rulebook has fixed English statements, and it is accepted that that is the system that they operate to; there is no Welsh translated equivalent.

[176] **Michael German:** The railway rulebook takes us into a new area. This is very important for us, because you are looking for exclusions from the proposed Measure on matters that we are probably unaware of, so perhaps you had better explain the railway rulebook to us.

[177] **Mr Vaughan:** I will try to cover both elements; you would have a driver at the front and a conductor at the back, and they could be conversing with each other about various other day-to-day things, which we would not normally encourage anyway. However, in terms of wanting the train to do something else, there are systematic statements—they are fairly prescribed—in the railway rulebook for safety, so that if I want to do something I would say so in a certain way; it is almost scripted, and there is no Welsh equivalent for that. All we are doing is protecting operational safety; that is our point.

[178] **Mr Davies:** When it comes to safety and the language, there is no ambiguity; it is there and it is a written statement that we have to follow, so we would wish that to continue.

[179] **Michael German:** The railway rulebook is, presumably, a piece of statute. Is it a requirement of the law, or is it an Arriva Trains Wales rulebook?

[180] **Mr Vaughan:** It is overseen by the safety people in the industry. Essentially, it is a Network-Rail-owned document.

[181] **Michael German:** We will probably need some advice from our lawyers about whether there are conflicting requirements between the legislation and the rulebook.

[182] **Mr Vaughan:** It may be worth consulting the Office of Rail Regulation, because it is responsible for overseeing the rules.

[183] **Michael German:** Yes, I think that we will do that.

[184] **Gareth Jones:** On that point, when you mention restricting a dialogue between the driver and the conductor to English when the train is going to do something else, I can understand where you are coming from that safety is paramount. If the conversation is confined to those two, I am not sure whether I could sign up to that. However, I would do so if it is a conversation that is heard at headquarters, which would then complicate matters. I hope that I am making myself understood here. If the conversation is between two Welsh speakers, I cannot see how relevant it would be to say that that has to be done in English, because it is confined to those two. I understand that, if there is a third party, for example at headquarters or at traffic control, or whatever, it would have to be in English so that that third party could follow and understand.

[185] **Mr Vaughan:** That is what we are seeking to protect, as we are trying to ensure that there is no dubiety in certain communications. If you ask someone to do something because it is a requirement in the rulebook or an operational requirement, everyone in the industry needs to be familiar with that and know what it means. If it is a case of two, three or more individuals wishing to have a conversation of another nature, we are fairly happy with that, and it happens all the time with us anyway.

[186] On the safety issue, we are making the point in order to protect the safety and integrity of the operating of the system. However, with regard to general conversations in Welsh, we actively encourage people to do that if they wish.

[187] **Gareth Jones:** Would the conversation between the driver and the conductor be confined to the train, or is there always a third party listening in, because that is how you work?

[188] **Mr Vaughan:** No, no-one is listening in on those conversations.

[189] **Gareth Jones:** That does not happen.

[190] **Mr Vaughan:** No. However, a conversation between our operating controllers and the conductor or the driver would be recorded.

[191] **Mr Davies:** Any broadcast that comes from outside any control unit, either from our trains or stations, whether Cardiff central control for Arriva Trains Wales or Network Rail central control for the network, is recorded.

[192] **Lorraine Barrett:** Maybe we can have a note from you afterwards about the suggestion that Mike made. I can imagine a scenario whereby something is happening and the driver has to follow a set procedure, but if he and the conductor decide that they are both comfortable enough to speak in Welsh, translating what was written down in English, it might result in a legal situation if there were an accident or if something untoward happened. One of them could say 'I thought you meant this', and the other would say 'No, I meant this'. I do not know, and I just wondered whether we could have a note on that.

[193] **Mr Vaughan:** Precisely. Again, with regard to interfaces with other train operating companies, and Network Rail in particular, English is the accepted language for safety in that sense. We would not want the integrity and safety of the operation compromised because of misunderstandings or miscommunications.

[194] **Val Lloyd:** We have also asked for legal interpretations on this. That will be followed up—

[195] **Lorraine Barrett:** Before I am criticised for what I said, I was not saying that, because someone is speaking in Welsh or translating into Welsh, there could be a misunderstanding. If there is a legalistic safety script that you should follow, you cannot afford for there to be any mistakes. I think that that is what you were saying.

[196] **Mr Vaughan:** Going back to the railway rulebook, historically it has reflected all the accidents of the past, and all the procedures have evolved because of those accidents. It is very prescriptive about what people should be saying in respect of operational safety to the signaller or the person with whom they are working.

[197] **Rhodri Morgan:** May I just ask a variant on that? You are saying that the conversation between the guard and the engine driver is pretty much private to them and that there is no radio network over which a signaller or signaller elsewhere might hear that conversation.

[198] **Mr Vaughan:** Yes.

[199] **Rhodri Morgan:** That technology does not exist.

[200] **Mr Vaughan:** It does work the other way round, as Network Rail might issue a safety broadcast. It would say, 'Please stop your train because something has happened half a mile away'. That would be done in English. If it was done by a signaller in Machynlleth, for example, it would be in English.

11.30 a.m.

[201] **Rhodri Morgan:** I know that we are pushing this to extremes here to test the ground, but then that is part of scrutinising proposed legislation. Let us say that you have two brothers or cousins—two people who have known each other all of their lives and know that Welsh is their common language. One happens to be the guard and the other happens to be the conductor and for whatever reason, they go through a red light and realise that the brakes will have to go on. That is an, 'Oh my God' moment for those two individuals. Am I right to suppose that it is possible that psychologically, when any impending disaster is getting very close, you revert to your common language and do not think about which language is in the rule book? You revert to the language that comes most naturally to you in order to emit a primal scream that you are in acute danger. If the most natural language for you, in which you would communicate with your cousin or someone who grew up in the same village as you—the language that you have spoken to each other since you were two years old—is Welsh and if something does not happen quickly, there will be a serious crash, would it be against the law to speak Welsh in that situation or would it be a matter of whatever language communicates the acuteness and presence of the danger is the one that you need to use? That would apply in a coal mine, on the railway or wherever else there is safety-critical information to be imparted.

[202] **Mr Vaughan:** In the scenario that you describe, if there were an incident that caused stress in which people reverted to type, how could we stop that? We could not stop that. We would not come down on anyone because of that, but in terms of professionalism and how we train our people, I would expect them to make safety communications and be professional enough to ensure that everyone understood the potential risk that might have been involved.

[203] **Mr Davies:** However, going forward, because of the use of the phonetic alphabet and so on, such communications have to be done in English because they go through them to two major control officers and there would be a tripartite exchange. If we asked a driver to pass a signal for some reason, we would say, 'Driver, I authorise you to pass this signal at x', that is the wording used. We do not want to divert from English because, to us, safety is paramount at the end of the day.

[204] **Val Lloyd:** I remind Members and our witnesses that we are running out of time.

[205] **Michael German:** Could I just address the generality of costs? Arriva and CPT Cymru mentioned the additional costs emerging from this legislation in terms of the materials that you would have to produce and the estimates in the explanatory notes as to what the costs are likely to be, and made a request for a cost-benefit analysis before standards are introduced. Could I roll that all into one set of questions? Could you tell us what might be the likely outcomes and costs and whether you think that they are reflected well in this document and what I thought was a method by which you could be reassured that these costs would be tested before they were imposed? Those questions are directed at all of you.

[206] **Mr McNiff:** I will start on that. I will relate it to my company, although this is applicable to any operator in CPT Cymru. Within the operating area of First Cymru, which goes from Haverfordwest through to Cardiff, there is a variety of different percentages of people who use Welsh as a first or second language or not at all. In Swansea, the main area, Welsh-language usage, according to the last census, was around 13 per cent. In some areas of the Valleys, it can be up as far as 70 or 80 per cent, particularly if you are going up towards

Ammanford from Llynfeth or those kinds of areas. The further west you go, the more it varies.

[207] We publish our timetables on a regional basis. We also put some of the destination blinds of our vehicles in Welsh, if they are more appropriately Welsh areas as opposed to perhaps the centre of Swansea, where they would be in English, showing the journey's destination. So, there is a variety of requirements even in a relatively small part of south Wales, and we would wish to see that variety of requirements being dealt with by a variety of solutions that would have different cost aspects for us.

[208] The costs of doing everything equally in the Welsh language would potentially double our timetable costs. We already have significant translation costs, but it would increase them significantly. It would double our marketing costs if we had to put all of our marketing material in Welsh and English. In many cases, it would make all of that information less easy to understand by the travelling public who we are trying to get to use public transport as an alternative to using the private car. Those are the kinds of cost-benefit issues that we are talking about. There needs to be an outcome-based assessment of what we are trying to do and whether it is appropriate to the environment that we are trying to serve which has a proportionate impact on cost.

[209] **Val Lloyd:** We have to finish in five minutes, so if Members have questions that they are yet to have an opportunity to ask, which would benefit from being asked verbally, not in written communication, indicate that to me now so that you can proceed with those questions.

[210] **Michael German:** On a range of questions where people might want to give supplementary answers and some summary figures that would be of assistance to us, I would be quite happy for them to provide those as evidence rather than having to say it all on the record now.

[211] **Val Lloyd:** I think that that may refer to you, Gareth, and the specific question that you wanted to ask.

[212] **Gareth Jones:** I would be quite happy to receive a written response to the question about the £400,000 and the point made by CPT Cymru. That is an important point because you are an amalgam of smaller companies in that respect, and you mentioned the concessionary fares. That is also in your written evidence, so I would be quite happy with that.

[213] **Mr Pocket:** May I help on that? We are of the view that, if you look in the proposed Measure, we think that the £400,000 threshold is a bit of a red herring as far as bus and train services are concerned. Off the top of my head and without taking time to find it, Schedule 5(5) refers to the £400,000 threshold whereas there is a blanket reference in Schedule 7(5) to rail and bus services. So, the £400,000 threshold does not appear to apply to bus operators. That is what we are trying to draw out. It does not appear to be a threshold in any sense, but implies that all bus operators would come under the proposed regime in the proposed Measure. That is how we read it, but I do not know if Members did the same.

[214] **Val Lloyd:** If you wish to make any closing remarks, we have three minutes left. We will look at the questions that we wanted to pursue in relation to your written evidence. With your agreement, we will write to you for elaboration, if necessary. Are you content with that? I see that you are. We have three minutes left if you want to make any closing remarks.

[215] **Mr Vaughan:** I will just refer to the regulatory impact assessment aspect. There is an admission within it that they only looked at a very small number of companies to make that assessment. A question for you to think about is whether more work should be done on the

regulatory impact assessment.

[216] **Val Lloyd:** Thank you; that is helpful.

[217] **Mr McNiff:** There is a question on the Welsh Language Board's website about how many people speak Welsh in Wales. It does not answer the question directly, but it takes you on a virtual journey from north Wales to south Wales via the Traws Cambria network. It shows that there is not a uniform usage of Welsh in Wales. Standards are not appropriate for this kind of area. Working in partnership, via Welsh language schemes, is starting to become far more accepted by the private sector and it is delivering results. The schemes need to be used to promote the use of the Welsh language in Wales and we strongly support that.

[218] **Val Lloyd:** I know that some of you have given evidence previously to other committees, but you will be sent a transcript of today's proceedings for your verification, which you should receive in seven days. Thank you very much for your contribution. I apologise for having to close the committee in this way, but I am sure that you understand that we were interested in your responses and that is why we developed them. Thank you again for coming.

[219] The next meeting of the committee will take place next Thursday, 27 May, in the morning. I declare the meeting closed.

Daeth y cyfarfod i ben am 11.40 a.m.
The meeting ended at 11.40 a.m.