



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

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

**Dydd Iau, 3 Chwefror 2011  
Thursday, 3 February 2011**

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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**

Peter Black	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Christine Chapman	Llafur Labour
Brian Gibbons	Llafur Labour
Bethan Jenkins	Plaid Cymru The Party of Wales
Jonathan Morgan	Ceidwadwyr Cymreig Welsh Conservatives
Jenny Randerson	Democratiaid Rhyddfrydol Cymru (Cadeirydd y Pwyllgor) Welsh Liberal Democrats (Committee Chair)

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

Lynsey Edwards	Cyfreithiwr, Adran yr Economi a Thrafnidiaeth, Llywodraeth Cynulliad Cymru Lawyer, Department for the Economy and Transport, Welsh Assembly Government
Ieuan Wyn Jones	Aelod Cynulliad, Plaid Cymru (y Dirprwy Brif Weinidiog a'r Gweinidog dros yr Economi a Thrafnidiaeth) Assembly Member, the Party of Wales (the Deputy First Minister and Minister for the Economy and Transport)

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

Sarah Beasley	Clerc Clerk
Gwyn Griffiths	Uwch-Gynghorydd Cyfreithiol Senior Legal Adviser
Sarah Sargent	Dirprwy Glerc Deputy Clerk

*Dechreuodd y cyfarfod am 1.00 p.m.*  
*The meeting began at 1.00 p.m.*

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

[1] **Jenny Randerson:** Welcome to this meeting of Legislation Committee No. 4. We have received no apologies for absence; everyone is present. I will make the usual introductory remarks. In the event of a fire alarm, please follow instructions from the ushers and staff. Please switch off all mobile phones and other electronic equipment, because they interfere with the broadcasting equipment. I remind you that you can speak in either English or Welsh. Simultaneous translation is available. Please do not touch any of the buttons on the microphones, as they operate automatically.

1.01 p.m.

**Mesur Arfaethedig ynghylch Diogelwch ar Gludiant i Ddysgwyr (Cymru)—  
Cyfnod 2: Ystyried Gwelliannau  
Proposed Safety on Learner Transport (Wales) Measure—Stage 2:  
Consideration of Amendments**

[2] **Jenny Randerson:** Members should have before them a copy of the proposed Measure, a marshalled list of amendments and the groupings of the amendments to date.

[3] The marshalled list of amendments is the list of all amendments tabled, marshalled into the order in which the sections to which they relate appear in the proposed Measure. Schedules will be considered with the relevant sections that introduce them. So, for our meeting, the order in which we consider amendments will be: sections 1-6, the Schedule, sections 7-16, new sections and then the long title.

[4] You will see from the groupings list that amendments have been grouped to facilitate debate, but the order in which they are called and moved for a decision is dictated by the marshalled list. I will advise Members, when I call them, whether they are being called to speak in the debate or to move their amendments for a decision. There will be one debate on each group of amendments.

[5] I will call the proposer of the first amendment in the group, who should move and speak to his or her first amendment, as well as speak to any other amendments in that group. I will then call any other Member who wishes to speak to the amendments in the group. In a group where the Deputy First Minister does not have the lead amendment, I will call the Deputy First Minister as the penultimate speaker in each group. To conclude each debate, I will call the proposer of the first amendment in the group to wind up.

[6] Following the debate on a group, I will clarify whether the Member who moved the first amendment still wishes to press it to a decision. If not, she or he may seek the agreement of the committee to withdraw it. If it is not withdrawn, I will put the question on the first amendment in the group that the amendment be agreed to. It is my intention that all votes are recorded so that the names of those voting for, against or abstaining are recorded.

[7] I will call the proposers of other amendments in each group to move their amendments at the appropriate time in accordance with the marshalled list. If you do not wish to move your amendment, you should say so clearly when the amendment is called.

[8] For the record, only committee members can move amendments. Members will wish to be aware that, in line with the convention, I will move the amendments in the name of the Deputy First Minister.

[9] Members will be aware that the only way to debate a section of the proposed Measure is to have tabled an amendment to it. Any sections that do not have amendments tabled to them will be deemed agreed, as will any sections where tabled amendments are not agreed to. I will announce the sections that have been agreed at the end of the meeting. I believe that we will probably get through the work this afternoon, but if any sections are not disposed of today there will be a further opportunity to table amendments to those sections. Are there any questions? I see that there are none.

**Grŵp 1: Recordio Delweddau Gweledol neu Sain ar Gludiant i Ddysgwyr—  
Cydsyniad (Gwelliant 7)  
Group 1: Recording Visual Images or Sound on Learner Transport—Consent  
(Amendment 7)**

[10] **Jenny Randerson:** Amendment 7, in the name of Darren Millar is in a group on its own. I call Jonathan Morgan to move amendment 7 and to speak to it.

[11] **Jonathan Morgan:** I move amendment 7 in the name of Darren Millar.

[12] I wish to point out that the issue of the recording of visual images or sound was something that exercised the committee greatly in its consideration of the evidence at Stage 1. It was something on which we came to a view when we wrote our report. At Stage 1, as you can see in paragraph 2.10 of the report, we recommended robust regulation of the use, storage, retention and access to closed-circuit television footage. Amendment 7 to section 2 will ensure that parents, guardians and those responsible for children and young people would need to be consulted and their views sought before any visual image or sound recording would be used for training purposes. We have tabled amendment 7 to reflect the committee's concerns at Stage 1.

[13] **Jenny Randerson:** Do any other committee members wish to comment? I see that no-one does, so I call the Deputy First Minister.

[14] **The Deputy First Minister and Minister for the Economy and Transport (Ieuan Wyn Jones):** Thank you, Jonathan, for moving amendment 7. However, I will be asking the committee to resist the amendment. If we were to consent to the amendment, it would be very difficult to implement. If you had to ensure the consent of parents to allow CCTV to be provided on buses, how would you judge whether consent had been given? You may find yourself in a position where some services had CCTV while others did not, depending on how you went about gaining parents' consent. It would also mean that people would be unsure about the situation. For example, a bus operator might have to have some buses with CCTV and others without, which would make life extremely difficult.

[15] What we already have is a very robust system of protection, which I would like to highlight, namely the Data Protection Act 1998, primarily. In my letter to the committee, dated 25 October, I set out the way in which the Data Protection Act protects individuals with regard to the way in which data can be used. Processing data under the Act is such a broad concept that it includes the recording, use, storage and retention of an individual's visual image and voice. Therefore, I think that there are sufficient safeguards in place to enable us to determine these matters.

[16] I have also already made it clear—and given an undertaking—that images and sound would not be used for training purposes. I have also made it clear that all regulations under the proposed Measure must be made under the affirmative procedures, which would give Assembly Members an opportunity to participate in their development. Of course, we want a proposed Measure that protects children, but it must allow us to take action where necessary if there are issues, such as on a bus, which need to be brought to the attention of the relevant authorities. CCTV images would be used only in those limited circumstances.

1.10 p.m.

[17] **Jonathan Morgan:** Having heard what the Deputy First Minister has said, parents will be somewhat concerned by the Government's view on this matter. Clearly, parents and others who are responsible for children will be concerned about the potential use of CCTV and the authorisation of the use of visual images or sound recordings. It is a sensitive matter that we ought to be taking far more seriously than the way in which the Deputy First Minister has outlined this afternoon. I still wish to pursue the amendment, and I would like the committee to take a formal decision on it.

[18] **Jenny Randerson:** Jonathan has indicated that he wishes to move to a vote on

amendment 7. The question is that amendment 7 be agreed to. I call for a vote.

*Gwelliant 7: O blaid 2, Ymatal 0, Yn erbyn 3.  
Amendment 7: For 2, Abstain 0, Against 3.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Black, Peter  
Morgan, Jonathan

Pleidleisiodd yr Aelodau canlynol yn erbyn:  
The following Members voted against:

Chapman, Christine  
Gibbons, Brian  
Jenkins, Bethan

*Gwrthodwyd gwelliant 7.  
Amendment 7 not agreed.*

**Grŵp 2: Goruchwylwyr ar Gludiant i Ddysgwyr (Gwelliannau 3, 4 a 5)  
Group 2: Supervisors on Learner Transport (Amendments 3, 4 and 5)**

[19] **Jenny Randerson:** The lead amendment in the group is amendment 3. Deputy First Minister, would you like amendment 3 in your name to be moved?

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

[21] **Jenny Randerson:** I move amendment 3 in the name of the Deputy First Minister. I call on the Deputy First Minister to speak to that amendment and the other amendments in the group.

[22] **Y Dirprwy Brif Weinidog:** Hoffwn ei gwneud yn glir mai pwrpas gwelliant 3 yw caniatáu i bobl eraill heblaw aelodau staff sefydliadau perthnasol gael eu defnyddio fel goruchwylwyr ar gerbydau sy'n darparu cludiant i'r ysgol dan gontract. Er mwyn sicrhau ein bod, wrth lunio rheoliadau, yn ystyried yn llawn pa bersonau y gellir eu defnyddio fel goruchwylwyr ar gludiant i'r ysgol dan gontract, yr wyf yn hapus i dderbyn argymhelliad y pwyllgor i ehangu cwmpas y ddarpariaeth yn adran 5. Gobeithiaf y bydd y pwyllgor yn derbyn fy mod wedi ymateb i'r hyn a ddywedwyd yn ei adroddiad. Felly, gofynnaf i'r pwyllgor gefnogi'r gwelliant.

**The Deputy First Minister:** I would like to make it clear that the purpose of amendment 3 is to enable individuals other than members of staff of relevant authorities to be used as supervisors on vehicles that provide contracted school transport. In order to ensure that, in drawing up regulations, we give full consideration to the question of which persons can be used as supervisors on contracted school transport, I am happy to accept the committee's recommendation to expand the scope of the provision in section 5. I hope that the committee will accept that I have responded to what was stated in its report. Therefore, I ask the committee to support the amendment.

[23] O ran gwelliant 4, a oes angen i mi gynnig hwnnw'n ffurfiol hefyd?

With regard to amendment 4, do I need to move that formally as well?

[24] **Jenny Randerson:** I will do that for you when we get to that point in the proceedings. However, if you wish to speak to it, you may do so now.

[25] **Y Dirprwy Brif Weinidog:** Mae gwelliannau 4 a 5 yn cefnogi gwelliant 3. Felly, gofynnaf i'r pwyllgor, os yw'n derbyn gwelliant 3, i gefnogi'r gwelliannau hynny.

**The Deputy First Minister:** Amendments 4 and 5 support amendment 3. Therefore, I ask the committee, if it accepts amendment 3, to support those amendments.

[26] **Jenny Randerson:** Do any Members wish to speak? I see that no-one does. Is there

anything else that you wish to say to sum up, Deputy First Minister?

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

[28] **Jenny Randerson:** Do you wish to move to a vote on amendment 3?

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

[30] **Jenny Randerson:** The question is that amendment 3 be agreed to. I call for a vote.

*Gwelliant 3: O blaid 5, Ymatal 0, Yn erbyn 0.  
Amendment 3: For 5, Abstain 0, Against 0.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Black, Peter  
Chapman, Christine  
Gibbons, Brian  
Jenkins, Bethan  
Morgan, Jonathan

*Derbyniwyd gwelliant 3.  
Amendment 3 agreed.*

[31] **Jenny Randerson:** In accordance with the marshalled list, we now move to dispose of amendment 4 in the name of the Deputy First Minister. Deputy First Minister, would you like amendment 4 in your name to be moved?

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

[33] **Jenny Randerson:** I move amendment 4 in the name of the Deputy First Minister. The question is that amendment 4 be agreed to. I call for a vote.

*Gwelliant 4: O blaid 5, Ymatal 0, Yn erbyn 0.  
Amendment 4: For 5, Abstain 0, Against 0.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Black, Peter  
Chapman, Christine  
Gibbons, Brian  
Jenkins, Bethan  
Morgan, Jonathan

*Derbyniwyd gwelliant 4.  
Amendment 4 agreed.*

[34] **Jenny Randerson:** In accordance with the marshalled list, we now move to dispose of amendment 5 in the name of the Deputy First Minister. Deputy First Minister, would you like amendment 5 in your name to be moved?

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

[36] **Jenny Randerson:** I move amendment 5 in the name of the Deputy First Minister. The question is that amendment 5 be agreed to. I call for a vote.

*Gwelliant 5: O blaid 5, Ymatal 0, Yn erbyn 0.  
Amendment 5: For 5, Abstain 0, Against 0.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Black, Peter  
Chapman, Christine  
Gibbons, Brian  
Jenkins, Bethan  
Morgan, Jonathan

*Derbyniwyd gwelliant 5.  
Amendment 5 agreed.*

**Grŵp 3: Awdurdod Gorfodi (Gwelliannau 8, 9, 10, 11, 12, 13, 14 a 15)**  
**Group 3: Enforcement Authority (Amendments 8, 9, 10, 11, 12, 13, 14 and 15)**

[37] **Jenny Randerson:** In this group, the first amendment to be considered is amendment 8 in the name of Darren Millar. I call on Jonathan Morgan to move amendment 8 and speak to the other amendments in the group.

[38] **Jonathan Morgan:** I move amendment 8 in the name of Darren Millar.

[39] I am delighted to move amendment 8 and to speak to amendments 8 to 15. During Stage 1 consideration, the committee concluded that we would recommend to the Deputy First Minister that, when bringing forward regulations under section 7 of the proposed Measure, he identify the Vehicle and Operator Services Agency as the relevant enforcement body, as VOSA has considerable experience and expertise in this area. The committee reached this conclusion as a result of the evidence from a number of organisations, including the Confederation of Passenger Transport Cymru, the Association of Transport Co-ordinating Officers Cymru, the Welsh Local Government Association and the Association of Directors of Education in Wales. They suggested that VOSA could be given the financial resources necessary to carry out this function. The direction of travel was clear and, as a result, we felt strongly that the proposed Measure ought to be amended to reflect that evidence. Amendment 8 seeks to amend the first part of section 7, and the other amendments in this group are consequential. If accepted, I understand that further amendment would be required at Stage 3.

[40] **Jenny Randerson:** Do other Members wish to speak?

[41] **Peter Black:** It was clear from the evidence that we took that VOSA was the preferred agency, and I think that the Deputy First Minister even indicated as much in responding to the committee's questioning. My concern about this amendment is that, if you specify VOSA on the face of the proposed Measure, then at some stage in the future, if VOSA ceases to exist, or ceased to be the appropriate agency, you would have to amend the Measure to change the arrangements. The reference to an 'enforcement authority' offers discretion. There is unanimity here about the use of VOSA, if that is possible, but I am not keen on tying the Deputy First Minister's hands to a particular agency on the face of the proposed Measure, given the short-lived nature of some of these agencies and the way that things change with Government quangos. On that basis, I cannot support amendment 8, although I certainly support the spirit of it. In response to this amendment, I hope that the Deputy First Minister can give an assurance that he will use an external body rather than choose to set up an internal agency to deal with these particular functions.

[42] **Bethan Jenkins:** I want to clarify a point that was made in our report. We recommended that if VOSA was unable to undertake the role, the Deputy First Minister



should first consider an existing organisation. I do not believe that we took enough evidence to justify VOSA being put on the face of the proposed Measure, and I would be open to the Deputy First Minister considering other organisations first. I know that the Deputy First Minister mentioned creating a new body, but we have given him sufficient leeway to look at other options as opposed to putting VOSA on the face of the proposed Measure at this point in time.

[43] **Brian Gibbons:** I am a little surprised that the Conservatives are pressing ahead with these amendments, because they restrict the Deputy First Minister's ability to market test which organisation should provide this service, and would restrict his ability to secure best value for money. If this were on the statute book, then we would have a one-horse tender and I do not see how we could ever hope to get value for money if a tendering exercise were being contemplated for the provision of this service.

1.20 p.m.

[44] **Jenny Randerson:** I see that no other committee member wishes to speak; I therefore call on the Deputy First Minister.

[45] **The Deputy First Minister:** For the reasons given by other Members, I also ask the committee to resist amendment 8. It would be very difficult to have one organisation only on the face of the proposed Measure. I have made it clear to the committee that my preference would be to use an existing organisation, rather than to create a new enforcement authority. I have also made it clear that VOSA would be one of the organisations that we would want to discuss and consult with. I can repeat that assurance to the committee this morning. On that basis, I ask the committee to reject the amendment.

[46] **Jenny Randerson:** I invite Jonathan to reply to the debate.

[47] **Jonathan Morgan:** First, in reply to Brian, we did make a recommendation that it should be VOSA; it was not the case that we thought that the Deputy First Minister should have a completely free hand and that we should not allow a one-horse tender. We said that, in bringing forward regulations under section 7, the Deputy First Minister should identify VOSA as the relevant enforcement body. I accept what we then said if it is unable to do it. However, the fact is that we specified that we thought that VOSA would be the preferred option, given that it would be most suited for this role. It is not unusual to specify bodies in legislation and I do not see there being a huge barrier to us in having VOSA mentioned on the face of the proposed Measure. It would give clarity to people outside this place as to who we thought would fulfil this role. It was made clear to us, in the evidence that we received from organisations, that VOSA was identified as a body that was capable of undertaking this role.

[48] I accept that our amendment goes further than just being a mere recommendation in the report, because all we called for in the report was for the Deputy First Minister to identify VOSA in regulations and not in the proposed Measure. However, by stipulating our support for VOSA, we were giving a fairly clear steer. I wanted it to be even clearer for people outside this place that we thought that VOSA was the preferred option and that it could quite easily fulfil this role. I do not see a problem in amending the face of the proposed Measure in this way.

[49] **Jenny Randerson:** Jonathan, do you wish to proceed to a vote on amendment 8?

[50] **Jonathan Morgan:** I do.

[51] **Jenny Randerson:** The question is that amendment 8 be agreed to. I call for a vote.

*Gwelliant 8: O blaid 1, Ymatal 0, Yn erbyn 4.  
Amendment 8: For 1, Abstain 0, Against 4.*

Pleidleisiodd yr Aelod canlynol o blaid:  
The following Member voted for:

Morgan, Jonathan

Pleidleisiodd yr Aelodau canlynol yn erbyn:  
The following Members voted against:

Black, Peter  
Chapman, Christine  
Gibbons, Brian  
Jenkins, Bethan

*Gwrthodwyd gwelliant 8.  
Amendment 8 not agreed.*

[52] **Jenny Randerson:** As amendment 8 has not been agreed to, amendments 9, 10, 11, 12, 13, 14 and 15 fall.

*Methodd gwelliannau 9, 10, 11, 12, 13, 14 a 15.  
Amendments 9, 10, 11, 12, 13, 14 and 15 fell.*

**Grŵp 4: Tramgwyddau: Atebolrwydd Swyddogion a Phartneriaid (Gwelliant 6)  
Group 4: Offences: Liability of Officers and Partners (Amendment 6)**

[53] **Jenny Randerson:** There is only one amendment in this group. Deputy First Minister, would you like amendment 6 in your name to be moved?

[54] **Y Dirprwy Brif Weinidog:** Hoffwn, **The Deputy First Minister:** Yes, please. os gwelwch yn dda.

[55] **Jenny Randerson:** I move amendment 6 in the name of the Deputy First Minister. I call on the Deputy First Minister to speak to amendment 6.

[56] **Y Dirprwy Brif Weinidog:** Hoffwn egluro bod gwelliant 6 yn egluro'r amgylchiadau pan fo unigolyn o fewn corff corfforaethol neu bartneriaeth yn atebol yn bersonol am dramgwyddau a gyflawnwyd mewn perthynas ag adrannau 14A ac 14B newydd y Mesur Teithio gan Ddysgwyr (Cymru) 2008, er gwaethaf yr atebolrwydd a berthyn hefyd i'r corff corfforaethol neu'r bartneriaeth. Yr oedd y pwyllgor wedi ceisio eglurhad o'r mater hwn yn ystod y cyfnod craffu cyntaf, ac yr wyf wedi ystyried yr opsiynau sydd ar gael i ymateb i bryderon y pwyllgor.

**The Deputy First Minister:** I want to explain that amendment 6 explains the circumstances under which an individual within a corporate body or a partnership is personally liable for offences under new sections 14A and 14B of the Learner Travel (Wales) Measure 2008, beyond the liability of the corporate body or the partnership themselves. The committee sought an explanation on this issue during the initial scrutiny stage, and I have considered the options that are available to respond to the committee's concerns.

[57] Mae'r gwelliant hwn yn rhoi mwy o bwyslais ar yr angen i brofi beusrwydd y person o fewn corff corfforaethol neu bartneriaeth am dramgwyddau a gyflawnir gan yr unigolyn hwnnw, yn ogystal â chan y corff corfforaethol cyfan neu'r bartneriaeth. Gobeithiaf y bydd hyn yn rhoi sicrwydd pellach nad oes bwriad i ddal unigolion yn atebol yn bersonol am dramgwyddau

This amendment places more of an emphasis on the need to prove the culpability of the person within a corporate body or partnership for an offence carried out by that individual, as well as that of the body corporate as a whole or the partnership. I hope that this will give further assurance that there is no intention of holding individuals personally accountable for criminal offences committed

troseddol a gyflawnir gan y cyrff perthnasol a darparwyr cludiant i ddysgwyr os nad ydynt wedi cymryd unrhyw ran yn y penderfyniadau perthnasol. Gofynnaf, felly, i'r pwyllgor gefnogi'r gwelliant, gan ein bod wedi'i gynnig mewn ymateb i bryderon sydd wedi'u codi gennych. Gobeithiaf y byddwch yn teimlo bod y gwelliant yn gam ymlaen o ran ymateb i'ch pryderon.

by the relevant bodies and providers of learner transport if the individual has not had any part in the relevant decisions. I ask, therefore, that the committee supports this amendment, because it has been proposed in response to concerns that you raised. I hope that you will feel that it is a step forward in allaying your concerns.

[58] **Brian Gibbons:** I welcome the clarification offered by the Deputy First Minister, but I request further clarification on what he said towards the end of his statement. For me, the key part is in discussing any neglect on the part of the officer. Presumably, a neglectful act could be a refusal to participate in a decision, and might not the fact that one had done so be the same as being neglectful? The key point is that, as long as people do not act in a negligent way—or as long as they act in good faith—the fact that they are not part of the decision is not the issue. If a tough decision had to be made, they could say 'I will not be covered by it, because I will walk out of the room and will not make the decision'. Doing so would be to neglect due process in making decisions.

[59] **The Deputy First Minister:** The issue of neglect would be a matter for consideration in individual cases, but the amendment seeks to introduce a requirement that an offence could only be classed as having been committed where consent or connivance is proven, rather than where there is simple omission or neglect.

[60] **Brian Gibbons:** I am happy with that clarification. I was simply querying the phraseology that you used at the end of your statement.

[61] **Peter Black:** I am not entirely clear on that point. Where someone in a position of responsibility neglects their duty, and that neglect subsequently leads to an offence being committed, does that mean that they are effectively conniving in that offence? Some clarification on that would be helpful. I generally welcome this amendment, because I think that it addresses a number of the concerns that were outlined in our report. I take it that we still have a situation where, if the school was providing its own transport, it would be the body corporate. Furthermore, if the governors or the headteacher consent to or connive in that offence, they would be as liable as before. When we discussed this, we asked about the liability of individual headteachers, and the response was that, as they were members of governing bodies, they would be considered to be members of the governing body rather than officers. However, not all headteachers are members of governing bodies, so if an offence is committed and the headteacher is not a member of the governing body, would they be considered to be an officer, and possibly liable under these particular provisions? On balance, these are much better clauses than was previously the case, but I request additional clarification.

[62] **The Deputy First Minister:** We need to make it clear that the services that we are talking about are those contracted by a local authority or maintained schools, not all schools. My answer would depend on the circumstances of each case, and we cannot cover all of those circumstances here, but if someone is negligent in their duties, it could be that that person is liable under these provisions. I made it clear in the earlier Stage that there would be no liability for headteachers, as they are not considered to be officers and, therefore, they would not fall within the ambit of the legislation.

1.30 p.m.

[63] **Peter Black:** Is that the case even if they are not a member of the governing body?

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

[65] **Jenny Randerson:** Deputy First Minister, do you wish to move to a vote on amendment 6?

[66] **The Deputy First Minister:** Yes, please.

[67] **Jenny Randerson:** The question is that amendment 6 be agreed to. I call for a vote.

*Gwelliant 6: O blaid 5, Ymatal 0, Yn erbyn 0.  
Amendment 6: For 5, Abstain 0, Against 0.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Black, Peter  
Chapman, Christine  
Gibbons, Brian  
Jenkins, Bethan  
Morgan, Jonathan

*Derbyniwyd gwelliant 6.  
Amendment 6 agreed.*

**Grŵp 5: Rheoliadau: Ymgynghori (Gwelliannau 16 ac 17)**  
**Group 5: Regulations: Consultation (Amendments 16 and 17)**

[68] **Jenny Randerson:** The first amendment to be considered in this group is amendment 16 in the name of Darren Millar. I call on Jonathan Morgan to move amendment 16, and to speak to that amendment and amendment 17.

[69] **Jonathan Morgan:** I move amendment 16 in the name of Darren Millar.

[70] The amendment relates to section 12 of the proposed Measure, and would insert, at line 29 on page 7, after 'local authority':

[71] 'parents, guardians, or other persons legally responsible for children.'

[72] It is right that the face of the proposed Measure includes parents, guardians and carers, along with each local authority and such persons as the Minister might conclude are appropriate, as statutory consultees. This is an important proposed Measure. It is not just about how we provide safer transport; ultimately, it is about making sure that children and young people benefit from the range of provisions in it. As a result, we need to make sure that, where possible and practical, parents and guardians are consulted about those matters that involve the safety of their children, or the children for whom they are responsible.

[73] **Bethan Jenkins:** I would point out that the committee's view in the report was that we were content with the Deputy First Minister's explanation in stating that people would be drawn into the consultation process sufficiently, and that we welcomed the commitment to consult all relevant stakeholders in this policy area. In my opinion, we should allow that flexibility. If we are too specific, we could leave people out. Therefore, the broader we keep it, the better it will be in allowing others who may not be named on the face of the proposed Measure to be consulted.

[74] **Christine Chapman:** To add to what Bethan has said, what is in the amendment is

quite specific, and would be quite tokenistic. I agree with the principle behind it; it is about involving parents and guardians. However, I am just thinking of looked-after children, for example. Would they be covered by the amendment? They should be covered, if you want everyone in. My concern is that what is proposed would be impractical in some respects. I agree with the principle of the amendment, but it could be unworkable.

[75] **Brian Gibbons:** I am just wondering about the legal implications of it. Would it require that each parent is consulted individually? Clearly, that would be unworkable—it just would not be possible. If the amendment referred to some sort of view as a result of a collective discussion with parents, guardians and others who are legally responsible for children, that would be okay, and you could see the merit in it. However, as it is written, it is conceivable that any parent, guardian or other person who is legally responsible for children could bring the process to a halt because they were not adequately consulted or were missed out in the consultation. Engagement with parents and so on in the broader sense is important, but what is proposed by the amendment would be an absolute nightmare to operate in practice. It would be totally counter-productive and a recipe for nothing getting done.

[76] **Jenny Randerson:** Does anyone else want to speak?

[77] **The Deputy First Minister:** I would ask the committee to resist this amendment, as it would be impractical to consult with all parents, guardians and other people legally responsible for children. However, I can give the committee an assurance that my officials will consult widely on all aspects of the proposed Measure and involve a range of stakeholders, which will include organisations representing parents, guardians, children and young people. As Brian and Bethan pointed out, it would be impossible to consult with all parents and guardians on all aspects of the proposed Measure, because the amendment is too specific. Under those circumstances, I would ask the committee to reject the amendment.

[78] **Jenny Randerson:** You may wish to touch on amendment 17 in your reply, Jonathan.

[79] **Jonathan Morgan:** In replying to the discussion on amendment 16, Christine raised the point about looked-after children. Looked-after children are the legal responsibility of local authorities, who would be covered by the amendment.

[80] I listened very carefully to Brian and the Deputy First Minister, and I still do not see the barrier to taking these regulations forward just by virtue of the fact that there would be a requirement to consult with parents, guardians or other persons legally responsible for children. Ultimately, this is about the safety of children on school transport. It seems obvious that the individuals legally responsible for those children outside school are parents and guardians, and the amendment would be appropriate in sending the right message that we are doing whatever is possible to consult with them. I think that the Government is resisting this amendment because it presents, almost, an easy way out of doing something that I think is eminently sensible.

[81] Amendment 17 relates to section 2 of the proposed Measure on the recording of visual images or sound on learner transport. The amendment would ensure that bus companies, travel providers and relevant representative bodies are consulted by Welsh Ministers when making regulations under section 14B of the Learner Travel (Wales) Measure 2008. Regarding the way that these regulations should be taken forward, we strongly believe that those individuals who appear to Welsh Ministers to represent the interests of such providers—wonderful terminology—are listed in the proposed Measure as being individuals who will be consulted before regulations are brought forward under section 14B.

[82] **Jenny Randerson:** Do you wish to move to a vote on amendment 16?

[83] **Jonathan Morgan:** I do.

[84] **Jenny Randerson:** The question is that amendment 16 be agreed to. I call for a vote.

*Gwelliant 16: O blaid 2, Ymatal 0, Yn erbyn 3.  
Amendment 16: For 2, Abstain 0, Against 3.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Black, Peter  
Morgan, Jonathan

Pleidleisiodd yr Aelodau canlynol yn erbyn:  
The following Members voted against:

Chapman, Christine  
Gibbons, Brian  
Jenkins, Bethan

*Gwrthodwyd gwelliant 16.  
Amendment 16 not agreed.*

[85] **Jenny Randerson:** In line with the marshalled list, we now move to dispose of amendment 17 in the name of Darren Millar.

[86] **Jonathan Morgan:** I move amendment 17 in the name of Darren Millar.

[87] **Jenny Randerson:** The question is that amendment 17 be agreed to. I call for a vote.

*Gwelliant 17: O blaid 2, Ymatal 0, Yn erbyn 3.  
Amendment 17: For 2, Abstain 0, Against 3.*

Pleidleisiodd yr Aelodau canlynol o blaid:  
The following Members voted for:

Black, Peter  
Morgan, Jonathan

Pleidleisiodd yr Aelodau canlynol yn erbyn:  
The following Members voted against:

Chapman, Christine  
Gibbons, Brian  
Jenkins, Bethan

*Gwrthodwyd gwelliant 17.  
Amendment 17 not agreed.*

**Grŵp 6: Dehongli: Ystyr ‘Cludiant i Ddysgwyr’ (Gwelliannau 1 a 2)  
Group 6: Interpretation: Meaning of ‘Learner Transport’ (Amendments 1 and 2)**

[88] **Jenny Randerson:** The first amendment in this group to be considered is amendment 1, and I call on Peter Black to move and speak to amendment 1 and the other amendment in the group.

[89] **Peter Black:** I move amendment 1 in my name.

1.40 p.m.

[90] In support of this amendment, this is an issue that came up on a number of occasions when we took evidence on the proposed Measure. When you consider how children are transported to and from school, there is a wide belief that you cannot separate that from the provision of transport during school hours, particularly given the changes to the curriculum and the 14-19 agenda, which means that pupils will be effectively moving from site to site as part of their normal learning day. If we are going to make regulations that provide for the safety of pupils on buses going to and from school, we also need to make regulations in relation to the vehicles being used during the school day. In many instances, those vehicles

will probably already contain seatbelts and other safety provisions. However, the main point is that the proposed Measure is largely an enabling one. Virtually all of it will be enacted by regulation, which means that, in terms of the consultation on this particular change to the proposed Measure, as with other regulations, these things are yet to come. So, I do not believe that we are doing anything untoward by adding a further amendment asking the Minister to provide regulations on this at some date in the future.

[91] The Minister has accepted the general thrust of the argument, although he was not prepared to accept the amendment at this stage for a number of reasons, which he gave in this committee and in Plenary during the Stage 1 debate. The main argument was that there had been no proper consultation on whether this should be part of the proposed Measure. That should not be a barrier to including this amendment. Certainly, it has not been a barrier in the case of other Measures. I can refer to the debate that will be held next week on the proposed Local Government (Wales) Measure, where the Minister has brought in a significant amendment at Stage 2, which has not been consulted on or scrutinised at Stage 1. Therefore, the Government has not been averse in the past to laying amendments that have not been consulted on in the initial consultation. The difference between this amendment and the one that has been taken on the proposed local government Measure is that this has been subject to evidence. We have received evidence on it, and there is a general consensus among those people from whom we have taken evidence that we need to make regulations about transport during the school day. No-one expects them to appear overnight or in the near future, but as the regulations are rolled out from this Measure, it makes sense that the Minister should have this power rather than having to bring yet another Measure before us—which will, effectively, be Measure number three on learner transport—to deal with transport during the school day. In conclusion, I ask that the committee agrees to include this amendment in the proposed Measure, so that regulations can come forward on a future date, so that proper consultation on those regulations can take place at that stage, and so that we can have, in this proposed Measure, a complete suite of regulations with regard to all types of learner transport.

[92] **Jenny Randerson:** Does any other Member wish to speak?

[93] **Jonathan Morgan:** I think that this amendment is probably the most sensible way of dealing with this tricky issue. The committee spent a lot of time trying to come to a view on this. It was something that concerned us and, to an extent, divided us. We spent our time attempting to resolve this issue, because we all recognise that, over a period of time, larger numbers of pupils in Wales will be transported during the school day. While I fully accept that the journey between home and school is the fundamental journey that pupils tend to make, I am sure that parents, pupils and learning institutions will want to be certain that we have, as Peter said, a suite of legislative options that will accommodate that changing picture in the future.

[94] I accept that we are not there yet—we do not see huge numbers of pupils travelling between one building and another. That will take time as some of the education reforms bed in. We have this piece of legislation before us, and I think that Peter's amendment is a very simple, straightforward, flexible way of introducing the amendment, because it says that Welsh Ministers may amend the definition by Order. It does not say that you have to do this when this proposed Measure becomes law, but it gives you, or a future Minister, the option to bring forward these regulations. Although it was not part of the original consultation, because it was not part of the original programme of proposals brought forward by the Government, it was clearly something that people felt strongly about.

[95] I think that we ought to be as consistent as possible. Regarding Peter's view on what is happening with the Proposed Local Government (Wales) Measure, if the Government wants to appear credible with regard to the way in which legislation is brought forward, then consistency is extremely important. Your Cabinet colleague, Carl Sargeant, has decided to

expand the proposed local government Measure—though obviously staying within the scope of the proposed Measure—to include matters that were not really raised by the committee at Stage 1. While the committee, at that point, may have taken a view on collaboration, the issue of mergers and of revamping electoral wards within potentially new county areas was not part of the evidence session. I raise this simply to show that there should be a level of consistency. If one Minister thinks that it is okay to bring forward substantial changes that were not really referred to as part of the evidence, but another Minister feels that it is not acceptable, it sends a very confusing signal to people outside the Assembly. What is being proposed here is sufficiently flexible; it allows for something to happen in the future. Of course, one would anticipate that any regulations that you would bring forward from this amendment would again need to be consulted on. So, it is not as if this closes the door on consultation. In fact, any regulations under this proposed Measure would still need to be consulted on anyway. In essence, it solves a problem, and in a simplistic but flexible way.

[96] **The Deputy First Minister:** I am going to intervene at an earlier stage than would normally be the case, as I want to be helpful to the committee. I have listened carefully to the debate and to the evidence that was taken in the pre-scrutiny stage and during the debate on the general principles. I have also read the committee's report and heard the strong arguments that have been made. I have an offer to make to committee members, if they are prepared to consider it. Some of the original concern, as I understand it, related to the following issue: if you have children travelling to school and travelling home at the end of the school day, what happens in respect of travel during the day? How is it possible to justify excluding that? The difficulty that I had with the original proposal was that it extended the number of people who would be responsible for travel. If parents had organised bus travel during the school day, or the school itself had done so, the proposal would have involved making people who are currently not responsible for travel under the proposed legislation responsible for it. That is the difficulty that I had with it. All of the arguments that we had previously had about 'responsible people' would have a different complexion.

[97] This amendment, as it currently stands, does not extend that far. The current amendment would relate only to travel during the day in respect of contracted services by local authorities. That is the amendment that we have before us. I would be happy to tell members of the committee that, if the proposer of this amendment is prepared to withdraw it in this form, I will give an undertaking that an appropriate amendment will be brought forward at the next stage that would cover travel during the day, where buses are used via local authority contracts. I think that I am making a fair offer. I am meeting many of the concerns that have been expressed. If committee members feel happy, then on the basis of the withdrawal of this amendment, I will give that undertaking. I believe that that ministerial undertaking is something that the committee should consider.

[98] **Jenny Randerson:** I believe that Brian has a question.

[99] **Brian Gibbons:** I am very pleased that the Deputy First Minister is responding flexibly to these concerns. If we are going to regulate travel to school, it seems illogical that travel within the school day should not be governed by the same standards. I do not think that there is any argument about that. I would like to deal with Jonathan's point, vis-à-vis the proposed local government Measure.

1.50 p.m.

[100] Jonathan, I agree with the point that you are making: that the Assembly Government may not be consistent. However, I think that there is a key principle that, if the Assembly Government is going to bring in novel amendments that were not consulted upon, it must have a compelling reason to do so. It should not appear to be routine business for novel amendments to appear suddenly in Measures, and that it becomes the norm in practice. I do



not think that that would be acceptable at all. I am obviously aware of what the Minister for local government is doing in broad terms.

[101] **Jenny Randerson:** I will have to pull Members back to the proposed Measure.

[102] **Brian Gibbons:** This is at the heart of Jonathan's—

[103] **Jenny Randerson:** Yes, but we are in danger of entering into a debate about another proposed Measure. Technically, the Minister should have had the last word. I am indulging you, Brian, by allowing you to come in in this way.

[104] **Brian Gibbons:** You are too kind, Chair.

[105] **Jenny Randerson:** You are now talking about another proposed Measure.

[106] **Brian Gibbons:** I will therefore sum up. I do not think that we should let through, without a challenge, Jonathan's argument in relation to the proposed local government Measure, which he has introduced, as justification for this one. I do not think that we can let it go through as something that the Assembly should be accepting that as good practice or normal practice. If there is an exceptional need for it, then we must be flexible and nimble to respond to changing situations. However, we should not say that this is a type of practice that we would encourage or support.

[107] **Jenny Randerson:** Okay. I will ask Peter to respond, particularly in relation to the Minister's suggestion that you may wish to withdraw this amendment. I would be grateful if you could make your position clear and to bear in mind that, since these two amendments are together in a group, they need to be treated in the same way.

[108] **Peter Black:** I understand that, Chair. I will just say how grateful I am that Brian has expressed his disapproval of Carl Sargeant's actions. I am happy to accept the Minister's offer and I withdraw the amendment.

[109] **Jenny Randerson:** Thank you very much. Therefore, does any Member object to the withdrawal of this amendment? I see that there are no objections. The amendment is therefore withdrawn.

*Tynnwyd gwelliant 1 yn ôl drwy ganiatâd y pwyllgor.  
Amendment 1 withdrawn by leave of the committee.*

[110] **Jenny Randerson:** We now come to dispose of amendment 2 in the name of Peter Black; this has already been debated with amendment 1. I invite Peter Black to move amendment 2.

[111] **Peter Black:** Given the offer made by the Minister, I will not move amendment 2 in my name.

*Ni symudwyd gwelliant 2.  
Amendment 2 not moved.*

[112] That brings us to the end of today's consideration of amendments. For the record, all sections of the proposed Measure have been deemed agreed by the committee. This brings Stage 2 proceedings to a close. Stage 3 begins tomorrow. Further details of other dates for Stage 3 proceedings and tabling deadlines will be sent to Members and published on the Assembly's website in due course. I now declare the meeting closed.

*Daeth y cyfarfod i ben am 1.53 p.m.*  
*The meeting ended at 1.53 p.m.*