



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

**Y Pwyllgor Materion Cyfansoddiadol
The Constitutional Affairs Committee**

**Dydd Iau, 27 Mai 2010
Thursday, 27 May 2010**

Cynnwys
Contents

- 3 Ethol Cadeirydd Dros Dro
Election of Temporary Chair
- 4 Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datgan Buddiannau
Introduction, Apologies, Substitutions and Declarations of Interest
- 4 Offerynnau Na Fydd y Cynulliad yn Cael ei Wahodd i Roi Sylw Arbennig iddynt o dan
Reolau Sefydlog Rhifau 15.2 a 15.3, ac Offerynnau sy'n Agored i Gael eu Dirymu yn
Unol â Phenderfyniad gan y Cynulliad (y Weithdrefn Negyddol)
Instruments in Respect of which the Assembly is Not Invited to Pay Special Attention
Under Standing Orders Nos. 15.2 and 15.3, and Instruments Subject to Annulment
Pursuant to a Resolution of the Assembly (the Negative Procedure)
- 8 Ystyried Mesur Arfaethedig y Gymraeg (Cymru) 2010—Sesiwn Dystiolaeth gydag
Alun Ffred Jones AC, Gweinidog dros Dreftadaeth Llywodraeth Cymru
Consideration of the Proposed Welsh Language (Wales) Measure—Evidence Session
with Alun Ffred Jones AM, the Welsh Government Minister for Heritage
- 19 Unrhyw Fater Arall
Any Other Business
- 19 Dyddiad y Cyfarfod Nesaf
Date of the Next Meeting
- 19 Cynnig Trefniadol
Procedural Motion

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

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

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Alun Davies	Llafur Labour
Michael German	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
William Graham	Ceidwadwyr Cymreig Welsh Conservatives
David Lloyd	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)
Rhodri Morgan	Llafur Labour

Eraill yn bresennol
Others in attendance

Nerys Arch	Cyfreithiwr, Gwasanaethau Cyfreithiol, Llywodraeth Cynulliad Cymru Lawyer, Legal Services, Welsh Assembly Government
Alun Ffred Jones	Aelod Cynulliad, Plaid Cymru, (y Gweinidog dros Dreftadaeth) Assembly Member, Plaid Cymru, (the Minister for Heritage)
Dr Huw Onllwyn Jones	Pennaeth Uned Bolisi'r Gymraeg a'r Cyfryngau, Llywodraeth Cynulliad Cymru Head of Welsh Language and Media Policy Unit, Welsh Assembly Government

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

Stephen Davies	Cynghorydd Cyfreithiol Legal Adviser
Stephen George	Clerc Clerk
Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Olga Lewis	Dirprwy Glerc Deputy Clerk

Dechreuodd y cyfarfod am 12.55 p.m.
The meeting began at 12.55 p.m.

Ethol Cadeirydd Dros Dro
Election of Temporary Chair

[1] **Mr George:** Good afternoon. I declare the meeting of the Constitutional Affairs Committee open. The committee Chair, Janet Ryder, has submitted her apologies for today's meeting. Therefore, the first item on the agenda is the election of a temporary Chair. I invite nominations from committee Members for a temporary Chair under Standing Order No. 10.19.

[2] **Rhodri Morgan:** I nominate Dr Lloyd.

[3] **Mr George:** I see that there are no other nominations, and so I declare Dai Lloyd

elected and invite him to take the chair.

*Penodwyd David Lloyd yn Gadeirydd dros dro.
David Lloyd was appointed temporary Chair.*

Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datgan Buddiannau Introduction, Apologies, Substitutions and Declarations of Interest

[4] **David Lloyd:** Hoffwn ddiolch i fy nghyd-Aelodau am eu hyder ynof fel Cadeirydd dros dro y Pwyllgor Materion Cyfansoddiadol. Croeso i bawb i'r cyfarfod.

David Lloyd: I thank my fellow Members for their faith in me as temporary Chair of the Constitutional Affairs Committee. I welcome everyone to the meeting.

[5] Hoffwn gyhoeddi os bydd larwm tân, dylai Aelodau adael yr ystafell drwy'r allanfeydd tân priodol a dilyn cyfarwyddiadau'r tywyswyr a'r staff. Nid ydym yn disgwyl prawf y prynhawn yma, ac nid ydym yn disgwyl tân ychwaith. Dylai pawb ddiffodd eu ffonau symudol, eu galwyr a'u 'mwyar duon', gan eu bod yn amharu ar yr offer darlledu. Mae pawb yn ymwybodol bod Cynulliad Cenedlaethol Cymru yn gweithredu'n ddwyieithog. I'r perwyl hwnnw, mae clustffonau ar gael i glywed y cyfieithiad ar y pryd a gellir hefyd addasu'r sain arnynt i bobl sy'n drwm eu clyw. Peidiwch â chyffwrdd â'r botymau ar y meicroffonau, gan y gallai hynny amharu ar y system, a sicrhewch fod y golau coch yn disgleirio cyn ichi ddechrau siarad. Mae'r cyfieithiad ar y pryd i'w glywed ar sianel 1 a'r darllediad gair am air, i glywed y sain yn well, ar sianel 0.

I would like to announce that if a fire alarm sounds, Members should leave the room through the designated fire exits and follow the directions of ushers and staff. We are not expecting a fire drill this afternoon, nor are we expecting a fire. Everyone should switch off their mobile phones, pagers and BlackBerrys, as they interfere with the broadcasting equipment. As you will all be aware, the National Assembly for Wales operates bilingually. To that end, headsets are available for interpretation and amplification for people who are hard of hearing. Please do not touch the buttons on the microphones, as this can interfere with the system, and please ensure that the red light is showing before you speak. Interpretation is available on channel 1 and verbatim, for the amplification of sound, on channel 0.

[6] Fel yr ydym wedi clywed eisoes, yr ydym wedi derbyn ymddiheuriadau gan Janet Ryder.

As we have already heard, we have received apologies from Janet Ryder.

12.57 p.m.

Offerynnau Na Fydd y Cynulliad yn Cael ei Wahodd i Roi Sylw Arbennig iddynt o dan Reolau Sefydlog Rhifau 15.2 a 15.3, ac Offerynnau sy'n Agored i Gael eu Dirymu yn Unol â Phenderfyniad gan y Cynulliad (y Weithdrefn Negyddol) Instruments in Respect of which the Assembly is Not Invited to Pay Special Attention Under Standing Orders Nos. 15.2 and 15.3, and Instruments Subject to Annulment Pursuant to a Resolution of the Assembly (the Negative Procedure)

[7] **David Lloyd:** Yr ydym yn edrych ar CA446, Rheoliadau Addysg (Diwygiadau ynglŷn â'r Ysbeidiau rhwng Arolygiadau Addysg a Hyfforddiant) (Cymru) 2010, o dan y weithdrefn negyddol. Gwyn, a oes gen ti rywbeth i'w adrodd am y rhain?

David Lloyd: We are considering CA446, the Education (Amendments Relating to the Intervals for the Inspection of Education and Training) (Wales) Regulations 2010, under the negative procedure. Gwyn, do you have anything to report on these?

- [8] **Mr Griffiths:** Dim o gwbl. **Mr Griffiths:** Nothing at all.
- [9] **David Lloyd:** A yw pawb yn hapus i'w pasio? Gwelaf eich bod. **David Lloyd:** Is everyone content to pass those? I see that everyone is.
- [10] Symudwn ymlaen at CA447, Rheoliadau Safonau Ansawdd Aer (Cymru) 2010, eto o dan y weithdrefn negyddol. A oes unrhyw sylwadau gan ein tîm cyfreithiol? Mae'r tîm cyfreithiol yn hapus. A yw'r Aelodau'n hapus? **David Lloyd:** We shall move on to CA447, the Air Quality Standards (Wales) Regulations 2010, also under the negative procedure. Does our legal team have any comments? The legal team is content. Are Members content?
- [11] **Rhodri Morgan:** Caiff 'aer' ei ddefnyddio yn lle 'awyr'. **Rhodri Morgan:** 'Aer' is used instead of 'awyr' in the Welsh.
- [12] **David Lloyd:** Beth yw arwyddocâd hynny? **David Lloyd:** What is the significance of that?
- [13] **Mr Griffiths:** Yr wyf yn tybio y byddwn yn defnyddio 'awyr' ar gyfer 'sky', ac felly 'aer' ar gyfer 'air'. **Mr Griffiths:** I expect that we will use 'awyr' for 'sky', and therefore 'aer' for 'air'.
- [14] **David Lloyd:** Fel arall, byddai'n rhaid inni ddefnyddio 'ffurfafen' a byddai pethau'n mynd yn gymhleth iawn. **David Lloyd:** Otherwise we would have to use 'firmament', and it would complicate things.
- [15] Symudwn ymlaen at CA448, Gorchymyn Dynodi Gorfodi Sifil ar Dramgwyddau Parcio (Dinas a Sir Caerdydd) 2010, eto o dan y weithdrefn negyddol. Gwyn, a wyt ti eisiau adrodd rhywbeth ar hwn? **David Lloyd:** We shall move on to CA448, the Civil Enforcement of Parking Contraventions (City and County of Cardiff) Designation Order 2010, also under the negative procedure. Gwyn, do you have anything to report on this?
- [16] **Mr Griffiths:** Nid oes dim i'w adrodd, ond efallai y dylwn egluro pam mae hwn wedi dod gerbron y pwyllgor. Nid ydym fel arfer yn ystyried gorchmynion lleol, ond hwn yw'r diweddaraf mewn cyfres o orchmynion o dan y pwerau yn Neddf Rheoli Traffig 2004. **Mr Griffiths:** There is nothing to report, but perhaps I should explain why this has come before the committee. We do not usually consider local orders, but this is the latest in a series of orders under the powers in the Traffic Management Act 2004.
- [17] **Rhodri Morgan:** Nid is-ddeddf yw hon. **Rhodri Morgan:** This is not a bye-law.
- [18] **Mr Griffiths:** Na, mae darpariaeth yn Neddf 2004 sy'n dweud bod yn rhaid i orchmynion o'r fath gael eu gosod gerbron Senedd y Deyrnas Unedig neu'r Cynulliad. Yn y blynyddoedd diwethaf, yr ydym wedi ystyried rhai ar gyfer Aberconwy a lleoedd eraill. **Mr Griffiths:** No, it is not. There is a provision within the 2004 Act that says that orders of this kind must either be laid before Parliament or the Assembly. In recent years, we have considered orders for Aberconwy and other places.

1.00 p.m.

- [19] **Rhodri Morgan:** A allwch chi ofyn am eglurhad unwaith eto? Pam nad is-ddeddf yw hon, sef rheoliad sy'n weddus i ddod gerbron y pwyllgor hwn, pan fyddai pawb wedi disgwyl iddi fod yn is-ddeddf?
- Rhodri Morgan:** Can you ask for further clarification again? Why is this not a bye-law; that is, a regulation that can come before this committee, when everyone would have expected it to be a bye-law?
- [20] **Mr Griffiths:** Nid is-ddeddf ydyw gan nad oes rheoliadau o'i mewn. Y cyfan y mae'n ei wneud yw trosglwyddo cyfrifoldeb o'r heddlu i'r awdurdod lleol.
- Mr Griffiths:** It is not a bye-law because there are no regulations within it. It merely transfers responsibility from the police to the local authority.
- [21] **Rhodri Morgan:** Felly, *siflianeiddio* yw hyn yn hytrach na chreu is-ddeddf newydd.
- Rhodri Morgan:** Therefore, this is a matter of civilianisation rather than creating a new bye-law.
- [22] **Mr Griffiths:** Ie.
- Mr Griffiths:** Yes.
- [23] **Rhodri Morgan:** Felly, a yw'n golygu bod pobl nad ydynt yn heddwision yn gallu rhwymo'ch car?
- Rhodri Morgan:** So, does that mean that people who are not members of the police force can clamp your car?
- [24] **David Lloyd:** A ydych yn dymuno datgan buddiant yn hyn o beth cyn symud ymlaen?
- David Lloyd:** Do you wish to declare an interest in relation to this before moving on?
- [25] **Rhodri Morgan:** Na. Mae gan bawb hanes yn y maes hwn, wrth gwrs. [*Chwerthin.*]
- Rhodri Morgan:** No. Everyone has a history in this area, of course. [*Laughter.*]
- [26] **Mr Griffiths:** Y cyfan y mae hwn yn ei wneud yw trosglwyddo'r cyfrifoldeb o'r heddlu i'r awdurdod lleol. Mater i'r awdurdod lleol ydyw wedyn i benderfynu sut mae'n trefnu'r gwasanaeth rheoli parcio.
- Mr Griffiths:** This merely transfers the responsibility from the police to the local authority. It is then a matter for the local authority to decide how it arranges the parking management system.
- [27] **Rhodri Morgan:** Felly, a yw'n golygu y gall yr hawl i rwymo wedyn gael ei rhoi i gwmnïau preifat?
- Rhodri Morgan:** Does it therefore mean that the right to clamp can then be outsourced to private companies?
- [28] **Mr Griffiths:** Gallai hynny ddigwydd.
- Mr Griffiths:** That could happen.
- [29] **Rhodri Morgan:** A yw pawb yn hapus gyda hynny? Mae'n ddwy naid mewn un rhan o'r gyfraith. Mae'n symud yr hawl o'r heddlu i'r awdurdod lleol, ac yna bydd gan yr awdurdod lleol bob hawl i drwyddedu cwmnïau preifat.
- Rhodri Morgan:** Is everyone content with that? It means two leaps in one piece of legislation. It transfers the right from the police to the local authority and then local authorities will have the right to tender it out to a private company.
- [30] **Mr Griffiths:** Yn gywir.
- Mr Griffiths:** Yes.
- [31] **David Lloyd:** I helpu, materion deddfwriaethol sydd ynghlwm, nid materion polisi.
- David Lloyd:** Just to help, we are supposed to be looking at the legislative issues, not the policy issues.

[32] **Rhodri Morgan:** Yr wyf yn deall hynny. Yr wyf yn sôn am yr egwyddor ddeddfwriaethol o roi dwy naid i mewn i un gyfraith, sef neidio, o bosibl, yn syth o'r heddlu i gwmi preifat drwy gyfrwng yr awdurdod lleol.

Rhodri Morgan: I understand that. I am talking about the legislative principle of placing two steps within one piece of legislation, which means potentially jumping straight from the police to a private company through the medium of the local authority.

[33] **David Lloyd:** A oes gennyf sylw ar hynny, Gwyn, neu a fedrwn ychwanegu hynny at yr adroddiad sydd gerbron?

David Lloyd: Do you have a comment to make on that, Gwyn, or could we add that to the report before us?

[34] **Mr Griffiths:** Fel y dywedais, y Gorchymyn diweddaraf mewn cyfres o Orchmynion yw hwn. Nid yw'n bwynt yr ydym wedi'i godi ar achlysuron blaenorol ynghylch Abertawe, sir Gaerfyrddin a Chonwy.

Mr Griffiths: As I have said, this is the latest in a series of Orders of this kind. It is not a point that has arisen on previous occasions in relation to Swansea, Carmarthenshire and Conwy.

[35] **Mr George:** Nid yw'n ymrwymiad deddfwriaethol ond efallai y gallech roi adroddiad arno o dan Reol Sefydlog Rhif 15.3, sef rhagoriaethau yr offerynnau statudol ac ati, os ydych yn dymuno tynnu sylw'r Cynulliad at y peth.

Mr George: It is not a legislative matter but you may be able to report upon it under Standing Order No. 15.3, which would be the merits of the statutory instrument and so forth, if you wish to draw the Assembly's attention to it.

[36] **Rhodri Morgan:** Mae llawer o bryder wedi'i fynegi am y pwnc hwn yn ddiweddar. Credaf fod cyfraith newydd yn cael ei chyflwyno gan y glymblaid newydd yn San Steffan. Clywais rywbeth ar raglen *Today* y bore ddoe am y ffaith eu bod am osod rhyw fath o fesur cwtogi ar yr hawl i rwymo. Efallai fy mod wedi camgofio neu gamddeall yr hyn a glywais wrth eillio yn y bore—fel sydd yn digwydd—o ryw Fesur a fydd yn cwtogi ar yr hawl i rwymo gan gwmmiau preifat.

Rhodri Morgan: A great deal of concern has been expressed about this recently. I think that a new law is being introduced by the new coalition in Westminster. I heard something on the *Today* programme yesterday morning about the fact that it wishes to set restrictions on the right to clamp. Perhaps I misunderstood or have not remembered correctly what I heard while shaving in the morning—as is often the case—regarding a Bill to curtail the right to clamp by private companies.

[37] **Alun Davies:** Yr wyf yn cytuno. Clywais hynny hefyd.

Alun Davies: I agree. I also heard that.

[38] **David Lloyd:** Felly, a ydym o'r farn ein bod yn rhoi'r adroddiad gerbron ar sail rhagoriaeth, fel yr awgrymodd y clerck?

David Lloyd: Therefore, is it our view that we should bring a report forward on the basis of merit, as suggested by the clerk?

[39] **Mr George:** Bydd hyn yn tynnu sylw'r Cynulliad at yr hyn y mae'n ei wneud.

Mr George: It will draw the Assembly's attention to what this entails.

[40] **Rhodri Morgan:** Iawn.

Rhodri Morgan: Okay.

[41] **David Lloyd:** A ydych yn hapus i dderbyn y gwelliant hwnnw? Gwelaf eich bod yn fodlon.

David Lloyd: Are you happy for that amendment to be agreed? I see that you are content.

1.03 p.m.

**Ystyried Mesur Arfaethedig y Gymraeg (Cymru) 2010—Sesiwn Dystiolaeth
gydag Alun Ffred Jones AC, Gweinidog dros Dreftadaeth Llywodraeth Cymru
Consideration of the Proposed Welsh Language (Wales) Measure—Evidence
Session with Alun Ffred Jones AM, the Welsh Government Minister for Heritage**

[42] **David Lloyd:** Symudwn yn awr at brif eitem y prynhawn. Yn cynorthwyo Alun Ffred Jones, y Gweinidog dros Dreftadaeth yn Llywodraeth Cymru, y mae Dr Huw Onllwyn Jones, pennaeth uned bolisi'r Gymraeg a'r cyfryngau yn Llywodraeth Cymru, a Nerys Arch, cyfreithiwr yn adran Gwasanaethau Cyfreithiol Llywodraeth Cymru. Croeso i chi'ch tri. Yr ydych yma i roi tystiolaeth am Fesur Arfaethedig y Gymraeg (Cymru). A ydych yn dymuno gwneud sylwadau agoriadol, neu ddweud pwy yw eich staff, neu sôn am y broses? Er gwybodaeth, mae cwestiynau wedi'u paratoi ymlaen llaw, a gallwn symud yn syth at y cwestiynau os dyna'ch dymuniad.

[43] **Y Gweinidog dros Dreftadaeth (Alun Ffred Jones):** Diolch am y gwahoddiad. Yr ydych wedi cyflwyno'r ddau swyddog sydd gyda mi, felly nid oes angen dweud mwy. Awn yn syth at y cwestiynau.

[44] **David Lloyd:** Gan mai myfi yw'r Cadeirydd, er mai dros dro yw hynny, gofynnaf y cwestiynau cyntaf. Felly, defnyddiaf ba hawl bynnag sydd gennyf dros dro.

[45] O gofio'r consŷrn a fynegwyd gan ystod o dystion am annibyniaeth y comisiynydd iaith oddi ar Weinidogion, o gymryd y bydd y Prif Weinidog yn ei benodi, sut y bydd annibyniaeth y comisiynydd iaith yn cael ei chryfhau drwy reoliadau?

[46] **Alun Ffred Jones:** Os ydych yn sôn am y drefn benodi, mae nifer o amodau yn y Mesur arfaethedig i ddiogelu annibyniaeth y comisiynydd, er mwyn iddo ef neu hi allu ymddwyn yn annibynnol ac yn effeithiol. Mae'r elfennau hynny wedi'u rhestru mewn llythyr yr anfonais at Gadeirydd Pwyllgor Deddfwriaeth Rhif 2, Val Lloyd. Mae'r llythyr hwnnw ar gael i chi, ac efallai fod rhai ohonoch wedi'i weld beth bynnag. Mae'r

David Lloyd: We now move to the main item for the afternoon. Alun Ffred Jones, the Minister for Heritage for the Welsh Government is being assisted by Dr Huw Onllwyn Jones, head of the Welsh language and media policy unit at the Welsh Government, and Nerys Arch, a lawyer within the Legal Services department at the Welsh Government. Welcome to the three of you. You are here to give evidence on the Proposed Welsh Language (Wales) Measure. Do you wish to make any opening remarks, or introduce your staff, or perhaps outline the process? For information, questions have already been prepared, therefore we can move immediately to those if you so wish.

The Minister for Heritage (Alun Ffred Jones): Thank you for the invitation. You have introduced the two officials that I have with me, so there is no need to say any more. We will go immediately to the questions.

David Lloyd: As I am the Chair, albeit on a temporary basis, it falls to me to ask the first questions. Therefore, I will use my temporary right.

Given the concerns that have been expressed by a range of witnesses about the independence of the language commissioner from Ministers, on the assumption that the First Minister will make the appointment, how could the independence of the commissioner be strengthened through regulations?

Alun Ffred Jones: If you are talking about the appointments system, there are many conditions in the proposed Measure that safeguard the independence of the commissioner, so that he or she can act independently and effectively. Those elements are listed in the letter that I sent to the Chair of Legislation Committee No. 2, Val Lloyd. That letter is available; perhaps some of you have seen it anyway. That letter

llythyr hwnnw yn nodi'r camau pwrpasol.

notes the steps that need to be taken.

[47] Derbyniaf fod yn rhaid i'r cyhoedd gael hyder yn annibyniaeth y broses hon. Byddwch yn ymwybodol bod y Mesur arfaethedig hwn yn golygu y byddai angen penodi panel penodi, ac y byddai'r panel hwnnw yn gwneud argymhellion i'r Prif Weinidog, ac y byddai'n rhaid i'r Prif Weinidog gymryd sylw o'r argymhellion hynny. A yw hynny'n ddigon o ateb i chi?

I accept that the public must have confidence in the independence of this process. You will be aware that the proposed Measure means that this system would involve the appointment of a selection panel, and that that panel would make recommendations to the First Minister, who would have to give attention to those recommendations. Is that a sufficient answer to that question?

[48] **David Lloyd:** Ydy, felly symudwn ymlaen. Pam mae'r rheoliadau ynglŷn ag apwyntio comisiynydd iaith, y panel cynghori a'r tribiwnlys i gyd yn cael eu gwneud o dan y weithdrefn negyddol?

David Lloyd: Yes, so we will move on. Why are the regulations for the appointment of the Welsh language commissioner, the advisory panel and the tribunal subject to the negative procedure?

[49] **Alun Ffred Jones:** Mae'r Mesur arfaethedig yn gosod allan y materion sy'n ymwneud â phenodiadau gwahanol, sef penodi'r comisiynydd, y panel cynghori ac aelodau'r tribiwnlys. Diffinnir y trefniadau hynny yn y Mesur arfaethedig ac felly mae gan Aelodau gyfle i gwestiynu a chraffu ar hynny wrth i'r Mesur arfaethedig fynd drwodd. Teimlwn, felly, mai'r broses honno sydd fwyaf priodol pan ddaw i wneud y trefniadau yn y pen draw.

Alun Ffred Jones: The proposed Measure sets out the matters appertaining to various appointments, namely the appointment of the commissioner, the advisory panel and members of the tribunal. Those arrangements are defined in the proposed Measure and therefore Members have the opportunity to question and scrutinise that as the proposed Measure goes through. We therefore feel that that process is the most appropriate when it ultimately comes to making the arrangements.

[50] **David Lloyd:** Diolch, Weinidog. Mae'r ddau gwestiwn nesaf o dan ofal Mike German.

David Lloyd: Thank you, Minister. The next two questions are from Mike German.

[51] **Michael German:** Rhodri Morgan and I have sat on Legislation Committee No. 2, which is looking at the proposed Measure, and witness after witness has told us, with regard to standards, that they are unable to make a judgement on whether they are appropriate, inappropriate or whatever, without having any sense of what they are about. So, it is difficult for a committee, and also for us and anyone reading the proposed Measure, to know whether you have achieved that balance between providing enough detail to be clear about the purpose of the proposed Measure and the flexibility that you want to have with regard to the subordinate legislation that will flow from it. How would you answer those critics who have been lining up to say that they want to know more about what the standards mean and that they should be on the face of the proposed Measure, rather than in subordinate legislation?

[52] **Alun Ffred Jones:** I am not sure whether that question is applicable to this committee. The proposed Measure sets out a clear framework for the imposition of duties, known as standards. The kinds of standards that may be imposed are set out in detail in the proposed Measure. This is, after all, a framework, and if you look at it from another point of view, trying to state on the face of the proposed Measure the exact number of standards that would be applicable to all the bodies and sectors that will ultimately be affected is virtually impossible. Therefore, this framework approach is the right approach in this case. It mirrors what happened with the Welsh Language Act 1993, where, again, that sort of framework was set up without anyone knowing exactly what a language scheme, for example, was going to

look like.

[53] **Michael German:** I do not think that anyone was asking for the exact standards, but rather a definition of what a standard should be. The evidence received by the other committee states that the absence of a definition of standards on the face of the proposed Measure seems to be a key omission. To what extent would you agree that regulations made under section 25(1), specifying standards, and section 38, relating to compliance, are an essential part of the framework of what you are trying to achieve in the proposed Measure?

1.10 p.m.

[54] **Alun Ffred Jones:** Going back to your original point, I would contend that there is quite a detailed definition in the proposed Measure of what these standards are and how they are meant to operate. I do not agree that there is an absence of a definition of standards in the proposed Measure and sections 25 to 31 give a full description of the nature of those standards.

[55] What was your second point?

[56] **Michael German:** Is the information in section 25(1) of the proposed Measure and section 38 relating to compliance the only way in which you will describe these standards? In other words, will that be done by regulations? Do you think that that is sufficient detail to provide the framework that you are talking about?

[57] **Alun Ffred Jones:** I agree that section 25(1) that provides for Welsh Ministers by regulations to specify standards and section 38 that provides for Welsh Ministers by regulations to make standards specifically applicable to a person are an essential part of the framework. Does that answer your question?

[58] **Michael German:** There are definitions for what a 'standard' is, including service delivery, policy making, operational promotion and record-keeping, but that is it. There is no further detail on what a standard is. That is the issue because if that is not on the face of the proposed Measure, then it is beyond those four points. Everything else, as sections 25 and 38 outline, will be done by regulation. I know that that will be by affirmative procedure, but would it not be better to give people an indication of what the content of standards might be in general and not specifically?

[59] **Alun Ffred Jones:** No. The whole approach is to create flexibility for the commissioner to conduct inquiries and to make recommendations to the Minister who will, in turn, create the statutory instruments that will be placed before the Assembly. It is very difficult to envisage how else one could do it because even to state the standards on the face of the proposed Measure would be inflexible and would be open to challenge when you consider the range of bodies and the different sectors to which the proposed Measure will apply. By doing it this way, the commissioner is duty bound to consult with all those bodies along the way. It would be impossible for us to do that if the standards were stated on the face of the proposed Measure, and it would be impractical.

[60] **Rhodri Morgan:** Yn dilyn y pwynt hwnnw, a ddywedwch nad yw'n ymarferol cyhoeddi rhyw fath o ddrafft o beth fyddai 'safon' yn ymdebygu iddo? Mae pawb yn derbyn yr egwyddor o hyblygrwydd, ac nid ydych am achub y blaen a chyhoeddi rhywbeth penodol ar gyfer unrhyw gorff cyhoeddus ynghylch drafftio safon. Fodd **Rhodri Morgan:** Following on from that point, are you saying that it is not practical to publish some sort of draft of what a 'standard' would look like? Everyone accepts the principle of flexibility, and you do not want to jump the gun and publish something specific for any public body in drawing up a standard. However, the witnesses have

bynag, mae'r tystion wedi mynegi rhwystredigaeth inni eu bod yn ceisio rhoi barn i'r pwyllgor arall ynghylch y safonau pan nad oes ganddynt syniad o ba fath o anifail yw'r 'safon' hwnnw. Hynny yw, nid yw fel ceisio prynu mochyn heb ei weld yn y farchnad yng Nghaerfyrddin, heb fod yn siŵr ai mochyn, buwch odro neu oen bach ydyw. A ydych yn dweud ei fod yn amhosibl drafftio safon a'i gosod yn y parth cyhoeddus, fel bod syniad gennym o siâp, hyd a lled, a dyfnder y safon?

[61] **Alun Ffred Jones:** Mae hwnnw'n gwestiwn gwahanol. Yr ydym wedi cael gwahoddiad gan y pwyllgor arall i wneud yr hyn yr ydych wedi gofyn. Os edrychwch ar y cynlluniau iaith, gwelwch fod nifer fawr o dargedau ynddynt y dylai cyrff eu cyflawni. Byddai rhywun yn tybio y byddai rhai o'r safonau yn cyfateb mewn ffyrdd gwahanol i'r targedau a'r amcanion sydd o fewn y cynlluniau iaith. Felly, nid wyf yn credu ei fod yn wir i ddweud eich bod yn prynu anifail heb wybod a yw'n fochyn neu'n fuwch, oherwydd mae nifer o arferion eisoes yn y maes a fyddai'n awgrymu rhai o'r cyfeiriadau y byddai rhywun yn eu dilyn.

[62] Mae hwn yn caniatáu hyblygrwydd i allu delio ag unrhyw sefyllfa newydd sy'n codi wrth fynd ati i greu fframwaith ar gyfer creu safonau. Mae'n rhoi hyblygrwydd inni ac yn caniatáu cryn fesur o ymgynghori â'r cyrff. Mae'r Mesur arfaethedig yn dweud yn glir bod yn rhaid ymgynghori â'r cyrff sy'n cael eu heffeithio. Dyna'r ffordd briodol. Mae hefyd yn dod yn ôl gerbron y Cynulliad yn y pen draw.

[63] **Dr Jones:** Mae'r Mesur arfaethedig, i raddau helaeth, yn gosod allan cynnwys y safonau gwahanol. Mae adrannau 27 i 31 yn disgrifio beth fyddai'r safonau yn eu gwneud, er enghraifft, delio â darparu gwasanaeth, y ffordd y mae corff yn datblygu polisi, neu hybu'r Gymraeg yn fwy eang. Felly, mae hynny'n gosod rhyw fath o arwyddbyst clir am gynnwys y safonau. Mae Atodlen 9 yn rhestru rhai gweithgareddau penodol y bydd disgwyl i'r safonau sy'n ymwneud â darparu gwasanaeth eu cynnwys.

[64] Fel y dywedodd y Gweinidog, pe bai safonau penodol yn cael eu cynnwys ar

expressed frustration to us about trying to express an opinion to the other committee on the standards when they have no idea what type of beast the 'standard' is. In other words, it is not like going to buy a pig without seeing it in Carmarthen market, and not being sure whether it is a pig, a dairy cow or a lamb. Are you saying that it is impossible to draft a standard and to place it in the public domain so that we have an idea of the shape, extent and depth of the standard?

Alun Ffred Jones: That is a different question. We have been invited by the other committee to do what you have requested. If you look at the language schemes, you will see that they contain a large number of targets for bodies to achieve. One would assume that some of the standards would correspond in different ways to the targets and objectives within the language schemes. Therefore, I do not think that it is true to say that you are buying an animal without knowing whether it is a pig or cow, because a number of current practices in the field suggest some of the directions that might be followed.

This allows flexibility to deal with any new situation that will arise during the process of developing a framework for creating standards. It gives us flexibility and allows a considerable amount of consultation with the bodies. The proposed Measure makes it clear that there must be consultation with the bodies that are affected. That is the appropriate way. It also ultimately comes back before the Assembly.

Dr Jones: The proposed Measure, to a large extent, sets out the content of the different standards. Sections 27 to 31 describe what the standards would do, for example, they would deal with service provision, the way that a body develops policy or the promotion of Welsh more widely. Therefore, that sets some kind of clear signposts regarding the content of the standards. Schedule 9 lists some specific activities that it is expected that the standards relating to service provision will contain.

As the Minister said, if definitive standards were included on the face of the proposed

wyneb y Mesur arfaethedig i osod dyletswydd benodol ar gyrff, byddai'n rhaid cynnwys hawl iddynt herio'r safon honno. Pe baent yn llwyddo i herio'r safon honno, byddai'n rhaid mynd yn ôl a newid yr hyn a fyddai ar wyneb y Mesur. Felly, mae'r fframwaith yn gosod arwyddbyst clir o ran yr hyn y dylid ei gynnwys yn y safonau ac y mae'n ei wneud yn amlwg, fel y byddech yn disgwyl, fod yn rhaid i'r comisiynydd ymgynghori â'r gyrff a fydd yn dod o dan y ddyletswydd hon, fel bod deialog rhyngddynt hwy a'r comisiynydd am yr hyn sy'n rhesymol ac yn gymesur. Ar ddiwedd y broses honno, gallwch bennu'r safon benodol. Gosod fframwaith y mae hwn.

[65] **Ms Arch:** Mae Huw wedi sôn eisoes mai mater o gymhwysedd yw hwn i bob pwrpas. Mae mater 20.1 o Atodlen 5 i Ddeddf Llywodraeth Cymru 2006 yn gofyn i'r Cynulliad sicrhau, wrth ddeddfu i roi dyletswydd ar gorff, fod modd i'r corff hwnnw herio'r ddyletswydd o ran a ydyw'n gymesur neu'n rhesymol i sefyllfa'r corff penodol hwnnw. Pe bai'r dyletswyddau i gyd yn cael eu cynnwys ar wyneb y Mesur arfaethedig, pe bai sialens lwyddiannus i gymesuredd neu resymoldeb y ddyletswydd ar gorff arbennig, byddai'n rhaid diwygio'r Mesur bob tro.

[66] **Rhodri Morgan:** Hoffwn wneud un pwynt ychwanegol i sicrhau nad ydym yn camddeall ein gilydd. A ydych yn dweud nad oes ffordd arall o wneud hwn heblaw cyhoeddi safonau ar wyneb y Mesur arfaethedig? Yr oedd y tystion yn gofyn, os yw'n ymarferol, am ryw fath o ddrafft o safon. Er nad yw'n bosibl gwneud un swyddogol, gofynnwyd a fyddai'n bosibl ysgrifennu rhywbeth i ddangos i'r cyhoedd sut y byddai safon yn edrych, er mai esiampl fyddai ac nid rhywbeth swyddogol. A ydych yn dweud nad yw hwnnw'n bosibl nac yn ymarferol?

[67] **Alun Ffred Jones:** Nid wyf yn dweud na fyddai'n bosibl. Yr ydym wedi derbyn cais gan Bwyllgor Deddfwriaeth Rhif 2, a byddwn yn ceisio cynorthwyo'r pwyllgor hwnnw wrth ymateb i'r cais.

[68] **David Lloyd:** Mike, a hoffech godi

Measure to impose a specific duty on bodies, it would have to include the right for them to challenge that standard. If they were to succeed in doing that, we would have to go back and change what was on the face of the Measure. Therefore, the framework sets clear signposts on what should be included in the standards and makes it clear, as you would expect, that it is necessary for the commissioner to consult with bodies that are covered by this duty, so that they enter into dialogue with the commissioner regarding what is reasonable and proportionate. At the end of that process, you will be able to specify a precise standard. This is setting the framework.

Ms Arch: Huw has said already that this is essentially a matter of competence. Matter 20.1 of Schedule 5 to the Government of Wales Act 2006 requires the Assembly to ensure, when legislating to impose a duty on a body, that the body has an opportunity to challenge the duty on the basis of whether it is proportionate or reasonable in light of the specific body's circumstances. If all duties were included on the face of the proposed Measure, should there be a successful challenge to the proportionality or reasonableness of the duty on a particular body, it would be necessary to amend the Measure every time.

Rhodri Morgan: I would like to make one additional point to ensure that we do not misunderstand each other. Are you saying that there is no other way of doing this other than to publish standards on the face of the proposed Measure? Witnesses have asked, if practicable, that a draft standard be drawn up. Although it is not possible to make an official one, they requested whether it would be possible to draw up something to show the public how a standard would look, although it would be an example and not official. Are you saying that that is not possible or practical?

Alun Ffred Jones: I am not saying that it would not be possible. We have received a request from Legislation Committee No. 2, and we will try to assist the committee in responding to that request.

David Lloyd: Mike, would you like to raise a

pwynt ar hwn?

point on this?

1.20 p.m.

[69] **Michael German:** Yes, I wanted to complete my question on this matter. I absolutely agree with Rhodri that the witnesses are looking for an example of something that they can get their teeth into. Schedule 9 to the proposed Measure and the list of activities, to which you have just referred, does not specify staffing issues, complaints or dealing with officials. This issue has been raised by witnesses to the other committee. It is that sort of detail that you might want to flesh out a bit more so that people have a better understanding of what activities a company may have to engage with in the meantime.

[70] **Alun Ffred Jones:** Gofynnaf i Huw **Alun Ffred Jones:** I will ask Huw to ymateb. respond.

[71] **Dr Jones:** With regard to staffing issues, we would expect them to be dealt with under operational standards, and there is a list of the service delivery standards that we expect to see specified. This list is not exhaustive. It is there for illustrative purposes and to set expectations, and Ministers can add to the list by an amending Order.

[72] **Michael German:** It does say ‘must be specified’ at the top of the Schedule. It says:

[73] ‘Activities In Relation To Which Service Delivery Standards Must Be Specified’.

[74] Does that mean that it is an exhaustive list?

[75] **Ms Arch:** No, there is a power in section 41(4) for Welsh Ministers to amend that Schedule by Order—to add, omit or amend a reference contained in the Schedule.

[76] **Michael German:** So, this Schedule can be amended by subordinate legislation. However, that is the Schedule to which you have just directed us for the information that companies are looking for.

[77] **Alun Ffred Jones:** It is a fairly exhaustive list of the types of activities that you would expect.

[78] **Michael German:** I am giving you the three issues that companies have raised in the other committee.

[79] **Alun Davies:** It strikes me as curious that you would put on the face of any legislation a list that is illustrative.

[80] **Alun Ffred Jones:** I did not think that we used the word ‘illustrative’.

[81] **Alun Davies:** That is what you just said.

[82] **Alun Ffred Jones:** All that I am saying is that it is possible to amend that list. It is a list of the activities that you would expect to be covered.

[83] **Ms Arch:** The way that it works under section 41 is that, if you are making regulations under section 38, which specifically apply service delivery standards to a particular body, then those regulations must deal with all those elements set out in Schedule 9 to the extent that that body is undertaking that activity. What this is doing, effectively, is placing a duty to ensure that any regulations specifying service delivery standards cover all these bases.

[84] **Michael German:** Was that all of them?

[85] **Ms Arch:** Yes. Under section 41(4) you can add or amend or omit this list as time progresses, but it is a requirement that a statutory instrument made under section 38, in relation to service delivery standards only, would have to deal with each of these elements, unless that body, or that type of body, did not undertake that type of activity.

[86] **David Lloyd:** A ydych yn hapus yn awr, cyn inni symud ymlaen? Gwelaf eich bod. Mae'r cwestiynau nesaf dan ofal William Graham.

David Lloyd: Are you happy now, before we move on? I see that you are. William Graham will ask the next questions.

[87] **William Graham:** Scottish Power has suggested that there should be a statutory duty in the proposed Measure to consult those affected by any regulations. What would be your response to that?

[88] **Alun Ffred Jones:** The proposed Measure provides for sufficient consultation to be undertaken with persons who could be subject to standards. Section 61(2) provides that in carrying out the standards investigation, the commissioner must consult the members of the advisory panel as well as persons to whom standards apply, or persons who appear to the commissioner to belong to a group to which standards will apply. I would suggest that Scottish Power is misguided in its statement.

[89] **Rhodri Morgan:** I hope that your power does not go off next weekend after what you have said. [*Laughter.*]

[90] **William Graham:** Scottish Power suggests that the consultation should include a cost-benefit analysis of the proposal. What is your view on that?

[91] **Alun Ffred Jones:** The Government of Wales Act 2006 provides that Welsh Ministers must make a code that details their policy in relation to carrying out regulatory impact assessments for relevant subordinate legislation that they make. For the purpose of the code, the Act defines an RIA as being an assessment as to the likely cost and benefits of complying with relevant Welsh subordinate legislation. The code further outlines how an RIA should be used as a tool both for decision making by Ministers and to enable effective scrutiny. As I have already outlined to the committee, the code commits Ministers to carrying out regulatory impact assessments for all legislation that they make, other than in a few exceptional circumstances.

[92] **William Graham:** How do you propose to ensure that all those affected are consulted, especially those located outside Wales?

[93] **Alun Ffred Jones:** The proposed Measure states clearly that the commissioner cannot serve a compliance notice on a person without having consulted with that person. How that will take place will be up to the commissioner—there are innumerable ways in which to do so—but he will have to consult; that is stated quite clearly.

[94] **Rhodri Morgan:** Yr ydych yn dweud yn eich llythyr swyddogol i Fwrdd yr Iaith Gymraeg ynglŷn â'r flwyddyn bresennol eich bod yn rhoi swyddogaeth ar y bwrdd i weithredu'r Mesur arfaethedig hwn ac i osod y safonau mewn rheoliadau. A yw'r syniad o weithredu'r Mesur arfaethedig yn

Rhodri Morgan: You say in your official letter to the Welsh Language Board for this year that you are placing a duty on the board to implement the proposed Measure and also to place the standards in regulations. Does the concept of implementing the proposed Measure mean that you wish for the board to

golygu eich bod yn dymuno i'r bwrdd greu safonau penodol a fydd yn cael eu cynnwys yn y rheoliadau?

create specific standards that will be included in the regulations?

[95] **Alun Ffred Jones:** Awgrymaf yn garedig nad yw'r cwestiwn yn gwbl gywir. Mae'r Llywodraeth a'r bwrdd wedi sefydlu prosiect ar y cyd i drafod materion sy'n ymwneud â pharatoi a gweithredu'r Mesur arfaethedig. Y geiriad yn y llythyr yw

Alun Ffred Jones: I kindly suggest that the question is not entirely accurate. The Government and the board have set up a joint project to discuss matters involving the preparation and implementation of the proposed Measure. The wording of the letter is

[96] 'The Board is expected to contribute to the work required in order to implement the Measure (including helping to prepare the ground, with regard to the work that will need to be undertaken under the Measure to impose duties on bodies).'

[97] Mae hynny wedi dechrau digwydd achos mae arbenigedd ymysg staff y bwrdd oherwydd eu profiad gyda chynlluniau iaith. Mae cwestiynau manwl i'w hystyried wrth feddwl sut siâp a fydd i'r safonau hyn yn y diwedd, felly mae angen inni gael y ddeialog honno, ac yr wyf yn falch o ddweud fod honno wedi dechrau.

That has begun to happen because there is expertise among the board's staff due to their experience with language schemes. There are detailed questions to be considered in considering what shape these standards will ultimately take, so we need to have that dialogue, which I am glad to say has already begun.

[98] **Rhodri Morgan:** Yr ydym wedi trafod rhwystredigaeth rhai o'r tystion ynglŷn â'r ffaith nad oes cig ganddynt i'w gnoi o ran gweld esiampl o safon. Pe baech yn ymateb yn bositif i syniadau'r pwyllgor arall ynglŷn â chreu esiamplau o safonau, a fyddai goblygiadau o ran amseriad y gwaith o dderbyn y Mesur arfaethedig a'i droi yn Fesur?

Rhodri Morgan: We have discussed the frustrations of some witnesses about the fact that they have no meat to chew on with regard to seeing an example of a standard. If you were to respond positively to the other committee's suggestion of creating examples of standards, would that have implications for the timing of passing the proposed Measure and turning it into a Measure?

[99] **Alun Ffred Jones:** Nid wyf yn rhagweld y byddai.

Alun Ffred Jones: I do not foresee that it would.

[100] **Rhodri Morgan:** Yr wyf yn falch o glywed hynny. Nid wyf yn ceisio dadlau yn erbyn yr hyn yr oeddwn yn dadlau o'i blaid bum munud yn ôl, ond a yw'n bosibilrwydd y byddai'r gwaith hwn—er ei fod yn beth da oherwydd byddai'n datrys y rhwystredigaeth a gyfeiriodd y tystion ati o ran gofyn am esiampl o safon i'w darllen—yn cael sgîl effaith ar amseriad cwblhau'r holl waith o graffu ar y Mesur arfaethedig?

Rhodri Morgan: I am glad to hear that. I am not trying to argue against something that I was arguing for five minutes ago, but is it possible that this work—although it is a good thing in that it would resolve some of the frustrations expressed by the witnesses who asked for an example of a standard to read—could have a knock-on effect on the timing of the completion of the scrutiny work on the proposed Measure?

[101] **Alun Ffred Jones:** Ni ddylai unrhyw beth o'r natur hwnnw gael y fath o effaith yr ydych yn cyfeirio ati.

Alun Ffred Jones: Nothing of that nature should have the kind of effect to which you refer.

[102] **David Lloyd:** A ydych yn hapus, Rhodri? Gwelaf eich bod. Mae'r ddau

David Lloyd: Are you happy, Rhodri? I see that you are. Alun Davies will ask the last

gwestiwn olaf yng ngofal Alun Davies.

two questions.

[103] **Alun Davies:** Yr wyf yn cofio'r Pwyllgor Dethol ar Faterion Cymreig yn edrych ar Orchmynion cymhwysedd deddfwriaethol rai blynyddoedd yn ôl, a chyhoeddodd Swyddfa Cymru enghreifftiau ohonynt ar y pryd. Yr oedd hynny o gymorth mawr i'r pwyllgor hwnnw yn ei waith, a phe baech yn gallu cyhoeddi enghraifft o un o'r safonau hyn, byddai'n help mawr i drafodion y pwyllgor hwn a'r pwyllgor arall pan fydd yn cyfarfod.

Alun Davies: I remember the Welsh Affairs Select Committee looking at legislative competence Orders some years back, and the Wales Office issued examples of them at the time. That helped the committee's work enormously, and if you could publish an example of one of these standards, it would be of great help to this committee's deliberations and to the other committee when it meets.

[104] Fodd bynnag, yr wyf am barhau'r drafodaeth am safonau a sut y byddant yn gweithio. Mae'n anodd iawn i ni fel pwyllgor drafod y rheoliadau gyda chi heb inni weld sut y byddant yn edrych, er fy mod yn gwybod beth sydd yn y ddeddfwriaeth. A ydych yn rhagweld y bydd rhai o'r rheoliadau yn wahanol ar gyfer sectorau gwahanol, megis telathrebu, ynni neu sectorau eraill?

However, I wish to continue with the discussion on standards and how they will work. It is very difficult for us as a committee to discuss the regulations with you without knowing how they will look, although I know what is in the legislation. Do you foresee that some of the regulations will be different for different sectors, such as telecommunications, energy or other sectors?

1.30 p.m.

[105] **Alun Ffred Jones:** Bydd amryw o'r safonau yn gyffredin rhwng y sectorau, ond bydd rhai yn benodol. Y broblem yw nad ydym eisiau tansellio gwaith y comisiynydd wrth baratoi'r safonau. Dyna'r perygl os ydych yn dechrau eu rhestru. Fodd bynnag, os ydych yn sôn am delathrebu, gallech ddychmygu y gallai un o'r safonau ymwneud â rhyngwyneb teclynnau ffonau symudol. Ni fyddai'n berthnasol i'r rhan fwyaf o sectorau eraill, ac felly mae'n debyg na fyddent yn cael eu cynnwys. Felly, mae honno'n enghraifft amrwd o safon a allai berthyn i'r sector hwnnw. Tybiaf y bydd amrywiaethau rhwng sectorau.

Alun Ffred Jones: Many of the sectors will have common standards, but some will be specific. The problem is that we do not want to undermine the work of the commissioner in preparing the standards. That is the risk if you start to list them. However, to take the example of the telecommunications industry, one could well imagine that one of the standards could relate to the interface on mobile phone devices. It would not be relevant to the majority of the other sectors, and so it is likely that they would not be covered. So, that is a crude example of a standard that could relate to that sector. I imagine that there will be variations between sectors.

[106] **Alun Davies:** Felly, bydd rhai safonau cyffredin ar gyfer pob sector neu'r rhan fwyaf o sectorau, a rhai eraill yn benodol.

Alun Davies: So, some standards will be common to all sectors, or most of them, and others will be specific.

[107] **Alun Ffred Jones:** Mae honno'n rhagdybiaeth digon rhesymol.

Alun Ffred Jones: That is a reasonable enough assumption.

[108] **Alun Davies:** A hoffech drafod hynny ymhellach? Pa fath o reoliadau yr ydych yn eu rhagweld?

Alun Davies: Do you want to discuss that further? What kind of regulations do you foresee?

[109] **Alun Ffred Jones:** Byddai hynny'n anghymwys i'r pwyllgor hwn, oni fyddai?

Alun Ffred Jones: That would be beyond the remit of this committee, would it not?

[110] **Alun Davies:** Yr ydym yn trafod rheoliadau, ac mae'n anodd eu trafod heb wybod beth yr ydych yn ei ystyried.

Alun Davies: We are discussing regulations, and it is difficult to discuss them without knowing what you are considering.

[111] **Dr Jones:** Mae hyblygrwydd yn y Mesur arfaethedig i wneud pob math o bethau fel bod y safonau'n gallu adlewyrchu'r ardal y mae corff yn gweithio ynddi a natur gwaith y corff. Felly, ceir hyblygrwydd i greu pob math o safonau ar gyfer pob math o gyrff a gweithgareddau.

Dr Jones: There is flexibility in the proposed Measure to do all sorts of things so that the standards can reflect the area in which an organisation works and the nature of that organisation's work. So, there is flexibility to create all kinds of standards for all kinds of bodies and activities.

[112] **Alun Ffred Jones:** Dyna'r sylfaen. Dyna sut y mae hwn wedi cael ei roi at ei gilydd. Derbyniaf ei fod yn edrych yn gymhleth a'i bod yn anodd i'r rhan fwyaf o bobl ddeall beth yn uffern sy'n digwydd yma. Fodd bynnag, mae'n eithaf syml yn y pen draw: bydd cyfres o safonau o fewn sectorau gwahanol. Drwy ei wneud fel hyn, yr ydych yn diogelu'r broses, yn osgoi gorfod dychwelyd at y Mesur i'w ddiwygio os bydd heriau yn codi, ac yn caniatáu'r hyblygrwydd sy'n angenrheidiol oherwydd natur wahanol y sectorau ac, a bod yn onest, amrywiaethau natur ieithyddol Cymru. Mae rhai o'r cyrff yr ydym yn cyfeirio atynt yn ddaearyddol benodol, tra mae'r lleill yn gweithredu ar hyd a lled Cymru.

Alun Ffred Jones: This is the basis. That is how this has been put together. I accept that it appears complicated and that it is difficult for the majority of people to understand what the hell is going on here. However, it is actually quite simple: there will be a series of standards in various sectors. By doing it this way, not only are we safeguarding the process, but we are also avoiding having to revisit the Measure to amend it if challenges arise, and it allows the flexibility that is necessary given the varying nature of the sectors and, to be honest, the diverse linguistic nature of Wales. Some of the organisations that we are talking about are geographically distinct, while the others operate throughout Wales.

[113] **Alun Davies:** Ein problem fel pwyllgor yw ein bod yn cael sgwrs academaidd, haniaethol am na allwn weld yr hyn yr ydym yn ei drafod.

Alun Davies: Our problem, as a committee, is that we are having an academic, abstract conversation, because what we are discussing is intangible.

[114] **Alun Ffred Jones:** Ni fydd y canlyniad yn academaidd, gobeithio.

Alun Ffred Jones: The outcome will not be academic, hopefully.

[115] **Alun Davies:** Fodd bynnag, mae'n anodd i ni ddod i gasgliad ar hynny.

Alun Davies: However, it is difficult for us to come to a conclusion on that.

[116] **Dr Jones:** Un peth y mae'n rhaid i ni ei ystyried wrth ymateb i gais y pwyllgor deddfwriaethol arall yw y bydd proses statudol yn cychwyn maes o law, a bydd y comisiynydd yn ymgynghori ac wedyn yn gwneud argymhellion i Weinidogion ynghylch cynnwys y safonau. Beth fyddai effaith cyhoeddi cyn i'r Mesur arfaethedig ddod i rym syniadau'r Llywodraeth ynghylch sut y gallai'r safonau edrych? Canfyddiad pobl fyddai nad oedd gan Weinidogion

Dr Jones: One thing that we have to consider in response to the request of the other legislation committee is that a statutory process will commence in due course, and the commissioner will consult and then make recommendations to Ministers on the content of the standards. What would be the effect of the Government having announced its ideas about what the standards could look like before the proposed Measure came into force? People's perception would be that

feddwl agored. Rhaid ystyried y pwyntiau hynny.

[117] **Alun Ffred Jones:** Fodd bynnag, byddwn yn ystyried y pwyntiau hyn ar gyfer y pwyllgor arall.

[118] **Alun Davies:** Y pwynt olaf yr hoffwn ei godi gyda chi, Weinidog, yw eich bod yn cymryd yr hawl i newid y ffigur o £400,000 ym mhwynt (5) o golofn 1 y tabl yn Atodlen 5. Gwn ein bod wedi trafod hyn wrth drafod Gorchymyn Cynulliad Cenedlaethol Cymru (Cymhwysedd Deddfwriaethol) (yr Iaith Gymraeg) 2010. Ni ddychwelaf at y dadleuon a gawsom ar y pryd, ond a ydych yn gallu rhagweld pam y byddech eisiau newid y swm hwnnw?

[119] **Alun Ffred Jones:** Y ffactor amlycaf yw chwyddiant, a fyddai'n golygu bod y £400,000 yn llai o werth. Yn y pen draw, efallai y byddai'r Llywodraeth yn gweld ei bod yn dechrau ymyrryd neu'n mynd i dir lle na ddylai fod, ac yn dal cyrff nad oedd yn bwriadu eu dal. Felly, byddai angen yr hawl i newid hynny. Dyna'r unig reswm.

[120] **Alun Davies:** Byddai'n bosibl newid y ddeddfwriaeth yn gyfan gwbl, oni fyddai? Byddai newid y ffigur hwnnw yn cynnwys llawer mwy o gyrff, sydd ar hyn o bryd y tu allan iddi.

[121] **Alun Ffred Jones:** Wrth gwrs, a phenderfyniad gwleidyddol yw hwnnw, i raddau—neu wleidyddol ieithyddol.

[122] **Alun Davies:** Yn y ddeddfwriaeth hon, mae rhyddid i chi fel Gweinidog wneud y math hwn o benderfyniad, oherwydd chwyddiant neu am ba reswm bynnag. Ambell waith, pan fydd ffigurau fel hwn mewn deddfwriaeth, mae'n rhestru'r rhesymau pam y byddai'r Gweinidog yn eu newid. Ni welwch fod angen gwneud hynny yn yr achos hwn.

[123] **Alun Ffred Jones:** Nid oeddwn yn gweld hynny, ond yr ydych yn rhydd i wneud argymhellion, a byddaf yn eu hystyried yn ofalus.

[124] **David Lloyd:** Dyna ddiwedd y cwestiynau swyddogol. A oes gan yr Aelodau

Ministers did not have an open mind. Those points have to be considered.

Alun Ffred Jones: However, we will consider these points for the other committee.

Alun Davies: The final point what I want to raise with you, Minister, is that you have taken the right to amend the figure of £400,000 in point (5) of column 1 in the table in Schedule 5. I know that we have already discussed this during our deliberations on the National Assembly for Wales (Legislative Competence) (Welsh Language) Order 2010. I will not rehearse the debates that we had at that time, but can you foresee why you might want to change that amount?

Alun Ffred Jones: The most obvious factor is inflation, which would mean that £400,000 was worth less. At the end of the day, the Government might see that it is starting to intervene or tread on ground where it should not be, capturing organisations that it did not intend to. So, a power would be needed to amend that. That is the only reason.

Alun Davies: It would be possible to change the legislation completely, would it not? Changing that figure would capture many more organisations, which currently come outside it?

Alun Ffred Jones: Of course, and that is a political decision, to a degree—or linguistically political.

Alun Davies: In this legislation, you as a Minister have the freedom to make this type of decision, whether because of inflation or whatever reason. Sometimes, when there are figures such as this in legislation, it lists the reasons why a Minister might change them. You do not see the need to do that in this case.

Alun Ffred Jones: I did not see that, but you are free to make recommendations, and I will consider them carefully.

David Lloyd: That brings us to the end of the official questions. Do Members have any

gwestiynau atodol? Mae pawb yn edrych yn hapus—ar yr wyneb, beth bynnag. A oes gennych sylwadau terfynol i gloi'r drafodaeth, Weinidog?

supplementary questions? Everyone looks content—on the face of it, at least. Minister, do you have any final comments to close the discussion?

[125] **Alun Ffred Jones:** Na. Yr wyf yn ddiolchgar am y cwestiynau. Wrth i'r drafodaeth barhau, gobeithiaf y bydd pobl yn dod i ddeall amcanion a bwriad y ddeddfwriaeth hon yn well.

Alun Ffred Jones: No. I am grateful for the questions. As the discussion continues, I hope that people will get a better understanding of the objectives and intention of the legislation.

[126] **David Lloyd:** Diolch i chi, Weinidog, am eich cyfraniad ac i'ch swyddogion am eu hatebion.

David Lloyd: Thank you, Minister, for your contribution and to your officials for their answers.

1.36 p.m.

Unrhyw Fater Arall Any Other Business

[127] **David Lloyd:** Nid oes unrhyw fater arall wedi'i gyflwyno ymlaen llaw. A oes rhywbeth yn neidio i'r cof? Gwelaf fod yr Aelodau yn s eu pennau.

David Lloyd: There is no other business that has been presented beforehand. Does anything spring to mind? I see that Members are shaking their heads.

Dyddiad y Cyfarfod Nesaf Date of the Next Meeting

[128] **David Lloyd:** Efallai na fydd cyfarfod ymhen pythefnos. Ar hyn o bryd, mae prinder deddfwriaeth, felly 'hyblygrwydd' yw gair y prynhawn. Bydd angen hyblygrwydd hefyd o ran pennu dyddiad y cyfarfod nesaf.

David Lloyd: There may not be a meeting in a fortnight's time. There is currently a shortage of legislation, so 'flexibility' is the watchword today. We will need to be flexible about deciding the date of our next meeting.

Cynnig Trefniadol Procedural Motion

[129] **David Lloyd:** Mae angen inni ystyried yn awr unrhyw argymhellion sy'n codi o'r drafodaeth yr ydym newydd ei chael gyda'r Gweinidog. Felly, cynigiaf fod

David Lloyd: We now need to consider any recommendations that arise from the discussion that we have just had with the Minister. Therefore, I move that

y pwyllgor yn penderfynu gwahardd y cyhoedd o weddill y cyfarfod yn unol â Rheol Sefydlog Rhif 10.37(vi).

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

[130] Gwelaf fod y pwyllgor yn gytûn.

I see that the committee is in agreement.

*Derbyniwyd y cynnig.
Motion agreed.*

Daeth rhan gyhoeddus y cyfarfod i ben am 1.37 p.m.
The public part of the meeting ended at 1.37 p.m.