



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

**Y Pwyllgor Menter a Dysgu
The Enterprise and Learning Committee**

**Dydd Mercher, 22 Hydref 2008
Wednesday, 22 October 2008**

Cynnwys
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(Llwybrau Di-drafft) 2009
The Committee Proposed Draft (Legislative Competence) (Traffic Free Routes)
Order 2009

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

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

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Jeff Cuthbert	Llafur Labour
David Melding	Ceidwadwyr Cymreig Welsh Conservatives
Sandy Mewies	Llafur Labour
Janet Ryder	Plaid Cymru The Party of Wales
Kirsty Williams	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats

Eraill yn bresennol
Others in attendance

Graham Findlay	Swyddog Polisi (Mynediad a Thrafnidiaeth), Anabledd Cymru Policy Officer (Access and Transport), Disability Wales
Andrea Gordon	Swyddog Polisi—Cymru, Cymdeithas Cŵn Tywys y Deillion Policy Officer—Wales, the Guide Dogs for the Blind Association
Kate Hughes	Swyddog Polisi a Chyfathrebu, Sefydliad Cenedlaethol Brenhinol Pobl Ddall Policy and Communications Officer, Royal National Institute of Blind People
Ceri Jackson	Rheolwr Polisi a Chyfathrebu, Sefydliad Cenedlaethol Brenhinol Pobl Ddall Policy and Communications Manager, Royal National Institute of Blind People
Carol Thomas	Rheolwr Mynediad a Chynhwysiant, Cymdeithas Cŵn Tywys y Deillion Access and Inclusion Manager, the Guide Dogs for the Blind Association

Swyddogion Gwasanaeth Seneddol y Cynulliad yn bresennol
Assembly Parliamentary Service officials in attendance

Dan Collier	Dirprwy Glerc Deputy Clerk
Gwyn Griffiths	Cynghorydd Cyfreithiol y Pwyllgor Legal Adviser to the Committee
Dr Kathryn Jenkins	Clerc Clerk
Victoria Paris	Gwasanaeth Ymchwil yr Aelodau Members' Research Service

Dechreuodd y cyfarfod am 9.30 a.m.
The meeting began at 9.30 a.m.

Ethol Cadeirydd Dros Dro Election of Temporary Chair

[1] **Dr Jenkins:** Good morning. In the absence of the Chair and under Standing Order No. 10.19, I call for nominations on behalf of the committee for a temporary chair.

[2] **Sandy Mewies:** I nominate Janet Ryder.

[3] **Dr Jenkins:** Thank you. Are there any other nominations? I see that there are not. I declare, therefore, that Janet Ryder is duly elected temporary chair of the committee.

*Penodwyd Janet Ryder yn gadeirydd dros dro.
Janet Ryder was appointed temporary chair.*

9.31 a.m.

Cyflwyniad ac Ymddiheuriadau Introduction and Apologies

[4] **Janet Ryder:** Thank you for the nomination and thank you all for coming this morning. I welcome members of the public, and the witnesses who are to give evidence to the committee this morning. I remind everyone to switch off their mobile phones and any electronic devices that they might have, as they interfere with the translation equipment. I also remind Members and witnesses not to touch the microphones. You do not need to operate them; they will come on as you speak. There is no scheduled test of the fire alarm system this morning. Therefore, if you hear an alarm, it will be an emergency, so please follow the ushers' instructions and leave the building.

[5] The committee proceedings will be bilingual. Headphones are available to receive the interpretation and to amplify the sound, and they should be located to your side. There will be a verbatim record of the meeting.

[6] We have received apologies from Gareth Jones, Andrew R.T. Davies and Christine Chapman. Jeff Cuthbert will be late in joining us. We have received no notifications of substitutions.

9.32 a.m.

Gorchymyn Arfaethedig Drafft y Pwyllgor (Cymhwysedd Deddfwriaethol) (Llwybrau Di-drafft) 2009 The Committee Proposed Draft (Legislative Competence) (Traffic-free Routes) Order 2009

[7] **Janet Ryder:** The committee agreed its proposed legislative competence Order and the arrangements for consultation upon it back in September. This is our first evidence-taking session on it as part of the committee's pre-legislative scrutiny. When we looked at the learner travel Measure—

[8] **Sandy Mewies:** Sorry, but I cannot hear very well. Does your microphone need to come forward a little, Chair?

[9] **Janet Ryder:** Is this any better? I see that it is.

[10] The learner travel Measure was not committee-proposed legislation, but we

undertook pre-legislative scrutiny of it, and the committee report became important as the legislation proceeded. The committee itself has decided that it might like to progress this piece of legislation, and so we will hold this pre-legislative scrutiny session on it. You have all had a briefing on it, and so you will all be aware that, in pre-legislative meetings, we need to go through a series of questions that we need responses to, and then you may also ask any other questions that arise, as you see fit.

[11] I welcome the witnesses and thank them for their written evidence, which has been circulated to all Members. We have before us Kate Hughes, policy and communications officer, and Ceri Jackson, policy and communications manager, from the Royal National Institute of Blind People. We have Andrea Gordon, policy officer for Wales, and Carol Thomas, access and inclusion manager, from the Guide Dogs for the Blind Association. Disability Wales is represented by Graham Findlay, the policy officer for access and transport.

[12] I invite our witnesses to deliver a joint presentation, which I believe is what they have agreed, of about 15 minutes. After that, I will open it up to Members for questions. I see that Carol will make the presentation. Thank you.

[13] **Ms Thomas:** Good morning. Thank you for the opportunity to present evidence. As you said, we have supplied a written brief, so we will not repeat everything that is in there; we will just highlight a couple of the key points. I am going to start and then colleagues will add further points. I would like to make it clear from the outset that we support, in principle, the need for the development and maintenance of pedestrian paths, and we also support the principle of safe routes for cyclists. However, we do not support their combined use.

[14] Our aim in producing the paper and coming to see you this morning is to see how the Order could be amended or revised so that it reflects, first and foremost, the need to develop and maintain paths for pedestrians, which are accessible and safe for all pedestrians, including disabled people, and keep separate the need for developing safe routes for cyclists. We would also like to reflect the importance of the disability equality duty and the social model of disability within this. We believe that the need for safe, maintained pedestrian routes is an important concept in itself and that budgets and proposals for this should not be conditional on sharing routes with cyclists. The choice for a pedestrian, particularly a blind, partially sighted or other disabled pedestrian, between an un-surfaced, poorly maintained track and a developed, maintained path that must be shared with cyclists is no real choice at all.

[15] We are aware that, when this was debated in July, Members felt that many of our concerns could be addressed at the Measure stage. However, our key concern is that Measures and guidance will flow from the Order and that, while the Order is deliberately phrased to be quite wide, there must be something within that that presumes that paths for pedestrians and paths for cyclists will be separate, because all of the evidence so far has been very much around shared use.

[16] In the evidence that was debated in July, Members clearly understood the concerns of blind and partially sighted people—or some of our concerns. These concerns are much wider than that. We have support from a whole range of disability organisations throughout Wales, reflecting people with physical, sensory and learning disabilities, who are all very concerned about this. We have, so far—and this has been from a short e-mail network around Wales—signed up a list of organisations, which is included in your paper, and more are joining by the day. We also have—perhaps this shows the human interest—very telling quotations from individuals who would be affected by this and who are already affected by shared-use paths. I will hand over to Graham, who will start by highlighting some of those issues.

[17] **Mr Findlay:** Thank you. I will illustrate how shared paths affect disabled people as a

group. I have a quotation from a group using the coastal path in Llanelli.

[18] 'In Llanelli on the Coastal Park we asked for and were promised a Central Delineator Raised Line, to separate the cyclist from the pedestrian, this was ignored and the wheelchair user and the elderly etc are considered by the cyclists as a pain and we should not be permitted on THEIR cycle route. These cyclist come up behind you at great speed, they are quite silent and give elderly and disabled users heart stopping frights.'

[19] You can see the strength of feeling that exists. Someone else, from Swansea, explains that he has had abuse from cyclists when moving too slowly along a shared-use path. There is quite a strength of feeling in terms of the impact of cyclists on disabled people on shared-use paths.

9.40 a.m.

[20] **Ms Hughes:** We are considering people with sight problems and what struck us when undertaking our research was the removal of safe areas for people with regard to shared-use paths. Research done by the Guide Dogs for the Blind Association has demonstrated that people will avoid routes if they do not feel safe. People then disappear from the auditing exercise, because they do not use the route. The Taff trail is well-known to me; this is what a Mr M. from Merthyr Tydfil, who tried to use that pathway, had to say:

[21] 'I used to walk a kilometre or two down the tarmacked Taff trail each week. Yesterday, I walked from hospital to the park and through to Georgetown to get a bus. I work pretty tightly to a mind map, using my little peripheral vision for navigation. I used to cross the path to avoid big puddles or bikes going downwards or to be near a wall or kerb on which I could tap my cane. I realised that I could not longer cross as I have been passed too uncomfortably close by cyclists who have failed to announce their approach. I used to love that walk; it was one of the few places that I felt safe.'

[22] That brought home to me the idea that, if you cannot see and something is coming towards you, there is no way you can get out of its way—and that is on a wide, tarmacked route that is perfectly designed for shared use, not a narrow country path. That highlighted the problem for me.

[23] **Ms Jackson:** I would just like to share some statistics with you that also reinforce the points that have been made. Nine out of 10 blind and partially sighted people are over the age of 60. Sustrans states on its website that only 6 per cent of people using the network are over 60. We would certainly want people to be encouraged to use pedestrian routes. Twenty per cent of the population are over 60 and, if you apply to that the fact that nine out of 10 people with sight loss are over 60, that is a powerful statistic.

[24] Furthermore, blind and partially sighted people do not drive, so walking environments are crucial. Research that the RNIB carried out in 2004, and that we then published in the 'Unseen' report, stated that 29 per cent of blind and partially sighted people consider going out and about safely to be their single biggest concern. A further 44 per cent of people reported that they had had an accident when they were getting about in their own environment.

[25] **Ms Thomas:** We will finish with Andrea, who will say a little about how difficult it is to navigate a pedestrian path that you have to share with cyclists and others.

[26] **Ms Gordon:** In closing, it is important for me to explain a little about how blind and partially sighted people get around independently, either with a guide dog or with a long cane. One of the great benefits of having independent mobility—which means being able to go out

on your own—is to have that freedom and control from walking alone with a dog or a cane. As the gentleman from Merthyr Tydfil said, in Kate’s quotation, to be able to walk and enjoy that freedom is rare for someone who is visually impaired. It is hard to do, because it takes courage and confidence. So, when you walk along, either guided by a dog or using a cane in front of you, and a cyclist comes up behind you, it is hard to know how to avoid them, so you either stop completely to try to hear where that cyclist is coming from, because you are not sure where to step to get out of their way—that is frightening—or you just try to move out of the way and, of course, you might then step directly into the cyclist’s path. A guide dog cannot anticipate what is coming up from behind you; it can only see what is in front of you. Our dogs are not trained to watch for danger approaching from behind.

[27] We are at the mercy of cyclists on a shared path—I have had several brushes with cyclists and can vouch for that. I was involved in the collection of some of the quotations that you have in the paper before you and we have a lot more evidence from a wide range of people—as we have said, not just blind and partially sighted people—who have had similar experiences of finding sharing the path with cyclists either intimidating or physically dangerous. The reasons for that will vary according to that person’s circumstance, but the end result is the same, that people are avoiding those areas, and not getting out, taking exercise and enjoying the freedoms that they have a right to enjoy.

[28] **Janet Ryder:** Thank you for that evidence. That has covered a lot of points and raised a number of issues; every member of the committee has signalled that they would like to ask a question. Sandy, can we start with you, please?

[29] **Sandy Mewies:** Thank you for your written representations and for what you have just said, which confirmed what you said in those written representations. I am going to ask two questions. Am I right in thinking that, as far as the organisations that you represent are concerned, there is no presumed objection to this Order going through to provide safe cycling and pedestrian pathways? Am I right that the objection is not to the principle, but to the mechanism or the way in which it would be set out? Is it your objection that, first, pedestrians should be kept separate from cyclists? There is one thing that I am not clear about. Sustrans gave evidence on families that include a disabled person cycling together. Are you saying that there should be a separation between cyclists and pedestrians? I can understand why you would say that, because I do not think that you have to be disabled in any way to not hear a cyclist coming up behind you. I have been almost frightened to death by people when they have come up behind me. If I am out walking, enjoying myself, I am not really concentrating, but looking around me and not concentrating on what is coming behind me. This question might be more for Graham: are you thinking that perhaps there ought to be another separation on cyclist pathways, separating those who are able bodied and those who are not? I am not quite sure how you would see that.

[30] I now come to my second point. You have obviously tried to come to some agreement with Sustrans on this, but have not been able to do so. Is there a way that any of you could see a safe cycleway and a safe pedestrian walkway being provided? Would that way involve a physical separation such as some sort of ridge, as has been suggested? What are you suggesting? You do not seem to have any objections to the Order. What are you suggesting would be the safe way for everyone? I think that that was more than two questions. *[Laughter.]*

[31] **Mr Findlay:** I am happy to pick up the first one, on families, Chair, if that would be of any help. I would hope that an inclusive path would be one that would protect people, so that we could all enjoy a safe walk or cycle or whatever. I think that we do still believe that a separate path has to be provided. It seems to be that that inclusion is the way forward. Carol may want to say a bit more on the technicalities.

9.50 a.m.

[32] **Ms Thomas:** Just to be clear, I believe that you asked whether we think that, in addition to separate paths for cyclists and for pedestrians, there should also be separate paths for disabled cyclists and family cyclists. The answer to that is—

[33] **Sandy Mewies:** I did not ask about disabled cyclists and family cyclists, but about cyclists who have a disability cycling with those who do not.

[34] **Ms Thomas:** It is not something to which we have given any deep thought. However, the answer off the top of my head would be 'probably not'. I think that it is more about new cyclists, in particular, and disabled people who want to get into cycling, when they are learning, choosing the best paths to use, and the best time of day perhaps, and building up confidence in that way. We acknowledge that cycling for disabled people is a very good thing and we are certainly not anti-cyclists. Most of us who walk may also cycle, but do so at different times and on separate paths.

[35] To answer the second question, which was slightly more technical, about how we see this progressing, there are two things to note. First, the underlying principle within this Order seems to be that these paths will be traffic-free routes for pedestrians and cyclists. Therefore, there is an underlying deep-rooted concern about this. We believe that the need for greater maintenance and improvement of pedestrian paths is a serious issue in itself. Help the Aged recently launched a report, 'Falling Short', which talked about the huge gap between the finance that is needed to improve our pavements, pedestrian paths, and so on, and that which is provided. Our first concern is that pedestrians themselves deserve to have good-condition, well-maintained paths to walk on. When any money is available to improve a route, we tend to see that money go into routes that will be used by cyclists. It is almost as though any improvement for pedestrians is a by-product of the money that will be spent on improving matters for cyclists.

[36] Looking at some of the case studies in Sustrans's own monitoring of its national cycle network routes, we are quite happy with those routes when they are for cyclists, but that is not to say that they are also of great benefit to pedestrians. That is only the case for those who are quite confident, happy and able to share a route with cyclists, which leaves a lot of people out. Ceri cited the statistic that 6 per cent of the network users are over 60 years of age. When you consider the proportion of the population that is over 60 years of age, and that much more of that population would be pedestrians and would need to use local pedestrian paths, the figure for those using that shared network is not good. We have seen, over the past 10 years, a huge change in the way in which local authorities, in particular, allocate budgets for improving pedestrian paths, and more and more of it is going into projects where it is said, 'We will improve this path; we will make it a shared-use path, and pedestrians will benefit because you will now have a nicely maintained path'. As I said in my introduction, for pedestrians it can be a choice between the old and segregated track and the well-maintained path shared with cyclists, which for those pedestrians who cannot share a path is no choice at all.

[37] **Janet Ryder:** You have something specific to say on this, David.

[38] **David Melding:** Yes. We need to tease out this issue. We have been developing a cycle network over the last 10 years or so, much of which has shared use, but its principal use is as a cycle network. The logic of your position is that you think that pedestrians currently should be excluded from using those existing paths.

[39] **Ms Thomas:** No, that is not what we said. If the pedestrian is able and willing to use a shared path, that is fine, but there should be paths available from which cyclists are excluded.

[40] **David Melding:** So, are you happy for there to be shared use on the existing cycle paths?

[41] **Ms Thomas:** We have no problem with that for pedestrians who are able and willing to share paths with cyclists, but we do not think that it is ideal. Our concern is that because they are called shared-use paths, the assumption is that everyone can use them.

[42] **Ms Jackson:** There is evidence that people do not use them because they are not safe. We know that if a blind or partially sighted person uses a route and has an accident or a scare, it will put that person off using that route again.

[43] **Janet Ryder:** Is there anything else on this particular point, David?

[44] **David Melding:** No, not on that specific point.

[45] **Janet Ryder:** Sandy, do you have other questions that you wish to ask at this point, or have the questions that you initially asked been answered?

[46] **Sandy Mewies:** It is more of a point than a question. I understand that you are saying that the existing cycling paths may be used by pedestrians but that your evidence shows that they exclude those who are not able-bodied. You are fearful that if this policy continues, then exclusion will continue.

[47] **Ms Thomas:** Yes.

[48] **Mr Findlay:** To add to my previous statement about families using the path, I will give the specific example of someone with learning difficulties going with the family for a cycle ride on a day out. In that case, the family should accompany the person with learning difficulties on bicycles rather than walking with the person. That is the position that I would take on that particular issue.

[49] **David Melding:** These issues are clearly important, and there is evidence that needs to be examined and probed in great detail. However, I do not think that it would be appropriate to do that at this stage. All of the issues raised are important, and merit full consideration, but I do not want to consider them at the moment. This may seem to be a rather technical point, but it is important for the way in which the Assembly works. A legislative competence Order would give us power to do certain things in an area of public policy. The way in which we would do those things would be by having a Measure, which is similar to an Act of Parliament. The specific thing that we want to do is contained in a Measure—an LCO is just a permissive ability to do things in a certain field. If you do not agree that a duty should be placed on local authorities for the development of routes for non-motorised use and that is taken out at the LCO stage, we would not get the power to put a duty on local authorities to provide these facilities. Whether those facilities should be shared use or not is a matter on which the LCO is utterly silent.

[50] I find it difficult to understand why you would want to hard-wire a policy into an LCO, which is a technical transfer of competence in a certain area, that says that there must not be demarcation—it seems that you do not want demarcation of paths—but utterly separate networks. However, we could do that under this LCO—we could impose a duty just to do that, but in opposing the LCO you will not allow the Assembly to try to put that duty on local authorities. You fear shared use so much that you do not want the Assembly to be able to legislate in this area, which is a defensible position, but it is a rather bleak one as far as we are concerned, because I sense that you do not trust us to come up with a good Measure for you.

10.00 a.m.

[51] **Ms Hughes:** The problem from our point of view is that the presumption currently in the LCO suggests that the emphasis will be on shared pathways, given the reference to ‘traffic-free networks’. As this flowed from a petition supporting shared pathways, we wanted to ensure that there was a link to other duties. We are not saying, ‘You should not have this power’, because, as we have said, we support the development of pedestrian pathways and cycle paths. This is a real opportunity to develop good practice in this area. Therefore, we suggest having a link to disability and equality duties or to the social model of disability, so that we can be assured that what flows from this is linked into those policies. We certainly do not oppose you having the power, because we can see real advantages in it too.

[52] **David Melding:** I am sorry to go at pace and follow the specific point, but it is out of respect to you, and to see what we can specifically do. You are right that there is a reference to traffic-free routes—the title is the Proposed Draft (Legislative Competence) (Traffic Free Routes) Order 2009. I would like to ask our lawyer whether we can take out ‘traffic free routes’ and put in ‘non-motor vehicle routes’.

[53] **Mr Griffiths:** The answer to that is simply ‘yes’. My endeavour, in drafting the Order for consultation purposes, was to keep the title as short as possible, and you will see that the substance of the Order, which is on the second page, does not use the words ‘traffic free routes’.

[54] **David Melding:** Do you think that that would help? I presume that you do not classify cyclists as traffic. Do you?

[55] **Ms Hughes:** We do.

[56] **David Melding:** So, you really want cyclists on the road as part of a carriageway, somehow, even if it is demarcated.

[57] **Ms Thomas:** For most organisations, and in the Welsh Assembly Government’s walking and cycling strategy and other key strategies, the presumption is that most cyclists should be on the carriageway, where that is safe, and that the sharing of routes with pedestrians should be a very last resort. That is not our view, but the view of others. We would say that it should not just be a last resort; it should not be done. However, even the official guidance is that shared use should not be the first option for cyclists. Having said that, where it is needed for safety, we do not object to routes for cyclists. That is not the focus of our objection. Our concern is that, through this, routes for pedestrians should be developed that are not shared with cyclists.

[58] **David Melding:** You have been clear in your evidence, and I am grateful for that. I have a final question at this point—I have other questions, but I realise that I will only get to ask them if we have time and the Chair can get back to me. In your evidence, you list a range of groups that support your opposition of shared use. You say that others are joining your campaign or website—I am not sure which. May I push you on this? Are they also against this legislative competence Order? As I said, you can be against shared use and still support these powers coming to the Assembly. Have they specifically said that they oppose the legislative competence Order on which we are taking evidence this morning?

[59] **Ms Thomas:** I do not think that any of us have said that we are against a legislative competence Order, including those of us who are here.

[60] **David Melding:** My question is about the one that we have before us.

[61] **Ms Thomas:** The one that we have before us seems to imply, in referring to non-motor vehicle routes or traffic-free routes, or however you want to term it, that paths will be for pedestrians and cyclists. Yes, that is exactly what we sent out in our e-mail to these groups.

[62] **David Melding:** It would help if we could have a copy of either the letter that you have sent to groups or what you posted on your website, so that we can see what they have signed up to. If they have said that they are inimically opposed to the Order, that is a significant fact for us to consider. Perhaps the clerk could follow this up.

[63] **Janet Ryder:** It would be helpful if we could have a copy of that letter sent to the clerk. To clarify, how would you class a motorised wheelchair?

[64] **Ms Thomas:** The guidance at the moment is that motorised wheelchairs and scooters that can travel at less than 4 mph—I believe that that is correct—can be on pedestrian paths. However, where they are switched so that they can travel at greater speeds than that—and some are dual—they should not be on pedestrian paths. It is dangerous for them to travel on the road, but they should not be on a pedestrian path. Therefore, the key is the speed at which they are driven; their speed should be constrained below 4 mph where they travel on pedestrian paths. We also believe that there are huge issues in terms of training and so forth, particularly for shopmobility schemes where the users are completely new users; however, that is another issue. Generally, we are not against having motorised wheelchairs and so forth on pedestrian paths where they are driven slowly and carefully.

[65] **Mr Findlay:** To add to that, it is important to stress that, for some people, motorised wheelchairs are absolutely essential for independent living. Clearly, we would not want to block any right to independent living, enjoyment of the countryside or anything like that in terms of someone's individual access requirements.

[66] **Janet Ryder:** I do not think that anyone wants to restrict access, but there may be problems in terms of how we phrase this if we are to use the terms 'non-motorised' or 'non-motor-driven' to describe wheelchairs. I know that that is an issue that has been raised. I understand that you have some questions, Kirsty.

[67] **Kirsty Williams:** Just to recap, you agree that the Assembly should have legislative competence to impose a duty on local authorities to look after paths of all kinds just as though they were trunk roads. At the moment, when a constituent comes to me with a problem with a trunk road, the local authority has a duty to do something about that, but when someone comes to me with a problem with access on a path, whether it is a cycle path or just a pedestrian path, the local authority can quite easily bat me away and say, 'We do not have a statutory duty to do it.'. Would you agree with the principle that the Assembly should be able to impose that duty on local authorities? I see that you would all agree. That is fine; I understand that bit.

[68] I can understand how you have come to have your concerns. Due to where the petition started and the nature of the organisation that the petition has come from, I understand your concerns about shared use. However, I am still not convinced that the actual wording of the draft Order implies that shared-use paths are acceptable. If you are reading something in the draft Order that I am missing, I guess that this would be the time to say what particular aspects of the draft you think imply that shared use is what will come out of it. Setting aside where the petition came from and who has been driving this forward, we have to look at the actual wording of the legislation. Is there anything in the wording of the draft legislation that reinforces your fears that what may come from this would be a policy on shared use?

[69] **Ms Hughes:** It is the fact that it refers to development. We have covered the issue of maintaining existing pathways—we are where we are with that. The draft Order refers to a provision imposing duties relating to

[70] ‘the development...of networks of highways for the use of users other than motor vehicles.’

[71] That is very widely drafted. You are right; there is no guarantee with regard to what will come out of this, and it is something that we have chatted about. However, we feel that there should be a link to some kind of equality duty or the social model of disability—something to reassure our users that their needs will be taken into account at the Measure stage.

[72] **Kirsty Williams:** It would give you more confidence to proceed.

[73] **Ms Hughes:** Yes.

[74] **Kirsty Williams:** So, you are looking for us to consider the drafting in order to perhaps give you some more confidence about what may come out of the Measure.

[75] On your comments on the code of conduct, Sustrans has said that a code of conduct with regards to cycling could perhaps address some of your concerns. However, you say in your paper that you do not feel that that would make any difference. I am sure that people who are blind, partially sighted or disabled face many barriers when walking around. Are cyclists a particular problem to blind, partially sighted and disabled people?

10.10 a.m.

[76] Given the nature of the society that we are living in today, perhaps it is the case that some people are generally not very polite, but unhelpful and rude and have prejudices. However, are cyclists a particular problem?

[77] **Ms Gordon:** For blind and partially sighted people, the difficulty is that cyclists are hard to hear—they come up behind people quickly and quietly. It does not make any difference whether they are coming towards you or from behind you because, if you cannot hear them, you do not know that they are there, and it is too late to avoid them by the time they are close enough for you to see or hear them. So, no matter how well behaved and how polite the cyclist is—and we are by no means trying to say that all cyclists are badly behaved; that would be a generalisation—we cannot move out of their way and they do not know where we will step to try to avoid them. So, it is an inherently dangerous situation, and it is the concern that has been raised in all of the evidence that we have collected from people. That is the issue for blind and partially sighted people, and also for wheelchair users, because, although they may be able to see someone coming and will try to get out of the cyclist’s way quickly, the cyclist will not know to where they are going to move.

[78] The problem is the practical difficulty of sharing the path, so it does not matter how well behaved everyone is. However, we do, sadly, have evidence of intimidation and of angry words being passed between people—not all cyclists are well behaved—so the emphasis for us is on the fact that it is a difficult situation for cyclists and for disabled people and also, of course, for non-disabled people.

[79] **Kirsty Williams:** The practicalities of this are not really a matter for the legislative competence Order, but I would be interested to hear your views about whether some of the practical difficulties that Andrea has just described can ever be effectively overcome, without complete segregation and two separate paths. I note in your evidence that you talk about the

Llanelli coastal path and the fact that, in consultation, a raised line down the middle of the path was proposed, but never done. Are there ways, apart from two separate paths, that can achieve a safer environment for blind and partially sighted people, and are there any examples of international good practice that demonstrate a system that achieves the best approach possible?

[80] **Ms Thomas:** Where one path is developed where cyclists and pedestrians will be adjacent—and we recognise that that might occasionally be where you need to continue a cycle route or where there is just no other option—there is a sort of hierarchy of ways of separating and segregating pedestrians and cyclists, and that is fairly well documented in some of the cycling guidance. Our first suggestion would be to have separation through some sort of level verge with a clear different surface, for example a grass verge, between the two paths, or by a change of level, as a pavement and a road, where the pedestrians are on the upper route. The very minimum type of delineation between pedestrian and cyclist segments in the formal guidance that has come through from the Department for Transport, which is what they referred to in the Llanelli coastal path, is called a trapezoidal—

[81] **Kirsty Williams:** What was that word?

[82] **Ms Thomas:** ‘Trapezoidal’; we are getting technical. Trapezoidal delineators are basically raised white lines that are 150mm wide at the base, have a height of 20mm and are trapezoidal in shape. That is the official guidance for the minimum separation between paths, and I must say that it is a compromise on our part and not something that we would say was ideal. However, in a spirit of compromise, we accepted when this was proposed 10 years ago that that should be the minimum separation between the two paths, when one path needs to be segregated.

[83] **Kirsty Williams:** Thank you. That is helpful, and I am now clear about the hierarchy of choices for separating paths. I am concerned that you feel that it is difficult for organisations such as yours to influence decision-makers to provide the kind of separation that you are looking for with these paths. How could we ensure, either in the draft Order or, probably more appropriately, in a subsequent Measure, that organisations such as yours are listened to more effectively at the planning stage?

[84] **Mr Findlay:** There is a long way to go on consultation and engagement with disabled people, and limited resources affect the capacity of local groups to engage with the planning process. We have been campaigning on that issue for some time. There are also issues about whether guidance is mandatory and whether local authorities are empowered and compelled to provide separate paths.

[85] **Kirsty Williams:** What could we do? Is there anything that we could add to the LCO? Perhaps we could put a statutory duty on the local authority to consult, and to take into account the views of organisations such as yours at the Measure stage. Could we do that?

[86] **Ms Thomas:** I think that we already have that; there is the disability equality duty, and all local authorities have a statutory duty to consult on anything affecting planning. The issue, as Graham said, is the capacity of local groups to engage with every case that comes along. Also, where planning consultations are based upon desired outcomes from the local authority point of view, it is about making an objection and having to find alternative solutions. For a local voluntary group, that is extremely difficult.

[87] If the Measure and the guidance that follow this LCO told local authorities that there was a presumption that they would create and maintain paths for pedestrians and that, where cyclists need a path, the presumption will be that it would be separate, the onus would be on the local authority and others to demonstrate that that was not possible. Currently, we come at

this from the opposite point of view. We frequently get letters from local groups asking whether we will support them on an issue, and the consultation process takes a form that requires them to object to a proposal for shared use. If the presumption was against shared use, others would have to show that there was no other option in that particular case. If such measures were put in place, the consultation would focus on how best to provide a suitable path, rather than focusing on objecting to a scheme. It is a different onus; do you see what I mean?

[88] **Kirsty Williams:** Yes. That is very important; you have been very clear. Thank you.

[89] **Jeff Cuthbert:** I apologise, particularly to the witnesses, for arriving late today. Please tell me if my question has been dealt with already. The evidence from Sustrans drew attention to the use of paths by groups that might involve a mixture of able-bodied people and people with disabilities. There might be a need, if you had your wish, to separate such a group.

[90] **Janet Ryder:** We have covered that, Jeff.

[91] **Jeff Cuthbert:** Have you? I apologise—that is my fault for coming late.

[92] **Janet Ryder:** Is there any other issue that you wanted to raise?

[93] **Jeff Cuthbert:** No, that was the point that I wanted to ask about. I had not heard it mentioned while I was here. Sorry about that.

10.20 a.m.

[94] **Janet Ryder:** We have discussed the issue of mixed abilities within families when they want to go out. David, I understand that you had something to raise.

[95] **David Melding:** I am just trying to make the evidence sharper now, and really get to the objections and to what our witnesses desire. In creating this duty, you think that the Assembly ought to concentrate on a whole network of proper pedestrian paths, and you say that the current network, with its informal rights of way and so on, is often inaccessible. You want cyclists out of the picture really, do you not? You feel that that should be the first thing to concentrate on in this hierarchy. Your ideal LCO would refer just to pedestrians. Is that fair?

[96] **Ms Hughes:** Not necessarily. We just want there to be an obligation when it gets to the Measure stage to consider disabled people and to look at these issues again. I do not think that we want cyclists out of the picture. We would say that having safe routes for cyclists is very important, too.

[97] **David Melding:** So, you want another policy in the LCO, and this is why I have problems. I do not know whether our lawyer, Gwyn, can advise us on how feasible it is to have a list of things that have to be done hard-wired into the LCO. Can things such as the nature of an impact assessment, the assumptions, and these policy issues be included in an LCO, or does an LCO just give you the framework power to do something?

[98] **Janet Ryder:** Can you clarify, Gwyn, what we need to ask for in an LCO, given the evidence received and the concerns raised today? What do we need to ask for in an LCO, and which of the issues raised today would fall within the remit of a Measure? How might we put forward advice or explanatory notes at the LCO stage to explain that we intend to encompass the views raised?

[99] **Mr Griffiths:** My recommendation to the committee would be to keep the LCO as general as possible to maximise the flexibility of what can go into the Measure, and the sort of reassurance that has been sought should be provided in the supporting documentation. The LCO as it is currently drafted, for example, refers to ‘networks’ of highways, so it does not assume that there will be just one network, and there could be separate networks. Something that has not come up this morning is bridleways. Where do they fit into this? They are not for motorised vehicles. What about where vehicles cross footpaths or cycle routes or bridleways? We have heard about use by motorised wheelchairs, but access questions are also raised by farmers crossing from field to field by tractor, or by emergency vehicles using routes that would otherwise be for pedestrians and/or cyclists. So, there are all sorts of issues to consider, and I deliberately drafted this as broadly as possible because I knew that there would be all manner of technical issues that would have to be addressed in a Measure. The more you limit the LCO, the harder it is to draft a Measure that fully brings out your policy intentions.

[100] **David Melding:** That is the dilemma that we have. We can include some general indications in the explanatory notes, but there has to be room for manoeuvre at the Measure stage; otherwise, it will be very difficult to get a Measure that responds to policy needs and that can then be further adapted over time. To be brutal, I think that your main problem is that Sustrans is pushing for this and you fear that that whole agenda will somehow be translated instantly into the Assembly’s agenda, but, to me, that is a non sequitur: the two things do not follow. If we go ahead with this, we would like to create the priority in the form of a duty to have networks. How those networks are provided will be developed by way of a specific Measure, which may be further amended during the Assembly’s existence. It seems to me that you have a political objection to the agenda of another voluntary organisation, which may or may not be coherent, and I want to be silent on that. The legislative process is a completely separate thing, and I want to know why you are not confident that you would get a proper hearing at the Measure stage. You have raised very substantial issues, and I do not think that anyone would be dismissive of them, but that is when we would seek such evidence. You referred to anecdotal evidence about the practical impact of shared-use paths, but this committee cannot really go on anecdotal evidence. However, at the Measure stage, a committee might seek that sort of evidence. Is it not a more robust process to develop it at the Measure stage, namely to trust the Assembly rather than Parliament to deal with these issues, because we are closer to the people and closer to you, and you have more access to our mechanisms?

[101] **Janet Ryder:** I will allow the witness to respond to that, but I would point out that, while Sustrans raised this matter with the committee, the committee took evidence on that and this LCO comes from the committee, not from anyone outside the Assembly. This is a committee proposed LCO. It has been put forward by the committee.

[102] **David Melding:** I agree, but there is a political context. You can refute that if it is not your view, but that is the view that I am getting.

[103] **Janet Ryder:** Would you like to respond to some of the points that David has raised, or not?

[104] **Ms Jackson:** I would make a couple of points. We are here to represent the needs of disabled people. We would not be doing our jobs if we were not here presenting this evidence. As we have already said several times, we are not against this LCO; we are here to protect the needs of disabled people. I think that there is a difference there. You talk about bridleways and farmers, but all we are asking you to do in this LCO is make explicit reference to protecting the needs of disabled people. We are not legal experts, and we cannot tell you the best way to do that. There is a difference. We have said several times this morning that, in principle, we are not against what you are doing, and we understand why Sustrans has presented this to you. We, as charities and organisations representing the needs of disabled

people, often bring issues to your attention and we might, by default, miss out the needs of other groups. So, it is not a political issue; we are here to represent the needs of disabled people.

[105] **Ms Gordon:** I would also like to add a point. I am a member of the advisory board for Sustrans and I work very closely with it. I was invited by Sustrans to be a member of that board so that it could learn more about the needs of disabled people, as cyclists, as walkers and as people who want to enjoy the environment. So, Sustrans is very aware of this dialogue. You know that we have engaged with it, and, at the moment, we are still in discussion with it. This is a learning process for Sustrans and it is one that it has invited. We are very much working together on this.

[106] **Janet Ryder:** Thank you. Sandy, would you like to come in on this point?

[107] **Sandy Mewies:** I must say that I did not feel in any way that you were against this because it is for cyclists; you have simply tried to put down a marker for the things that we need to think about. This is a difficult process, and it is all right for us to say that this is just the LCO and the detail can come in the Measure.

[108] You mentioned the hierarchy that is recognised by the Welsh Assembly Government when providing infrastructure, at the head of which are disabled people, then pedestrians, then cyclists, then public transport, then freight deliveries, then other motorised modes. That is the Assembly Government's guidance. Your point is that you feel that there is a slight change in emphasis, and you would like to see some way of separating them—and you mentioned the trapezoidal delineating lines as a possible way of doing that—and it is then a matter for us to seek that evidence.

[109] I have a further question, and I apologise, because it is a leading question. My guess, from experience, is that there is already statutory guidance for local authorities on equality of access. Given the amount of street furniture we still see on pavements, do you think that local authorities adhere to that guidance? Is that one of your worries?

10.30 a.m.

[110] **Ms Hughes:** I agree absolutely with that point. It is not only the street fixtures, but also enforcing parking regulations, because you regularly see cars with all four tyres parked on the pavement. There is also the problem of tree branches overhanging the pavement. You might get the odd cyclist now, but this does not inspire confidence given the environment of some of our streets. I spent a lot of time in Whitchurch village as a child, and I know that the local authority battled constantly to get things off the pavement, but that was fruitless. It does not inspire confidence if you are talking about adding an extra layer of people on bicycles. Bicycles can do a lot of damage to pedestrians, as we know.

[111] There is also this idea of beginning to muddy the waters on the hierarchy. For example, if it is okay for me to be in this shared space, why is it not okay on Newport road? Actually, there is that little sliver of pavement on which cyclists are allowed. That all starts to muddy the waters with regard to the hierarchy. We fully support that hierarchy, but this is also about providing a safe space for cyclists. As Andrea said, if you start sharing places, at some point, people will step in your path to cross the road or to turn right. If you run people alongside each other, it is hard to say that collisions will not happen just because a line is painted down the middle of the lane. People will have cross that line, particularly when you consider all the things that people step out of the way of, such as street furniture, overhanging branches, puddles, and tarmac problems. It is not that people will suddenly jump in the path of cyclists, but they may be unaware of a cyclist coming up behind them and they might move into their pathway.

[112] **Sandy Mewies:** My next point is that Sustrans has worked hard to come up with a suitable form of words, including that these pathways offer 'equality of access'. I know that you have misgivings about that, but, if that were explored fully and if those misgivings were addressed, would you feel a bit more relaxed about what was happening?

[113] **Ms Thomas:** When you talk about pedestrians and cyclists having 'equality of access', my immediate thought is that cyclists and pedestrians have equal access, and so there would have to be an assessment of each case put forward and of each short piece of network, with local groups having to lobby against each other. We would prefer to see this dealt with clearly, in the Measure or in the guidance. We want to see some commitment at this stage to providing very clear guidance at the Measure stage, based on a presumption that pedestrian routes be kept mainly clear of cyclists, rather than each case being assessed on the basis of equality of access.

[114] **Mr Findlay:** I just want to remind people, if I may, that part of the general disability equality duty is to take steps to meet disabled people's needs even if that requires that they be given more favourable treatment. The issue of equality of access needs to be examined in that light.

[115] **David Melding:** I want to come back to one point, as this is an important evidence session. Carol just said that she wanted there to be a general presumption, so that, in essence, where pedestrians use routes, those routes are designated for pedestrians. There may be an occasional pragmatic need to manage that, but that would be the general presumption. I am not saying that I agree with that, but, assuming that we take that thought forward, could that be hard-wired into the LCO rather than the explanatory note, or, as I would think, is it probably best left to a future Measure? Could it be written into the LCO? Is that possible? My understanding is that an LCO gives you competence in a field and, within that field, you may decide to do A, B, C or D. It is really important that our witnesses understand the implications of what they have just said, because it may be that we cannot have an LCO drafted in the way that they would like to see.

[116] **Mr Griffiths:** It certainly would not be consistent with the sort of LCOs that we have had so far, which have been straightforward transfers of powers with certain specific exceptions. Having said that, there is no reason why the suggestion could not be made. It would, however, complicate the consultation process and subsequent Assembly and parliamentary procedures.

[117] **David Melding:** It would be novel rather than impossible; is that what you are saying?

[118] **Mr Griffiths:** Yes.

[119] **Janet Ryder:** To clarify, I presume that, by doing that, we would be restricting the areas of competence that we were asking for.

[120] **Mr Griffiths:** That is the difficulty if you were to put anything other than the broadest provision in the LCO.

[121] **Janet Ryder:** To clarify another point, by leaving the LCO as broad as it could possibly be, we would then be able to take account of any concerns and the Assembly's duty to promote equality of access at the Measure stage.

[122] **Mr Griffiths:** Yes, that is right. One thing that has come out of the discussion this morning is this presumption. That might suggest that the LCO should be broadened to cover

pavements as well, which would not be addressed by the current LCO.

[123] **Janet Ryder:** The LCO talks about non-motorised transport or vehicles—

[124] **Mr Griffiths:** It talks about users other than motor vehicles.

[125] **Janet Ryder:** Yes, it talks about users other than motor vehicles. If the LCO were extended to include pedestrian pathways, we might then be able to provide a solution for a number of the concerns that have been raised today. Is that right? Would we then need to go back and look at the duties that we already have over pedestrian pathways?

[126] **Mr Griffiths:** That would be something that we would need to make sure that we could cover by the final wording of the LCO. At this stage, this is just a consultation draft so that we can take on board these sorts of comments. However, you are right that we would need to look at the wording very carefully to make sure that any Measure that followed it could cover everything that members of the committee would wish to include in such a Measure.

[127] **Janet Ryder:** Would the committee be satisfied with waiting until the next meeting and asking the lawyers to bring us a proper briefing note on how this LCO might be extended to take in pedestrian pathways, and consider whether that would meet the concerns raised?

[128] **David Melding:** I am not sure that it would. Whether you would want to extend it is an interesting question, and I certainly think, given what we have heard from the witnesses, that it is appropriate to get legal advice on whether their objections could be met and then to reflect on them. I am not saying that I have been convinced by this morning's evidence session—I am going to have to go away and think about this—but I think that we would all recognise that we have a very important set of witnesses here this morning and the viability of what we may or may not do is going to be greatly influenced by our reflections on their evidence.

[129] It seems to me that we have heard from our legal adviser that it is going to be very tricky to get some of the things that you want on the face of the LCO, but not impossible. It may look a bit odd and set strange precedents, but is probably technically possible. It seems to me that it is only under those circumstances that you could say that you would support the LCO. Is that a fair summary of your position?

[130] **Ms Jackson:** Further down the line, we will see those options and perhaps we could comment on them then, because I think that what you are proposing would definitely put us in a much better position.

[131] **Janet Ryder:** I think that we have gone as far as we can this morning. This is a pre-legislative scrutiny session to explore how widely this LCO should be drawn, before it goes out for consultation. This is exactly what should be happening at this stage.

[132] Thank you for raising those points, because you have certainly given us something to take away and think about. Thank you for your evidence and for the questions that have been raised. We will look forward to having that legal briefing before the next committee meeting, so that we can consider it. Thank you.

[133] There is only one paper to note and that is the minutes of the previous meeting. The next meeting will be on Wednesday, 5 November and we hope that committee room 3 will be repaired by then. Thank you.

Daeth y cyfarfod i ben am 10.40 a.m.

The meeting ended at 10.40 a.m.