



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

## **Y Pwyllgor Plant a Phobl Ifanc** **The Children and Young People Committee**

**Dydd Mercher, 14 Tachwedd 2012**  
**Wednesday, 14 November 2012**

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Cynnig o dan Reol Sefydlog Rhif 17.42 i Benderfynu Gwahardd y Cyhoedd o'r Cyfarfod ar Ddydd Iau 22 Tachwedd ar gyfer Eitemau 1 a 2

Motion under Standing Order No. 17.42 to Resolve to Exclude the Public from the Meeting on Thursday 22 November for Items 1 and 2

Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynnddi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

These proceedings are reported in the language in which they were spoken in the committee.  
In addition, a transcription of the simultaneous interpretation is included.

**Aelodau'r pwyllgor yn bresennol**  
**Committee members in attendance**

Angela Burns	Ceidwadwyr Cymreig Welsh Conservatives
Christine Chapman	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Jocelyn Davies	Plaid Cymru The Party of Wales
Suzy Davies	Ceidwadwyr Cymreig Welsh Conservatives
Rebecca Evans	Llafur Labour
Julie Morgan	Llafur Labour
Lynne Neagle	Llafur Labour
Jenny Rathbone	Llafur Labour
Aled Roberts	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Simon Thomas	Plaid Cymru The Party of Wales

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

Leighton Andrews	Aelod Cynulliad, Llafur (Y Gweinidog Addysg a Sgiliau) Assembly Member, Labour (The Minister for Education and Skills)
Anthony Jordan	Adran Addysg a Sgiliau, Llywodraeth Cymru Department for Education and Skills, Welsh Government
Simon Morea	Cyfeithiwr, Llywodraeth Cymru Lawyer, Welsh Government
Ceri Planchant	Cyfeithiwr, Llywodraeth Cymru Lawyer, Welsh Government

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

Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Sarah Beasley	Dirprwy Glerc Deputy Clerk
Kath Thomas	Dirprwy Glerc Deputy Clerk
Liz Wilkinson	Clerc Clerk

*Dechreuodd y cyfarfod am 9.32 a.m.*  
*The meeting began at 9.32 a.m.*

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

[1] **Christine Chapman:** Good morning, everyone, and welcome to the Assembly's Children and Young People Committee. I remind Members to switch off any mobile phones or BlackBerrys because they affect the transmission. As this is a formal public meeting, Members do not need to operate the microphones themselves. We have not had any apologies this morning.

**Y Bil Safonau a Threfniadaeth Ysgolion (Cymru): Cyfnod 2—Ystyried y  
Gwelliannau  
School Standards and Organisation (Wales) Bill: Stage 2—Consideration of  
Amendments**

[2] **Christine Chapman:** In relation to this item, Members should have before them the marshalled list of amendments and the groupings of the amendments for debate. The marshalled list of amendments is the list of all amendments tabled that have been marshalled into the order in which the sections and Schedules appear in the Bill. For our meetings, the order in which we will consider amendments will be sections 1 to 102, Schedules 1 to 6 and the long title. You will see from the groupings list that amendments have been grouped to facilitate debate, but the order in which they are called and moved for a decision is dictated by the marshalled list. I welcome the Minister, Leighton Andrews, and his officials. May I ask you to introduce the officials for the record please, Minister?

[3] **The Minister for Education and Skills (Leighton Andrews):** Anthony Jordan is the Bill manager and Ceri is the lawyer on the case.

[4] **Christine Chapman:** Thank you. Members will need to follow the two papers, although I will advise Members when I call them whether they are being called to speak in the debate or to move their amendments for a decision. There will be one debate on each group of amendments. Members who do not have an amendment in the group but who wish to speak should indicate that they wish to speak in the usual way. I will call the Minister to speak on each group.

[5] For the record, in accordance with the convention agreed by the Business Committee, as Chair, I will move amendments in the name of the Minister. For expediency, I will assume that the Minister wishes me to move all his amendments and I will do so at the appropriate place in the marshalled list. Minister, if you do not want a particular amendment to be moved, please indicate this at the relevant point in proceedings.

[6] **Leighton Andrews:** I want them all moved.

[7] **Christine Chapman:** Where there are a number of amendments of a similar nature that have already been debated and that appear together in the marshalled list, I am proposing to dispose of these amendments en bloc. Members will have the opportunity to object to this at the relevant point in proceedings. Also, for any sections or Schedules that are not disposed of today, there will be an opportunity to table amendments to them. The deadline for tabling further amendments is 6 p.m. on Wednesday 21 November.

**Grŵp 1: Ymyrryd mewn Ysgolion a Gynhelir—Hysbysiadau (Gwelliannau 1, 177, 2,  
178, 3, 4, 8, 9, 10 ac 11)**

**Group 1: Intervention in Maintained Schools—Notices (Amendments 1, 177, 2, 178, 3, 4,  
8, 9, 10 and 11)**

[8] **Christine Chapman:** The first group of amendments relates to notices on intervention in maintained schools. The lead amendment in the group is amendment 1, in the name of the Minister. I move amendment 1 in the name of the Minister and call on the Minister to speak to amendment 1 and the other amendments in the group.

[9] **Leighton Andrews:** Thank you, Chair. Amendment 1 is consequential on amendment 2, so I shall turn to amendment 2. As the committee pointed out in its report, there is currently no way of knowing how many warning notices are issued by local authorities, and I agreed to explore the best way of addressing this. Our view is that copying warning notices to Welsh Ministers will provide a means to monitor the issue of warning notices and, consequently, the impact of the policy. Given Welsh Ministers' powers to bring the intervention period to an end where local authorities are unnecessarily prolonging it, and to intervene where the local authority fails to intervene or does so inadequately, it is essential that we are made aware of when a local authority plans to intervene and the grounds for that intervention. Since they have not intervened very often, it is not something that we have had to address in the past.

[10] Copying notices to Welsh Ministers provides us with the information that we need to carry out our duties and we can share that more widely. In respect of foundation or voluntary schools, church bodies and other voluntary bodies have a key role to play in partnership with local authorities in supporting and challenging schools that are causing concern. It is entirely appropriate that they receive copies of warning notices to ensure that they are informed of significant concerns and are able to play a full and active part in their resolution. I ask committee members to support amendments 1 and 2.

[11] In respect of Angela Burns's amendment 177, which seeks to amend Government amendment 2 so that there would be no requirement for local authorities to send copies of warning notices issued to schools to Welsh Ministers, I have set out why we think that it is essential that Welsh Ministers receive copies. If that amendment were accepted, we would be left in the dark as to the interventions that are taking place, prejudicing our ability to use our own powers of intervention. I ask the committee to resist amendment 177.

[12] In respect of amendment 178, I believe that it is unnecessary to send copies of warning notices issued under ground 3 to parents. Governing bodies will be informed, and it is their responsibility to inform parents. We think that it is sufficient and appropriate that the warning notice is served on the headteacher and the governing body. Nonetheless, I accept that parents and pupils have a role as well, so the statutory guidance will make it clear that the headteacher and governing body should keep parents informed of the warning notice and the action that they intend to take in response. I hope that that assurance will be enough to persuade the committee to resist amendment 178.

[13] Turning to the final set of Government amendments in this group, the issue of a warning notice demonstrates that a fair and transparent process has been carried out prior to any intervention. The compliance period within which action is to be taken by the school can be quite short, depending on the seriousness of the issues causing concern and the school's capacity to respond. Nonetheless, this provides an opportunity for the governing body to respond and play an active part in resolving the issues. I consider that, unless there is a related risk to the health and safety of any person that calls for urgent intervention, a warning notice to a school is justified.

[14] I have explained the issue in relation to ensuring that Welsh Ministers are copied on warning notices. Similar arguments hold true for notices bringing an intervention period to an end. We would expect warning notices to be copied to the appropriate religious bodies and the people who appoint foundation governors if the school is a voluntary or foundation school. Arguments apply equally to notices issued by Welsh Ministers to schools as they do

to notices issued by local authorities. I therefore ask committee members to support amendments 3, 4, 8, 9, 10 and 11.

[15] **Christine Chapman:** Thank you, Minister. I now call on Angela Burns to speak.

[16] **Angela Burns:** Thank you for your explanation, Minister. I would like to speak first of all to amendment 177. The reason why I have tabled this amendment and why I would like the committee to consider it is because we believe that once a local authority has under its own steam decided to take action, it should be empowered to go ahead and take that action, and it should not have to notify the Welsh Ministers. We believe that Welsh Ministers should be called in as a check and balance and as a last resort. Our concern is that Welsh Ministers will get clogged up with the more standard issues that you would expect a local education authority to handle. This is a view that we have had in relation to the whole Bill. What we need is local education authorities to be prepared to use the powers at their discretion extremely well. If they fail, we utterly support the Government being able to come in and take control. However, this amendment and amendment 4, which we would oppose, are the top and tail of the same amendment. We think that if a local authority takes the action, sorts out the school and completes that action, then it is a job well done. That is local democracy served well, and Welsh Ministers do not need to be notified at that point.

[17] I would like to talk to amendment 178. The reason why we have put this in is because ground 3 is specifically about bringing in an intervention as a result of the behaviour of pupils at a school or their parents. It seems to us that it would be incorrect to not tell those said pupils or parents that an intervention at the school and the issuing of a warning notice is down to their behaviour. If we do not put that amendment in then, in theory, the parents' or schoolchildren's behaviour could cause the need for that intervention but they would not need to know about it. That seems to be very self-defeating. We would like to think that if parents and students are aware of a warning notice that says that their school is in trouble because of what they are doing, then it might be a tool that can be used to help change that behaviour.

[18] **Christine Chapman:** Are there any other Members who wish to speak?

[19] **Lynne Neagle:** With regard to amendment 177, I am completely against what the Welsh Conservatives are trying to do and I am surprised that they have tabled it. It seems to me to be a complete no-brainer that the Minister should know when these notices are being issued. I also know, from my own personal experience locally, that intervention locally does not always go according to plan. So, it is important that that is monitored at a Welsh Government level.

[20] **Julie Morgan:** I was going to say the same. It is really important that the Minister has an overview of everything that is happening. It is absolutely logical that the Minister should have a notice. So, I would resist that particular amendment. I also think that it should be clear that the governing body and the headteacher are the ones responsible for discipline in the school, and therefore it is they who should keep parents informed of any problems within the school. Again, I think that that is very important.

[21] **Jenny Rathbone:** Amendment 178 seems to contradict the arguments that you are making for amendment 177. You are saying that local authorities need to be told to get on with their job, but amendment 178 would remove from the headteacher and the governing body the responsibility for deciding at what point parents need to be informed. It is important to give that power to the governing body, because it is impossible in legislation to know the type of behaviour that might have caused that problem. There might be circumstances in which it would not be appropriate to inform all parents. That is why I feel that responsibility should rest with the governing body.

9.45 a.m.

[22] **Suzy Davies:** I would like to reinforce the point on amendment 178 regarding the grounds for intervention in the first place. We are talking about a specific set of circumstances, where children or parents have caused the problem. The fact that there is no direct obligation on the face of the Bill that would ensure that those parents are informed of their role in the intervention seems to be a bit of gap. That is how I looked at that; even if it does not mean all parents, then the parents who are causing the problem should be told upfront.

[23] **Christine Chapman:** If no-one else wants to speak, I call on the Minister to reply to the debate.

[24] **Leighton Andrews:** I do not want to add a lot. My colleagues have explored the issues. We cannot really expect the Welsh Government to have an overview of standards in Wales if we are not informed of warning notices that are being issued by local authorities. It is important that we are kept in the loop. That does not mean that we are necessarily going to take any action at that point. It is right that local authorities should be the first port of call for interventions; I would like that they would do more of it, but they do not. In respect of informing parents that the behaviour of their children may be the cause for an intervention, as Julie Morgan said, that is a disciplinary matter that rightly rests with the headteacher and the governing body to address.

[25] **Christine Chapman:** Minister, do you want to proceed to a vote on amendment 1?

[26] **Leighton Andrews:** Yes.

[27] **Christine Chapman:** The question is that amendment 1 be agreed to. Does any Member object? I see that there are no objections. Amendment 1 is therefore agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 1.  
Amendment 1 agreed.*

[28] **Christine Chapman:** I now move amendment 2 in the name of the Minister. As there is an amendment to this amendment, we will dispose of that first. On this basis, Angela Burns, do you wish to proceed to a vote on amendment 177?

[29] **Angela Burns:** Yes. I move amendment 177 in my name.

[30] **Christine Chapman:** The question is that amendment 177 be agreed to. Does any Member object? I see that there are objections. I will therefore take a vote by show of hands.

*Gwelliant 177: O blaid 2, Ymatal 0, Yn erbyn 8.  
Amendment 177: For 2, Abstain 0, Against 8.*

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

Burns, Angela  
Davies, Suzy

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

Chapman, Christine  
Davies, Jocelyn  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny  
Roberts, Aled  
Thomas, Simon

*Gwrthodwyd gwelliant 177.  
Amendment 177 not agreed.*

[31] **Christine Chapman:** Minister, do you wish to proceed to a vote on amendment 2?

[32] **Leighton Andrews:** Yes.

[33] **Christine Chapman:** The question is that amendment 2 be agreed to. Does any Member object? I see that there are objections. I will therefore take a vote by show of hands.

*Gwelliant 2: O blaid 8, Ymatal 0, Yn erbyn 2.  
Amendment 2: For 8, Abstain 0, Against 2.*

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

Chapman, Christine  
Davies, Jocelyn  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny  
Roberts, Aled  
Thomas, Simon

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

Burns, Angela  
Davies, Suzy

*Derbyniwyd gwelliant 2.  
Amendment 2 agreed.*

[34] **Christine Chapman:** Angela, do you wish to proceed to a vote on amendment 178?

[35] **Angela Burns:** Yes. I move amendment 178 in my name.

[36] **Christine Chapman:** The question is that amendment 178 be agreed to. Does any Member object? I see that there are objections. I will therefore take a vote by show of hands.

*Gwelliant 178: O blaid 2, Ymatal 0, Yn erbyn 8.  
Amendment 178: For 2, Abstain 0, Against 8.*

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

Burns, Angela  
Davies, Suzy

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

Chapman, Christine  
Davies, Jocelyn  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny  
Roberts, Aled  
Thomas, Simon

*Gwrthodwyd gwelliant 178.  
Amendment 178 not agreed.*

[37] **Christine Chapman:** Minister, do you wish to proceed to a vote on amendments 3 and 4?

[38] **Leighton Andrews:** Yes.



[39] **Christine Chapman:** I move amendment 3 in the name of the Minister. The question is that amendment 3 be agreed to. Does any Member object? I see that there are no objections. Amendment 3 is therefore agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 3.  
Amendment 3 agreed.*

[40] **Christine Chapman:** I move amendment 4 in the name of the Minister. The question is that amendment 4 be agreed to. Does any Member object? I see that there are objections. Therefore, I call for a vote by a show of hands. The question is that amendment 4 be agreed.

*Gwelliant 4: O blaid 8, Ymatal 2, Yn erbyn 0.  
Amendment 4: For 8, Abstain 2, Against 0.*

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

Chapman, Christine  
Davies, Jocelyn  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny  
Roberts, Aled  
Thomas, Simon

Ymataliodd yr Aelodau canlynol:  
The following Members abstained:

Burns, Angela  
Davies, Suzy

*Derbyniwyd gwelliant 4.  
Amendment 4 agreed.*

**Grŵp 2: Ymyrryd mewn Ysgolion a Gynhelir—Arfer Pwerau i Ymyrryd (Gwelliannau 5, 6, 7, 179, 12, 13, 180, 14, 15, 16, 35, 80, 87, 93 a 94)**  
**Group 2: Intervention in Maintained Schools—the Exercise of Powers to Intervene (Amendments 5, 6, 7, 179, 12, 13, 180, 14, 15, 16, 35, 80, 87, 93 and 94)**

[41] **Christine Chapman:** The second group of amendments relates to the exercise of powers to intervene in maintained schools. The lead amendment in the group is amendment 5. I move amendment 5 in the name of the Minister and call on the Minister to speak to amendment 5 and the other amendments in the group.

[42] **Leighton Andrews:** The Government amendments in this group are, essentially, technical amendments that seek to replace references to ‘the appropriate diocesan authority’ with the all-embracing term, ‘the appropriate religious body’. They respect the intention of the original drafting, but allow for the possibility of new voluntary schools of other denominations in the future. They also allow for consistent terminology across the Bill.

[43] I turn to amendment 179 by Angela Burns. It is worth pointing out that what is referred to here is not a new duty, but derives from the Schools Standards and Framework Act 1998. There is no question that replacing a school governing body with an interim executive board is a serious step. It affects local accountability in that it does away with locally appointed or elected governors and, therefore, it is appropriate that the consent of Ministers be obtained beforehand. It has not happened often. It has happened in Cardiff and it almost

happened in Torfaen, but it does not happen on a regular basis.

[44] The local authority must demonstrate that recovery or improvement is more likely, as a result of the IEB being established, that proper and timely steps have been taken to support the school, and that proper and timely consultation has occurred with the governing body and relevant other people. When considering appointing an IEB, the local authority must determine that the existing governing body is unable to provide the necessary leadership to turn the school around as quickly as possible. The governing body may not agree with the local authority's judgment, which is why the power may be used only with the consent of the Welsh Ministers. I therefore urge committee members to oppose amendment 179.

[45] In respect of amendment 180, remuneration for additional governors, this goes against the long-established principle of volunteering to be a governor for no material gain. It will mean that additional governors appointed as part of a Welsh Minister's intervention would have to be paid remuneration and allowances. In my view, it is inappropriate to make a requirement that a school governor must receive such payments if she or he is appointed as part of measures to intervene in the conduct of a maintained school, not least because it places him or her on a different footing to all the other governors in that school. In addition, it would not be appropriate to pay additional governors in all cases. In the case of schools that have a charitable foundation, additional governors would become trustees of the charity, and the Charity Commission would have to consent to payment, with no guarantee that it would do so, given the well-established principles around the remuneration of charitable trustees. I therefore urge the committee to oppose amendment 180.

[46] **Angela Burns:** I want to speak first to amendment 179. We tabled this amendment because we believe that, once again, it goes to the heart of the localisation agenda about empowering, encouraging and developing local authorities to conduct their business as they should. We believe that, as this decision should be made by the local authority and not by Welsh Ministers, we have sought to amend the legislation so that Ministers are notified rather than their permission being required. I am concerned that we are giving with one hand and taking with the other. We either want local authorities to step up to the mark and conduct their affairs in a manner that is timely, effective and in line with policy, or we end up constantly surrounding them and intervening. So, we would like to see the Minister withdrawing slightly from this to enable local authorities to conduct their business appropriately.

[47] With regard to amendment 180, I am very happy to have heard your explanation. We wanted to get this on the record, because it was not clear in the wording of the Bill, what your intention was. We are content with your explanation and, therefore, we would be happy to withdraw that amendment.

[48] **Christine Chapman:** You can indicate that at the appropriate time.

[49] **Lynne Neagle:** I want to encourage the committee to resist amendment 179. Speaking from personal experience, there was a situation in Torfaen and I was grateful that the Minister had to authorise any intervention. Had he not been empowered to do that, things would have become very difficult, so I certainly think that this is a sensible step.

[50] **Julie Morgan:** Yes, it is important that the Minister should have a role, and the Minister's consent is appropriate. I support Angela in withdrawing her other amendment, because the Minister's explanation was clear on that.

[51] **Jenny Rathbone:** Where a local authority has to appoint a separate governing body, it is clear that the local authority has failed to take all the powers that it has at its disposal to strengthen governing bodies to make sure that they are capable of carrying out their duties. So, it is only right that, where it has failed in that duty to get governing bodies to take

appropriate action, a local authority should have to come to the Minister to explain why. Therefore, I think that that action is appropriate, particularly given that it undermines the democratic accountability of a school governing body.

[52] **Simon Thomas:** Rwy'n cefnogi pwrpas gwelliannau'r Llywodraeth, ond caiff cynnwys y gwelliannau hyn eu hadlewyrchu hefyd yn nes ymlaen yn y Bil. Mae nifer o welliannau sy'n newid y diffiniad o ysgolion Pabyddol a'r Eglwys yng Nghymru i ddiffiniad mwy penagored, sef ysgolion ffydd. Crybwyllodd y Gweinidog, wrth gyflwyno'r gwelliannau hyn, y rheswm dros wneud hynny, sef y posibilid yn y dyfodol y gallai ysgolion eraill o'r natur honno gael eu sefydlu. Derbyniaf fod hwnnw'n bosibiliad, ac mae'n gwneud synnwyr, felly, fod Bil fel hwn yn cael ei lunio mewn ffordd sy'n agored i newidiadau yn y dyfodol. Fodd bynnag, ar lefel bersonol, hoffwn ddweud nad i'r cyfeiriad hwnnw yr wyf yn gweld addysg yng Nghymru yn datblygu. Byddai'n braf clywed gan y Gweinidog, naill ai wrth gloi'r ddadl hon, neu yn nes ymlaen wrth inni drafod gwelliannau tebyg, beth yw polisi Llywodraeth Cymru am ehangu addysg ffydd yng Nghymru, gan fod y Bil a'r gwelliannau yn caniatáu i hynny ddigwydd.

**Simon Thomas:** I support the aim of the Government amendments, but the contents of these amendments are also reflected later on in the Bill. There are a number of amendments that change the definition of Roman Catholic or Church in Wales schools to a more open-ended one of faith schools. The Minister, in introducing these amendments, mentioned the reason for that, which is that there is a possibility that other schools of this nature could be established in future. I accept that that is a possibility, and that it therefore makes sense that a Bill such as this one be future-proofed in a way that makes it open to changes. However, on a personal level, I want to say that that is not the direction in which I see education in Wales heading. It would be good to hear from the Minister, either in his reply to this debate, or later on as we discuss similar amendments, what the Welsh Government's policy is on the expansion of faith education in Wales, given that the Bill and the amendments allow that to happen.

[53] **Suzy Davies:** My concern about this amendment relates to the purpose behind it. We are talking about a situation in which a local authority is, effectively, going to replace one set of governors with another, primarily for the reason that the first set of governors was problematic for some reason. Could you confirm, Minister, whether the purpose of seeking your consent is to ensure that the local authority is not just acting on a whim in relation to a difficult set of governors? Is there some other reason why you desperately need to consent to the appointment of a new set of governors that the local authority will find less problematic?

[54] **Leighton Andrews:** I will respond to a number of these points. The issue on the appointment of an IEB is really about ensuring that the local authority has looked at all the issues and has proceeded in an appropriate way. The fact that the local authority knows that it is going to have to satisfy the Welsh Minister as to why it wants to take this step acts as a check and a balance on embarking on this course of action. I have no doubt that, in the case of Torfaen, this was a process that took place over a 'discussion', as perhaps we should call it, that happened over a period of a few months, and it was controversial locally. The fact that the authority had to come to Welsh Ministers probably ensured that, ultimately, the decision not to go ahead with the IEB in the way that it had intended to was the right one. However, without our intervention and without the necessity to bring it to us, it would have been a much more difficult situation locally, as we saw in that instance.

10.00 a.m.

[55] To comment on what Simon Thomas said in respect of faith schools, he is absolutely right to say that we are trying to futureproof legislation. We have a situation where faith schools largely tend to be Church in Wales or Catholic schools. You can understand that, as these evolved in the more monocultural society of the past, a limited number of

denominations would have seeking to develop faith schools. However, if you have a space for faith schools within your education system, you should not then be limiting the range of valid faiths that wish to undertake education in our society. That is what we are doing through this futureproofing. People may hold the view that we should not have any faith schools whatsoever, and that is a view that they are welcome to develop, but it is not my view and it is not the view of the Government.

[56] **Christine Chapman:** Do you wish to proceed to a vote on amendment 5?

[57] **Leighton Andrews:** Yes, please.

[58] **Christine Chapman:** The question is that amendment 5 be agreed to. Does any Member object? I see that they do not. In that case, amendment 5 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 5.  
Amendment 5 agreed.*

[59] **Christine Chapman:** We now move to dispose of amendment 6. I move amendment 6 in the name of the Minister. The question is that amendment 6 be agreed to. Does any Member object? I see that they do not. In that case, amendment 6 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 6.  
Amendment 6 agreed.*

[60] **Christine Chapman:** We now move to dispose of amendment 7. I move amendment 7 in the name of the Minister. The question is that amendment 7 be agreed to. Does any Member object? I see that they do not. In that case, amendment 7 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 7.  
Amendment 7 agreed.*

[61] **Christine Chapman:** Angela, do you wish to proceed to a vote on amendment 179?

[62] **Angela Burns:** Yes. I move amendment 179 in my name.

[63] **Christine Chapman:** The question is that amendment 179 be agreed to. Does any Member object? I see that there is an objection. Therefore, I call for a vote by show of hands.

*Gwelliant 179: O blaid 2, Ymatal 0, Yn erbyn 8.  
Amendment 179: For 2, Abstain 0, Against 8.*

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

Burns, Angela  
Davies, Suzy

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

Chapman, Christine  
Davies, Jocelyn  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny  
Roberts, Aled  
Thomas, Simon

*Gwrthodwyd gwelliant 179.  
Amendment 179 not agreed.*

[64] **Christine Chapman:** We now move to dispose of amendments 8 to 11 in the name of the Minister, which were discussed in group 1. I move amendment 8 in the name of the Minister. The question is that amendment 8 be agreed to. Does any Member object? I see that they do not. In that case, amendment 8 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 8.  
Amendment 8 agreed.*

[65] **Christine Chapman:** I move amendment 9 in the name of the Minister. The question is that amendment 9 be agreed to. Does any Member object? I see that they do not. In that case, amendment 9 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 9.  
Amendment 9 agreed.*

[66] **Christine Chapman:** I move amendment 10 in the name of the Minister. The question is that amendment 10 be agreed to. Does any Member object? I see that they do not. In that case, amendment 10 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 10.  
Amendment 10 agreed.*

[67] **Christine Chapman:** I move amendment 11 in the name of the Minister. The question is that amendment 11 be agreed to. Does any Member object? I see that they do not. In that case, amendment 11 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 11.  
Amendment 11 agreed.*

[68] **Christine Chapman:** We now come to dispose of amendments 12 and 13, discussed in group 2. Minister, do you wish to proceed to a vote on amendments 12 and 13?

[69] **Leighton Andrews:** Yes, please.

[70] **Christine Chapman:** I move amendment 12 in the name of the Minister. The question is that amendment 12 be agreed to. Does any Member object? I see that they do not. In that case, amendment 12 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 12.  
Amendment 12 agreed.*

[71] **Christine Chapman:** I move amendment 13 in the name of the Minister. The question is that amendment 13 be agreed to. Does any Member object? I see that they do not. In that case, amendment 13 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 13.  
Amendment 13 agreed.*

[72] **Christine Chapman:** Angela, would you confirm for the record that you will not be moving amendment 180?

[73] **Angela Burns:** Yes, I would like to notify the committee that I will not be moving amendment 180 in my name.

*Ni symudwyd gwelliant 180.  
Amendment 180 not moved.*

[74] **Christine Chapman:** We now move to dispose of amendments 14 to 16 in the name of the Minister, which were debated in group 2. I move amendment 14 in the name of the Minister. The question is that amendment 14 be agreed to. Does any Member object? I see that they do not. In that case, amendment 14 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 14.  
Amendment 14 agreed.*

[75] **Christine Chapman:** I move amendment 15 in the name of the Minister. The question is that amendment 15 be agreed to. Does any Member object? I see that they do not. In that case, amendment 15 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 15.  
Amendment 15 agreed.*

[76] **Christine Chapman:** I move amendment 16 in the name of the Minister. The question is that amendment 16 be agreed to. Does any Member object? I see that they do not. In that case, amendment 16 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 16.  
Amendment 16 agreed.*

**Grŵp 3: Canllawiau ar Ymyrryd (Gwelliannau 140, 141, 142, 143, 181, 144 a 182)  
Group 3: Guidance on Intervention (Amendments 140, 141, 142, 143, 181, 144 and 182)**

[77] **Christine Chapman:** The lead amendment in the group is amendment 140. I call on Aled Roberts to move and speak to amendment 140 and to the other amendments in the group.

[78] **Aled Roberts:** I move amendment 140 in my name.

[79] This group of amendments arises out of concerns expressed by the committee that revolved around the grounds for intervention provided in the Bill. I accept that the grounds replace existing grounds, but I believe, in putting these amendments forward, that it is necessary to ensure that local authorities and other interested parties have absolute clarity on the issue. The amendments tabled in my name in this group clearly state that there is a requirement on the Minister to issue guidance with regard to the circumstances in which Welsh Ministers would intervene. They also deal with the difficulty that we had with regard to the fact that, once an intervention was in place, there could be an intervention by the Minister with regard to other functions. In effect, it seeks to give clarity. I know that the Minister, when he gave evidence, indicated that the explanatory memorandum et cetera would deal with many of these issues, but I was anxious to make the provision on the face of the Bill.

[80] **Angela Burns:** With regard to amendment 181, under the legislation as introduced, Welsh Ministers may intervene in the education functions of a local authority if they believe that that authority will be 'unlikely to be able to comply' with a warning notice. However, our concern is that no guidance is being given to us as to what 'unlikely to be able to comply' will

mean. In this amendment, we are calling for Welsh Ministers to make this information available to local authorities through guidance so that they are able to understand according to what criteria Ministers will judge their inability or unlikelihood to be able to comply with a warning notice. We have seen that in one or two instances.

[81] **Amendment 182**, tabled in my name, has a similar focus and again asks the Minister to issue guidance on the word ‘expedient’ so that there is absolute clarity for local authorities as to what Welsh Ministers expect and mean by the use of the word ‘expedient’ in this context.

[82] **Christine Chapman:** Do any other Members want to speak?

[83] **Rebecca Evans:** With regard to amendment 140, my view is that the face of the Bill is not necessarily the appropriate place to have this information. I am concerned that it might have the unintended consequence of narrowing the guidance that is available and, potentially, making it less helpful for local authorities. I am keen for there to be guidance, but perhaps the face of the Bill is not the place for it.

[84] **Julie Morgan:** I think that it is more satisfactory to have that in the code, because it is possible to amend the code more easily. I understand the thinking behind these amendments, but I think that the code is the appropriate place for these details.

[85] **Simon Thomas:** Rwy'n meddwl bod y gwelliannau yn ceisio gwneud rhywbeth o werth. Fel y dywedodd Aled wrth gyflwyno ei welliannau, roedd ansicrwydd a oedd y Bil yn ddigon clir ynglŷn ag ymyrraeth. Er nad wyf yn siŵr bod pob un gwelliant wedi ei eirio yn y ffordd y buaswn wedi dymuno ei eirio—yn enwedig gwelliant 182 gan Angela, achos nid wyf yn siŵr a yw hwnnw yn mynd i'r afael â'r broblem—rwy'n derbyn bod y gwelliannau yn ceisio gwneud rhywbeth a fydd yn gwella'r Bil. Efallai eu bod yn mynd ychydig yn rhy bell, ac rwy'n derbyn y pwynt mai yn y cod y dylai rhai o'r pethau hyn fod, ond maent yn ceisio gwneud y Bil yn eglurach ac yn hynny o beth mae pwynt iddynt. Rwyf eisiau cefnogi o leiaf rhai ohonynt a gweld os yw'r Gweinidog yn gallu ymateb yn bositif, achos mae'n iawn i ddweud y dylai'r cod ddelio gyda'r weithdrefn, fel petai, ond credaf y dylem fod yn glir ar wyneb y Bil ynglŷn â phryd y byddai pobl yn disgwyl i sefyllfa fel hyn godi. Nid wyf yn meddwl bod y gwelliannau yn gwanhau rôl y Gweinidog o gwbl, ac, os ydynt yn ei gwneud yn fwy clir i'r partneriaid eraill beth sy'n digwydd, maent yn rhywbeth i'w cefnogi. Gobeithiaf y gall y pwyllgor ystyried egwyddor y gwelliannau, ac, yn bendant, y gall y Gweinidog ymateb yn bositif i'r neges ynddynt, os nad yr union eiriad.

**Simon Thomas:** I think that the amendments are trying to do something worthwhile. As Aled said in introducing his amendments, there was uncertainty as to whether the Bill was clear enough on intervention. Although I am not sure that every amendment has been worded in the way that I would have wanted to word them—especially amendment 182 from Angela, because I am not sure whether that tackles the problem—I accept that the amendments are trying to do something that will improve the Bill. They may go slightly too far, and I accept the point that some of these things should be in the code, but they are trying to make the Bill clearer, and in that regard there is a point to them. I would like to support at least some of them and see whether the Minister can respond positively, because it is right to say that the code should deal with the procedure, as it were, but we need to be clear on the face of the Bill as to when people would expect such a situation to arise. I do not think that the amendments weaken the role of the Minister at all, and, if they make it clearer to other partners what is happening, they are something to support. I hope that the committee can consider the principle of these amendments, and, certainly, that the Minister can respond positively to the message in the amendments, if not the exact wording.

[86] **Leighton Andrews:** We are not talking about a code here; we are talking about statutory guidance, which is much more explicit than a code. I very much take the point that Aled and Simon Thomas make about the need for clarity for local authorities. However, the appropriate place, as Rebecca Evans and Julie Morgan said, is in the guidance that we will produce. That will enable us to capture all of the issues without coming back to the need to revise primary legislation. We do not always foresee every circumstance in which an intervention might be necessary, and it would be unwise, therefore, to circumscribe Ministers through the primary legislation. If we set this out in the statutory guidance, which we will, obviously, consult upon, then I think that that would be the way to do this. That will include examples of the kind of information that would be grounds for intervention; an adverse Estyn report would be an example of that.

[87] The guidance will also provide information on all the powers of intervention, including direction powers and circumstances where they are best used. It is fair to say that we have gathered more and more experience of why one needs to intervene in local government over the course of the last couple of years. The warning notice itself will set out the grounds for intervention and go into detail as to why those grounds exist. The purpose of guidance is to enable local authorities to exercise their intervention functions effectively and appropriately and it will be developed in consultation with all key stakeholders, including the Welsh Local Government Association, the Association of Directors of Education in Wales and Estyn, and will be, as I said, subject to consultation.

[88] Specifically in respect of amendments 141, 142, 143 and 144, we do not propose to issue guidance on our powers of intervention. We have to be reasonable and consistent in the approach that we take. Therefore, we will work with the WLGA and with other bodies, such as Estyn, to develop a protocol on support and intervention and what happens when legal thresholds are met, and Ministers will have due regard to the protocol. We must recognise that we need to retain discretion for Ministers in the exercise of their powers of intervention. The wording in grounds 2 and 3 is not new; it derives from sections 49(6) and 49(7)(a) of the Education Act 1996, as I think I said in earlier stages. The term 'adequate' has been given its plain and ordinary meaning, which is 'satisfactory and acceptable', and that will depend on the circumstances of the case. So, I think that we have set down perfectly reasonably how we would approach these issues here.

[89] Similar arguments apply in relation to Angela's amendments. A key factor to be taken into account in determining whether a local authority is unlikely to be able to comply or secure compliance with a warning notice would be a report by Estyn that finds that the local authority is failing in its education duties and has unsatisfactory prospects for improvement. Sadly, we have seen a number of those over the last couple of years and we have used powers of direction, for example, in respect of Blaenau Gwent, where the Estyn report found that the education services of the authority and prospects for improvement were unsatisfactory and the local authority required special measures, so I concluded that the direction should relate to all of the authority's education functions using the existing Act.

[90] So, it is fair to say that we may have seen a number of interventions in local authorities in recent years, but they have been as a result of adverse inspection reports. That is true in respect of Blaenau Gwent, Pembrokeshire and Ynys Môn. Therefore, I do not think that we can ever be accused of intervening unreasonably or over-regularly. I would suggest that what we are seeking to do here in putting information in statutory guidance is the appropriate way forward.

10.15 a.m.

[91] **Christine Chapman:** Thank you, Minister. Aled, do you wish to reply?



[92] **Aled Roberts:** Yes. I think that there is an acceptance and acknowledgement across the table that there is a need for clarity. The difference between us is that some of us believe that that clarity is required on the face of the Bill while others believe that guidance is the more appropriate vehicle. That acknowledgement has been made. It is just a question of whether people support these amendments or not.

[93] **Christine Chapman:** Do you wish to proceed to a vote on amendment 140?

[94] **Aled Roberts:** Yes, please.

[95] **Christine Chapman:** The question is that amendment 140 be agreed to. Are there any objections? I see that there are. Therefore, I will take a vote.

*Gwelliant 140: O blaid 5, Ymatal 0, Yn erbyn 5.*

*Amendment 140: For 5, Abstain 0, Against 5.*

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

Burns, Angela  
Davies, Jocelyn  
Davies, Suzy  
Roberts, Aled  
Thomas, Simon

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

Chapman, Christine  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei phleidlais fwrw yn unol â Rheol Sefydlog Rhif 6.20(ii).*

*As there was an equality of votes, the Chair used her casting vote in accordance with Standing Order No. 6.20(ii).*

*Gwrthodwyd gwelliant 140.  
Amendment 140 not agreed.*

[96] **Christine Chapman:** Aled, would you like to move amendment 141?

[97] **Aled Roberts:** Yes. I move amendment 141 in my name.

[98] **Christine Chapman:** The question is that amendment 141 be agreed to. Are there any objections? I see that there are. Therefore, I will take a vote.

*Gwelliant 141: O blaid 5, Ymatal 0, Yn erbyn 5.*

*Amendment 141: For 5, Abstain 0, Against 5.*

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

Burns, Angela  
Davies, Jocelyn  
Davies, Suzy  
Roberts, Aled  
Thomas, Simon

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

Chapman, Christine  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei phleidlais fwrw yn unol â Rheol Sefydlog Rhif 6.20(ii).*

*As there was an equality of votes, the Chair used her casting vote in accordance with Standing Order No. 6.20(ii).*

*Gwrthodwyd gwelliant 141.*

*Amendment 141 not agreed.*

[99] **Christine Chapman:** As amendment 141 is not agreed, amendments 142 and 143 in the name of Aled Roberts fall.

*Methodd gwelliannau 142 a 143.  
Amendments 142 and 143 fell.*

[100] **Christine Chapman:** Angela, would you like to move amendment 181?

[101] **Angela Burns:** I move amendment 181 in my name.

[102] **Christine Chapman:** The question is that amendment 181 be agreed to. Are there any objections? I see that there are. Therefore, I will take a vote.

*Gwelliant 181: O blaid 5, Ymatal 0, Yn erbyn 5.  
Amendment 181: For 5, Abstain 0, Against 5.*

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

Burns, Angela  
Davies, Jocelyn  
Davies, Suzy  
Roberts, Aled  
Thomas, Simon

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

Chapman, Christine  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei phleidlais fwrw yn unol â Rheol Sefydlog Rhif 6.20(ii).*

*As there was an equality of votes, the Chair used her casting vote in accordance with Standing Order No. 6.20(ii).*

*Gwrthodwyd gwelliant 181.  
Amendment 181 not agreed.*

[103] **Christine Chapman:** Aled, would you like to move amendment 144?

[104] **Aled Roberts:** I move amendment 144 in my name.

[105] **Christine Chapman:** The question is that amendment 144 be agreed to. Are there any objections? I see that there are. Therefore, I will take a vote.

*Gwelliant 144: O blaid 3, Ymatal 2, Yn erbyn 5.  
Amendment 144: For 3, Abstain 2, Against 5*

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

Burns, Angela  
Davies, Suzy  
Roberts, Aled

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

Chapman, Christine  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny

Ymataliodd yr Aelodau canlynol:  
The following Members abstained:

Davies, Jocelyn  
Thomas, Simon

*Gwrthodwyd gwelliant 144.  
Amendment 144 not agreed.*

[106] **Christine Chapman:** Angela, would you like to move amendment 182?

[107] **Angela Burns:** I move amendment 182 in my name.

[108] **Christine Chapman:** The question is that amendment 182 be agreed to. Are there any objections? I see that there are. Therefore, I will take a vote.

*Gwelliant 182: O blaid 2, Ymatal 3, Yn erbyn 5.  
Amendment 182: For 2, Abstain 3, Against 5*

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

Burns, Angela  
Davies, Suzy

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

Chapman, Christine  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny

Ymataliodd yr Aelodau canlynol:  
The following Members abstained:

Davies, Jocelyn  
Roberts, Aled  
Thomas, Simon

*Gwrthodwyd gwelliant 182.  
Amendment 182 not agreed.*

**Grŵp 4: Ymgynghori gan Weinidogion Cymru (Gwelliannau 17 ac 18)  
Group 4: Consultation by the Welsh Ministers (Amendments 17 and 18)**

[109] **Christine Chapman:** This group of amendments relates to consultation by the Welsh Ministers on the school improvement guidance and code on school organisation. The lead amendment in the group is amendment 17 in the name of the Minister. I move amendment 17 in the name of the Minister, and call on him to speak to amendment 17 and the other amendment in the group.

[110] **Leighton Andrews:** The duty lawyer for this purpose is now Simon Morea.

[111] **Christine Chapman:** Welcome.

[112] **Leighton Andrews:** In these amendments, we are trying to respond to the intentions of the committee. School improvement provisions complement Estyn's revised inspection arrangements in identifying and disseminating leading sector practice. I support the committee's recommendation that Ministers be required to consult with Her Majesty's chief inspector on any draft school improvement guidance, and amendment 17 effects that. We always intended that consultation on the school organisation code would include Estyn and the relevant school authorities, but it was not previously set out in the Bill. In the interests of consistency, I am therefore content to agree to the recommendations of both the Constitutional and Legislative Affairs Committee and the Children and Young People Committee that those bodies be named on the face of the Bill; amendment 18 effects that.

[113] I am fully committed to consulting widely on the draft guidance and code. An

example of that will be our close working with a practitioner-led quality-assurance group and Estyn to develop the high-quality teaching-resources website that we launched in September this year. Consultation on a draft school organisation code has already commenced. The list of those directly consulted has gone way beyond the requirement set out in amendment 18, but we are happy to make that amendment.

[114] **Christine Chapman:** Are there any other Members who wish to speak? I see that there are not. Minister, do you wish to proceed to a vote on amendment 17?

[115] **Leighton Andrews:** Yes, please.

[116] **Christine Chapman:** The question is that amendment 17 be agreed to. Does any Member object? I see that there is no objection, so amendment 17 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 17.  
Amendment 17 agreed.*

**Grŵp 5: Trefniadaeth Ysgolion—Panelau Penderfynu Lleol (Gwelliannau 157, 158, 159, 146, 147, 160, 148, 161, 189, 162, 163, 190, 164, 165, 166, 167, 168, 169, 170, 149, 171, 175, 176, 98, 154, 155, 99, 100 a 156)**

**Group 5: School Organisation—Local Determination Panels (Amendments 157, 158, 159, 146, 147, 160, 148, 161, 189, 162, 163, 190, 164, 165, 166, 167, 168, 169, 170, 149, 171, 175, 176, 98, 154, 155, 99, 100 and 156)**

[117] **Christine Chapman:** The lead amendment in the group is amendment 157. I call on Simon Thomas to move and speak to amendment 157 and to speak to the other amendments in the group.

[118] **Simon Thomas:** Rwy'n cynnig **Simon Thomas:** I move amendment 157 in gwelliant 157 yn fy enw i, gyda chefnogaeth my name, with the support of Jocelyn Davies. Jocelyn Davies.

[119] Mae'r gwelliant hwn a'r gwelliannau canlynol yn ceisio helpu'r Gweinidog i fynd i'r afael â rhywbeth sydd wedi bod yn dipyn o gur pen i'r pwyllgor wrth ystyried y Bil hwn. This amendment and those that follow aim to assist the Minister in getting to grips with something that has been something of a headache for the committee in considering this Bill.

[120] Byddwch i gyd yn cofio bod y Gweinidog wedi dod â'r Bil i'r pwyllgor gan ddweud mai pwrpas y rhan hon oedd datganoli grym penderfynu ynghylch strwythur ysgolion i awdurdodau lleol. You will all recall that the Minister brought the Bill to committee saying that the purpose of this part was to devolve powers for determining school structures to local authorities. You will all recall the evidence that we received about some examples of one objection to the closure of a school leading to it being referred to the Minister. The Minister felt that that was an unfortunate situation, which hampered the work of local authorities in dealing with surplus school places and school structures in their areas.

[121] Roedd y dystiolaeth a gafodd y pwyllgor yn cefnogi, mewn egwyddor, The evidence received by the committee supported, in principle, the Minister's

fwriad y Gweinidog yn hynny o beth. Ond, i'r gwrthwyneb, roedd y dystiolaeth ynghylch natur y dull amgen roedd y Gweinidog wedi'i roi yn y Bil, sef y paneli penderfynu lleol, yn llawer mwy cymysg. Er bod nifer o bobl yn cefnogi'r egwyddor o symud y cyfrifoldeb tuag at awdurdodau lleol, dywedodd llawer o'r tystion fod y drefn yn y Bil yn anffodus. Byddwch yn cofio Michael Imperato fel un enghraifft o rywun a oedd yn amau y byddai'r dull hwn yn gweithio.

[122] Roeddem fel pwyllgor hefyd wedi dod i'r casgliad, ar ddiwedd y broses, fod y Llywodraeth wedi tanbrizio cost y paneli penderfynu lleol, ac y byddai'r broses yn debyg o fod yn llawer mwy dyrys. Heb fynd yn ormodol i grwpiau eraill o welliannau, mae nifer o Aelodau wedi ceisio gwella'r broses drwy sôn am benderfynu rhanbarthol a gwella panelau.

[123] Fy marn i, a barn Plaid Cymru, ar y mater yw ei bod yn well camu i ffwrdd o geisio gwneud hyn yn fanwl yn y Bil. Gobeithio y caiff hynny gefnogaeth Angela Burns, a'i gwnaeth yn glir ei bod yn credu mai awdurdodau lleol ddylai benderfynu ar y dull hwn. Gobeithio y gall Aelodau eraill ystyried ein bod yn ceisio bod yn bositif. Yn y gwelliannau hyn, rydym yn cynnig tynnu'r weithdrefn panelau penderfynu lleol allan yn llwyr ac ni fydd y Bil wedyn yn mynnu un dull o benderfynu yn lleol. Yn hytrach, bydd yn dweud bod penderfyniadau yn cael eu gwneud yn lleol a bod modd i'r Gweinidog baratoi canllawiau ar sut i benderfynu'n lleol. Ar ôl ystyriaeth hir, mae'n bosibl y bydd y Gweinidog yn penderfynu mai panelau penderfynu o'r fath yw'r ffordd ymlaen. Fodd bynnag, rwy'n amau hynny, gan fod y pwyllgor hwn wedi derbyn cymaint o dystiolaeth i awgrymu bod perygl o agor tun arall o abwyd, gan fynd i gors arall.

[124] Derbyniaf yr hyn mae'r Gweinidog yn ceisio ei wneud ac rwy'n ei gefnogi'n llwyr. Dylid penderfynu ar y pethau hyn ar lefel lleol. Felly, nid wyf yn deall pam y byddem am gefnogi Bil sy'n nodi y gall pobl benderfynu yn lleol, ond dim ond gan ddefnyddio un dull penodol. Os penderfynu'n lleol, dylem ganiatáu i hynny ddigwydd yn lleol yn y dull mae'r bobl yn teimlo sy'n

intention in that regard. However, to the contrary, the evidence regarding the nature of the alternative approach that the Minister put forward in the Bill, of local determination panels, was far more mixed. Although many people supported the principle of shifting the responsibility towards local authorities, many witnesses said that the regime in the Bill was unfortunate. You will recall Michael Imperato as one example of someone who doubted that this approach would work.

The committee also came to the conclusion, at the end of the process, that the Government had underestimated the cost of local determination panels, and that the process was likely to be far more complex. Without encroaching too much on other groups of amendments, many Members have tried to improve the process by way of regional determination and improving panels.

My opinion, and that of Plaid Cymru, on this issue is that it would be better to step away from trying to do this in detail on the face of the Bill. I hope that, in that, we will secure the support of Angela Burns, who made it clear that she believes that local authorities should make these decisions. I hope that other Members understand that we are trying to be positive. In these amendments, we propose to withdraw the local determination panel regime entirely and the Bill will not then insist on one method of local determination. Rather, it will say that determinations are made locally and that it will be possible for the Minister to prepare guidance on how to determine locally. After lengthy consideration, it is possible that the Minister will decide that such determination panels are the way forward. However, I doubt that, given that this committee has received so much evidence to suggest that there is a danger in opening another can of worms here, and entering another mire.

I accept what the Minister is trying to do and I fully support him. These things should be decided at a local level. Therefore, I do not understand why we would want to support a Bill that states that people can decide locally, but only by using one specific method. If determination is to be made locally, then we should allow it to happen locally in the method that the people feel is appropriate,

briodol gan ddilyn, os oes angen, canllawiau clir gan y Gweinidog—yn unol â rhai o'r gwelliannau eraill mae'r Gweinidog wedi dod ger ein bron heddiw ar annibyniaeth a rhyddid barn ac ati; mae'r rheini'n bwysig, wrth gwrs. Fodd bynnag, yr egwyddorion ddylai fod ar wyneb y Bil, ac nid y dull manwl.

[125] Yn syml, mae'r gwelliant hwn a'r gwelliannau dilynol yn tynnu allan y dull manwl ac yn gadael yr egwyddorion, gan barhau i gefnogi'r Gweinidog. Mae'n caniatáu i ddulliau penderfynu lleol ddatblygu'n fwy organig, yn hytrach na mynnu un dull yn llwyr ar bobl leol. Felly, rwy'n gobeithio, er nad yw'r geiriad yn berffaith, y bydd yr egwyddor yn cael ei gefnogi gan y pwyllgor, fel bod modd, os oes angen, i'r Gweinidog ailystyried cyn i'r Bil ddod gerbron y Cyfarfod Llawn. Gobeithiaf fod hynny'n egluro pwrpas y gwelliannau hyn ac edrychaf ymlaen at glywed beth sydd gan Aelodau i'w ddweud.

[126] **Aled Roberts:** Rwy'n rhannu rhai o'r pryderon am y panelau hyn. Mae problemau ymarferol o ran sut y byddant yn gweithredu, a dyna pam y mae nifer o'n gwelliannau ni yn ceisio mynd i'r afael â hynny. Rwy'n rhagweld amharodrwydd i ddileu'r cynigion hyn gan y Gweinidog—mai dyma'r ffordd y mae ef eisiau mynd ymlaen.

[127] Rwyf hefyd yn rhannu rhwystredigaeth y Gweinidog ynglŷn â chynghorau lleol nad ydynt wedi mynd i'r afael â rhai materion ad-drefnu mewn ysgolion. Felly, rwy'n derbyn nad yw'r sefyllfa bresennol yn dderbyniol. Rwy'n rhannu, fel y dywedais, rwystredigaeth y Gweinidog, ond mae gennyf amheuan am y panelau a sut y byddant yn gweithredu ar lawr gwlad. Dyna pam rwyf wedi ceisio dod â chynigion ymlaen o ran aelodaeth ranbarthol. Os ydym am ddweud bod y panelau hyn yn annibynnol, dylent fod yn wir annibynnol, heb ymyrraeth wleidyddol gan gynghorau. Dylid naill ai eu gadael yn y byd gwleidyddol mewn cynghorau lleol neu sicrhau eu bod yn gweithredu'n annibynnol. Felly, rwy'n rhannu rhai o bryderon Simon, ond rwyf wedi cyflwyno'r cynigion hyn gan ein bod wedi gweld yn y pwyllgor hwn nad oes cytundeb rhyngom ar sut i fynd i'r afael

following, if necessary, clear guidance from the Minister—in line with some of the other amendments that the Minister has brought forward today on independence, freedom of opinion and so on; those, of course, are important. However, it is the principles that should be on the face of the Bill and not the detail.

Simply, this amendment and the consequential amendments withdraw the detail and leave the principles, while continuing to support the Minister. It allows for methods of local determination to develop more organically, rather than insisting on a single method for local people. I hope, therefore, that, although the wording is not perfect, the principle will be supported by the committee so that, if necessary, the Minister can reconsider before the Bill comes before Plenary. I hope that that explains the purpose of these amendments and I look forward to hearing what Members have to say.

**Aled Roberts:** I share some of the concerns about these panels. There are practical problems in how they will operate, which is why a number of our amendments try to deal with that. I foresee a reluctance to withdraw these proposals by the Minister—that this is how he wants to go forward.

I also share the Minister's frustration at local councils that have not tackled some school reorganisation issues. So, I accept that the current situation is not acceptable. I share, as I said, the Minister's frustration, but I have doubts about these panels and how they will operate at a grass-roots level. That is why I have tried to bring proposals forward on regional membership. If we are going to say that these panels are independent, they should be truly independent of political intervention by councils. They should either be left in the political sphere in local councils or it should be ensured that they operate independently. So, I share some of Simon's concerns, but I have tabled these proposals because we have seen in this committee that there is no agreement between us on how to tackle the problem that the Minister has faced in terms of reorganising the education system.

â'r broblem y mae'r Gweinidog wedi'i hwynebu o ran ad-drefnu'r gyfundrefn addysg.

[128] **Suzy Davies:** You will be aware of the concerns about specific proposals for LDPs, which have been reiterated by Simon Thomas and Aled Roberts, but also by the committee's report. We are a little disappointed that the one amendment that you have presented in this group does not seem to resolve those concerns. Even though we recognise the intention behind amendment 98, it remains problematic because the wording strikes me as being unenforceable. We will, therefore, have problems supporting that amendment.

10.30 a.m.

[129] While we agree wholeheartedly that the LDPs are problematic, we also, unfortunately, have some reservations about the Plaid Cymru amendments in this group, for two specific reasons. First is the visibly independent process for the consideration of plans proposed by a local authority that would then have subsequent objections to those proposals. Where there are objections—I am not clear from these amendments that they are—the independence of a decision-making process will be preserved when the final determination is made by the proposer. Secondly, the fact that we took no evidence on those alternative proposals is a problem for me. They certainly have the merit of local determination, but we have not had the chance to explore them in this committee; that is why we have reservations about supporting them.

[130] However, we will support the amendments tabled to reflect the committee's recommendations, particularly amendment 149, which calls for an early review of how LDPs have functioned. We believe that there is still a certain level of naivety in the Bill's position on how LDPs will work, and we must have an early review in the absence of a considered alternative. Specifically in terms of amendments 189 and 190, we noticed that, in other parts of the Bill, Welsh Ministers have the power to approve modifications to certain proposals without any limitations being imposed on the sort of modifications that they can consider. Given the importance that the Welsh Government attaches to LDPs, this seems like an unjustifiable difference in the powers, and the two amendments to section 53 deal with that inconsistency.

[131] **Christine Chapman:** Do any other Members wish to speak?

[132] **Julie Morgan:** There was obviously a lot of debate and concern expressed about the LDPs, but I think that there was general support—as other Members have said—that there should be local determining. I think that we had a lot of debate about what would be the exact model. I support the idea that these LDPs should be independent and be able to operate free of local authority control.

[133] **Christine Chapman:** I invite the Minister to speak.

[134] **Leighton Andrews:** I will start with Simon Thomas's amendments. I see merit in his approach, and it was an option that I originally considered. The issue for me, I think, is this. I want to see determination at a local level; that has been the principle that I expressed, and it was the statement that I made to the Assembly in June 2010, during the One Wales Government. We should reduce the amount of ministerial involvement in these decisions and they should be determined at a local level. In order to get public support for a different model, it was our feeling that we needed some sort of arm's length decision maker ultimately where proposals received a significant level of local objection if we were going to build consensus around that. If there is a wider political consensus here that we should not specify the concept of local determination panels but should leave it for determination locally, as it were, I would

be happy to explore that between this Stage and Stage 3. As I think that Members are well aware, my whole objective from the starting point has been that roughly 50% of all decisions come to Ministers. To my mind, that was never how the system was meant to proceed. We felt that, in taking away the role of Ministers, we had to substitute some kind of alternative. If Members are telling me that there is a broader consensus here that we do not need to specify LDPs, I would happily enter into inter-party conversations between now and Stage 3 to see whether a more flexible arrangement could be entered into to allow that local process to develop. I would be prepared to consider not having local determination panels if I had real evidence of inter-party agreement on that and on agreed amendments, perhaps.

[135] We think that there are some technical issues around the amendments that Simon Thomas has drafted that do not necessarily effect the purpose that he wants to implement. Again, we would need to enter into conversations around that. Assuming, for the moment, that we carry on with LDPs, which is the policy that we set out in the consultation and in the Bill, perhaps I could move on to Aled Roberts's amendments and say that I agree with him that the regional pool model has significant merit in terms of ensuring independence of members in this process. In his former capacity, he and I have had conversations about how you plan school organisation on a sensible basis locally and some of the challenges that local authorities face in that, and all Members will be familiar with those.

[136] The draft school organisation code that we have published already makes reference to the use that local authorities might make of the regional pools that he is suggesting. However, I do not think that we can support all of his amendments because we believe that local authorities should have the flexibility to adopt models and practices that best suit local needs and circumstances. There are some technical issues in relation to his amendment as well.

[137] In relation to his amendment 149, which requires Welsh Ministers to review the operation and cost of LDPs and report back on those, I am happy to commit to this. I will bring forward a Government amendment at Stage 3 to carry that into effect, if he were willing to not move his amendment.

[138] Moving on to the amendments from the Welsh Conservatives, I am afraid that I cannot agree that removing restrictions on an LDP's ability to modify proposals is a good idea. LDPs are meant to decide the proposals that come before them, not substitute alternative proposals of their own, which would never have been consulted on locally. I think that this would give rise to further problems, and that is a serious issue.

[139] I come finally to the Government amendments. I hope that Members can see that amendment 98 is a reasonable attempt by the Government to respond to the committee's recommendation that the impartiality of local authorities is enshrined in the Bill, and that is complemented by the policy intent behind Aled Roberts's amendment 147. Amendments 99 and 100 have the effect of ensuring that teachers currently or formerly employed by a local authority are not excluded from becoming LDP members by reason of that employment. That aligns with provisions set out in the draft school organisation code, which suggests that local determination panels include among their members at least one with a school management background. Of course, no teacher would be permitted to make decisions relating to a school where they were or had been employed.

[140] Therefore, I urge Members to support Government amendments 98, 99 and 100 and non-Government amendment 147, and to reject the other non-Government amendments, but with the recognition that I am open to further conversations on these issues before Stage 3.

[141] **Simon Thomas:** Diolch i'r **Simon Thomas:** I thank the Minister for Gweinidog am ymateb yn bositif i'r responding positively to the amendments. We gwelliannau. Byddem yn hapus o safbwynt would be happy from Plaid Cymru's



Plaid Cymru i drafod gyda'r Llywodraeth a'r pleidiau eraill i weld a oes modd i ni wella'r rhan hon. O ran rhai o'r gwelliannau eraill, fy mhwrpas gyda fy ngwelliannau i oedd symleiddio'r broses, ond mae rhai o'r gwelliannau yn awr yn ei gymhlethu, efallai gyda phwrpas hollol glodwiw. Mae'n dod â mi at y pwynt gwreiddiol, sef ai drwy Fil y dylem fod yn llunio'r ffordd mae penderfyniadau yn cael eu gwneud yn lleol, neu a ddylem roi'r egwyddorion ar wyneb y Bil a disgwyl i benderfyniadau lleol ddilyn hynny. Mae rhai egwyddorion yn y gwelliannau y gallwn eu cefnogi ynglŷn â rhyddid barn, annibyniaeth a rhai o'r gwelliannau ynglŷn ag athrawon yn gweithredu, ac ati. Fodd bynnag, rwyf yn dal i feddwl ei bod yn well nad ydym yn bod mor fanwl ar wyneb y Bil ynglŷn â dulliau lleol y bydd pobl yn eu defnyddio i benderfynu. Wrth i ni nesáu at bleidleisio yfory ar y comisiynwyr heddlu, mae'n ddi-ddorol gweld ein bod yn rhoi mwy o fanylion mewn deddfwriaeth ar sut i benderfynu a ddylid cau ysgol ai peidio nag ydym wedi ei roi mewn deddfwriaeth o ran y ffordd y bydd comisiynwyr heddlu yn mynd o gwmpas eu swyddi. Pa un yw'r broses bwysicaf?

[142] Rydym i gyd yn gwybod bod cau ysgolion yn bwnc hynod o emosiynol a hynod o bwysig yn lleol, a'n bod i gyd yn cael ein tynnu mewn i'r corwynt hwnnw. Felly, rydym i gyd eisiau creu strwythur sy'n gallu amddiffyn penderfyniadau yn erbyn y problemau hynny. Ni allwch wneud hynny—ni allwch lunio proses sydd yn bodloni pobl; maent naill ai o blaid cau ysgol neu yn erbyn. Yr hyn y gallwch ei wneud yw llunio proses annibynnol, mae pawb yn deall ei bod yn annibynnol ac y mae pawb yn gallu gweld ei bod yn ddi-dduedd.

[143] Rwy'n derbyn pwynt y Gweinidog na allwch gael proses sy'n hepgor un set o gynlluniau ac yn dod â chynlluniau newydd i mewn. Rwy'n derbyn nad yw'r gwelliannau eraill yn dderbyniol. Felly, hoffwn i'r pwyllgor o leiaf bleidleisio ar hwn, ond buaswn yn derbyn cynnig y Gweinidog a rwy'n gobeithio y gallwn drafod a oes modd inni symud ymlaen, oherwydd rwyf yn credu bod posibilrwydd yn y fan hon inni orgymhlethu'r system. Efallai na fydd y Gweinidog yn wynebu'r broblem, ond ni

perspective to discuss with the Government and the other parties to see if we can improve this section. In terms of some of the other amendments, my intention with my amendments was to simplify the process, but some of these amendments now complicate it, perhaps with the greatest of intentions. It brings me back to the original point, namely whether we should be paving the way in which decisions are made locally through a Bill, or whether we should put the principles on the face of the Bill and expect local decisions to follow suit. We can support some principles in the amendments with regard to freedom of opinion, independence and some of the amendments about the way in which teachers operate, and so on. However, I still think it better that we are not so prescriptive on the face of the Bill as to the local methods that people will use to make decisions. As we draw nearer to tomorrow's vote on police commissioners, it is interesting to note that we are putting more details in legislation on how to decide whether or not a school should close than we have put in legislation regarding the way in which police commissioners will go about their work. Which is the most important process?

We all know that school closure is a very emotive and important topic locally, and that we are all drawn into that whirlwind. Therefore, we all want to create a structure that can defend decisions against those problems. You cannot do that—you cannot draw up a process that satisfies people; they are either in favour or against a school closure. What you can do is to draw up an independent process that everyone understands is independent and that everyone can see is impartial.

I accept the Minister's point that you cannot have a process that excludes one set of plans and introduces new ones. I accept that the other amendments are unacceptable. Therefore, I would like the committee at least to vote on this, but I would accept the Minister's offer and I hope that we can discuss whether there is a way we can move forward, because I believe that there is a possibility here for us to over-complicate the system. Perhaps the Minister will not face the problem, but this will not settle the problems

fydd yn setlo'r anawsterau sydd gennym ar lawr gwlad. Fel y clywsom gan y Gweinidog ddoe, nid yw aildrefnu ac ailstrwythuro yn digwydd yn ddigon clou. Mae gennym ormod o lefydd gwag ac ysgolion yn y llefydd anghywir a dim digon o adnoddau i ddelifro'r newid sy'n digwydd mewn addysg. Ar hynny dylai ein ffocws fod: ar ryddhau adnoddau sydd wedi'u cau ar hyn o bryd mewn proses sydd wedi'i ffosileiddio i bob pwrpas, er mwyn anghenion newydd addysg yng Nghymru. Dyna beth ddylai'r Bil hwn ei gyflawni. Rwyf yn gobeithio, yn y pendraw, y cawn system y bydd pawb yn hapus â hi.

that we have at a grass-roots level. As we heard from the Minister yesterday, reorganisation and restructuring do not happen quickly enough. We have too many surplus places and schools in the wrong places and not enough resources to deliver the change that is happening in education. Our focus should be on that: on releasing resources that are currently locked in to a process that is fossilised to all intents and purposes, for the new needs of education in Wales. That is what this Bill should achieve. I hope, eventually, that we will have a system that everybody is content with.

[144] **Christine Chapman:** So, for the record, you want to proceed to a vote.

[145] **Simon Thomas:** Yes.

[146] **Christine Chapman:** The question is that amendment 157 be agreed to. Does any Member object? I see that there are objections. I will therefore take a vote by a show of hands.

*Gwelliant 157: O blaid 3, Ymatal 0, Yn erbyn 7.  
Amendment 157: For 3, Abstain 0, Against 7.*

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

Davies, Jocelyn  
Roberts, Aled  
Thomas, Simon

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

Burns, Angela  
Chapman, Christine  
Davies, Suzy  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny

*Gwrthodwyd gwelliant 157.  
Amendment 157 not agreed.*

[147] **Christine Chapman:** As amendment 157 is not agreed, amendments 158 to 171, 175 and 176 in the name of Simon Thomas fall.

[148] I now suggest that the committee breaks for 10 minutes—

[149] **Leighton Andrews:** What about the Government amendments? Are we not moving the Government amendments on this section?

[150] **Christine Chapman:** No, we will do so when we come to them on the marshalled list.

[151] **Leighton Andrews:** My apologies.

*Gohiriwyd y cyfarfod rhwng 10.42 a.m. a 10.54 a.m.  
The meeting adjourned between 10.42 a.m. and 10.54 a.m.*

**Grŵp 6: Cynigion Trefniadaeth Ysgolion—Categoriâu Gwrthwynebwy'r (Gwelliannau**

**145, 184, 31, 185, 32 a 186)****Group 6: School Organisation Proposals—Categories of Objectors (Amendments 145, 184, 31, 185, 32 and 186)**

[152] **Christine Chapman:** The lead amendment in the group is amendment 145. I call on Aled Roberts to move amendment 145 and to speak to that and the other amendments in the group.

[153] **Aled Roberts:** Cynigiau welliant 145 yn fy enw i. **Aled Roberts:** I move amendment 145 in my name.

[154] Mae hwn yn delio ag un mater a gododd yn y dystiolaeth a dderbyniwyd gan y pwyllgor, sef ei fod yn ofynnol i sicrhau bod mesurau yn y cod i sicrhau bod plant a phobl ifanc sy'n cael eu heffeithio gan unrhyw fath o gynigion yn gwybod sut y maent yn gallu gwrthwynebu'r fath gynigion. Felly, dyna beth rydym yn ei wneud. This deals with a matter that arose in the evidence received by the committee, that is, that it is a necessary to ensure that there are measures in the code to ensure that the children and young people who are affected by proposals of any kind know how they can object to such proposals. Therefore, that is what we wish to do.

[155] Mae cynnig Simon Thomas, rwy'n meddwl, sydd yn yr un grŵp yn syrthio a mae'r ddau gwelliant arall yn nwylo'r Gweinidog. Simon Thomas's proposal that is in the same group, I think, falls and the other two amendments are in the hands of the Minister.

[156] **Angela Burns:** On amendment 184, under amendment 31 in the name of the Minister, which we oppose at present, the legislation could state that objectors, when voicing opposition to school reorganisation proposals, must include a statement explaining which of the categories they fall into. Amendment 184 of ours would increase grass-roots understanding regarding the category of objectors proposed by the Welsh Government and ensure that a technical loophole does not block individuals from exercising their right to object to proposals. We think that this is an extremely important amendment to bring forward, because we would not want this legislation inadvertently to take anybody out of their right to present their views. You might have somebody who is simply putting forward an objection who does not understand that they have to list which of those many categories they could be in.

[157] With regard to amendment 185, we all know that there are a number of further education institutions that, although they are based in England, are very close to the border and may have a significant number of Welsh students. It is important to provide them with a fair and reasonable opportunity to voice an objection. All that this amendment does is to provide this Bill with consistency, as local authorities in England have the opportunity to object to proposals that directly affect them. We believe that England-based further education institutions should have the same freedom.

[158] With regard to amendment 186, this amendment lengthens the list of category 3 objectors, because we would like to ensure that, with regard to the proposed list of organisations that can object, the proposer considers those who represent the interests of children and young people who attend, or might attend, the school. Obviously, we are not trying to make this too broad, but it should include those who might reasonably be expected to attend the school. So, maybe, those within the catchment area. We believe that this would ensure that the relevant parents' groups also have a significant voice in objecting to any proposals, or indeed in just making their comments known or expressing their support for any proposals on school reorganisation.

[159] As I have already said, we oppose the Government's amendment 31 on the grounds that the potential consequences of this Bill would mean that all potential objectors have to understand the categories of objectors as stated in the legislation. We think that, at the grass-roots level, this is unachievable and patently unfair.

[160] **Christine Chapman:** Would any other Members like to speak on this group?

[161] **Simon Thomas:** Mae'n amlwg bod y gwelliannau yn fy rhoi mewn penbleth gan ein bod am dynnu allan unrhyw gyfeiriad at banelau penderfynu lleol ac rydym yn awr yn sôn am sut i wella'r broses. Fodd bynnag, mae gennyf dipyn o gydymdeimlad gyda gwelliant Aled, gwelliant 145, oherwydd credaf fod rhinwedd yn hynny o beth. Hoffwn glywed ymateb y Gweinidog i welliant 185 yn enw Angela Burns, sy'n delio â materion trawsffiniol—materion sydd tu hwnt i Gymru. Credaf fod perygl yn hynny o beth eich bod yn ceisio penderfynu pa mor hir yw darn o linyr a'ch bod yn agor talcen cwbl wahanol eto. Hoffwn wybod beth sydd gan y Gweinidog i ddweud ar hynny. Credaf fod Angela wedi rhoi ei bys ar rywbeth pwysig, sef bod pobl o Gymru yn derbyn addysg y tu hwnt i Gymru. Felly, mae pwynt i'w hystyried, ond nid wyf am lesteirio pwrpas y rhan hon o'r Bil drwy orgymhlethu pethau. Felly, rwy'n edrych ymlaen at glywed beth sydd gan y Gweinidog i ddweud ar hynny, ond credaf fod rhinwedd yn yr hyn y mae Aled wedi ei ddweud am hynny.

**Simon Thomas:** Clearly, these amendments place me in something of a quandary, because we want to remove any reference to local determination panels and we are now talking about how to improve the process. However, I have some sympathy with Aled's amendment 145, because I believe there is some merit to it. I would like to hear the response of the Minister to Angela Burns's amendment 185, which deals with cross-border issues—issues that are outside Wales. I think that there is a danger there that you are trying to decide how long a piece of string is and that you are working a completely new seam. I would like to hear what the Minister has to say on that. I think that Angela has raised something important, namely that some people from Wales receive their education outside Wales. So, there is a point to be considered here, but I do not want to hamper the objectives of this part of the Bill by overcomplicating things. So, I look forward to hearing the Minister's comments in that regard, but I think there is some merit in what Aled said about that.

11.00 a.m.

[162] **Julie Morgan:** I would support amendments 185 and 186 because they seem to me absolutely practical proposals that are very sensible. That is an important way forward.

[163] **Leighton Andrews:** I will start with amendments 186 and 185. In respect of amendment 186 from Angela, I happen to think that most of this is covered in the Bill, but I am content to support her amendment in terms of extending the category 3 objectors list. I am also prepared to support her amendment 185, which extends the list of category 2 objectors to include FE institutions outside Wales, because there may be some examples of legitimate interests in respect of bodies in England bordering Wales in respect of proposals that affect post-16 education. That is more consistent with the treatment of English local authorities that border Wales, so I am happy to accept that.

[164] In respect of Aled's amendment 145 and Angela's amendment 184, stipulating information that must be provided by proposers to consultees, whether they are children or adults, I think that is best dealt with through the school organisation code, and it is indeed in the draft code. We can strengthen those provisions if it is thought necessary. I can see some merit in amendment 184, and I will look at bringing forward a Government amendment reflecting it at the next stage.

[165] Government amendment 31 is designed to ensure that proposers are able to identify

the category into which objectors might fall. There is no requirement at the moment for objectors to school organisation proposals to identify the nature of their interest in the proposal. As a consequence, proposers may have no clear way of determining into which category an objection might fall. That is why we are moving this amendment—to address that issue.

[166] In respect of Government amendment 32, what we are saying here is that, where they exist, trustees holding land or buildings on behalf of the school have a special interest, not least because the operation of the school will be fundamental to the aims and purposes of the trust, and therefore we are satisfied that the significance of their interests does not extend beyond the local, and they need not be anything more than category 2 objectors.

[167] **Aled Roberts:** I accept that there is provision in the code, but I want to put this to the vote. I think there is a clear choice regarding whether it is on the face of the Bill or not.

[168] **Christine Chapman:** We will proceed to a vote on amendment 145. The question is that amendment 145 be agreed to. Is there any objection? I see that there is, and therefore we will proceed to a vote by show of hands.

*Gwelliant 145: O blaid 5, Ymatal 0, Yn erbyn 5*

*Amendment 145: For 5, Abstain 0, Against 5*

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

Burns, Angela  
Davies, Jocelyn  
Davies, Suzy  
Roberts, Aled  
Thomas, Simon

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

Chapman, Christine  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei phleidlais fwrw yn unol â Rheol Sefydlog Rhif 6.20(ii).*

*As there was an equality of votes, the Chair used her casting vote in accordance with Standing Order No. 6.20(ii).*

*Gwrthodwyd gwelliant 145.  
Amendment 145 not agreed.*

*Methodd gwelliant 158.  
Amendment 158 fell.*

[169] **Christine Chapman:** We now move to dispose of amendment 18 in group 4 in the name of the Minister. I move amendment 18 in the name of the Minister. The question is that amendment 18 be agreed to. Does any Member object? I see not, and so in accordance with Standing Order No. 17.34(i), I therefore declare amendment 18 agreed.

*Derbyniwyd gwelliant 18.  
Amendment 18 agreed.*

**Grŵp 7: Cynigion Trefnidiaeth Ysgolion—Ysgolion Sefydledig ac Ysgolion Arbennig Sefydledig (Gwelliannau 19, 183, 20, 21, 22, 27, 29, 30, 37, 49, 51, 54, 55, 68, 69, 71, 72, 73, 74, 75, 76, 77, 202, 78, 79, 88, 89, 95, 96, 97, 102, 103, 104, 105, 106, 107, 108, 109, 110, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138 a 139)**

**Group 7: School Organisation Proposals—Foundation and Foundation Special Schools (Amendments 19, 183, 20, 21, 22, 27, 29, 30, 37, 49, 51, 54, 55, 68, 69, 71, 72, 73, 74, 75, 76, 77, 202, 78, 79, 88, 89, 95, 96, 97, 102, 103, 104, 105, 106, 107, 108, 109, 110, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138 and 139)**

[170] **Christine Chapman:** The seventh group of amendments relates to school organisation proposals for foundation and foundation special schools. The lead amendment in the group is amendment 19. I move amendment 19 in the name of the Minister and call on the Minister to speak to amendment 19 and the other amendments in the group.

[171] **Leighton Andrews:** We currently only have community special schools in Wales, so the system is very simple to administer and easily understood. It seems unlikely in the foreseeable future that we would have the creation of foundation special schools, but they would obviously add an element of complexity if they did come in, and I am not sure they would necessarily bring us any benefit. Therefore we are proposing amendments 20 and 29, which prevent the establishment of new foundation special schools or the conversion of community special schools to foundation special schools. The other Government amendments are consequential on those.

[172] The process of scrutiny has prompted us to look at a number of sections of the Bill and, in the course of this, we have come to the conclusion that there is a valid case there for change. In respect of amendment 183, tabled in the name of Angela Burns, it seeks to repeal the sections in the Education (Wales) Measure 2011 that prohibit the creation of additional mainstream foundation schools. We debated this issue ad infinitum during the passage of the Measure. I made my views clear at that time and I see no merit in reversing that. Finally, amendment 202, tabled in the name of Angela Burns, seeks to impose a requirement on Welsh Ministers to consult parents before directing a local authority to discontinue a special school on the grounds of pupils' health, safety or welfare. Normally, it would be appropriate to consult parents where action is being taken to close a school. This power is designed to be used in situations of real emergency. Therefore, I cannot support any requirement that would hamper the ability of Ministers to act with urgency. The Bill provides us with discretion to do this and I am sure that that is sufficient.

[173] **Suzy Davies:** Minister, I am glad that you have taken the opportunity to introduce a number of amendments to rationalise the position regarding foundation schools and foundation special schools, as there was an element of inconsistency in the Bill before this. While you are entitled to pursue the policy against foundation schools in the Bill, perhaps it does not do much for the morale of existing staff and families in existing foundation schools. If you do not want to support the idea of foundation schools at this stage—and that is your right—why are you so determined to close the door on them forever? In response to Simon Thomas earlier, you referred to futureproofing legislation. In this, you are closing the door permanently on foundation schools, which strikes me as quite a step. It is almost as though you are treating foundation schools as a sort of social ill. Why are you so determined to make this a once-and-for-all ban? Our amendment 183 would simply remove that ban—nothing more than that. The wording of the amendment provides a way of reinstating the relevant consequential references to foundation schools throughout the Bill, should section 42 be deleted, and a potential place for foundation schools to be revived sometime in the future.

[174] Section 82 of the Bill gives Welsh Ministers the power to discontinue—or

permanently close—a community or foundation special school in specific circumstances, as you say, if you believe that it is expedient to do so. Exercising an executive power on the basis of a subjective opinion makes me uncomfortable. You will note our concern in amendment 180 regarding the word ‘expedient’. Can you put on record an example of when you would consider it expedient, especially as a school can be discontinued in the interest of the welfare of pupils? You said that you are talking about an emergency power, but the wording ‘the interest of the...welfare of pupils’ is very broad. As the whole Bill pertains to the educational welfare of pupils, this section potentially gives Welsh Ministers considerable power, and the very least that parents of pupils at a special school can expect in those circumstances is to be consulted on the exercise of that power. That is what amendment 202 provides for.

[175] **Leighton Andrews:** We closed the door on foundation schools as a National Assembly last year when we passed the Education (Wales) Measure 2011. The numbers are declining, but we had very few anyway in Wales. In respect of the power to close in emergency circumstances, that really is about emergencies. It would be absurd to have to consult. You would have to have a consultation timescale and, ordinarily, it would be up to 30 days, during which time it might be unsafe for young people to be in the school. It is crazy and we should not have that.

[176] **Christine Chapman:** Would you like to put that to the vote?

[177] **Leighton Andrews:** Yes, please.

[178] **Christine Chapman:** We will proceed to a vote on amendment 19. The question is that amendment 19 be agreed. Is there any objection? I see that there is, and therefore we will proceed to a vote by show of hands.

*Gwelliant 19: O blaid 8, Ymatal 0, Yn erbyn 2*  
*Amendment 19: For 8, Abstain 0, Against 2*

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

Chapman, Christine  
 Davies, Jocelyn  
 Evans, Rebecca  
 Morgan, Julie  
 Neagle, Lynne  
 Rathbone, Jenny  
 Roberts, Aled  
 Thomas, Simon

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

Burns, Angela  
 Davies, Suzy

*Derbyniwyd gwelliant 19.*  
*Amendment 19 agreed.*

[179] **Christine Chapman:** As amendment 19 is agreed, amendment 183 in the name of Angela Burns falls.

*Methodd gwelliant 183.*  
*Amendment 183 fell.*

[180] **Christine Chapman:** We now come to dispose of amendments 20 to 22. I move amendment 20 in the name of the Minister. The question is that amendment 20 be agreed to. Does any Member object? I see that there are objections, therefore I call for a vote by a show of hands.

*Gwelliant 20: O blaid 8, Ymatal 0, Yn erbyn 2.*  
*Amendment 20: For 8, Abstain 0, Against 2.*

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

Chapman, Christine  
 Davies, Jocelyn  
 Evans, Rebecca  
 Morgan, Julie  
 Neagle, Lynne  
 Rathbone, Jenny  
 Roberts, Aled  
 Thomas, Simon

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

Burns, Angela  
 Davies, Suzy

*Derbyniwyd gwelliant 20.*  
*Amendment 20 agreed.*

[181] **Christine Chapman:** I move amendment 21 in the name of the Minister. The question is that amendment 21 be agreed to. Does any Member object? I see that there are objections, therefore I call for a vote by a show of hands.

*Gwelliant 21: O blaid 8, Ymatal 0, Yn erbyn 2.*  
*Amendment 21: For 8, Abstain 0, Against 2.*

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

Chapman, Christine  
 Davies, Jocelyn  
 Evans, Rebecca  
 Morgan, Julie  
 Neagle, Lynne  
 Rathbone, Jenny  
 Roberts, Aled  
 Thomas, Simon

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

Burns, Angela  
 Davies, Suzy

*Derbyniwyd gwelliant 21.*  
*Amendment 21 agreed.*

[182] **Christine Chapman:** I move amendment 22 in the name of the Minister. The question is that amendment 22 be agreed to. Does any Member object? I see that there are objections, therefore I call for a vote by a show of hands.

*Gwelliant 22: O blaid 8, Ymatal 0, Yn erbyn 2.*  
*Amendment 22: For 8, Abstain 0, Against 2.*

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

Chapman, Christine  
 Davies, Jocelyn  
 Evans, Rebecca  
 Morgan, Julie  
 Neagle, Lynne  
 Rathbone, Jenny  
 Roberts, Aled  
 Thomas, Simon

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

Burns, Angela  
 Davies, Suzy



*Derbyniwyd gwelliant 22.  
Amendment 22 agreed.*

**Grŵp 8: Cynigion Trefniadaeth Ysgolion—Newid Categori Ysgolion (Gwelliannau 23, 24, 25, 26 a 28)**

**Group 8: School Organisation Proposals—Changes of Category (Amendments 23, 24, 25, 26 and 28)**

[183] **Christine Chapman:** The lead amendment in this group is amendment 23. I move amendment 23 in the name of the Minister and call on the Minister to speak to amendment 23 and the other amendments in the group.

[184] **Leighton Andrews:** Amendment 23 is consequential on amendment 26. The purpose of amendment 26 is to make it clear that foundation or voluntary schools with a religious character cannot change category to become a community school. Section 48 of the Bill makes it clear that a change of category could not cause the school to lose or acquire a religious character, while section 69 of the School Standards and Framework Act 1998 effectively prevents a community school from having a religious character. Together, these provisions will prevent a voluntary or foundation school with a religious character from changing categories to become a community school. However, for the sake of clarity, I believe the Bill should include an explicit prohibition on such changes. I think it would be inappropriate for community schools, which are intended to offer education to every section of a geographical community, to have a religious designation.

[185] In my view, the only way in which a faith school could or should become a community school would be if it closed—thus eliminating its religious character—and reopened as a non-faith community school.

[186] Amendment 28 seeks to remove section 46 and its requirement for the governing body of a voluntary aided school to make a proposal to change the school's category to voluntary controlled if it is unable to carry out its obligations in relation to capital investment repair. This mirrors existing provision found in the School Standards and Framework Act 1998. I believe the intention behind its inclusion in the 1998 Act was to address situations where lack of investment in the voluntary aided school's premises or facilities was compromising the education interests of learners or their health and safety. It appears this provision has never been used in Wales.

[187] Furthermore, having received representation from churches, I form the view that, in the event of voluntary aided school governing bodies being unable to fulfil capital funding obligations, there are more appropriate and potentially quicker ways of safeguarding the interests of pupils. These include local authorities or Welsh Ministers using their powers of intervention or even using their powers to bring forward a proposal to close a school. In addition, should the governing body of a voluntary aided school choose to propose its change of category because it is unable to fulfil its obligations, it has the option of doing so voluntarily.

[188] **Christine Chapman:** Thank you, Minister. Are there other Members who wish to speak? I see that there are not. Minister, do you wish to proceed to a vote on amendment 23?

[189] **Leighton Andrews:** Yes please, Chair.

[190] **Christine Chapman:** The question is that amendment 23 be agreed to. Does any Member object? I see that there are objections, therefore I call for a vote by a show of hands.

*Gwelliant 23: O blaid 8, Ymatal 0, Yn erbyn 2.  
Amendment 23: For 8, Abstain 0, Against 2.*

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

Chapman, Christine  
Davies, Jocelyn  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny  
Roberts, Aled  
Thomas, Simon

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

Burns, Angela  
Davies, Suzy

*Derbyniwyd gwelliant 23.  
Amendment 23 agreed.*

11.15 a.m.

[191] **Christine Chapman:** We now move to dispose of amendments 24, 25 and 26 in the name of the Minister. I move amendment 24 in the name of the Minister. The question is that amendment 24 be agreed to. Does any Member object? I see that there is an objection; therefore, I call for a vote.

*Gwelliant 24: O blaid 8, Ymatal 2, Yn erbyn 0.  
Amendment 24: For 8, Abstain 2, Against 0.*

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

Chapman, Christine  
Davies, Jocelyn  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny  
Roberts, Aled  
Thomas, Simon

Ymataliodd yr Aelodau canlynol:  
The following Members abstained:

Burns, Angela  
Davies, Suzy

*Derbyniwyd gwelliant 24.  
Amendment 24 agreed.*

[192] **Christine Chapman:** I move amendment 25 in the name of the Minister. The question is that amendment 25 be agreed to. Does any Member object? I see that there is an objection; therefore, I call for a vote.

*Gwelliant 25: O blaid 8, Ymatal 2, Yn erbyn 0.  
Amendment 25: For 8, Abstain 2, Against 0.*

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

Chapman, Christine  
 Davies, Jocelyn  
 Evans, Rebecca  
 Morgan, Julie  
 Neagle, Lynne  
 Rathbone, Jenny  
 Roberts, Aled  
 Thomas, Simon

Ymataliodd yr Aelodau canlynol:  
 The following Members abstained:

Burns, Angela  
 Davies, Suzy

*Derbyniwyd gwelliant 25.  
 Amendment 25 agreed.*

[193] **Christine Chapman:** I move amendment 26 in the name of the Minister. The question is that amendment 26 be agreed to. Does any Member object? I see that there is an objection; therefore, I call for a vote.

*Gwelliant 26: O blaid 8, Ymatal 0, Yn erbyn 2.  
 Amendment 26: For 8, Abstain 0, Against 2.*

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

Chapman, Christine  
 Davies, Jocelyn  
 Evans, Rebecca  
 Morgan, Julie  
 Neagle, Lynne  
 Rathbone, Jenny  
 Roberts, Aled  
 Thomas, Simon

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

Burns, Angela  
 Davies, Suzy

*Derbyniwyd gwelliant 26.  
 Amendment 26 agreed.*

[194] **Christine Chapman:** We now come to dispose of amendment 27 in group 7 in the name of the Minister. I move amendment 27 in the name of the Minister. The question is that amendment 27 be agreed to. Does any Member object? I see that there is an objection; therefore, I call for a vote.

*Gwelliant 27: O blaid 8, Ymatal 0, Yn erbyn 2.  
 Amendment 27: For 8, Abstain 0, Against 2.*

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

Chapman, Christine  
 Davies, Jocelyn  
 Evans, Rebecca  
 Morgan, Julie  
 Neagle, Lynne  
 Rathbone, Jenny  
 Roberts, Aled  
 Thomas, Simon

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

Burns, Angela  
 Davies, Suzy

*Derbyniwyd gwelliant 27.*

*Amendment 27 agreed.*

[195] **Christine Chapman:** We now come to dispose of amendment 28 in the name of the Minister. I move amendment 28 in the name of the Minister. The question is that amendment 28 be agreed to. Does any Member object? I see that there are no objections; therefore, amendment 28 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 28.  
Amendment 28 agreed.*

[196] **Christine Chapman:** We now come to dispose of amendments 29 and 30 in group 7 in the name of the Minister. I move amendment 29 in the name of the Minister. The question is that amendment 29 be agreed to. Does any Member object? I see that there is an objection; therefore, I call for a vote.

*Gwelliant 29: O blaid 8, Ymatal 0, Yn erbyn 2.  
Amendment 29: For 8, Abstain 0, Against 2.*

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

Chapman, Christine  
Davies, Jocelyn  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny  
Roberts, Aled  
Thomas, Simon

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

Burns, Angela  
Davies, Suzy

*Derbyniwyd gwelliant 29.  
Amendment 29 agreed.*

[197] **Christine Chapman:** I move amendment 30 in the name of the Minister. The question is that amendment 30 be agreed to. Does any Member object? I see that there is an objection; therefore, I call for a vote.

*Gwelliant 30: O blaid 8, Ymatal 0, Yn erbyn 2.  
Amendment 30: For 8, Abstain 0, Against 2.*

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

Chapman, Christine  
Davies, Jocelyn  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny  
Roberts, Aled  
Thomas, Simon

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

Burns, Angela  
Davies, Suzy

*Derbyniwyd gwelliant 30.  
Amendment 30 agreed.*

[198] **Christine Chapman:** We now come to dispose of amendment 184 in group 6 in the name of Angela Burns. I invite Angela to move amendment 184.

[199] **Angela Burns:** Given the comments made by the Minister, I will not move amendment 184 in my name, with the committee's agreement. I look forward to seeing the Government amendment tabled at Stage 3.

*Ni symudwyd gwelliant 184.  
Amendment 184 not moved.*

[200] **Christine Chapman:** We now come to dispose of amendment 31 in group 6 in the name of the Minister. I move amendment 31 in the name of the Minister. The question is that amendment 31 be agreed to. Does any Member object? I see that there is an objection; therefore, I call for a vote.

*Gwelliant 31: O blaid 8, Ymatal 0, Yn erbyn 2.  
Amendment 31: For 8, Abstain 0, Against 2.*

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

Chapman, Christine  
Davies, Jocelyn  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny  
Roberts, Aled  
Thomas, Simon

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

Burns, Angela  
Davies, Suzy

*Derbyniwyd gwelliant 31.  
Amendment 31 agreed.*

[201] **Christine Chapman:** We now come to dispose of amendment 185 in group 6 in the name of Angela Burns. I invite Angela to move amendment 185.

[202] **Angela Burns:** I move amendment 185 in my name.

[203] **Christine Chapman:** The question is that amendment 185 be agreed to. Does any Member object? I see that there are no objections. Therefore, amendment 185 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 185.  
Amendment 185 agreed.*

[204] **Christine Chapman:** We now come to dispose of amendment 32, which was discussed in group 6. I move amendment 32 in the name of the Minister. The question is that amendment 32 be agreed to. Does any Member object? I see that no-one does. Amendment 32 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 32.  
Amendment 32 agreed.*

[205] **Christine Chapman:** Angela, would you like to move amendment 186?

[206] **Angela Burns:** I move amendment 186 in my name.

[207] **Christine Chapman:** The question is that amendment 186 be agreed to. Does any Member object? I see that no-one does. Amendment 186 is agreed in accordance with

Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 186.  
Amendment 186 agreed.*

**Grŵp 9: Darpariaethau Amrywiol Drafftio a Thechnegol (Gwelliannau 33, 34, 70 a 101)  
Group 9: Miscellaneous Drafting and Technical Provisions (Amendments 33, 34, 70 and 101)**

[208] **Christine Chapman:** The ninth group of amendments are miscellaneous drafting and technical amendments. The lead amendment in the group is amendment 33. I move amendment 33 in the name of the Minister and call on the Minister to speak to amendment 33 and to the other amendments in the group.

[209] **Leighton Andrews:** These are to make minor corrections to the text, Chair. I propose to say no more.

[210] **Christine Chapman:** Does any Member wish to speak? I see that no-one does. Do you want to proceed to a vote, Minister?

[211] **Leighton Andrews:** Yes, please.

[212] **Christine Chapman:** The question is that amendment 33 be agreed to. Does any Member object? I see that no-one does. Amendment 33 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 33.  
Amendment 33 agreed.*

**Grŵp 10: Cynigion Trefniadaeth Ysgolion sy'n Effeithio ar Chweched Dosbarthiadau  
(ac Eithrio'r Rhai a Wneir gan Weinidogion Cymru) (Gwelliannau 187 a 188)  
Group 10: School Organisation Proposals Affecting Sixth Forms (Other than Those Made by Welsh Ministers) (Amendments 187 and 188)**

[213] **Christine Chapman:** The lead amendment in the group is amendment 187. I call on Angela Burns to move and speak to amendment 187 and to the other amendment in the group.

[214] **Angela Burns:** I move amendment 187 in my name.

[215] Minister, I am sure that you are unsurprised to see that I wish to put some checks and balances in this area of the school standards Bill. In the Bill as introduced, you are free to make proposals related to sixth-form provision as you see fit, which is right and proper in the exercise of your duties as a Welsh Minister. However, the concern that the Welsh Conservatives have is that the legislation does not introduce sufficient checks and balances in relation to your power with regard to sixth-form provision. We would like to see an amendment, amendment 187, that goes to the heart of that and seeks consistency—and you will see parallel amendments in relation to other sections—so that a local inquiry is triggered whereby objections have to be made in accordance with section 50 to proposals affecting sixth-form provision. The local inquiry would consider the proposals and objections and would offer an informed local view to the Minister, in order that the Minister might then draw the correct conclusions in line with his policy.

[216] Amendment 188 compels the Minister to consider the report of the person appointed to hold the local inquiry before deciding whether to approve or reject the proposals. I want to make it clear that we are not challenging the Minister's right to make a policy decision here.

We are seeking to introduce a check and a balance so that Welsh Ministers coming forward take into account local views, needs and aspirations before making their decision, whatever it may be; hence, amendments 187 and 188.

[217] **Christine Chapman:** Do any other Members wish to speak on this?

[218] **Jenny Rathbone:** I wonder why you deem this amendment necessary, because there is already a requirement to consult on any changes locally with all affected parties. I feel that this would add an extra burden to the situation. Whatever the Minister were to propose, the affected schools and colleges would be invited to comment.

[219] **Leighton Andrews:** The situation is simply this: if a proposer other than the Welsh Ministers—and, usually, it would be local authorities or the governing bodies of schools—brought forward a proposal that affects sixth-form education, they would, as my colleague from Cardiff Central said, have to consult on the proposal and publish it in accordance with the code on school organisation. So, we already require local authorities to undertake a rigorous consultation and take into account the factors set out in the code, and we have to determine the proposal in accordance with the code. Where there has already been a full and thorough consultation in accordance with the code, it seems overburdensome that the proposal should then be subject to a local inquiry. We all know that, at the end of the day, local people wish to know where they stand, and what is important is that we have expeditious procedures to ensure that children and young people's parents and staff know where they stand and we can get on with implementing proposals, where it has been proven that the consultation has been carried out in the appropriate way. So, as I have said, I think that these proposals are superfluous.

[220] **Angela Burns:** Thank you very much for your explanation. I will, as it stands, be pressing to move to a vote on both these amendments, but I hear what you are saying and we will go back, prior to Stage 3, and review this situation. We are very keen to ensure that, heaven forbid should a Minister less reasonable than you step up to the plate, we have the appropriate checks and balances built into the Bill to ensure that the localism agenda can run true in delivering sixth-form education.

[221] **Christine Chapman:** As you have said, Angela, you want to proceed to a vote on this amendment. The question is that amendment 187 be agreed to. Does any Member object? I see that there is an objection. Therefore, I call for a vote by show of hands.

*Gwelliant 187: O blaid 2, Ymatal 0, Yn erbyn 8.*

*Amendment 187: For 2, Abstain 0, Against 8.*

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

Burns, Angela  
Davies, Suzy

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

Chapman, Christine  
Davies, Jocelyn  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny  
Roberts, Aled  
Thomas, Simon

*Gwrthodwyd gwelliant 187.  
Amendment 187 not agreed.*

[222] **Christine Chapman:** As amendment 187 is not agreed, amendment 188 in the name

of Angela Burns has fallen.

*Methodd gwelliannau 188 a 159.  
Amendments 188 and 159 fell.*

[223] **Christine Chapman:** Aled, would you like to move amendment 146, which was discussed with group 5?

[224] **Aled Roberts:** Cynigiau welliant 146 **Aled Roberts:** I move amendment 146 in my yn fy enw i. name.

[225] **Christine Chapman:** The question is that amendment 146 be agreed to. Does any Member object? I see that there is an objection. Therefore, I call for a vote by show of hands.

*Gwelliant 146: O blaid 3, Ymatal 0, Yn erbyn 8.  
Amendment 146: For 3, Abstain 0, Against 8.*

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

Burns, Angela  
Davies, Suzy  
Roberts, Aled

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

Chapman, Christine  
Davies, Jocelyn  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny  
Thomas, Simon

*Gwrthodwyd gwelliant 146.  
Amendment 146 not agreed.*

[226] **Christine Chapman:** As amendment 146 was not agreed, amendments 148, 154 and 156 in the name of Aled Roberts have fallen.

[227] **Christine Chapman:** Aled, would you like to move amendment 147, which was discussed with group 5?

[228] **Aled Roberts:** Cynigiau welliant 147 **Aled Roberts:** I move amendment 147 in my yn fy enw i. name.

[229] **Christine Chapman:** The question is that amendment 147 be agreed to. Does any Member object? I see that there are no objections; therefore, amendment 147 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 147.  
Amendment 147 agreed.*

*Methodd gwelliannau 160, 148 a 161.  
Amendments 160, 148 a 161 fell.*

[230] **Christine Chapman:** Angela, would you like to move amendment 189, which was discussed with group 5?

[231] **Angela Burns:** I move amendment 189 in my name.

[232] **Christine Chapman:** The question is that amendment 189 be agreed to. Does any



Member object? I see that there is an objection. Therefore, I call for a vote by show of hands.

*Gwelliant 189: O blaid 2, Ymatal 0, Yn erbyn 8.  
Amendment 189: For 2, Abstain 0, Against 8.*

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

Burns, Angela  
Davies, Suzy

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

Chapman, Christine  
Davies, Jocelyn  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny  
Roberts, Aled  
Thomas, Simon

*Gwrthodwyd gwelliant 189.  
Amendment 189 not agreed.*

*Methodd gwelliannau 162, 163, 190, 164, 165, 166 a 167.  
Amendments 162, 163, 190, 164, 165, 166 and 167 fell.*

[233] **Christine Chapman:** We now move to dispose of amendment 34, which was discussed with group 9. I move amendment 34 in the name of the Minister. The question is that amendment 34 be agreed to. Does any Member object? I see that there are no objections; therefore, amendment 34 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 34.  
Amendment 34 agreed.*

*Methodd gwelliannau 168, 169 a 170.  
Amendments 168, 169 and 170 fell.*

[234] **Christine Chapman:** Aled, would you like to move amendment 149, which was discussed with group 5?

[235] **Aled Roberts:** Rwy'n ddigon parod i dderbyn datganiad y Gweinidog y bydd yn cyflwyno gwelliant ar ran y Llywodraeth. Felly, ni chynigïaf welliant 149.

**Aled Roberts:** I am prepared to accept the Minister's statement that he will table an amendment on behalf of the Government. Therefore, I will not move amendment 149.

*Ni chynigiwyd gwelliant 149.  
Amendment 149 not moved.*

11.30 a.m.

[236] **Christine Chapman:** We now move to dispose of amendment 35 in group 2. I move amendment 35 in the name of the Minister. The question is that amendment 35 be agreed to. Does any Member object? I see not. In accordance with Standing Order No. 12.36, I therefore declare amendment 35 agreed.

*Derbyniwyd gwelliant 35.  
Amendment 35 agreed.*

*Methodd gwelliant 171.  
Amendment 171 fell.*

**Grŵp 11: Trefniadaeth Ysgolion—Pŵer i Wneud Gorchmynion neu Roi  
Cyfarwyddiadau (Gwelliannau 36, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 50, 52, 53, 56,  
57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 86, 212, 213 a 111)**

**Group 11: School Organisation—Power to Make Orders or to Give Directions  
(Amendments 36, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 50, 52, 53, 56, 57, 58, 59, 60, 61,  
62, 63, 64, 65, 66, 86, 212, 213 and 111)**

[237] **Christine Chapman:** The lead amendment in the group is amendment 36 in the name of the Minister. I move amendment 36 in the name of the Minister and call on him to speak to amendment 36 and the other amendments in the group.

[238] **Leighton Andrews:** The powers throughout these amendments are executive in nature, and the amendment makes that clear by removing the word ‘order’ from the legislation. They restate the law that is set out in the School Standards and Framework Act 1998 and the Education Act 2002. They are executive in nature in that they direct local authorities to do things that they should have done already in respect of remedying excessive or insufficient provision of school places.

[239] While the directions have legal effect, they do not change the law. Instead, these provisions relate to the way in which an administrative system is conducted. Exercising these powers by means of an Order tends to obfuscate this distinction and confuse them with law-making instruments. Removing the term ‘by order’ removes any room for confusion now or in the future. It does not affect the nature of the powers.

[240] In respect of Angela Burns’s amendments 212 and 213, these will require an Order directing a local authority to bring forward proposals to rationalise school places to be laid before the Assembly under the affirmative procedure. I do not think that that is right or necessary. Local authorities should constantly monitor their school estates and bring forward proposals as and when necessary to ensure that the number of places more or less equates to the number of pupils. This makes sense as to have excessive provision is clearly wasteful and to have insufficient provision would be a failure to comply with a legal duty.

[241] If a local authority is not doing this and not, in essence, carrying out its responsibilities, the power allows the Minister to direct the local authority to bring forward a proposal to remedy the situation. So, effectively, the direction is telling the local authority to do what it should have been doing in the first place, and giving it a timescale in which to do it. The direction does not state which schools to close; that is for the local authority or governing body to consider. So, it seems absurd that such a direction telling a local authority to do what it is meant to do should be subject to an Assembly procedure. The Assembly has already agreed the law as to what is the responsibility of local authorities. Any proposal to open or close a school or increase or decrease provision that results in a direction will be subject to full consultation in accordance with the code.

[242] **Angela Burns:** I hear what the Minister says and I can understand an awful lot of the rationale behind it. However, the Welsh Conservatives believe that section 58(2) places large amounts of power in the hands of the Minister, and it is based on opinion, so it is the opinion of a Minister as to what constitutes excessive or insufficient provision. We have gone through this with our legal advisers, and we are quite clear that we believe that this is to do with the balance of power. We have no desire to remove from Welsh Ministers or deny Welsh Ministers the ability to step in and do the task that they should perform, but there should be appropriate checks and balances and the check and balance on any Welsh Minister has to be the Assembly itself. We think that bringing this power back under Assembly procedure will ensure that those checks and balances are placed on the Minister and the Minister would be forced to publicly explain the rationale behind it to democratically-elected Assembly

Members.

[243] Amendment 212 is the twin of amendment 213, because that amendment ensures that all of the powers of the Welsh Minister are to be exercised by statutory instrument. This is an issue that has been raised in the past in various other committees with regard to being able to define and ensure that democratic checks and balances can be placed on Welsh Ministers. We do not want to see a subsuming of all the powers and decision making to Welsh Ministers. Once again, I reiterate that it is because the Bill, as it is written as present, leaves any decision making by the Minister to be based on his or her opinion as to what constitutes excessive or insufficient provision. Further guidelines on that may be a sound way forward, which we would certainly be prepared to look at. However, as it stands, we will be opposing all of the Minister's amendments in this section and promoting amendments 212 and 213.

[244] **Christine Chapman:** Are there any other Members who wish to speak?

[245] **Julie Morgan:** Yes. It seems to me that these powers are executive in nature, as the Minister has said. That is the important point. So, I do not think that it is appropriate for the Assembly to be involved.

[246] **Simon Thomas:** Rwyf eisiau deall gwelliannau'r Gweinidog yn well. Os rwyf wedi deall yn iawn yr hyn a ddywedasoch, Weinidog, rydych am wella'r Bil presennol gan ei fod yn amwys. A dweud y gwir, rydych mewn perygl o roi i ffwrdd rai o'r pwerau sydd eisoes gan y Gweinidog yn y Bil presennol, oni bai eich bod yn gwella'r Bil i'w gwneud yn fwy clir mai cyfarwyddyd sy'n cael ei drafod yma, nid Gorchymyn. Felly, hyd y deallaf, mae'r Bil presennol yn mynd ar hyd y llinellau y mae Angela am iddo fynd, sef ei fod yn rhoi mwy o gyfle i graffu i'r Cynulliad nag sy'n bodoli eisoes, ac felly, rydych chi, yn briodol, fel Gweinidog, eisiau gweld mwy o eglurder yn hynny o beth. Os dyna yw'r sefyllfa, mae Plaid Cymru yn fodlon â'r sefyllfa bresennol, hynny yw, nid ydym am weld mwy o graffu gan y Cynulliad o gyfarwyddiadau gan Weinidog yn gyffredinol, ond rwyf eisiau bod yn glir mai dyna sydd wrth wraidd eich gwelliannau.

**Simon Thomas:** I would like some further clarity on the Minister's amendments. If I have understood your words correctly, Minister, you want to amend the current Bill as it is ambiguous. In reality, you are at risk of giving away some of the powers already held by the Minister in the current Bill, unless you amend it to make it more clear that it is a direction that is being discussed here, rather than an Order. Therefore, as I understand it, the Bill as drafted is along the lines that Angela wishes to see in that it provides more opportunity for scrutiny to the Assembly than currently exists, and therefore, you, as Minister, appropriately, want to see more clarity in that regard. If that is the situation, Plaid Cymru is content with the current situation, that is, we do not want to see more scrutiny by the Assembly of ministerial directions in general, but I want to be clear that that is what is at the heart of your amendments.

[247] **Leighton Andrews:** I think it is very clear that what we are trying to do here is clarify that these are executive functions; they are not Orders. That is why we are removing the phrase 'by order'. The reality is that, when Ministers publish directions, they have to give a reasonable explanation as to why they are undertaking the direction, regardless of to whom the direction is addressed. If you recall, when we issued the direction to WJEC to regrade GCSE English, we had previously issued it with a letter asking them to undertake that and gave them a timescale within which to comply. The whole thing was conducted very publicly. In the case of the directions that we gave to Pembrokeshire County Council to comply with the ministerial board, we were clear in those directions, and there was very considerable public understanding of those issues and disclosure by us.

[248] In respect of these specific powers here, we have said countless times in the past what

we expect local authorities to do regarding school numbers and where we think the level of surplus places should be, which is around 10%. I have written to all local authorities—I think that I said that this week in the Chamber—in respect of surplus places, specifying what we think their targets need to be. We have done that to each local authority on the basis of their local circumstances. For those local authorities, for example, which have more difficulty in terms of sparsity and wide-ranging geographies, we obviously understand the challenges that they face. We still believe that they have a responsibility to marshal their resources sufficiently, but we have made it clear in the letters to them that we have understood. There is no situation here where we are talking about using powers where there has not been considerable public engagement and disclosure, nor could there be. Were we to act unreasonably, we would, of course, be subject to judicial review. I can assure you that there are plenty of lawyers in the Welsh Government to warn me in advance if I am likely to act unreasonably.

[249] **Christine Chapman:** Thank you, Minister. Do you wish to proceed to a vote on amendment 36?

[250] **Leighton Andrews:** Yes.

[251] **Christine Chapman:** I move amendment 36 in the name of the Minister. The question is that amendment 36 be agreed to. Does any Member object? I see that there is objection. We will move to a vote.

*Gwelliant 36: O blaid 8, Ymatal 0, Yn erbyn 2.*

*Amendment 36: For 8, Abstain 0, Against 2.*

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

Chapman, Christine  
Davies, Jocelyn  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny  
Roberts, Aled  
Thomas, Simon

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

Burns, Angela  
Davies, Suzy

*Derbyniwyd gwelliant 36.*

*Amendment 36 agreed.*

[252] **Christine Chapman:** As amendment 36 is agreed, amendments 212 and 213, in the name of Angela Burns, fall.

[253] We now move to dispose of amendment 37 in group 7. I move amendment 37 in the name of the Minister. The question is that amendment 37 be agreed to. Does any Member object? I see that there is objection. We will now move to a vote.

*Gwelliant 37: O blaid 8, Ymatal 0, Yn erbyn 2.*

*Amendment 37: For 8, Abstain 0, Against 2.*

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

Chapman, Christine  
Davies, Jocelyn  
Evans, Rebecca  
Morgan, Julie

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

Burns, Angela  
Davies, Suzy

Neagle, Lynne  
Rathbone, Jenny  
Roberts, Aled  
Thomas, Simon

*Derbyniwyd gwelliant 37.  
Amendment 37 agreed.*

[254] **Christine Chapman:** We now move to dispose of amendments 38 to 41, which appear consecutively on the marshalled list. These amendments have been debated as part of group 11. As I said at the start of the meeting, I propose that these amendments be disposed of together, given their nature. Does any Member object? I see that there is objection. Are you objecting to the disposal en bloc, Angela?

[255] **Angela Burns:** Sorry, you can dispose of them en bloc.

[256] **Christine Chapman:** Okay. I move amendments 38, 39, 40 and 41 in the name of the Minister. The question is that amendments 38, 39, 40 and 41 be agreed to. Does any Member object? I see that there is objection. We will take a vote.

*Gwelliannau 38, 39, 40 a 41: O blaid 8, Ymatal 0, Yn erbyn 2.  
Amendments 38, 39, 40 and 41: For 8, Abstain 0, Against 2.*

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

Chapman, Christine  
Davies, Jocelyn  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny  
Roberts, Aled  
Thomas, Simon

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

Burns, Angela  
Davies, Suzy

*Derbyniwyd gwelliannau 38, 39, 40 a 41.  
Amendments 38, 39, 40 and 41 agreed.*

**Grŵp 12: Trefniadaeth Ysgolion—Rhesymoli Lleoedd Ysgol (Gwelliannau 191, 192 a 193)**

**Group 12: School Organisation—Rationalisation of School Places (Amendments 191, 192 and 193)**

[257] **Christine Chapman:** The lead amendment in the group is amendment 191. I call on Angela Burns to move and speak to amendment 191 and speak to the other amendments in the group.

[258] **Angela Burns:** I move amendment 191 in my name.

[259] On the rationalisation of school places, at present, the Minister may instruct a local authority or governing body of certain schools to exercise their powers to make proposals to establish, alter or discontinue. He may do this when he is of the opinion that there is excessive or insufficient provision. We believe that the Minister should issue guidance concerning the circumstances in which he is likely to use the powers in section 58. We are concerned that it is unfair to expect a local authority or governing body to be aware of the mind of the Minister, and to know when the Minister is likely to be of a certain opinion, and that further guidance is needed to provide clarity and assurance.

[260] Amendment 192 also deals with this whole issue of opinion. We must be very clear, and, in our view, there is ambiguity in the Bill in a number of places. A theme emerges through all of our amendments, and it is not about frustrating or stopping the exercising of power, but ensuring that those who are watching that process get it and understand it: that it is transparent, that they understand exactly when they are likely to reach a tipping point, that they understand entirely the rationale behind it, and that they have sufficient guidance. We have talked about this with regard to sixth forms and rationalisation of places and we will go on to discuss it in a couple of other areas. We are very concerned that we are not being clear enough, hence those two amendments.

11.45 a.m.

[261] With regard to amendment 193, again we are concerned that where a local inquiry takes place into school rationalisation, Welsh Ministers may make further proposals under section 60, and even if objections exist, there is no need for them to hold a further inquiry. It seems to us that it is possible, if we were to take an extreme case, for there to be a local inquiry to decide whether a particular school should be closed—yes or no—for people to come back and say what they think and for the Minister to look at the issue, but then for him to come up with an entirely new plan that might say that five schools should be amalgamated, and because that one inquiry has already been held, we are concerned that it would lead to the Minister's second or third opinion not being looked at. We understand that you may look at objections and decide to make an alteration to your proposal, which could be to extend a timescale, for example, and, of course, we would not expect you to go back to ask for people's opinions on that, but we would expect you to do so when there are significant changes. We would like the Government to look at amendment 193 and if you cannot support it, we would like you to take it away and have a look at how we might incorporate the de minimis principles, that if it is a small change it stays, but if it is a large change, you would go back and ask for the public and all the objectors' opinions once again.

[262] **Christine Chapman:** Are there any other Members who wish to speak?

[263] **Simon Thomas:** Diolch i Angela am gyflwyno'r gwelliannau hyn. Mae gennyf rywfaint o gydymdeimlad â rhai o'r amcanion, ond nid wyf yn siŵr a yw geiriad y gwelliannau yn eu cyflawni. Efallai nad wyf i wedi deall y peth yn iawn. O ran gwelliant 191, rwyf yn meddwl ein bod mewn perygl o ddweud bod rhaid i Weinidogion Cymru roi canllawiau i'w gilydd. Mae'r Gweinidogion mewn perygl o orfod dweud wrth y cyhoedd ym mha ffordd y bydd y Gweinidogion eu hunain yn penderfynu sut i weithredu. Rwyf yn meddwl bod gofyn i Weinidogion roi canllawiau ynglŷn â phryd byddant yn debyg o wneud penderfyniad yn gylch bach caeedig iawn. Nid wyf yn gweld gwerth yn hynny. Eto, rwy'n gweld y gwerth yn yr hyn mae Angela yn ei ddweud yn fwy eang ynglŷn â bod yn atebol ac agored.

**Simon Thomas:** I thank Angela for tabling these amendments. I have some sympathy with some of the objectives, but I am not sure whether the wording of the amendments achieves them. Perhaps I have not understood this correctly. In terms of amendment 191, I think that we are at risk of saying that Welsh Ministers have to issue guidance to each other. The Ministers are at risk of having to tell the public how the Ministers themselves will decide how to act. I think that asking Ministers to issue guidance on when they are likely to make a decision is a very small closed circle. I do not see the value in that. However, I see value in what Angela says in general about being accountable and open.

[264] Gyda gwelliant 192, nid wyf yn siŵr sut y medrwyh asesu cost. Dyna'r broblem a'r perygl yn y fan honno. I droi at welliant 193, eto tra ein bod yn deall yr hyn sydd gan

With amendment 192, I am not sure how you can assess cost. That is the problem and danger there. Turning to amendment 193, again, while we understand what Angela has

Angela i'w ddweud, ac rwyf yn bendant eisiau clywed ymateb y Gweinidog, unwaith eto rwyf yn meddwl bod gwrthgyferbyniad yn yr hyn mae Angela yn dweud ei bod am wneud gyda'r Bil hwn a'r hyn mae ei gwelliannau yn eu cyflawni. Rwyf yn cytuno â'r hyn yr ydych yn ei ddweud, eich bod am weld penderfyniadau yn cael eu gwneud ar lefel fwy lleol a grym pobl leol yn y broses yn cael ei gryfhau, ond eto, wrth wneud gwelliannau, rydym mewn perygl o gymhlethu'r broses leol honno. Felly, ar hyn o bryd, nid wyf wedi fy mherswadio bod y gwelliannau yn gwneud yr hyn yr ydych yn dymuno iddynt wneud. Fodd bynnag, rwyf hefyd eisiau clywed beth sydd gan y Gweinidog i'w ddweud.

said, and I certainly want to hear the Minister's response, once again, I think there is a contradiction in what Angela says she wants to do with this Bill and what her amendments will achieve. I agree with what you say, that you want decisions to be taken on a more local level and for the power of local people in the process to be strengthened, but again, by making amendments, we are in danger of complicating that local process. Therefore, currently, I am not persuaded that the amendments do what you wish them to do. However, I also want to hear what the Minister has to say.

[265] **Jenny Rathbone:** I do not think that this needs to be on the face of the Bill. I think this is a matter that needs to be in the school organisation code. It is clear to me that, in the past, some local authorities have just turned a deaf ear to the clear statements coming from the Minister, both today and at other times, that local authorities have to plan for surplus, demand or pinch points, for either English or Welsh-medium education. There is a general obligation on local authorities to be doing this. It was not happening until very recently in my own local authority. You can imagine circumstances where there might be a huge sudden increase in demand as a result of circumstances that we cannot envisage at the moment. However, it needs to be in the school organisation code rather than on the face of the Bill. The Minister is perfectly clear on what he expects from local authorities. Therefore, they should be producing their plans on a regular basis.

[266] **Aled Roberts:** Rwyf am ategu llawer o'r hyn a ddywedodd Simon. Rwyf yn credu bod hyn yn rhan o'r patrwm o dystiolaeth a gafodd y pwyllgor. Mae tueddiad gennym i feddwl y dylai fod mwy o wybodaeth ar gael o ran ar ba sail mae'r Gweinidog yn mynd i weithredu, ond mae hefyd dadl ai yn y Bil neu o fewn rhyw god yw'r lle cywir i wneud hynny. Felly, nid wyf yn siŵr, fel Simon, ar hyn o bryd a yw'r gwelliannau hyn yn iawn o ran eu geiriad, ond mae angen i ni weld beth yw meddwl y Gweinidog ar hyn. Rwy'n gefnogol o'r syniad y mae Angela wedi ei gyflwyno.

**Aled Roberts:** I support much of what Simon has said. I think this is part of the pattern of evidence that came before the committee. There is a tendency for us to think that there should be more information available about the grounds on which the Minister is going to act, but there is also an argument about whether the right place to do that is in the Bill or within a code. Therefore, like Simon, I am not sure at the moment whether the wording of these amendments is correct, but we need to see what the Minister's thoughts are on this. I am supportive of the idea that Angela has put forward.

[267] **Suzy Davies:** To make a specific point on amendment 193, we already have a process on the face of the Bill, so the code is not the best place to deal with it. The amendment is simply trying to tie up a loose end as part of that procedure. That is effectively why we are introducing it, because it is a procedure that seems to run out of steam right at the end, and could, I would imagine, through a fairly straightforward piece of consideration, be tidied up. The amendment may not be exactly what we would want, but it invites the Minister to look again at that particular section to tidy it off a little better.

[268] **Leighton Andrews:** It is obviously right that local authorities and governing bodies

should be aware of the circumstances in which Welsh Ministers might direct them to bring forward proposals to rationalise school places. In the case of local authorities, I do not think that any of them are in any doubt. I have discussed it in meetings with leaders, I have written them letters and I have written them further letters. I will see the cabinet members for education on Friday, and I will reiterate that then. There is absolute clarity over that.

[269] It is also essential that Ministers understand the costs of any proposals that they bring forward and will inform anyone affected by those proposals of those costs, but we have a school organisation code. It is a draft code that is currently out for consultation and I hope that Members have taken the opportunity to read it. I will test them to see whether they spotted the deliberate mistakes in it in due course. However, we have the code, which sets out precisely these issues. My colleague Jenny Rathbone has said much of what I would have wanted to say on this issue. I think that the code is the right place for these issues, and I would be happy to hear representations from colleagues in the context of the consultation on the code.

[270] In relation to amendment 193 then—the previous comments were in relation to amendments 191 and 192—in respect of the use of Welsh Ministers' powers under section 63(1)(c), as I explained to the committee in my letter of 21 August, this would be an extremely rare event, which would only occur where we had previously caused a local inquiry to be held to consider a Welsh Minister's proposals. If the outcome was to decide that further proposals were required in order to address excessive or insufficient provision, we would expect that process to conclude quickly. If a local inquiry results in alternative proposals, it would seem strange to have a further local inquiry to discuss proposals that have just emerged as the result of a local inquiry. We would still have to act in accordance with the school organisation code and we would still have to consider that in relation to any objections that we received.

[271] **Angela Burns:** Thank you for that. I will make two brief comments. With regard to amendments 191 and 192, you made a comment earlier in these proceedings about how you were looking to futureproof and to build legislation that would stand the test of time. Although, at present, you have clearly engaged with local authorities about the issue of school rationalisation of places, that does not necessarily mean that that would happen in the future under different ministerial guidance. Therefore, the place to enshrine that right is surely here in this particular Bill.

[272] With regard to amendment 193, I have to reiterate that I am very concerned about this part of the Bill, because it still could render local inquiries inadequate, because there is nothing to prevent a Minister, after a local inquiry has taken place, from changing the game quite significantly without having to go back out for public consultation.

[273] **Christine Chapman:** Angela, do you wish to proceed to a vote on amendment 191?

[274] **Angela Burns:** Yes.

[275] **Christine Chapman:** The question is that amendment 191 be agreed to. Does any Member object? I see that there are objections; therefore, I call for a vote by a show of hands.

*Gwelliant 191: O blaid 2, Ymatal 0, Yn erbyn 8.  
Amendment 191: For 2, Abstain 0, Against 8.*

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

Burns, Angela  
Davies, Suzy

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

Chapman, Christine  
Davies, Jocelyn



Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny  
Roberts, Aled  
Thomas, Simon

*Gwrthodwyd gwelliant 191.  
Amendment 191 not agreed.*

[276] **Christine Chapman:** We now move to dispose of amendments 42 to 48, which appear consecutively on the marshalled list. These amendments have been debated as part of group 11. I move amendments 42, 43, 44, 45, 46, 47 and 48 in the name of the Minister.

[277] I propose that these amendments be disposed of together given their nature. Do any Members object to those amendments being disposed of en bloc? I see that they do not. The question is that amendments 42, 43, 44, 45, 46, 47 and 48 be agreed to. Does any Member object? I see that there are objections; therefore, I call for a vote by a show of hands.

*Gwelliannau 42, 43, 44, 45, 46, 47 a 48: O blaid 8, Ymatal 0, Yn erbyn 2.  
Amendment 42, 43, 44, 45, 46, 47 and 48: For 8, Abstain 0, Against 2.*

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

Chapman, Christine  
Davies, Jocelyn  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny  
Roberts, Aled  
Thomas, Simon

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

Burns, Angela  
Davies, Suzy

*Derbyniwyd gwelliannau 42, 43, 44, 45, 46, 47 a 48.  
Amendments 42, 43, 44, 45, 46, 47 and 48 agreed.*

[278] **Christine Chapman:** We now move to dispose of amendment 192 in group 12. Angela, would you like to move amendment 192?

[279] **Angela Burns:** I move amendment 192 in my name.

[280] **Christine Chapman:** The question is that amendment 192 be agreed to. Does any Member object? I see that there are objections; therefore, I call for a vote by a show of hands.

*Gwelliant 192: O blaid 3, Ymatal 0, Yn erbyn 7.  
Amendment 192: For 3, Abstain 0, Against 7.*

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

Burns, Angela  
Davies, Suzy  
Roberts, Aled

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

Chapman, Christine  
Davies, Jocelyn  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny  
Thomas, Simon

*Gwrthodwyd gwelliant 192.  
Amendment 192 not agreed.*

[281] **Christine Chapman:** We now move to dispose of amendment 49 in group 7. I move amendment 49 in the name of the Minister.

[282] The question is that amendment 49 be agreed to. Does any Member object? I see that there are objections; therefore, I call for a vote by a show of hands.

*Gwelliant 49: O blaid 8, Ymatal 0, Yn erbyn 2.  
Amendment 49: For 8, Abstain 0, Against 2.*

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

Chapman, Christine  
Davies, Jocelyn  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny  
Roberts, Aled  
Thomas, Simon

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

Burns, Angela  
Davies, Suzy

*Derbyniwyd gwelliant 49.  
Amendment 49 agreed.*

[283] **Christine Chapman:** We now move to dispose of amendment 50 in group 11. I move amendment 50 in the name of the Minister.

[284] The question is that amendment 50 be agreed to. Does any Member object? I see that there are objections; therefore, I call for a vote by a show of hands.

*Gwelliant 50: O blaid 8, Ymatal 0, Yn erbyn 2.  
Amendment 50: For 8, Abstain 0, Against 2.*

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

Chapman, Christine  
Davies, Jocelyn  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny  
Roberts, Aled  
Thomas, Simon

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

Burns, Angela  
Davies, Suzy

*Derbyniwyd gwelliant 50.  
Amendment 50 agreed.*

[285] **Christine Chapman:** We now move to dispose of amendment 193 in group 12. Angela, would you like to move amendment 193?

[286] **Angela Burns:** I move amendment 193 in my name.

[287] **Christine Chapman:** The question is that amendment 193 be agreed to. Does any Member object? I see that there are objections; therefore, I call for a vote by a show of hands.

*Gwelliant 193: O blaid 2, Ymatal 3, Yn erbyn 5.  
Amendment 193: For 2, Abstain 3, Against 5.*

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

Burns, Angela  
Davies, Suzy

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

Chapman, Christine  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny

Ymataliodd yr Aelodau canlynol:  
The following Members abstained:

Davies, Jocelyn  
Roberts, Aled  
Thomas, Simon

*Gwrthodwyd gwelliant 193.  
Amendment 193 not agreed.*

[288] **Christine Chapman:** We now move to dispose of amendment 51 in group 7. I move amendment 51 in the name of the Minister.

[289] The question is that amendment 51 be agreed to. Does any Member object? I see that there are objections; therefore, I call for a vote by a show of hands.

*Gwelliant 51: O blaid 8, Ymatal 0, Yn erbyn 2.  
Amendment 51: For 8, Abstain 0, Against 2.*

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

Chapman, Christine  
Davies, Jocelyn  
Evans, Rebecca  
Morgan, Julie  
Neagle, Lynne  
Rathbone, Jenny  
Roberts, Aled  
Thomas, Simon

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

Burns, Angela  
Davies, Suzy

*Derbyniwyd gwelliant 51.  
Amendment 51 agreed.*

[290] **Christine Chapman:** For the record, sections 1 to 64 of the Bill have been deemed agreed by the committee. I suggest that we adjourn this meeting. The next meeting to dispose of amendments will be held on Wednesday 28 November at 9.30 a.m.. I remind Members that further amendments may be tabled to the remaining sections of and schedules to the Bill. Amendments must be tabled with the legislation office no later than 6 p.m. on Wednesday 21 November.

12.00 p.m.

**Cynnig o dan Reol Sefydlog Rhif 17.42 i Benderfynu Gwahardd y Cyhoedd o'r  
Cyfarfod ar Ddydd Iau 22 Tachwedd ar gyfer Eitemau 1 a 2  
Motion under Standing Order No. 17.42 to Resolve to Exclude the Public from  
the Meeting on Thursday 22 November for Items 1 and 2**

[291] **Christine Chapman:** I propose that

*the committee resolves to meet in private for items 1 and 2 of next week's meeting in*

*accordance with Standing Order No. 17.42(vi).*

[292] Are all Members content? I see that they are. I thank the Minister, his officials and all Members for this morning.

*Derbyniwyd y cynnig.  
Motion agreed.*

*Daeth y cyfarfod i ben am 12.00 p.m.  
The meeting ended at 12.00 p.m.*