



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

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

**Dydd Iau, 26 Medi 2013  
Thursday, 26 September 2013**

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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi 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**

Keith Davies	Llafur Labour
Suzy Davies	Ceidwadwyr Cymreig Welsh Conservatives
Rebecca Evans	Llafur Labour
Ann Jones	Llafur (Cadeirydd y Pwyllgor) Labour (Chair of the Committee)
Bethan Jenkins	Plaid Cymru The Party of Wales
Lynne Neagle	Llafur Labour
David Rees	Llafur Labour
Aled Roberts	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Simon Thomas	Plaid Cymru The Party of Wales
<b>Eraill yn bresennol</b>	
<b>Others in attendance</b>	
Owen Hathway	NUT Cymru, Swyddog Polisi Cymru NUT Wales, Wales Policy Officer
Martin Hird	GMB, Uwch-drefnydd yn gyfrifol am Wasanaethau Cyhoeddus, Rhanbarth De Cymru a De-orllewin Lloegr GMB, Senior Organiser responsible for Public Services, South Wales and South-west Region
Dr Chris Llewelyn	Cymdeithas Llywodraeth Leol Cymru, Cyfarwyddwr Dysgu Gydol Oes Welsh Local Government Association, Director of Lifelong Learning
Dominic MacAskill	Unsain Cymru, Rheolwr Rhanbarthol Unison Wales, Regional Manager
Rex Phillips	NASUWT—Undeb yr Athrawon, Trefnydd Cymru NASUWT—The Teachers' Union, Wales Organiser
Daisy Seabourne	Cymdeithas Llywodraeth Leol Cymru, Rheolwr Polisi Dysgu Gydol Oes Welsh Local Government Association, Lifelong Learning Policy Manager
Rebecca Williams	UCAC, Swyddog polisi UCAC, Policy Officer

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

Sarah Bartlett	Dirprwy Glerc Deputy Clerk
Bethan Davies	Ail Glerc Second Clerk
Gareth Davies	Gwasanaeth Ymchwil Research Service

Steve Davies	Cynghorydd Cyfreithiol Legal Adviser
Sarah Hatherley	Gwasanaeth Ymchwil Research Service
Anne Thomas	Gwasanaeth Ymchwil Research Service
Sian Thomas	Gwasanaeth Ymchwil Research Service

*Dechreuodd y cyfarfod am 09:33.  
The meeting began at 09:33.*

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

[1] **Ann Jones:** Good morning, everybody. Welcome to our first meeting after the recess, to Members and to our witnesses. The Children and Young People Committee is now in formal session. The meeting operates bilingually, so we use either language. There are headphones available for the translation; it is channel 1 for the translation from Welsh to English and channel 0 for floor amplification if you should need it. May I ask everybody to turn off their mobile phones—I will just check mine, as well—as they interfere with the broadcasting and translation equipment? So, it would be good if we could do that. We are not expecting a fire alarm to operate, so if it does, we will take our instructions from the ushers and they will take us to a safe place, for example, the Assembly meeting point is by the Pierhead building for those of us in this end of the building.

[2] We have had apologies from Angela Burns, but there is no substitute. I think that Lynne Neagle will be joining us later. Do Members wish to declare any interests that they have not already declared on the Members' register of interests before we move on? I see that you do not. That is good.

09:34

### **Bil Addysg (Cymru): Cyfnod 1—Sesiwn Dystiolaeth gydag Unsain a'r GMB Education (Wales) Bill: Stage 1—Evidence session Unison and GMB**

[3] **Ann Jones:** We will carry on from when we took the first set of evidence at the end of last term on the Education (Wales) Bill. We are still in Stage 1, so we are taking evidence from a range of people. We are delighted to have with us this morning, to start off our session, Dominic MacAskill, who is a regional manager for Unison Wales—welcome, Dominic—and also Martin Hird, who is a senior organiser responsible for public services in the south Wales and south west region for the GMB. Crikey, that is a mouthful. [*Laughter.*] You are both very welcome. Thank you very much for your written evidence, which Members have had. As timing is quite tight and we want to try to get as much information as we can, perhaps we could go straight into questions, if that is all right with both of you. Rebecca will take the first set of questions.

[4] **Rebecca Evans:** How necessary do you feel that this legislation is to reflect the changed and changing nature of the workforce?

[5] **Mr MacAskill:** I will pick up on this. First, I pass on Jess Cromie's apologies. She would have been here but, unfortunately, she is unavailable. She is the Unison schools lead and the person who you will probably interface most with going forward.

[6] From the point of view of Unison and the GMB, I think that we welcome the focus that this legislation has put on the role of school support staff because it starts the process of recognising the importance of support staff and the additional value that they provide in delivering education. It was only 10 years ago, when we had the national agreement on raising standards and tackling workloads, that, for the first time, the roles were recognised. Support staff, and particularly those assisting in the classroom, were derogatively referred to as the mums army. It was only when the workforce remodelling agreement, a national agreement, was implemented locally that we saw some clear job profiles presented for support staff. You will see those reflected around schools albeit they have not necessarily been applied the same. It was fairly good in the first couple of years following 2003, but there has been a process of drift since then. In Wales, we have had single status being applied in 22 different ways in the 22 authorities and that has affected and unbalanced the profiles that were put in place 10 years ago. So, there has been a significant drift. What did not accompany those job profiles was the appropriate consideration for qualifications, training and career development—all of those things were left to wither on the vine. As we will explain in response to other questions, although we have some issues around the registration, I think that we welcome the focus and attention that is placed on support staff.

[7] **Rebecca Evans:** Unison has produced a report, ‘The Evident Value of Teaching Assistants’. Could you highlight some of the findings of that report for us, to give us an idea of the value that you place on those members of staff?

[8] **Mr MacAskill:** We found that there was not a lot of clear evidence about the additional value that support staff provide in the delivery of education, and so we did our own survey. It was a survey of school leaders in England, but you can read it across. The evidence from the school leaders was that they certainly believed, from their own experience, that additional support from teaching assistants in the classroom provided improved results in the classroom. That was an overwhelming response.

[9] Since then, there has been an academic review done by a Manchester group, called the inclusion review group, which did a review of literature on support staff. It found that targeted intervention of appropriately considered support by teaching assistants did provide very discernible significant benefits in terms of educational outcomes for pupils. So, it is not just Unison’s own surveys, it is now being supplemented by an independent review of literature. We would obviously welcome more studies on the value of support staff because, with not enough studies taking place, it allows the Goves of this world to come out with very unhelpful statements about how support staff in England could be done away with without any impact on schools, which we obviously do not believe.

[10] **Ann Jones:** Do you have anything that you wish to add, Mr Hird?

[11] **Mr Hird:** I obviously support what Dominic says. As Dominic said in relation to Jess, Mike Payne would normally be here leading on behalf of the GMB, but Mike sends his apologies as he is unable to attend today.

[12] To pick up the points that Dominic made, the GMB very much shares the same position. For expediency I do not want to repeat what Dominic said, but I think that the points that he has made are ones that are definitely shared by the GMB.

[13] **Suzu Davies:** I just have a quick question leading on from that. Obviously, I can see the arguments here for registration providing a sort of professionalised status for support workers. How would registration directly benefit those who are spending money signing up to state registration?

[14] **Mr MacAskill:** What do you mean by ‘benefit’?

[15] **Suzy Davies:** How do you see this giving practical benefits, apart from just status?

[16] **Mr MacAskill:** At the moment, as I have described earlier, teaching assistants in schools and in the local education authorities across Wales are treated and utilised in different ways. So, you may have similar job titles, but people doing different things, and you may have people doing the same things with different job titles. So, there is a mixed picture and it is therefore very difficult to quantify and to assess the value that a particular role is providing to a school. Registration on its own will not solve that. What we are saying in our evidence is that registration is an opportunity to clearly define what the support staff roles are in schools, and then ensure that those are applied across the piece in Wales, so that you know what you are registering. At the moment, if we applied registration in Wales, the term is just too broad. A classroom assistant, a teaching assistant, and a learning support assistant are just three terms that are utilised for what this registration is looking to cover. Each of them, potentially, could be in four grades, which vary from someone who is a higher level teaching assistant with very clear qualification requirements, heading up a class of pupils and delivering some material that a teacher has prepared. So, that is on one scale. On another scale, a level 1 teaching assistant could have very little contact with pupils and be utilised much more in terms of preparing the equipment and the resources that the classroom and the pupils will be using. So, if you just register all those in the same way, it will be pointless. There is clear work that will need to be done if registration is to go ahead for this group of workers.

[17] **Rebecca Evans:** Following on from that, I suppose that you support the idea of standardised descriptions for support workers, but do you envisage any difficulties with the roles of other employees who might come in the future, such as youth workers? I know that youth work can be very difficult to define.

[18] **Mr MacAskill:** Unison has been responsible for doing a submission on another bit of evidence around youth workers. We see youth workers as separate from education. I know that they have a very close relationship with education, but we see youth workers as having much more of a community engagement or inclusiveness role. Yes, there will be difficulties if you bring the youth worker element into the registration, which is purely focused on education. Formalising youth workers and pooling them into education would probably nullify some of the better work that they do in the community.

[19] **Mr Hird:** I would just like to pick up on the point about the benefits of overall or wider registration for education and school support staff. The other advantage that that brings, as Dominic has said, is that it standardises the role and job profiles right across the 22 authorities. If somebody in the south of Wales wished to move to another authority, the school or education establishment would know that that person had the same level of skill and training via the professional registration process. I believe that that would be of benefit.

09:45

[20] **Bethan Jenkins:** I know that, in many schools, the pay grades would be determined by the headteacher and the governors so that, even within the schools, there would be variations between the assistants. I know that you say in your evidence that you would want to have nationally agreed professional standards, but would the teaching assistants sign up for registration and for professional standards if they knew that they were still going to be receiving a wage that many of them see as undesirable, because they are on the lowest wages in a school set-up? I wondered whether you had considered that, or whether you do not think that it is relevant to this discussion.

[21] **Mr MacAskill:** I welcome you highlighting the fact that support staff generally are low paid. They are generally on term-time only contracts, whereas teachers are on full year

contracts. They are generally part time, and they are generally low paid. That is a problem going forward.

[22] In terms of schools determining their own grades, that is not such a problem as the 22 different varieties of application, because single status and salary structures are being defined at local educational authority level. They have generally been applied in schools, but there is inconsistency in the definition of those grades. We certainly want to address the pay differentials for support staff, but we see the first and major process as having some consistency on the profiles—on the grades. We see that registration is an opportunity to do that. We are not suggesting that we need to start work from scratch on determining those profiles. There is a national joint council for England and Wales, which is the body that negotiates pay for workers in local authorities, and that has recently revised and reviewed the job profiles for school support staff, which were the ones that informed the workforce remodelling in 2003, 2004 and 2005-ish. They have been agreed, so they are there, and they could be utilised in Wales and applied consistently across Wales, and then they could be picked up by LEAs and the job profiles could be put into job descriptions. They could put whatever title they want onto those, but there would be a clear reference that that is the profile that is being registered.

[23] **Aled Roberts:** Rwyf eisiau gofyn yn Gymraeg. Mae eich tystiolaeth yn sôn am yr NJC ac yn dweud y dylai Llywodraeth Cymru weithredu efo'r awdurdodau lleol i weithredu'r *profiles* newydd er mwyn cael y cyfartaledd hwn ar draws y wlad. Beth yn union yw'r sefyllfa o ran gweithredu'r *profiles* hynny? Beth yw'r sefyllfa rhwng Llywodraeth Cymru a'r awdurdodau gwahanol ar hyn o bryd? A oes unrhyw fath o gytundeb neu amserlen?

**Aled Roberts:** I will ask my question in Welsh. Your evidence mentioned the NJC, and you say that the Welsh Government should work with the local authorities to implement these new profiles so that you can have this equality across the country. What exactly is the situation in terms of implementing those profiles? What is the situation between the Welsh Government and the various local authorities at present? Is any sort of agreement or timetable in place?

[24] **Mr McAskill:** The trade unions do discuss these issues with the local authorities through the joint council for Wales, which is the body that links the Welsh Local Government Association and the trade unions. We gave a presentation on the new NJC roles to that body earlier this year. This is local democracy, and it is jealously guarded—councils like to do things their own way. So, I think that we are having problems in getting full engagement across the 22 authorities on that. In terms of the single status application, very few of them use the actual NJC job evaluation, instead, they use a varied form of the NJC: the greater London provincial council scheme. So, there is some resistance from that quarter. That is why this is a potential vehicle for giving authority or permission, or maybe compulsion, to schools and local authorities to give that consistency across Wales in terms of grades and profiles.

[25] **Aled Roberts:** However, given that the decision was taken to organise single status at a local level, what will be the impact of the imposition of NJC for these particular grades of staff on the overall single status agreement within the authorities? Is there not a bit of a conflict there?

[26] **Mr MacAskill:** There would be some work to ensure that it did not imbalance the current salary structures, but it is based on a job evaluation. These job profiles have been scored, and it would be a fairly straightforward matter to adopt them into your current salary structure. I think that the key issue is making that decision and then ensuring that that is put in place across the 22 authorities.

[27] **Ann Jones:** Keith has got a very brief question, and then we need to make some progress.

[28] **Keith Davies:** Yn Gymraeg byddaf yn gofyn. Nid wyf yn gwybod a ydych yn sylweddoli, ond ddydd Mawrth yr wythnos hon, buom yn trafod newid y system colegau addysg bellach a'r colegau addysg uwch. Bydd darlithwyr a'ch aelodau chi, sydd nawr yn y colegau, efallai yn gorfod gweithio gyda phlant. Beth ydych yn sôn amdano gyda'u cyflogau nhw? Mae'n mynd i fod yn llawer yn fwy na'r awdurdodau.

**Keith Davies:** I will be asking my question in Welsh. I do not know whether you realise, but on Tuesday this week, we were discussing changing the system for further education colleges and higher education colleges. Lecturers and your members, who are currently working in colleges, will perhaps have to work with children. How would you cover the issue of their salaries? It is going to involve far more than the local authorities.

[29] **Mr MacAskill:** We accept that there is a great vision that a number of politicians have, and Unison shares, of having one 'public service Wales', but we recognise that we have multiple employers in the public sector and multiple, different terms and conditions and salary arrangements. While they are separated in terms of employers, that is sustainable and we accept that there will be people working with pupils at different times who will have different terms and conditions and pay. I think that that is just an acceptance of the reality of the situation.

[30] On the registration of FE support staff, again, we have a problem of poor definition: what are we looking to register in further education? We do not have the teaching assistant-type role in FE generally; we have instructor-demonstrators, but is that what we mean when we are registering? Are we going to be registering instructor-demonstrators, or are we going to be registering workplace assessors? I am not clear on the scope of the registration in FE.

[31] **Ann Jones:** We need to make some big progress, because we are on only the very first question of a set. David, can you move us on a bit?

[32] **David Rees:** Thank you, Chair, but on that point—[*Laughter.*] It is a question on whether we need improvement in the Bill. You have clearly identified instructor-demonstrators, workshop assistants and technicians in the FE sector, and you have the NJC profiles for support staff in schools. Do you think that the Bill covers sufficient staff to be included that provide that support across all sectors?

[33] **Mr MacAskill:** There is probably only so much that you would want to put in a Bill. However, it clearly indicates that a tremendous amount of work needs to be conducted before the Bill could be enforced for the wider school and FE roles. I may be anticipating some of the questions, but in terms of capability, you need to have clearly defined the profiles—the roles that you will be judging the capability on—and you need to have clearly decided what the qualifications and the training and experience requirements are for those roles, and that all needs to be put into coherent professional standards. None of this is in place for support staff at the moment, and before you can deal with capability, you will have to have those in place; otherwise, our members will be judged on a moving platform of criteria.

[34] **Ann Jones:** We are going to move on now.

[35] **David Rees:** Yes.

[36] **Ann Jones:** Good.

[37] **David Rees:** In that sense, should we also expand this to include the independent sector? At the moment, you obviously represent the public sector, but there is a wide range of education and, in a sense, FE becomes an independent sector.

[38] **Mr MacAskill:** Unison, surprisingly, or maybe not surprisingly, does organise members in the private sector, although probably not as much as in the public sector—well, definitely not as much as in the public sector, but we do so. The danger of excluding them is that, on the capability point, you could decide that somebody is not fit to practise as a teaching assistant or as a teacher, and they reinvent themselves in that role in the independent sector. If you are going to be applying registration, it should be a level playing field for everybody. I think that the teachers will probably have more to say on that issue than we do.

[39] **David Rees:** Just one final point, you have already mentioned the staff profile issues, and, clearly, that is an important area. I agree with the unions being involved in that, because the grass roots need to be participating. Therefore, I assume that you would hope to be involved in that type of discussion as the Bill progresses.

[40] **Mr MacAskill:** Yes, indeed. We would see ourselves as having a major role in connecting the new body, and the people who are responsible for delivering education, with the grass-roots people who are delivering it. Recently, we provided a forum of school support staff for a question-and-answer session with some civil servants around this Bill. We can provide that access, otherwise, you have a potential for self-selection and you will just get to hear what people believe that you wish to hear.

[41] **Ann Jones:** We will try to move on to practical arrangements for the new registration body. Simon?

[42] **Simon Thomas:** Byddaf yn gofyn yn Gymraeg hefyd. Wrth edrych ar y Bil hwn yn sefydlu corff cofrestru newydd, rhan o waith y corff hwnnw fydd cefnogi datblygiad proffesiynol a chynnal safonau ac ymddygiad tu fewn i'r sector yn ehangach. Gan edrych ar y Bil, fel y mae ar hyn o bryd, a oes rhywbeth yr ydych yn ei weld yn ddo sydd yn wan o ran y ddarpariaeth mae'n ei wneud ar gyfer yr amcanion hynny? Hyd yma, rydym wedi trafod lot o anawsterau, ac nid yw'n glir iawn pa rai sydd yn y Bil a pha rai sydd yn deillio o'r trafodaethau a negodi rhwng y carfanau gwahanol. O safbwynt y Bil yn paratoi ar gyfer corff newydd, sut ydych chi'n gweld y ddarpariaeth ar hyn o bryd?

**Simon Thomas:** I will be asking my questions in Welsh also. In looking at this Bill and the creation of a new registration body, a part of the work of that body will be to support continuous professional development and to maintain standards and conduct within the wider sector. Looking at the Bill as it is currently drafted, is there anything that you see in it as being weak in the provision that it makes for those objectives? To date, we have discussed a number of difficulties, and it is not exactly clear which are on the face of the Bill, and which are down to the discussions and negotiations between the various groups involved. In terms of the Bill and preparations for the new body, how do you see the provision at present?

[43] **Mr MacAskill:** As I said, I am not an expert on how you compose legislation, but I would suspect that the detail is not put into the legislation itself. As I have mentioned before, we have real concerns. Having said that, I know that the Welsh Government has been working on creating consistent induction and CPD arrangements for the wider school workforce. We are involved in those discussions and developments. If registration is going to be put into place, then that needs to be concluded satisfactorily.

[44] The other issue, as I have mentioned, is qualifications. There is a plethora of qualifications that supposedly bring people to the state of being able to work in schools in a support staff role. However, I would challenge any head to know which one they should value the most. There needs to be some agreement on qualifications, obviously, implemented over time.



[45] **Simon Thomas:** However, you would not want to have a qualification entry into this body, would you?

[46] **Mr MacAskill:** I think that it would vary. We are talking about developing an appropriate career structure, therefore we would be looking at clearly defined profiles, with clearly defined experiential routes, and training routes and qualification routes. There is already a clearly defined qualification for higher level teaching assistants, so it is possible that you could have a leading-up on that, with recognised qualifications. However, the other issue that we have is that support staff generally are given very little time for training. In the main, most support staff training is done in their own time, whereas teachers are provided with clear training time. No resources are identified at all for support staff training. The only designated training budget is for teachers. The concern of teachers, I know, is that by broadening access to training and professional development, it will just eat away at the teachers' training budget; it will not be an additional budget for those support staff. Our main concern is that there is a budget for support staff to access and that they are given appropriate time to do in-work training and to pursue qualifications and career development.

10:00

[47] **Mr Hird:** Following on from that, the funding clearly needs to be there. Training comes at a cost and, to invest in staff, that will have to be taken into consideration, enabling upskilling for people to progress their careers within the structure that is agreed. We would make the point very strongly that career and professional development need to be funded adequately. As Dominic says, the issue of training in the school environment is normally something that is recognised as being primarily for the teaching staff and not for the support staff.

[48] **Suzy Davies:** You have said a number of times now that you value the principle that job descriptions will be very clear. I have a two-part question. The first part is this: do you have any concerns at all that, if they are so rigid, they may not actually be flexible enough to accommodate the needs of individual schools, and therefore those of the children? Secondly, on the issue of training, do you have concerns that people could be discouraged from moving from one role to another and, therefore, be denied training, mainly on the grounds of finance not being available for CPD?

[49] **Mr MacAskill:** I was very careful not to describe them as job descriptions.

[50] **Suzy Davies:** I know; I could not remember what you called them, I am sorry.

[51] **Mr MacAskill:** I described them as profiles. There is a difference, as profiles talk about areas of work that you would be focusing on. It is so we can differentiate people who are employed as a grade 1 teaching assistant who should have minimal direct contact with pupils in the delivery of education. Sometimes, those people are put in front of a class as cover supervision, and that is wholly inappropriate. If anything should go wrong, they should not be held accountable for the fact that they have been placed in a situation above their profile.

[52] The profiles would have sufficient flexibility to allow them to be applied to a job description, which would give the school some flexibility, including in what you call them, which, again, would give schools the ability to define their main focus. For the profile, however, they would have to decide on which one they were going to use for that job description. So, there would be some adaptability there.

[53] Yes, there are a number of pitfalls in making support staff more professional, more

effective and more efficient, as that requires resources, irrespective of where those resources come from—whether it is robbing Peter to pay Paul or whether it is generating new resources. The danger is that, if you introduce things and you do not give people the space to train, to take qualifications and to get the relevant experience, you will not get the career progression that is necessary in terms of retaining experience and a developing potential.

[54] **Suzy Davies:** I would just add this one thing. My concern is that a school would not be prepared to train somebody up to a position that the school does not need, so they would be training them to move on somewhere else.

[55] **Mr MacAskill:** There is a wider issue, which is probably not for this committee. It is about joined-up thinking among local education authorities. Schools often make people redundant, even when there is a vacancy in a neighbouring school. There is no joined-up thinking or arrangements between schools within LEAs. So, yes, that would potentially be a fetter on career development, because schools may not require higher-level teaching assistants, or they may have only a limited requirement for level 3 cover supervisors, so there would be blocking. However, if there is more contact and communication between schools, and voluntary arrangements and agreements, that could potentially cross-fertilise that experience.

[56] **Ann Jones:** We have about four sections to go in about 10 minutes. Simon, you carry on.

[57] **Simon Thomas:** Ceisiaf lapio sawl peth yn un cwestiwn—cawn weld a allaf wneud hynny.

**Simon Thomas:** I will try to wrap up a number of issues into one question—we shall see if that works.

[58] O ran edrych ar sut y bydd hyn yn cael ei weithredu yn ymarferol, rydych eisoes wedi sôn am y categorïau gwahanol o weithwyr cynorthwyol. Rydym eisoes yn ymwybodol nad oes gan rai o'r bobl hyn, fel rydych yn sôn, gontractau drwy'r flwyddyn, felly, yn wahanol i athrawon, nid oes ganddynt amser hyfforddiant wedi ei adeiladu i mewn. Ar wahân i arian—rwy'n gwybod bod arian yn broblem wastad, ond rydym yn edrych ar ddeddfwriaeth yn y fan hon, nad yw'n ymwneud ag arian fel y cyfryw eto—pa gamau ymarferol y dylid eu gosod ar waith er mwyn sicrhau bod y bobl newydd hyn sy'n dod o fewn cwmpas y cyngor newydd hwn yn cael y lle priodol a bod eu hanghenion datblygu proffesiynol yn cael eu hadlewyrchu?

In looking at how this is to be implemented on a practical basis, you have already mentioned the various categories of support workers. We are already aware that some of these people, as you mentioned, do not have year-round contracts, so, unlike teachers, they do not have time for training built into their working pattern. Apart from funding—I know that funding is always a problem, but we are looking at legislation here, which does not necessarily relate to funding yet—what practical steps should be put in place in order to ensure that these new people coming under this new council are given their rightful place and that their CPD needs are properly reflected?

[59] **Mr MacAskill:** Yes, okay.

[60] **Ann Jones:** Is that your answer? *[Laughter.]*

[61] **Mr MacAskill:** It was a very broad question. The first thing that we need to do is to ensure that there is a common understanding of what that CPD is and what that induction is—

[62] **Simon Thomas:** Is that in place already?

[63] **Mr MacAskill:** It is not in place at the moment. Work is being progressed with the Welsh Government. In some schools, it is in place, and in some LEAs, it has been encouraged, but in terms of a cross-Wales consistency, which is what we are going to need if we have a registration that is going to apply consistently, that needs to be clear. Having that framework is the main issue, and then—

[64] **Simon Thomas:** Is that a national framework or a regional consortium framework?

[65] **Mr MacAskill:** No, it would be a national framework. We have criticisms about the consortia, but you do not want to hear about those now.

[66] **Ann Jones:** No, that is not for this Bill; let us move on.

[67] **Mr MacAskill:** So, yes, we definitely need to have an all-Wales approach to this, not just giving some broad guidance and allowing consortia, LEAs or schools to interpret it.

[68] **Ann Jones:** Keith, are you asking the discipline question?

[69] **Keith Davies:** Ydwyf. Gwnaf ofyn yn Gymraeg. Rydych wedi sôn am y gweithdrefnau disgyblu a'r paneli disgyblu a fydd yn gwranddo ar bob cwyn. Rydych hefyd yn dweud yn eich papur bod llai o'ch staff yn cael eu disgyblu nag o athrawon ond, yn y pen draw, bod mwy ohonynt yn colli eu swyddi. A yw hynny'n rhywbeth i wneud â'r paneli? Beth yw'r rhesymau am hynny?

**Keith Davies:** Yes. I will ask in Welsh. You have mentioned the disciplinary procedures and the disciplinary panels that will hear all complaints. You also say in your paper that fewer of your staff are disciplined than is the case with teachers, but, at the end of the day, that more of them lose their jobs. Does that have anything to do with the panels? What are the reasons behind that?

[70] **Mr MacAskill:** Actually, the evidence says that they get more discipline and that more lose their job. They are twice as likely to be suspended from their job as teachers and then twice as likely to lose their jobs at the end of that. However, in terms of the figures, they do not say that all the suspensions are legitimate, because only 5% of those who are suspended lose their jobs. So, it is clear that it is twice the amount. It could be that support staff, generally speaking, until recently, through the attentions of Unison and GMB, have been poorly organised and, therefore, probably have been seen as easy scapegoats or, if their face does not fit, easily taken down the disciplinary route to get rid of them. That is the cynic in me speaking, but I think that that may well be the reality on the ground. Teachers also have much better protection and clarification in terms of their professional roles and conduct et cetera than support staff. What we will be seeing from this registration process is much clearer definitions that will ensure that you can appropriately assess capability against something that is consistently applied.

[71] Panels that dismiss tend to be governor panels. The issue that we have with registration is that there is a potential double jeopardy, because you would have your workforce disciplinary process and you could have the registration body disciplinary process. So, the registration body disciplinary panels would need, at a minimum, somebody who has experience of being a support worker. At the moment, the General Teaching Council for Wales panels have teacher representatives on them, so we would want to have the same, so that we can not only have some consistency but some understanding of the role among those people who will be making judgments.

[72] **Aled Roberts:** Mae gan Unsain a'r GMB safbwyntiau gwahanol o ran talu ffioedd cofrestru, ond os ydym yn cymryd yn ganiatâol bod y Llywodraeth yn bwriadu

**Aled Roberts:** Unison and the GMB have a different perspective on workers paying registration fees, but if we take it for granted that the Government intends to go with the

gweithredu'r model mae wedi awgrymu yma, a bod rhyw fath o ddiogelu o ran y cyflogau isel, ond bod graddfa ar ôl hynny, a ydych yn credu y dylai'r model fod yn seiliedig ar gyflogau ynteu categorïau o staff?

model that is suggested here, and that there is some sort of safeguarding for those on lower salaries, but with grading after that, do you think that that model should be based on salaries or on categories of staff?

[73] **Mr Hird:** I think that it should be phased in for a start. As is already recognised, support staff are, in the main, relatively low-paid, so we would be looking for a gradual phasing in of registration fees based on salary income. However, as things evolve and move forward, that would need to be reviewed and looked at in more detail. However, initially, I think that it would be our view that it should be phased in and based on salaries.

[74] **Mr MacAskill:** Generally, both our positions would be that we would want the registration fees to be borne by the employer, with no cost to the support staff. However, if there is going to be a cost, it needs to recognise the low-pay element. In terms of whether it should be against profile or pay, it probably has to be against pay. There are lots of very small, part-time contracts for a handful of hours; it could be that you have two roles within a school—one for five hours, as a level 3 cover supervisor, and one for 15 hours as a level 1. You would need to be registered on the level 3, but the majority of your pay would be on level 1. So, I think that the fairest approach would be based on pay. One thing that we would want to avoid is a cliff edge, which is in the proposals, under which, at a certain stage, you suddenly start paying a very significant amount. A much more tapered approach would be more acceptable.

[75] **Aled Roberts:** I accept your point that the employer should be responsible for the fee, in principle, but you might struggle with that. [*Laughter.*] How consistent is the current arrangement on teacher registration? Currently, a subsidy is paid by the Welsh Government and it is then down to local agreement as to whether the employer picks up the cost. Is it nationally accepted that, once the subsidy is out of the way, the employee covers the cost?

[76] **Mr MacAskill:** I think that you will have to reserve that question for the teaching unions.

[77] **Bethan Jenkins:** Gofynnaf gwestiwn ynglŷn â harmonieiddio a chysoni tymhorau ysgol. Gwn eich bod wedi ymateb i hynny yn weddol gadarnhaol, yn nodi'r hyn sy'n digwydd yn Lloegr ar hyn o bryd, sydd i'r gwrthwyneb i'r hyn mae'r Bil hwn yn ei gynnig. A allwch roi eich barn gyffredinol ar hynny? A ydych yn gweld bod problem? Mae rhai pobl wedi dweud efallai y bydd gan ysgolion crefyddol broblem gyda chysoni tymhorau, oherwydd gwyliau penodol, ac mae rhai pobl hefyd wedi dweud nad ydynt yn hapus y bydd gan y Gweinidog yr hawl i beidio â rhoi'r reolaeth honno i ysgolion, o ystyried digwyddiadau mawr megis y Ryder Cup. Hoffwn wybod eich barn am hynny.

**Bethan Jenkins:** I will ask a question about the harmonisation and standardisation of school term dates. I know that you have responded to that relatively positively, noting what is happening in England at present, which is the opposite of what this Bill seems to suggest. Could you give your general view on this? Do you anticipate any problems? Some people have said that religious schools might have a problem with the standardisation of school terms, because of specific festivals, and some people have also said that they are not happy that the Minister would have the right to refuse schools control over this, taking into account major events such as the Ryder Cup. I would like your opinion on that.

[78] **Mr MacAskill:** You are correct in that we broadly welcome the proposals for harmonisation. That is basically because of the practical experience of our members, particularly those who live on the borders of a county, where they may work in one authority but their children attend school in another, and they find that the term dates are different. Our

interpretation is that this is an attempt to resolve that and to ensure that there is consistency. However, I recognise that some religious festivals and feasts are moving festivals and feasts—they are not standardised. So, there may well need to be some sensitivity and flexibility, but I think that for this to work there needs to be authority to compel schools and local education authorities to harmonise. If you do not harmonise, it will not be for very good reasons, necessarily; it could be for fairly arbitrary reasons. Our opinion is that you are either harmonising or you are not.

10:15

[79] **Ann Jones:** Are you happy with that, Bethan?

[80] **Bethan Jenkins:** Yes.

[81] **Ann Jones:** We are bang on time, but if somebody has another question please ask it now.

[82] **Bethan Jenkins:** You said that the University and College Union receives tax relief on its subscriptions, which was the issue that Aled Roberts raised with you. I have not read into this in depth, but I was wondering how the UCU managed to get tax relief.

[83] **Simon Thomas:** It is for compulsory registrations that you can get tax relief.

[84] **Bethan Jenkins:** You are saying that everybody should have that. What would it mean if everybody had that tax relief?

[85] **Mr MacAskill:** I think that we are identifying it as an area of difference that needs to be addressed, but it may well be addressed by the registration process itself.

[86] **Ann Jones:** We have just managed to complete everything in the time allowed. I thank you both very much for coming today. You will already know this, because you have been with us before, but we will send you a copy of the transcript to check for accuracy. Hopefully, you will look at the Stage 1 report and I am sure that you will find some of your comments there. I thank you both for coming to give evidence today.

10:17

**Y Bil Addysg (Cymru): Cyfnod 1—Sesiwn dystiolaeth gydag Undeb  
Cenedlaethol yr Athrawon, NASUWT—Undeb yr Athrawon, ac Undeb  
Cenedlaethol Athrawon Cymru  
Education (Wales) Bill: Stage 1—Evidence session with the National Union of  
Teachers, NASUWT—The Teachers' Union, and UCAC**

[87] **Ann Jones:** I ask the witnesses to join us at the table so that we can move on. Thank you.

[88] Will you introduce yourselves and your organisations for the record and then we will then go straight into questions, if that is okay? Rex, we will start with you.

[89] **Mr Phillips:** I am Rex Phillips, Wales organiser for the NASUWT—The Teachers' Union.

[90] **Ms Williams:** Rebecca Williams **Ms Williams:** I am Rebecca Williams, policy ydw i, swyddog polisi Undeb Cenedlaethol officer for UCAC.

Athrawon Cymru.

[91] **Mr Hathway:** I am Owen Hathway, Wales policy officer for the National Union of Teachers.

[92] **Ann Jones:** Thank you. Rebecca has the first set of questions.

[93] **Rebecca Evans:** Your organisations have taken different views as to the proposal to extend the registration of other parts of the education workforce. Could you outline your major concerns about this and perhaps comment on the suitability of the categories that are included in the Bill?

[94] **Mr Hathway:** We have not registered that much concern with it, I do not think. I can see that there is an argument for maintaining it for teachers only. However, the change in school staff over the past decade has probably meant that we are supportive of the change. If you go back to when the General Teaching Council for Wales was formed, you will see that the amount of support staff that was there in comparison with teachers was quite small. There has been an explosion over the last decade. I do not know the exact figures, but I think that you are probably talking about upward of 14,000 support staff, in comparison with around 1,000 when it first started.

[95] It is probably appropriate that you now bring other areas of the profession into the body to ensure that they are regulated and that standards are maintained across the piece. When we are talking about standards in the classroom these days, it is not just the teachers who are responsible for that—it is not just teachers who are going to reflect that standard. It is appropriate, therefore, to bring in support staff. Obviously, when you look at teachers in further education, post-16 education et cetera, you will see that a lot of them are essentially doing similar teaching jobs, and it is appropriate that they are also brought in to reflect that.

[96] **Ms Williams:** Mae safbwynt UCAC wedi newid yn ystod y broses ymgynghorol. Roedd gennym rai pryderon ynglŷn â dod â staff cymorth dysgu i mewn, ond erbyn hyn rydym wedi'n darbwyllo bod hynny'n syniad da. Credaf fod dod â'r gweithlu ehangach o fewn cwmpas y cyngor yn beth synhwyrol iawn achos bydd hynny'n ein galluogi i gynllunio'r gweithlu mewn modd sydd erioed wedi cael ei wneud mewn ffordd gall—rhywbeth sydd wirioneddol angen ei wneud nawr. Rydym o blaid yr holl gategorïau sy'n cael eu henwi yn y Bil.

**Ms Williams:** The position of UCAC has changed during the consultation process. We had some concerns about bringing in teaching assistant staff, but we have now come to the conclusion that it is a good idea. I think that bringing the broader workforce within the remit of the council is a sensible step because it will enable us to plan the workforce in a way that has never been done properly before—something that truly needs to be done now. We are in favour of all of the categories listed in the Bill.

[97] Mae gennym bryderon o hyd ynglŷn â'r syniad, nad yw yn y Bil ond sydd yn y memorandwm, o ddod â gweithwyr ieuencid i mewn, dim ond oherwydd eu bod mor amrywiol. Ar hyn o bryd, nid oes cymwysterau cyson, felly byddai'n ymarferol anodd gweithio mas pwy sy'n dod mewn a phwy sydd ddim. Er, gallai hynny newid dros gyfnod. Nid ydynt ychwaith ar hyn o bryd wir yn rhan o'r gweithlu addysg.

We still have concerns about the concept, which is not in the Bill but is contained within the memorandum, of bringing youth workers into the Council's scope, only because they are so varied. Currently, there are no consistent qualifications, so it would be practically difficult to work out who would be included and who would not. However, that may change over time. They are not really part of the education workforce at the moment either.

[98] O ran y categorïau penodol, bydd angen ychydig o ofal. Nid wyf yn siŵr a yw'r Bil yn ddigon clir ar hyn o bryd ynglŷn â phwy yn union sy'n cael eu cynnwys ym mhob categori. Mae'r sector addysg bellach, er enghraifft, yn fwy cymhleth na'r hyn y mae'r Bil yn darparu ar ei gyfer. Pa sefydliadau'n union sy'n cael eu cynnwys? A yw Cymdeithas Addysg y Gweithwyr, gogledd a de, yn dod i mewn – gan gynnwys Coleg Harlech? A fydd addysg gymunedol i oedolion yn dod i mewn—pobl fel tiwtoriaid Cymraeg i oedolion? Yn dechnegol, maen nhw'n rhan o'r sector addysg bellach, ond mae rhai ohonynt wedi'u lleoli mewn sefydliadau addysg uwch. Mae angen rhoi ychydig o sylw i hynny.

Care needs to be taken in terms of the specific categories. I am not sure whether the Bill is adequately clear at present on exactly who would be included in each category. The FE sector, for example, is more complex than is acknowledged in the Bill's provisions. Which institutions exactly would be included? Would the Workers' Educational Association, north and south, be brought in, including Coleg Harlech? Would adult community education be included—people such as Welsh for adults tutors? Technically, they are part of the FE sector, but some of them are located in HE institutions. That needs a little attention.

[99] Mae yna bobl sy'n dysgu cyrsiau addysg uwch er eu bod mewn colegau addysg bellach. A fydd y rheini'n dod i mewn ai peidio? Bydd angen rhywfaint o sylw ar hynny. Fodd bynnag, yn gyffredinol, rydym o blaid y categorïau sy'n cael eu henwi yn y Bil.

There are people teaching HE courses although they are located in FE institutions. Would they be included or not? That will need some attention. Generally speaking, we are in favour of the categories that are named in the Bill.

[100] **Mr Phillips:** Our position is very clear in terms of wider education workforce registration. We welcome that in principle, but we feel that it is a matter for those who represent the workforces within the various categories, and we will represent people in some of those categories. We do not see a problem with it in principle. In terms of the categories, I believe that there is a category that has been missed, and the category that should be embraced is those people who work in the inspectorate, the people who work for the consortia, and those who work in local authorities that need to have qualified teacher status in order to visit schools to observe teachers teaching. If they need their QTS in order to do their job, then they should also be required to register with this wider council. That is an important issue and something that has been missed within the framework of this Bill.

[101] **Ms Williams:** Un categori sydd efallai ar goll, ac rwy'n credu bod undebau eraill wedi sôn am hyn, yw ysgolion annibynnol. Byddwn yn bendant o blaid dod ag athrawon o'r sector hwnnw i mewn i gwmpas y Bil oherwydd, ar hyn o bryd, mae'n gadael bwlch ac fe allai rhywun gael ei ddisgyblu neu ei ddiswyddo am gamymddygiad neu am broblemau difrifol o ran medrusrwydd, ac fe fyddent yn gallu symud o'r naill sector i'r llall. Nid ydym yn credu bod hynny'n iawn.

**Ms Williams:** One category that may be missing, and I think that other unions have covered this, is independent schools. We would certainly be in favour of including teachers from that sector in the remit of the Bill because, at the moment, it leaves a gap and means that someone could be disciplined or dismissed for misconduct or for major capability problems, and they could move from one sector to another. We do not think that that is right.

[102] **Rebecca Evans:** So, you are agreed on the independent schools.

[103] **Mr Phillips:** Yes. We think that that is fair. If you are going to regulate the public sector then you have to regulate the private sector as well.

[104] **Rebecca Evans:** We have had mixed views on the proposed name for the new body—the education workforce council. What are your thoughts on it?

[105] **Mr Phillips:** I will start with that because we welcome that. We think that that is a reasonable way forward on this. We have always maintained that the GTCW has become a tainted brand. We did not like the way in which it operated, so we are pleased to see that that name will disappear and that we will now have a name that will better reflect the role of the new council.

[106] **Ms Williams:** Rydym yn hollol hapus gyda'r enw newydd yn y Bil. Nid oes gennym broblem ag ef. **Ms Williams:** We are entirely comfortable with the new name in the Bill. We do not have a problem with it.

[107] **Mr Hathway:** We have said that we would like the word 'teaching' in there somewhere to reflect the profession and show continuity with the GTCW, but it is not a major sticking point. In the grand scheme of the Bill, it is not something on which we will be banging a drumroll, in comparison with some of the other concerns we may have.

[108] **David Rees:** You have all indicated strong opposition to the structure and appointment process for the new body. Can you elaborate a little about why you think it is important to ensure that representatives are elected rather than for there to be a ministerial appointment process? We can go from left to right.

[109] **Mr Phillips:** Clearly, if it is going to have credibility and if it is going to be a council that regulates education practitioners, then education practitioners should be elected to that council. That gives it a democratic basis and is a better way forward. Otherwise, you will have people appointed on it—we do not know what that appointment process will be, but having an appointment process is not going to give confidence in that new body to those people who will be required to pay a fee to register with that council. It may not be an election process—I do not see this as an either/or situation in many respects. If you are going to have a body based on seats, there should be seats on that body for the trade unions that represent the education workforce. It should be for the trade unions to decide who they put in those seats; it should not be for the Welsh Government to decide. If they are going to be appointments made by the Welsh Government, you have to question how independent that body is going to be.

[110] **Ms Williams:** Ar hyn o bryd, nid oes gan y Llywodraeth rôl mewn penodi aelodau i'r cyngor. Mae ychydig llai na hanner ohonynt yn cael eu hethol gan y gweithlu ac mae'r gweddill yn cael eu penodi gan y Cynulliad, nid y Llywodraeth. Nid wyf yn gweld unrhyw reswm i symud i ffwrdd o'r model hwnnw. Rwy'n credu byddai penodiadau gweinidogol yn ergyd farwol i hygredd y cyngor, ac nid wyf yn credu y byddai'n gadael y Gweinidog mewn lle da iawn ychwaith. Byddai hynny'n gamgymeriad dybryd. **Ms Williams:** At present, the Government has no role in appointing members to the council. A little fewer than half are elected by the workforce and the others are appointed by the Assembly, rather than by the Government. I see no reason for moving away from that model. I think that ministerial appointments would be a dire blow to the credibility of the council, and I do not think that it would leave the Minister in a strong position either. That would be a huge mistake.

[111] **Mr Hathway:** Picking up on Rebecca's point, that would be for the Minister's benefit. I am not sure why you would enshrine in law the potential for political bias. I am sure that the current Minister would give assurances that that would not be the case and I would be happy to accept that—I am sure that everyone would. However, no Minister can give assurances for their successors, whatever their political party.



[112] There is scope to look at the current appointment process, which some anecdotal evidence has suggested. Those who have gone through it have found it unsatisfactory. Often, they have not been asked questions about teaching, or even about the work of the GTCW when they have been appointed. So, there is scope to look at it, but, certainly, the perception among the profession is that if it was done by ministerial appointment, it would lose credibility, whether that would be fair or not. I do not think that it would be of benefit to the Minister, or anyone involved, if we were to change the regulations to ensure that the appointments were made by the Minister. The independence of that body would be a concern for us.

[113] **David Rees:** Obviously, if they were elected positions, as you all advocate, effectively, you would encourage a situation where a certain number of people would be allocated to different posts. In other words, you would not want them all to be teachers, for example, because that would rule out other elements and other categories.

[114] **Mr Hathway:** If we are moving to a body that will be representative of not just teachers, but the whole education workforce, it would make sense that there should be a fair reflection of that in the composition of the body, if it was done through an election process.

[115] **David Rees:** I want to move on to the production of the council's code of practice and conduct. Again, various trade unions—I understand why—want to be involved in that process. How do you see the actual process as identified in the Bill at the moment, and how do you think that it can be improved?

[116] **Mr Phillips:** There was consultation previously on the code of conduct and it should be put into the Bill that there will be consultation on it. That is fine insofar as the consultation goes and the notice that is taken of the consultation. Clearly, when the consultation was conducted last time, I think that it was conducted by the council itself, and we put in a response on behalf of the members that we represent, but that was taken by the council as one response, which we were not particularly happy with. To me, that is not the issue. The issue is not so much about the code of conduct; it is about the disciplinary procedures and rules that apply, because that is where the council has never consulted. The council became a law unto itself in terms of the way in which it would just modify its rules and procedures to account for any loophole or argument that we could find when we are presenting cases. We would say, 'Look, you shouldn't be doing it this way', and we would then find that the next year's rules would change to block that off. That was one of the real problems with the council and one of the reasons why the council was not—

[117] **David Rees:** To confirm, the council that you are talking about now is the GTCW and not the proposed council.

[118] **Mr Phillips:** Yes, I am talking about the GTCW. So, that was a fundamental error. We would get new rules coming out, but there would be no consultation on them. I think that the Bill should make sure that if the rules are going to be changed, those people who represent the education workforce should be consulted, and that would be all the trade unions. It is not right for the council just to make up its rules and change its rules as it sees fit. It had become, in my view, a law unto itself.

10:30

[119] **Ms Williams:** Mae'r cyngor—yr hen gyngor a'r cyngor newydd—yn gorff sy'n gweithredu ar ran y gweithlu. Mae'n gorff annibynnol. Felly, rwy'n credu bod yr **Ms Williams:** The council—the old council and the new council—is a body that works on behalf of the workforce. It is an independent body. Therefore, I think the principle in terms

egwyddor ynglŷn â phenodi aelodau i'r cyngor hefyd yn berthnasol ar gyfer llunio'r cod ymddygiad. Ni allaf weld rheswm pam y dylai'r Gweinidogion fod yn llunio'r cod ymddygiad ar ran y gweithlu addysg. Rwy'n gwybod bod y Gweinidog wedi sôn, yn nhrefodion yn y Cynulliad, am fater ynglŷn ag amseri, a dweud mai mater ymarferol pur yw hyn—mae angen i'r cod ymddygiad fod yn ei le cyn bod y cyngor yn dod i fodolaeth—ond nid wyf yn credu bod hynny yn rheswm digonol. Nid yw, mewn gwirionedd, yn cyfiawnhau rhoi'r math hwnnw o rym a rheolaeth yn nwylo'r Gweinidog. Rwy'n gwybod ei fod wedyn yn pasio'r cod i'r cyngor ar gyfer ei addasu a'i ddiwygio yn nes ymlaen, ond y gwir yw nad ydych eisiau addasu a diwygio'r cod byth a beunydd; y gwaith pwysig yw llunio'r cod yn y lle cyntaf, a'r cyngor ei hun yw'r corff mwyaf addas ar gyfer y gwaith hwnnw. Mae'n cynnwys pobl o blith y gweithlu sy'n deall natur y lle gwaith. Gobeithio'n fawr y bydd yn ymgynghori gyda'r undebau a rhanddeiliaid. Mae'n teimlo fel *control freakery*, mae'n rhaid i mi ddweud, i roi'r math hwnnw o rym yn nwylo'r Gweinidog. Nid yw'n teimlo yn addas o gwbl.

of the appointment of members to the council also applies to the formulation of the code of conduct. I cannot see any reason why Ministers should be drawing up a code of conduct for the education workforce. I know that the Minister has mentioned, in Assembly proceedings, that there is an issue in relation to timing, and that this is purely a practical issue—the code needs to be in place before the council comes into existence—but I do not think that that is an adequate reason. It does not really justify putting that sort of power and control in the hands of the Minister. I know that he would then pass the code to the council so that it could be amended and adapted later, but the truth is that you do not want to be amending a code constantly; the important thing is drawing up the code in the first place, and the council itself is the most appropriate body to do that work. It includes people drawn from the workforce who understand the nature of the workplace. I would very much hope that it would consult with the unions and with stakeholders more generally. It does feel like control freakery, I have to say, to put that sort of power in the hands of the Minister. It does not feel appropriate at all.

[120] **Mr Hathway:** I would go along with what Rebecca said there. The concern we would have about independence in a Minister having a role in designing a code of conduct is the same concern we would have about the appointment process, and, to pre-empt what you might ask next, as we would have about the advice that the council can give as well. It is about the perception, as much as anything else. The profession needs to have respect for the education workforce council, as it will be. It needs to have ownership of it as well, and I am not sure that it will have that sense of ownership of it if it believes that there has been ministerial interference in the designing of the code of conduct—whether that has happened or not. That, potentially, would be the perception.

[121] **Ann Jones:** May I clear one thing up with Mr Phillips? Do I take it from the fact that you are happy with the name 'education workforce council' that you are happy that registration is extended to all support staff and teaching assistants? Your evidence to the committee, in the annex, says that you believe that the case has not been made for extending registration beyond school teachers.

[122] **Mr Phillips:** Well, yes, we did not believe that the case had been made, but we did not feel that it was up to us to comment on that, really, because it was for the other trade unions to say whether they felt they wanted their members to be subject to that form of regulation. The only example that we had to compare that with was the way in which the GTCW conducted itself, and that had not been well received by our members, which is why we explained to them what we felt the pitfalls were in terms of registration. However, we did leave it as a matter for them. Generally speaking, we have welcomed the idea that, if this is going to happen, it is going to be for the wider education workforce. What we want then is a council that is going to act fairly, and I would not want to see support staff members being put through the public humiliation that the GTCW has put some of our members through in the

way that it has courted publicity over its role.

[123] **Ann Jones:** So, you are prepared to accept that, if this is the will—

[124] **Mr Phillips:** If that is the will, that we are going to—

[125] **Ann Jones:** But it is not necessarily your view, or your members' views.

[126] **Mr Phillips:** I do not think our members have a view on whether the wider education workforce should be regulated or not. They have a view on whether they should be regulated, and, as a trade union, we believe that there is a need to regulate the teaching profession. The other roles of the council are another matter, because we believe that the only role of this new council should be to regulate. It should not diversify into other areas.

[127] **Ann Jones:** Okay. Fine, thanks. Can we move on, then? Simon is next.

[128] **Simon Thomas:** Bore da. Yn dilyn y pwynt hwnnw, beth bynnag y dywedodd Mr Phillips, mae'n ymddangos i mi fod y cyngor hwn â dau ben: un i reoli, disgyblu, ac ynglŷn â'r cod ymddygiad ac ati, ac un i gefnogi datblygiad proffesiynol yn ehangach yn y proffesiwn—ac mae'r proffesiwn yn awr, wrth gwrs, yn golygu athrawon-plws. A oes gennych unrhyw farn fel undebau ynglŷn â'r cydbwysedd sydd yn y ddeddfwriaeth ar hyn o bryd rhwng y ddau ben hwnnw? A ydych o'r farn bod modd cyflawni'r ddwy rôl honno'n llawn o dan y weithdrefn sydd yn y Bil?

**Simon Thomas:** Good morning. Following on from that point, whatever Mr Phillips says, it appears to me that this council has two heads: one to manage, discipline, and in relation to the code of conduct and so on, and one to support professional development in the profession more widely—and the profession now, of course, means teachers-plus. Do you have an opinion as unions on the balance in the legislation at the moment between those two heads? Are you of the opinion that those two roles can be realised fully under the procedure in the Bill?

[129] **Ms Williams:** Mae'r ddwy elfen yn cael eu gosod yn glir iawn fel dau amcan yn y Bil. Fodd bynnag, mae'n glir iawn o ddarllen gweddill y Bil ei fod yn canolbwyntio ar un o'r amcanion, sef yr ochr disgyblu a rheoli. Nid oes braidd dim cyfeiriad at godi safonau addysgol neu ddatblygiad proffesiynol parhaus. Rwy'n credu bod yr anghydbwysedd yn y Bil yn dangos y bydd anghydbwysedd yn y ffordd y bydd y cyngor ei hun yn gweithredu wedyn. Byddwn yn cymeradwyo'r ffaith bod y ddau beth yn amcanion i'r cyngor, ond i ganiatáu i'r cyngor ysgwyddo'r cyfrifoldeb dros wneud hynny, rhaid gwneud darpariaethau ar eu cyfer ac mae'n rhaid rhoi adnoddau. Os nad oes bwriad i wneud hynny, wedyn byddwn bron yn cytuno â Rex, a dweud nad oes pwynt ei gynnwys os nad ydych chi'n mynd i'w wneud o ddifrif, ac y dylai'r cyfrifoldeb fod yn rhywle arall. Fodd bynnag, yn ddelfrydol, byddai'n rhan o gyfrifoldebau'r cyngor a byddai fframwaith ac adnoddau yn mynd gydag hynny.

**Ms Williams:** Both elements are clearly set out as two objectives within the Bill. However, it is very clear from reading the rest of the Bill that it concentrates on only one of those objectives, namely the disciplinary and regulatory side. There is hardly any mention of raising educational standards or CPD. I think that the imbalance in the Bill demonstrates that there will be an imbalance in the way that the council itself will operate. I would applaud the fact that both are set out as objectives for the council, but to allow the council to take on those responsibilities, provisions have to be made for that and resources have to be made available. If there is no intention to do that, then I would almost agree with Rex, and say that there is no point in including it unless you are going to take it seriously, and that that responsibility should sit elsewhere. However, ideally, it would be part of the responsibility of the council and there would be a framework and resources to go with that.

[130] **Simon Thomas:** Yn ychwanegol at hynny, a ydych efallai yn cytuno â'r hyn yr wyf yn ei deimlo, sef efallai, oherwydd bod Gweinidog a'r Llywodraeth wedi gosod datblygu safonau fel rhan o hwn, a bod hynny'n hollbwysig i weledigaeth y Llywodraeth ar hyn o bryd, mai hynny sydd wedi arwain y Gweinidog i deimlo mai fe ddylai fod yn penodi ac yn arwain yn yr holl broses? A fyddai'n fwy syml i rannu'r ddau beth a dweud bod datblygu proffesiynol yn aros gyda'r Llywodraeth, ond rheoli yn mynd i'r corff newydd, sydd, wedyn, yn gwbl annibynnol ar y Llywodraeth?

**Simon Thomas:** In addition to that, do you perhaps agree with what I feel, which is that, perhaps, because the Minister and the Government have set professional standards as part of this, and that is important to the vision of the Government at the moment, that has led to the Minister feeling that it is he who should appoint and lead in the process? Would it be simpler to split the two things and say that professional development remains with the Government, but the regulatory aspect is going to the new body, which, then, would be completely independent of Government?

[131] **Ms Williams:** Gallwn dderbyn y ddadl honno. Ni fyddai ots gennyf p'un ai ydyw gyda'r Llywodraeth neu gyda'r cyngor, cyn belled â'i bod hollol glir, bod pawb yn gwybod ble mae'r cyfrifoldeb a phwy sydd â'r adnoddau—dynol ac ariannol—i wneud y gwaith. Ni fyddwn yn dadlau o blaid y naill neu'r llall yn gryf iawn, cyn belled â'i bod yn hollol glir.

**Ms Williams:** I could accept that argument. I would not mind whether it sat with the Government or the council, as long as it was entirely clear, and everyone knew where responsibility lay, and who has the resources—human and financial—to carry out this work. I would not argue very strongly in favour of one or the other, as long as it is entirely clear.

[132] **Simon Thomas:** Ond nid yw'r ddarpariaeth ar hyn o bryd yn ddigonol.

**Simon Thomas:** But the provision at present is not adequate.

[133] **Ms Williams:** Na, dim o gwbl.

**Ms Williams:** No, not at all.

[134] **Mr Phillips:** In many ways, you have provided the reason why we have always felt that the council should just operate as a regulatory body. I believe that the provision of CPD should rest with the Welsh Government. That is where the funding should come from. It should come from the Welsh Government to go into local authorities and then to go out into schools for teachers to be able to access. What concerns me about the new body is that people are paying a registration fee to it. The old council was very clear that the fee was not used in any way to provide and deliver their professional development function. In fairness to it, it probably kept that fairly separate. My concern would be that, if there were problems over this and the ability to provide the professional development, there could be moves to use the fee to subsidise that. I do not think that that would be the right way forward. So, I think that we as a trade union would stick by the position—it is our national position—that, if you have a regulatory body, which we accept we should have, then that should be the sole function. You blur the boundaries, I think, if you give it two functions.

[135] **Mr Hathway:** Rydym yn gefnogol o'r syniad o'r ddau nod hyn. Fel y mae Rebecca wedi ei ddweud, mae angen mwy o *clarity* am sut y bydd yn gwneud hynny. Yn y Bil a ddaeth â'r GTCW mewn i fodolaeth yn wreiddiol, roedd y ddau nod yn glir ar wyneb y Bil, er bod y Llywodraeth efallai wedi canolbwyntio ar ofyn i'r GTCW wneud yr ail nod, sef *CPD* ac yn blaen. Yn y Bil hwn, er ei bod efallai yn *implied* bod y

**Mr Hathway:** We are supportive of the idea of having these two objectives. As Rebecca said, we need greater clarity as to how it is to be achieved. In the Bill that brought the GTCW into existence in the first place, the two objectives were clear on the face of the Bill, although I think that the Government has perhaps concentrated on asking the GTCW to do the second objective, namely CPD and so on. Within this Bill, although it

cyngor yn mynd i gael y ddau nod hyn, nid wyf yn credu ei fod yn dweud y ddau nod ar flaen y Bil. Felly, fel y mae Rebecca'n dweud, os nad yw'n dweud yn union, 'Dyma beth mae angen i chi wneud', nid oes llawer o hygreddd mai dyna beth y bydd yn ei wneud. Rwy'n credu bod angen bod lot yn fwy *specific* ynglŷn â beth yw amcanion y Llywodraeth ynglŷn â'r rhan hwn o rôl y cyngor newydd ac mae angen i'r proffesiwn efallai gael tipyn bach yn fwy o hyder mai dyna mae'r cyngor yn mynd i'w wneud, ac nid dim ond yr un rôl, achos os mae dim ond rheoli mae'n mynd i'w wneud, mae angen sicrhau bod rhyw gorff arall yn mynd i wneud y rhan arall o'r gwaith hwnnw, achos, ar hyn o bryd, fel rydym yn gwybod, nid yw'n cael ei wneud yn ddigon da ar draws Cymru.

[136] **Simon Thomas:** A derbyn am y foment mai dyma'r Bil ac mae'r ddau ben yno, rydych yn dweud bod un o'r pennau yn wan ac nad yw'n ddigon clir ar wyneb y Bil. Ymhellach, os caf ofyn, rwy'n gwybod mai cynrychioli athrawon yr ydych, ond, o gamu at y gweithlu ehangach hwn, sut mae modd gwneud yn siŵr bod datblygu proffesiynol ar draws y gweithlu hwnnw yn y cyngor newydd? Pa fath o bethau a fydd angen eu gwneud er mwyn gwireddu'r darlun hwnnw o safbwynt athrawon ond, o'ch profiad, y gweithlu ehangach hefyd? Ai rhywbeth ar y cyd y dylid ei wneud neu a ddylai fod ffrydiau ar wahân i'r categorïau gwahanol sy'n dod o dan y cyngor?

[137] **Mr Hathway:** Rwy'n credu bydd yn rhaid ei wneud ar wahân ar draws y categorïau achos bydd her wahanol gyda phob categori. Gan fynd yn ôl eto at bwynt a wnaeth Rebecca ynglŷn â'r adnoddau sydd ar gael, nid wyf yn credu bod yr adnoddau ar gael o gwbl ar gyfer yr hyn sydd ei angen ar gyfer athrawon yn y Bil hwn a phan ydych yn cymryd y categorïau eraill sy'n mynd i orfod cael pwyslais hefyd, nid oes digon o adnoddau o gwbl ar gyfer pob un. A mynd yn ôl at y cwestiwn, rwy'n credu bod angen edrych ar yr her wahanol sydd gan bob categori a sut mae'r cyngor yn mynd i strwythuro'r gwaith er mwyn gefnogi pob categori gwahanol.

[138] **Ms Williams:** Mae'n hollbwysig i

is perhaps implied that the council will have those two objectives, I do not think it states the two objectives on the face of the Bill. So, as Rebecca said, if it does not say specifically, 'This is what you have to do', there is no great credibility that that is what will happen. I think that we need to be far more specific as to the objectives of Government in terms of this part of the new council's role and the profession needs to perhaps have greater confidence that that is what the council is going to do, and not just the one role, because if it is just the regulatory side that it is going to do, we need to ensure that another body carries out the other aspect of the work, because, at the moment, as we know, it is not being done adequately across Wales.

**Simon Thomas:** Accepting for the moment that this is the Bill and that the two aims are there, you say that one of those aims is weak and that it is not sufficiently clear on the face of the Bill. Further to that, if I may ask, I know that you represent teachers, but looking at this wider workforce, how is it possible to ensure that professional development is available across that workforce in the new council? What sort of things will need to be done to realise that picture from the point of view of teachers but also, from your experience, the wider workforce? Should something be done jointly or should there be separate streams for the different categories that come under the council?

**Mr Hathway:** I think that it will have to be done separately across the categories, because each category will have different challenges. To return again to a point that Rebecca made in terms of resources, I do not think that the resources are remotely available in terms of what is required for teachers in this Bill, and when you take into account the other categories that will also need to be covered, there are certainly not enough resources available for all of those. To return to your question, I think that we need to look at the different challenges of each and every category and how the council will structure its work to support every different category.

**Ms Williams:** It is crucially important to

wneud yn siŵr bod y gweithlu cyfan yn cael datblygiad proffesiynol. Mae diffygion mawr wedi bod, yn enwedig o ran y gweithlu cymorth dysgu, hyd yma. O ran p'un ai ddylai'r rheini fod yn ffrydiau ar wahân neu gyda'i gilydd, bron y byddech yn dweud y byddai'n dibynnu ar yr achos unigol. Bydd enghreifftiau pan fydd hyfforddiant ar y cyd yn gallu gweithio yn dda iawn, efallai ar rai elfennau o lythrennedd a rhifedd, er enghraifft. Fodd bynnag, bydd adegau eraill pan fydd gofynion y gweithluoedd yn ddigon gwahanol i ofyn am hyfforddiant eithaf gwahanol. Felly, dylai fod yn gymysgedd o'r ddau ac ni fyddai, o reidrwydd, angen deddfu eu bod yn un ffrwd neu yn ffrydiau ar wahân.

make sure that the whole workforce receives CPD. There have been huge deficiencies, particularly in terms of the teaching support workforce, to date. As to whether those should be separate streams or included together, you would almost say that it would be down to the individual case. There will be examples when joint training could work exceptionally well, perhaps on some elements of literacy and numeracy, for example. However, there will be occasions when the requirements of the workforces will be sufficiently different to require quite different training. So, it should be a mixture of the two, and I do not think that legislation is needed necessarily to decide whether it should be one stream or separate streams.

[139] **Simon Thomas:** Na, mater ymarferol ydyw.

**Simon Thomas:** No, it is a practical issue.

[140] **Ms Williams:** Ie.

**Ms Williams:** Yes, indeed.

[141] **Keith Davies:** I ddilyn lan ar hyn, y ffordd rwy'n gweld pethau yw bod y corff newydd i ddelio ag unigolion. A ydych wedi darllen adroddiad Hill i'r Llywodraeth sydd wedi dod mas yn y misoedd diwethaf? Yr hyn mae Hill yn ei ddweud, yn glir iawn i mi, yw mai ysgolion yn gweithio gyda'i gilydd yw'r ffordd ymlaen er mwyn gwella pethau cyn belled ag y mae myfyrwyr yn y cwestiwn, felly nid ydym yn siarad am unigolion, rydym yn siarad am bobl yn gweithio gyda'i gilydd. Nid wyf yn gweld bod y corff yn mynd i gael y pŵer i wneud hynny. Bydd yn rhaid ei wneud ryw ffordd arall. Onid ydych yn cytuno â'r hyn mae Hill yn ei ddweud sef taw defnyddio'r ysgolion da yw'r ffordd i arwain yr ysgolion eraill?

**Keith Davies:** Following on from that, the way that I see things is that the new body will deal with individuals. Have you read the Hill report to the Government that came out in the past few months? What Hill says, quite clearly to me, is that schools working together is the way forward in order to improve things as far as students are concerned, so we are not talking about individuals, we are talking about people working together. I do not see the body having the power to do that. It will have to be done in some other way. Do you not agree with what Hill says, namely that using good schools is the way to lead the other schools?

[142] **Mr Phillips:** That was partly the point that I was going to make to you, because that is why I do not see that this new council can be the body to deliver professional development, and I think that you are absolutely right. Again, if we look at the professional development that was provided by the General Teaching Council for Wales, we can see that that was on the basis of individuals accessing things from the council. It was not the general professional development that used to be provided by the local authorities. I cannot remember the funding stream—you may remember what it was called, but I remember that there was a funding stream and that schools could apply for funding and access CPD in that way. That is where we have to go.

[143] Whether or not I agree with some of the things in the Hill report, the one thing that I would agree with is that the way forward for professional development would be through professional learning communities. I agree with you in that you could not give that power to a general education practitioners workforce council. I do not think that you could do it in that

way. I think that it would be a mistake to try to do that, because it comes down to the funding. How much funding will it be given to deliver on professional development? I agree that it would be professional development for all the categories across the workforce.

10:45

[144] The type of training that we need may be different for those various categories, but the direction of travel on this is to look at professionals learning from professionals, which would be quite acceptable with our members, and to do that in a way where they are learning from one another, rather than the direction of travel of sending people in to observe what they are doing and then tell them what they are doing wrong. I do not think that that is the right way forward; I agree wholeheartedly. That is why we need to separate the functions and why I think the regulatory function of the body is one thing; trying to give the whole of professional development to this body would be a fundamental error of judgment.

[145] **Ms Williams:** Mae adroddiad Hill yn taflu cysgod hir iawn dros y byd addysg ar hyn o bryd mewn unrhyw drafodion ac wrth wneud penderfyniadau. Mewn gwirionedd, nid oes ôl hynny ar y Bil, a hynny mae'n siŵr dim ond oherwydd amseru llunio'r Bil a'r ymgynghori a phopeth, sy'n ddigon naturiol. Fodd bynnag, mae'n codi cwestiwn pwysig yng nghyd-destun datblygiad proffesiynol a phwy sydd yn trefnu a beth yw rôl pob haenen yn y system—clystyrau o ysgolion, ffederasiynau, awdurdodau lleol, consortia rhanbarthol a chyngor y gweithlu. Mae'n dod yn berthnasol nes ymlaen yn y Bil hefyd, o ran addysg anghenion ychwanegol a phwy sy'n ysgwyddo cyfrifoldeb am y trefniadau hynny. Mae'n siŵr y byddwn ni'n trafod hynny nes ymlaen, ond mae'r un cwestiwn yn berthnasol yno hefyd.

**Ms Williams:** The Hill report casts a very long shadow over education at present in any discussions and decisions. That is not reflected in the Bill, probably because of the timing of drawing up the Bill and consultation and so on, which is quite natural. However, it raises an important question in the context of CPD and who arranges that and the role of each layer within the system—the clusters, the federations, the local authorities, the regional consortia and the workforce council. It also becomes relevant later in the Bill, in relation to additional learning needs and who takes responsibility for those arrangements. I am sure that we will come to that a little later, but the same question is relevant there also.

[146] **Mr Hathway:** I think that Hill is right in terms of sharing best practice, peer-to-peer support and school-to-school support, but my concern is that we would be almost left with a DIY approach to CPD, and that schools are just left to get on with it. There is potential for the education workforce council, if it was to take on a CPD and professional-development approach, to support that work and to quality assure the training that goes on et cetera. Even if it is the case that the future council is given the CPD and professional development objectives, I do not think that that should be seen as the be all and end all of its responsibility. Improving professionalism and standards has to be done across the piece in education, and, as in the Hill review, it is not a case of if schools work together that other organisations, such as the education workforce, cannot come in to support that work in addition to what is going on at a local level.

[147] **Simon Thomas:** Mae'n debyg y bydd datganiad ar y Bil wythnos nesaf, a bydd yr hyn sy'n digwydd yn fwy clir ar ôl hynny.

**Simon Thomas:** It is likely that there will be a statement next week, so we will be clearer about what is happening after that.

[148] Fodd bynnag, trof yn fyr at y nod arall er mwyn bod yn glir ynghylch y gweithdrefnau disgyblu yn y cyngor newydd.

However, I briefly turn to the other aim now in order to be clear about the disciplinary procedures of the new council. I know that

Rwy'n gwybod fod cwestiynau yn cael eu gofyn am yr hen gyngor, ond rwyf am ganolbwyntio ar yr hyn a fwriedir ar gyfer y cyngor newydd. Ydych chi'n fodlon yn fras â'r hyn sydd yn y Bil o ran paratoi ar gyfer hynny, neu a oes rhywbeth penodol y byddech chi am ei weld ar wyneb y Bil ynglŷn â'r gweithdrefnau disgyblu, megis y paneli neu beth bynnag arall sydd ynghlwm â'r gwaith?

[149] **Ms Williams:** Mae un cyfle mawr wedi ei gollu yn y Bil, ac efallai y bydd modd datrys hwn. Mae'n adlewyrchiad o ddiffyg eglurder yn y sefyllfa gyfredol, a chredaf fod y Bil yn cynnig cyfle i wneud popeth yn gliriach drwy'r system, nid i wneud newid mawr. Nid oes unrhyw beth yn y Bil sy'n sôn am brosesau disgyblu lleol. Rwy'n credu bod pobl yn gwybod mai dim ond yr achosion mwyaf difrifol y dylid eu cyfeirio at y cyngor. Mae'r achosion hynny'n cynnwys achosion lle mae'r athro, neu bwy bynnag, wedi ei gael yn euog o gamymddygiad neu anghymwyster difrifol, neu pan fydd yr athro wedi ymddiswyddo cyn bod y pwyllgor lleol yn dod i'r casgliad hwnnw. Dim ond yr achosion hynny ddylai fynd at y cyngor. Fodd bynnag, mae aneglurder, ac mae rhai ysgolion a hyd yn oed awdurdodau, neu rieni, ar ddiwedd proses leol dryloyw a chywir, pan nad ydynt yn hoffi'r canlyniad, yn cyfeirio'r mater at y cyngor ac efallai at y comisiynydd plant neu at y Gweinidog hefyd—hynny yw, at bob cyfeiriad. Ar hyn o bryd, mae'r cyngor addysgu yn dehongli'r rheolau—ac efallai mai'r rheolau sydd yn dweud hynny—fel bod rhaid iddo ymchwilio i unrhyw achos a gyfeirir ato.

[150] Mae hynny'n mynd â llawer iawn o amser ac adnoddau'r cyngor, ac mae'n bwrw amheuaeth ac ansicrwydd anferthol dros yrfa a bywyd yr athro hwnnw. Mae hynny'n gallu para am flynyddoedd. Nid wyf yn gor-ddweud. Unwaith mae'r broses leol wedi digwydd, ac unwaith i'r mater gael ei gyfeirio at y cyngor, ac erbyn i'r cyngor ei brosesu, mae'n gallu mynd yn amser hir iawn. Pe bai'r Bil yn gallu gwneud y sefyllfa yn gwbl glir ynghylch beth yw gwerth prosesau lleol, ac os ydynt wedi cael eu gwneud yn gywir, dyna ddylai fod diwedd y stori. Nid wyf yn gweld hynny yn y Bil o gwbl; byddai hynny'n gam aruthrol ymlaen.

questions are being asked about the old council, but I want to focus on what the aims are for the new council. Are you content with what is in the Bill to prepare for that, or do you think that something needs to be put on the face of the Bill regarding the disciplinary procedures, for example the panels or whatever else will be involved in that work?

**Ms Williams:** There is one lost opportunity in the Bill, and it may be possible to put this right. It reflects a lack of clarity in the current regime, and I think that the Bill provides an opportunity to provide that clarity across the system, not to make a huge change. There is nothing about local disciplinary procedures in the Bill. I think that people know that only the most serious cases should be referred to the council. Those cases include where the teacher, or whoever it may be, has been found guilty of serious misconduct or incompetence, or when the teacher has resigned before the local committee comes to that conclusion. However, there is a lack of clarity, and there are some schools and even some authorities or parents, who, at the end of the local process that has been conducted quite properly, when they do not like the outcome, refer the matter to the council and perhaps to the children's commissioner or to the Minister as well—that is, to everyone. At the moment, the teaching council interprets the rules, possibly correctly, so that it has to look into anything that is referred to it.

That takes up a lot of the council's time and resources, and it casts enormous doubt and uncertainty over that teacher's life and career. That can go on for a number of years. I am not exaggerating. Once the local process has taken place, and once the referral to the council has taken place and once the council has processed it, it can be a very long time. If the Bill could clarify the situation regarding the status of local processes, and if they have conducted done correctly, that should be the end of the story. I cannot see that in the Bill at all; that would be an enormous step forward.



[151] **Mr Hathway:** Fel rhan o'r ymgynghoriad, roedd trafodaethau ynglŷn â'r model *fitness to practise*, ac mae hynny'n rhywbeth rydym wedi ei gefnogi. Rwy'n credu ei fod yn gadael lle i edrych ar *mitigation* yn gyflymach yn y broses, ac i edrych ar ba newidiadau sydd wedi cael eu rhoi mewn lle ers i'r problemau gael eu codi yn y lle cyntaf. Nid wyf yn credu bod y system hwnnw wedi cael ei gynnwys yn y Bil, ond yn hytrach caiff ei gynnwys mewn rheoliadau. Byddwn yn hoffi ei weld yn rhan o'r Bil er mwyn sicrhau bod pobl yn glir ynghylch pa fath o fodel yn union sy'n mynd i gael ei roi yn ei le er mwyn gallu sicrhau bod hyder yn y broses cyn i'r cyngor newydd gael ei sefydlu.

**Mr Hathway:** As part of the consultation, there were discussions about the fitness-to-practise model, which is something that we support. I believe that it creates scope to look at mitigation earlier in the process, and to look at what changes have been put in place since the problems were initially raised. I do not believe that that system has been transposed to the Bill, but rather has been left to regulations. I would have liked to have seen it include in the Bill to ensure that people are clear about exactly which model will be introduced so that there is confidence in the process before the new council is established.

[152] **Mr Phillips:** There are two things in the Bill, and one is the approach that you can take with the council when there may not be a hearing. You can reach an agreement on what the penalty will be without the need for this to go to a public hearing. What I do not like is a lack of clarity on who will have the decision on that—whether that will be for the person who is brought before the council, or whether it will be for the council to decide. In some cases, I suppose that it will be quite clear-cut, but other cases will not be as clear-cut. It will depend as well on the way in which the new council operates in terms of what it is actually doing—is it looking at the teacher's conduct in their professional life, or is it looking at their conduct in their private life? I would hope that this new council will adopt a different approach to the other council, because there was too much policing of the private lives of teachers, and their cases were brought before the council. It is the same in the operation of the process.

[153] Following on from Rebecca's point, the local process of going through a disciplinary process at the employer level, the school level, should be confidential. Once that process goes to the general council, the confidentiality of that process is completely undermined. What has happened previously is that the whole case is rehearsed in public. I would like to see greater clarity around this idea of being able to come to an arrangement where you negate the need for what I consider to be the public hearing and the public humiliation. That is not to say that we would not say that the council should not carry out its function of acting in the public interest and publishing the outcomes of what has taken place. However, it is in going through the hearing that the process is undermined, as it undermined the credibility of the previous council.

[154] If this new council is to gain credibility and the respect of the teaching profession, as Owen mentioned, and of the wider education workforce, it needs to operate in that way. It needs to see itself as operating for the profession as well as in the public interest. However, the pendulum has swung, so that needs to be addressed somewhere in terms of the way that it is going to operate and the way that it will be perceived by those required to register.

[155] **Bethan Jenkins:** Mae hwn yn gwestiwn i UCAC. Darllenais yr hyn a ddywedoch am asiantaethau, ac mae llawer o drafodaeth wedi bod yn ddiweddar am asiantaethau. Mae'n fy mhoeni rhywfaint fod pob achos o ran asiantaethau yn mynd yn syth i'r corff hwn. Rydych yn tynnu sylw at

**Bethan Jenkins:** This is a question to UCAC. I read what you said about agencies, and there has been a lot of discussion recently about agencies. It worries me slightly that every case in relation to agencies goes straight to this body. You draw attention to that. I would like to know what you would

hynny. Hoffwn wybod beth fydddech yn ei newid o fewn y ddeddfwriaeth er mwyn ymdrin ag anghenion y sector hwn. Mae'r rheoleiddio yn y sector hwn yn wannach o lawer nag yn y sector cyhoeddus.

[156] **Ms Williams:** Mae perthynas yma gyda fy mhwynt blaenorol ynglŷn â chyfeirio at brosesau lleol a rhoi statws iddynt. Ar hyn o bryd, mae'n rhaid i gyflogwyr, boed yn ysgolion neu'n golegau addysg bellach, gynnal eu prosesau disgyblu. Mae canllawiau wedi eu cyhoeddi gan y Llywodraeth ynglŷn â hynny. Nid oes unrhyw reidrwydd cyfatebol ar gyfer asiantaethau. Maent yn cyflogi nifer cynyddol, brawychus o athrawon a staff cymorth dysgu yn y system addysg. Nid ydynt yn gorfod cynnal prosesau disgyblu. Mae hynny'n golygu, os ydynt yn derbyn cwyn am athro neu aelod o staff, gallant eu tynnu oddi ar eu llyfrau, peidio â chynnig gwaith pellach iddynt a chyfeirio'r peth yn syth at y cyngor. Nid yw hynny'n dda o safbwynt y cyngor, oherwydd rhaid iddo wedyn ddelio â mwy o achosion nag y byddai angen iddo wneud fel arall. Nid yw'n dda ar gyfer athrawon, gan nad ydynt yn cael y cyfle i glirio eu henwau ar lefel leol gyda'u cyflogwr. Nid oes cyfiawnder iddynt, dim ond pan fydd y mater yn cyrraedd lefel y cyngor, sy'n lefel gyhoeddus iawn.

[157] I ddod yn ôl at eich cwestiwn, byddai angen cyngor cyfreithiol ar hyn, ond petai modd gorfodi asiantaethau yn yr un ffordd ag ysgolion a cholegau i ddilyn prosesau disgyblu, gan ddilyn canllawiau Llywodraeth Cymru, ar y lefel leol, yna byddai hynny'n gam mawr ymlaen.

[158] **Bethan Jenkins:** Diolch. Edrychwn i mewn i hynny.

[159] **David Rees:** I agree with Bethan. There is a question as to who the employer is. If a school is the employer and is therefore prosecuting, it is slightly different to when an agency is the employer and the school is the provider of evidence in one sense. I think that we have to look at this very carefully.

[160] **Ms Williams:** Rhaid gwneud hynny, ond credaf ei fod yn glir mai'r asiantaeth yw'r cyflogwr.

[161] **David Rees:** I wanted to ask for clarity on your point that every case that is referred to the GTCW at the moment has to be looked at. If it cannot be agreed at a local level, are you

change within the legislation to cover the needs of this sector. The regulation within the sector is much weaker than it is in the public sector.

**Ms Williams:** There is a link here to the point that I made previously about referring to local processes and giving them status. At present, employers, whether they are schools or FE colleges, have to conduct disciplinary processes. There is guidance provided by the Government for this. There is no corresponding compulsion for agencies. They employ an increasing and frightening number of teachers and educational support staff in the education system. They do not have to carry out disciplinary processes. That means that, if they receive a complaint about a teacher or a member of staff, they can take them off their books, not offer them any further work, and refer the case straight to the council. That is not good for the council, because it then has to deal with more cases than it would otherwise have to deal with. It is not good for teachers, because they do not have the opportunity to clear their names at a local level with their employer. There is no justice for them, only when the matter reaches the level of the council, which is a very public level.

To return to your question, legal advice would need to be taken on this, but if it were possible for agencies to be obliged, as schools and colleges are obliged, to follow disciplinary procedures at a local level, in accordance with guidance from the Welsh Government, then that would be a huge step forward.

**Bethan Jenkins:** Thank you. We will look into that.

**Ms Williams:** Yes, that does need to be done, but I believe that it is clear that the agency is the employer.

then happy for it to be processed further on? This is the appeals process effectively, is it not?

[162] **Ms Williams:** Mae pob proses leol yn dod i ddatrysiaid o ryw fath. Mae'n dibynnu beth yw'r casgliad—anghymwyster neu gamymddygiad difrifol. Os mai dyna yw'r casgliad, wedyn rhaid i'r achos fynd at y cyngor; nid oes dadl ynglŷn â hynny. Hefyd, os oes cwestiwn ynglŷn ag a yw'r prosesau lleol wedi cael eu dilyn yn gywir, wedyn efallai fod angen i'r achos fynd at y cyngor. Ymhob achos arall, os yw'r athro neu'r aelod o staff wedi ei gael yn ddiueog o'r cyhuddiadau difrifol, ni ddylai'r achos fynd ymlaen. Yn y bôn, mae'r rhain yn achosion *vexatious* yn aml iawn.

**Ms Williams:** Every local process comes to a conclusion of some kind. It depends on what the conclusion is—incompetence or serious misconduct. If that is the conclusion, then the case has to be referred to the council; there is no doubt about that. In the same way, if there is a question about whether local processes have been followed correctly, then perhaps it needs to go to the council. In every other case, if the teacher or member of staff has been found not guilty of serious charges, then the case should not proceed. Essentially, these are very often vexatious cases.

[163] **David Rees:** My view is to appeal on behalf of the teacher, not on behalf of the school. If a teacher wished to appeal.

[164] **Ms Williams:** Oh, okay—

[165] **Mr Phillips:** I was just going to say that, in terms of the school disciplinary process, and the way in which the old council operated, or should have operated, the only cases that were referred to the council were those that were either cases of gross misconduct or those cases where, had the teacher not resigned their position before the case had concluded—I know that the disciplinary procedures argue that the disciplinary case should be concluded in any case, even if they resign—there was some doubt. Even if a case of misconduct had been taken to a governing body and the teacher had been given a first or a second warning or even a final warning, those cases should not have gone to the council. That is what we have to be careful of: it is only the most serious cases that should actually go to the council.

[166] The council does have a filtering system, and presumably that will transfer into the new council, so that cases can be filtered by council officials to decide whether or not they are passed to an investigating committee. At that stage, a case could be stopped or goes forward for a hearing. I think that the same procedure is going to apply within the new council, but what we would like to see is some kind of input into the filtering procedure at the beginning for cases such as those which Rebecca has spoken about with the agencies. However, the point about the agencies is that it is the regulation of the agencies that is all-important. They are the employer, and, as an employer, they should have those disciplinary functions. It is a different issue; it is not within this Bill, but it is something that needs to be addressed and addressed urgently because those people cannot work then; they are just taken off the books pending the outcome of a hearing.

11:00

[167] **Ann Jones:** We are going to have to make some progress, because we are less than a third of the way through the questions, so I ask for some briefer answers and some more pointed questions, please.

[168] **Aled Roberts:** Beth yw eich barn chi am y trefniadau ar gyfer ffioedd cofrestru?

**Aled Roberts:** What is your view on the arrangements for the registration fees?

[169] **Ms Williams:** Mae hwn yn mynd i fod yn beth anodd iawn i'w daclo, rwy'n

**Ms Williams:** This is going to be a difficult issue to tackle, I think, but what we have said

credu, ond yr hyn rydym wedi ei ddweud mewn egwyddor yw bod yn rhaid bod yn ofalus iawn nad yw unrhyw drefn ffioedd newydd yn achosi problemau ariannol i aelodau, yn enwedig gyda'r gweithlu staff cymorth dysgu, lle mae cyflogau isel iawn. Mae pobl efallai sy'n gwneud ychydig iawn o oriau, ac mae hynny'n wir am diwtoriaid hefyd, felly mae angen gofal mawr. Rydym yn gwerthfawrogi'r gwaith sydd wedi cael ei wneud ac sydd yn y memorandwm, ac, mewn egwyddor, rydym o blaid rhyw fath o *sliding scale*, hynny yw, nad yw'r ffi o reidrwydd yr un peth i bawb.

[170] **Aled Roberts:** Os caf ofyn i'r lleill ymateb, a fyddai'r *sliding scale* yn seiliedig ar gyflogau neu ar categorïau? A ydych yn derbyn y dylai athrawon dalu gwahanol lefelau o ffioedd o gymharu â'r staff eraill?

[171] **Mr Hathway:** Rydym wedi rhoi tystiolaeth i ddweud ein bod yn meddwl y dylid cael un *flat fee* ar gyfer y broses. Os ydych yn credu yn y *benefits* a *principles* o fod yn rhan o'r *registration*, dylid cael *flat fee* ar gyfer hynny.

[172] **Mr Phillips:** I think that that is the best way forward. I agree that there can be differentials for the different categories, but I think that the fee ought to be a flat fee. I do not think it should be based on salary, because that undermines the principle of the council. Registration will be a condition of your employment; you will not be able to practice as a teacher or as an education practitioner unless you are registered with this new body. As it is a condition of employment, we are very clear on the fee and the fee should be paid by the employer and the funding should be provided for the employer to pay that fee to the new council. If that does not happen—and I do not think that is going to happen—as far as the members and teachers that we represent, I think it would be a mistake to look to increase the registration fee for teachers at this particular time, because they would feel that they are being asked to subsidise the operation of this new body. So, I think that it would be a fundamental error of judgment to go down that particular route. However, the fee has always been a thorny issue for us. My view has always been that, if you want to judge how much this body is respected and valued, then make the fee voluntary. If people value it, then they will pay it; if they do not value it, then they will not pay it. If you do not have enough to run it, then it is a matter for the Government to decide whether it wants to continue with it or not.

[173] **Ms Williams:** Ar lefel gwbl ymarferol, mi fydd hi'n llawer rhwyddach i'w wneud yn ôl categori o staff oherwydd mae pobl yn dueddol o aros o fewn eu categori, ond gall cyflogau pobl newid o flwyddyn i flwyddyn; efallai eu bod nhw'n gweithio mwy o oriau mewn un blwyddyn a llai y flwyddyn wedyn a byddai'r ffi yn gorfod newid bob blwyddyn. Fodd bynnag, mater ymarferol yw hynny yn hytrach na

in principle is that care must be taken to ensure that any new fee system does not cause financial problems to members, particularly with the teaching assistant workforce, where there are very low wages. There are people who perhaps work very few hours, and that is also true of tutors, so great care needs to be taken. We appreciate the work that has been done and included in the memorandum, and, in principle, we are in favour of some sort of sliding scale, that is, that the fee should not necessarily be the same for everyone.

**Aled Roberts:** If I can ask the others to respond, would that sliding scale be based on pay or on categories? Do you accept that teachers should pay a different level of fees compared to other staff?

**Mr Hathway:** We have provided evidence saying that we think that there should be a flat fee for the process. If you believe in the benefits and principles of being included in that registration, then there should be a flat fee for that.

**Mr Williams:** On an entirely practical level, it would be far easier to do it according to staff category because people tend to remain within their categories, but people's salaries can change year on year; perhaps they will work more hours in one year and fewer the next, and then the fee would have to change annually. However, that is a practical issue rather than an issue of principle.

mater o egwyddor.

[174] Mae problem yn codi oherwydd bydd y rhan fwyaf a fydd yn cael eu hychwanegu i'r cyngor o ran ehangu'r gweithlu yn dod mewn ar ffioedd is na'r athrawon sydd yn y system yn barod, ac mae'r memorandwm esboniadol yn ei gwneud yn glir iawn mai'r bwriad yw bod y cyngor yn ariannol hunan-gynhaliol. Felly, os bydd cynnydd sy'n cyfateb â'r cynnydd yn niferoedd yr aelodau hefyd yn lefel y gwaith mae angen i'r cyngor ei wneud, ond bod lefel y ffioedd sy'n dod mewn yn llai, mae problem yn mynd i fod yn y fan honno yn rhywle. Efallai bod angen cwestiynu'r egwyddor ei fod yn hollol hunan-gynhaliol.

A problem arises because most of the people who would be added to the council in terms of the expansion of the workforce would come in on lower fees than the teachers who are within the system already, and the explanatory memorandum makes it very clear that the intention is that the council should be financially self-sufficient. So, if there is an increase corresponding to the increase in the number of members in terms of the work that the council has to do, but the level of fees coming in is reduced, then there is going to be a problem. Perhaps we need to question the principle that it should be entirely self-sufficient.

[175] **Aled Roberts:** O ran y trefniadau ar lawr gwlad ar hyn o bryd, mae Llywodraeth Cymru'n talu *subsidy* fel rhan o'r ffi. Wrth dderbyn nad oes gennych lawer o obaith o gael y cyflogwyr i dalu'r cwbl lot, ar hyn o bryd, faint o gyflogwyr sy'n talu'r gwahaniaeth rhwng *subsidy* y Llywodraeth a'r ffi? A yw'r rhan fwyaf o gynghorau'n talu?

**Aled Roberts:** In terms of the arrangements on the ground at present, the Welsh Government pays a subsidy as part of the fee. Accepting that you do not have much hope of getting employers to pay the whole amount, at present, how many employers pay the difference between the Government subsidy and the fee? Do the majority of councils pay?

[176] **Ms Williams:** Nac ydynt. Ar hyn o bryd, y *subsidy* yw £33, ac mae athrawon yn talu'r £12 sydd yn weddill. Nid wyf yn ymwybodol o unrhyw gyflogwr sy'n talu'r gwahaniaeth.

**Ms Williams:** No. At present, the subsidy is £33 and teachers pay the remaining £12. I am not aware of any employer that makes up the difference.

[177] **Ann Jones:** We will move on to the reform of the registration and approval of independent schools in respect of special educational needs. Keith and Suzy have the next questions.

[178] **Suzy Davies:** I can see from your relevant evidence that you are broadly happy with the proposals regarding the registration of independent schools as regards their SEN provision. However, the NASUWT raised an interesting point that the potential changes to how children are sent to the right school might mean moving away from a child-centred approach to a school-centred approach, in that the individual child is not the focus of the proposed legislation, but rather the capacity of schools to make certain provisions.

[179] I want to ask Rex in particular a question, which has nothing to do with process—actually, I could ask it of you all. Do you think that there is anything intrinsically better about the Welsh Government making a decision about an individual child than a local authority making that decision? I am talking about expertise and understanding about that child, rather than any processes.

[180] **Mr Phillips:** The reason why we raised the concerns that we did— I fudged the response that we put in to you, to pass it back to you, really. There is just this nagging doubt about the change in focus on it. I have always felt that the Welsh Government provided the safety net for the child and that there would be someone looking at this, not from the local

authority perspective, but from the perspective of the needs of the child, hopefully without having to look at the funding arrangements in terms of the child.

[181] I go back a long way, as some others of us around this room do as well, and I remember when there were changes to the statements and the level descriptors because the budgets in local authorities were burgeoning in terms of special educational needs provision. The way in which that was addressed was to look at the descriptors, and, from looking at those, it reduced the number of pupils that were statemented. Personally, I think that that was a mistake, but that is what happened; that was the reality of the situation that we found ourselves in.

[182] Passing this back and giving more of the control over this to local authorities removes the safety net of the Welsh Government, I think. I have looked at the two sets of regulations and, when I saw what was in the Bill, I was a little heartened by some of the things—I thought that some of the safety nets were put back in there. However, with regard to the part that has been repealed, which was the bit that allowed the Welsh Government to make the decision, I thought that there was just a nagging doubt over whether that was taking the focus away from where it should really be, which is on what the needs of the child are and how we cater for them, rather than on just saying, ‘Right, we will place this child in this particular school’. You have the monitoring arrangements with the inspectorate coming around to look at the school, but I did not know whether you would get the guarantee in that that the child would be in the right place. So, that was the nagging doubt of our union over it.

[183] **Suzy Davies:** I am glad that you raised it. Do you think that there is also an argument that the fact that the Welsh Government has taken responsibility for this in the past has let the local authority off the hook a little bit and it has just said, ‘We don’t need to worry about this, especially. Let the Welsh Government make the decision’. Now that the responsibility will be back with it, it will have to up its game a bit, will it not?

[184] **Mr Phillips:** I felt previously that the Welsh Government might have had responsibility for it, but we can only look at what happened within local authorities, and the point that I made previously, which is that education budgets were burgeoning, and there were a lot of out-of-county placements within education authorities. That is why it had to be looked at, because that was a major plank of the budget, and it was affecting other areas. I do not know how effective it was previously, and I think that you are right to say that. We raised these issues because we wanted to make sure that it focused on the child and that there was an assurance that the child got the provision to which they should be entitled. I know that I am fudging the answer again, but there is not much that I can say about that, because we are not the decision makers. What we felt was that it needs further scrutiny, and, as a committee—you are the Children and Young People Committee—I would think that you would want to assure yourselves that the needs of the child were being put first, and not the financial needs within local authorities or within the Welsh Government.

[185] **Mr Hathway:** You asked about whether the Welsh Government has the understanding and the expertise; as for an understanding of what the child needs, you would assume that local authorities would be there. However, in terms of expertise, you are probably looking at it on a ‘which local authority are you looking at?’ basis. The SEN budgets have been cut quite a lot across local authorities in Wales, and they have been delegating the budgets to schools as well, so I think you are right to say that, if the onus is now on local authorities, perhaps they will rein in that sort of practice and look more towards what sort of support they give. One concern that I would have, going back to the Robert Hill review, is that there is a big push towards federalisation in that, and, whereas you might have SEN support in a local school, if you are working across a federation chain, I am not sure whether that SEN support is going to be there for each and every one of those schools across that federation, especially if you are talking about large geographical areas in between the

different schools. So, I think we have to keep an eye on exactly how SEN specialisms are provided across those sort of areas at a local level, if that is the route we are going down, and, certainly, the Hill review suggests that that would be the case.

[186] **Suzy Davies:** We have had the School Standards and Organisation (Wales) Act 2013, which has partly dealt with some of your concerns there, hopefully, but, to finish on my last question, if the responsibility is now going to move to local authorities to make decisions on where children with special educational needs are going, do you foresee that there might be a risk of parents who are unhappy with that decision diving into legal action a bit earlier than perhaps they are doing at the moment? It is only an opinion.

[187] **Mr Phillips:** I think it is quite natural. Parents will want the best for their children and, if they feel that the provision that the local authority is offering is not good enough, naturally they are going to pursue that and take that to the tribunal that they can take it to. I am sure that that will happen, but I do not know whether that is that different from what happens now.

[188] **Suzy Davies:** I am not saying they would succeed, but do you think that there is likely to be an earlier trigger for parental anger, shall we say?

[189] **Mr Phillips:** I just think it depends on where the children are placed, and whether parents feel that that is the right provision. A lot of parents will want the best for their children with special educational needs, and, if that means that they have got to be placed in an independent school, and someone has to foot the bill for that, well, that is what they are going to want, and that is what they are going to take forward. It does come back, in a way, to the point that Owen made, because we are talking about the registration and approval of independent schools here, and it is local authorities that will place children in those schools, simply because they have not got the provision within the local authority to cater for those needs. It would be far better if they could cater for the needs within the local authority, but we saw the demise of the special schools right across Wales, and of specialist provision right across Wales. This is part of the reason why I was uneasy about this—simply because of casework that we have been involved in with the independent sector. It just worries me that, although there will be a place for a child, the scrutiny of that place may not be as rigorous as it was in the past.

[190] **Keith Davies:** Rwy'n gwybod, fel y dywedodd Rex, blynyddoedd yn ôl byddem yn anfon plant i ysgolion annibynnol gan fod y sefyllfa yno'n cwrdd â gofynion y plentyn, ac nad oedd hynny gennym mewn ysgolion yn yr awdurdod lleol. Fodd bynnag, i fi, mae cwestiwn yn codi fan hyn ynghylch y ffaith bod nifer o'r ysgolion annibynnol hynny yn Lloegr. Felly, pwy fydd yn rhoi caniatâd i'r ysgolion yn Lloegr? Ai Llywodraeth Cymru fydd yn penderfynu ar yr ysgolion? Nid wyf yn gwybod. A fydd Lloegr yn barod i ymateb i hynny? Nid wyf yn gwybod os ydych wedi meddwl am y mater hwnnw, ond nid ydym yn edrych ar y plentyn yn awr, ond ar yr ysgolion.

**Keith Davies:** I know that, as Rex said, years ago we would send children to independent schools because the situation there met the child's needs, and we did not have that in the local authority schools. However, for me, a question arises here about the fact that many of those independent schools are in England. Therefore, who will give consent for these schools in England? Will it be the Welsh Government that decides on the schools? I do not know. Will England be willing to respond to that? I do not know whether you have thought about that question, but we are not looking at the child now, but at the schools.

[191] **Mr Phillips:** Following on from my last point about casework that we have done, I have done casework in independent schools in England because our members were working there, although they lived in Wales. I am sure that the independent schools in England would

be more than willing to take the pupils in, because the amount of money they get per pupil is extremely high, as people will know. We are not talking about small change here. I do not see that there is a problem with that, but to answer your question about who will make that decision, my reading of this is that it will be the local authorities that will make the decision.

11:15

[192] **Aled Roberts:** Oherwydd i hyn godi yn yr ymgynghoriad, neu yn eich ymateb iddo, mae cwestiwn am sefydliadau yn Lloegr a fyddai'n gyfrifol am wasanaethau i blant o Gymru o ran y Bil gwasanaethau cymdeithasol. Yn y sefyllfa honno, mae trefniadau cyfatebol wedi cael eu gwneud yn Lloegr, o achos bod safonau yno'n dilyn trywydd gwahanol i'r rhai yng Nghymru. A ydych yn ymwybodol bod Llywodraeth Cymru wedi cael unrhyw fath o drafodaeth ynglŷn â'r pwynt y mae Keith wedi ei godi?

**Aled Roberts:** Given that this has come up in the consultation, or in your response to it, there is a question about institutions in England being responsible for children from Wales with regard to the social services Bill. Under those circumstances, corresponding arrangements have been made in England, because standards or procedures there may be diverging from those in Wales. Are you aware that the Welsh Government has had discussions on the point that Keith raised?

[193] Wrth ystyried yr hyn a ddywedwyd yn gynharach am adroddiad Hill, mae awgrym mai consortia neu drefniadau rhanbarthol ar gyfer addysg arbennig a weithredir. Sut y mae hynny'n sefyll, gyda strwythur gwasanaethau ymarferol ar lawr gwlad yn rhan o system ranbarthol ond gyda chyfrifoldeb deddfwriaethol yn dal i fod gan yr awdurdod lleol?

Bearing in mind what was said earlier about the Hill report, there is a suggestion that consortia or regional arrangements for special education will be put in place. How does that stack up, whereby the structure for practical services at the grass-roots level works on a regional basis but the legislative responsibility still sits with the local authority?

[194] **Mr Hathaway:** O ran y cwestiwn a wyf yn ymwybodol o drafodaethau ar ran Llywodraeth Cymru, nac ydwyf. Mae hwnnw'n gwestiwn mwy addas i Lywodraeth Cymru.

**Mr Hathaway:** With regard to the question of whether I am aware of any discussions on the part of the Welsh Government, no, I am not. That question is more appropriately put to the Welsh Government.

[195] Gwnaethoch bwynt da am yr hyn y mae Hill yn ei awgrymu. Yn y Bil, rydym yn trafod newid y ddarpariaeth fel y bydd llywodraeth leol yn cymryd cyfrifoldeb, ond nid ydym yn gwybod beth fydd tirlun llywodraeth leol yn y blynyddoedd i ddod. A fydd consortia rhanbarthol yn cymryd y rôl honno? Os ydynt, nid ydym yn gwybod yn union pa ddarpariaethau a welwn. Rydym yn clywed nad yw'r consortia'n gweithredu'n dda iawn o ran rhoi arbenigedd ar waith, ar gyfer dim fel mae'n digwydd. Felly, nid wyf yn siŵr faint o hyder a fydd gan y proffesiwn y bydd arbenigedd ar gyfer SEN mewn consortia rhanbarthol. Felly, mae lot o gwestiynau am beth fydd yn digwydd os bydd polisiau Hill yn cael eu gweithredu. A bod yn deg â Llywodraeth Cymru, fel y crybwyllwyd yn gynharach, mae'r Bil hwn

You made a good point about what Hill suggests. In the Bill, we are talking about changing the provision so that local authorities take responsibility, but we do not know what the local government landscape will be in the years to come. Will regional consortia take that role on? If they do, we do not really know what provisions are going to be made. We hear that the consortia are not working particularly well in terms of putting specialism in place, for any area actually. So, I am not sure how much confidence there will be among the profession that there will be SEN specialism in the regional consortia. So, there are many questions about what will happen if the Hill recommendations are implemented. To be fair to the Welsh Government, as was mentioned earlier, this Bill has—



wedi—

[196] **Aled Roberts:** Mae'r amserlen yn wahanol.

**Aled Roberts:** The timetable is different.

[197] **Mr Hathaway:** Mae'r amserlen yn wahanol ac, yn anffodus, mae adolygiad Hill wedi mynd ar draws nid yn unig y Bil hwn, ond llwyth o waith sy'n cael ei wneud ar hyn o bryd. Mae bron angen pwyso a mesur beth yn union yw'r goblygiadau os cawn ddatganiad am Hill—yr wythnos nesaf, rwy'n credu i Simon ddweud.

**Mr Hathaway:** The timetable is different and, unfortunately, the Hill review has cut across not just this Bill, but all sorts of other work being done at present. You almost need to factor in the implications if there is to be a statement on Hill—next week, I think Simon said.

[198] **Ms Williams:** Mewn ffordd, mae'n rhaid deddfu yn ôl y sefyllfa fel ag y mae yn awr, onid oes? Nid oes modd deddfu yn benagored rhag ofn bod newidiadau'n dod. Am wn i, mae'n rhaid delio â'r sefyllfa fel ag y mae yn awr, ac os bydd newidiadau, bydd rhaid newid y rheoliadau, efallai, yn nes ymlaen.

**Ms Williams:** In a way, you have to legislate according to the situation as it currently exists, do you not? You cannot draft open-ended legislation in anticipation of future changes. I suppose that you have to deal with the situation as it is now, and if there are changes, there may have to be changes to regulations at a later date.

[199] **Aled Roberts:** Hwyrach mai un o'r cryfderau o gael awdurdodau lleol yn cymryd cyfrifoldeb yn hytrach na Llywodraeth Cymru yw bod awdurdodau lleol o leiaf wedi ymwneud â phlentyn ar hyd y blynyddoedd cyn iddo gael lle mewn sefydliad annibynnol. Wrth gwrs, ni fyddai'r cryfder hwnnw yn bodoli pe baem yn symud tuag at drefniadau rhanbarthol o ran addysg arbennig.

**Aled Roberts:** A strength of having local authorities take responsibility rather than the Welsh Government, perhaps, is that at least local authorities will have been dealing with a pupil over the years before the child is placed in an independent institution. Of course, that strength would not exist if we were to move towards regional arrangements for special education.

[200] **Mr Hathaway:** Byddai'n dibynnu ar ba mor effeithiol y byddai'r rhanbarthau hynny'n eu gweithredu. Siŵr o fod, mae'r darlun ar lawr gwlad yn wahanol yn dibynnu ar y rhan o Gymru rydych ynddi. Nid oes a wnelo hyn â rheoliadau, ond â pherfformiadau'r consortia.

**Mr Hathaway:** It would depend on how effective those regions implemented them. The picture at grass-roots level would probably vary depending on where in Wales you are. This does not relate to the regulations, but to the performance of the consortia.

[201] **Ms Williams:** Mae dadleuon cryf dros wneud penderfyniadau o'r fath ar y lefel fwyaf lleol posibl sy'n addas, onid oes? Mae hynny oherwydd bod hynny'n agosach at y plentyn a bod gwell adnabyddiaeth o'r plentyn. Serch hynny, daw'r anhawster rhwng y penderfyniadau a'r ariannu. Mae achos plentyn unigol yn gallu bod yn eithriadol o ddrud, yn enwedig os caiff ei anfon i ysgol arbenigol iawn dros y ffin yn Lloegr. Sut y caiff y gyllideb ei dyrannu? Ai'r syniad yw ei bod yn cael ei dyrannu'n gytbwys ac yn hafal rhwng pob un o'r awdurdodau lleol? Gall anghenion ariannol

**Ms Williams:** There are strong arguments in favour of making these kinds of decisions at the most local level that is appropriate to the situation, are there not? This is because that would be closer to the child and there would be greater knowledge of the needs of the child. However, the difficulty comes between the decisions and funding. The case of individual children can be exceptionally expensive, particularly if they are sent to a highly specialised school over the border in England. How will that budget be allocated? Is it the intention that it will be allocated in a balanced and equal way between each and

fod yn wahanol iawn rhwng y naill achos a'r llall, a gall amrywio'n fawr iawn o flwyddyn i flwyddyn.

every local authority? The financial requirements could be very different from one authority to the next, and they could diverge greatly from one year to the next.

[202] **Ann Jones:** We are desperately out of time, but we have two big sections that we have to cover, because we will need to have your views on the legislation.

[203] **Lynne Neagle:** My questions have been covered. In relation to the section on independent schools, there are the same issues around resources and capacity.

[204] **Ann Jones:** That is helpful; thank you. Bethan, you have questions on school term times.

[205] **Bethan Jenkins:** O ran cysoni tymhorau ysgol, gwelaf o'ch tystiolaeth eich bod o blaid hynny, ond rwy'n gwybod bod yr NASUWT wedi mynd yn bellach ynglŷn â rhoi sicrwydd o ran y strwythurau sy'n bodoli ar hyn o bryd. Beth yw eich barn chi yn gyffredinol, yn enwedig o ran gallu'r Gweinidog i ddiystyru unrhyw benderfyniadau lleol a hefyd o ran digwyddiadau crefyddol penodedig i rai ysgolion Catholig, er enghraifft, neu ysgolion crefyddol eraill o ran hynny?

**Bethan Jenkins:** With regard to standardising school terms, I see from your evidence that you are in favour of that, but I know that the NASUWT has gone further in relation to giving certainty with regard to the structures that exist at present. What is your opinion in general, especially on the Minister's ability to discount any local decisions and also in relation to specific religious events for some Catholic schools, for example, or other religious schools in that regard?

[206] **Mr Phillips:** You are right that we have gone further, because we wanted to set our stall out very clearly on school term dates. I will not rehearse what we put in to the evidence, because it is crystal clear. In terms of the powers of the Minister to alter term dates, the power is one thing, but it is about the way in which the power is exercised and the reasons for the exercise of the power that need to be looked at very carefully if you are going to leave that provision in. We had argued for a very long time and worked tirelessly year on year to try to harmonise school dates across Wales. Our local representatives had done that and they had done it in conjunction with local authorities. We have been fairly successful. There are anomalies, as you have rightly said in that certainly the Catholic schools want to work on the week leading up to Easter—Maundy Thursday and so on; that is an issue, but I do not think that it is an insurmountable issue in terms of harmonising the dates.

[207] I am wary about the power of the Minister. I can see that there could be valid reasons for that to happen, but they would have to be valid reasons. We were discussing this earlier and we thought that the examples that were given about the Ryder Cup were not the cleverest of examples to give. I am also not altogether sure about the volume of mail that has come in from parents on this, but you may know more about this as you may have had mail in your mailbags saying that they want standardisation. However, it is something that our members have asked for for a very long time, so we are not going to oppose it. However, if you have the power to vary it, it is about whether you do certain things. The points that we put in our evidence ask that, if it is going to be varied, do not think about moving away from the current patterns that we have in terms of term dates, having three terms and the half-terms and so on, because that will go down badly with us as a trade union.

[208] **Ms Williams:** Rydych yn iawn i ddweud ein bod yn cytuno'n gyffredinol. Mae'r memorandwm esboniadol yn rhoi pwyslais ar ddadleuon o safbwynt personol

**Ms Williams:** You are right to say that, in general, we agree with this. The explanatory memorandum places an emphasis on personal arguments put forward by parents and

rhieni ac athrawon. Fodd bynnag, credaf ei bod yn bwysig iawn i ddweud hefyd bod rhesymau addysgol dilys iawn dros gysoni'r dyddiadau, gyda mwy o gydweithio rhwng ysgolion a rhwng ysgolion a cholegau, gyda'r llwybrau dysgu 14-19—yn enwedig, efallai, yn y sector cyfrwng Cymraeg, lle maent yn fwy tueddol o fod yn drawsffiniol oherwydd bod mwy o bellter rhwng y partneriaid posibl agosaf. Rydym yn gwybod am enghraifft lle, oherwydd anghysondeb yn nyddiadau'r tymhorau, collwyd tair wythnos o wersi ar y cyd. Mae hynny'n sylweddol iawn yng nghyd-destun blwyddyn ysgol a'r nifer o wersi. Felly, rydym yn bendant o blaid.

[209] O ran pwerau'r Gweinidog, rydym yn teimlo'n weddol dawel ein meddyliau bod cydbwysedd teg o ran y cyfle i gamu i mewn, ond bod amddiffynfeydd, gan gynnwys y rheidrwydd i ymgynghori ar unrhyw newidiadau gan y Gweinidog. Felly, nid ydym yn poeni'n ormodol am hynny.

[210] **Mr Hathway:** Unwaith eto, rydym yn cytuno gyda'r hyn sy'n cael ei gynnig yma. Fel y dywedodd Rex, mae rhai achosion o ran ysgolion Catholig sydd angen cael eu hystyried yn fanwl ond, fel dywedodd Rex hefyd, nid ydynt yn broblemau nad yw'n bosibl eu datrys.

[211] Ynglŷn â phwerau'r Gweinidog, os cofiaf yn iawn, credaf ein bod ni wedi eu gwrthwynebu fel rhan o'r ymgynghoriad, ond credaf fy mod yn cytuno gyda Rebecca; nid wyf yn credu bod unrhyw bryder enfawr ynglŷn â hyn. Gallaf weld y *rationale* y tu ôl i'r hyn y mae'r Gweinidog am ei wneud gyda hynny, ond bydd yn rhaid cadw yng nghefn ein meddwl bod hwn yn bŵer sy'n cael ei roi i'r Gweinidog ond na ddylai wir gael ei ddefnyddio, oni bai bod *breakdown* ar lefel leol. Nid wyf yn credu y dylai hynny godi yn aml iawn.

[212] **Bethan Jenkins:** Diolch am yr ymateb hwnnw. Mae'r rhan fwyaf o athrawon sydd wedi cysylltu â mi o blaid harmonieiddio, ond mae rhai rhieni sydd wedi cysylltu â mi yn sôn am y gost o ran gwyliau. Er enghraifft, yn Abertawe maent wedi stopio pobl rhag cymryd unrhyw fath o wyliau y tu allan i dymor yr ysgol. Rwy'n gwybod eich

teachers. However, I believe that it is important also to say that there are valid educational reasons for standardising the dates, with more collaboration between schools, and between schools and colleges, with the 14-19 learning pathways—particularly perhaps in the Welsh-medium sector, where they are more likely to cross borders because there are greater distances between the nearest possible partners. We know of an example where, because of inconsistencies in the term dates, three weeks of joint lessons were lost. That is significant in the context of a school year and the number of lessons. Therefore, we are definitely in favour.

With regard to the Minister's powers, we are quite sanguine that there is a fair balance here in terms of the power to step in, as long as there are safeguards, including the requirement to consult on any changes by the Minister. So, we are not too concerned about that.

**Mr Hathway:** Once again, we agree with what has been set out here. As Rex said, there are some cases involving Catholic schools that need to be looked at in detail, but as Rex also said, they are not insurmountable problems.

With regard to the Minister's powers, if memory serves me, I believe that we opposed that as part of the consultation, but I think that I agree with Rebecca; I do not believe that there is any huge concern about that. I can see the rationale behind what the Minister is proposing in that regard, but we will have to keep it in the back of our minds that this is a power provided to the Minister but that it should not really be used unless there is a breakdown at a local level. I do not believe that that will arise too often.

**Bethan Jenkins:** Thank you for that response. Most teachers who have contacted me are in favour of harmonisation, but some parents who have contacted me have mentioned the costs when it comes to holidays. For example, in Swansea they have stopped people from taking any holidays outside of school term. I know that you are

bod yn undebau llafur i athrawon, ond a ydych wedi derbyn unrhyw beth tebyg gan rieni sydd â chonsyrn am hyn?

trade unions for teachers, but have you received similar representations from parents with concerns about that?

[213] **Mr Hathway:** Mae'n rhaid cofio hefyd bod athrawon yn rhieni eu hunain, felly rydym wedi clywed y math hwn o beth. Mae'n gweithio'r ddwy ffordd, achos bydd rhai rhieni sydd â phlant mewn dwy ysgol. Os nad yw'r dyddiadau wedi cael eu harmonieiddio, maent yn mynd i orfod edrych ar ofal plant am bythefnos yn lle wythnos, ac yn y blaen. Felly, mae'n gweithio'r ddwy ffordd, ac, o edrych arno yn ei gyfanrwydd, mae'n gweithio i lawer o bobl, ond yn anffodus bydd yn negyddol i rai.

**Mr Hathway:** You must also bear in mind that teachers are also parents, so we have heard these issues being raised. It works both ways, because there will be parents who have children in two different schools. If those dates are not harmonised, they will have to look at childcare for a fortnight rather than a week and so on. So, it works both ways, and in looking at the whole picture, it works out better for the majority, although unfortunately there will be a negative impact on some.

[214] **Ms Williams:** Rwy'n credu bod angen inni edrych o safbwynt addysgol fel undebau athrawon, yn y lle cyntaf. Fodd bynnag, wrth edrych ar gostau gwyliau, tueddiad y cwmnïau gwyliau yw rhoi costau uchel ar draws pob wythnos bosibl pan mae gwyliau ysgol. Eithriadol iawn yw'r cyfleoedd hynny pan mae un awdurdod yn wahanol i bob un arall ac mae'r costau yn is; mae'n hollol fympwyol. Felly, nid wyf yn credu ei fod yn ddefnyddiol iawn i rieni ar hyn o bryd. Efallai fod honno'n broblem i'w thaclo ar wahân gyda'r cwmnïau gwyliau.

**Ms Williams:** I think that we need to look at this from an educational point of view as teachers unions, in the first place. However, in looking at the issue of holiday costs, the tendency of holiday companies is to increase prices across every possible week of school holidays. There are very few examples of an authority being entirely different to the others where the costs are lower; it is completely arbitrary. So, I do not think that it is particularly useful for parents at present. Perhaps that is a problem to be tackled separately with the holiday companies.

[215] **Bethan Jenkins:** I am sorry, I thought that—[*Inaudible.*]

[216] **Ann Jones:** No, it is fine. Given that we are so desperately out of time, another couple of minutes will not make any difference. Rebecca, you have a supplementary on this point.

[217] **Rebecca Evans:** Yes, it is just a small question. Rex and Owen, you referred to the issues around church schools, saying that the problems were not insurmountable. However, the Bill is fairly inflexible, so how would you imagine that those problems would be overcome? Do you think that the Bill might need amending?

[218] **Mr Phillips:** The easiest way to overcome the problem is to make that week before Easter part of the holiday. That is the simple way of doing it so that everybody has the week before Easter and the week after Easter off.

[219] **Rebecca Evans:** The church schools want to break up on the Thursday before Easter so that they can mark holy week in school.

[220] **Ms Williams:** Bydd cyfle gan yr ysgolion hynny. Bydd rheidrwydd ar awdurdodau lleol i drafod gyda phob ysgol yn eu hardaloedd cyn dod i benderfyniad, a chyda'r awdurdodau cyffiniol. Dyna lle mae grym yr ysgolion ffydd i roi eu dadl hwy ger

**Ms Williams:** Those schools will have an opportunity. There will be a requirement on local authorities to discuss with every school in their area in reaching a decision, and with neighbouring authorities. That is where the power of the faith schools lies in presenting

bron i gael yr wythnos honno yn yr ysgol a their argument to have that week in school  
 thorri lan ar y dydd Iau. Mae cyfle ganddynt i and to break on the Thursday. They have an  
 ddylanwadu ar y broses ar lefel leol. Os nad opportunity to influence the process at a local  
 ydynt yn cael llwyddiant yn y fan honno, level. If they do not succeed at that level,  
 gallant fynd at y Gweinidog a gofyn iddo ef they can ask the Minister to intervene.  
 gamu i mewn.

[221] **Mr Hathway:** The onus in the Bill is that these decisions are come to through  
 consensus at the local level. I do not think that it is beyond the imagination that Catholic  
 schools, in conjunction with other schools in the local authority, can come to an agreement  
 that suits everyone.

[222] **Rebecca Evans:** We take a different view on the size of the issue, I think.

[223] **Ann Jones:** Thank you. As you know, you will get a copy of the transcript to check  
 for accuracy. Thank you all for coming in and sharing your views with us today. I know that  
 we are desperately out of time, but we will have a five minute break.

*Gohiriwyd y cyfarfod rhwng 11:29 ac 11:35*  
*The meeting adjourned between 11:29 and 11:35*

[224] **Ann Jones:** After that short break, if you have switched on your telephone, could you  
 please switch it off because it affects the translation and broadcasting equipment? I am not  
 looking at anyone in particular when I say that.

11:36

**Y Bil Addysg (Cymru): Cyfnod 1—Sesiwn Dystiolaeth gyda Chymdeithas  
 Llywodraeth Leol Cymru  
 Education (Wales) Bill: Stage 1—Evidence Session with the Welsh Local  
 Government Association**

[225] **Ann Jones:** We will now move to our final session. I am sorry that we are running a  
 little bit behind time. This session is with the Welsh Local Government Association, with Dr  
 Chris Llewelyn, the director of lifelong learning, and Daisy Seabourne, the lifelong learning  
 policy manager. Thank you both for coming. As we are short of time we will go straight into  
 questions. If Members have comments, perhaps we could look at those comments in the  
 private session or add them in. So, could we just ask questions? I also ask the WLGA to give  
 us some good, concise answers, so that we can see how far we get in this session. Rebecca,  
 you are first.

[226] **Rebecca Evans:** You are probably supportive of the aim of the legislation to  
 recognise the contribution of the wider educational workforce, but do you think that the  
 Government has decided on the right categories of workers to be included in the Bill, and are  
 there other groups that should be included?

[227] **Dr Llewelyn:** We agree with the thrust of the Bill. It is quite a wide-ranging Bill. In  
 terms of the arms of the workforce that are included, it is one of those issues that are  
 inevitably contestable. Traditionally, within local government, there has been the tendency to  
 separate the local government workforce from education—from teachers—but I think that  
 those distinctions are increasingly blurred. We understand the rationale and the thinking  
 behind the Bill and why those staff who are included are there, and it does make sense. As I  
 say, I think that exactly who is included is contestable. So, broadly, we are content.

[228] **Rebecca Evans:** Do you have a view on including youth workers in due course?

[229] **Ms Seabourne:** I think that, again, that is entirely appropriate. Youth work at the minute is moving more towards supporting education and supporting school improvement. Actually, youth workers as a sector have been calling, for some time, to be registered in a similar sort of way to teachers, and recognised as a profession in their own right. So, yes, I think that it is entirely appropriate.

[230] **Rebecca Evans:** You have said in your evidence that the expansion of the current remit of the General Teaching Council for Wales would be extensive in terms of skills. Could you expand on what you mean by that?

[231] **Ms Seabourne:** Again, with areas such as youth work in particular, it is a particular skill set, in terms of doing things like codes of practice and standards. It is different from what you do with teachers, and the things that youth workers and other sectors will do are different to teachers. I suppose that the concern, certainly from the youth sector, is that the skills within the expanded GTCW fit with what youth workers do, and the ethos around youth work, rather than trying to transplant the thinking of the ethos of the teaching profession onto a different profession. So, it is about having a different range of skills within the council.

[232] **Rebecca Evans:** Would there be a financial knock-on from that?

[233] **Ms Seabourne:** For the council?

[234] **Rebecca Evans:** Yes.

[235] **Ms Seabourne:** Yes, I would have thought so. It will need people who have the experience and the relevant knowledge about how youth work, in particular, works, I would suggest.

[236] **Rebecca Evans:** So, you are not convinced by the arguments from the Government that this will not be an expensive piece of work.

[237] **Dr Llewelyn:** The overarching principle clearly makes sense, and I think that an attempt to bring coherence is clearly valuable. The difficulty is anticipating how much value is added. In the current funding climate, when there is such a squeeze on public funding, I think that everybody wants to avoid duplication and to make sure that we use resources as effectively as possible. As Daisy mentioned, there are some concerns about the capacity and the skill sets that are there currently, but within the wider context, it may be that they are relatively small concerns and that the capacity either is there or can be created by using resources more effectively or more creatively.

[238] **David Rees:** Following on from that, on the cost-benefit analysis question, you argue in your paper that there is not sufficient funding there. Is it going to be proper value for money now, as it currently stands, when it may be enhanced with the additional involvement of youth workers and work-based learners? What do you see are the aspects, when expanded, of the FE side of things, because clearly there is an element there as well, as well as the special needs education side of things?

[239] **Ms Seabourne:** Again, the concern about the cost-benefit analysis specifically is that it was not entirely clear which aspects of the work of the extended council would be covered by things like the registration fee. So, for us, what we would quite like to see is a little bit more work around how the funding is going to work exactly and which bits of the roles of the council will be funded from different pots and how. The cost-benefit analysis sort of indicates that a lot of the work will be covered by the registration fee and there are some issues, which

we have outlined in our response, about how that will be managed. It was not entirely clear which aspects of the work would be covered by those registration fees. Again, it is whether or not the expanded council has the capacity and capability to cover some of those more specialist aspects that you have mentioned. There probably needs to be a little more clarity around that. It is always difficult to tell how something is going to work before it is actually working and up and running. For me, there was perhaps not enough detail in that analysis as to how the funding was going to be linked to the different roles of the council.

[240] **Aled Roberts:** O ran cysondeb a'r gwahanol deitlau i'r swyddi sy'n cael eu cynnwys o fewn y Bil ar hyn o bryd, mae Unison wedi dweud yn ei dystiolaeth bod problem ynglŷn â faint o swyddi a swydd-ddisgrifiadau sydd ar gael o fewn llywodraeth leol, a bod rhaid cysoni hynny cyn symud ymlaen. Mae'n sôn yn ei dystiolaeth am weithredu graddfeydd y Cyd-gyngor Cenedlaethol ar gyfer Gwasanaethau Llywodraeth Leol o ran swyddi cymorth dysgu yn benodol. Beth yw'r sefyllfa o ran hynny o fewn llywodraeth leol ar hyn o bryd? Oes symud tuag at y cysondeb hwn? Roedd Unison yn sôn llawer iawn am statws sengl ac yn awgrymu y dylai'r swydd-ddisgrifiadau yma fod yr un peth ar draws Cymru. Pa fath o effaith fyddai hynny yn cael ar y ffaith bod yr holl gyfundebau statws sengl hyn wedi cael eu gweithredu ar lefel cynghorau sir?

**Aled Roberts:** In terms of consistency and the various titles of the jobs that have been included within the Bill at present, Unison stated in its evidence that there is a problem in terms of the number of posts and job descriptions that are available within local government, and that that needs to be made consistent before progressing. It mentions in its evidence implementing the National Joint Council for Local Government Services scales in terms of teaching assistant posts specifically. What is the situation on that within local government at present? Is there a move towards that consistent approach? Unison spoke a great deal about single status and suggested that these job descriptions should be uniform across Wales. What sort of impact would that have on the fact that all of these single status contracts have been implemented at a local council level?

[241] **Ms Seabourne:** Specifically around the teaching assistants, what we have seen is that the Welsh Government set out some standards and guidelines when things like the foundation phase first came in and a greater number of teaching assistants were brought into classrooms. What local authorities and schools have tried to do is to fit job descriptions to what they need locally, so there has been some variation in job descriptions, specifically around teaching assistants and learning assistants in school. Obviously, some sort of standardisation is a good thing in one way, but also you want to be able to vary what some of those teaching and learning assistants do for the needs of that school. Again, we have said initially about the council that we do see the benefit for having a coherent approach to workforce development, specifically around education, but I still think there needs to be some room for variability as to what different schools and local authorities need.

[242] One of the potential impacts of standardising that could be an increase in costs for local authorities. Some of the suggestions have been around what different qualifications are needed for different standards for teaching and learning assistants, and, I think rightly, the Welsh Government made comment on that in the initial guidance. I cannot remember the exact detail.

11:45

[243] However, again, you do not want to set the bar too high; you do not want to put people off who would actually be quite good at doing that role, or perhaps parents who are involved with the school anyway—you see quite a lot of those moving in to becoming teaching and learning assistants and helping within the classrooms. You do not want to put people off doing that. It needs to be balanced against having standardisation. All schools should expect a certain standard of people working within the classroom, and there is

definitely a benefit to that, but it is just how you handle that and how local authorities manage the cost within their own local areas.

[244] **Ann Jones:** Moving on to the practical arrangements, I call Simon and then Aled.

[245] **Simon Thomas:** Fe wnaif ofyn yn Gymraeg hefyd. O edrych ar y Bil fel y mae, mae'n rhoi dwy ddyletswydd ar y cyngor newydd: un yw'r cod ymarfer ac ymddygiad a'r ail yw cefnogi datblygiad proffesiynol. Rwyf eisiau cadarnhau bod y gymdeithas yn hapus ac yn gysurus gyda'r ddau ddiben newydd hwn—wel, nid dibenion newydd, ond y ffaith bod y ddau ddiben gyda'r cyngor newydd—a bod hynny'n ymarferol ar gyfer y gweithlu ehangach y bydd y cyngor yn gyfrifol amdano.

**Simon Thomas:** I will also ask my question in Welsh. Looking at the Bill as it is, it gives two duties to the new council: one is the code of practice and conduct, and the second is to support professional development. I want to confirm that your association is happy and comfortable with those two new aims—well, they are not new aims, but the fact that the council will have these two aims—and that that is practical for the wider workforce for which the council will be responsible.

[246] **Ms Seabourne:** We have said that we see a benefit to having coherence across the education workforce. That is definitely a good thing. One of the concerns that we raised in our written evidence was duplication. We all know that the public sector is facing difficult financial times and what we do not want to see is a new organisation being expanded and set up that duplicates work that is already ongoing. If the council does come into being, that would have to be handled quite carefully. We have seen with the GTCW that there is sometimes duplication with the training budget that it provides for teachers that duplicates some of the training that goes on within a local authority level. We would not want to see the same thing happening with other providers. If it did move on to register and work with the youth sector, then that sector already has training and standards that it works to. That sector would benefit from being more professionalised through registration, but we would have to look in detail at what it would mean in practice and what the council would provide to make sure that there is no duplication, because that would be a waste of money and we do not want to see that happen.

[247] **Simon Thomas:** Are there any examples elsewhere in the public sector where it is easy to separate local delivery of professional training and have some kind of standards body over that? Is that something that could be easily applied in this case as well?

[248] **Dr Llewelyn:** It is something that we would have to look at. We have expressed some concern in the past about some of the training work that the GTCW has done. It is not just about the cost element of avoiding duplication. The other thing that we want to see is a closer alignment between the work that all partners within education do and national strategies. In the past, it has been a weakness within the system that we have had different bodies not aligning the work that they do with what is happening nationally. At the moment, within the consortia, we are looking at a national approach to system leader training whereby we have some assurance that system leaders are trained in a consistent way and that there is consistency at an all-Wales level, while at the same time recognising the need for some sort of contextual variability depending on the local circumstances. The same thing prevails here. It is something that we need to be mindful of, but I do not think that it is insurmountable.

[249] **Simon Thomas:** I droi at yr ail ran, sef y cod ymarfer a disgyblu a chamau felly, bydd y gweithlu newydd hwn yn amrywiol iawn. Ydych yn hyderus bod modd delio â hynny o fewn un cyngor? A oes gennych unrhyw enghreifftiau neu sylwadau ynglŷn

**Simon Thomas:** Turning to the second part, that is, the code of conduct, disciplinary action and such steps, the new workforce will be quite varied. Are you confident that that can be dealt with within one council? Do you have any examples or comments about the



â'r ffordd y gellir gwneud hynny?

way in which that can be done?

[250] **Ms Seabourne:** We were involved in a piece of work some time ago—I think that it was in 2006-07—with Welsh Government. It was led by the care council. For all the right reasons, we tried to develop a code of conduct and a set of core competencies—it was then called the children's workforce because we were working in that way then, rather than specifically on education—but we encountered a lot of difficulties in finding something that was generic enough to cover all the different sectors, but that did all the things that we wanted it to do. That was extremely difficult. A piece of work was produced, but, as far as I am aware, it was never implemented formally because of the difficulties with that. That is something that we would want to work with the council on should it attempt to do this.

[251] A way around that is having separate codes of conduct, or separate—. You could easily come up with a code of conduct around acting professionally within the workplace and safeguarding—all those kinds of things—which you could cover, but you would need to come down to some more specific areas when you look at these diverse groups. It mentions the FE sector and what it does is different to what teachers and what workplace learning providers do, and it needs to be sophisticated enough to acknowledge those differences while acknowledging that you all work within the education sector and the aims are broadly the same. So, as Chris said, it is not an insurmountable problem, but it certainly would be a challenge to make sure that that worked well. A lot of work went into the care council project in 2006-07 and it never really gained any traction, so we would have to be careful to avoid doing that again.

[252] **Simon Thomas:** On a practical level, the practical steps set out in the Bill are that the Minister produces the code of conduct first and then gives it over, to a certain extent, to the council. Is that going to be a practical way of doing it, or should the workforce be much more involved at an earlier stage in putting together its codes of conduct?

[253] **Dr Llewelyn:** You can do it either way, and the reality is that whichever way you do it, there is a substantive discussion that needs to take place. I think that it is problematic, but we do not have any undue concerns with the way that it is proposed, or set out.

[254] **Aled Roberts:** Hoffwn edrych i mewn i'r ffioedd cofrestru. Mae'ch tystiolaeth chi'n dweud eich bod chi'n meddwl bod sail i gredu bod y cyngor newydd yn mynd i hunan-ariannu. Eto, rydych chi'n dweud bod gennych rai pryderon ynghylch pa mor glir yw'r gwaith sydd wedi cael ei wneud o ran y delweddau craidd, neu'r gwaith craidd, o ran y cyngor. Rydych chi'n sôn am y ffaith nad yw'r costau'n ddigon ar gyfer y gwaith disgyblu ac nad oes digon o eglurdeb ynglŷn â safonau proffesiynol a hyfforddiant. Os nad yw'r costau'n glir, sut mae'r modelu o ran y ffioedd yn gywir, os yw'r corff yn hunan-ariannu?

**Aled Roberts:** I want to look at registration fees. Your evidence states that you think that there is room to believe that the new council will be self-funding. However, you say that you have some concerns about how clear the work is that is being done on the core elements in terms of the council. You mentioned the fact that the costs, perhaps, will not cover the disciplinary aspects and that there is not adequate clarity on professional standards and training. If the costs are not clear, how can the modelling in terms of the fees be correct, if the body is self-funding?

[255] **Ms Seabourne:** Again, I refer to the answer that I gave earlier; the concern that we have is that the cost-benefit analysis in the explanatory memorandum is not clear and we need to have a further discussion with the Welsh Government about this. It indicates to me, in my reading of it, that the registration side would be covered—the administrative stuff that goes with that—by the additional registration fee. However, it was not clear whether or not that

would include what we have been talking about around training. So, I think that we would need clarity as to whether or not there would need to be additional funding into the body from central Government in order to cover that, again, working with other sectors to make sure that we are not duplicating. It states in the explanatory memorandum that it would not cover any additional costs around casework and tribunals, so, obviously, that would be an additional funding on top of that. It also says that the registration fees would not cover the setting up of the body in the first place, so there are clearly going to be additional costs that would be above and beyond just the registration fee.

[256] On the modelling of the registration fees, we have done some work with Welsh Government on how it modelled those fees. Chris might want to come in on this as he is probably slightly more familiar with how teachers' registration fee works. Again, there are some concerns around that, and I do not think that a definite decision has been made as to how they will handle the fees. My understanding is that there will be further discussion as to how they are going to take that forward should this piece of legislation be passed. One of the concerns that we have had is that the registration fees for teachers is tied up in their pay and conditions, which are not devolved. So, it adds a complication there; teachers have the right to have that £33 of their registration fee covered, which is subsidised through the revenue support grant, I think, to the tune of about £1 million. So, that is covered and we would need clarity over whether or not an additional amount will be put into the RSG to cover registration for other sectors of the workforce as well. Obviously, the local authorities are the employers, so they are the ones that pay their salaries. I do not know whether you want to come in on this, Chris.

[257] **Dr Llewelyn:** I think that it is a case of trying to work it through in detail. The difficulty is that we have had instances in the past where things, at the outset, look as if they will be cost neutral. Sometimes, there are unintended consequences that have not been anticipated, and perhaps could not have been anticipated. In this instance, it is a case of being mindful that there are potential costs here, and discussing in the appropriate level of detail how things are likely to work out.

[258] **Aled Roberts:** It just seems a bit strange that we have this discussion. Obviously, the unions' stance is that the employer should bear the cost, and I think that they recognise that that might be a rather difficult discussion. You have now made the point that any additional costs should be borne by central Government. Clearly, although costings are not necessarily the way in which we discuss legislation, if the legislation is actually determining a new system, we have to bear it in mind, because we will actually be discussing who assumes that responsibility. It just seems a bit strange that this is so much up in the air and that no-one seems to have a real handle on the overall cost of the system and who bears that. I do not know what your view is, but we have talked to unions about sliding scales or whether there should be one level of fee. What is the local government view on that issue?

[259] **Dr Llewelyn:** It is not peculiar to this Bill. The registration fee has been an issue of debate and contention since the creation of the GTCW. The unions have held those anxieties that they have expressed today. There have been, in the past, practical concerns about how payments come through and how refunds take place and so on. I think that it is rooted in the complexity of the fact that schoolteachers' pay and conditions are not devolved. The cost of the fee is wrapped up in that discussion.

[260] **Aled Roberts:** What is your view on the performance-related pay provisions within the Bill?

[261] **Ms Seabourne:** We have not really discussed that in detail. We can come back to you on that, if you want, Aled.

[262] **Aled Roberts:** Okay.

[263] **Ann Jones:** I take it that if you want central Government to put additional money into the RSG to pay for teachers' registration, you are calling for ring-fencing of that money so that the teachers' subsidy would be paid. Has the WLGA changed its mind on ring-fencing?

[264] **Dr Llewelyn:** I am not sure that that is how it comes through at the moment—whether it comes through the RSG.

[265] **Ms Seabourne:** There is £1 million in the RSG to cover the registration fee. I do not think that that is ring-fenced. I can check, but I am fairly sure that it is not.

[266] **Ann Jones:** So, are you sure that that £1 million is spent on subsidising teachers' registration? Is the WLGA moving to hypothecation, I ask?

[267] **Dr Llewelyn:** The payments are made, so it does happen.

[268] **Ann Jones:** So, you accept that hypothecation takes place and that that is a good thing.

[269] **Dr Llewelyn:** You have to look at how the settlement is divided up. There is a range of cost pressures that are met through the RSG.

[270] **Ann Jones:** Okay. You and I will always differ on this. [*Laughter.*] I now call on Suzy.

[271] **Suzy Davies:** Bearing in mind what you both said about the potential need for extra central Government funds for this, do you have any concerns that it will be the Government that appoints individuals to this body, rather than the Assembly? Do you think that there might be potential for some conflict of interest here? Are you worried about the independence of this body?

[272] **Dr Llewelyn:** There are conventions around the process of public appointments. In the current financial climate, there is a trade-off here between the costs incurred, an ideal model, and looking at what can be achieved with the funding that is available. As I think that we have said on a number of these issues, it is a case of having more detailed discussion and a bit more clarity around what is intended, to see exactly what can be delivered. In terms of the public appointments process, I think local government would support the current process for the conventions around that.

12:00

[273] **Suzy Davies:** So, you prefer the current system, rather than a ministerial appointment.

[274] **Dr Llewelyn:** What I am saying is—

[275] **Suzy Davies:** I do not need a long answer—'yes' or 'no' will do.

[276] **Dr Llewelyn:** It depends on the individual circumstances. In this instance, in the consultation that we have undertaken, there have not been any undue concerns.

[277] **Ann Jones:** We are going to move on to the reform of the registration and approval of independent schools in respect of special educational needs. Keith has the first questions.

[278] **Keith Davies:** Byddaf yn holi yn Gymraeg. Yn gyntaf, rydych yn sôn yn eich adroddiad eich bod yn falch y bydd Estyn yn arolygu'r ysgolion annibynnol a fydd yn cynnig addysg i blant ag anghenion addysg arbennig, ond y gwir amdani yw bod nifer o'r ysgolion hynny yn Lloegr, felly mae cwestiwn ynghylch hynny. Yn ail, mae Estyn yn feirniadol iawn yn ei adroddiad, yn dweud eich bod chi, neu'r awdurdodau, yn methu ymateb i ofynion y plant, a bod nifer o enghreifftiau lle mae plant yn cael eu hanfon i ysgolion ac nad ydynt yn cael yr addysg y dylent ei chael, oherwydd y gwendid yn y dewis.

**Keith Davies:** I will ask my questions in Welsh. You mention in your report that you are pleased that Estyn will be inspecting the independent schools that will be offering education to children with special educational needs, but the truth is that many of those schools are in England, so there is a question about that. The second thing is that Estyn is quite judgmental in its report, saying that you, or the local authorities, will be unable to respond to the children's needs, and that there are many examples where children are sent to schools and they do not get the education that they should get, because of the weaknesses in choices.

[279] **Ms Seabourne:** In terms of placement of children with special educational needs in England, the reality is that what a local authority will do is make an assessment of the needs of that child and then try to find the most appropriate setting for that child. It is the responsibility of the local authority in which the child resides to make those choices, and then, unfortunately sometimes you do find that we need to send a child over to England in order to give it the best provision. That is absolutely appropriate in some circumstances, as long as there is a good case for doing that.

[280] **Keith Davies:** Ond, yng Nghymru, bydd Estyn yn edrych ar yr ysgolion bob blwyddyn, felly sut bydd yr awdurdod yn sicrhau bod rhywun yn edrych ar yr ysgolion yn Lloegr?

**Keith Davies:** However, in Wales, Estyn will inspect the schools every year, so how will the authority ensure that somebody is looking at the schools in England?

[281] **Ms Seabourne:** The schools in England are covered by their own inspection processes and, before placing a child, the local authority has to be entirely satisfied that that establishment is meeting the needs of the child and is appropriate in the setting. I am not familiar enough with the system in England to be able to know exactly how the inspection system works, but I am happy to go away and find out and provide you with a more detailed answer.

[282] On the second half of your question, again, it is the clear responsibility of the local authority to assess the needs of the child and be satisfied that wherever they place that child is the most appropriate place. Obviously, Estyn will have an opinion on whether or not, or to what degree, local authorities do that, and we have seen some local authorities come under some criticism from Estyn on that. Local authorities have to respond to that criticism and change practices or do whatever they need to do in order to improve their systems. Again, local authorities have a clear responsibility to ensure that where they are placing children is appropriate for their needs, and if that learner is old enough, they, or the parents or carers, can make appeals against that if they think the child's assessment was not done properly, or they are not placed in the most appropriate setting.

[283] **Suzy Davies:** I do not know if you heard the evidence from the NUT a little earlier, in which it said that it was happy that local authorities had the understanding to make these decisions about children, but the expertise was not the same in each local authority. Could you comment briefly on how you think that could be balanced out so that expertise runs across all authorities, and whether, bearing in mind the school standards Bill, where special educational needs are now going to be looked at on a more regional basis, that will actually help you as local authorities, with this new duty?

[284] **Ms Seabourne:** On the school standards Bill, it is my understanding—and again, I might have to go back and check it—that if the Minister is minded that special educational needs is not being done in a certain way within an area, they can make a recommendation. I will check the wording. It is not my understanding of that Bill that it is the expectation that local authorities will work regionally to provide SEN education. In practice, lots of local authorities work together to provide specialist services. I am sure that you are familiar with some of the examples, such as the Gwent hearing impairment project. There are lots of examples where local authorities work collaboratively to provide SEN education. Where appropriate, local authorities will work together to put provision in place, but the statutory responsibility for that provision still lies with the individual local authority. So, they still have to be minded that the buck stops with them—they have to be satisfied that the provision is of a certain standard and that they will be happy with that provision.

[285] **Suzy Davies:** My second question is: do you feel that these changes will leave you more vulnerable to parents who are unhappy with the decision that you have made, particularly if they suspect, albeit incorrectly, that you might make any decisions about where their child goes on the basis of the funds available to you, rather than what is in the best interests of the child? I am not saying that you have done that.

[286] **Ms Seaborne:** It is absolutely right that parents should have the ability to question decisions when we are talking about the welfare and education of their child. Local authorities need to make an assessment about the appropriateness of any provision. There will be a view about the value for money that any provision provides, and local authorities have to work within a certain budget. Local authorities make an assessment based on the appropriateness of the provision for the individual child and their needs. If parents or learners are not happy with the assessment that has been made or the recommendations around the provision, they can go through a process of appeal against that, which is absolutely right.

[287] **Suzy Davies:** So, you are not worried that the responsibility being taken away from Government and coming to you will make you more of a focus. That was all. You have answered my question.

[288] **Ann Jones:** That was going into the area of Lynne's question. Lynne, do you want to take that set of questions?

[289] **Lynne Neagle:** The Bill shifts focus from Welsh Government to local authorities, and the WLGA, in its written evidence, said that you have serious concerns about the funding implications of that, although you support the principle. What discussions have you had with Welsh Government about those concerns, and have you received any assurances from Welsh Government that those funding pressures will be taken account of?

[290] **Ms Seaborne:** We have had extensive discussions with Welsh Government about this, and they are ongoing. Not to pre-empt the Bill passing, things need to be put in place so that local authorities are ready when this happens. We are still in the middle of discussions. We are doing some modelling at the moment on the post-16 education parts of the Bill where potential costs could lie. At the minute, post-16 is managed centrally by Welsh Government, but it will be devolved down to local government. We are starting a process of mapping where children and young people are at the moment, and where we think they will be, moving through into post-16, so that we can start working with authorities to manage those costs. We have had discussions around the proposed model of how the different bits of funding will be split if the Bill passes in its current form. Those discussions are ongoing, and we are working with authorities to try to make sure that they can manage those costs in a way that is consistent with the budgets that they have at the minute.

[291] **Dr Llewelyn:** In terms of the principle behind the Bill, we think that it is a good idea and we support it. The difficulty is that SEN provision is inevitably problematic. When pre-16 SEN was funded by the Welsh Government as well, we saw costs increase incredibly and in a very unpredictable way in terms of the quantum involved and the geographical spread. The problem is that it will inevitably be difficult. In terms of post-16 SEN, the decision to transfer the responsibility to local government was the right one. The same thing prevails, but that is not to say that it will not be very difficult in terms of planning and budgeting. There are pressures that are unpredictable and very difficult to manage.

[292] Wales Audit Office looked at the issue and at the way that authorities deal with their planning and budget-setting process. Its conclusion was that there was no ideal way of dealing with it. As Daisy said, the discussions that we have had with Welsh Government officials have been very constructive and are progressing well, but that is not to say—. It inevitably will be problematic.

[293] **Lynne Neagle:** In your paper, you highlight the problem with there being a variation in spend, and some local authorities could be hit with huge bills, whereas others might have a relatively lower spend, but presumably at the moment we are assuming that the money will come out via the revenue support grant. Can you tell us whether you have had any indication from the Welsh Government that it will look at a different way of handling that to take into account those variations?

[294] **Ms Seabourne:** It is my understanding—once again, bearing in mind that the discussions are ongoing—that it will form part of the RSG. That is why we have started to try to look at this mapping of where the learners that we think will be moving through the system are now. One of the issues, of course, is that sometimes you cannot predict that. So, if you perhaps have a family moving in from another part of the country or something happens in terms of an accident or other unpredictable circumstances, it is quite difficult to manage that. What we will be doing, as Chris has said, is working on, when this happened pre-16, how local authorities managed the costs around SEN provision. We will be trying to mirror some of those methods of doing that kind of work then. Once again, it is extremely difficult to predict where the cost pressures will be. However, as far as we are aware, the funding is going into the RSG.

[295] **Dr Llewelyn:** May I add to that? It is an interesting area because, in other service areas, the great thing about the RSG is that it evens things out. So, while some authorities incur more costs in one particular service area, the likelihood is that they have lower costs in other areas and, overall, it evens itself out. However, with SEN provision, because the cost pressures can be so great and so unpredictable, it is more difficult to accommodate within that mechanism.

[296] **Ms Seabourne:** May I add to that? It is my understanding—and, once again, I might have to check this with Welsh Government—that it will retain some of the exceptional funding. There are three funding streams associated with post-16. There is the funding that goes to further education, the specialist funding that will be transferred to local government, but there is also another part, namely the exceptional funding for those particularly high-cost SEN placements. It is my understanding that that will remain with Welsh Government. However, once again, I would need to check the detail and I do not believe that that decision has been finally made yet.

[297] **Lynne Neagle:** I will just ask a final question and seek the WLGA's views on the fact that we are looking at this aspect of post-16 SEN provision now when we know that the Government might be looking at the wider issue of SEN provision more fully later on.

[298] **Ms Seabourne:** The Welsh Government—around 18 months or so ago—published a

consultation on some of the wider changes to SEN provision. For some reason, I am not sure why, it decided to delay that. However, once again, we have had discussions with Welsh Government about making sure that the two are linked up. I know that it will be working on some of the regulation and the code of practice around the post-16 provision, which will inevitably link in with the pre-16 SEN provision. However, once again, we need to hope that those two things are linked up. With post-16 provision now residing with local authorities, we should see a more seamless approach to it anyway, so it would make sense that the way in which the policy decisions are handled are a part of the same continuum, rather than being split into the two: pre-16 and post-16.

[299] **Ann Jones:** I call on Aled. Please be brief.

[300] **Aled Roberts:** Rwy'n derbyn bod yr egwyddor o wneud penderfyniadau ar lefel leol yn ddeniadol, ond mae'r system yn seiliedig ar roi datganiadau o anghenion arbennig. Mae'r ymarfer yn wahanol o sir i sir ac mae'r niferoedd sydd â datganiad mewn un sir yn gallu bod yn hollol wahanol i'r nifer sydd yn y sir drws nesaf. A oes unrhyw drafodaethau wedi bod ynglŷn â safoni, ar lefel Cymru, y system o roi datganiadau?

**Aled Roberts:** I accept that the principle of making decisions on a local level is attractive, but the system is based on providing statements of special educational needs. Practice varies from county to county and the number who have a statement in one county can be very different to the number in a neighbouring county. Have any discussions taken place on the standardisation, at an all-Wales level, of the system of statementing?

[301] **Ms Seabourne:** It is my understanding that Welsh Government, as part of the SEN reforms, was looking at the way in which statementing works. I am sure that you are aware that there have been some pilot projects over the last four or five years to look at different ways of statementing, to perhaps change it so that it is more entitlement-based without there being a statement model. As far as I am aware, those projects seem to be working quite well. Again, it will be a decision for Welsh Government, I think, to set the policy around statementing and how it wants to address statementing.

12:15

[302] **Aled Roberts:** However, there is a problem here, is there not? If this system comes in and responsibility for the finance is devolved to local authorities before that new structure comes in, you could face a situation whereby a child with needs in one county could be considered by that local authority, according to its own policies, as being in need of a specialist placement with support, and an authority three miles down the road not even recognising that exactly the same need was there, because that child was not statemented as having SEN.

[303] **Ms Seabourne:** I think that what you would see is that, in authorities that have low levels of statements, they still have pupils that they acknowledge as having SEN or additional learning needs. They still put in place provision, but they just do not necessarily have the statement. I know that the statement carries with it certain legal entitlements, but many of the authorities that have lower statements are the ones that have been working towards providing entitlement in any case—support for those learners, without their having a statement. So, I think that an authority would look at the appropriateness of the provision for each child. You are right; in some areas there are higher levels of statementing than others, but I do not think that it necessarily follows that there is a higher level of provision in some authorities than others, according to the statements.

[304] **Aled Roberts:** Is it your understanding that, as far as placement in the independent sector or post-16 education is concerned, you would not need to have a statement? A

programme such as School Action and School Action Plus would also mean that you would attract that funding. Obviously, the numbers that we are talking about could then be very different.

[305] **Ms Seabourne:** If you look at the post-16 assessments now, you will see that many of the learners with lower-level needs are assessed through Careers Wales. Many of those do not have statements, but they still get their provision and they are still assessed as needing support to move on to post-16 education. Again, I do not think that there is necessarily a correlation between having a statement and attracting any support or provision to move on to post-16 education.

[306] **Aled Roberts:** I think that there is an issue here with my casework, to be honest with you. Local authorities, even with children who are currently in residential placements pre-16, are suggesting that, when it comes to post-16 education, those youngsters can be educated in an ordinary FE college with not even full-time support workers. Clearly, it would appear that the driver there is financial. I am just a bit concerned that those practices at local level may become more marked, and it probably does not only apply to the low-level needs that you have described.

[307] **Ms Seabourne:** Again, I cannot comment on individual cases that come through to you, but, obviously, we can raise it with authorities. Welsh Government will be putting in place guidance around how to handle the post-16 provision. It has also said—and I think that it was included in an explanatory memorandum about the costings of training—that there will be training in place for local authorities to handle the post-16 assessment.

[308] **Dr Llewelyn:** It seems to be inevitable that there will be variation in terms of assessments that are made, for human reasons, because people have been trained; because the individuals making the assessments are different, inevitably, on occasion they will come to different conclusions. We have this debate about strategy being set nationally and then interpreted locally, it is a continuum. At some point, there are some things that have to be done in a nationally consistent way, and other things where an element of local determination is appropriate. However, if there are significant inconsistencies and disparities, as you suggest, it is something that we may need to look into. If you write to us with your specific concerns, we can look into it.

[309] **Lynne Neagle:** I am just wondering whether the mapping work that you are doing will involve looking at whether there are any disparities in the under-16 level in the way that some of these cases are treated, because that would give a reasonable indication of the difficulties that were likely to arise with the new system.

[310] **Ms Seabourne:** We can certainly consider that.

[311] **Ann Jones:** Is it fair to say, given the area of questioning that we have just been touching on, that the WLGA could recognise that there is a potential for conflict of interest, with the authorities being both the assessor and the provider of funding?

[312] **Dr Llewelyn:** I can understand from the point of the service user that there is the potential for someone to interpret it as a conflict. That is why there are mechanisms in place; there is an appeals process there and there is regulation as well. What you hope is that the machinery that wraps around it will overcome some of those concerns.

[313] **Ann Jones:** We will now move on to school term times. Bethan is first.

[314] **Bethan Jenkins:** Hoffwn ofyn **Bethan Jenkins:** I want to ask a question cwestiwn ynglŷn â chysoni tymhorau ysgol, a about harmonising school terms, and ask you



gofyn i chi yn benodol pam y mae wedi bod mor anodd i chi weithio gyda chynghorau er mwyn eu cysoni. Rwy'n gwybod nad yw hwn yn fater newydd, a'i fod wedi cymryd deddfwriaeth i'w wthio ymlaen, lle na fyddai wedi bod angen deddfwriaeth pe bai pobl wedi gweithio gyda'i gilydd yn well yn y gorffennol.

[315] **Dr Llewelyn:** Byddwn yn cytuno'n llwyr. Nid wyf yn gwybod pam nad yw hynny wedi digwydd. Mae'n un o'r swyddogaethau neu weithgareddau yr ydym wedi trial ei gyflawni fel cymdeithas. Rydym wedi bod yn edrych ar hwn ers blynnyddoedd. Gan amlaf, yr hyn sy'n digwydd yw ein bod yn cytuno ar y tymhorau ar lefel genedlaethol. Wedyn, pan fo trafodaethau lleol, erbyn i ni ddod i gytundeb, mae rhywbeth wedi digwydd yn lleol ac mae newidiadau wedi cymryd lle—mae naill ai ysgolion neu ryw garfan wedi dod i'r farn ei fod o fudd iddynt eu newid tamaid bach.

[316] Rydym yn ymwybodol ei fod yn broblem. Naill ai'r llynedd neu'r flwyddyn cyn hynny, parhaodd gwyliau'r Pasg dros bedair wythnos yng Nghymru, achos roedd diffyg cysondeb rhwng awdurdodau a oedd, yn yr achos hwn, yn ffinio ar ei gilydd. Rydym yn cytuno â'r egwyddor hon o osod tymor cenedlaethol. Hefyd, rydym yn teimlo ei bod yn deg, gan mai'r Gweinidog sy'n gosod strategaeth addysg, bod hwn yn rhan o awdurdod y Gweinidog.

[317] **Bethan Jenkins:** Dyna beth yr oeddwn yn mynd i ofyn. Mae rhai o'r undebau llafur wedi cael barn wahanol yng nghyd-destun yr hyn y byddai'r Gweinidog yn gallu ei wneud o ran diystyru penderfyniadau lleol a hefyd yr elfen grefyddol. I gadarnhau, a ydych yn hapus gyda'r pwerau y byddai'r Gweinidog efallai'n parhau i'w cael?

[318] **Dr Llewelyn:** Ydyn. Mae hwn yn rhywbeth yr ydym wedi bod yn delio ag ef ers rhai blynnyddoedd, ac rydym wedi bod yn ceisio ei ddatrys. Hyd yn hyn, nid yw hynny wedi bod yn bosibl. Gan amlaf, mae problemau'n codi o amgylch gwyliau'r Pasg. Fodd bynnag, mae yna broblemau eraill. Fe fydd anghytuno, a bydd gwahanol grwpiau'n amau a ddylai'r Gweinidog fod yn gosod y

specifically why it has been so difficult for you to work with councils to harmonise them. I know that this is not a new matter, and that it has taken legislation to push it forward, whereas legislation would not have been needed had people worked together better in the past.

**Dr Llewelyn:** I would agree completely. I do not know why it has not happened. It is one of the functions or duties that we have tried to accomplish as an association. We have been looking at this for years. Often, what happens is that we agree on terms at a national level. Then, when there are local discussions, by the time we come to an decision, something has happened locally and changes have taken place—either a school or some faction has come to the conclusion that it would be beneficial to them to change them a little bit.

We are aware that it is a problem. Either last year or the year before that, the Easter holidays were spread over four weeks in Wales because there was a lack of consistency between authorities that, in this case, bordered each other. We agree with the principle of setting a national term. We also feel that it is fair that, as the Minister sets the education strategy, this is part of the Minister's authority.

**Bethan Jenkins:** That is what I was going to raise. Some of the trade unions have had different views regarding what the Minister could do in terms of disregarding local decisions and there is the religious element as well. To confirm, are you content with the powers that the Minister would perhaps retain?

**Dr Llewelyn:** Yes. This is something that we have dealing with for a few years, and we have been trying to resolve it. Up until now, it has not been possible to do so. Problems often arise with the Easter holidays. However, there are other problems as well. There will be disagreement, and other groups may doubt whether the Minister should be deciding this. However, as somebody who

drefn. Fodd bynnag, fel rhywun sydd wedi bod yn trio delio â'r mater ers rhai blynyddoedd, byddwn yn hapus iawn i weld y Gweinidog yn cymryd y cyfrifoldeb. [*Chwerthin.*]

[319] **Bethan Jenkins:** Ac yn ysgwyddo'r baich.

[320] **Simon Thomas:** Mae gen i un cwestiwn bach atodol i hynny. Dywedodd Mr Rex Phillips yn ei dystiolaeth yn gynharach ei fod o blaid hyn, ond bod yn rhaid cadw at y tri thymor, sef y system bresennol. O ddarllen y ddeddfwriaeth fel y mae, mae'n rhoi posibilrwydd y bydd y Gweinidog yn gallu newid y flwyddyn academaidd. Mae'r Gweinidog wedi dweud wrthym nad yw'n fwiad ganddo i wneud hynny. Serch hynny, mae'r ddeddfwriaeth yn caniatáu hynny. A ydych yn gysurus bod y ddeddfwriaeth yn caniatáu i Weinidogion y dyfodol edrych ar hynny?

[321] **Dr Llewelyn:** Mae yna drafodaeth ddiddorol ynglŷn â sut y mae'r flwyddyn academaidd yn cael ei strwythuro. Eto, mae hwn yn rhywbeth yr ydym wedi'i drafod yn y gorffennol yn gysylltiedig â'r gwyliau. Mae Estyn a nifer o gyrff eraill wedi cyhoeddi adroddiadau ynglŷn â sut y mae'r flwyddyn academaidd yn cael ei strwythuro, pryd y byddwn yn cynnal arholiadau ac yn y blaen, a hyd yn oed sut y mae'r diwrnod academaidd yn cael ei drefnu. Mae lot o dystiolaeth yn dangos bod plant yn dysgu'n well yn ystod y bore nag yn y prynhawn, a'u bod yn dysgu'n well ar wahanol adegau o'r flwyddyn; yn ddelfrydol, felly, ni fyddem yn cynnal arholiadau yn yr haf. Y peth pwysig, efallai, yw bod ystyriaeth yn cael ei rhoi i newidiadau mwy eang—bod yr ystyriaeth honno'n cymryd lle mewn cyd-destun mwy eang, a'n bod yn edrych ar yr holl strwythurau academaidd a'r ffordd yr ydym yn trefnu'r flwyddyn academaidd ac yn y blaen.

[322] **Ann Jones:** Are you happy with that? I see that you are. Does anybody else have any more questions? I am frightened to ask that. [*Laughter.*] I see that there are no more. Thanks very much for coming in. We will take the additional evidence that you have promised to provide to us on the performance-related pay aspects around registration and how Ofsted in England will look at the inspection of independent schools and how it all corresponds with the cross-border issues. You know that we will send you a copy of the transcript to check for accuracy. Thank you for coming and I am sorry that we have run so late.

has been trying to deal with this matter for years, I would be happy to see the Minister taking responsibility here. [*Laughter.*]

**Bethan Jenkins:** And shouldering the burden.

**Simon Thomas:** I have a brief supplementary question on that. In his evidence earlier, Mr Rex Phillips told us that he was in favour of this, but that we must retain the current system of three terms. In reading the legislation as it currently exists, it provides some leeway for the Minister to change the academic year. The Minister has told us that it is not his intention to do that. However, the legislation would allow that to happen. Are you comfortable that the legislation allows a future Minister to look at that issue?

**Dr Llewelyn:** There is an interesting discussion about how the academic year is structured. Again, this is something that we have discussed in the past in relation to the holidays. Estyn and many other bodies have published reports on how the academic year is structured, when we hold exams and so on, and even how the academic day is set out. There is a lot of evidence to show that children learn better in the morning than the afternoon, and that they learn better at different times of the year; ideally, therefore, we would not hold exams in the summer. The important thing to remember, perhaps, is that consideration is given to wider changes—that that consideration takes place in a wider context, and that we look at academic structures in their entirety and at the way that we structure the academic year and so on.

12:25

**Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd o'r  
Cyfarfod**  
**Motion under Standing Order 17.42 to Resolve to Exclude the Public from the  
Meeting**

[323] **Ann Jones:** I move that

*the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order 17.42(ix).*

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

*Derbyniwyd y cynnig.  
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 12:25  
The public part of the meeting ended at 12:25*