

# Agenda – Legislation, Justice and Constitution Committee

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Meeting Venue:

Committee Room 5, Tŷ Hywel

Meeting date: 18 November 2024

Meeting time: 13.00

For further information contact:

P Gareth Williams

Committee Clerk

0300 200 6565

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## Hybrid

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### Public meeting

(13.00 – 15.20)

#### 1 Introduction, apologies, substitutions and declarations of interest

(13.00)

#### 2 Legislative Consent Memorandum on the Renters' Rights Bill: Evidence session with the Cabinet Secretary for Housing and Local Government

(13.00 – 13.45)

(Pages 1 – 19)

[The Renters' Rights Bill](#)

[The Welsh Government's Legislative Consent Memorandum](#)

Jayne Bryant MS, Cabinet Secretary for Housing and Local Government

Gareth Baglow, Senior Private Sector Housing Policy Manager, Welsh  
Government

Sarah Rhodes, Deputy Director, Housing Policy, Welsh Government

Attached Documents:

LJC(6)–33–24 – Paper 1 – Legal Advice Note

### Break

(13.45 – 13.50)



**Senedd Cymru**  
**Welsh Parliament**

### **3 Legislation (Procedure, Publication and Repeals) (Wales) Bill: Evidence session with the King's Printer**

(13.50 – 14.50)

(Pages 20 – 37)

[Legislation \(Procedure, Publication and Repeals\) \(Wales\) Bill, as introduced](#)  
[Explanatory Memorandum](#)

Saul Nassé, Chief Executive and Keeper of The National Archives, and King's Printer of Acts of Parliament

John Sheridan, Digital Director, The National Archives

Malcolm Todd, Head of Policy, The National Archives

Attached Documents:

LJC(6)–33–24 – Paper 2 – Briefing paper

LJC(6)–33–24 – Paper 3 – Briefing from The National Archives

### **Break**

(14.50 – 15.00)

### **4 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3**

(15.00 – 15.05)

#### **Affirmative Resolution Instruments**

#### **4.1 SL(6)543 – The Partnership Arrangements (Miscellaneous Amendments etc.) (Wales) Regulations 2024**

(Pages 38 – 39)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)–33–24 – Paper 4 – Draft report

## **5 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3 – previously considered**

(15.05 – 15.10)

### **5.1 SL(6)521 – The Applications for Scheduled Monument Consent (Wales) Regulations 2024**

(Pages 40 – 43)

Attached Documents:

LJC(6)–33–24 – Paper 5 – Letter from the Minister for Culture, Skills and Social Partnership, 11 November 2024

LJC(6)–33–24 – Paper 6 – Letter to the Cabinet Secretary for Social Justice, Trefnydd and Chief Whip, 28 October 2024

### **5.2 Regulations to implement Part 4 and Schedule 3 of the Public Health (Wales) Act 2017 dealing with the creation of a mandatory licensing scheme for practitioners, premises and vehicles associated with the performance of special procedure**

(Pages 44 – 47)

Attached Documents:

LJC(6)–33–24 – Paper 7 – Letter from the Cabinet Secretary for Health and Social Care, 14 November 2024

LJC(6)–33–24 – Paper 8 – Letter to the Cabinet Secretary for Health and Social Care, 17 October 2024

### **5.3 SL(6)537 – The Special Procedure Licences (Wales) Regulations 2024**

(Pages 48 – 57)

Attached Documents:

LJC(6)–33–24 – Paper 9 – Report

LJC(6)–33–24 – Paper 10 – Welsh Government response

## **6 Inter–Institutional Relations Agreement**

(15.10 – 15.15)

## **6.1 Correspondence from the First Minister: Intergovernmental meetings**

(Pages 58 – 59)

Attached Documents:

LJC(6)–33–24 – Paper 11 – Letter from the First Minister, 12 November 2024

## **6.2 Correspondence from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs: The Greenhouse Gas Emissions Trading Scheme (Amendment) (No.2) Order 2024**

(Pages 60 – 61)

Attached Documents:

LJC(6)–33–24 – Paper 12 – Letter from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, 12 November 2024

## **7 Papers to note**

(15.15 – 15.20)

### **7.1 Correspondence with the Welsh Government: The Welsh Government's Legislative Consent Memorandum on the Passenger Railway Services (Public Ownership) Bill**

(Pages 62 – 66)

Attached Documents:

LJC(6)–33–24 – Paper 13 – Welsh Government response to the Committee's report, 31 October 2024

LJC(6)–33–24 – Paper 14 – Letter to the Cabinet Secretary for Transport and North Wales, 13 November 2024

### **7.2 Written Statement by the Cabinet Secretary for Finance and Welsh Language and the Cabinet Secretary for Economy, Energy and Planning: Legislating to support tourism in Wales**

(Pages 67 – 68)

Attached Documents:

LJC(6)–33–24 – Paper 15 – Written Statement by the Cabinet Secretary for

Finance and Welsh Language and the Cabinet Secretary for Economy, Energy and Planning, 12 November 2024

### **7.3 Written Statement and correspondence with the Welsh Government: The Water (Special Measures) Bill**

(Pages 69 – 72)

Attached Documents:

LJC(6)-33-24 – Paper 16 – Letter to the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, 13 November 2024

LJC(6)-33-24 – Paper 17 – Written Statement by the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, 12 November 2024

### **7.4 Correspondence with the Office for the Internal Market**

(Pages 73 – 76)

Attached Documents:

LJC(6)-33-24 – Paper 18 – Letter from the Office for the Internal Market, 13 November 2024

LJC(6)-33-24 – Paper 19 – Letter to the Office for the Internal Market, 24 October 2024

### **7.5 Reports by the Bevan Foundation: Experiences of Justice: seeking legal help for immigration and asylum in Wales**

(Pages 77 – 111)

Attached Documents:

LJC(6)-33-24 – Paper 20 – Bevan Foundation Reports

## **8 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of the meeting**

(15.20)

### **Private meeting**

(15.20 – 16.30)

**9 Legislative Consent Memorandum on the Renters' Rights Bill:  
Consideration of evidence**

(15.20 – 15.35)

**10 Legislation (Procedure, Publication and Repeals) (Wales) Bill:  
Consideration of evidence**

(15.35 – 15.50)

**11 Legislative Consent Memorandum on the Product Regulation and  
Metrology Bill: Consideration of draft report**

(15.50 – 16.00)

(Pages 112 – 130)

Attached Documents:

LJC(6)-33-24 – Paper 21 – Draft report

**12 Annual report 2023/24: Draft report**

(16.00 – 16.30)

(Pages 131 – 195)

Attached Documents:

LJC(6)-33-24 – Paper 22 – Draft report

Document is Restricted

# Agenda Item 3

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted

Written Evidence		THE	
From Saul Nassé		NATIONAL	
12 November 2024		ARCHIVES	

## Written Evidence - Legislation (Procedure, Publication and Repeals) (Wales) Bill

### Introduction

Mike Hedges MS  
Chair  
Legislation, Justice and Constitution Committee

Dear Chair,

I am pleased to present this written evidence concerning the Legislation (Procedure, Publication and Repeals) (Wales) Bill. We believe this Bill sensibly modernises legislation publishing law for Wales, further advancing public access.

The National Archives is the cornerstone of the public record system as well as the UK's official publisher. We make the records we hold available for people today as well as preserving them for future generations. Public access and accessibility are at the heart of what we do. We are a living digital archive with an expanding digital collection, which includes published legislation and court judgments for the senior courts in England and Wales.

In the book, *Rule of Law*, Lord Bingham sets out eight principles for the rule of law. First of these is that "the law must be accessible and so far as possible intelligible, clear and predictable." The public availability of the legislation is fundamental for the successful conduct of commerce, trade, investment, democracy, justice and good government.

The current legal obligations on me as the King's Printer for Acts of Parliament centre on printing legislation. I ensure all Acts of the Senedd and Welsh Statutory Instruments are published quickly, in print, as the law requires. In practice, it is the online service at [legislation.gov.uk](http://legislation.gov.uk) that people in Wales use to access the text of a piece of legislation. This service is also the source of data for commercial legal publishers and other third parties.

We provide drafting tools and publishing services to the Welsh Government, including for registering and numbering Welsh Statutory Instruments. Over the last few years, we have worked together to improve the accessibility of Welsh legislation. We have ensured updated texts are provided for amended primary and secondary legislation, in both Welsh and English. Brexit and the COVID-19 pandemic have illustrated the importance for users of having up-to-date texts.

This Bill provides for pragmatic modernisation of the current law for publishing legislation. It crystallises clear and unambiguous duties on a King's Printer for Wales, which are aligned

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with current practice, whilst also creating a bespoke numbering scheme for Welsh Statutory Instruments. The Bill makes sure the law is focused on what's needed by the public, courts and legal profession in Wales, and creates space for us to continue to improve the service in the future, including the use of new technologies.

I am confident we can deliver what the Bill requires of us, and I look forward to continuing our collaboration with the Welsh Government.

Yours sincerely,



Saul Nassé  
King's Printer of Acts of Parliament

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## Background: The National Archives and Welsh Legislation

1. The National Archives is the archive of Government and the Courts, and the official publisher for the UK. It is a non-Ministerial Government department and operates with the operational independence that this status implies. The jurisdictional extent of our remit varies by function. Our legislation publishing responsibilities are, in effect, UK wide. We provide an archive service to the Welsh Government, whereas Scotland and Northern Ireland have separate institutional arrangements for archiving public records.
2. The Chief Executive and Keeper of The National Archives is Saul Nassé. He is responsible for leading and managing the department. There are a number of distinct roles and responsibilities in law, that are part of his position. These are:
  - Keeper of Public Records
  - The King's Printer of Acts of Parliament
  - Controller of His Majesty's Stationery Office
  - The King's Printer for Scotland
  - Government Printer for Northern Ireland
  - Historical Manuscripts Commissioner
3. The King's Printer of Acts of the Parliament is appointed by Letters Patent by His Majesty the King. This arrangement cascades certain prerogatives of the Crown to the officeholder, concerning the printing of legislation and the management of the Crown's copyrights and database rights. In addition, various statutory duties have been conferred on the King's Printer by Parliament. The King's Printer is also the Controller of His Majesty's Stationery Office.
4. There is a long history in the arrangements for publishing legislation, dating back centuries. Most recently two machinery of government changes, in 2006, and 2009, brought together the functions of the Office of Public Sector Information, His Majesty's Stationery Office and the Statutory Publications Office, under the auspices of The National Archives. Today the official versions of legislation applicable to Wales, of whatever origin, are published by The National Archives, who operate and deliver [legislation.gov.uk](http://legislation.gov.uk).
5. Primary legislation for Wales is published by the King's Printer on behalf of the Crown. Under Section 115 (5E) of the Government of Wales Act 2006, the certified copy of an Act of the Senedd must be transmitted to the King's Printer. The Bill, as currently drafted, does not amend this arrangement.
6. Secondary legislation, namely Welsh Statutory Instruments, are printed and published

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under provisions set out by the Statutory Instruments Act 1946 (SIA). This deals with numbering, printing, publication and citation of Statutory Instruments. It confers powers on the Secretary of State to make regulations about the numbering of Statutory Instruments and also for the production of issue lists. As the UK Cabinet Minister with responsibility for these functions, the powers and duties under the SIA are held by the Secretary of State for Culture, Media and Sport.

7. Further requirements are set out in the Statutory Instruments Regulations 1947 (SIR). These impose duties on His Majesty's Stationery Office and on the Secretary of State. Regulation 3 provides for consecutive numbering of all Statutory Instruments received. Regulation 9 requires the production of the "Statutory Instrument Issue List", showing the serial number and short title of each statutory instrument which has been issued. Regulation 10 requires the Secretary of State to compile and print annual editions, including lists and tables of effects, and to make those available for sale.
8. Whilst we have no doubt about our publishing responsibilities, we do appreciate the desire of the Welsh Government to update them for Wales. A lot has changed since the 1940s and modern law can better reflect how the public and the courts access and use legislation today.

### **The Legislation (Procedure, Publication and Repeals) (Wales) Bill**

9. From The National Archives' perspective, the most notable elements of the Bill are the King's Printer for Wales; an explicit statutory duty to publish Acts of the Senedd; a discrete series of Welsh SIs with a consecutive numbering scheme; a digital by default publishing regime; and a new duty to update or revise the texts of the legislation.
10. The Bill has been carefully considered by the Welsh Government. It puts on a statutory footing much of what is already delivered through the legislation.gov.uk service, formalising much current practice.
11. The main change that is required of The National Archives is supporting the new Welsh Statutory Instrument numbering series, effectively a new legislation type in our database. Here we will need to adapt our current systems and processes. We are confident that this can be implemented from 1 January 2026 – and indeed we want to make this change as we think it will help users.

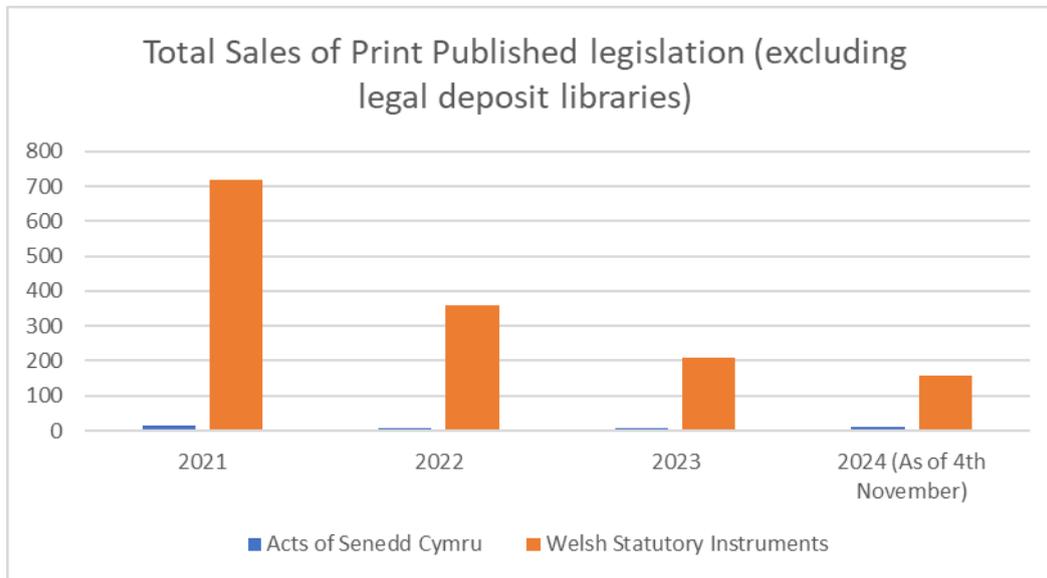
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## **Publishing new legislation**

12. The National Archives has a Legislation Services team, who manage the process for publishing new Acts of the Senedd Cymru, new Welsh Statutory Instruments (WSIs), and any associated documents. Some of the services are delivered directly in-house by the Legislation Services team, whilst others, including the printing and sale of hard copy legislation, are outsourced and managed under contract. The current legislation publishing contractor is TSO Ltd.
13. The scope of the services we provide for Wales spans tools for drafting lawyers of WSIs, with associated training and support; a typesetting service to achieve the two-column layout in paginated form; the registration and numbering of all Welsh Statutory Instruments. We also facilitate the issuing of corrections for non-substantive errors by way of correction slip.
14. We aim to publish all new legislation as quickly as possible. The standard service level is within 24 hours from receipt for web publication (we allow 24 hours for registration and numbering of WSIs) and a further 3 days for print. We aim to publish emergency legislation within 2 hours. During the pandemic we offered 24/7 SI registration and publishing services, registering and publishing new COVID regulations in a few minutes. It should be noted that the publication of WSIs takes longer than other types of legislation publishing, due to the intricacies involved in publishing such SIs in two languages.
15. The publishing services are underpinned by a software system, that is part of the wider [legislation.gov.uk](https://legislation.gov.uk) platform. This manages receipt of the documents, aids with document checks for SI registration, numbers the instruments, creates the files for print with imprints and ISBN numbers, supports the print production processes, and manages the conversion of the documents to data, for web publication and re-use.
16. The processes for handling legislation documents are highly controlled. There is an audit trail so we can trace back what happened, and when, in case of any issue. We can demonstrate that the document we receive is what we register and number, is what is laid, and what is then published. The accuracy and integrity of the legislation we publish, in print, online and as data, is paramount and assured by our systems and processes.

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*Table 1 – the decline of print sales*



17. Whilst the law focusses on printing legislation, users of Welsh legislation overwhelmingly just use legislation.gov.uk. People want to read the current, up to date text, of Welsh legislation, rather than buy hard copy of the legislation as enacted or made. This is a long-term trend across all types of legislation. Print has been in decline for 25 or 30 years. Table 2 illustrates both the low level of print sales and the ongoing, recent, decline in print sale volumes.

### **Legislation.gov.uk**

18. Around 120,000 people will access and use legislation.gov.uk each working day. To understand who is using the service, we conduct regular user research. We have developed a set of personas, or fictional characters, to represent the needs and interests of the typical users of legislation online. These encapsulate users' motivations and tasks, and inform our decisions for the website's design and development.

19. From our research, we know that most people using legislation.gov.uk are at work and using it for a work purpose. A significant percentage of users are not lawyers and therefore lack access to one of the commercial services. We have extracted the responses to the survey from people in Wales.

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*Table 2 – users of legislation.gov.uk from Wales (2024 Survey Results)*

Which of the following best describes you?				
Answer Choices			Response Percent	Response Total
1	Law Professional (qualified or trained law professional)		35.62%	26
2	NOT a Law Professional, but accessing the site in a work or professional capacity		30.14%	22
3	Law Student		1.37%	1
4	Student (not in Law)		4.11%	3
5	Academic		4.11%	3
6	Member of the Public (not using legislation.gov.uk for work purposes)		13.70%	10
7	A user of the legislation API to access raw legislation data		6.85%	5
8	Other (please specify):		4.11%	3
			answered	73

20. We use web analytics to see what users are accessing on legislation.gov.uk and use it to both better understand user behaviour and inform our editorial priorities. We collect this information for the whole of the UK and it can give us useful insights into the usage of Welsh legislation.

*Table 3 – top 10 most visited pieces of Welsh legislation*

Top 10 Welsh Legislation documents 2024			
Rank	Document URI	Title	Page Views
1	<a href="http://www.legislation.gov.uk/id/anaw/2014/4">http://www.legislation.gov.uk/id/anaw/2014/4</a>	Well-being of Future Generations (Wales) Act 2015	1,717,364
2	<a href="http://www.legislation.gov.uk/id/asc/2021/1">http://www.legislation.gov.uk/id/asc/2021/1</a>	Planning (Wales) Act 2015	1,210,195
3	<a href="http://www.legislation.gov.uk/id/wsi/2020/1609">http://www.legislation.gov.uk/id/wsi/2020/1609</a>	Renting Homes (Wales) Act 2016	945,774
4	<a href="http://www.legislation.gov.uk/id/anaw/2013/1">http://www.legislation.gov.uk/id/anaw/2013/1</a>	Regulation and Inspection of Social Care (Wales) Act 2016	895,951
5	<a href="http://www.legislation.gov.uk/id/anaw/2018/2">http://www.legislation.gov.uk/id/anaw/2018/2</a>	Environment (Wales) Act 2016	693,929
6	<a href="http://www.legislation.gov.uk/id/anaw/2016/1">http://www.legislation.gov.uk/id/anaw/2016/1</a>	Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2016	565,588
7	<a href="http://www.legislation.gov.uk/id/anaw/2014/7">http://www.legislation.gov.uk/id/anaw/2014/7</a>	Public Health (Wales) Act 2017	554,062
8	<a href="http://www.legislation.gov.uk/id/anaw/2016/3">http://www.legislation.gov.uk/id/anaw/2016/3</a>	Public Services Ombudsman (Wales) Act 2019	443,799
9	<a href="http://www.legislation.gov.uk/id/anaw/2019/3">http://www.legislation.gov.uk/id/anaw/2019/3</a>	Senedd and Elections (Wales) Act 2020	378,698
10	<a href="http://www.legislation.gov.uk/id/anaw/2015/2">http://www.legislation.gov.uk/id/anaw/2015/2</a>	Local Government and Elections (Wales) Act 2021	366,837

## Users' needs

21. In our research with users, we have found that many people accessing legislation on the web lack knowledge about how legislation works. People reading legislation online assume the document they are looking at is current, in force and applies to where they live. Often that is not the case. This is a particular challenge for people in Wales, where

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UK Acts that apply to England and Wales may have been amended in different ways. One of the benefits of the legislation.gov.uk platform is that it provides a solution to some of these challenges. Any piece of primary legislation can be searched and viewed, with annotations, so the user can see how the law stands in Wales and how it compares to other parts of the UK.

22. The parity given to legislation across the four nations of the UK by legislation.gov.uk is particularly valued by users from Wales, Scotland and Northern Ireland, where the commercial services can be less comprehensive.
23. We try to present legislation on the web in a way that makes the context and status of each document clear and accessible. Legislation is complicated to understand; for example, an Act may have multiple sections, each with different amendments that apply to different places, with different commencement dates, or the Act may have prospective provisions.
24. The legislation.gov.uk user interface makes the status of each piece of legislation apparent, with a timeline and extent, so people know whether the document they are viewing is current and in force, and where it applies.
25. However, there are particular challenges in displaying updated legislation as it applies to Wales, where amendments made by later legislation for Wales differ from amendments made for England (or the rest of the UK). Making it easy for users to understand what has changed in the legislation and where the changes apply to is extremely difficult. This year, The National Archives has been working with the drafting offices across the UK to explore joint solutions to some of these challenges, and has conducted user research to test different way of displaying amendments that only have a limited geographical extent. More user testing is also planned for later this year to specifically look at how Welsh users currently interact and use Welsh legislation and explore what features/functionality would be useful or could be improved. This will include looking at how users use the site level Welsh language toggle, searching Welsh legislation, how users work with multiple languages versions, what the key user needs are when viewing legislation and what help and guidance is useful for Welsh users to aid legal certainty.

### **Updating or revising legislation in the English and Welsh languages**

26. Legislation.gov.uk is a bilingual service, as far as the legislation itself is bilingual. The user interface is available in English and Welsh. Welsh legislation is published as enacted or made in English and Welsh, and crucially is now revised or updated, in English and Welsh. As we have increased the amount of revised legislation in the Welsh language, so the use of legislation in Welsh has grown, with a big uplift in 2024.

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*Table 4 – Page views of Welsh legislation*

Page Views for each Welsh Legislation type broken down into language									
Legislation Type	anaw		asc		mwa		wsi		
Language	English	Welsh	English	Welsh	English	Welsh	English	Welsh	
2017	495,799	110,552	-	-	138,895	10,061	1,300,997	193,800	
2018	824,705	132,531	-	-	172,728	7,656	2,375,159	243,928	
2019	720,950	122,782	-	-	160,448	2,210	2,002,378	186,652	
2020	922,870	132,030	19,705	1,271	224,030	6,628	4,108,854	407,277	
2021	719,486	85,176	109,893	594	173,812	2,705	4,021,561	284,916	
2022	1,938,736	201,794	530,078	18,481	280,141	2,564	5,730,486	467,707	
2023	1,829,375	267,425	597,470	76,252	310,317	14,997	6,046,636	760,383	
2024	2,882,969	1,446,870	1,210,522	31,344	467,099	25,165	7,493,737	1,564,284	

Page Views for the whole site and welsh version of site								
	2017	2018	2019	2020	2021	2022	2023	2024
Welsh Version of site	2,294,826	3,053,361	4,155,876	7,277,204	5,401,318	7,350,972	13,978,298	61,004,200
Total Website	518,617,011	1,662,939,311	1,407,416,228	2,201,188,767	1,732,689,687	2,294,397,268	3,168,715,079	2,463,260,125

27. An up-to date statute book that reflects the law as it stands today is absolutely vital for aiding legal certainty. The requirement for up-to-date legislation has been the main user need since legislation.gov.uk was launched in 2010. The legislation has substantially been brought up to date over the last few years. We receive a lot of feedback from users telling us how invaluable the service is, because it is now largely up to date.
28. 'The future of Welsh law: revised accessibility programme 2021 to 2026' also recognised the importance of up-to-date legislation in its aim to: "Ensure Welsh law is available in an up-to-date form on legislation.gov.uk and enable the Welsh and English language texts of Welsh legislation to be viewed side by side."
29. Today, around 98% of all revised legislation viewed on legislation.gov.uk is fully up to date and work on the Welsh legislation, in both languages, is well advanced.

*Table 5 – Up to date Welsh legislation*

Legislation Type	Documents	English text up to date to 04/11/2024		Welsh text up to date to 04/11/2024	
Acts of Senedd Cymru 2020-present	18	18	100.0%	16	88.9%
Acts of the National Assembly for Wales 2012-2020	44	42	95.5%	40	90.9%
Measures of the National Assembly for Wales 2008-2011	22	21	95.5%	20	90.9%
Welsh Statutory Instruments	6,373	5,253	82.4%	4,547	71.3%
TOTAL	6,457	5,334	82.6%	4,623	71.6%

30. The National Archives is working in close collaboration with colleagues in the Welsh Government to bring all Welsh legislation up to date and maintain the revised versions on an ongoing basis. The editorial team at The National Archives provides training and support to Welsh editors and review all the update work before it is published to legislation.gov.uk to ensure the updated legislation is accurate. This collaboration was essential for enabling Welsh language versions of legislation to be updated alongside the

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English language versions - a major milestone for the service.

31. To deliver revised legislation for Wales, bilingually, The National Archives has made a significant investment in systems, tools and editorial services, totalling £618k since 2019. This involved extending the legislation.gov.uk editorial system and the functionality on legislation.gov.uk website to support the revision of Welsh language versions of legislation.

32. A further ambition laid out in the accessibility programme was to *"Expand functionality on the legislation.gov.uk site so users may access Welsh law by subject."* The National Archives has plans to develop a subject classification scheme which can be used across all UK legislation and meets the requirements of users. In doing this, we are keen to collaborate with the Welsh Government and are committed to ensuring that legislation.gov.uk meets the needs of all our users, including those in Wales.

**ENDS**

# Agenda Item 4.1

## **SL(6)543 – The Partnership Arrangements (Miscellaneous Amendments etc.) (Wales) Regulations 2024**

### **Background and Purpose**

Part 9 of the Social Services and Well-being (Wales) Act 2014 ('the Act') provides the Welsh Ministers with powers to ensure appropriate structures and resources are in place to enable the provision of integrated care and support services. The Partnership Arrangements (Wales) Regulations 2015 ("the Partnership Arrangement Regulations") provide for the establishment of seven regional partnership boards on the health board footprint and set out requirements for those boards.

These Regulations amend the Partnership Arrangements Regulations, making changes to the objectives, membership and administrative arrangements of the regional partnership boards. Amendments made to the Care and Support (Area Planning) (Wales) Regulations 2017 concern monitoring and evaluation of the progress made in delivering area plans. A small amendment is also made to the Partnership Arrangements (Amendment) and Regulated Services (Market Stability Reports) (Wales) Regulations 2021, to change the date by which future reports must be published.

### **Procedure**

Draft affirmative.

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

### **Technical Scrutiny**

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

#### **1. Standing Order 21.2(v) - that for any particular reason its form or meaning needs further explanation.**

In regulation 5(2), in the amendment made to regulation 11(1), the new sub-paragraph (l) refers to "the Welsh Ambulance Services National Health Service Trust". However, the name of this NHS trust was amended earlier this year by article 3 of S.I. 2024/358 (W. 66) to include the word "University" ("Prifysgol"). Therefore, it should now be referred to as the "Welsh Ambulance Services **University** National Health Service Trust" in the English text, and "Ymddiriedolaeth **Brifysgol** Gwasanaeth Iechyd Gwladol Gwasanaethau Ambiwlans Cymru" in the Welsh text. While there is a saving provision in article 4 of S.I. 2024/358 (W. 66), the



Welsh Government is asked to explain why the amended name of this NHS trust has not been used.

## Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

## Welsh Government response

A Welsh Government response is required.

### Legal Advisers

**Legislation, Justice and Constitution Committee**

**12 November 2024**



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

—

Welsh Parliament

**Legislation, Justice and Constitution Committee**

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# Agenda Item 5.1

Y Gweinidog Diwylliant, Sgiliau a Phartneriaeth Gymdeithasol  
Minister for Culture, Skills and Social Partnership



Llywodraeth Cymru  
Welsh Government

Mike Hedges MS, Chair  
Legislation, Justice and Constitution Committee  
Senedd Cymru  
Cardiff Bay  
Cardiff  
CF99 1SN

11 November 2024

Dear Mike

## **The Applications for Scheduled Monument Consent (Wales) Regulations 2024**

Thank you for your further correspondence of 28 October.

In response to the first point, we fully agree that the law should be accessible to the general public, and that it is not appropriate to rely upon legal databases such as Lexis to correct errors. Your concern is that the location of the amendment was not sufficiently clear in the original instrument, as there were two instances of the word 'consent' in regulation 4(1), once in the opening words and once in sub-paragraph (a).

The drafting of the amendment took the approach of identifying paragraph (1) of the regulation as distinct from sub-paragraph (a). It is felt the intention is sufficiently clear as if both instances of the word consent were intended to be amended that would have been made clear. However, we understand the point that you have raised and will bear this in mind in our future approaches to amendments of this type.

In relation to your second point, the PDF version of the correction slip to WSI 2024/932 (W. 156) can be found at:

[https://www.legislation.gov.uk/wsi/2024/932/pdfs/wsics\\_20240932\\_mi\\_001.pdf](https://www.legislation.gov.uk/wsi/2024/932/pdfs/wsics_20240932_mi_001.pdf)

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[Gohebiaeth.Jack.Sargeant@llyw.cymru](mailto:Gohebiaeth.Jack.Sargeant@llyw.cymru)  
[Correspondence.Jack.Sargeant@gov.wales](mailto:Correspondence.Jack.Sargeant@gov.wales)

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

The corrections have also been incorporated into the HTML of both language versions:

Welsh: <https://www.legislation.gov.uk/wsi/2024/932/regulation/3/made/welsh>

English: <https://www.legislation.gov.uk/wsi/2024/932/regulation/3/made>

Yours sincerely

A handwritten signature in black ink that reads "JACK SARGEANT". The signature is written in a cursive style with a long horizontal line underneath the name.

**Jack Sargeant AS/MS**

Minister for Culture, Skills and Social Partnership

Y Gweinidog Diwylliant, Sgiliau a Phartneriaeth Gymdeithasol

Jane Hutt MS

Cabinet Secretary for Culture, Social Justice, Trefnydd and Chief Whip

28 October 2024

Dear Jane

## The Applications for Scheduled Monument Consent (Wales) Regulations 2024

You will be aware that the Legislation, Justice and Constitution Committee has recently scrutinised [The Applications for Scheduled Monument Consent \(Wales\) Regulations 2024](#) (the Regulations). The Committee's [report](#) was laid before the Senedd on 30 September 2024.

Our first technical reporting point highlights that the amendment to the Transport and Works Applications (Listed Buildings, Conservation Areas and Ancient Monuments Procedure) Regulations 1992 (the 1992 Regulations), made using regulation 3(3)(b) of the Regulations, fails to identify with certainty the location of the new text. The Welsh Government [response](#) to this point states:

*"The Welsh Government does not consider that the location of the amendment is unclear. It has been correctly identified by Lexis and it has been reflected on its database."*

We do not consider this to be a convincing response. Lexis is a legal database, compiled by experts who may well be able to work out the location of an amendment from context. This does not justify the drafting approach taken, which fails to follow good practice for describing the location of an amendment where a word occurs more than once in a provision. Our concerns remain that the current drafting would be unclear to a lay reader. At the Committee's meeting on [21 October](#), we agreed to write to you to express these concerns.

Our second technical reporting point highlights an inconsistent use of the Welsh term for the English word "declaration". We note our concern that a reader of the Welsh text of the Regulations will be unable to distinguish between "declaration" and "statement" because the same word has been used to express both terms in the modifications of paragraph 2(b) in the new Schedule 3 to the 1992 Regulations. The Welsh Government response to this point states that it will seek to make the change

by correction slip. We would be grateful if you would confirm the specific change accepted and made by the SI Registrar.

Yours sincerely,

A handwritten signature in black ink that reads "Mike Hedges". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Mike Hedges  
Chair

# Agenda Item 5.2

Ysgrifennydd y Cabinet dros Iechyd a Gofal Cymdeithasol  
Cabinet Secretary for Health and Social Care



Llywodraeth Cymru  
Welsh Government

Mike Hedges MS  
Chair  
Legislation, Justice and Constitution Committee

[SeneddLJC@senedd.wales](mailto:SeneddLJC@senedd.wales)

14 November 2024

Dear Mike

**Regulations to implement Part 4 and Schedule 3 of the Public Health (Wales) Act 2017 dealing with the creation of a mandatory licensing scheme for practitioners, premises and vehicles associated with the performance of special procedures**

Thank you for your letter of 17 October following the Legislation, Justice and Constitution Committee's meeting of 14 October and its earlier scrutiny of the suite of Regulations laid before the Senedd by the Welsh Government relating to the implementation of Part 4 of, and Schedule 3 to, the Public Health (Wales) Act 2017 ('the 2017 Act').

I have noted the committee's reports following its scrutiny of these Regulations and the specific concern about the time taken to develop the secondary legislation required to implement the licensing scheme under Part 4 of the 2017 Act.

I note your comments in your letter of 17 October and regret the committee is not "convinced" about the reasons for the delay implementing this part of the Act. It is a fact implementation has been considerably delayed due to essential Brexit and Covid legislation taking precedence.

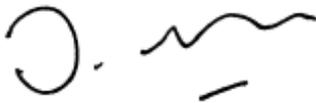
Officials have worked hard to produce this package of legislation, including considerable engagement with partners about the scheme's requirements during the formulation period, which commenced after the pandemic in 2022, through two periods of comprehensive consultation – on the scheme itself and the draft Regulations and related statutory guidance – during 2023 and 2024.

I look forward to the Plenary debate on 26 November.

I thank you for the copy of the letter you have sent to the Prif Weinidog, the contents of which are noted. As that letter sets out the same issues, I am copying this letter to her.

I am also copying this letter to the Health and Social Care Committee.

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a series of wavy lines and a short horizontal stroke at the end.

**Jeremy Miles AS/MS**

Ysgrifennydd y Cabinet dros Iechyd a Gofal Cymdeithasol  
Cabinet Secretary for Health and Social Care

Jeremy Miles MS  
Cabinet Secretary for Health and Social Care

17 October 2024

Dear Jeremy

Regulations to implement Part 4 and Schedule 3 of the Public Health (Wales) Act 2017 dealing with the creation of a mandatory licensing scheme for practitioners, premises and vehicles associated with the performance of special procedures

You will be aware that the Legislation, Justice and Constitution Committee has recently scrutinised a suite of regulations<sup>1</sup> laid before the Senedd by the Welsh Government which will implement Part 4 of, and Schedule 3 to, the *Public Health (Wales) Act 2017* (the 2017 Act) dealing with the creation of a mandatory licensing scheme for practitioners, premises and vehicles associated with the performance of special procedures.

As part of our scrutiny, you will also be aware that we have raised concerns about the timeframe within which the licensing scheme associated with special procedures has been implemented. The 2017 Act received Royal Assent on 3 July 2017. This suite of regulations is due to come into force on 29 November 2024. This means it will have taken over seven years for the new rules on special procedures to be implemented. When we asked why this was the case, the Welsh Government responses we received to our reports first note that priority was given to both bringing into force and extending the application of Part 5 of the 2017 Act which relates to intimate piercing. The response then goes on to state:

*"In the autumn of 2019, the preparatory work for the formulation of proposals for the mandatory licensing scheme set out in Part 4 of and Schedule 3 to the 2017 Act*

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<sup>1</sup> These are: SL(6)524 - [The Special Procedure Licences \(Wales\) Regulations 2024](#) (withdrawn following committee scrutiny); SL(6)527 - [The Special Procedures Approved Premises and Vehicles \(Wales\) Regulations 2024](#); SL(6)526 - [The Special Procedures Exempted Individuals \(Wales\) Regulations 2024](#); SL(6)525 - [The Prescribed Objects for Body Piercing \(Special Procedures\) \(Wales\) Regulations 2024](#); SL(6)528 - [The Special Procedures Licensing Committees \(Wales\) Regulations 2024](#)

*commenced. Due to the Covid pandemic response however, work on the proposals was paused, resuming in the summer of 2022. Since then, public consultation on the principles for the proposed licensing scheme has been undertaken yielding a significant number of informative responses from a range of individuals, businesses and representative bodies across all the special procedures. These informed the drafting of five complex inter-related regulations that were then consulted upon earlier this year.*

*Our approach has been to ensure there has been strong and effective engagement with stakeholders, including local authority officers, practitioners, businesses and industry stakeholders, about the scheme requirements. This has taken time but has ensured that the regulatory framework is understood and capable of effective implementation, providing the protections and safeguards intended by the 2017 Act.”<sup>2</sup>*

We do not consider this to be a convincing response and, with the information provided to us, have reached a view that the delay to the implementation of a key piece of public health legislation is not acceptable. At our meeting on 14 October 2024 we agreed to write to you to express these concerns.

It is also noteworthy that our report on the draft Special Procedure Licences (Wales) Regulations 2024 contained 16 technical points, nine of which identified either potential defective drafting or inconsistencies between the English and Welsh texts. We note that these draft Regulations have since been withdrawn.

We believe the Welsh Government currently plans for the Senedd to debate the suite of regulations next month. The lengthy delay to implementing Part 4 of and Schedule 3 to the 2017 Act will likely be raised during the debate and we hope you will provide additional clarity and explanation on this matter.

I am copying this letter to the Health and Social Care Committee.

Yours sincerely,



Mike Hedges

Chair

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<sup>2</sup> See, for example, the Welsh Government response to our report on The Special Procedures Licensing Committees (Wales) Regulations 2024.

# Agenda Item 5.3

## **SL(6)537 – The Special Procedure Licences (Wales) Regulations 2024**

### **Background and Purpose**

Part 4 of the Public Health (Wales) Act 2017 ("the Act") provides that certain individuals who perform special procedures (as listed in section 57 of the Act) in Wales must be licensed by a local authority. The special procedures are:

- acupuncture,
- body piercing,
- electrolysis,
- tattooing.

Part 2 of the Regulations makes provision about applications for special procedure licences including the criteria that must be met in order for an application for a special procedure licence to be granted. Part 2 also makes provision about the form and content of an application form, which is set out in Schedule 1 to the Regulations.

Part 3 of the Regulations makes provision about the form and content of a special procedure licence (as set out in Schedule 2 to the Regulations).

Part 4 of the Regulations makes provision about the mandatory licensing conditions which apply to a special procedure licence (as set out in Schedules 3 to 7 to the Regulations).

Part 5 of these Regulations makes provision about fees in relation to special procedure licences.

### **Procedure**

Affirmative.

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

### **Technical Scrutiny**

The following 9 points are identified for reporting under Standing Order 21.2 in respect of this instrument.

- 1. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements**



There appear to be words missing from regulation 4(1):

*The licensing criteria that must be met by an individual (an "applicant") for a special procedure licence in order for the application to be granted are set out in paragraphs (2) to (4).*

Section 62(1) of the Act states that "*Regulations must set out criteria that must be met **on an application** by an individual (an "applicant") for a special procedure licence...*" (emphasis added).

## **2. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements**

We query whether the reference in regulation 9(2) should be to section 76(3) of the Act, as opposed to section 76(4) of the Act. Section 76(3) refers to the local authority determining the amount of the compliance fee, having regard to the costs incurred or expected to be incurred.

## **3. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation**

In Schedule 1 to the Regulations, which sets out the form of application for a special procedure licence, question 1.2 asks when does the applicant want the special procedure licence to start, with 'as soon as possible' being an option. Regulation 3(3) states that in the case of a temporary licence, an application must be made at least 28 working days prior to the intended start date of the temporary licence, it may have been helpful to include this information on the application form or in a guidance note.

## **4. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation**

In Schedule 1 to the Regulations, Guidance Note 1 states:

*(b) if the applicant believes that the special procedure is likely to be carried out by the applicant in the areas of different local authorities, an application is to be made to one of those local authorities.*

It is not clear if the applicant is required to state, on the application form, the names of all authorities in whose areas they expect to carry out the special procedure.

## **5. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation**

In Schedule 1 to the Regulations, Guidance Note 5 advises applicants to consult the non-statutory guidance if they are unsure as to what "basis" they perform special procedures. We ask the Welsh Government to confirm which guidance is being referring to. It would better assist applicants if the guidance was signposted.

## **6. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation**



Applicants are required to disclose unspent convictions for “relevant offences” in an application for a special procedure licence. In Schedule 1 to the Regulations, Guidance Note 8 “*Convictions for relevant offences*” states that what is considered a relevant offence is set out in section 66 of the Act. Given the importance of this information, why are the relevant offences not set out in the guidance notes? Setting out the relevant offences in the guidance notes would better assist an applicant in the process of completing the application form.

**7. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation**

Paragraph 2(4) of Schedule 3 to the Regulations requires-

*In the event of the special procedure licence becoming mislaid, stolen or damaged, the licence holder must apply, within a reasonable period, to obtain a replacement from the issuing local authority.*

What would be considered a reasonable period? Setting a specified period of time within which a replacement should be obtained, or providing guidance on what is considered a reasonable period would provide a licence holder with more clarity.

**8. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation**

Paragraph 4(2) of Schedule 3 to the Regulations requires the licence holder to keep and maintain a register of incidents associated with the performance of special procedures by the licence holder. In accordance with paragraph 4(3), the licence holder must also register such incidents. Does the Welsh Government consider the drafting of this mandatory condition to be sufficiently clear, and would a licence holder be able to identify what would constitute an ‘incident’ and know how to register such an incident?

**9. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation**

Schedules 3 to 7 to the Regulations set out the mandatory licensing conditions that are to apply to special procedure licences, for the purposes of section 63 of the Act. These mandatory licensing conditions must be “*readily available upon request*” by a client.

We note that definitions have been included in the Schedules, however many of these definitions do not assist the reader in their understanding of the mandatory licensing conditions, as they merely refer to sections of the Act. The inclusion of the definitions at the end of the Schedules also hinders their accessibility.

## Merits Scrutiny

The following four points are identified for reporting under Standing Order 21.3 in respect of this instrument.



## **10. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd**

Regulation 4(2) sets out the licensing criteria that must be met by an applicant for a special procedure licence, in order for that application to be granted. The criteria include providing evidence of a criminal record check.

The application form for a special procedure licence, as set out in Schedule 1 to the Regulations, asks at 2.12 whether the applicant is eligible for a basic disclosure certificate issued by the Disclosure and Barring Service, an overseas criminal record certificate, or both. The applicant is also required to tick a box confirming that *“Evidence of basic disclosure certificate / overseas criminal record certificate is enclosed”*.

Guidance Note 8 on the application form states that a basic disclosure certificate will show an applicant’s unspent convictions and conditional cautions.

Part 4 of the application form is titled *“Convictions for relevant offences”* where an applicant is required to declare whether they have an unspent conviction for a relevant offence and to provide information about any relevant offences. A relevant offence is defined in section 66(8) of the Act as:

- (a) an offence under Part 4 (special procedures) or Part 5 (intimate piercing) of the Act;
- (b) an offence (whether under the law of England and Wales or elsewhere) that—
  - (i) involves violence,
  - (ii) is of a sexual nature, or relates to sexual material or images,
  - (iii) consists of tattooing a child under the age of 18,
  - (iv) relates to health and safety at work, or
  - (v) consists of a failure to comply with a requirement of a scheme for licensing or otherwise permitting or regulating the performance of an activity which is a special procedure for the purposes of the Act.

Under section 66 of the Act, where an applicant has been convicted of a relevant offence, a local authority must decide whether the applicant's fitness to perform a procedure to which the application relates has been called into question to such an extent that it would be inappropriate to issue the licence in respect of the performance of that procedure.

We ask the Welsh Government to provide an explanation as to why it considers requiring applicants for a special procedure licence to submit a criminal record check (which would show an applicant’s unspent convictions and conditional cautions, including those not considered relevant offences) a proportionate means of establishing whether an applicant has unspent convictions for relevant offences. Were any alternative means of establishing whether an applicant has unspent convictions for relevant offences considered?



## **11. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd**

The Regulations were initially laid on 17 September and considered by this Committee on 30 September. The initial Regulations were withdrawn and subsequently replaced by these Regulations, which were laid on 15 October.

A Welsh Government response was required to 18 of the reporting points raised in the report on the initial Regulations, however a response has not been received as at the date of this report. A response to that initial report may have addressed a number of points raised in this report. It would also have been helpful to have confirmation of the changes made to the Regulations. Why was a Welsh Government response not received?

Further, this Committee wrote to the then Counsel General in a [letter dated 15 March 2024](#) which states:

*You will know that all explanatory memoranda accompanying subordinate legislation laid before the Senedd includes a section – section 2 – which is used to highlight matters which may be of special interest to the Legislation, Justice, and Constitution Committee. Should an instrument be laid before the Senedd which is correcting a previously scrutinised instrument, we would find it helpful if the relevant information could be set out in section 2, including the reference number of the instrument and a footnote to our report.*

We ask the Welsh Government to explain why the Explanatory Memorandum does not contain this information.

## **12. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd**

The Public Health (Wales) Act 2017 received Royal Assent on 3 July 2017. These Regulations, if approved by the Senedd, are due to come into force on 29 November 2024. This means it will have taken over 7 years for the new rules on special procedures to be implemented.

This was also raised at point 8 of this Committee's [report on the Special Procedures Approved Premises and Vehicles \(Wales\) Regulations 2024](#). We note the following from the [Welsh Government response](#) to that report:

*Work on implementing the 2017 Act started immediately after the passing of the Act in July 2017. Part 5 (intimate piercing) of the 2017 Act came into force in February 2018, making it an offence to intimately pierce, or arrange to intimately pierce, a child or young person under the age of 18 in Wales, if that piercing involves or uses jewellery. The 2017 Act allowed for the scope of the offence to be extended, by way of regulations made by the Welsh Ministers, to capture intimate piercings which involve or use 'objects'. With this as a priority, the Government undertook a consultation on its proposals to extend the scope of the protections, prepared guidance for practitioners and regulators as well as for*



young people, and undertook a publicity campaign to inform practitioners, clients and regulators of the new prohibitions. Regulations were subsequently made in July 2019.

In the autumn of 2019, the preparatory work for the formulation of proposals for the mandatory licensing scheme set out in Part 4 of and Schedule 3 to the 2017 Act commenced. Due to the Covid pandemic response however, work on the proposals was paused, resuming in the summer of 2022. Since then, public consultation on the principles for the proposed licensing scheme has been undertaken yielding a significant number of informative responses from a range of individuals, businesses and representative bodies across all the special procedures. These informed the drafting of five complex inter-related regulations that were then consulted upon earlier this year.

Our approach has been to ensure there has been strong and effective engagement with stakeholders, including local authority officers, practitioners, businesses and industry stakeholders, about the scheme requirements. This has taken time but has ensured that the regulatory framework is understood and capable of effective implementation, providing the protections and safeguards intended by the 2017 Act.

### **13. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd**

We note the following extracts from the Explanatory Memorandum regarding the consultation undertaken in respect of the Regulations:

*5.2. The Welsh Government consulted on the principles of the special procedures licensing scheme (from here referred to as the 'first consultation') with a view to informing draft Regulations that would enable the commencement of the provisions of Part 4 and Schedule 3 of the Act. That 12-week consultation ran between 25 January and 19 April 2023 and the draft version of the RIA formed part of the consultation materials along with an Integrated Impact Assessment. [...]*

*5.9. A further consultation (from here referred to as the 'second consultation') ran for eight weeks between 12 February and 8 April 2024 and followed on from the first consultation referred to above[...]*

*5.10. As the policy proposals for the mandatory licensing scheme had already been consulted upon, this second consultation was considered a technical consultation specifically on the wording of the draft Regulations and draft Statutory Guidance, although the draft Regulations provided further detail around the new scheme, including those subjects where the statutory duty to consult under section 64 of the Act applied. For this reason, the Cabinet Secretary for Health and Social Services gave her consent for the consultation to run for eight weeks instead of the standard 12-week period.*



## Welsh Government response

A Welsh Government response is required for reporting points 1 to 11.

## Committee Consideration

The Committee considered the instrument at its meeting on 4 November 2024 and reports to the Senedd in line with the reporting points above.



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

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Welsh Parliament **Pack Page 54**

**Legislation, Justice and Constitution Committee**

## **Government Response: *The Special Procedure Licences (Wales) Regulations 2024***

**Technical Scrutiny point 1:** The Welsh Government thinks the language used in regulation 4(1) is clear and does not consider that words are missing from the provision. The legal effect is clear.

**Technical Scrutiny point 2:** The Welsh Government acknowledges the point made but does not consider that a change to regulation 9(2) is required. The reference to section 76(4) of the Public Health (Wales) Act 2017 (“the 2017 Act”) is reference to the way in which a local authority is to determine the amount of the fee. Therefore, the reference to section 76(4) is correct.

**Technical Scrutiny point 3:** The Welsh Government acknowledges the point made but does not consider that a change to the application form is required as the law is sufficiently clear. Non-statutory guidance will be issued to give applicants further information about the process of making an application for a temporary special procedure licence.

**Technical Scrutiny point 4:** Applicants are not required to state the names of all local authorities in whose areas they expect to carry out the special procedure on the application form. The requirement under the 2017 Act is for an individual to be licensed and an application for a special procedure licence to be made to a local authority in Wales. The provision reflects this and provides that an application is to be made to one of those local authorities.

**Technical Scrutiny point 5:** The Welsh Government acknowledges the point made and will ensure the necessary documents are readily available and widely circulated when they are published. We will take the opportunity the next time the Regulations are amended to address this issue as necessary and consider including the relevant links.

**Technical Scrutiny point 6:** The Welsh Government believes the current wording and reference to section 66 of the 2017 Act within the application form provides legal certainty. The drafting decision to refer applicants to section 66 of the 2017 Act rather than copy out the full text of section 66 was to futureproof the application form as the drafting of section 66 may be subject to potential changes in the future.

**Technical Scrutiny point 7:** A policy decision was taken not to prescribe a specific period of time by which a replacement special procedure licence must be obtained. This decision was made to take into account the circumstances around when a special procedure licence may be mislaid, stolen or damaged which can vary considerably. Consideration may be given to whether details within the non-statutory guidance may assist licence holders in these circumstances. However, the approach taken when drafting this licensing condition was to ensure that the condition would not

be unduly burdensome on licence holders who may be inadvertently in breach of the condition if a specific time period was imposed.

**Technical Scrutiny point 8:** The Welsh Government considers that the licensing conditions in paragraph 4 of Schedule 3 to the Regulations are sufficiently clear. However, we will take the opportunity to provide assistance in the non-statutory guidance to address this issue as necessary.

**Technical Scrutiny point 9:** The Welsh Government notes the point raised by the Committee regarding accessibility. We consider that the terms are easily understood in the context of the mandatory licensing conditions. Therefore, we consider that the conditions would be understood and that by including the terms in a Schedule the legal effect is clear and correct. A drafting decision was taken to aid clarity by placing the definitions at the end of the Schedules and to include the operative provisions first.

**Merit Scrutiny point 1:** The requirement for an applicant to provide evidence of a criminal record check (by way of a basic disclosure certificate) was considered necessary and proportionate when applying for a special procedure licence, as a means of safeguarding the public. Providing a basic disclosure certificate is a way of independently verifying an individual's criminal record background. The alternative would be to rely solely on an applicant to make a declaration about their unspent convictions in an application for a special procedure licence, which is not required to be independently verified. Advice from local authority officers with considerable experience and proficiency in operating licensing schemes was that evidence should be independently verified as not all applicants will make truthful or complete declarations in application forms.

Other options, such as Police Certificates issued by the ACRO Criminal Records Office, were initially considered. A Police Certificate provides information held on the Police National Computer about an individual and the purpose of a Police Certificate is for individuals who want to emigrate, obtain citizenship/residency in another country, travel or obtain a visa to live and/or work abroad. Police Certificates cannot be used to gain employment in the UK, therefore, a Police Certificate was not a viable option for applicants for a special procedure licence. Consideration was also given to whether applicants should be required to submit an enhanced disclosure certificate instead of a basic disclosure certificate. This was not considered proportionate or necessary, given that a basic disclosure certificate shows an individual's unspent convictions for relevant offences (as set out in section 66 of the 2017 Act) and is a cost-effective way of independently verifying an individual's past criminal record history.

The requirement for an applicant to provide independent verification of their criminal record history is comparable to other licensing schemes currently in force. The Welsh Government is not aware of a way of "filtering" unspent convictions that appear on an individual's basic disclosure certificate which are not considered relevant offences for the purposes of the 2017 Act. However, whilst an individual's unspent convictions will

appear on a basic disclosure certificate, the Statutory Guidance being issued under section 66(11) of the 2017 Act is very clear that only unspent convictions for a relevant offence are to be considered by a local authority.

**Merit Scrutiny point 2:** The draft instrument was withdrawn, amended and laid again on 15 October 2024 to address seven of the technical reporting points raised in the Committee's previous report (as well as one informal point raised by the Committee's adviser). Those reporting points related to the formatting of the instrument and inconsistencies between the English and Welsh text. The Government considered that withdrawing, amending and relaying the instrument was the appropriate approach to take in these particular circumstances. We accept, on reflection, it could have been helpful to the Committee to have explained this in a response to the Committee's initial draft report rather than simply withdrawing and relaying the instrument.

The failure to include a reference to the earlier withdrawal of the draft instrument in section 2 of the Explanatory Memorandum was an administrative oversight, for which we apologise. The Explanatory Memorandum will be amended to rectify this.

# Agenda Item 5.4

Ysgrifennydd y Cabinet dros Gyllid a'r Gymraeg  
Cabinet Secretary for Finance and Welsh Language



Llywodraeth Cymru  
Welsh Government

Your ref: SI(6)540

Mike Hedges MS  
Chair of Legislation, Justice and Constitution Committee  
Senedd Cymru  
SeneddLJC@senedd.wales

15 November 2024

Dear Mike,

As part of the scrutiny of the Land Transaction Tax (Relief for Special Tax Sites) (Wales) Regulations 2024, the Committee asked the Welsh Government to confirm whether the Competition and Markets Authority (the "CMA") raised any concerns in relation to the new land transaction tax ("LTT") relief and, if so, provide the Government's response.

As outlined in the Welsh Government's initial response to the Committee, the CMA published their report on the Welsh Freeports Subsidy Scheme on 1<sup>st</sup> November 2024:

[Referral of the proposed Welsh Freeports Subsidy Scheme by the Welsh Government \(WG\) and the Ministry of Housing, Communities and Local Government \(MHCLG\) - GOV.UK](#)

The Welsh Government and UK government have now had opportunity to consider the report. I can confirm the CMA did not raise any specific concerns in relation to the new LTT relief.

The Welsh Freeports Subsidy Scheme has been registered on the UK Government subsidy transparency database and is ready for use once the legislation comes into force:

[SC11215: Welsh Freeports Subsidy Scheme](#)

Yours sincerely,

**Mark Drakeford AS/MS**

Ysgrifennydd y Cabinet dros Gyllid a'r Gymraeg  
Cabinet Secretary for Finance and Welsh Language

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We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Mike Hedges MS  
Chair  
Legislation, Justice and Constitution Committee  
Senedd Cymru

[SeneddLJC@senedd.wales](mailto:SeneddLJC@senedd.wales)

12 November 2024

Dear Mike,

In reference to my letter of 10 October and in accordance with the Inter-Institutional Agreement, I am writing to update the Committee on the intergovernmental meetings held on 11 October.

### **The Council of the Nations and Regions**

The inaugural meeting of the Council of the Nations and Regions took place in-person in Edinburgh. The Council was chaired by the Prime Minister. Others in attendance were: the Chancellor of the Duchy of Lancaster and Minister for Intergovernmental Relations; the First Minister of Scotland; the First Minister and deputy First Minister of Northern Ireland; the Mayor of London; and mayors representing a number of English regions. A short communique was published following the meeting: [Council of the Nations and Regions: Inaugural meeting on 11 October 2024 - GOV.UK](#)

The establishment of the Council of the Nations and Regions reflects the positive reset in relations with the new UK Government and provides an opportunity to begin a new era of working in partnership across the UK. Our discussions served to highlight the breadth of shared priorities on which we can work in partnership, including supporting people into work, fostering innovation and investment – particularly as we transition to net zero and look to create jobs in green industries – and improving economic infrastructure and skills.

### **Prime Minister and Heads of Devolved Governments meeting**

In advance of the Council of Nations and Regions, the Prime Minister and Heads of the Devolved Governments met to discuss economic growth priorities ahead of the UK Government's 30 October Budget Statement and publication of the Industrial Strategy Green Paper at the International Investment Summit on 14 October. Areas which featured during the discussion included enhancing productivity and the use of technologies such as

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Artificial Intelligence, skills, increasing and spreading investment across the UK, and making the most of the UK Government's overseas offices for the benefit of all countries in the UK. The discussion also covered our shared priority of delivering clean energy, and the importance of enhancing grid infrastructure in support of this.

In addition, the meeting enabled a discussion on the positive resetting of relationships between the UK Government and the devolved governments, and the structures and mechanisms to that can support effective intergovernmental working.

A short joint communique was issued after the meeting: [Prime Minister and Heads of Devolved Governments Meeting communiqué 11 October 2024 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/prime-minister-and-heads-of-devolved-governments-meeting-communiqué-11-october-2024)

### **Bilateral meeting with the Prime Minister**

A bilateral meeting with the Prime Minister provided an opportunity for us to discuss shared priorities and interests for our governments, including economic growth and support measures in the context of Tata and Port Talbot, freeports and investment zones. I also highlighted the importance of a range of financial matters, including funding to support the delivery of public services, coal tip safety, rail investment including HS2, capital funding, and budgetary flexibilities for the Welsh Government. In addition, the discussion covered broader aspects of our constitutional reform agenda, including the proposed devolution of Youth Justice and Probation, and the need to ensure the Sewel Convention and the will of the Senedd is fully respected when it comes to UK legislation affecting devolved responsibilities.

Yours sincerely,



**Eluned Morgan**

Huw Irranca-Davies AS/MS  
Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros  
Newid Hinsawdd a Materion Gwledig  
Deputy First Minister and Cabinet Secretary for Climate  
Change and Rural Affairs

Ein cyf/Our ref: HIDCC/PO/0328/24

Mike Hedges MS  
Chair  
Legislation, Justice and Constitution Committee  
Welsh Parliament  
Cardiff Bay  
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12 November 2024

Dear Mike,

I am writing to inform you that the Greenhouse Gas Emissions Trading Scheme (Amendment) (No.2) Order 2024 was laid in the Senedd on the 22 October and is due to come into force in December 2024, if agreed. While the changes effected by the amending Order are minor, they would help update the scope of the UK Emissions Trading Scheme and strengthen its capabilities to deliver decarbonisation goals in Wales and the UK.

Specifically, the Order amends the Greenhouse Gas Emissions Trading Scheme Order 2020 to:

- Regularise legislation providing for the UK ETS cap, resetting the amount of allowances that can be given freely for participants at risk of carbon leakage (the “industry cap”) and creating a reserve of allowances that can be used to smooth unexpected price and volume fluctuations in the market (the “flexible reserve”). These changes will align the UK ETS with the net zero ambitions of the four UK nations and enable the UK ETS market to function effectively.
- Extend the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2023 to Northern Ireland – to implement changes to the use of Free Allocations in aviation; carbon capture, transport and storage; and electricity generators.
- Expand the scope of the UK ETS to include flights from Northern Ireland to Switzerland to restore the 4-nation approach of the UK ETS following the return of the Northern Ireland Executive and Assembly.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

- Expand the scope of the UK ETS to include carbon dioxide (CO<sub>2</sub>) venting from the upstream oil and gas sector to strengthen the decarbonisation potential of the UK ETS.
- Strengthen and regularise the enforcement of the UK ETS by introducing new civil penalties and an enforcement notice, amending existing penalties for better parity across the UK ETS.

Some of the above comes in the form of “catch-up” legislation; Amendments immediately critical to the operation of the UK ETS were made as Great Britain-only legislation with the agreement of the Permanent Secretary for Northern Ireland, during the period when Northern Ireland Executive and Assembly were not in place. Now that they have been restored, we are able to extend these changes to Northern Ireland. Changes to the UK ETS Cap were temporarily implemented via the Greenhouse Gas Emissions Trading Scheme Auctioning (Amendment) Regulations 2023, again in the absence of an Assembly in Northern Ireland, and now are being incorporated into the ETS legislation. Advice was sought from our statutory advisors, the Climate Change Committee on the proposals covered in the Order.

The UK Emissions Trading Scheme will continue to be an extremely important policy for Wales, providing a vital investment signal, which incentivises decarbonisation while promoting economic growth. I thank you for your co-operation and support in strengthening its capabilities to deliver these goals.

This letter has also been sent to the Chair of the Climate Change, Environment and Infrastructure Committee.

Yours sincerely,



**Huw Irranca-Davies AS/MS**

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid Hinsawdd  
a Materion Gwledig

Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

## **The Welsh Government's Legislative Consent Memorandum on the Passenger Railway Services (Public Ownership) Bill**

### **Response to the LJC Committee Report**

**31 October 2024**

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On 1 August 2024, Ken Skates MS, the then Cabinet Secretary for Economy, Transport and North Wales, and now the Cabinet Secretary for Transport and North Wales laid before the Senedd a Legislative Consent Memorandum in respect of the Passenger Railway Services (Public Ownership) Bill (the Bill).

The Legislation, Justice and Constitution Committee (LJC) produced a report on 23 October 2024 containing one recommendation. This is the Welsh Government response to that recommendation.

#### **1. Introduction**

The Passenger Railway Services (Public Ownership) Bill ("the Bill") was introduced in the House of Commons on 18 July 2024 by the new UK Government. The Bill mainly makes provisions on rail passenger services, to bring such train operations back into public ownership.

"Railway services" is a reserved matter under paragraph 117 of Schedule 7A to the Government of Wales Act 2006. However, legislative consent is required as the Bill contains provisions with regard to devolved matters, namely the modification of devolved functions, and devolved Welsh authority public procurement functions which the Senedd has legislative competence in relation to.

Therefore, on 1 August 2024, Ken Skates MS, the then Cabinet Secretary for Economy, Transport and North Wales, and now the Cabinet Secretary for Transport and North Wales laid before the Senedd a Legislative Consent Memorandum.

On 23 October 2024 the Legislation, Justice and Constitution Committee (LJC) produced a report on that Legislative Consent Memorandum which contained one recommendation.

With thanks to the members of LJC for their work, this report contains a response to that recommendation.

## **2. Response to the recommendation**

The Committee recommends that:

“Given the approach by the UK Government referred to in paragraph 6 of the legislative consent memorandum, the Cabinet Secretary should state whether he used the opportunity provided to raise the prospect of using forthcoming primary legislation on railways to align the Senedd’s legislative competence with the existing executive competence of the Welsh Ministers in this policy area.”

### **Response: Accept in Principle**

We continue to work with UK Government on the detail of railway reform expected in forthcoming legislation, announced in the King’s Speech on 17 July 2024.

Welsh Government has long argued that the railway is a fundamental public service, and that its rightful place is in the public sector rather than in the hands of shareholders and private investors. Whilst the Passenger Railway Services (Public Ownership) Bill achieves this goal, it does not achieve our broader goals for railway reform.

We have consistently called for responsibility for rail infrastructure spending in Wales to be devolved, with a fair funding settlement.

Priorities for railway reform in Wales have already been laid out to the new Secretary of State for Transport. When the Cabinet Secretary met with the new UK Rail Minister, Lord Hendy, over the summer, there was joint commitment to working in partnership to deliver a better railway for Wales.

That includes delivering fundamental reform of Wales’ rail operating model, the most complex of all UK nations.

As part of railway reform, we are seeking that any new Wales & Borders Business Unit within Great British Railways, should be accountable to Welsh Ministers and to the Senedd, as it delivers against Welsh priorities.

We also want Wales to have a real voice on services operating to and from Wales, particularly vital London services. Welsh Ministers and the Senedd should be able to hold operators of these services to account.

Ken Skates MS

Cabinet Secretary for Transport and North Wales

13 November 2024

Dear Ken

### Legislative consent: Passenger Railway Services (Public Ownership) Bill

During the Plenary debate on a legislative consent motion on the Passenger Railway Services (Public Ownership) Bill, which took place on 5 November 2024, I drew attention to your written statement (dated 1 November) in which you confirmed that the UK Government had proposed an amendment to the Bill that would add a new clause. While acknowledging that this amendment was only tabled in the UK Parliament that same week, I stated that it was not clear why the Welsh Government had not laid a supplementary legislative consent memorandum before the Senedd. I therefore asked you to confirm why it was the Welsh Government's view that the requirements in Standing Order 29 for a supplementary legislative consent memorandum had not been engaged. In your closing remarks, you stated:

*"...the UK Government, as I've mentioned, is moving at great pace, and so tabling a statement instead of a supplementary LCM has enabled us to provide as much time as possible for Members to have their say on this before it returns to the Report Stage at the House of Lords tomorrow. Arguably, a supplementary LCM was not needed either, because of the nil effect in terms of the practical effects and the legal effects, and that's the reason why I've brought forward the statement in the form of a written statement...". (Our emphasis added)*

In our meeting of the Legislation, Justice and Constitution Committee this week, we considered the comments you made during the Plenary debate. In particular, we noted your statement that the relevant amendment had "nil effect in terms of the practical effects and the legal effects" and this meant a supplementary legislative consent memorandum was not needed. While we have not given full consideration to the amendment as we would normally do if it were the subject of a consent

memorandum, we have nonetheless noted that whether a provision in a UK Bill has any practical or legal effect appears to be a different assessment to what is required by Standing Order 29.1. You will know that Standing Order 29.1 states that a "relevant Bill" means a Bill under consideration in the UK Parliament which makes provision in relation to Wales that has regard to devolved matters.

As such, while we do welcome your action to draw the amendment to the attention of the Senedd in advance of the debate on the legislative consent motion, we remind you of the importance of advising Members of the Senedd how any UK Bill (or amendment) meets the specific test set out in Standing Order 29.

Furthermore, the Committee appreciates that, in some circumstances, finding the time to lay supplementary legislative consent memoranda can be challenging. Nonetheless it is a requirement of Standing Orders, and issuing a written statement should not be seen as a substitute for consent memoranda.

I am copying this letter to Eluned Morgan MS, First Minister of Wales, Julie James MS, Counsel General and Minister for Delivery, and the Rt Hon Elin Jones MS, the Llywydd.

Yours sincerely,

A handwritten signature in black ink that reads "Mike Hedges". The signature is written in a cursive style and is underlined with a single horizontal line.

Mike Hedges  
Chair



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## **WRITTEN STATEMENT BY THE WELSH GOVERNMENT**

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<b>TITLE</b>	<b>Legislating to support tourism in Wales</b>
<b>DATE</b>	<b>12 November 2024</b>
<b>BY</b>	<b>Mark Drakeford MS, Cabinet Secretary for Finance and Welsh Language</b> <b>Rebecca Evans MS, Cabinet Secretary for Economy, Energy and Planning</b>

In July's legislative statement, the First Minister announced two Bills to support tourism and local communities. One Bill will give local authorities the power to introduce a visitor levy and the other will regulate visitor accommodation.

Today we are updating Members about these Bills.

Subject to the Llywydd's determination, the Visitor Accommodation (Register and Levy) Etc. (Wales) Bill will be introduced to the Senedd on 25 November.

This Bill proposes giving local authorities the power to introduce a visitor levy, which will be a small charge paid by people staying overnight in visitor accommodation. The levy will raise additional funds for local authorities to support the long-term sustainability of our tourism industry. Each local authority will be able to decide whether to introduce a visitor levy in its area, based on local circumstances.

One of the Welsh Government's tax principles is that our taxes should be developed through collaboration and involvement. Through consultation, continued engagement and the discovery work led by the Welsh Revenue Authority, we have received consistent feedback that we need a form of registration in place to support the levy. This has informed our decision to include a national register of all those providing visitor accommodation in Wales within the Bill.

We have previously consulted on a statutory licensing scheme for visitor accommodation in Wales as a means of helping to establish a level playing field and

to ensure visitors have confidence in the high-standards available throughout Wales. The registration scheme proposed in the Visitor Accommodation (Register and Levy) Etc. (Wales) Bill is the first step towards that scheme.

We will be bringing forward the second Bill to move us towards a statutory licensing scheme and enable visitor accommodation providers to demonstrate how their accommodation meets certain conditions. We will continue to discuss and engage with tourism stakeholders, accommodation providers and local authorities as we progress these proposals.

**Legislation, Justice and  
Constitution Committee**

Huw Irranca-Davies MS  
Deputy First Minister and Cabinet Secretary for  
Climate Change and Rural Affairs

13 November 2024

Dear Huw

**Written Statement: Independent Commission and Review of the Water Sector**

At our meeting on Monday 4 November 2024 we noted your written statement concerning the joint launch with the UK Government of an Independent Commission and Review of the Water Sector. This matter is of interest to us given our consideration of the Welsh Government's legislative consent memorandum on the UK Government's Water (Special Measures) Bill and our scrutiny of intergovernmental relations.

In the statement, you refer to the "fresh approach of our two governments to cross-border cooperation on an issue which affects us all". You also note that "water is a complex and highly sensitive aspect of the devolution settlement in Wales, *which needs to be considered when developing future arrangements*" and that recommendations from the Commission "will *form the basis of further legislation to attract long-term investment* and clean up our waters for good." [Our emphasis].

In addition you state that "*We* have clear priorities for reform and a *shared sense* of the work that will be needed across both countries' policy and regulatory regimes to make this change happen. There will need to be a *consensus for action*, and this includes where distinctive solutions are needed in Wales and in England to *deliver a reset* and secure a resilient water sector and framework that will work for the long term." [Our emphasis].

Reference is also made to "This crucial work will complement the wide range of work on water quality that is already underway in other areas" and "our continued collaboration with our counterparts in England on this vital issue."

We anticipate that a primary legislative solution may be required to deliver some of the Commission's potential recommendations and that this will likely arise during the Seventh Senedd. Given that it is likely that the UK Government would introduce a Bill to implement recommendations for England arising from the Commission's work, a few questions arise:

- (i) How will the Welsh Government approach the Commission's work and implement its recommendations that relate to Wales, and are your officials working and preparing on the basis (during this Senedd) that a Bill will be introduced into the Seventh Senedd?
- (ii) As part of the cross-border cooperation you refer to in your written statement, what representations have you made to the UK Government about future legislative solutions to deliver the Commission's recommendations? Have you or your officials discussed with counterparts in the UK Government using a UK Bill to deliver the recommendations that relate to Wales?
- (iii) In terms of your collaboration with your counterparts in the UK Government, how might this be affected if legislation was introduced to the Senedd, rather than the UK Government legislating for Wales?
- (iv) What information have you provided to the Commission about possible future legislative solutions and your preferred approach?
- (v) Your statement refers to "a dedicated representative of the sector in Wales" being on the Commission, and seeking the views of Wales' experts to ensure the Welsh perspective is considered at the highest level. On what basis will these representatives input to the Commission: on the basis of a Bill coming before the Senedd or a joint legislative solution in a UK Bill?

I look forward to receiving a reply by 28 November 2024. I am copying this letter to the Chair of the Climate Change, Environment and Infrastructure Committee.

Yours sincerely,



Mike Hedges

Chair



Llywodraeth Cymru  
Welsh Government

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## WRITTEN STATEMENT BY THE WELSH GOVERNMENT

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**TITLE** Consultation on Bathing Water Regulation reforms

**DATE** 12 November 2024

**BY** Huw Irranca-Davies MS, Deputy First Minister & Cabinet Secretary for Climate Change and Rural Affairs

Today I am pleased to announce that the Welsh and UK Governments are continuing their collaborative efforts on water sector reform with the launch of a joint [consultation](#) on proposed changes to the Bathing Water Regulations 2013. These regulations, which apply to both England and Wales, play a fundamental role in safeguarding the quality of our bathing waters and ensuring the public is well-informed about water quality at these vital sites.

Wales is home to some of the best beaches and water quality in Europe, and outdoor swimming is increasingly popular. It is crucial that our bathing water programme evolves not only to reflect this growing enthusiasm but also to address the wider challenges posed by climate change.

This consultation is an important step within our broader programme to improve water governance in Wales. It provides an opportunity to address immediate regulatory needs, while also gathering valuable feedback that will inform future phases of reform. By working collaboratively with the UK Government and stakeholders across the water sector, we can ensure that the necessary changes are made to protect our natural resources, improve water quality, and deliver long-term benefits for the people and environment of Wales.

This consultation builds on the progress we have made through recent joint initiatives between the Welsh and UK Governments, such as the Water Special Measures Bill and the Water Regulatory Review Commission. The Bill seeks to strengthen regulatory oversight to ensure water companies meet their obligations, while the Commission is working to modernise the regulatory framework for water in the UK. Together, these efforts aim to create a water sector that is resilient, environmentally sustainable, and equipped to meet the challenges of a growing population and the ongoing climate crisis.

While the legal framework for the Bathing Water Regulations is shared across both nations, the operation and management of the bathing water programme in Wales is fully devolved. My priority remains ensuring that any regulatory changes are in the best interest of Wales and deliver positive outcomes for our communities, environment, and economy. We will await the outcome of the consultation before deciding how to proceed in a way which best reflects our objectives in Wales.

Our commitment to protecting and enhancing water quality remains a top priority, and we are determined to ensure that popular bathing sites in Wales are properly identified, and their water quality effectively monitored.

Mike Hedges MS  
Chair of Legislation, Justice and Constitution Committee  
Senedd Cymru/ Welsh Parliament  
Cardiff Bay  
Cardiff  
CF99 1SN

From: Office for the Internal Market

13 November 2024

Dear Mr Hedges MS

**Re: Legislation, Justice and Constitution Committee, 30 September 2024**

Thank you for your letter dated 24 October, and for the earlier opportunity for the OIM to speak at the Legislation, Justice and Constitution Committee. Tim Render has asked me to respond on behalf of the OIM.

The OIM has, at a high level, examined the Product Regulation and Metrology Bill and we believe, at this stage, that there is no interaction between the Bill itself and the UK Internal Market (UKIM) Act 2020 Market Access Principles (MAPs) as the Bill itself is designed to achieve regulatory alignment across the UK in certain policy areas. Consequently, if powers are exercised under the legislation, there would be no regulatory difference in these areas such that a business or other market participant could 'use' the MAPs to trade across the nations of the UK.<sup>1</sup> If there are particular issues that you think are relevant from an internal market MAPs perspective, please do let us know, and we would of course be happy to engage with Committee officials.

With respect to the OIM and the Windsor Framework more broadly, the OIM's remit has not changed since the OIM was officially launched in September 2021. The Windsor Framework, and any legislation necessary to give effect to it, falls outside the OIM's statutory remit. Specifically, it is beyond our statutory remit to consider a regulatory provision that is necessary to give effect to the Framework (as this would not fall within the relevant definition in the UKIM Act) nor does the OIM have any role in monitoring the implementation of the Framework.

However, some other UK internal market matters relating to Northern Ireland are within the OIM's remit: for example, those relating to trade in services, which are not covered by the Framework. Additionally, aspects of legislation which go beyond what is necessary to give effect to the Framework – for example, additional legal requirements introduced by the

---

<sup>1</sup> We acknowledge that, if powers are exercised under the legislation and then one (or more) of the nations were to pass (separate) legislation that diverged from the legislated standard, there could be a scenario where the MAPs would apply but this would depend on the specific context.

Northern Ireland Assembly that go further than EU standards in the relevant area – would also fall within the scope of the Act and the OIM's remit.

As regards your question on whether the UK Internal Market Act applies to the Channel Islands, the UKIMA only applies to the UK, and has not been extended to the Channel Islands.<sup>2</sup>

I hope that this information is helpful and has answered your questions, and we look forward to the OIM's continued engagement with you and the Committee.

Yours sincerely,

*J D Waugh*

James Waugh  
Director  
Office for the Internal Market

---

<sup>2</sup> Section 59(1) of UKIMA states that, 'This Act extends to England and Wales, Scotland and Northern Ireland.'

Tim Render

Panel Member

Office for the Internal Market

24 October 2024

Dear Tim,

Legislation, Justice and Constitution Committee, 30 September 2024

Thank you again for attending our meeting on 30 September 2024. We are grateful for the time and evidence you gave to the Committee.

We have some further questions related to the UK Government's Product Regulation and Metrology Bill, for which the Welsh Government has recently laid a legislative consent memorandum.

As regards the Bill, will the OIM be publishing an assessment of its provisions before it becomes law? In particular we would be interested in:

- how the Bill's provisions will interact with the Market Access Principles in the UK Internal Market Act 2020; and
- what the OIM's role will be as it relates to UK-EU matters, including on the implementation of the Windsor Framework and on the potential for alignment and divergence between the UK and the EU.

During the evidence session, you also committed to share with the Committee information regarding the status of the Channel Islands in the UK's internal market and we would be grateful if this

information could be provided by 14 November with your response to the above questions.

Yours sincerely,

A handwritten signature in black ink that reads "Mike Hedges". The signature is written in a cursive style and is underlined with a single horizontal line.

Mike Hedges

Chair

**Agenda Item 7.5**  
**Experiences of Justice:**  
**seeking legal help for**  
**immigration and asylum**  
**in Wales**

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FOUNDATION

1. Summary Report



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WALES**



## About the authors

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Elinor Matthey is Project Officer at the Bevan Foundation

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- Assistant researchers Huda Khirelsied and Esther Sunday, who contacted and engaged participants and carried out interviews.
- Our Experts by Experience Working Group: Zulma Matute, Abbas Radaideh, Diamond, and Sahar Ali.

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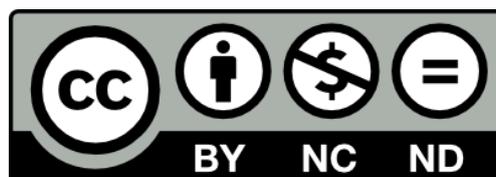
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*"...they cannot take our case... they said 'she can't talk to you, even'... so we continued searching for a solicitor but then... we got this refusal... I know nothing about legal things, how to proceed with the appeal. We have instructions, but... I didn't understand."*

- Tafod

*"... if I'm looking for an immigration lawyer, we don't even know where to start from. We don't even know how to go about it. We don't even know who to talk to..."*

- Ffresni

*"...the nights of sleeps I lost, I wouldn't have lost them [if I had someone to represent me], because at least the person will be able to advise me legally and tell me the right things and... the things I needed to know about applying for visas and everything."*

- Bodlon

## Editions in the Experiences of Justice series:

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Part 1 (this edition)	Summary Report
Part 2	Barriers to Access
Part 3	Client Care
Part 4	Rights
Part 5	Interpreters
Part 6	Impacts
APPENDIX A	Recommendations of the Experts by Experience Working Group
APPENDIX B	Project Participants

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# 1. The Experiences of Justice project

This is Part 1 of a 6-part series of outputs from our research into migrant Experiences of Justice. This report summarises the work that we did for the project and its main findings. More in-depth, qualitative outputs on each theme will follow over the coming weeks.

See page 1 for other editions in the series.

The project is part of the Bevan Foundation's Access to Justice project, which is funded by the Justice Together Initiative. The work of our Experts by Experience Working Group and sanctuary research was funded by the National Lottery Awards for All.

## 2.1 What we want to achieve

Our main aim for this project is to improve access to legal advice and related services for people migrating to Wales from overseas.

We also want to help migrating people to be more aware of their rights and to be able to exercise them.

We focus on people who cannot afford to pay for immigration advice, who are on very low incomes, or whose situations put them at risk of destitution, ill-health, homelessness, threaten their wellbeing, or mean that they need support.

## 2.2 What we wanted to know

We wanted to:

- find out directly from people in Wales who have looked for or used immigration legal advice, what their experiences were
- find out whether people migrating to Wales from overseas understand their rights and how to exercise them
- explore what practical changes could be made to improve access, experiences and outcomes for migrating people
- think about different ways to deliver legal services that would give people more control, give them more understanding of their rights, protect their rights, and make it easier for them to exercise their rights
- work in depth with four people with experience of using the immigration and asylum systems and support them to develop their own solutions and advocate for change.

## 2. What we did

We spoke to 59 people about their experiences. We spoke to 42 of them individually in interviews and 17 of them in group conversations. Interviews were in-depth and semi-structured. While there were some core questions that were asked of all participants, we did not want to direct participants too much. We wanted to know what was important to them, and to hear their experiences as they wanted to share them. People in group conversations sometimes wanted to talk to each other and to compare their experiences.

### 2.3 Who we worked with

Our Access to Justice team carried out interviews and group discussions. In addition to our existing staff, we employed two temporary assistant researchers with lived experience of migration, who interviewed people within communities they had contact with. They had professional and voluntary work experience which benefitted the project, and they gave us a lot of insight into collective experiences.

Working with people with lived experience of migration added a lot of value to the project. We appreciated the range of skills that our assistant researchers brought. They were experienced at talking to people about difficult subjects, they had supported people through challenging times, and they individually had a wealth of experience, knowledge, and qualifications that went far beyond their experiences as migrants.

We worked with two organisations, DPIA and Oasis Cardiff. DPIA carried out group interviews on our behalf with some of the people they work with, and facilitated a further discussion with the same group so that we could hear their ideas for change directly from them. Oasis scheduled group discussions and individual interviews with people who use their services, which were carried out by our team.

### 2.4 Our Experts by Experience Working Group

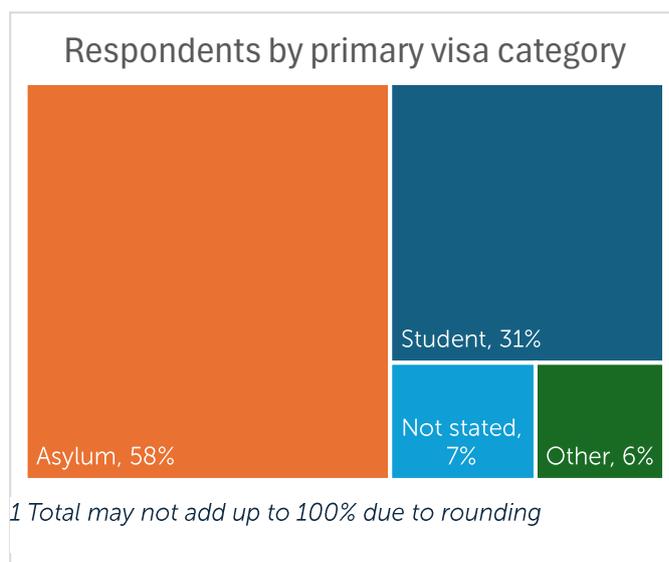
We formed an Experts by Experience Working Group drawn from project participants. The role of this group was to devise its own recommendations in response to the project's findings. The group was supported by the Bevan Foundation and given training, rights sessions, and information about regulation and decision-makers. They will be supported by the Bevan Foundation to share their recommendations and influence for change.

All members of the group have experience of seeking sanctuary in Wales. We chose a group with shared experience of a particular aspect of the UK immigration system so that they would have common understanding and to simplify training and the process of devising recommendations. Because of this, the Working Group's recommendations focus only on of asylum justice and the needs of people seeking sanctuary, while the Experiences of Justice research considered the experiences of other groups of migrants. The Group's recommendations are available from the Bevan Foundation (see page 1).

### 3. Who did we speak to?

35 (59%) of the people we spoke to were women. 23 (39%) were men. 1 stated only that they were transgender.

People we spoke to came from 25 different countries (including Palestine and the autonomous region of Iraqi Kurdistan). 61% were from Africa, 8% from Central America, 2% from Central Asia, 5% from East Asia, 2% from Europe, and 22% from the Middle East. There are more people from Africa because 18 (31%) of the people we spoke to were Africans who had come to the UK as students. Most of these were from Nigeria.



We spoke to people who had sought legal help with various visa categories. Sometimes people had sought legal help with different visa applications at different times, in which case we selected a primary category to represent their main or initial reason for seeking immigration advice. We grouped responses into five primary visa categories: Asylum (58%), Student (31%), 10-year route (2%), EUSS (2%), and Family Reunion (2%).

We found that people seeking asylum often had a slightly different overall experience of seeking legal advice and representation. People in this group often sought legal advice and representation from different sources to those used by non-asylum applicants, and many (though by no means all) did not pay for immigration legal advice but used legal aid.

Most people we spoke to live in South Wales, with a strong weighting towards Newport and Cardiff.

The group of people we spoke to is not representative of all migrants in Wales so their responses do not reflect the full range of experiences. We worked with people we have built good relationships with and will continue to invest the time needed to make more connections and build trust with others.

Our research nonetheless gives considerable insight into the experiences of many people seeking immigration legal advice and shows commonalities and some distinct differences between people travelling different migration legal routes. It demonstrates that there are major barriers to people's access to justice, both when looking for legal help and after finding it.

For a full, anonymised list of everyone we spoke to, please see Appendix B (see page 1).

## 4. What did we find?

The findings of our research fall into five main themes.

### 4.1 Barriers to access

The people we spoke to had varying experiences of finding legal advice and representation. A few had found a solicitor or other representative very quickly and easily. Others had found it very challenging, while many had not been able to find legal help at

all. Many, particularly people seeking sanctuary, were given a list of legal services and left to find a representative by themselves. Often, many of those on the list were not accepting new clients.

**40%** of participants currently seeking help with a legal case have not been able to find any assistance. Of these, 50% are seeking asylum.

Cost was an enormous barrier to legal advice and representation, particularly for those not eligible for legal aid, but also for people who were eligible but could not find an available legal representative. We spoke to people who felt they had no choice but to pay thousands of pounds for legal services, sometimes spending large amounts on “consultation” fees or initial discussions, with no guarantee of receiving ongoing help. For most, this meant going into debt or using the money they needed to live on.

Nearly half of the people we spoke to had found it difficult to find their legal representative (61% of students and 38% of people seeking asylum).

Looking at the years in which people needed help with their legal case suggests that people are less likely to be able to find legal help now than in previous years. 40% of people we spoke to who are currently seeking help with a legal case had not been able to find any assistance at all. Of these, half are seeking asylum.

For 7% of those we spoke to, legal help had come too late to assist them with their case. Being unable to find legal help has serious consequences (see [4.5](#) below).

The most common barriers that people we spoke to found when looking for legal representation were:

- They did not know where to go for legal advice or representation.
- They were told that the representative they approached was not taking new cases.
- They could not afford legal help and had no access to free help.
- They had difficulty communicating with either the legal representative or receptionist.
- They did not get any response from the legal representative they approached.
- They had to travel long distances to find or to use legal help.

## 4.2 Client care

Many people wanted to talk about how they had been treated by legal representatives. We did not set out to ask people in detail how their legal representatives had treated them, we only asked generally how they felt about the service they were given. Mostly, people raised the issues mentioned below without being prompted. This suggests that the real percentage of participants with these concerns may in fact be higher.

**33%** of asylum-seeking participants with a current legal case said that their solicitor had made a mistake with their case.

**32%** of asylum-seeking participants said they did not trust their solicitor.

The issues in this section relate to solicitors or their firms. Apart from some criticism of Migrant Help, people spoke positively about charity services, though they often did not receive enough help due to a lack of services or capacity, or not knowing where to go. Concerns about unregulated advisors are covered in [4.3](#) below.

We heard repeated stories of poor practice, of solicitors not meeting the standards in the Solicitors Regulation Authority's Code of Conduct, of lack of communication, information, and choice. Some people thought their solicitor was not on their side. Some even suspected that their solicitor was working against them or for the Home Office.

People felt unable to do anything about their bad experiences of solicitors. Most people we asked did not know that solicitors are regulated, or that they have responsibilities to their clients. Most did not fully understand their rights. There is more about this in [4.3](#).

The main concerns that people raised are:

- Not being able to see their solicitor in person, or not being able to get an appointment to speak with their solicitor at all.
- Not getting regular updates (or updates at all) from their representative telling them what is happening with their case.
- Solicitors not explaining what they are going to do, what the legal process involves, or giving informed choice.
- Solicitors having too large a caseload to provide a proper service to their clients.
- Solicitors making mistakes with legal cases, in some cases resulting in delays or refusal.
- Solicitors or their associates showing no compassion or treating people like 'robots'.
- Having sudden changes of representative or being left without a representative when a solicitor firm closed, stopped providing legal aid, or withdrew from their case.

31% of people we spoke to reported that they had a bad overall experience with a legal representative. This rises to 41% for sanctuary seekers.

### 4.3 Rights

A lot of the people we spoke to did not know their rights. Nearly a quarter of people seeking sanctuary did not know when they claimed asylum that they would need a legal representative. Participants' knowledge of regulation, legal aid, and the immigration and asylum systems was very low.

**Half** of all participants had poor knowledge of the immigration or asylum system they were applying within.

**35%** of asylum-seeking participants did not understand how legal aid works.

Many participants:

- Did not know about regulation of legal representatives, or who is legally allowed to give legal advice.
- Did not know their rights when using a legal service.
- Demonstrated a lack of knowledge about legal aid.
- Did not understand immigration or asylum law or policy.

### 4.4 Interpreters

Although we did not ask about interpreters, many of the people we spoke to raised concerns about them. People told us about bad practice from Home Office interpreters and from interpreters provided by legal representatives. Some of the issues talked about were so extreme as to be classed as exploitation. It was unclear in some cases whether solicitor firms or unregulated advisors were complicit in this or were giving too much power to corrupt interpreters by paying them commission to bring in fee-paying clients without proper oversight.

**15%** of asylum-seeking participants said their Home Office interpreter had interpreted incorrectly.

**12%** of asylum-seeking participants said the interpreter provided by their solicitor had interpreted incorrectly.

Concerns raised by participants included:

- Incorrect interpretation, either maliciously or because of poor interpreters, which had impacted on their case.
- Interpreters speaking the wrong dialect or the wrong language.
- Interpreters controlling access to legal representatives, in some cases demanding money or (implied) sexual favours in exchange for an appointment with a solicitor.
- Interpreters imposing their own views during interviews.

## 4.5 Impacts

People told us about how struggling to seek legal advice, being unable to find it, or the way in which their legal representative behaved, had affected them. There were a range of emotional and physical effects, as well as impacts on people's legal cases, their immigration status, and their lives. Many people told us how positive it was to find a legal representative, and the effect that it had on their lives. They found reassurance and relief, help, information, and empowerment, and even friendship and support that lasted beyond their need for legal advice and help.

People spoke about negative impacts on:

- Their emotional or mental health.
- Their children.
- Their employment.

People told us that their inability to access justice had:

- Caused delays in their legal case.
- Led to refusal of their legal case.
- Ended in withdrawal of or risk to their employment sponsorship.
- Forced them to work on their own legal cases or turn to unregulated advice.
- Separated them from their children.
- Left them homeless, in poverty, or in situations where they were abused or exploited.
- Led to them being unnecessarily detained.

People talked about the huge difference that finding a legal representative made to them:

- Being given confidence and information to exercise their rights.
- Experiencing reassurance and relief that somebody was helping them.
- Being reunited with family members.

**Over 40%** of the people we spoke to said that their experience of trying to access immigration justice had harmed their emotional wellbeing or mental health.

**20%** of all participants and **32%** of people seeking sanctuary said that their case had been refused because of bad legal practice or because they could not find a legal representative.

## 4.6 What needs to change?

We have not made our own specific recommendations for this piece of work, since we wanted the project to present the experiences of those needing and using immigration legal advice. However, there are some clear general needs which emerge from the findings of the project, which we have set out below.

Our Experts by Experience working group has looked at the findings of our research and developed their own recommendations. Their recommendations focus on the legal needs of people seeking asylum because this where the group's expertise lies. The group will share their recommendations in an event at the Senedd on 10 October 2024, and we have published the findings as [Appendix A](#) to this report.<sup>1</sup>

In the remaining editions in this report series, which will be presented mainly in the words of the people we spoke to, we will include suggestions for change which were made by participants in the research. We will also incorporate both the findings and the recommendations of participants and the working group into our future work and our influencing for change.

The project findings show that:

1. **There are not enough immigration or other legal services in Wales. This includes advice and representation. Many people are unable to find legal help when they need to.**
2. **Legal aid providers are poorly paid and working over capacity.**
3. **The arrangements for and the scope of legal aid are routinely excluding people without financial means from essential justice.**
4. **Regulation of immigration legal providers and enforcement are not good enough.**
5. **People are not being informed of their rights or how to exercise them. They are not being given support to exercise their rights or protection when they try to do so.**
6. **Interpreting services are too often of low quality and poor or unethical interpreting is too often not addressed.**

The above issues are causing:

- poor legal practice
- poor client care

- delays to people's legal cases
  - damage to people's legal cases
  - abuse and exploitation of people needing immigration legal help.
7. **Some people who need immigration legal help are facing very high costs for legal help where free services are not available.** Sometimes people have to choose between their basic needs and getting legal help.
8. **People who need immigration legal help are not able to exercise their rights to justice.**

Lack of provision is denying people the rights to:

- submit applications
- have their cases considered fully and fairly
- lodge appeals and have them fairly heard.

9. **People who need immigration legal help are being denied their human rights:**

People are routinely denied their rights to:

- be treated fairly and equally
- live in safety and be free of abuse
- live with their families
- be legally protected in the same way as other people
- live free from detention when there is no just reason to be detained
- claim asylum and humanitarian protection
- work, earn a reasonable salary, work reasonable hours and in good conditions
- maintain a basic standard of living, have a home, enough food, and maintain their health
- express their views, organise and assert themselves, and take part in public affairs
- make the most of the work, social welfare, and cultural advantages available in Wales
- study, develop, and use their talents

## 4.7 What next?

We will publish our series of reports over the coming weeks. Each edition will give more insight into one theme from the findings in Section 4 above. These editions will give a clearer picture of the issues raised in this report, provide evidence, and illustrate the personal experiences behind the statements. We will give a picture of people's experiences as directly as possible through quotes from participants, allowing them to speak in their own voices.

Our Experts by Experience Working Group will share and discuss their findings in a Senedd event on 10 October 2024. Details of the event can be found on the Bevan Foundation website at: <https://www.bevanfoundation.org/events/access-to-immigration-legal-services-our-experiences/>

We will continue to influence for improved access to justice for people needing immigration legal advice. This work, and the things people have told us, will feed into our policy influencing work, including meetings with Welsh Government Ministers and officials, briefings, discussions with Members of the Senedd, and work with other key agencies and decision-makers.

We will carry out more work to discover people's experiences of attempting to access migration justice in Wales and will continue to work alongside people affected and to build lived experience into the heart of our work.

### Editions in this series:

Edition	Title
Part 1 (this edition)	Summary Report
Part 2	Barriers to Access
Part 3	Client Care
Part 4	Rights
Part 5	Interpreters
Part 6	Impacts
APPENDIX A	Recommendations of the Experts by Experience Working Group
APPENDIX B	Project Participants

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<sup>1</sup> Kanneh I, et al (2024) Experiences of Justice: seeking legal help for immigration and asylum in Wales – Appendix A, Recommendations of the Experts by Experience Working Group, Bevan Foundation <https://www.bevanfoundation.org/resources/experiences-of-justice-appendix-a-recommendations/>

# Experiences of Justice: seeking legal help for immigration and asylum in Wales

Appendix A:  
Recommendations of the Experts  
by Experience Working Group



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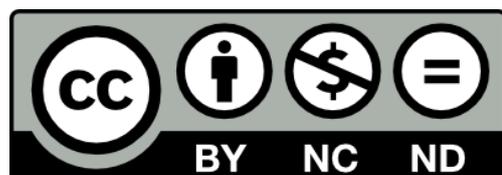
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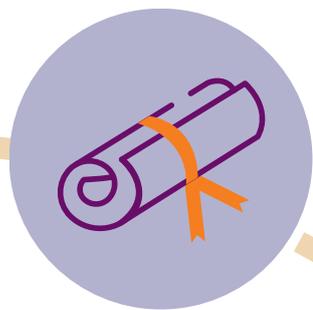
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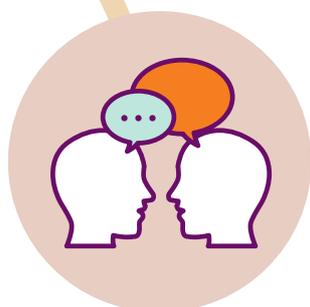




Develop legal services, advisors, and representatives



Increase collaboration between key agencies



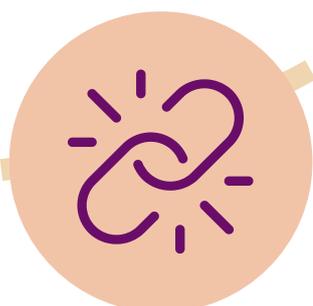
Provide seamless, accessible support



Inform people about their rights



Reform and extend Legal Aid

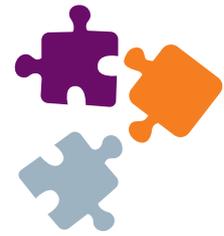


Connect people with legal services

# Our vision for improved access to justice

What needs to be addressed?

# 1. The Experts by Experience Working Group



The recommendations in this document are written by the Bevan Foundation's Experts by Experience Working Group. This Working Group is drawn from participants in the Bevan Foundation's Experiences of Justice project. The full findings and recommendations of the Experiences of Justice project can be found in the Experiences of Justice series of project reports available from [www.bevanfoundation.org](http://www.bevanfoundation.org)

All members of the group have experience of the UK asylum system and of seeking sanctuary in Wales. We chose a group with shared experience of a particular aspect of the UK immigration system. This was to provide a point of focus and to simplify both training and the process of devising and refining recommendations. Because of this, the Working Group's recommendations are focused on asylum justice and the needs of people seeking sanctuary, while the Experiences of Justice research also looked at the experiences of other groups of migrants.

## 1.1 How the group worked

The group's role was to review the findings of the Experiences of Justice research and to develop their own recommendations to address these findings and improve access to justice. They drew recommendations from their own experiences of living within the asylum system as well as of volunteering and/or working with sanctuary-seekers and refugees in Wales.

The Bevan Foundation supported and facilitated the Working Group. The group were given the main findings of the project and discussed key concerns raised by project participants. The Foundation offered training to the group on developing policy recommendations, the roles of decision-makers and regulators, presenting, and influencing for change. At the request of the group, information sessions about regulation, solicitor responsibilities, the rights of legal clients, and how to complain or report bad practice, were included in group sessions.

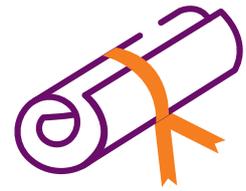
## 1.2 Developing the recommendations

The Working Group's recommendations are designed to address some of the main concerns raised by participants in the project, based on their own knowledge and experience. The Bevan Foundation will build on these recommendations in its own work, identifying where they might be implemented and by whom.

## 1.3 Sharing and influencing

The Experts by Experience Working Group will present their recommendations to an invited audience of stakeholders and decision-makers in a Sharing Event at the Senedd on 10 October 2024.

## 2. Recommendations



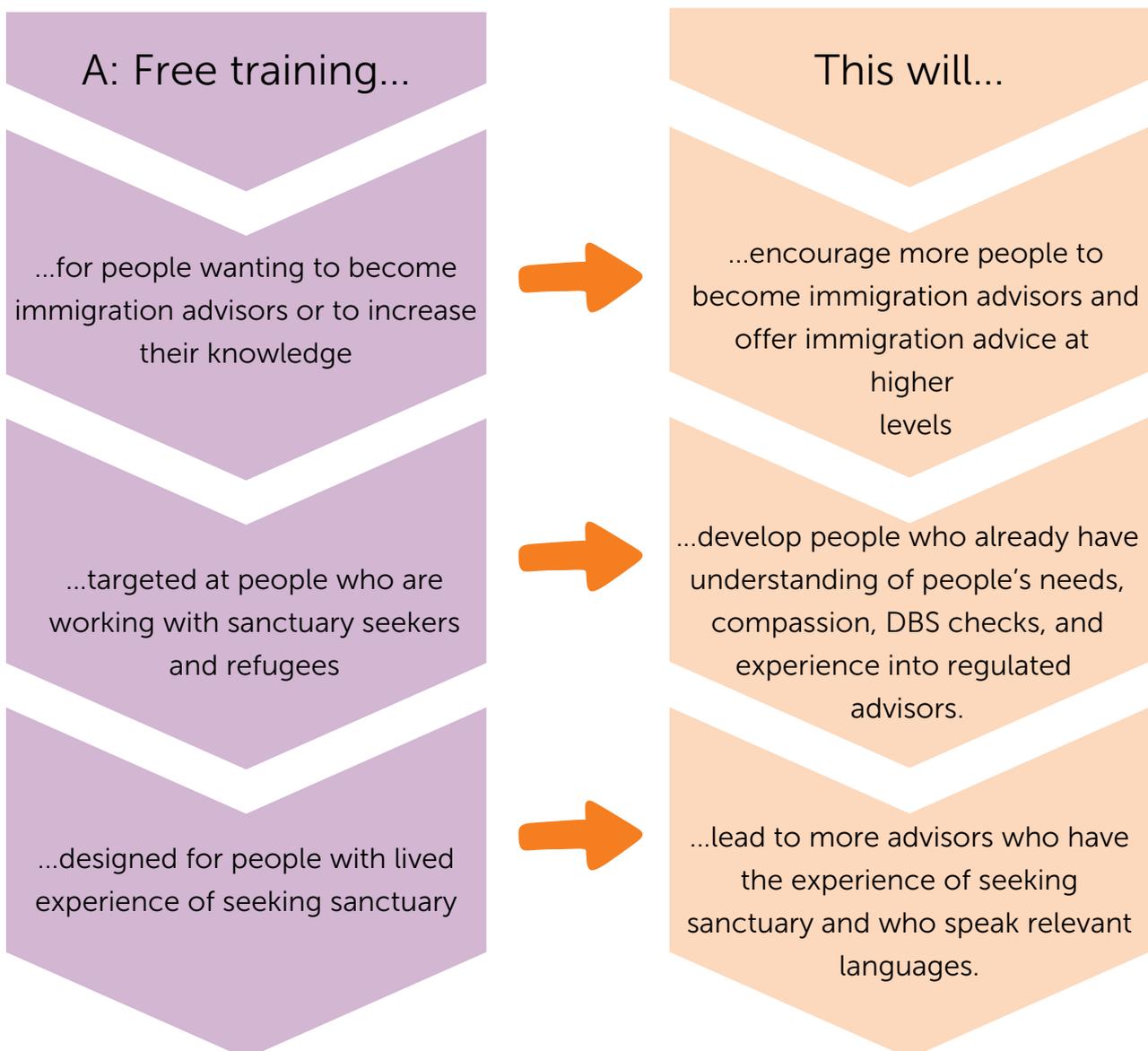
### 2.1 Develop legal services, advisors, and representatives

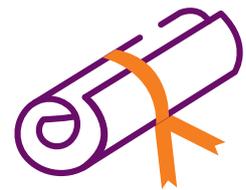
The lack of immigration advisors and legal representatives in Wales and across the UK is a barrier to justice.

People need immigration advisors who understand their needs and speak their languages. There should be more legal advisors with lived experience of migrating and seeking sanctuary.

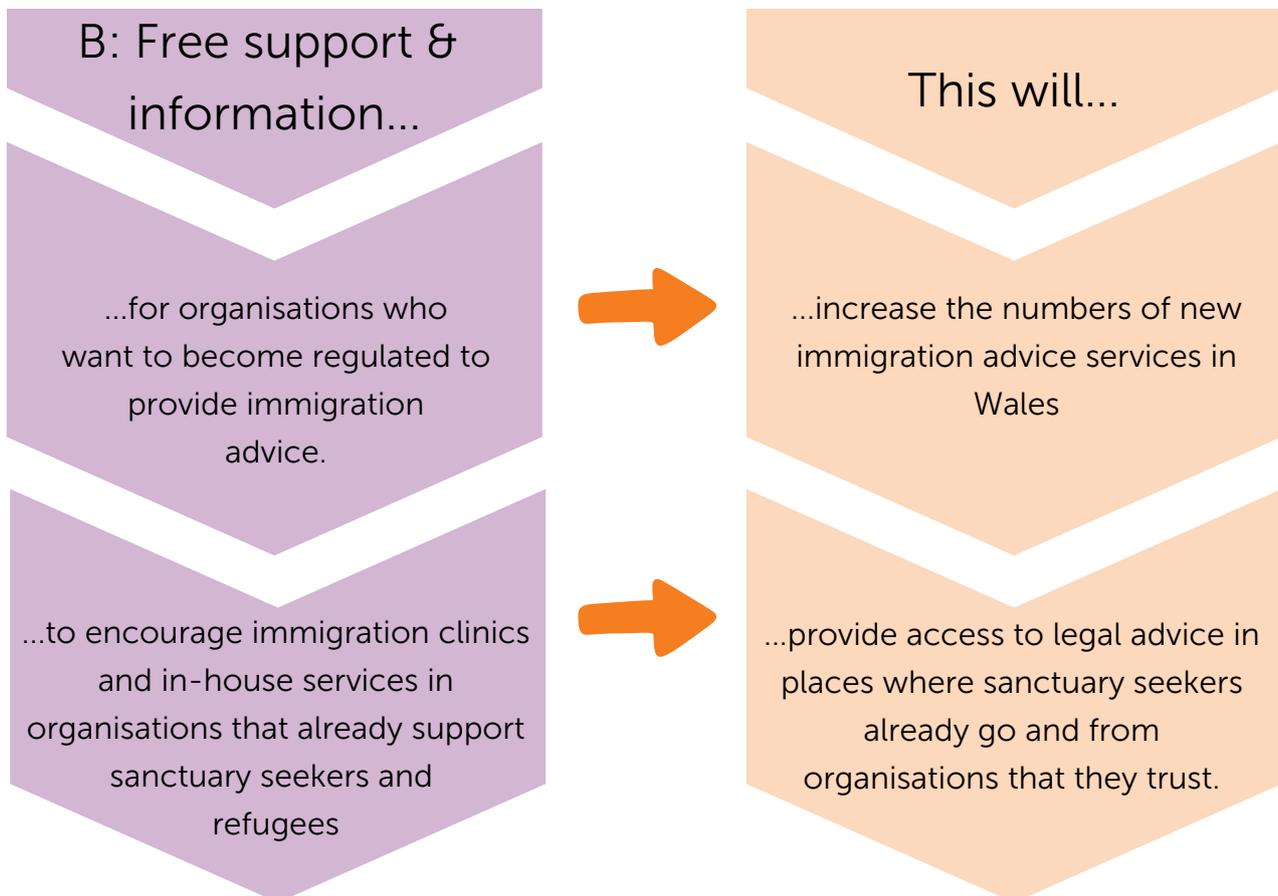
Legal services should be easily accessible from places where people already go to get help.

The Working Group recommends:





The Working Group recommends:



## 2.2 Increase collaboration between key agencies

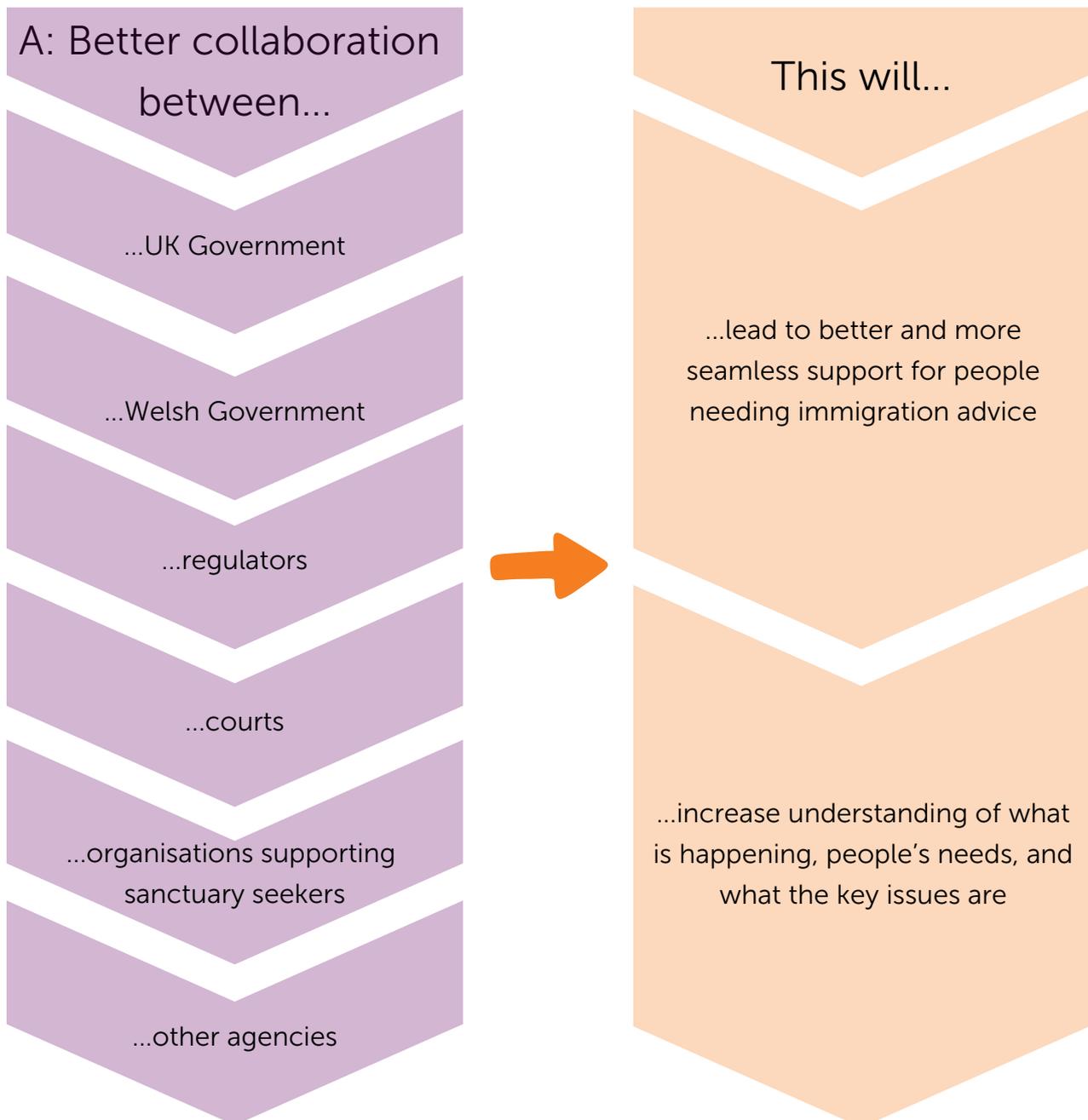


Governments, key decision-makers, and providers need to work together more.

There are gaps in provision, disjointed services, and poor data. What is provided does not match what is needed on the ground.

Collaboration should be in the interests of sanctuary seekers, wellbeing, and fair access to justice.

The Working Group recommends:





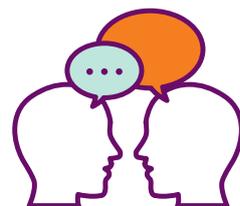
The Working Group recommends:

B: The above agencies should collect and share anonymised data to demonstrate what is happening on the ground.



If we know who is able to get legal advice and representation and who cannot, and what the effects are, then we can better plan legal services.

## 2.3 Provide seamless, accessible support



Sanctuary seekers are too often given a list of legal services and then left to navigate and secure legal advice and other services on their own. They are often new in the UK or have been recently dispersed to Wales, are not familiar with the system, and have a lot of trauma in their lives. Finding a legal representative and support services can be tricky, take a lot of time and effort, and involve a lot of travel and a lot of rejection.

People need to be connected with legal services and other help quickly, and to be supported from the moment they arrive in the UK or need to claim asylum. Existing services are too disjointed and services in asylum accommodation are often inadequate.

People often do not understand their rights. They often do not know that they have rights. Despite having been in the UK for a long time, some members of the working group were surprised to find that they had rights and were keen to know more about them and how to use them. The group feels strongly that all sanctuary seekers should be clearly and consistently informed of their rights and shown how they can exercise them.

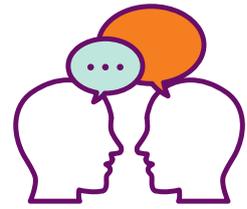
The Working Group recommends:

A: An integrated support and rights service to help people from the moment of arrival or the point of claiming asylum



This will ensure that people are helped, supported, and empowered, from the moment they need it.

## 2.3.1 Proposals for support



The Working Group devised a set of proposals for the ways in which a support and rights service should operate. They spent a lot of time discussing this, drawing from their personal experiences, those of friends and acquaintances, and sanctuary seekers they had worked alongside as volunteers, support workers, or interpreters. These proposals also feed into the recommendations for rights information in 2.4.

The group's vision is for a single service that provides wraparound, ongoing support, and that is grown from and staffed by sanctuary seekers and refugees themselves. The proposals are transferable to other services and highlight the need for person-centred and caring services that rely on consistent human support rather than technology or written information. Empowerment, knowledge, and confidence-building are central.

Key issues highlighted in the research and by the group are:

### Trauma

People seeking asylum are often too traumatised and anxious to take in information when it is told to them or they read it. They need information given simply and repeatedly.

### Information overload

People receive a lot of information and often do not have space in their heads to take it in. They may not read paperwork or find it amongst all the other papers they have.

### Language

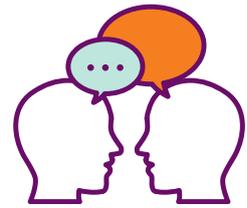
People sometimes don't understand the full meaning when information is given in English.

People want to speak their own language - it is a comfort.

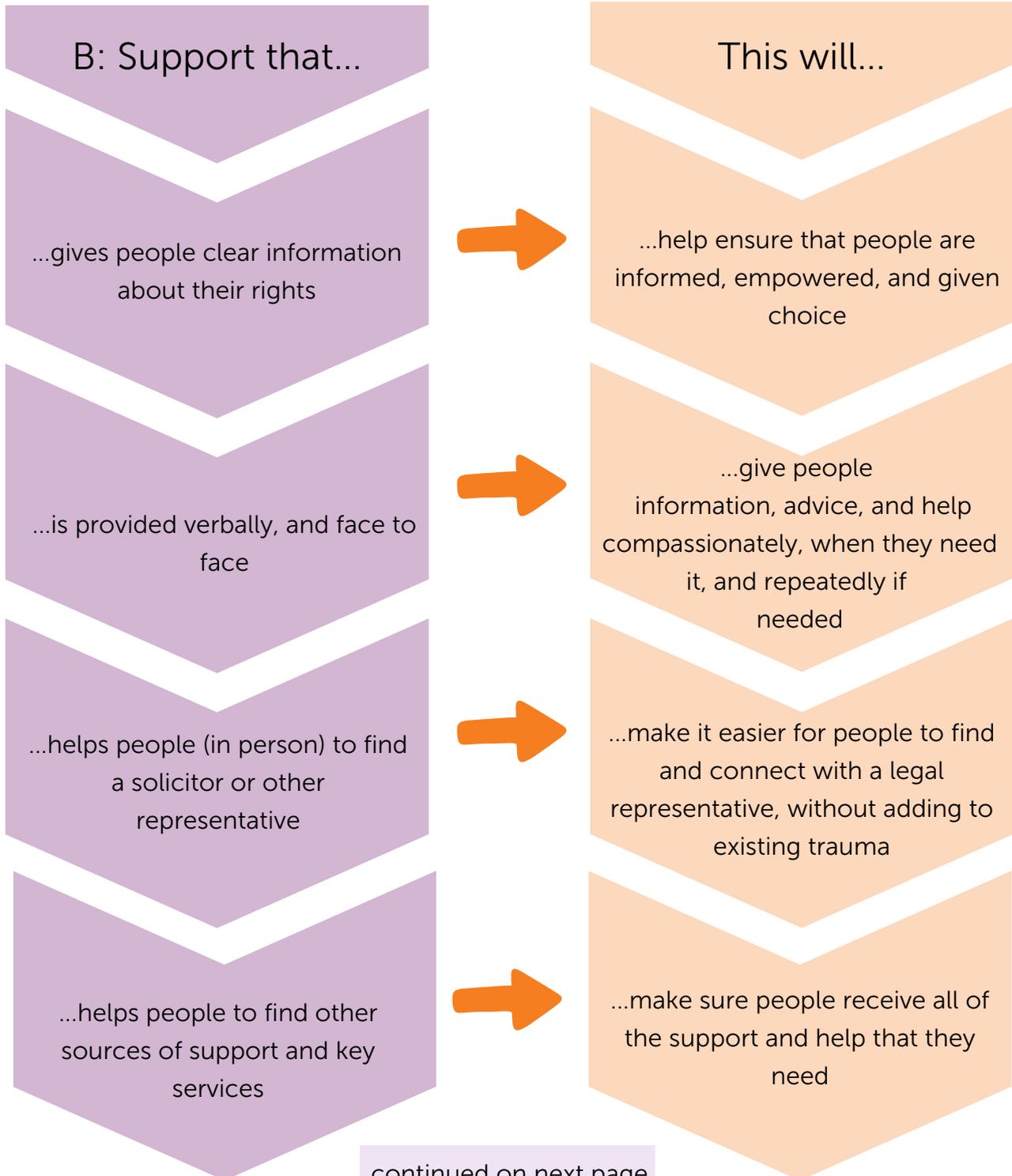
### Trust

People want support from someone they feel safe with. It is easier to talk to someone who has been through the same experience.

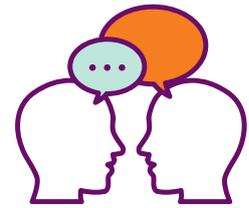
People don't know what to expect or what their rights are.



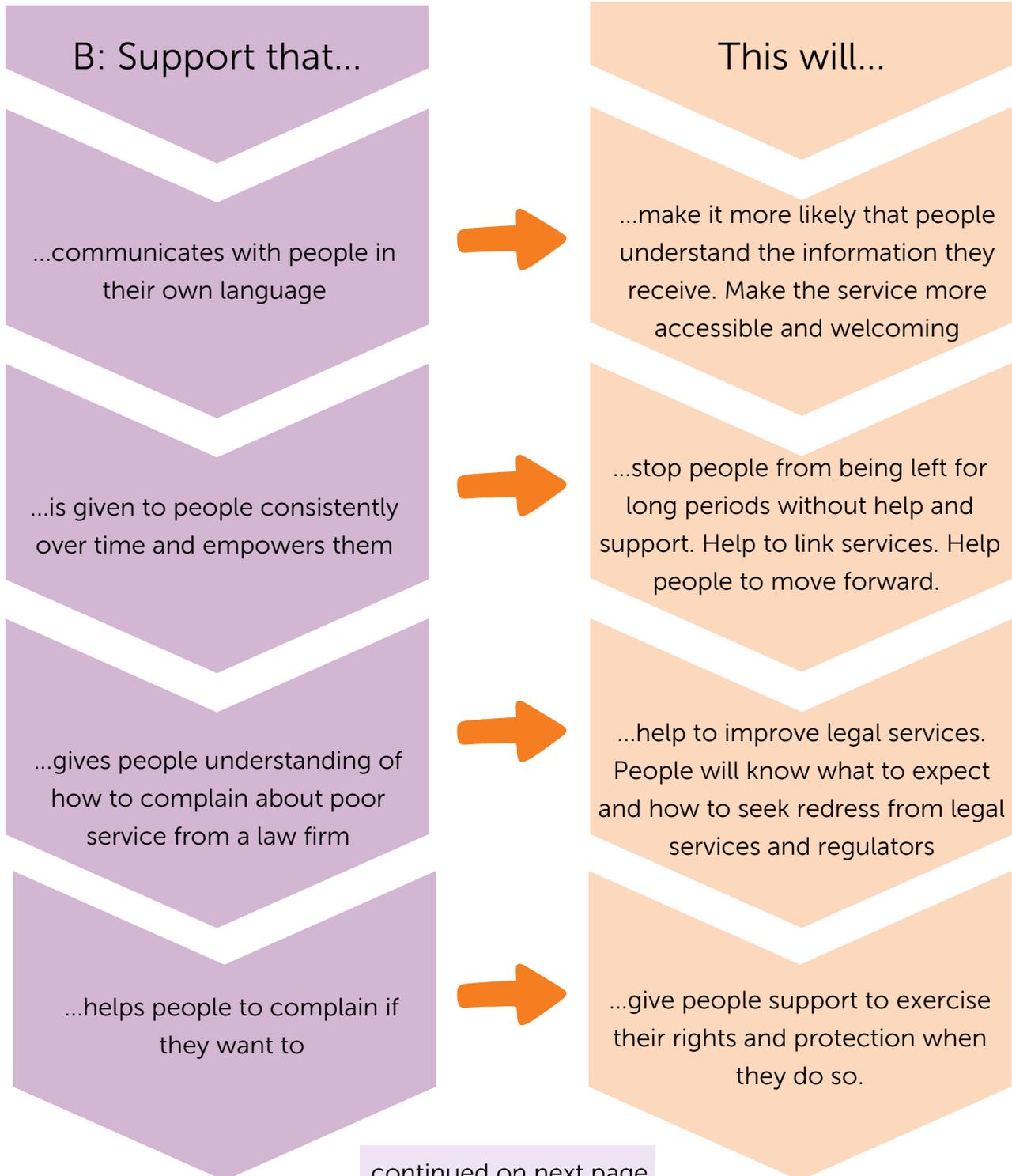
The Working Group recommends:



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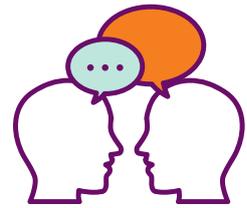


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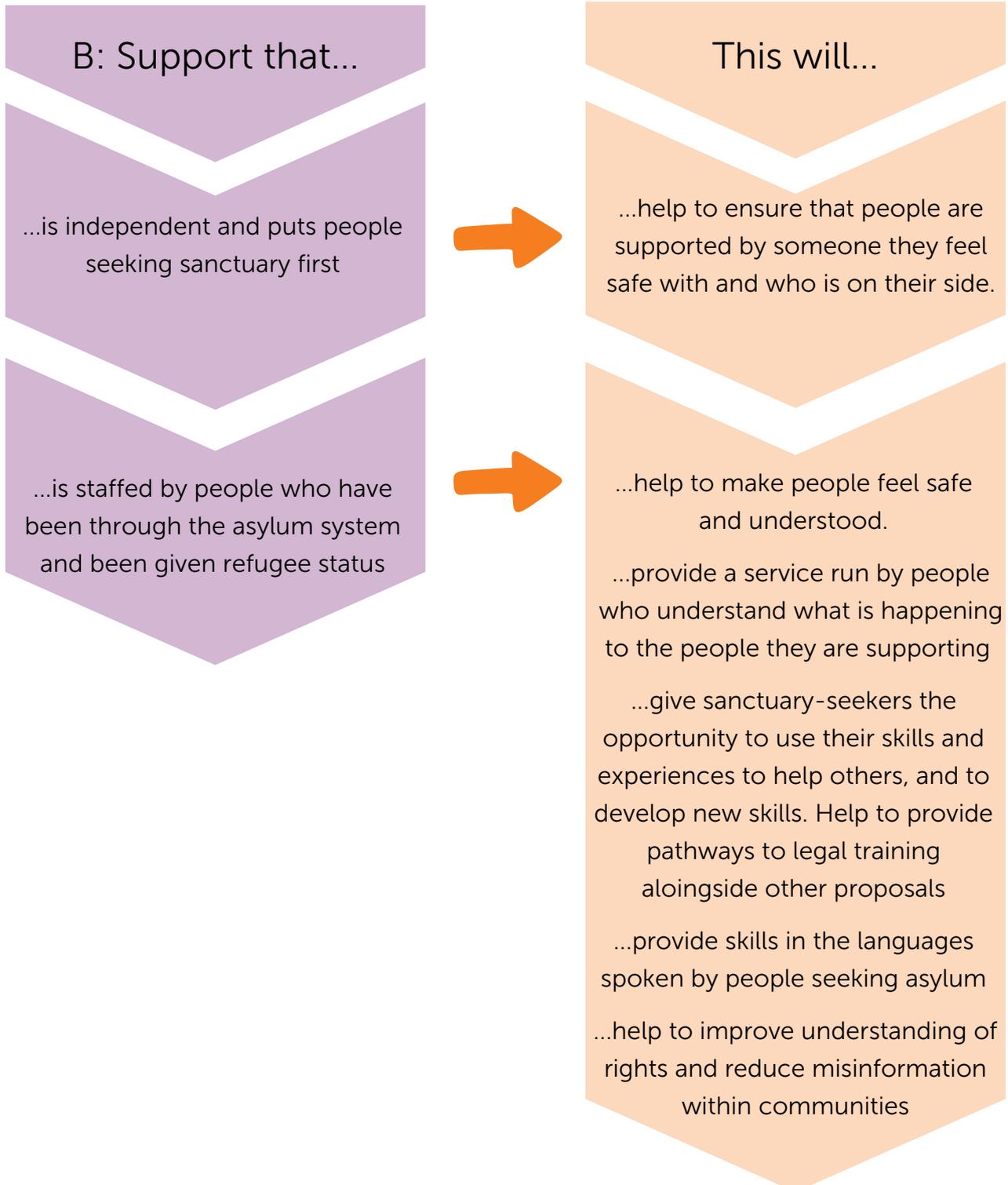


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The Working Group recommends:



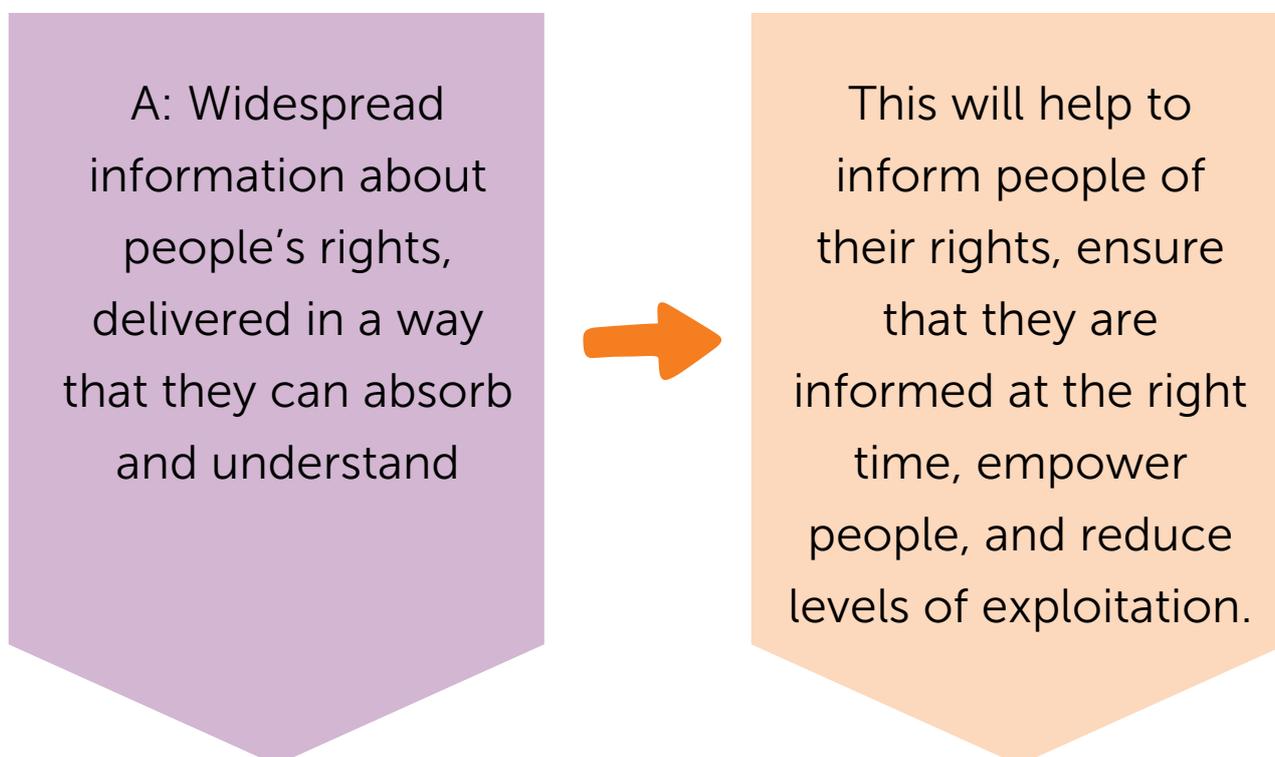
## 2.4 Inform people about their rights



People often don't know that they need legal help when they first arrive in the UK to seek sanctuary. Not knowing that you need legal assistance is a fundamental barrier to accessing justice.

Most of the people who participated in the research did not know their rights. Often, they did not know that they had rights at all.

The Working Group recommends:



### 2.4.1 Proposals for rights information

Trauma and anxiety require creative approaches to giving information.

As well as the integrated rights and support service set out in 2.3 above, the Working Group recommends that sanctuary seekers receive widespread information about their rights. They developed proposals for how and where rights information should be given to sanctuary seekers to maximise its impact.

Key issues highlighted in the research and by the group are:



### See 2.3.1

The points made in 2.3.1 about trauma, information overload, language, and trust, all contribute to people's lack of rights knowledge. Clear and repeated information is needed.

### Knowledge

Because legal aid is free, people believe that they have no choices. They don't know the responsibilities their legal representatives have, or what they should expect as clients.

### Timing

People should know their rights before they see a legal representative.  
People should know that they need a legal representative at the earliest opportunity.

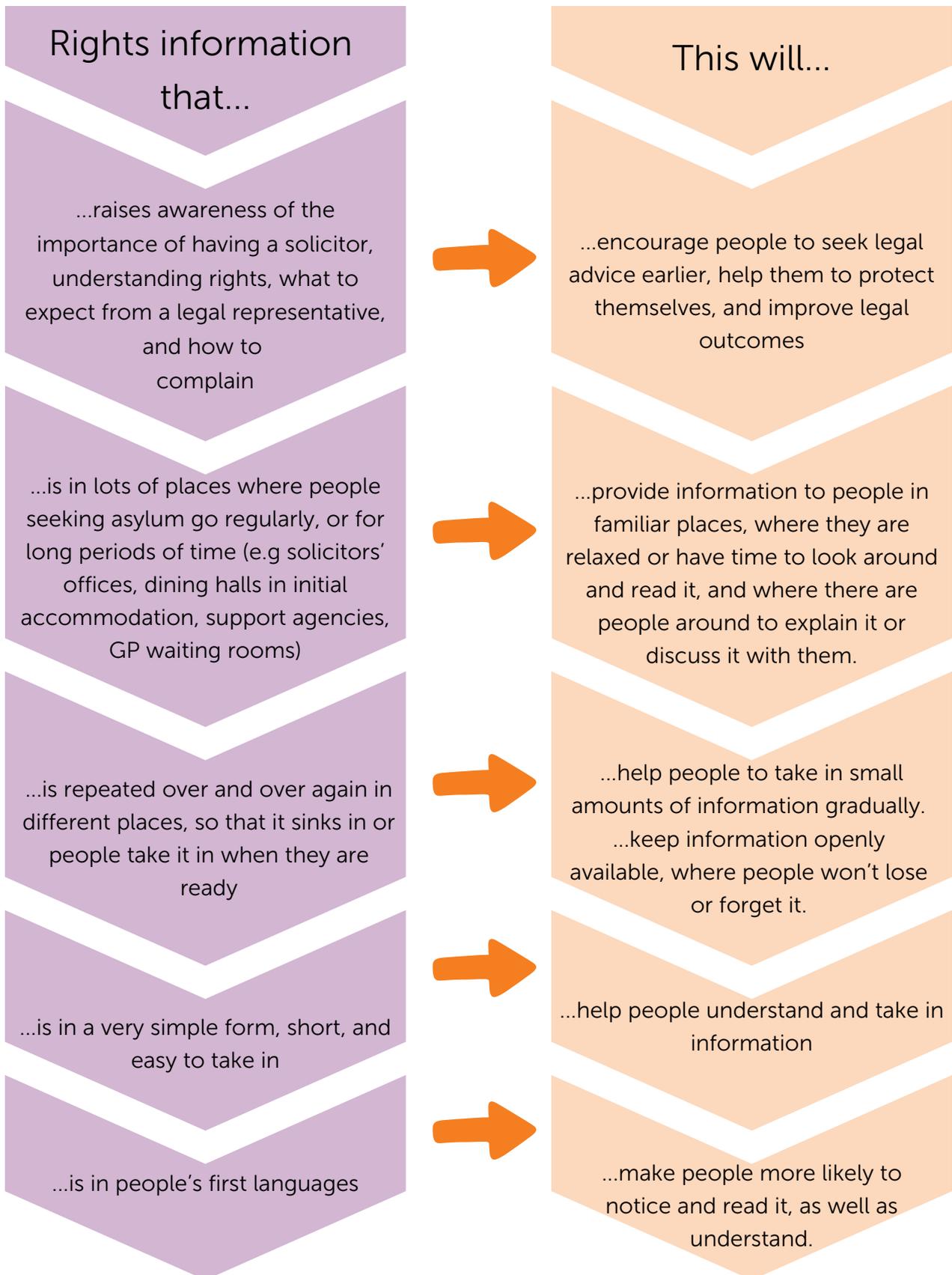
### Complaints

People often don't know that they have the right to complain, how to complain, what regulation is, who regulators are, or how and when to contact them.

### Exploitation

People often don't know who is legally allowed to give immigration legal advice, how to check if an advisor is genuine, or how to spot an unregulated advisor. The research found high levels of exploitation and people whose legal cases had been damaged.

The Working Group recommends:



## 2.5 Reform and extend Legal Aid

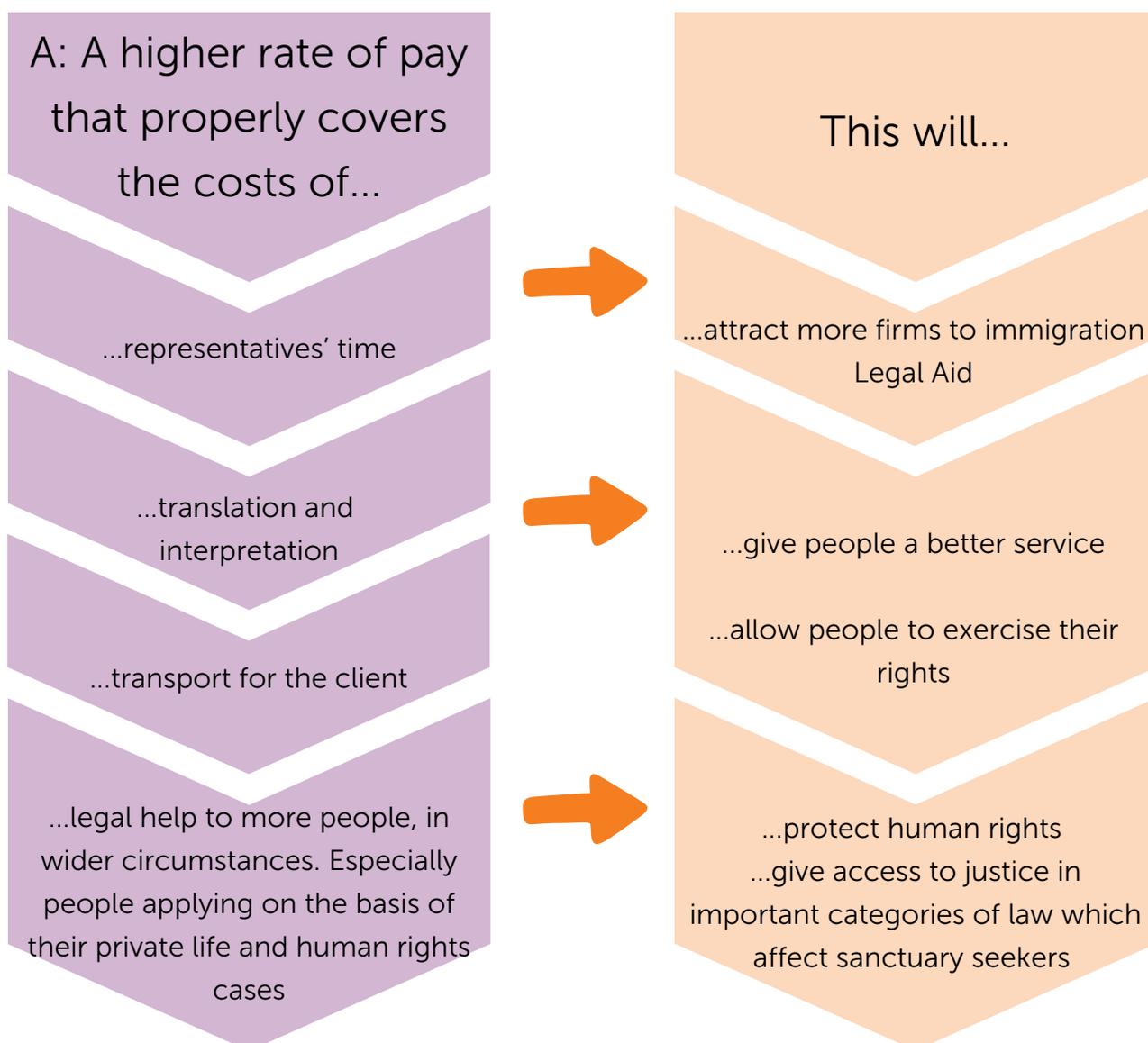


There are not enough immigration representatives available under Legal Aid. Legal Aid services have been cut so that valuable parts of the legal service are not consistently provided.

Legal aid solicitors often do not spend enough time with their clients or do all of the things that they are supposed to do. People are not empowered in their relationship with their solicitor. Solicitors often do not explain people's legal options or give them choice, as set out in the SRA Code of Conduct.

People often do not know what their solicitor is doing. Some solicitors do not do what they agreed to do, or what their client wants them to do. Many people who took part in the project said that they had not been given a copy of the client agreement, or that they could not remember signing one.

The Working Group recommends:





The Working Group recommends:



## 2.6 Connect people with legal services

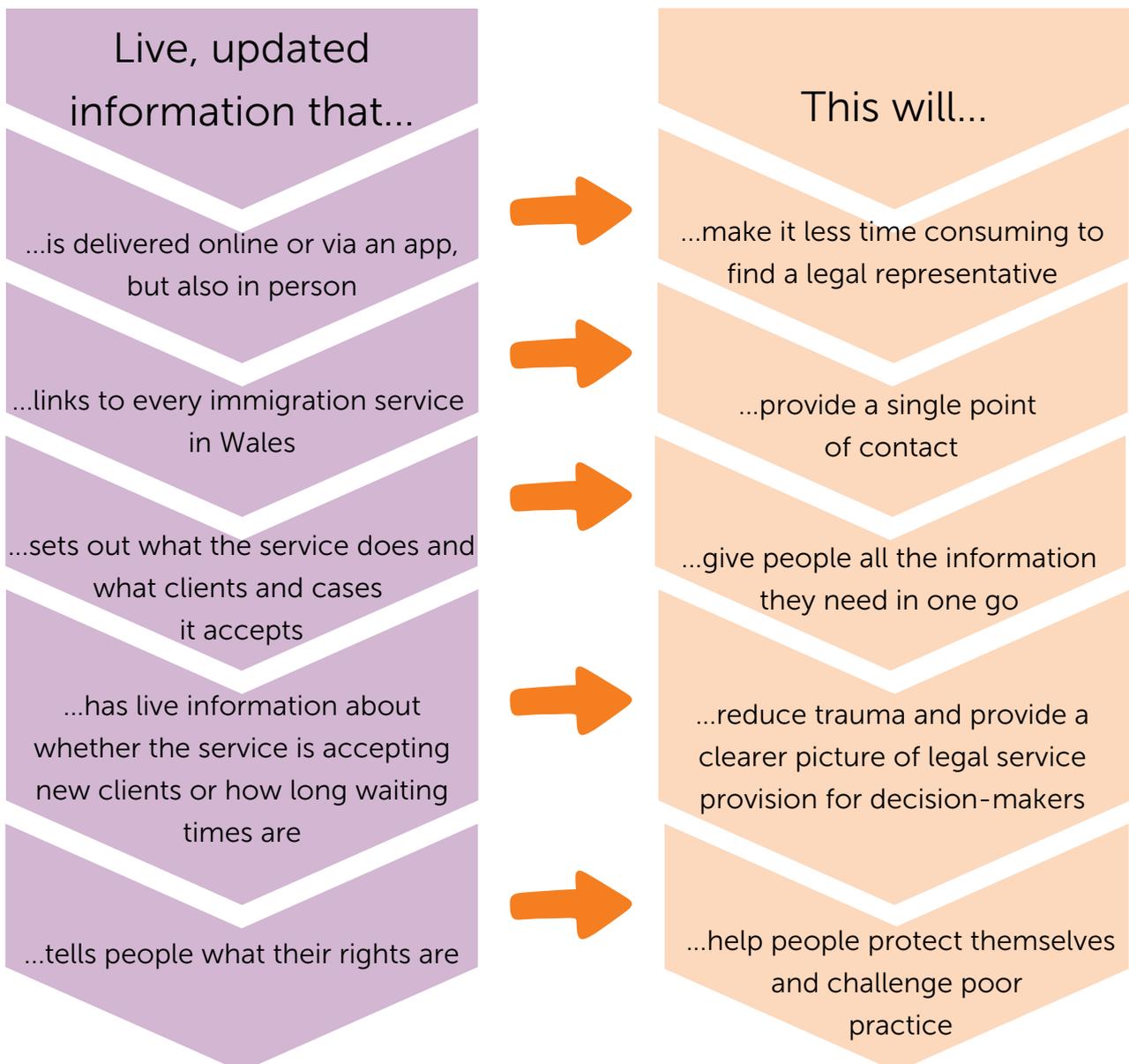


People do not know what immigration law services are available, if they are taking cases, and where they are.

People seeking sanctuary are often given a list of law services and left to phone around advisors themselves. This can take days, weeks, or months. They may not have credit for phone calls or transport to travel to appointments. Often, they find that every advisor on the list is full and cannot take new cases. They often have to call and call every day. Sometimes people do not find a legal representative in time.

People need to know where firms are, who is taking cases on, and what they provide. Leaving people to find their own way adds stress, time, and frustration to an already difficult process. People need people to help them, not lists.

The Working Group recommends:



Mark Drakeford AS/MS  
Ysgrifennydd y Cabinet dros Gyllid a'r Gymraeg  
Cabinet Secretary for Finance and Welsh Language

Agenda Item 7.6



Llywodraeth Cymru  
Welsh Government

Mike Hedges MS  
Chair  
Legislation, Justice and Constitution Committee

15 November 2024

Dear Mike,

### **Welsh Language and Education (Wales) Bill**

Thank for your letter dated 24 October, following my attendance at your Committee to provide evidence in relation to the Welsh Language and Education (Wales) Bill. I trust the Committee found the session to be informative.

The Annex to your letter poses a number of questions. My response to each of those questions are set out in the Annex to this letter.

I thank the Committee for their interest in this Bill and look forward to considering the Committee's report, in due course.

I am copying this letter to Buffy Williams MS, Chair of the Children, Young People and Education Committee.

Yours sincerely,

**Mark Drakeford AS/MS**  
Ysgrifennydd y Cabinet dros Gyllid a'r Gymraeg  
Cabinet Secretary for Finance and Welsh Language

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[Gohebiaeth.Mark.Drakeford@llyw.cymru](mailto:Gohebiaeth.Mark.Drakeford@llyw.cymru)

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

## Annex

### **1. Have you undertaken a human rights impacts assessment for this Bill and what was the outcome of that assessment?**

During the Committee discussion both the human rights impact and the Children's Rights Impact Assessment were discussed together.

As with all Senedd Bill proposals, the Welsh Government carries out a full human rights assessment before introduction, this is done as part of the legislative competence consideration. We are satisfied that the provisions of this Bill are compliant.

Chapter 9 of the Explanatory Memorandum provides a summary of the impact assessments undertaken as part of the development of the Bill. The full impact assessments required for this Bill were published in the [Integrated Impact Assessment](#) to the Welsh Government's website upon introduction of the Bill on 15 July – this includes a Children's Rights Impact Assessment.

### **2. What does this Bill enable you to achieve that you cannot within the existing legislative framework?**

The Bill will provide a coherent framework and clear direction of travel to drive the changes required to achieve our 2050 aim.

The Bill places a duty on the Welsh Ministers to prepare a Code to describe Welsh language ability. Such a duty on the face of the Bill provides clarity and cohesion in our national approach to describing Welsh language ability. Alongside this new approach, the Bill sets a duty on the Welsh Ministers to review the Welsh language standards. Placing this duty on the Bill indicates that the Code will also be considered in the context of the existing legislative framework.

Introducing a statutory system for school language categories and the requirement for a school to have a Welsh language education delivery plan, in comparison with the current non-statutory guidance on school language categories, will be key in driving schools to increase their Welsh language education provision where this is reasonably practicable. The plan will strengthen both the accountability aspect and the focussed support that can be provided by local authorities to ensure that sufficient progress is made towards their WESP targets set in the National Framework. The statutory categories will, through regulations, specify a minimum amount of Welsh language education provision alongside the Welsh language learning goals set in the Bill.

The Bill will provide the Welsh Ministers with the power to set statutory national targets as well as targets on local authorities to meet through their WESPs. This will bridge the gap that currently exists between the Cymraeg 2050 strategy target of one million Welsh speakers and the delivery of WESPs at local authority level.

The Bill also creates a statutory body to support people to learn Welsh, and facilitate their progress, so that more people (of all ages) are learning the language. There are currently no legislative measures with this role. Creating the Athrofa as a statutory body through this Bill therefore provides stability and a long-term approach to the lifelong learning of Welsh.

**3. The Explanatory Memorandum states that this “is the first piece of primary legislation to be introduced for the purpose of realising the long-term objective” of the Cymraeg 2050 strategy. As the strategy was announced on 10 July 2017, why has it taken over 7 years to bring this legislation forward?**

The Welsh Language and Education Bill is introduced in the context of the significant challenge of reaching a million Welsh speakers by 2050, as set out in our Welsh language strategy, *Cymraeg 2050*.

Those challenges require transformational changes to the way we think about the Welsh language, and that is why the strategy commits to reviewing the legislation which underpins the Welsh language to ensure it offers a strong foundation for promoting and facilitating the use of Welsh.

We see the role that education plays as being a key part on the journey towards a million Welsh speakers.

Whilst this Bill is the first piece of primary legislation to be introduced for the purpose of realising the long-term objective of the strategy, it is also important to note that this Bill is not the starting point. We made a deliberate decision to build an incremental approach to making changes to the system to build on the goodwill towards the language and to bring people with us. As such, many of the Bill’s provisions build upon work that has already taken place.

We introduced non-statutory guidance on school language categories in 2021, and those categories have been implemented in the PLASC since January 2024. In introducing that non-statutory guidance, the Minister's foreword stated that we would explore the benefits of making the categories statutory over the coming years.

While this Bill is the first primary legislation introduced since *Cymraeg 2050*, statutory action has also been taken with the introduction of the Welsh in Education Strategic Plans (Wales) Regulations 2019.

These regulations and the WESP regime have transformed the way local authorities plan their Welsh language education provision, and this Bill builds on the progress that has already been made.

We recognise that the current education system leads to vastly different linguistic outcomes, depending on the medium of education. We want the education system to embrace Welsh as a language that belongs to all pupils in Wales. We therefore propose in this Bill steps that will reduce the gap in linguistic outcomes of school pupils.

Building on both non-statutory and statutory actions taken since introducing *Cymraeg 2050*, we believe that now is the time to introduce this primary legislation as the next natural step as we work to realise our ambition of reaching one million speakers.

**4. According to the Statement of Policy Intent, there is currently no policy intent to use several of the regulation-making powers in the Bill and the powers are there to “future-proof the Bill”. Can you therefore explain why such powers are included?**

Language planning is a long-term pursuit, and our journey towards 2050 will require us to review progress and adapt over time as circumstances change.

In preparing the Statement of Policy Intent we have tried to provide as much information as possible to the Senedd committees about how and when we intend to use the subordinate making powers and duties that are contained in the Bill.

There are six occasions where we have set out that there is currently no intent to use the power or that there are no immediate or short term intention to use the power. The reasons why we have included the powers in the Bill are set out at Chapter 5 of the Explanatory Memorandum and in the Statement of Policy Intent. These examples are set out below

- i. Section 13(2) which provides the Welsh Ministers with a power to make regulations amending section 9 of the Bill in order to add or revise a language category and section 13(4) which states that any regulations made to add a language category need to include a Welsh language learning goal for that category. At present we are planning that there will be three statutory language categories as set out in the Bill. The power is required to enable the Welsh Ministers to respond to any future developments or responses to a consultation which indicate it would be desirable to add or revise a language category.
- ii. Regulations under section 14(2)(b)(vi) – this allows the Welsh Ministers to specify any person who must be consulted by a school's governing body when preparing a Welsh language education delivery plan. The power is required as it may be appropriate to add consultees if, for example, a new body is established that has an interest in school delivery plans, or another person needs to be added to the list of consultees in section 14(2)(b).
- iii. Regulations under section 14(4)(a) – (b)- these subsections allow the Welsh Ministers to make regulations to amend the duration of the period that a delivery plan has effect and make provision about the form and content of a delivery plan. The Bill provides that the delivery plan will have effect for 3 school years (s.14(3)). The power is required to allow the Welsh Ministers to amend the duration of the delivery plans at a future point if they are deemed too short or too long. The power in section 14(4)(b) could be used to provide more detail about what Welsh language education delivery plans should include and their form. This would enable consistency of approach by schools.
- iv. Regulations under section 20(2) – this power allows the Welsh Ministers to make regulations to make further provision in relation to the Welsh language education plans of community special schools. This power will be exercised as the regulations will give further details to allow community special schools to prepare Welsh language education plans. The details to be included in the plans may change over time, therefore this power is required to provide the Welsh Ministers with flexibility to make changes as the need arises. The Statement of policy intent will be amended to reflect the intention to use this power.
- v. Regulations under section 23(9) – this section provides the Welsh Ministers with a power to change what is required or permitted to be included in the National Framework for Welsh Language Education and Learning Welsh, as set out in sections 23(3) – (7) of the Bill. The power is needed to give Ministers the flexibility to vary the requirements as to what should be included in the National Framework, when necessary, in order to respond to new situations that may arise over time.
- vi. Regulations under section 53(1) - this section provides the Welsh Ministers with a power to make provision that is incidental or supplementary to any provision in

the Bill or that is consequential on any provision in the Bill, and to make transitional provision, transitory provision or saving provision in connection with any provision of the Bill. This power will be intended to enable the Welsh Ministers to make changes over time, to ensure that this Bill works together with other laws. It is therefore appropriate to introduce regulations to give the Welsh Ministers the flexibility to be able to adapt to unforeseen circumstances.

**5. Can you confirm whether section 3(1) and 3(2)(b) confer regulation making powers or duties? The Statement of Policy Intent is inconsistent in its description.**

Section 3(1) of the Bill imposes a duty on the Welsh Ministers to make regulations. Sections 3(2)(b) provides a regulation making power. My officials will correct the English version of the Statement of Policy Intent to ensure references are used correctly.

The descriptions in the Welsh version of the Statement of Policy Intent are correct.

**6. Section 3(1) of the Bill enables the Welsh Ministers to make regulations specifying the data to be used in order to calculate the number of Welsh speakers. Section 3(2) then goes on to explain that, whether a person is a Welsh speaker is decided by self-assessment or, in the case of a child, on the basis of an assessment by their parent or carer or any other method specified by regulations. Can you explain to us the interaction between sections 3(1) and 3(2)? The Statement of Policy Intent indicates that section 3(2) is a limitation on the power in section 3(1), but this is not clearly set out on the face of the Bill.**

Whether a person is a Welsh speaker for the purposes of sections 1 and 2 has to be decided in accordance with the provisions of section 3(2). Regulations under section 3(1) must specify the data that is to be used for calculating the number of Welsh speakers for the purposes of sections 1 and 2. Section 3(2) is a limitation on the power in 3(1) as the data used to count Welsh speakers must be linked to the meaning of Welsh speaker in 3(2).

For example, whether a person aged 16 or over is a Welsh speaker is to be decided on the basis of self-assessment (section 3(2)(a)). The data specified in regulations made under section 3(1) to calculate the number of Welsh speakers aged 16 or over would have to therefore capture those who have self-assessed themselves as Welsh speakers.

**7. Section 10(1) of the Bill requires the Welsh Ministers to make regulations specifying the amount of Welsh language education provided for each language category. Section 13(1) enables the Welsh Ministers to make further provision about the school language categories. The Statement of Policy Intent states that it will be important to consult before making regulations; can you explain why there is no duty for the Welsh Ministers to consult on the face of the Bill?**

We generally do not place duties in legislation to consult on subordinate legislation. The general public law requirements will apply. It is the Welsh Government's standard practice to consult publicly where appropriate to seek views on the subordinate legislation – and at the appropriate time to do so. As we have set out in the Statement of policy intent, we are of view that these regulations will require a public consultation.

**8. Section 13(1) says the Welsh Ministers may by regulations make further provision about the school language categories. What are the limits of this “further provision” and why can you not be more specific about what this power will be used for?**

Section 13 is limited by Part 3, and in particular by the provisions in section 9. This power is to make 'further provision'. In terms of what the power will be used for, the intention is to ensure that the Welsh Ministers have sufficient powers to respond to changing circumstances without having to amend primary legislation.

Specificity is provided in section 13(2) in terms of the potential amendments that may be needed to section 9 over time, but the wider power to make further provision in section 13(1) is a power to elaborate on the existing provision in section 9 – to provide more detail on language categories.

- 9. Section 13(5) requires the Welsh Ministers to decide whether to exercise their power to increase the minimum amount of Welsh language education provision for the Primarily English Language, partly Welsh category within 5 years of that power coming into force, and after that within 5 years of each period following their most recent decision. Can you confirm the intention behind this provision can the power be exercised as regularly as the Welsh Ministers determine - can the power be exercised as regularly as the Welsh Ministers determine, as long as no more than 5 years elapse between decisions as to whether it should be exercised?**

The power in section 13(2)(b) may be exercised at any point. The purpose of section 13(5) is to give an assurance that the Welsh Ministers will consider exercising that 13(2)(b) power every 5 years.

- 10. Sections 14(3), 29(1) and 44(8) specify that start dates for plans or planning periods shall be set out in regulations. If the dates are not set out on the face of the Bill, is there a danger that the powers may not be exercised and that the provisions are not commenced?**

There is no danger that these powers may not be exercised. The School delivery plan and the local Welsh in Education Strategic Plans are key elements in the implementation of the Bill.

I am of the view that it is appropriate that the Welsh Ministers specify the start date for the first 5-year period of the local Welsh in education strategic plan in regulations (section 29(1)), as their preparation is dependent on the date of publication of the National Framework for Welsh Language Education and Learning Welsh. The Welsh Ministers have a duty to lay the first National Framework before the Senedd before 31 July 2028 (section 26(3)). This is the latest date for laying the National Framework. It can, if circumstances permit, be laid sooner than that. It is therefore appropriate to offer flexibility in setting the first date for the local Welsh in education strategic plan in secondary legislation.

In a similar way, I consider it to be appropriate to allow the Welsh Ministers the flexibility to specify the school year in which the first school delivery plan starts by regulations (section 14(3)) to ensure that the statutory language categories are operational (that is, the amount of Welsh language education provision for each category under section 10(1)) and to allow the relevant local Welsh in education strategic plan to be considered (s14(2)(a)).

The National Institute for Learning Welsh must prepare a strategic plan, therefore the Welsh Ministers will exercise the power in section 44(8)(a) detailing the first planning period. Subsequent planning periods will last 3 years unless the Welsh Ministers make regulations specifying a different period under the regulation making power in section

44(8)(b). Regulations give the Ministers the flexibility to set the planning phases for the Institute as necessary.

As these examples illustrate, there are a number of interdependencies in terms of the sequencing of various aspects of the Bill. At the Committee session I offered to share with you the current high-level implementation milestones, which is provided alongside this letter in a tabular format at document 1 and as a visual at document 2. In sharing these documents, I wish to highlight to the Committee that these dates represent the current planning assumptions. Further work will be undertaken over the coming months in relation to the detailed implementation arrangements. The indicative timetables do not set out the entirety of the work required to implement the Bill e.g. there will be a need to prepare additional items of subordinate legislation such as Commencement Orders.

**11. Why is “lifelong” in brackets in section 23(1)(b), and “national” in brackets in section 23(5)(b)?**

In section 23(1)(b) the brackets are intended to provide clarification that Welsh language learning has a broader more general meaning than has been used in the Bill so far, it is not limited to Welsh language learning in a compulsory school age setting.

Similarly, in section 23(5)(b) brackets are used to provide clarity that targets in this paragraph are to reflect the national targets, not local targets referred to in section 23(5)(a).

**12. Section 28(3)(a) requires a local Welsh in education strategic plan to include “information on the education practitioners working in the local authority’s area”. The term “information” is vague – what information do you envisage the local Welsh in education strategic plan including and why is appropriate detail not included on the face of the Bill?**

This could include numbers of practitioners or their Welsh language ability, or age. The intention is that regulations under section 33 will be able to provide more detail on what is required to be included in the local Welsh in education strategic plan. This could change as time goes on - our journey towards 2050 will require us to review progress and adapt over time as circumstances change.

**13. Sections 30 and 32 allow the Welsh Ministers to issue directions to local authorities in relation to local Welsh in education strategic plans that they have prepared. No procedure is applicable to such directions. Given that this power allows the Welsh Ministers to interfere with a subjective decision making process of the local authority, why is it not subject to a scrutiny procedure?**

Sections 30 and 32 of the Bill are direction-making powers that are “executive” in nature, as opposed to being quasi-legislative. Where primary legislation makes provision about the power to make directions of this kind it is not usual for such directions to be subject to a procedure in primary legislation.

**14. Section 33 of the Bill contains a power for the Welsh Ministers to make regulations relating to a wide range of matters relating to local Welsh in education strategic plans, as listed in the Statement of Policy Intent.**

**a. Given the breadth of this power, do you consider that it would be more appropriate to subject it to the affirmative scrutiny procedure?**

A number of key concepts relating to the local Welsh in Education Strategic Plans (WESP) are legislated for in the Bill, for example:

- what must be included in the WESP,
- the duration of the WESP and
- who must be consulted.

The power in section 33 enables the Welsh Ministers to make further provision about the plan, but those matters are largely technical and administrative in nature and supplement what is in the Bill, for example:

- the timing of the plan (but not its duration),
- consultation process, and
- approval process.

This would lean towards a negative procedure, as set out in the Welsh Government's guidelines on subordinate legislation.

There is also scope under the power for the regulations to make provision about the content of the plan, which will build upon the express requirements in section 28, and allows the Welsh Ministers to make specific and more detailed provision (as is the case in the current WESP Regulations).

It would also allow the Welsh Ministers to respond to changes in circumstances and priorities over time. That power will be limited by the scope of section 28 – the provisions in the regulations about the content must fall within the ambit and scope of section 28.

Using of the Negative procedure replicates the existing procedure in the School Standards and Organisation (Wales) Act 2013. I consider that a negative procedure is justifiable on the basis that it follows existing practice and legislation.

**b. In section 33(2), what do you mean when you say regulations could “apply sections 28 to 32 with modifications” for the purpose of producing joint local Welsh in education strategic plans – what would such modifications look like?**

This applies where local authorities are permitted to prepare joint plans as a result of regulations made under section 33(2). In such a scenario it may be necessary to modify some of the requirements of sections 28 to 32 to reflect the joint nature of the plan and that it will cover more than one authority's area. It may also be necessary to modify in order to reflect the separate targets the local authorities will receive in the Framework.

This reflects the power in the current WESP statutory framework (section 87 of the School Standards and Organisation (Wales) Act 2013).

**c. Why is there no detail on the face of the Bill relating to joint local Welsh in education strategic plans?**

Dealing with joint plans in regulations means that consultation can be undertaken about what kind of joint plans might be sought. That might be different in different parts of Wales. Having a regulation making power will allow a more purposeful and specific mechanism for such plans. This reflects the power in the current WESP statutory framework (section 87 of the School Standards and Organisation (Wales) Act 2013).

**15. Paragraph 2 of Schedule 2 to the Bill allows the Welsh Ministers to make regulations that vary the number of members of the new National Institute for Learning Welsh. The Explanatory Memorandum states that this is subject to the negative scrutiny procedure, but as the power can only be exercised to amend paragraph 2(1) of Schedule 2, can you confirm that it is in fact subject to the draft affirmative procedure in accordance with section 52(4)(b)?**

We agree with the Committee that regulations made under paragraph 2(4) of Schedule 2 to the Bill would amend paragraph 2(1) of Schedule 2 to the Bill, as it is a power to amend a provision in the Welsh Language and Education (Wales) Act. We agree that the effect of section 52(4)(b) is that the affirmative procedure applies to the regulations. We will consider whether an amendment is required to section 52(4)(a) of the Bill and will amend Table 5.1 of the Explanatory Memorandum to ensure it reflects the text of the Bill.

**16. Paragraph 18 of Schedule 2 to the Bill deals with the obligations of the Auditor General for Wales in relation to the new National Institute for Learning Welsh. Can you provide us with the details of any consideration you gave as to whether paragraph 18 complies with paragraph 5(3) of Schedule 7B to the Government of Wales Act 2006?**

Paragraph 18 of Schedule 2 to this Bill provides a power for the Auditor General to carry out a financial examination, states that policy objectives are outside the scope of the discretion provided to the Auditor General, and provides what the Auditor General must do before and after conducting a financial examination. There is no provision in paragraph 18 controlling or directing the use of the Auditor General's financial examination functions and the provision complies with paragraph 5(3) of Schedule 7B to the Government of Wales Act 2006.

**17. Paragraph 15(4) of Schedule 2 allows the Welsh Ministers to specify the responsibilities that the accounting officer of the new Institute will have. How are these responsibilities to be specified in practice and will the Senedd have the opportunity to scrutinise them? Why can they not be definitively listed on the face of the Bill, rather than the non-exhaustive list in paragraph 15(5)?**

The Athrofa will be a Welsh Government sponsored body, operating at arm's length from government but within a strategic planning and funding framework established by the Welsh Ministers. This framework will mirror the standard framework document for a Welsh Government Sponsored Body and will detail the terms and conditions under which the Welsh Ministers provide resources to the Athrofa, the roles and responsibilities of the Welsh Ministers and the Athrofa as well as the relationship between them. This includes the roles and responsibilities of the Accounting Officer (AO) and individual Board members.

The AO will have specific responsibilities for the propriety and regularity of the public finances for which they are responsible which will be included in a separate memorandum under the framework, including their accountability to the Senedd, the Welsh Government and the Athrofa's board. The Accounting Officer's responsibilities are derived originally from the Treasury - and the Permanent Secretary has a role in ensuring that the responsibilities of the Accounting Officer reflect those responsibilities. The Senedd has no power to intervene in that regard.

The reason for providing a non- exhaustive list is to give broad parameters of the role but also provide flexibility in relation to the chief accounting officer's functions that are agile enough to reflect Welsh Ministers' evolving requirements on financial accountability

within the funding framework. Quite often, primary legislation does not say anything at all about the duties of the Accounting Officer when setting up a new statutory body, so the aim of paragraph 15 is to give a broad indication of what those duties will be without being unduly prescriptive.

In addition, general accounting principles apply to bodies handling Government funds.

**18. The Bill uses the term “Welsh language education” which is defined separately in section 8(2)(a) for Part 3, and section 35(a) for Part 4. Both definitions are the same. The term is also used in sections 1(1)(c)(i) and 39(2) but is not defined for those purposes. Why was one definition not inserted into section 49(3) of the Bill which would then apply throughout the Bill, and do you agree that the lack of a definition for ‘Welsh language education’ in sections 1(1)(c)(i) and 39(2) could cause confusion in interpretation?**

We agree that the term “Welsh language education” is not defined in sections 1(1)(c)(i) and section 39(2). We will consider this matter further.

**19. Section 50 deals with the publication of documents, and states that where a person has a duty to publish a document electronically and they have their own website, the document has to be published on that website. Where is it to be published if they do not have their own website?**

The provision is similar to section 171 of the Local Government and Elections (Wales) Act 2021. Welsh Government policy at the time was that where a duty to publish electronically fell on a community council under that Act and that community council did not have a website they could ask the local authority to publish the material on their website.

In this context, if a school did not have a website they could ask the local authority to publish it. In relation to the Local Government and Elections (Wales) Act 2021, there were no concerns that the bodies on whom that duty was imposed would have any problems discharging it.

On the duty to publish “electronically”, a school could also publish documents via an app and section 50(1) allows for that. Other digital or social media platforms may also be used in the future.

**20. These further points have been identified in relation to the Statement of Policy Intent and the Explanatory Memorandum:**

**a. In the English language version of the Explanatory Notes, which are included in Annex 1 to the Explanatory Memorandum, in relation to section 11, the description in the table entry for the Welsh language learning goal of Primarily English Language, partly Welsh schools states that ‘By a date specified by the Welsh Ministers by regulations, that pupils are basic users...’ however this does not reflect the drafting of section 11(3)(a). The Welsh language version of the Explanatory Notes read ‘Hyd at ddyddiad’, meaning ‘Until a date.’**

My officials will correct the English language version of the Explanatory Memorandum to reflect the drafting of the Bill and to ensure both language versions of the Explanatory Memorandum are consistent.

**b. The Statement of Policy Intent on pages 14 and 18, in relation to sections 10(1), 10(2), 13(2) and 13(4), says that ‘Section 13(5) states that the Welsh Ministers**

**must decide every 5 years whether to revise/amend the language categories'. However, section 13(5) requires the Welsh Ministers to decide every 5 years whether to exercise the power to make regulations under section 13(2)(b), which is the regulation making power to increase the minimum amount of Welsh Language education provision for the "Primarily English Language, partly Welsh" category.**

We agree with the Committee in this respect and my officials will amend the Explanatory Memorandum.

- c. In relation to section 16(6)(c), Table 5.2 of the English language version of the Explanatory Memorandum states that it is a power conferred on the Welsh Ministers, when it is in fact conferred on local authorities. The Welsh language version of the Explanatory Memorandum is correct.**

My officials will correct the English language version of the Explanatory Memorandum to reflect the drafting of the Bill and to ensure both language versions of the Explanatory Memorandum are consistent.

- d. In relation to section 20(4), Table 5.1 in the Explanatory Memorandum states that 'It imposes a duty to make provision, in relation to voluntary designation, including modifying Part 3 of the Bill' and 'The power enables the Welsh Ministers to amend primary legislation', however, the power is to make regulations that apply Part 3 with modifications, it is not a power to amend primary legislation.**

We agree with the Committee in this respect and will amend the Explanatory Memorandum to ensure that is clear the power does not enable the Welsh Ministers to amend primary legislation. It is a power to apply Part 3 of the Bill with modifications where a community special schools voluntarily designate a language category. I confirm the regulations will be made under the Affirmative procedure as set out in section 52(4)(b) of the Bill.

- e. In relation to section 23(9), Table 5.1 in the Explanatory Memorandum states that 'The power enables the Welsh Ministers to amend the impact of primary legislation', however the power in section 23(9) enables Welsh Ministers to amend primary legislation, not merely its impact.**

We agree with the Committee and my officials will amend the Explanatory Memorandum to set out that the power enables the Welsh Ministers to amend primary legislation.

- f. In relation to sections 28(4)(b)(ix) and 29(1)(a), in the Statement of Policy Intent, there are references to a 'section' of the Welsh in Education Strategic Plans (Wales) Regulations 2019 as opposed to 'regulation'.**

My officials will amend these references.

- g. In relation to paragraph 3(f) of Schedule 2, Table 5.1 of the Explanatory Memorandum states that 'The power enables the Welsh Ministers to amend primary legislation', however the power is to specify, in regulations, the holder of an office, or a member of a body or a member of staff of a body that are disqualified from being a non-executive member of the National Institute for Learning Welsh; these regulations will not amend primary legislation.**

We agree with the Committee that the proposed draft affirmative regulations will specify persons but will not change the text of the primary legislation. My officials will make this clear in the Explanatory Memorandum.

**Can you confirm that these points will be addressed and that the Statement of Policy Intent and the Explanatory Memorandum will be amended accordingly?**

I am happy to confirm that changes will be made to the Explanatory Memorandum ahead of laying it before the Senedd following Stage 2 proceedings. I will also make a revised version of the Statement of Policy Intent available to your Committee and the Children, Young People and Education Committee at that time.

**21. Finally, while a response will not be required in respect of the matters set out below, we wish to bring them to your attention:**

- a. In section 32(4), the word “Minsters” should instead be “Ministers”.**
- b. In section 37(3)(d), the word “on” after “National Framework” should instead be “for”.**

I am grateful to the Committee for raising these issues and agree with the Committee that these corrections should be made.

## Indicative timeline for implementation of the Bill

This document reflects the current planning assumptions for the implementation of the Bill and will be updated as we continue to work on the Bill's implementation and as dependencies between activities are identified.

Year	Financial year	Date	Activity
1	2025-26	May/June 2025 (Upon Royal Assent)	Duty on the Welsh Ministers to include the Million Welsh Speakers target in strategy on promoting and facilitating the use of Welsh under section 78 of the Government of Wales Act 2006 comes into force. [This is already in place therefore, there will be no action required to implement].
		October 2025	Consultation on the Code
2	2026-27	July 2026	Finalise Code
		October 2026	Consultation on the language categories and WESP regulations
3	2027-28	July 2027	Finalise regs relating to language categories and WESPs
		July 2027	Complete review of standards
		August 2027	Establish National Institute of Learning Welsh
		October 2027	Consultation on the revised Welsh Language Strategy (to include targets on use, education and other requirements of section 1 of the Bill) and the National Framework.
4	2028-29	July 2028	Publication of the revised Welsh language Strategy and the National Framework
		August 2028 onwards	Local Authorities prepare the new WESP
5	2029-30	July 2029	Welsh Ministers approve the new WESP
		August 2029 onwards	Schools prepare Delivery Plans (taking the WESP into account)
6	2030-31	July 2030	Deadline for Local Authorities to approve the Delivery Plans (including school categories)
		August 2030	School Delivery Plans in place
7	2031-32		
8	2032-33	October 2032	Revise the National Framework
9	2033-34	January 2033	2nd Delivery Plan submitted to local authority for agreement
		July 2033	End of Delivery Plans (and end of first exemption, if applicable)

10	2034-35		
11	2035-36	July 2036	End of any further exemption

# Welsh Language and Education (Wales) Bill

## Indicative Timeline for Implementation of the Bill

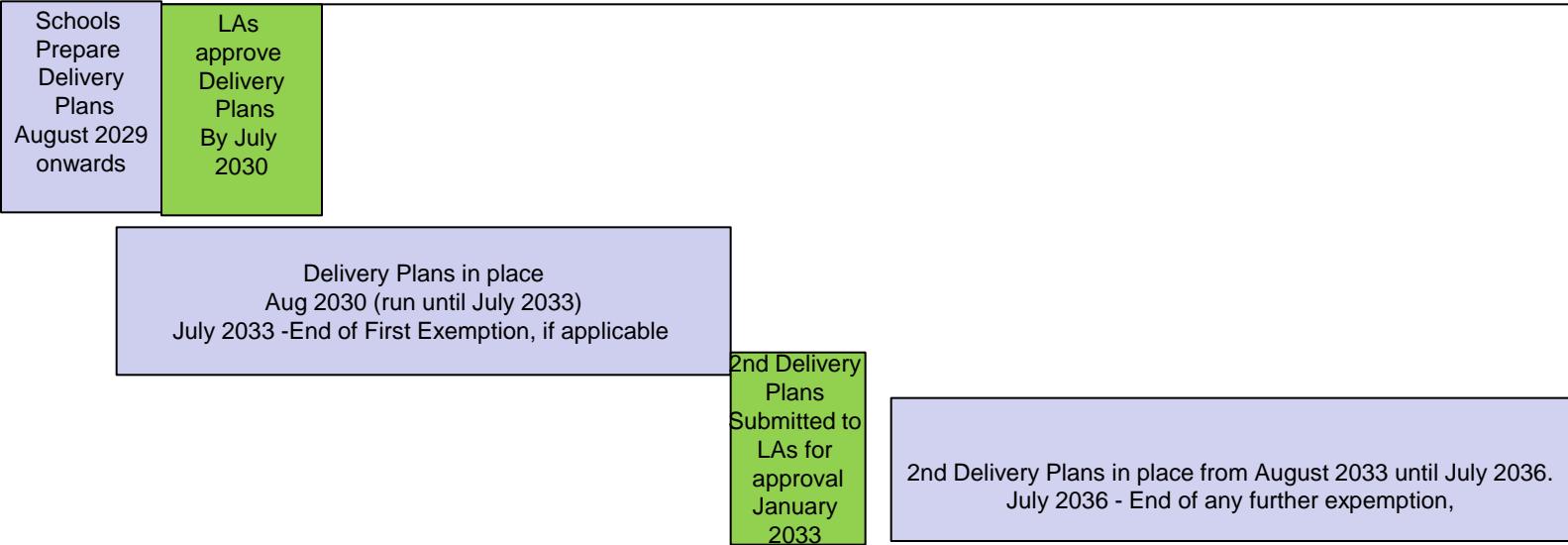
Key	
	Activity for Welsh Ministers
	Activity for Local Authorities
	Activity for schools
	No activity required to implement



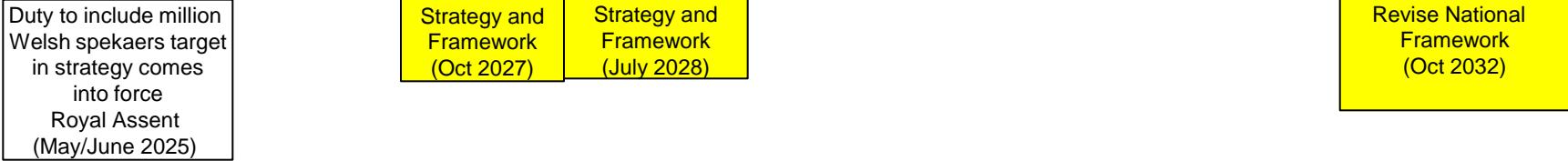
**Code**

Consult on Code Oct 2025	Finalise Code July 2026
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**Language categories**  
Pack Page 127



**Strategy and Framework**



**Other**



Rt Hon Mark Drakeford MS  
Cabinet Secretary for Finance and Welsh Language

24 October 2024

Annwyl Mark

**Welsh Language and Education (Wales) Bill**

Thank you for appearing before the Committee on 21 October 2024 to inform its consideration of the Welsh Language and Education (Wales) Bill.

As a Committee, we would be grateful if you could provide further information in respect of some matters. These matters are set out in the Annex.

Please could you respond by Friday 15 November 2024.

Yours sincerely,



Mike Hedges

Chair

## Annex

1. Have you undertaken a human rights impacts assessment for this Bill and what was the outcome of that assessment?
2. What does this Bill enable you to achieve that you cannot within the existing legislative framework?
3. The Explanatory Memorandum states that this “is the first piece of primary legislation to be introduced for the purpose of realising the long-term objective” of the Cymraeg 2050 strategy. As the strategy was announced on 10 July 2017, why has it taken over 7 years to bring this legislation forward?
4. According to the Statement of Policy Intent, there is currently no policy intent to use several of the regulation-making powers in the Bill and the powers are there to “future-proof the Bill”. Can you therefore explain why such powers are included?
5. Can you confirm whether section 3(1) and 3(2)(b) confer regulation making powers or duties? The Statement of Policy Intent is inconsistent in its description.
6. Section 3(1) of the Bill enables the Welsh Ministers to make regulations specifying the data to be used in order to calculate the number of Welsh speakers. Section 3(2) then goes on to explain that, whether a person is a Welsh speaker is to be decided by self-assessment or, in the case of a child, on the basis of an assessment by their parent or carer or any other method specified by regulations. Can you explain to us the interaction between sections 3(1) and 3(2)? The Statement of Policy Intent indicates that section 3(2) is a limitation on the power in section 3(1), but this is not clearly set out on the face of the Bill.
7. Section 10(1) of the Bill requires the Welsh Ministers to make regulations specifying the amount of Welsh language education provided for each language category. Section 13(1) enables the Welsh Ministers to make further provision about the school language categories. The Statement of Policy Intent states that it will be important to consult before making regulations; can you explain why there is no duty for the Welsh Ministers to consult on the face of the Bill?
8. Section 13(1) says the Welsh Ministers may by regulations make further provision about the school language categories. What are the limits of this “further provision” and why can you not be more specific about what this power will be used for?
9. Section 13(5) requires the Welsh Ministers to decide whether to exercise their power to increase the minimum amount of Welsh language education provision for the Primarily English Language, partly Welsh category within 5 years of that power coming into force, and after that within 5 years of each period following their most recent decision. Can you confirm the intention behind this provision

– can the power be exercised as regularly as the Welsh Ministers determine, as long as no more than 5 years elapse between decisions as to whether it should be exercised?

**10.** Sections 14(3), 29(1) and 44(8) specify that start dates for plans or planning periods shall be set out in regulations. If the dates are not set out on the face of the Bill, is there a danger that the powers may not be exercised and that the provisions are not commenced?

**11.** Why is “lifelong” in brackets in section 23(1)(b), and “national” in brackets in section 23(5)(b)?

**12.** Section 28(3)(a) requires a local Welsh in education strategic plan to include “information on the education practitioners working in the local authority’s area”. The term “information” is vague – what information do you envisage the local Welsh in education strategic plan including and why is appropriate detail not included on the face of the Bill?

**13.** Sections 30 and 32 allow the Welsh Ministers to issue directions to local authorities in relation to local Welsh in education strategic plans that they have prepared. No procedure is applicable to such directions. Given that this power allows the Welsh Ministers to interfere with a subjective decision making process of the local authority, why is it not subject to a scrutiny procedure?

**14.** Section 33 of the Bill contains a power for the Welsh Ministers to make regulations relating to a wide range of matters relating to local Welsh in education strategic plans, as listed in the Statement of Policy Intent.

- a. Given the breadth of this power, do you consider that it would be more appropriate to subject it to the affirmative scrutiny procedure?
- b. In section 33(2), what do you mean when you say regulations could “apply sections 28 to 32 with modifications” for the purpose of producing joint local Welsh in education strategic plans – what would such modifications look like?
- c. Why is there no detail on the face of the Bill relating to joint local Welsh in education strategic plans?

**15.** Paragraph 2 of Schedule 2 to the Bill allows the Welsh Ministers to make regulations that vary the number of members of the new National Institute for Learning Welsh. The Explanatory Memorandum states that this is subject to the negative scrutiny procedure, but as the power can only be exercised to amend paragraph 2(1) of Schedule 2, can you confirm that it is in fact subject to the draft affirmative procedure in accordance with section 52(4)(b)?

**16.** Paragraph 18 of Schedule 2 to the Bill deals with the obligations of the Auditor General for Wales in relation to the new National Institute for Learning Welsh. Can you provide us with the details of any consideration you gave as to whether paragraph 18 complies with paragraph 5(3) of Schedule 7B to the Government of Wales Act 2006?



**17.** Paragraph 15(4) of Schedule 2 allows the Welsh Ministers to specify the responsibilities that the accounting officer of the new Institute will have. How are these responsibilities to be specified in practice and will the Senedd have the opportunity to scrutinise them? Why can they not be definitively listed on the face of the Bill, rather than the non-exhaustive list in paragraph 15(5)?

**18.** The Bill uses the term “Welsh language education” which is defined separately in section 8(2)(a) for Part 3, and section 35(a) for Part 4. Both definitions are the same. The term is also used in sections 1(1)(c)(i) and 39(2) but is not defined for those purposes. Why was one definition not inserted into section 49(3) of the Bill which would then apply throughout the Bill, and do you agree that the lack of a definition for ‘Welsh language education’ in sections 1(1)(c)(i) and 39(2) could cause confusion in interpretation?

**19.** Section 50 deals with the publication of documents, and states that where a person has a duty to publish a document electronically and they have their own website, the document has to be published on that website. Where is it to be published if they do not have their own website?

**20.** These further points have been identified in relation to the Statement of Policy Intent and the Explanatory Memorandum:

- a. In the English language version of the Explanatory Notes, which are included in Annex 1 to the Explanatory Memorandum, in relation to section 11, the description in the table entry for the Welsh language learning goal of Primarily English Language, partly Welsh schools states that ‘By a date specified by the Welsh Ministers by regulations, that pupils are basic users...’ however this does not reflect the drafting of section 11(3)(a). The Welsh language version of the Explanatory Notes read ‘Hyd at ddyddiad’, meaning ‘Until a date.’
- b. The Statement of Policy Intent on pages 14 and 18, in relation to sections 10(1), 10(2), 13(2) and 13(4), says that ‘Section 13(5) states that the Welsh Ministers must decide every 5 years whether to revise/amend the language categories’. However, section 13(5) requires the Welsh Ministers to decide every 5 years whether to exercise the power to make regulations under section 13(2)(b), which is the regulation making power to increase the minimum amount of Welsh Language education provision for the “Primarily English Language, partly Welsh” category.
- c. In relation to section 16(6)(c), Table 5.2 of the English language version of the Explanatory Memorandum states that it is a power conferred on the Welsh Ministers, when it is in fact conferred on local authorities. The Welsh language version of the Explanatory Memorandum is correct.
- d. In relation to section 20(4), Table 5.1 in the Explanatory Memorandum states that ‘It imposes a duty to make provision, in relation to voluntary designation, including modifying Part 3 of the Bill’ and ‘The power enables the Welsh Ministers to amend primary

legislation', however the power is to make regulations that apply Part 3 with modifications, it is not a power to amend primary legislation.

- e. In relation to section 23(9), Table 5.1 in the Explanatory Memorandum states that 'The power enables the Welsh Ministers to amend the impact of primary legislation', however the power in section 23(9) enables Welsh Ministers to amend primary legislation, not merely its impact.
- f. In relation to sections 28(4)(b)(ix) and 29(1)(a), in the Statement of Policy Intent, there are references to a 'section' of the Welsh in Education Strategic Plans (Wales) Regulations 2019 as opposed to 'regulation'.
- g. In relation to paragraph 3(f) of Schedule 2, Table 5.1 of the Explanatory Memorandum states that 'The power enables the Welsh Ministers to amend primary legislation', however the power is to specify, in regulations, the holder of an office, or a member of a body or a member of staff of a body that are disqualified from being a non-executive member of the National Institute for Learning Welsh; these regulations will not amend primary legislation.

Can you confirm that these points will be addressed and that the Statement of Policy Intent and the Explanatory Memorandum will be amended accordingly?

**21.** Finally, while a response will not be required in respect of the matters set out below, we wish to bring them to your attention:

- a. In section 32(4), the word "Minsters" should instead be "Ministers".
- b. In section 37(3)(d), the word "on" after "National Framework" should instead be "for".



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# Agenda Item 12

By virtue of paragraph(s) vi of Standing Order 17.42

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