

Communities, Equality and Local Government Committee

Meeting Venue:
Committee Room 2 – Senedd

Meeting date:
15 March 2012

Meeting time:
09:30

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



For further information please contact:

Gareth Williams
Committee Clerk
029-20898120/029-20898120
CELG.committee@wales.gov.uk

Agenda

1. Introductions, apologies and substitutions

Apologies for absence have been received by Peter Black and Rhodri Glyn Thomas, given their roles on the Assembly Commission.

2. National Assembly for Wales (Official Languages) Bill: Stage 1 Evidence Session – School of Welsh, Cardiff University (Pages 1 – 12)

Paper 1:

Dr Diarmait Mac Giolla Chriost, Language, Policy and Planning Research Unit
Dr Simon Brooks, Language, Policy and Planning Research Unit,

3. National Assembly for Wales (Official Languages) Bill: Stage 1 Evidence Session – Welsh Language Officers Group (Pages 13 – 22)

Paper 2:

David Thomas, Policy Officer (Equalities and the Welsh Language) Caerphilly County Borough Council
Cath Baldwin, Welsh Language Officer, South Wales Fire and Rescue Service
Ffion Gruffudd, Welsh Language Officer, Cardiff City and County Council

4. Private Session: Consideration of the Committee's Report on the Inquiry into the Provision of Affordable Housing

The Committee will be invited to resolve to exclude the public from item 4 of the meeting in accordance with Standing Order 17.42(vi):

A Committee may resolve to exclude the public from a meeting or any part of a meeting where:

(vi) the Committee is deliberating on the content, conclusions or recommendations of a report it proposes to publish; or is preparing itself to take evidence from any person.

5. Papers to note (Pages 23 – 24)

CELG(4)–08–12 : Paper 3 (Pages 25 – 26)

Correspondence from the Health and Social Care Committee – Inadequate public toilet facilities.

CELG(4)–08–12 : Paper 4 (Pages 27 – 50)

Health and Social Care Committee report : Public health implications of inadequate public toilet facilities – report of evidence

Paper 5 (Page 51)

Correspondence on the draft Food Hygiene Rating (Wales) Bill

Communities, Equality and Local Government Committee

National Assembly for Wales (Official Languages) Bill

Paper 1: Language, Policy and Planning Research Unit, School of Welsh, Cardiff University

1.0 Introductory matters

1.1 This paper is in response to the National Assembly for Wales (Official Languages) Bill and the draft Official Languages Scheme. These are described as ‘the Bill’ and ‘the Scheme’ respectively in the remainder of this paper.

1.2 We understand that the intention of the Bill and Scheme is to place the duties of the National Assembly for Wales in relation to bilingual services on a ‘sound statutory footing’ to ‘enhance public confidence in the Assembly’s commitment to bilingual services’ (10.9, Explanatory Memorandum).

1.3 This paper deals with aspects of the Bill in the first instance (2.0), and aspects of the Scheme in the second (3.0).

1.4 We wish to note some introductory matters in relation to accountability.

1.5 The Scheme notes that the Assembly Commission is not subject to the new legal arrangements of the Welsh Language (Wales) Measure 2011 due to its ‘special constitutional position in Wales, and the fundamental constitutional principle that Welsh Ministers should be accountable to the Assembly rather than the Assembly being accountable to Ministers’ (paragraph 16 of the Scheme). The Explanatory Memorandum notes that ‘these provisions [the Bill] will make it clear that accountability for the Assembly Commission’s bilingual services will be directly to the National Assembly [...] rather than to the Welsh Language Commissioner and Welsh Ministers as in the case of public bodies on whom standards are imposed under the Welsh Language (Wales) Measure 2011’ (12.5, Explanatory Memorandum).

1.6 Under the Welsh Language (Wales) Measure 2011, Welsh Ministers are named as a ‘person/category’ under the Welsh Language (Wales) Measure 2011 (Schedule 6); Welsh

Ministers are, therefore, accountable to the Welsh Language Commissioner in relation to the standards and services that are in their care. Similarly, the Welsh Government's Welsh Language Scheme (2011-2016) is accountable to the Welsh Language Commissioner (Welsh Language Scheme (2011-2016) of the Welsh Government, page 1). The Welsh Government's Welsh Language Scheme will ultimately be superseded by standards. In the same way, a 'Minister of the Crown', 'a government department' and 'a person exercising on behalf of the Crown functions conferred by or under an Act or Measure' are named as a 'person/category' in the Welsh Language (Wales) Measure 2011.

1.9 Due to the fact that the Assembly Commission is not named as a 'person/category' under the Welsh Language (Wales) Measure 2011, the Assembly Commission is not accountable to the Welsh Language Commissioner for its Language Scheme and standards. The Assembly Commission is, instead, accountable to the National Assembly for Wales. To engender the public's confidence in the Assembly Commission's commitment to bilingual services, the arrangements of the National Assembly for Wales need to be robust and clear. To strengthen the arrangements in relation to the accountability of the Assembly Commission for the Scheme, it would be beneficial if there were a way to note the exact mechanism (for example, a sub-committee/specialist committee) that the Assembly Commission will have to use to report on the implementation of the Scheme. It should also be noted in what ways the public, stakeholders and other interested parties can contribute to this process.

2.0 National Assembly for Wales (Official Languages) Bill

2.1 The Bill aims to amend section 35 of the Government of Wales Act 2006 as follows:

For subsection (1), substitute -

(1) The official languages of the National Assembly are English and Welsh;

(1A) The official languages must, in the conduct of National Assembly proceedings, be treated on a basis of equality;

(1B) Either official language may be used by any person when participating in National Assembly proceedings;

(1C) Paragraph 8 of Schedule 2 makes provision about how the Assembly Commission must enable effect to be given to subsections (1), (1A) and (1B).

2.2 The Explanatory Memorandum notes (11.2) that section 1 contains ‘a clear, simple statement that the English and Welsh languages are the official languages of the National Assembly’ and that this reflects the ‘legislation governing other bilingual legislatures (e.g. the New Brunswick Official Languages Act 2002...)’. We also note section 6 of this Act, which states that ‘English and French are the official languages of the Legislature’. The Explanatory Memorandum refers (11.3) to a proposed change (subsection 1A) in relation to section 35 (1) of the 2006 Act so that Welsh and English are treated ‘on the basis of equality’ and that this ‘reflects a parallel change made by the Welsh Language (Wales) Measure 2011’. The Explanatory Memorandum refers (11.4) to a proposed change (subsection 1B) that will note clearly on the face of the governing legislation the right to use the two languages in Assembly proceedings.

2.3 There are several matters that should be considered in this context, in relation to the international model of New Brunswick. The Explanatory Memorandum explains that section 1 of the Bill ‘reflects’ the Official Languages (New Brunswick) Act 2002. If this is the case, that reflection is incomplete. There are significant differences between the Bill and the Official Languages (New Brunswick) Act 2002 regarding the status of the languages in question, the rights of speakers and ways of operating.

2.4 For example, the Official Languages (New Brunswick) Act 2002 notes that French and English have, as official languages as a matter of constitutional fact, ‘equality of status and equal rights and privileges as to their use in all institutions of the Legislature and Government of New Brunswick.’ The Act goes on to state in detail the practical implications of this, including the use of both languages in the legislature, for example:

6 English and French are the official languages of the Legislature and everyone has the right to use either language in any debate and other proceeding of the Legislative Assembly or its committees;

7 Simultaneous interpretation of the debates and other proceedings of the Legislative Assembly shall be made available by the Legislature;

8 The records, journals and reports of the Legislative Assembly and its committees shall be printed and published in English and French and both language versions are equally authoritative.

2.5 The Official Languages (New Brunswick) Act 2002 is much clearer and more robust than the Bill and Scheme. This is abundantly clear when considering matter 12.8 in the Explanatory Memorandum. It is noted here that the Bill ‘makes it clear that the Act does not necessarily require the Scheme to provide for interpretation and translation both from Welsh into English and from English into Welsh in all situations’. The intention of the Bill is, therefore, to amend paragraph 8 of Schedule 2 of the Act (the principles in accordance with which functions are to be fulfilled) in different ways, including placing a duty on the Assembly to adopt and publish a Scheme. This proposed change includes the following explanation:

6 Nothing in section 35(1) or in sub-paragraphs (3) or (5) of this paragraph is to be interpreted as requiring all words spoken or written in one of the official languages to be interpreted or translated into the other.

This is completely different to the way that the legislature of New Brunswick operates.

2.6 In addition, the Explanatory Memorandum explains that this will ‘limit the duty to provide a fully bilingual written record of proceedings to plenary (but not to committee) proceedings, again in line with current practice’ (12.8, Explanatory Memorandum) and that this ‘reflects’ the Irish Official Languages Act 2003, particularly the fact ‘that contributions (whether oral or in writing) in either of the official languages by persons may be published therein solely in that language.’ In practical terms, the Irish legislation means that it is possible for a contribution of this kind to be published in Gaelic or English only. The intention of the Scheme in this regard is different in that it stipulates publishing a contribution of this kind in English only, if English was the language in which the contribution was made, and publishing the contribution in Welsh and English if the initial contribution was made in Welsh. Operating in this way is entirely contrary to what was intended by Irish Official Languages Act 2003. The Irish legislation allows for publication in Gaelic only on the basis of that language’s status as a national and official language of the

Irish state as a matter of constitutional fact. Is the intention of subsection 6 to allow publication of some contributions in Welsh only?

2.7 On its choice of international models, the Explanatory Memorandum mentions only one part of the relevant legislation in New Brunswick. However, rather than pursuing that example, which places provisions on the face of the legislation, it turns to another example from another legislature, namely the Irish legislature, which does not do this. The reasons for such a sudden change from one legislative context to another, which may appear to be inconsistent, are not given in the Memorandum.

2.8 The Explanatory Memorandum notes the following:

The Commission gave careful consideration to the proposal that a duty to provide a fully bilingual record of plenary proceedings should be placed on the face of the Bill rather than being left to be specified in the Scheme. The Commission took into account the fact that the Scheme itself would be required to be approved by the Assembly and that, once approved, the Commission would be under a duty to give effect to it. The Commission therefore decided that to include, in addition, an inflexible legal duty on the face of the Bill itself would not be necessary or desirable. (6.20, Explanatory Memorandum).

2.9 There are a number of matters to consider here. Status is the first. It is clear that the Scheme does not have the same legal status as the Bill. Looking at other socio-linguistic situations—as has been done as part of this process, including the work of the ‘Independent Review Panel (2010)’—namely situations in Scotland, Catalonia, the Basque Country, the Republic of Ireland, New Brunswick and Switzerland, it is clear that the legislatures in the jurisdictions that are most similar to Wales from a socio-linguistic point of view (that is the numbers of speakers of the different official languages, population size, linguistic development and so on) have adopted means of placing on the face of relevant legislation statements and duties in relation to language status, language rights and the use of a language within and across legislative procedures and governance. There is one simple reason for doing this—it gives assurance and clarity to the public.

2.10 The second matter in this context relates to public confidence. Among the results of the consultation process was ‘general support for placing a duty to provide a fully bilingual record of Plenary proceedings on the face of the Bill from almost all respondents’ (6.13, Explanatory Memorandum) regarding the responses in favour. It is unclear whether any of the responses against contained any comments on the exact contents of the face of the Bill (6.15, Explanatory Memorandum). If the intention of the proposed changes is to ‘enhance public confidence in the Assembly’s commitment to bilingual services’ (10.9, Explanatory Memorandum), the results of the public consultation suggest that there is an opportunity here to increase the confidence of the likely users of the Assembly’s Welsh-language services. It should be noted that the Bill and Scheme are related to the use of Welsh, because it is Field 20, Schedule 7 of the Government of Wales Act 2006 under which the legislative competence of the Assembly falls in this context (2.9, 2.10 & 2.11, Explanatory Memorandum).

2.11 The third matter is a result of the unique and special status of the Assembly in Welsh life. Academic publications that discuss devolution propose that one of the fundamental principles of developing a Welsh polity is adopting a form of Welsh civic citizenship that is neutral in terms of identity characteristics. Considering the legislative, democratic and symbolic role of the Assembly’s Record of Proceedings, it is difficult to see how translating the Record of Proceedings from Welsh to English and not from English to Welsh can be reconciled with an inclusive and civic definition of citizenship. It is also difficult to see why the supremacy of any linguistic identity should be sanctioned in the most important civic space in Wales, namely the Assembly’s Plenary sessions, because it should be neutral.

2.12 In addition, the Bill mentions that ‘All persons have the right to use either official language when participating in Assembly Proceedings’, a wording that is based on the legislation of New Brunswick, according to the Explanatory Memorandum (11.4). However, these rights are not extended to the citizen who exercises his or her democratic right to read or listen to these proceedings. This problem does not exist in the legislation of New Brunswick, because the rights of those who contribute are also extended to the citizen who is reading or listening. However, this problem exists in the Bill in its current form.

2.13 It appears, therefore, that the argument in favour of including a duty to provide a fully bilingual Record of Plenary Proceedings on the face of the Bill is a strong one.

2.14 On other matters in the Bill, the Explanatory Memorandum notes (11.5) that ‘The National Assembly can only comply with the duties in subsections (1A) (which states that ‘The official languages must, in the conduct of National Assembly proceedings, be treated on a basis of equality/Wrth gynnal trafodion y Cynulliad, rhaid trin yr ieithoedd swyddogol ar y sail eu bod yn gyfartal’ [the Welsh version of the Explanatory Notes]) and (1B) (which states that ‘Either official language may be used by any person when participating in National Assembly proceedings/Mae gan bob person yr hawl i ddefnyddio’r naill iaith neu’r llall wrth gymryd rhan yn nhrefodion y Cynulliad’ [the Welsh version of the Explanatory Notes]) insofar as the Assembly Commission provides the National Assembly with the staff and other facilities to enable it to do so.’ The way that this explanation is worded suggests that the Assembly’s commitment to the proposed statutory duties under the Bill are conditional and that if ‘staff and other facilities’ are not provided, the Assembly will not be able to implement 1A and 1B. Usually, exercising a statutory ‘right’ [1B] is not dependent on the daily matters of running an institution, such as staffing and facilities. Furthermore, trying to impose such a condition would be an echo of the examples of weaker practices in the context of ‘language schemes’ in Wales.

2.15 Considering the importance of providing staff and other facilities, the Schedule should note that the Scheme must contain a bilingual skills strategy rather than a commitment to providing language skills strategies in future (paragraph 100 of the Scheme). By incorporating it in the Scheme, the language skills strategy will also be open to consultation with the public and other stakeholders. As part of the Scheme, the language skills strategy will be subject to scrutiny, monitoring and approval in the same way as the remainder of the Scheme. If implementing 1A and 1B is contingent (11.5, Explanatory Memorandum) on providing staff, then language skills strategies are a crucial matter and should be treated as a matter of the highest priority rather than as an addendum of some sort to the Scheme.

3.0 The draft Official Languages Scheme

3.1 There are weaknesses in the Scheme regarding its implementation and regarding monitoring and reporting.

3.2 The section on 'Authority and responsibility for co-ordinating this Scheme' (paragraphs 20-23 of the Scheme) states that the Chief Executive and Clerk of the Assembly will be responsible for 'co-ordinating, monitoring and [...] advising on revising its content (paragraph 21 of the Scheme).' It is also stated that 'every manager has a delegated responsibility for operating those aspects of the Scheme that are relevant to their work' (paragraph 23 of the Scheme) and also that 'Each Assembly service area will nominate a Scheme Co-ordinator to be responsible for providing advice on the delivery of the Scheme in their area; reviewing progress against the Scheme's requirements on a quarterly cycle via the Official Languages Scheme Co-ordinators Forum; continuously keeping the Translation and Reporting Service informed of any changes to delivery commitments' (paragraph 24 of the Scheme). As is usual in Welsh Language Schemes that aim toward best practice, the Assembly Commission should provide a detailed action plan at the same time as the Official Languages Scheme is introduced, noting the exact responsibilities of those who are responsible for implementing it, the targets to be achieved and the timetable for completing the work. The Welsh Government's Welsh Language Scheme Corporate Action Plan (2011-2016) is an excellent example of this. By doing this, it will become abundantly clear how it is intended that the Scheme will be implemented.

3.3 The section in the Scheme that deals with 'Monitoring and reporting' (paragraphs 25-27 of the Scheme) is very superficial. No details are given on monitoring other than to outline the basic commitment to monitoring compliance with the Scheme. It is also possible to pursue best practice on Welsh Language Schemes in this context; for example, the best Schemes make use of 'key performance indicators'; see Annex 2 of the Welsh Government's Welsh Language Scheme (2011-2016).

3.4 There is some ambiguity in relation to the wording of some clauses of the Scheme; for example:

(paragraph 48) 'at short notice' – what exactly is the definition of 'short notice'?

(paragraph 49) 'at short notice' – what exactly is the definition of 'short notice'?

(paragraph 50) 'as far as reasonably practicable' – what exactly is the definition of 'reasonably practicable'?

(paragraph 51) 'where it is not possible to secure documents in both languages' – if the organisations have language schemes or are subject to standards it is difficult to see any reason why some documents, at the request of the Assembly, would not be available bilingually. Under circumstances where the other organisation, which has a Language Scheme or is subject to standards, has not provided a document in Welsh, why is it not possible to request an explanation and for that to be published as well? Is it not possible to draw the Welsh Language Commissioner's attention to the fact that an organisation, which has a Language Scheme or is subject to a standards regime, has failed to provide documentation in Welsh in accordance with the statutory expectations?

(paragraph 70) 'our ambition is to enable' – it should, rather, note that 'the Assembly Commission will enable...', which is much more definite.

(paragraph 71) 'we will aim to deliver' – why can it not state 'we will deliver'?

(paragraph 82) 'where reasonably practicable' – what is the exact definition of 'reasonably practicable'?

(paragraph 82) 'at short notice' – what is the exact definition of 'short notice'?

(paragraph 85) 'particularly short lifespan' – what is the exact definition of 'particularly short lifespan' in the context of this paragraph?

(paragraph 85) 'as a matter of urgency' – what is the exact definition of 'a matter of urgency.'?

It should be possible to avoid ambiguity of this kind.

3.5 The implications of paragraphs 59 and 61 of the Scheme are to give priority to the English language (see part 2.0 above). The proposed arrangement for translating

submissions received in Welsh only into English is weaker than the international model for the Scheme in this instance, namely the Irish Official Languages Act 2003.

3.6 It is noted in the Scheme that ‘it will not be possible to ensure the presence of Welsh speakers as part of our front of house service but we are committed to improving the Welsh language skills of staff who offer these services’ (paragraph 94 of the Scheme). According to best practice in Welsh Language Schemes, the Assembly Commission should note in an action plan the steps to be taken and the timetable for getting to grips with this work. Best practice in this area is also being directed by documents published by the Welsh Language Board, entitled ‘Guidelines for Promoting and Facilitating Bilingual Workplaces’ and ‘Guidelines for Recruitment and the Welsh Language’.

3.7 It is noted in the Scheme, under the ‘Managing and encouraging Assembly staff’s bilingual skills’, that ‘this is an area we need to develop further in the future’ (paragraph 99 of the Scheme). Again, providing an ‘action plan’ in relation to this need corresponds with best practice in the field. More specifically, in order to observe best practice in this field, it should be noted in the Scheme that ‘mandatory language awareness training’ (paragraph 97 of the Scheme), the ‘bilingual skills strategy’ (paragraph 100 of the Scheme) and the section on ‘Recruitment’ (paragraphs 101-106 of the Scheme) are driven by the documents of the Welsh Language Board entitled ‘Guidelines for Promoting and Facilitating Bilingual Workplaces’, ‘Guidelines for Recruitment and the Welsh Language’, ‘Guidelines for Organising Welsh Language Training in the Workplace’ and a Language Awareness Training Package (for example, see Section 7 of the Welsh Government’s Welsh Language Scheme (2011-2016)).

3.8 On the matter of ‘Working in partnership’, in order to observe best practice in the field, it should be noted that the Scheme will follow the guidelines of the Welsh Language Board on ‘Partnerships and the Welsh Language’ (for example, the Welsh Government’s Welsh Language Scheme (2011-2016)).

3.9 It is noted in the Scheme that the Assembly Bills that are considered by Assembly ‘will be available in both languages and Assembly Members may undertake their scrutiny role in either language’ (paragraph 56 of the Scheme). It is also noted that there are possible exceptions under Standing Order 26.5. Standing Order 26.5 notes the following:

A proposed Measure must be introduced in both English and Welsh except in the following cases:

(i) when, in respect of a government proposed Measure, the Member in charge states in writing that, for specified reasons, it would not be appropriate in the circumstances or reasonably practicable for the proposed Measure to be introduced in both languages; or

(ii) when not doing so is in accordance with determinations issued by the Presiding Officer under Standing Order 26.3.

(Standing Orders of the National Assembly for Wales, November 2011).

For the sake of clarity, it would be useful if it were possible for the Scheme to contain examples of the kinds of circumstances that would mean that is not appropriate or practically reasonable to table a Bill in both languages.

3.10 A few factual errors in the documentation should be noted, namely:

Paragraph 16 of the Welsh version of the Scheme states that the Welsh Language (Wales) Measure 2011 was approved in 2012.

(2.2, Explanatory Memorandum) ‘Welsh Language Act 2003,’

(12.8, Explanatory Memorandum) ‘Irish Official Languages Act 2002’.

(paragraph 90 of the Scheme) The English version of the Scheme states that: ‘Organisations without language schemes will be encouraged to operate in accordance with our outlined principles’, while the Welsh version states these organisations will be encouraged to operate in accordance with the principles of their schemes (‘Anogir sefydliadau nad oes ganddynt gynlluniau iaith i weithredu’n unol ag egwyddorion eu cynlluniau.’).

4.0 Conclusions

4.1 The Bill and Scheme include weak interpretations of the international models of comparable legislation, namely New Brunswick (Canada) and the Republic of Ireland. It is as if the international examples have been sifted, collecting the chaff rather than the wheat.

4.2 There is a strong argument in favour of including the duty to provide a fully bilingual Record of Plenary Proceedings on the face of the Bill.

4.3 The Scheme, as it stands, does not reflect best practice on Welsh Language Schemes, including the Welsh Language Scheme of the Welsh Government.

5.0 References

(Draft) National Assembly for Wales (Official Languages) Bill.

Welsh Language Scheme (2011-2016), the Welsh Government.

Draft Official Languages Scheme, National Assembly for Wales Commission.

Welsh Language Act 1993.

Irish Official Languages Act 2003.

Official Languages (New Brunswick) Act 2002.

Government of Wales Act 2006.

Explanatory Memorandum for the National Assembly for Wales (Official Languages) Bill (January 2012).

Welsh Language (Wales) Measure 2011.

Independent Review Panel (2010), 'Review of Bilingual Services in the National Assembly for Wales', National Assembly for Wales Commission.

Standing Orders of the National Assembly for Wales (November 2011).

Communities, Equality and Local Government Committee

National Assembly for Wales (Official Languages) Bill

Paper 2: Welsh Language Officers Group

Unless otherwise stated, it should be assumed that we agree with or welcome every element of the Bill, except for what is noted below.

1. There is no doubt that the Bill is necessary because the Government of Wales Act 2006 is not fit for purpose with regard to ensuring that the Assembly and the Assembly Commission are required to achieve what other Welsh public bodies are expected to achieve in relation to bilingualism. That is not acceptable given that the Assembly is Wales's main public body and if the Assembly does not give the Welsh language official status, treating it on an equal basis with English in the execution of its functions, how can any other organisation in Wales be expected to undertake its statutory duties in accordance with current Welsh language legislation?
2. The Bill must place the same duties on the Assembly as are placed on the Government and other public bodies by current legislation. 'Ambition' (e.g. Point 4.4. (explanatory memorandum)) should be changed to 'duty' in every instance, if the Bill is to achieve its purpose.
3. The four new provisions are a considerable improvement on the Act in its previous form, creating true linguistic equality compared to the previous wording, which, in our view, undermined the Welsh language.
4. On the whole, we welcome the general provisions, except for the following points, which relate to the additional questions under question 4:

iii. The wording in sub-paragraph (6) is ambiguous and unclear:

"(6) Nothing in this paragraph (or in section 35(1)) is to be interpreted as requiring all words spoken or written in one of the official languages to be interpreted or translated into the other."

Even though the Explanatory Memorandum notes that this wording reflects the content of the Irish Official Languages Act 2002 (section 6(3)), we are of the opinion that the EM should include wording that is more similar to that used in the Irish Act (12.8 of the Bill) (below), as it is far clearer and conveys the meaning more effectively:

"Every official report of the debates and other proceedings of the Houses of the Oireachtas shall be published in each of the official languages, except that contributions (whether oral or in writing) in either of the official languages by persons may be published therein solely in that language."

v. The inclusion of sub-paragraph (9), which relates to how often the Scheme should be reviewed, is disappointing, since it has changed from once every four years to once every five years.

(9) The Assembly Commission—

(a) must, at least once every five years, review the Scheme, and

(b) may, at any time, adopt a new Scheme or an amendment to the existing Scheme.

(a) We believe that the scheme needs to be reviewed more often than every five years, to coincide with the Assembly term. Also, equality legislation generally encourages the revision of schemes every three years and that is now local authorities' practice with regard to Welsh Language Schemes. What are the reasons for extending the scheme's review period from four to five years?

(b) If there is to be a new Scheme or revision, it should be more strongly in favour of the Welsh language than was the case previously and there must be public consultation.

vi. In the wording of sub-paragraph (10)(b)

(10)(b) the Assembly Commission has considered any representations made about the draft Scheme (or draft amendment) by—

- (i) members of the public, and
- (ii) the Assembly, and

Every organisation that is encompassed by the provisions of the Welsh Language Measure should also be included.

5. If you choose to incorporate our comments and amendments, then we will agree that there is an appropriate balance between the specific requirements that are included on the face of the Bill and the provisions that are to be included in the Scheme.
6. It is possible that the connection between the Bill and the Welsh Language Measure is inadequate or lacks clarity. The Measure needs to be implemented effectively by other organisations in order for the Bill to work in the Assembly and vice versa.
7. Since the Welsh Language Measure states that Welsh and English are the official languages of Wales, and are therefore equal in status, any arguments about expenditure are irrelevant. It should therefore be accepted that the funding of the Assembly as a whole is for providing services in both languages in Wales, and if the cost of operating in Welsh is taken into account, the cost of operating in English should also be included and expenditure should be compared on that basis, rather than considering the provision of services in Welsh to be an 'additional' cost. Bilingual officers can work bilingually and therefore no additional cost should be noted, but more effective workforce planning might be necessary.
8. Overall, the Bill strengthens current legislation and apart from the concerns noted above, we welcome the Bill's content.
9. We have no further comments on specific sections of the Bill, but we would like to know why the Bill itself (even though it relates to bilingualism and has been prepared by the National Assembly for Wales) is in English only. This meant that we had to quote the above sections in English. Also, we had to look for the documents on the

English-language side of the Assembly website and switch to the Welsh-language side because using the Welsh-language search facility to find the relevant documents was not successful.

10. Our opinion and comments with regard to the Draft Official Languages Scheme are included as **Annexe A** to this response.

11. The changes outlined in paragraph 6.19 are fine, except for the following, which is ambiguous:

‘include explanatory paragraphs explaining why communication between individual Assembly Members and the public is outside the scope of the Scheme.’

Does this mean that Assembly Members do not have to reply in Welsh to a letter that is received in Welsh? If so, we disagree with this. Local council members are expected to reply in Welsh. Why is this outside the scope of the Scheme? Is it not the case that it would be encompassed by the provisions of the Welsh Language Measure and the right of the individual anyway? If so, that should be noted instead.

Communities, Equality and Local Government Committee

National Assembly for Wales (Official Languages) Bill

Paper 2: Annexe A - Welsh Language Officers Group

Annexe A

Comments on 'The Official Languages Scheme' (drafft)

Background

6. Section 35(1) of the Government of Wales Act 2006 currently provides, in the context of Equality of Treatment, that:

(1)The Assembly must, in the conduct of Assembly proceedings, give effect, so far as is both appropriate in the circumstances and reasonably practicable, to the principle that the English and Welsh languages should be treated on a basis of equality.

Comment [b1]: Why is this quote in English in the Welsh-language version?

7. Schedule 2, paragraph 8 (3) of the Act, relating to the principles in accordance with which the functions of the Assembly Commission are to be exercised, adds that:

(3)... effect must be given, so far as is both appropriate in the circumstances and reasonably practicable, to the principle that the English and Welsh languages should be treated on a basis of equality.

Comment [b2]: Why is this quote in English in the Welsh-language version?

11. To be prepared and adopted in accordance with the proposed new paragraph 8(3) of Schedule 2 to the Government of Wales Act 2006, this scheme sets out how the Assembly Commission plans to deliver bilingual services to Assembly Members and members of the public. It covers:

- the National Assembly's aspiration to become a truly bilingual organisation that enables Assembly Members and staff to work in both languages;

Comment [R3]: We recommend that the word "aim" should be used instead of ambition – it is more specific.

17. With this in mind, at its July 2011 meeting, the Assembly Commission agreed to propose a new Official Languages Bill in order to make sure that the legal duties relating to the place of Welsh in the work of the National Assembly and of the Assembly Commission were also brought up to date and placed on a sound statutory footing.

Comment [b4]: We welcome this.

Definition of 'public'

18. In this scheme, the term 'public' means individuals, legal persons and unincorporated bodies. It includes the public in general, or a section of the

public, as well as individual members of the public. However, it does not include people in public bodies when they fulfil official duties.

19. Individual correspondence between Assembly Members and their constituents is not covered by this Scheme.

Comment [b5]: In order to encourage bilingualism in the workplace, perhaps it would be possible to consider ways in which the National Assembly and the Assembly Commission could promote increased use of the Welsh language among their staff when they communicate and work with Welsh-speaking staff in other public bodies.

Comment [b6]: Despite the fact that individuals have the right to communicate with their Assembly Member in Welsh, and expect a written answer in Welsh if that is their language of choice?

Authority and responsibility for co-ordinating this Scheme

23. Every manager has a delegated responsibility for:

- operating those aspects of the Scheme that are relevant to their work;
- encouraging staff to use their language skills;
- ensuring that any new staff members are aware of the bilingual ethos of the National Assembly, the **ambition** and services outlined in the scheme.

Comment [b7]: We recommend that the word "aim" should be used instead of ambition – it is more specific.

Monitoring and reporting

27. Following the Assembly Commission's consideration, the annual compliance report will be laid before the National Assembly.

Comment [b8]: And published for the public in an appropriate form.

Publicising and promoting our bilingual services

31. Every effort will be made to ensure that Assembly Members, members of the public and Assembly staff are aware of this Scheme and the services to be provided. We will publicise our bilingual services by:

- ensuring that we can offer a bilingual service to our customers **from the outset**, to the best of our ability - whether it be orally, face to face, in writing or through other service providers on our behalf;

Comment [b9]: Why only from the outset?

Dealing with complaints

37. You can proceed with your complaint by:

- In the first instance raising your complaint or concern with the official with whom you have been dealing.

Comment [b10]: [translator's comment - the Welsh paper contains gender-specific language]

The National Assembly's **ambition**

39. It is the National Assembly's **ambition** to be a truly bilingual institution.

Comment [b11]: We recommend that the word "aim" should be used instead of ambition – it is more specific.

40. The National Assembly considers that this Scheme enables that **ambition** to be achieved.

Comment [b12]: We recommend that the word "aim" should be used instead of ambition – it is more specific.

42. The strategies and aspirations of the National Assembly aim to achieve equal status for the Welsh and English languages under the Government of Wales Act 2006.

Comment [b13]: We recommend that the word "aim" should be used instead of ambition – it is more specific.

44. To achieve this ambition we will take the following factors into consideration:

Comment [b14]: We recommend that the word "aim" should be used instead of ambition – it is more specific.

Bilingual Services for Assembly Members and their staff

46. Our ambition is to facilitate the means for National Assembly proceedings to be truly bilingual by empowering Assembly Members with bilingual materials and the means to communicate with each other and the public bilingually.

Comment [b15]: We recommend that the word "aim" should be used instead of ambition – it is more specific.

Bilingual services: preparing for Plenary and committee meetings

48. Documents for consideration during Plenary drafted by the Commission, Assembly Members (with the exception of those undertaking Ministerial duties) and staff of the Assembly will be available simultaneously in Welsh and in English. Where an item is to be included on the Plenary agenda at short notice, it may not be possible to produce those papers bilingually although we aim to do so on every occasion.

Comment [b16]: The term "at short notice" needs to be defined.

49. Documents for consideration during committee meetings drafted by the Commission, Assembly Members (with the exception of those undertaking Ministerial duties) and staff of the Assembly will be simultaneously available for the committee members in Welsh and in English and at least two working days prior to the relevant meetings. Bilingual committee chairs will be provided with a bilingual brief to encourage more use of Welsh in our proceedings. Where an urgent item is to be included on a committee's agenda at short notice, it may not be possible to produce those papers bilingually although we aim to do so on every occasion.

Comment [b17]: We welcome this.

50. Supporting documents for committee and Plenary such as research briefings, will be prepared in both official languages as far as reasonably practicable. We will make these available to facilitate greater use of Welsh in our proceedings by Assembly Members. Where this is impractical, the relevant Head of Service will be advised.

Comment [b18]: Other public bodies have moved away from using the term "reasonably practicable". We suggest that this should be deleted, or that a more specific term is used.

51. Requests for documents or written responses to committee consultations and documents from external organisations and third parties intended for publication and / or use in National Assembly proceedings will be requested bilingually from the outset. Those organisations with Welsh language schemes, standards, policies or schemes should submit responses in both languages to ensure that Assembly Members and the public can engage with proceedings in either Welsh or English.

Comment [b19]: We welcome this.

Staff communications to Assembly Members

67. We aim to communicate in writing with individual Members, party groups, or other forums bilingually or in Welsh or English when a choice has been expressed. Members will be notified when this is not possible.

Comment [b20]: We recommend that "aim to" should be deleted. Members' language of choice should be recorded and respected.

Bilingual Services for communicating and engaging with the public

70. Our ambition is to enable the public to communicate and engage bilingually with the National Assembly. The remainder of this section outlines how we will achieve this.

Comment [b21]: We recommend that the word "aim" should be used instead of ambition – it is more specific.

73. Legal documents and legal agreements with individuals, organisations or groups will be offered in either Welsh or English.

Comment [b22]: And bilingually – in order to encourage learners and to meet the needs of bilingual families/groups/organisations.

Individual meetings

82. When a member of the public wishes to discuss the National Assembly's procedures or services face-to-face, they are welcome to do so in Welsh or in English. We will facilitate the meeting by ascertaining beforehand the member of the public's preferred language, and if that is Welsh, provide a Welsh speaker to attend the meeting and where this is not possible, arrange simultaneous translation where reasonably practicable. If neither of these options is available, the member of the public will be invited to deal with the issue by correspondence in Welsh or to continue with a meeting in English. When face-to-face meetings are held at short notice, the above steps will be followed but we cannot guarantee to provide a Welsh speaker on every occasion.

Comment [b23]: Other public bodies have moved away from using the term "reasonably practicable". We recommend that this should be deleted and that a definition should be provided of why it would not be possible to arrange simultaneous translation.

Managing and encouraging Assembly staff's bilingual skills

97. In order to achieve our ambition of becoming a truly bilingual institution, we will:

Comment [b24]: We recommend that the word "aim" should be used instead of ambition – it is more specific.

99. In addition to encouraging our staff to learn or improve their Welsh language skills, we propose to place less reliance on our translation service over time. This is likely to mean that more of our bilingual staff will need to develop their Welsh drafting skills. The increased use of the text checking service suggests that there have been improvements in this area and that more staff are preparing drafts bilingually. However, this is an area we need to develop further in the future. If this Scheme's ambition is to be realised, the numbers learning Welsh also need to increase.

Comment [b25]: We recommend that the word "aim" should be used instead of ambition – it is more specific.

Working in partnership

119. If the Assembly Commission joins a formal partnership that is led by others, the Assembly Commission's input will conform to this Scheme and other partners will be encouraged to conform to this Scheme or at a minimum with the spirit of the Welsh Language Act 1993

Comment [b26]: We recommend that a clause should be added to ensure that any goods/services for the public in Wales that are produced through this type of partnership are bilingual. Does the Measure need to be mentioned too?

Communities, Equality and Local Government Committee

Meeting Venue: **Committee Room 2 – Senedd**

Meeting date: **Wednesday, 7 March 2012**

Meeting time: **09:30 – 11:30**

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

This meeting can be viewed on Senedd TV at:

http://www.senedd.tv/archiveplayer.jsf?v=en_300000_07_03_2012&t=0&l=en



Concise Minutes:

Assembly Members:

Ann Jones (Chair)
Janet Finch–Saunders
Mike Hedges
Mark Isherwood
Bethan Jenkins
Gwyn R Price
Ken Skates
Alun Ffred Jones (In place of Rhodri Glyn Thomas)
Joyce Watson
Eluned Parrott (In place of Peter Black)
Peter Black

Witnesses:

Colin Nosworthy, Welsh Language Society
Ceri Phillips, Welsh Language Society
Osian Rhys, Welsh Language Society
Geraint Wyn Parry, Chief Executive, Association of Welsh Translators
Berwyn Prys Jones, Chairman, Association of Welsh Translators

Committee Staff:

P Gareth Williams (Clerk)
Leanne Hatcher (Deputy Clerk)
Joanest Jackson (Legal Advisor)
Owain Roberts (Researcher)

1. Introductions, apologies and substitutions

1.1.1 The Chair welcomed Members, witnesses and members of the public to the meeting.

- 1.1.2 Apologies for absence were received from Rhodri Glyn Thomas and Peter Black for items 2 and 3, given their roles on the Assembly Commission.
- 1.1.3 The Chair welcomed Alun Ffred Jones and Eluned Parrott to the meeting, who were substituting for them respectively, in accordance with Standing Order 17.48.
- 1.1.4 The Chair welcomed Peter Black to item 4 on the Local Government Byelaws (Wales) Bill.

2. National Assembly for Wales (Official Languages) Bill: Stage 1 Evidence Session – Welsh Language Society

- 2.1 The Committee received evidence from the Welsh Language Society on the Bill.
- 2.2 The Welsh Language Society agreed to provide additional information to the Committee.

3. National Assembly for Wales (Official Languages) Bill: Stage 1 Evidence Session – Association of Welsh Translators

- 3.1 The Committee received evidence from the Association of Welsh Translators on the Bill.

4. Private Session: Consideration of Key Issues on the Local Government Byelaws (Wales) Bill

- 4.1 The Committee agreed to exclude the public from item 4, in accordance with Standing Order 17.42 (vi), to consider the key issues and recommendations of its report on the Bill.

Y Pwyllgor Iechyd a Gofal Cymdeithasol
Health and Social Care Committee

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



Ann Jones AC AM

Cadeirydd y Pwyllgor Cymunedau, Cydraddoldeb a
Llywodraeth Leol
Chair, Communities, Equalities and Local Government
Committee

05 March 2012

Dear Ann,

Health and Social Care Committee – Inadequate public toilet facilities

You will be aware that the Petitions Committee received a petition calling upon the National Assembly for Wales to investigate the health and social well-being implications resulting from public toilets closures and to urge the Welsh Government to issue guidance to local authorities to ensure adequate public toilet provision.

The petition was referred to the Health and Social Care Committee in June 2011 and we held a one-day inquiry to consider the public health implications of inadequate facilities on 19 January 2012. I understand that the Petitions Committee also wrote to the Communities, Equalities and Local Government Committee to ask if it would consider the local government and equality dimensions of the petition. A report of the evidence we received is attached to this letter for your information.

Based on the evidence received, the Committee is firmly of the view that the public health case for better public toilet provision is strong. Furthermore, the Committee believes that the evidence collected suggests that there is a prima facie case for further investigation of local authority provision of public toilet facilities. A series of practical suggestions were made by witnesses, through which local provision could be better planned and provided, with improved outcomes for public health. It is our view that these potential solutions could merit further investigation by those more expert in local government matters.

The Committee has agreed that, as Chair of the Communities, Equalities and Local Government Committee, I should draw this to your attention. I hope that, when next considering your forward work programme as a Committee, you may be able to consider this matter for further investigation.

Bae Caerdydd
Cardiff Bay
CF99 1NA

I am also copying this letter to the Minister for Health and Social Services and the Minister for Local Government and Communities to draw their attention to this important work.

Yours sincerely

Mark Drakeford

Mark Drakeford AC AM
Cadeirydd - Chair

Cc Minister for Health and Social Services, Lesley Griffiths AM
Minister for Local Government and Communities, Carl Sargeant AM

National Assembly for Wales
Health and Social Care Committee

Public health implications of inadequate
public toilet facilities – report of evidence

March 2012



The National Assembly for Wales is the democratically elected body that represents the interests of Wales and its people, makes laws for Wales and holds the Welsh Government to account.

An electronic copy of this report can be found on the National Assembly's website www.assemblywales.org

Copies of this report can also be obtained in accessible formats including Braille, large print; audio or hard copy from:

Health and Social Care Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

Tel: 029 2089 8403
Fax: 029 2089 8021
Email: HSCCommittee@wales.gov.uk

© National Assembly for Wales Commission Copyright 2012
The text of this document may be reproduced free of charge in any format or medium providing that it is reproduced accurately and not used in a misleading or derogatory context. The material must be acknowledged as copyright of the National Assembly for Wales Commission and the title of the document specified.

National Assembly for Wales
Health and Social Care Committee

Public health implications of inadequate
public toilet facilities – report of evidence

March 2012



Health and Social Care Committee

The Committee was established on 22 June 2011 with a remit to examine legislation and hold the Welsh Government to account by scrutinising expenditure, administration and policy matters encompassing: the physical, mental and public health of the people of Wales, including the social care system.

Current Committee membership



Mark Drakeford (Chair)
Welsh Labour
Cardiff West



Mick Antoniw
Welsh Labour
Pontypridd



Rebecca Evans
Welsh Labour
Mid and West Wales



Vaughan Gething
Welsh Labour
Cardiff South and Penarth



William Graham
Welsh Conservatives
South Wales East



Elin Jones
Plaid Cymru
Ceredigion



Darren Millar
Welsh Conservatives
Clwyd West



Lynne Neagle
Welsh Labour
Torfaen



Lindsay Whittle
Plaid Cymru
South Wales East



Kirsty Williams
Welsh Liberal Democrats
Brecon and Radnorshire

Contents

Introduction	5
Background	6
Adequacy of existing public toilet facilities in Wales	7
The number of public toilets in Wales and their state of repair ..	7
Opening hours	9
Equality of provision	10
Alternative provision	11
Impact on health and social wellbeing of individuals	13
Impact on physical health	13
Impact on mental health.....	14
Impact on environmental health.....	15
Possible solutions	16
Making the most of existing resources.....	16
Charging	16
Planning.....	16
Strategy for Wales.....	17
Community involvement	17
Conclusion	19
Annex A – Consultation list	20

Introduction

1. On 19 January 2012 the Health and Social Care Committee considered the public health implications of inadequate public toilet facilities in Wales. The Committee agreed to publish a summary of the evidence received during the course of its consideration of the petition.
2. The evidence gathered by the Health and Social Care Committee is summarised in this document. Based on the evidence received, the Committee is firmly of the view that the **public health case** for better public toilet provision is strong. Furthermore, the Committee believes that the evidence collected underscores the case for further investigation of **local authority provision** of public toilet facilities. A series of practical suggestions were made by witnesses, through which local provision could be better planned and provided, with improved outcomes for public health. Such work could be undertaken by the Communities, Equalities and Local Government Committee and the relevant Minister, but it would be for them to decide whether or not to do so.

THE COMMITTEE'S KEY CONCLUSIONS

In reporting the evidence outlined in this report to the Assembly, the Committee has drawn the following key conclusions:

Key conclusion 1

The evidence received by the Committee endorses the view that there is a public health case for better public toilet provision.

Key conclusion 2

A set of potential practical solutions exist – as outlined in this report – which could, if implemented, lead to improved local provision of public toilets. It is our view that these potential solutions merit further investigation by those more expert in local government matters.

Background

3. Councillor Louise Hughes submitted the following petition to the National Assembly for Wales' Petitions Committee in June 2010:

“We, the undersigned, call upon the National Assembly for Wales to investigate the health and social well-being implications resulting from public toilets closures and to urge the Welsh Government to issue guidance to local authorities to ensure adequate public toilet provision.”¹

4. On 21 June 2011, the Petitions Committee agreed to refer this petition to the Health and Social Care Committee (“the Committee”). The Petitions Committee requested that the Committee consider undertaking an inquiry into the health aspects of the petition. The Petitions Committee also wrote to the Communities, Equalities and Local Government Committee to ask if it would consider the local government and equality dimensions of the petition.

5. In October 2011, the Committee agreed to undertake an evidence session to consider the health and well-being implications of public toilet closures. The Committee agreed that, given its remit, the focus of its work would be the public health implications of inadequate public toilet provision, leaving matters relating to local authority guidance to the Communities, Equalities and Local Government Committee.

6. The Committee consulted with relevant stakeholders during November and December 2011. A list of consultees is attached at Annex A. All written evidence submitted to the Committee can be viewed on the Committee's website.² The Health and Social Care Committee held a one-off oral evidence session on 19 January 2012. The Committee heard evidence from Louise Hughes, the lead petitioner, and representatives from Age Cymru, the Welsh Senate for Older People, Aneurin Bevan Health Board, the IBS Network, the British Toilet Association and the Welsh Government. The Committee would like to thank all those who contributed to this work.

¹ National Assembly for Wales, [P-03-292 - Public toilet provision](#), June 2010 [accessed 15 February 2012]

² National Assembly for Wales Health and Social Care Committee [Public health implications of inadequate public toilet facilities](#) [accessed 15 February 2012]

Adequacy of existing public toilet facilities in Wales

7. The adequacy of public toilet provision relates not only to the number of public toilets provided, but also their cleanliness and state of repair (including the availability of facilities for hand washing and sanitary disposal), their opening hours, and their suitability for people with differing needs. These issues are considered below.

The number of public toilets in Wales and their state of repair

8. Help the Aged in Wales (as Age Cymru was formerly known) 2009 report *Nowhere to Go in Wales*³ summarises its survey of older people's views on public toilet provision in their local area. A high number of respondents to the survey felt that public toilets were difficult to find or not open when needed, and that facilities did not meet their needs and were unclean and unsafe. The Committee was told by witnesses of a general decline in the number of public toilet facilities, a claim supported by Mike Bone from the British Toilet Association who said that the number of public toilets had reduced by about 40% in recent years.⁴

9. Chris Brereton, the Deputy Chief Environmental Health Adviser to the Welsh Government, told the Committee that he was unable to find figures for the current number of public toilet facilities in Wales,⁵ and therefore could not compare the overall picture with provision from previous years. Figures obtained by the National Assembly for Wales's Research Service in August 2011 show an approximate reduction in provision of 10% since 2007, although information was not provided by 3 local authorities (see Figure 1).

³ Help the Aged in Wales, [Nowhere to Go in Wales](#), 2009 [accessed 15 February 2012]

⁴ Health and Social Care Committee 19 January 2012, RoP para 81

⁵ Health and Social Care Committee 19 January 2012, RoP para 156

Figure 1: Public conveniences in Wales

Until 2000 the Audit Commission used to survey local authority provision of public toilets in England and Wales on an annual basis. Since then the information has not been centrally collected, though, as part of its Public Convenience Strategy, Conwy County Borough Council carried out a survey of all Welsh local authorities in early 2007.

The following table lists the number of public conveniences in Wales by local authority area from the last two Audit Commission surveys, the Conwy survey, and information gathered from local authority websites by the Research Service in 2010 and 2011 (as of 25 August 2011). Not all local authorities provide information on public toilet provision on their websites.

Where available for 2011, links have been provided in the table to sections of the websites which provide details of specific locations.

Local Authority	1998/9	1999/00	2007	2010	2011
Blaenau Gwent	21	21	11	11	13
Bridgend	21	20	20	15	13
Caerphilly	18	18	19	9	9
Cardiff	41	41	13	8	7
Carmarthenshire	81	81	51	42	40
Ceredigion	55	54	47	49	49
Conwy	54	54	56	56	46
Denbighshire	23	4	20	18	18
Flintshire	12	13	12	-	-
Gwynedd	74	74	102	80	78
Isle of Anglesey	35	36	34	34	34
Merthyr Tydfil	15	11	11	-	-
Monmouthshire	26	25	17	27	-
Neath Port Talbot	4	4	15	-	30
Newport	15	12	11	11	7
Pembrokeshire	109	93	99	-	96
Powys	92	80	55	50	50
Rhondda Cynon Taff	37	37	21	21	21
Swansea	29	29	19	19	19
Torfaen	2	13	2	2	2
Vale of Glamorgan	25	24	21	20	22
Wrexham	17	10	11	11	11
Total	806	754	667		

Source: Audit Commission, Conwy County Borough Council, Local Authority websites [accessed August 2011]

10. In addition to highlighting a decline in the number of public toilet facilities in Wales, witnesses emphasised the ageing infrastructure of facilities as a barrier to adequate provision. Many facilities were first opened several years or decades ago, and development and regeneration since then may have led to those facilities then being located in inconvenient places.⁶ The Committee also heard anecdotal evidence that local authorities used the expense required to adapt ageing facilities to make them compliant with disability discrimination legislation as an excuse for closing the facilities altogether.⁷ Witnesses expressed concern at this and emphasised that whilst such facilities did not meet the needs of everyone, they provide a service which should not be withdrawn as an unintended consequence of legislation.⁸

11. The Committee also heard how poor facilities can deter people from using them and could have a wider environmental health impact. Dr Sara Hayes told the Committee that the availability of adequate hand-washing facilities, including warm running water and soap to wash your hands and blowers or paper towels to dry them, was fundamental to minimising transmission of infection, and referred to outbreaks of the noro-virus linked to one person not being able to wash their hands properly.⁹ The Committee recognises the importance of Dr Hayes' message that:

“Hand-washing is known to be the key to minimising transmission of infection – it is a fundamental point that everyone must be able to wash their hands...It is almost a human right that you must be able to wash your hands after using the toilet. It is as straightforward as that. It is a core public health benefit.”¹⁰

Opening hours

12. Graeme Francis, Head of Policy and Public Affairs at Age Cymru told the Committee how the opening hours of public toilets could also affect the accessibility of facilities. Witnesses recognised that vandalism was often the cause of public toilets not being open at night, but that providing the service between 09.00 – 17.00 on week

⁶ Health and Social Care Committee 19 January 2012, RoP para 102

⁷ Health and Social Care Committee 19 January 2012, RoP para 25

⁸ Health and Social Care Committee 19 January 2012, RoP para 172

⁹ Health and Social Care Committee 19 January 2012, RoP paras 175 & 182

¹⁰ Health and Social Care Committee 19 January 2012, RoP para 182

days prevented many people, including weekend visitors, from using the facilities.¹¹ Louise Hughes noted that we “do not live in a nine to five society” and that public toilets need to be accessible 24 hours a day.¹²

Equality of provision

13. The Committee heard how inadequate public toilet facilities can have a greater impact on some groups of people, especially those with a disability or parents with young children.¹³ Whilst modern facilities provide improved access for disabled people, witnesses felt that further improvement was needed to meet the needs of everybody.¹⁴ Witnesses told the Committee how disabled people were often accompanied by a carer, but that most toilet cubicles were too narrow to accommodate more than one person.¹⁵ Further problems could arise should the carer be from the opposite sex.

14. Louise Hughes also told the Committee that gender inequality was also a problem in relation to toilet provision at times, with less space needed for urinals than for cubicles for women, leading to fewer facilities for women.¹⁶

15. The written evidence from the British Toilet Association (BTA) evidence stated that postal workers, carers, bus crews, delivery personnel, taxi drivers, lorry drivers, police officers and other mobile workers all need access to public toilets as they carry out their duties, and the closure of public toilets impinges on their ability to carry out their work effectively.¹⁷

16. The BTA also highlighted that the needs of the homeless are seldom mentioned in connection with public toilets, but their toileting requirements do need to be addressed if street fouling is to be reduced.¹⁸

¹¹ Health and Social Care Committee 19 January 2012, RoP para 58

¹² Health and Social Care Committee 19 January 2012, RoP para 51

¹³ Health and Social Care Committee 19 January 2012, RoP para 12

¹⁴ Health and Social Care Committee 19 January 2012, RoP para 20 & 27

¹⁵ Health and Social Care Committee 19 January 2012, RoP para 20

¹⁶ Health and Social Care Committee 19 January 2012, RoP para 23

¹⁷ Health and Social Care Committee 19 January 2012, HSC(4)-02-12 paper 4

¹⁸ Health and Social Care Committee 19 January 2012, RoP para 138

Alternative provision

17. Under the Public Facilities Grant Scheme, operating since April 2009, the Welsh Government has provided funding for local authorities to grant up to £500 to businesses which allow free public access to their toilet facilities.

18. Age Cymru's written evidence states that this could have an important part to play, but notes that a significant number of local authorities are not participating in the scheme.¹⁹ This view was further emphasised in oral evidence, with witnesses questioning whether the scheme was fit for purpose. Graeme Francis from Age Cymru told the Committee that there was a large variation across local authorities as to how the scheme was used, with no businesses having signed up to the scheme in some areas.²⁰

19. Chris Brereton referred to the variation between local authorities in raising awareness of the scheme. Mr Brereton noted that, whilst some authorities list the businesses signed up to the scheme in their area on their website, others fail to provide details of the locations of the facilities available.²¹ Karen Logan told the Committee that poor advertising of the scheme means that businesses are not aware that they are able to sign up for it and in turn, the public are not aware of which businesses are involved.²²

20. John Vincent highlighted the reluctance of some older people to use facilities on commercial premises without purchasing anything. This, he argued, could lead them to buying a drink in a pub, for example, which in turn could lead to them needing to use the toilet again.²³

21. Generally, witnesses felt that the introduction of the Public Facilities Grant Scheme was a positive step. The Committee was told that, whilst the Scheme should not be seen as a complete solution to the problem, if used properly, it could form an important part of public toilet provision.

¹⁹ Health and Social Care Committee 19 January 2012, HSC(4)-02-12 paper 2

²⁰ Health and Social Care Committee 19 January 2012, RoP para 46

²¹ Health and Social Care Committee 19 January 2012, RoP para 172

²² Health and Social Care Committee 19 January 2012, RoP para 144

²³ Health and Social Care Committee 19 January 2012, RoP para 48

22. Mike Bone suggested to the Committee that a requirement to make toilet facilities within public buildings open for public use, such as libraries and community centres would provide a valuable resource and allow better use of existing facilities.²⁴

²⁴ Health and Social Care Committee 19 January 2012, RoP para 105

Impact on health and social wellbeing of individuals

23. Witnesses told the Committee that all members of the community would need to use a public toilet at some stage, but that the need was more prevalent amongst certain groups such as the elderly, disabled, children and those suffering from bladder or bowel conditions. Karen Logan, a clinical nurse specialist in incontinence at Aneurin Bevan Health Board, highlighted the high proportion of people that are effected by urinary or bowel conditions. Her research demonstrated that within the area serviced by her own health board, 22,000 people out of a population of 600,000 would suffer from bladder or bowel incontinence.²⁵

24. Karen Logan also spoke about the wider knock-on effect of inadequate public toilet facilities on the NHS. She said that by not being able to go out in their community, people could become inactive. This, in turn, can impact on health and social care as, in the future, inactive individuals likely to become more immobile, isolated, ill and depressed leading to a possible need further treatment.²⁶

25. Gillian Kemp from the IBS Network told the Committee:

“Irritable bowel syndrome effects all ages, not just elderly people, and it is about the sense of urgency. If you need a toilet, you just have to go, and if there are no toilets, you just do not go out. It is as simple as that. That brings in the health implications of isolation and mental health problems.”²⁷

Impact on physical health

26. *Nowhere to Go in Wales*²⁸ highlights that older people are more likely to suffer from incontinence or have continence issues. This includes the need to use the toilet more frequently and with greater urgency due to muscle weakness, leading to an increased dependency on public toilets as people age.

²⁵ Health and Social Care Committee 19 January 2012, RoP para 125

²⁶ Health and Social Care Committee 19 January 2012, RoP para 93

²⁷ Health and Social Care Committee 19 January 2012, RoP para 85

²⁸ Help the Aged in Wales, [Nowhere to Go in Wales](#), 2009 [accessed 15 February 2012]

27. The Committee was also told that age-related difficulties, including restricted mobility, can also make getting to a toilet more challenging. Coupled with continence factors, witnesses noted that this can add to the stress and worry of not being able to find a toilet. Karen Logan told the Committee:

“Holding on to a full bladder or bowel increases the heart rate and the blood pressure, and for very old, ill or vulnerable people this could cause a stroke or a heart attack or have other health implications.”²⁹

28. In their written evidence, both Age Cymru and the Welsh Senate of Older People describe some actions that people take to avoid needing to use the toilet when away from home. This includes skipping essential medication (water tablets for example) that might exacerbate the need to urinate frequently, and limiting fluid intake, which may give rise to dehydration and associated health problems.³⁰

29. Graeme Francis of Age Cymru re-iterated this in oral evidence, stating that he was aware of instances when, if a person had no choice but to leave their home, they had taken themselves off their medication for a day or so “just to cope.”³¹ Louise Hughes, the lead petitioner, added that she had met people who had stopped or reduced their fluid intake in an effort not to need the toilet which, in some cases, had led to hospitalisation for treatment for dehydration or cystitis.³²

Impact on mental health

30. In addition to the physical impact of taking measures to avoid needing to use the toilet, the Committee also heard evidence of the detrimental effects this can have on people’s mental health. In particular, the Committee was told that the isolation created by not leaving home - in order to avoid the need to find a toilet - could have a significant impact on individuals’ mental health. John Vincent of the Welsh Senate for Older People told the Committee that many people choose not to leave their homes if they do not know where they would be able to access a toilet, which can lead to social isolation.³³ Graeme

²⁹ Health and Social Care Committee 19 January 2012, RoP para 91

³⁰ Health and Social Care Committee 19 January 2012, HSC(4)-02-12 paper 2

³¹ Health and Social Care Committee 19 January 2012, RoP para 17

³² Health and Social Care Committee 19 January 2012, RoP para 18

³³ Health and Social Care Committee 19 January 2012, RoP para 15

Francis added that the social isolation of older people – often caused by a fear of being unable to access adequate toilet facilities - was a particular area of concern for Age Cymru.³⁴

31. Age Cymru’s written evidence stated that people who experienced incontinence, or needed to use the toilet with greater frequency or urgency, would be more likely to suffer both anxiety and depression. Karen Logan told the Committee:

“We know that incontinence does not kill people, but it certainly kills their quality of life. They are already challenged by that and the fact that, when they go out, they do not have access to a public toilet when they need to go.”³⁵

32. Ms Logan went on to explain that experiencing an embarrassing episode of incontinence in public could be enough to “tip them over”, citing an example of a patient of hers who had attempted to take her own life due to her incontinence.³⁶

Impact on environmental health

33. The Committee heard how inadequate public toilet facilities could also have environmental health implications, especially when a lack of provision leads to street fouling. Dr Sara Hayes spoke about the risk of infection from street fouling, especially in areas where children might play, and also of the impact regular fouling could have on the wellbeing of people living in that area.³⁷ Chris Brereton told the Committee that street urination was a particular problem at night, when people leave licenced premises having consumed quite a lot of alcohol.³⁸

³⁴ Health and Social Care Committee 19 January 2012, RoP para 17

³⁵ Health and Social Care Committee 19 January 2012, RoP para 87

³⁶ Health and Social Care Committee 19 January 2012, RoP para 87

³⁷ Health and Social Care Committee 19 January 2012, RoP para 167

³⁸ Health and Social Care Committee 19 January 2012, RoP para 165

Possible solutions

34. During the oral evidence session, Members of the Committee asked witnesses for their views on how the provision of public toilet facilities in Wales could be improved. Suggestions made by witnesses are outlined below.

Making the most of existing resources

35. Witnesses generally took a positive view of the Public Facilities Grant Scheme, but believed that more could be done to improve take up by some local authorities, and to advertise the participating locations in others. There is certainly scope for the Scheme to make a greater contribution in the future. Mike Bone suggested to the Committee that a requirement to make toilet facilities within public buildings open for public use, such as libraries and community centres would provide a valuable resource and allow better use of existing facilities.³⁹

Charging

36. In her evidence, Louise Hughes cited the refurbished public toilet block in Porthmadog as an example of good practice. Ms Hughes told the Committee that the new facility requires users to insert 20p into a slot on the door to allow it to open. The toilet is, therefore, accessible 24 hours a day.⁴⁰

37. Other witnesses agreed that a nominal charge of 20p would be an acceptable solution to ensure access to a public toilet at all times, addressing issues relating to opening times highlighted earlier in this summary (see paragraph 11). Mike Bone of the British Toilet Association added that such a charge would cover the cost of provision without impacting on the finances of local authorities.⁴¹

Planning

38. The possibility of using planning powers to insist on the provision of publically accessible toilet facilities in new developments was raised by several witnesses. Witnesses suggested that local authority planners work with developers to ensure that toilet facilities are

³⁹ Health and Social Care Committee 19 January 2012, RoP para 105

⁴⁰ Health and Social Care Committee 19 January 2012, RoP para 51

⁴¹ Health and Social Care Committee 19 January 2012, RoP para 147

available for public use when considering planning applications for new buildings and regeneration projects, and when leasing their own estate.⁴²

Strategy for Wales

39. Witnesses told the Committee that adopting a strategy for Wales was the best way to ensure that public toilets be accessible to all. Members were told that such a strategy should identify the number and locations of public toilet facilities needed to service local populations. Witnesses agreed that guidance was required on the number of toilets needed, depending on population numbers and the nature of the area being served. They also argued that local authorities were best placed to assess where facilities in their areas should be located.⁴³

40. Witnesses suggested to the Committee that the starting point in considering the location of public toilets would be to link facilities to essential services, transport intersections and shopping and entertainment centres.⁴⁴ Mike Bone of the British Toilet Association told the Committee that he believed a strategy should include a requirement on local authorities to provide public toilets, including public buildings making their facilities available and commercial companies stating in planning applications that public toilets be provided.⁴⁵

41. The Committee welcomed Dr Sara Hayes', Acting Deputy Chief Medical Officer (Public Health), opinion that:

“There is a clear case for, at least, exploring the potential for national level action, but also stimulating local level action.”⁴⁶

Community involvement

42. The Committee received written evidence from Llanfrynach Community Council outlining their experience of taking control of the running and upkeep of the public toilet in their village following the

⁴² Health and Social Care Committee 19 January 2012, RoP para 73 & 186

⁴³ Health and Social Care Committee 19 January 2012, RoP para 160

⁴⁴ Health and Social Care Committee 19 January 2012, RoP para 56 & 102

⁴⁵ Health and Social Care Committee 19 January 2012, RoP para 105

⁴⁶ Health and Social Care Committee 19 January 2012, RoP para 188

county council's decision to close the facility.⁴⁷ According to the Community Council's evidence, the consequences of closing the public toilets had such a detrimental effect on the village that a group of local people volunteered to work together to keep the facility open. The written evidence explains how donations cover the cost of cleaning materials and how volunteers work on a rota basis to clean the toilet, thereby removing the cost of paying for a cleaner. According to the written submission received, the experience of the Llanfrynach volunteers has been very successful and demonstrates how local communities can take action to keep their facilities open.

⁴⁷ Health and Social Care Committee, [Consultation response PT 5 - Llanfrynach Community Council](#), December 2011 [accessed 15 February 2012]

Conclusion

43. The evidence gathered by the Health and Social Care Committee is summarised in this document. In undertaking this work, the Committee set out to test the proposition that inadequate public toilet provision has a detrimental impact on public health in Wales. Based on the evidence received, the Committee is firmly of the view that the proposition is correct: the **public health case** for better public toilet provision is strong. The Committee draws this conclusion based on the views it has heard – both clinical and non-clinical – in favour of the argument that a lack of adequate toilet provision can impact on an individual’s physical and mental health, as well as the wider environmental health of the Welsh population, bringing implications for health and social services.

44. In considering this matter, the Committee received evidence in areas which were allied to, but not directly about, the public health implications of inadequate public toilet provision. In particular, the Committee heard views about the role of local authorities in providing facilities, the possible solutions available to improve the network in Wales, and the costs involved in maintaining these facilities across Wales. Although the Committee has expressed a clear view on the importance of the public toilets network to ensuring the maintenance and improvement of public health in Wales, it is the Committee’s view that further work is necessary to provide a robust analysis of how the public toilet network should be structured to deliver its intended aims, one of which is adequate public health outcomes.

45. It is the Committee’s view that, given the central role of local government in the provision of public toilet facilities, further investigation of the development of this network is a matter better considered by those more expert in local government matters. The Committee believes that the evidence not only supports the **public health case** for better public toilet provision to be strong, but also underscores the case for further investigation of **local authority provision** of public toilet facilities. Such investigation could be undertaken by the Communities, Equalities and Local Government Committee and the relevant Minister, but it would be for them to decide whether or not to do so.

Annex A – Consultation list

- Older People’s Commissioner for Wales
- Age Cymru
- Welsh Senate for Older People
- Local Health Boards
- Public Health Wales
- Faculty of Public Health
- Disability Wales
- Mencap Cymru
- Scope Cymru
- British Toilet Association
- IBS Network
- Bladder and Bowel Foundation
- National Association for Colitis and Crohns Disease
- Association for Continence Advice
- All Wales Continence Forum
- British Society of Gastroenterology
- Joseph Rowntree Foundation
- Children’s Commissioner for Wales
- Children in Wales
- One Voice Wales
- Welsh Local Government Association

Y Pwyllgor Iechyd a Gofal Cymdeithasol Health and Social Care Committee

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



Ann Jones AC AM

Cadeirydd y Pwyllgor Cymunedau, Cydraddoldeb a
Llywodraeth Leol
Chair, Communities, Equality and Local Government
Committee

6 March 2012

Dear Ann,

Draft Food Hygiene Rating (Wales) Bill – technical briefing from government officials

As you will be aware, the Health and Social Care Committee received a technical briefing on the above draft Bill on 2 February 2012.

In your letter of 24 January, you asked to be kept informed of any issues arising from that briefing. Please find below the links to—

1. the Record of Proceedings for the meeting, and
2. correspondence from the Minister for Health and Social Services providing additional information requested by the Committee.

Record of Proceedings, Health and Social Care Committee, 2 February 2012

<http://www.senedd.assemblywales.org/documents/s5704/2%20February%202012.html?CT=2#Bill>

Correspondence

<http://www.senedd.assemblywales.org/documents/s5995/Paper%2011.pdf>

A copy of this letter goes to Nick Ramsay AM as Chair of the Enterprise and Business Committee.

Yours sincerely

Mark Drakeford

Mark Drakeford AC AM

Cadeirydd - Chair

Bae Caerdydd
Cardiff Bay
CF99 1NA