

7 July 2016

Dear Presiding Officer

### **The Draft Wales Bill and the Welsh Language Measure (Wales) 2011**

During an event organised by The Welsh Language Society last night on strengthening Welsh language rights, the impact that one of the provisions of the Draft Wales Bill would have on the power to fully implement the Welsh Language Measure (Wales) 2011 was highlighted. You asked me to provide a note on the matter. I hope that this note will enable you to give full consideration to the matter and to take action as you see fit.

Section 43 of the Welsh Language Measure (Wales) 2011 restricts the Assembly from making Welsh Language Standards specifically applicable to Crown Ministers in regulations, unless the Secretary of State has given consent. There is no provision in that Measure to place a similar restriction on the power of the Assembly to make the Welsh Language Standards specifically applicable to 'Government departments' and 'non-devolved authorities'. I have carried out Standards Inquiries, in line with Section 61 of the Measure, in relation to some 'Government departments' and 'non-devolved authorities'. As a result, some 'non-devolved authorities' have already been named in regulations passed by the Assembly under Section 39 of the Measure. I await the Assembly passing regulations to make the Standards specifically applicable to some 'Government departments'.

Section 8, Schedule 2 of the Draft Wales Bill makes it a requirement for the Assembly to obtain consent from the relevant UK Government Minister in order to place a function on a Crown Minister, a Government department or a non-devolved authority, or to amend or abolish their functions. In line with that, if the Assembly replaced the Welsh Language Measure (Wales) 2011 with a new Welsh language Act, it would need the consent of the relevant UK Government Minister in order to provide in that Act for making provisions relating to the Welsh language applicable to that full range of persons. This would greatly restrict the Assembly's current freedom to make duties relating to the Welsh language applicable to 'Government departments' and 'non-devolved authorities'.

An objective of the Standards system, which is central to the Welsh Language Measure (Wales) 2011, is to ensure greater consistency in Welsh language services to Welsh speakers. Without the power to ensure through legislation that 'Government departments' and 'non-devolved authorities' provide Welsh language services, I am unsure about to what extent that objective can be

achieved. Some 'Government departments' and 'non-devolved authorities' provide services that everyone is required to use and services that are essential to individuals' wellbeing. It is vital that such services are available in the Welsh language for the people of Wales. I fear, if the Draft Wales Bill is passed as it is, that less of those vital services would be available in the Welsh language in future, which would have a detrimental impact on some Welsh speakers.

Even if the Assembly did not replace the Welsh Language Measure (Wales) 2011 with a new Welsh language Act, it is possible that passing the Draft Wales Bill as it is would lead some 'Government departments' and 'non-devolved authorities' to question the Assembly's power to make Standards specifically applicable to them in regulations under Section 39 of the Welsh Language Measure (Wales) 2011, without the consent of the relevant UK Minister.

One way to address this problem would be to make the Welsh language an exemption in the provisions of Section 8, Schedule 2 of the Draft Wales Bill, on the basis that that Section limits the Assembly's current powers in relation to the Welsh language.

I hope that you will share my concern regarding this important matter and that you will raise this matter as part of your discussions on the Draft Wales Bill. You are welcome to get in touch if you would like to discuss the matter further.

Yours sincerely

Meri Huws

Welsh Language Commissioner