



Huw Irranca-Davies, Chair
Legislation, Justice & Constitution Committee
Senedd Cymru
Cardiff Bay
Cardiff
CF99 1SN

15 February 2023

Dear Huw,

CORRECTING WELSH STATUTORY INSTRUMENTS

Thank you for your further letter on this matter of 6 February 2023. You have asked me to clarify some points in my letter of 18 January, and to comment on correspondence sent by the Minister for Rural Affairs and North Wales, and Trefnydd and the Deputy Minister for Mental Health and Wellbeing on 26 January 2023.

Letter of 18 January (from Counsel General)

1. The circumstances in which correction slips may be used are extremely limited, as I set out in my original letter. They are also well established. The existence and use of correction slips applies not only to Welsh Statutory Instruments but also UK Statutory Instruments, Scottish Statutory Instruments and in relation to Statutory Rules of Northern Ireland. They can also be used in relation to Acts of the Senedd, UK Parliament, Scottish Parliament and Measures of the Northern Ireland Assembly (in each case by the legislatures themselves). Recent examples of correction slips being used for Acts of the Senedd include one last month for the Renting Homes (Wales) Act 2016 and one in November for the Tertiary Education and Research Act (Wales) Act 2022.
2. Given their very limited nature and the constraints on their use, I was very surprised by your suggestion that they amount to a “potential democratic deficit”. I am very clear that they are not. Their purpose is to help to ensure that readers of legislation are not troubled by very minor technical errors.
3. The purpose of the references in my letter to *Statutory Instrument Practice* and the Special Report of the Joint Committee on Statutory Instruments was to make clear our understanding of the very minor nature of the errors that can be dealt with by correction

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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.

slip. The particular nature of bilingual legislation is not addressed by SIP, which as I have explained does not provide guidance on Welsh SIs. It is a matter highly relevant to our own considerations and one which I am satisfied the SI Registrar also fully understands.

4. The SI Registrar is very aware that the Welsh and English texts of Welsh legislation have equal status, and understands the importance of ensuring that errors relating to either text are corrected appropriately. The registration team in The National Archives work closely with the Welsh Government to ensure not only that corrections in both languages are appropriate, but that correction slips accurately express the rectification in both languages.
5. We will seek to ensure the specific term “correction prior to making” or “correction prior to publication” are used in Government responses where appropriate.
6. The reference in my letter to a Minister bringing matters to the attention of Members, either in Committee or during the debate, was to make clear that matters could be brought to the attention of Members in the debate – even if they had not already been raised in Committee correspondence.

Letter of 26 January (from Minister and Deputy Minister)

7. In relation to the points raised in paragraphs 5 and 6 of your letter, legislation prepared by the Welsh Government undergoes robust quality assurance. This includes the application of approved and tested approaches and checks. As noted in the response to question 4 of your letter of 26 January 2023, the volume and complexity of legislation required in relation to the UK’s withdrawal from the EU has been unprecedented.
8. The Welsh Government does not knowingly lay defective legislation before the Senedd. It is important to draw a clear distinction between legislation that contains minor errors, where the policy intention is clear and the effect of the legislation is not threatened, and legislation that is defective as a whole and does not operate as intended. Errors can occur when complex legislation is being produced in high numbers and under significant time pressures – and it is very unfortunate when these are only identified after an instrument is laid. In circumstances like this, the Welsh Government considers the options available to rectify the errors. The approach taken will depend on how minor or serious the errors are, and the impact the errors have on the instrument as a whole.
9. You then raise a more general point regarding the transparency and accessibility of correcting on registration, which I believe I have addressed in my correspondence of 18 January and is dealt with in *Statutory Instrument Practice*. I am satisfied that the accessibility of the legislation, and ensuring it is correct for the end user, is the most important factor here.
10. Correction slips can be made at any time, even well after an instrument has been made, either because the error is spotted some time later or because the capacity and resources of the SI Registrar mean they (rightly) have to prioritise the registration and publication of new legislation. Correcting prior to publication where it can be achieved avoids any delay and ensures, as the Minister and Deputy Minister explained in their letter, that the published version of an instrument is corrected prior to it coming into force. And in the case of draft affirmative instruments, a reader is able to compare the version approved by the Senedd with the King’s Printer version that is available to download on legislation.gov.uk or to purchase.

I am copying this letter to the Minister for Rural Affairs and North Wales, and Trefnydd, and to the Deputy Minister for Mental Health and Wellbeing.

Yours sincerely,

A handwritten signature in blue ink that reads "Mick Antoniw". The signature is written in a cursive style. Below the signature, there is a short horizontal blue line.

Mick Antoniw AS/MS

Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution