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



Llywodraeth Cymru
Welsh Government

Our ref: MA/MDFWL/0003/25

Mike Hedges MS
Chair
Legislation, Justice and Constitution Committee.

13 January 2025

Dear Mike,

Welsh Language and Education (Wales) Bill

I would like to thank the Legislation, Justice and Constitution Committee for their scrutiny of the Welsh Language and Education (Wales) Bill at Stage 1 and for the report published on 13 December 2024.

I have set out the Government's response to the Committee's recommendations and conclusion in the Annex to this letter.

I look forward to continuing to work with Committee Members on the detail of the legislation.

I am sending a copy of this letter to the Chairs of the Children, Young People and Education Committee and the Finance Committee.

Yours sincerely,

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

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

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

ANNEX

Government Response to the recommendations from the LJC Committee Report

Recommendation	Government Response	Change to the Bill	Change to supplementary documents	Comments
<p>Recommendation 1. The Cabinet Secretary should outline any assessment made by the Welsh Government of the Bill's engagement with the rights protected by the European Convention on Human Rights, and in particular Article 2 of Protocol 1 to, and Article 14 of, the Convention.</p>	<p>See the Government's comments in column 5</p>	<p>No</p>	<p>No</p>	<p>As with all Senedd Bill proposals, the Welsh Government carries out a full Human Rights assessment before introduction and we are satisfied that the provisions of this Bill are compliant.</p> <p>I can confirm that the Welsh Government has considered all the relevant articles of the European Convention on Human Rights (ECHR), with a particular focus on Article 2 of the First Protocol 1, and read together with Article 14 of the Convention.</p> <p>I consider that the provisions pursue the legitimate aim of ensuring that all pupils reach the end of compulsory school age as independent Welsh language users. This will help contribute to the Welsh Government's aim of ensuring one million Welsh speakers in Wales by 2050. The aim is for all pupils to develop oral skills equivalent to at least level B2 of the Common European Framework of Reference for Languages.</p>

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				<p>I am also satisfied that the provisions in the Bill are a proportionate means of achieving the legitimate aim. I am satisfied that the provisions in the Bill strike a fair balance between the rights and freedoms of the individual and the general interest, and do no more than is necessary to achieve that aim. On that basis, I concluded that the Bill is compliant with the ECHR.</p>
<p>Recommendation 2. The Cabinet Secretary should explain why the Bill does not use the common reference levels for describing the ability of those types of Welsh language users, as introduced in the Table in Schedule 1, as the basis for individuals to assess their language ability for the purpose of calculating the number of Welsh speakers in Wales in accordance with provisions in Part 1.</p>	<p>Accept</p>	<p>No</p>	<p>No</p>	<p>The Bill does not use the common reference levels for describing the ability of Welsh language users, set out in the Table in Schedule 1, as a basis for individuals to assess their linguistic ability for the purpose of calculating the number of Welsh speakers in Wales. We believe that it is up to the individual to decide whether they describe themselves as a Welsh speaker or not. We are unwavering in terms of the principle that the Welsh language belongs to us all, and therefore the Bill confirms that individuals will self-assess whether they are Welsh speakers.</p> <p>However, there will inevitably be a connection with the common reference levels over time as we set Welsh learning goals for schools. As pupils reach the goal of being able to speak Welsh at B2 level, there will be a progression as those pupils describe themselves as Welsh speakers for the purposes of the provisions of Part 1 in due course.</p>

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<p>Recommendation 3. The Cabinet Secretary should confirm whether the Welsh Government believes the Bill's inclusion of both terms "Welsh speakers" and "Welsh language users" may lead to any confusion, and if so, set out the steps it will take to limit this.</p>	Accept	No	No	<p>We confirm that we do not believe that the inclusion of the terms "Welsh speakers" and "Welsh language users" in the Bill could lead to any confusion. The term 'Welsh language users' covers other skills as well as speaking - e.g. reading and writing.</p>
<p>Recommendation 4. The Cabinet Secretary should explain why the Bill does not include on its face a clear and direct link between the statutory target of one million Welsh speakers by 2050 included in Part 1 of the Bill and the Welsh language learning goals included in Part 3, as proposed in the White Paper for the Bill.</p>	Accept	No	No	<p>We are unwavering regarding the fact that the Welsh language belongs to us all, and therefore it is not desirable to set a specific threshold for people to self-identify as Welsh speakers. However, when the Code is published in due course, this will empower people to understand at what level their skills are, and this will facilitate the Government's work in collecting more detailed, more sophisticated data about people's Welsh language skills.</p>
<p>Recommendation 5. The Cabinet Secretary should consider whether to include on the face of the Bill specific dates by which the Welsh Ministers must</p>	Reject	No	Yes	<p>Section 26(3) of the Bill states that the Welsh Ministers must lay the first National Framework before the Senedd before 31 July 2028. We have considered including specific dates on the face of the Bill for regulations and other plans.</p>

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<p>exercise their powers to make regulations in respect of specifying the start dates of the first periods for school Welsh language education delivery plans and local Welsh in education strategic plans, and the first planning period for the Learning Welsh Institute’s strategic plan.</p>				<p>We believe that it would not be appropriate to do so as there are so many dependencies between the different elements of the Bill. For example, until the Regulations on school language categories and the WESPs are in place it will not be possible for the delivery plans to be operational.</p> <p>Nevertheless, this Government is committed to implementing the Bill and to this end we have set an indicative timetable and shared it with the Committee. We will also add the timetable to the Statement of Policy Intent. We are confident that the Senedd Committees will hold the Government to account in this regard.</p>
<p>Recommendation 6. The Cabinet Secretary should share with the Committee any assessment undertaken by the Welsh Government on the impact on understanding and accessibility of the law arising from the use of the term “Welsh language education” in the Bill.</p>	Accept	No	No	<p>‘Welsh language education’ is defined only for the purposes of Part 3 and Part 4 as it is relevant in the context of provisions where the term is used.</p> <p>The definition appears at the beginning of the section and not in section 49 (Interpretation) so that it is accessible to the reader.</p> <p>The definition itself is unambiguous – it includes two elements:</p> <ol style="list-style-type: none"> a. teaching Welsh (as a subject), and b. education and training through the medium of Welsh.

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				<p>The policy is that 'Welsh language education' is limited to education and training during school sessions. Section 10(2)(a) reflects this. We have considered in light of the committee's recommendations whether that should be made more clearly. We therefore intend to introduce an amendment during Stage 2 to make it clear that the definition of Welsh language education means education and training during school sessions.</p> <p>Every time the term "Welsh language education" appears in Part 3 and Part 4, these two elements are included. Subject to the Stage 2 amendment, this will apply to school categories, delivery plans, the National Framework and local Welsh in education strategic plans.</p>
<p>Recommendation 7. The Cabinet Secretary should provide examples of the types of further provision which regulations made under section 13(1) may include.</p>	Accept	No	Yes	<p>It is premature to give a comprehensive list of what could be included in regulations under section 13(1) for the reasons stated in our letter to the Committee.</p> <p>However, the power in section 13(1) could be used to make provision for how schools should categorise themselves during a transitional period. For example, schools usually change gradually and so for a period a school would provide education for some years in accordance with the range of one category, but provide in accordance with a different category for other years. This would normally be for a short period, and will be explained in the delivery plan that will</p>

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				be approved. Regulations under section 13(1) could make provision for how the school should categorise itself in that transitional period. Those regulations would be subject to the affirmative procedure.
<p>Recommendation 8. The Cabinet Secretary should consider which further limitations may be placed on the regulation-making power to make further provision within section 13(1) and table an appropriate amendment to the Bill.</p>	Reject	No	No	We have considered what further limitations could be placed on the power to make further provision by regulations under section 13(1), and we do not believe this is appropriate. The regulations on the categories will be subject to consultation, and it is important that we have a power that is broad enough to respond to any points raised in that consultation. It would be premature to narrow this power in case that might prevent us from being able to respond to what is expressed during consultation.
<p>Recommendation 9. The Bill should be amended to remove the brackets surrounding the words “lifelong” and “national” within section 23 of the Bill, and if deemed necessary, the Bill should be further amended to include fuller context for these words in order to aid understanding.</p>	Accept	Yes	No	We accept that the Bill should be amended to remove the brackets around the words “lifelong” and “national” in section 23. This amendment will be made as a printing change. We have considered whether it is necessary to include a fuller context for these words in order to aid understanding, but we believe that there is no need to amend the Bill to this end.

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Recommendation 10. The Bill should be amended to include a duty for the Welsh Ministers to consult before laying draft regulations under section 23(9).	Reject	No	No	Depending on the nature of any change, the Government will consult on the content of regulations made under this section but it is not appropriate to place a duty on the face of the Bill.
Recommendation 11. The Bill should be amended to require that regulations made under section 23(9) shall not be made until 60 days have elapsed since the laying of draft regulations.	Reject	No	No	We are of the opinion that this is not appropriate or necessary. These regulations would be in relation to what is to be included in a Framework. It does not apply to the result, that is the substance of what is in the Framework. There is a process for consultation on a draft of the Framework in section 26, and on reporting on the Framework in section 27.
Recommendation 12. The Cabinet Secretary should consider whether the Bill should be amended to include further detail on what type of “information” a local Welsh in education strategic plan should include in relation to education practitioners working in a local authority’s area.	Reject	No	No	We have considered whether the Bill should be amended to include more detail, and we are of the opinion that it would be premature as it may be necessary to consider what is included in the Code to describe ability in the Welsh language first. Regulations under section 33 will specify what information is to be included, and it is possible that the nature of the information will change over time. Therefore, we are of the opinion that the Bill should not be amended to this effect.
Recommendation 13. The Bill should be amended to provide that directions	Reject	No	No	Such directions are not secondary legislation and they are not (as a result) to be made by statutory instrument. The directions are a formal way of

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issued under section 30 and 32 of the Bill are subject to the made negative procedure.				requiring a local authority to reconsider. As part of an administrative process, it is not appropriate for the directions to be subject to any parliamentary procedure.
Recommendation 14. The Cabinet Secretary should consider whether the Bill should be amended to provide further detail on the information which must and may be included in a joint local Welsh in education strategic plan, in addition to the mechanism for their approval and their publication, and the review and amendment process for such plans.	Reject	No	Yes	<p>We have considered whether the Bill should be amended to include more detail, and are of the opinion that there is no need to amend the Bill. Section 33(2) enables the Welsh Ministers by regulations to allow for joint WESPs to be prepared. As a starting point, they will contain the same information as individual local authority plans under section 33(1), but it will be necessary to consider if there is a need for changes to the requirements as more than one authority is involved in the work. If regulations allow for joint WESPs, we will consult with stakeholders to better understand how such collaboration would work, and which modifications might be needed with regard to joint WESPs.</p> <p>We will amend the supporting documents to reflect the point above.</p>
Recommendation 15. The Cabinet Secretary should confirm whether the Welsh Government intends to bring forward an amendment to the Bill at Stage 2 to add paragraph 2(4) of Schedule	Accept	Yes	Yes	The Government will introduce an amendment to this end.

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2 to section 52(4), and if this is not the intention of the Welsh Government, the Cabinet Secretary should explain why this is the case.				
Recommendation 16. The Bill should be amended to include a definition of "Welsh language education" in section 1(1)(c)(i) and section 39(2).	Accept in principle	No	No	The Government will introduce an amendment which will omit the term "Welsh language education" in section 1(1)(c)(i) and section 39(2).
Recommendation 17. The Bill should be amended to provide that where the Bill imposes a duty on a maintained school to publish a document electronically, and it does not have its own website, it may ask a local authority to publish the document on its behalf.	Reject	No	No	We are of the opinion that such an amendment would interrupt the general nature of the section. This type of detail would be more suitable for guidance.
Conclusion				
Conclusion 1. We note the Cabinet Secretary's comments in respect of the Bill's impact on human rights, but believe that, as a matter of good practice, an	Noted	No	No	We are satisfied that the provisions of the Bill comply with the European Convention on Human Rights. As is the case with all of the Senedd's bill proposals, the Welsh Government carries out a full Human Rights assessment before

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Explanatory Memorandum should always include a commentary on the consideration given to such implications.				submission, and we are satisfied that the provisions of the Bill comply.