

Comisiwn y Cynulliad Assembly Commission

NAFWC 2011 (Paper 4 Part 1)
Bilingual services

Cynulliad
Cenedlaethol
Cymru
National
Assembly for
Wales



Date: 14 July 2011

Time: 12:00-14:00

Venue: Conference Room 4B

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1.0 Purpose and summary of issues

1.1. This paper describes a number of matters relating to our bilingual services, including the translation of the Record of Proceedings, the investigation by the Welsh Language Board and proposals for legislative provisions.

2.0 Recommendations

2.1. The Assembly Commission is asked to comment on and agree:

- a way forward for the Record of Proceedings (paras 5.1 to 5.11);
- the draft response to the investigation by the Welsh Language Board (Annex A);
- the (Draft) National Assembly for Wales (Official Languages) Bill (Annex B);
- the draft Official Languages Scheme (Annex C); and
- the consultation timetable for the draft Bill and draft Scheme (Annex D).

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Background

3.0 Chronology

- 3.1. The decision to stop translating the Record of Proceedings from English to Welsh was taken by the Commission at its June 2009 meeting. Following representations by Assembly Members and the public, at its September 2009 meeting, the Commission agreed to continue translating Plenary proceedings from English to Welsh within 3-5 working days (rather than within 24 hours as had previously been the case) until it had received and considered the recommendations of an independent panel to be established early in 2010 to review our bilingual services including the Record of Proceedings.
- 3.2. The report and recommendations of the Independent Review Panel on Bilingual Services were considered by the Commission at its May 2010 meeting. The recommendations said that the Assembly should enhance its bilingual services to improve engagement with the public and services to Members. Rather than reinstating a fully translated record, the Panel recommended 'that the verbatim text record of proceedings be published in the original language(s) spoken, together with a record of the contemporaneous translation from Welsh to English, as heard in the Chamber at the time'. The Panel also suggested developing a range of more user-friendly, technology-based methods of accessing Assembly proceedings. In line with the Panel's recommendation, translation into Welsh of English contributions in Plenary ceased from September 2010.
- 3.3. The Panel made 29 recommendations, about all aspects of the Commission's bilingual operation, all of which were accepted by the Commission. All of the Panel's recommendations have been either fully implemented or significant steps have been taken to implement them. Many have been incorporated into our draft Official Languages Scheme. Progress on all 29 recommendations is noted in Annex E.
- 3.4. At its meeting on 30 November 2010, the Commission agreed proposals for legislation to place the duties of the Assembly and of the Commission in relation to the provision of bilingual services on a sound statutory footing. They also agreed

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arrangements to bring forward a new Official Languages Scheme under the proposed legislative framework.

- 3.5. The Commission agreed to consult widely on these new proposals but, at their meeting in March this year, they decided it would be inappropriate to consult on an issue of such high public interest during dissolution and that the consultation should take place in the summer.

4.0 Welsh Language Board Investigation

- 4.1. On 24 September 2009 the Welsh Language Board wrote to the Chief Executive stating that they were going to carry out a formal investigation into the Commission's decision to discontinue including in the Record of Proceedings a translation into Welsh of contributions made in Plenary in English and whether this was a breach of the Assembly's Welsh Language Scheme.
- 4.2. As the Independent Review Panel on Bilingual Services (the Review Panel) was set up and the fully bilingual Record of Proceedings was reinstated pending its outcome, the Welsh Language Board took no further action at that time. However, following the implementation of the Commission's original decision in September 2010, the Board took up the matter again and, in November 2010, launched its formal investigation.
- 4.3. The Commission argued:
- that the Scheme was the Assembly's Scheme rather than the Commission's scheme, with the result that it fell outside the Welsh Language Board's statutory powers of investigation; but
 - that in any event, the change to the arrangements for translating the record was not, in fact, contrary to the requirements of the Scheme which, when read in the light of discussions with the Board when it was being prepared, was not intended to require that all contributions in English, whether in Plenary or in committee, had to be translated into Welsh.
- 4.4. The Commission, whilst maintaining its stance that the Board had no statutory powers to investigate the alleged breach of the Scheme, nevertheless agreed to co-operate fully with the investigation, the findings of which were published on 17 June

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2011. The Board found that the Commission had failed to act in accordance with the Welsh Language Scheme by “not providing a completely bilingual Record of proceedings of Assembly Plenary meetings”. The Board made five recommendations, in summary:

- the Commission should immediately produce “a fully bilingual record of Plenary proceedings as was the practice prior to September 2009”;
- it should explore how this could be done as efficiently and economically as possible, making use of information technology to help facilitate this;
- although other means of providing the record should be explored, a fully bilingual written record should be maintained in the meantime;
- use of Welsh by Assembly Members and staff should be encouraged; and
- the Commission should consult the Welsh Language Board at an early stage on proposals likely to effect the Welsh Language Scheme.

4.5. The Presiding Officer, Assembly Members and the Chief Executive have received various representations from the Welsh Language Society (*Cymdeithas yr Iaith Gymraeg*) over the past six months urging reinstatement of a fully bilingual Record of Proceedings at the earliest opportunity. A request was received under the Freedom of Information Act for Commissioners’ correspondence relating to the decision to change the arrangements for translating the Record of Proceedings and disclosure of the information requested (subject to certain exemptions) was completed in May 2011. Sections of the Welsh language media and press have also taken a continuing interest in the matter. On 10 June 2011, a petition calling for reinstatement of the fully bilingual Record was submitted to the Assembly by Catrin Dafydd of Cymdeithas yr Iaith, and has over 1,000 signatories to date.

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4.6. A draft response to the Board's report is attached at Annex A. This is, of course, subject to the Commission's consideration of the issues and decisions it takes at this meeting.

5.0 The Record of Proceedings

- 5.1. The Welsh Language Board's report recommended that "Immediately following the commencement of the fourth assembly, the Commission should produce a fully bilingual record of the Plenary proceedings as was the practice prior to September 2009."
- 5.2. In considering how it should respond, the Commission will wish to take into account:
- the advice on the status of its Language Scheme (paragraphs 7.1 and 7.2);
 - the cost of any decision to reinstate English to Welsh translation, both in terms of the available budget for the remainder of this year and the budgets it sets for 2012-13 and beyond;
 - any impact, because of the cost implications, on the delivery of other recommendations from the independent Panel designed to strengthen our delivery of bilingual services; and
 - that English contributions to committee meetings have never been translated into Welsh and the Commission may also wish to bear in mind that we currently have a common approach to the translation of Plenary and committee proceedings. There would clearly be further cost implications if committee proceedings were to be translated from English into Welsh.
- 5.3. The cost of translating the Record depends on three variables: the number of words spoken, the required turnaround time, and the cost of translating those words (e.g. the rate per 1,000 words chargeable).
- 5.4. The actual cost, exclusive of VAT, of translating the Record from English to Welsh in the last Assembly rose from just over £200,000 in 2006-07 to some £290,000 in 2008-09. The rise was largely due to longer sitting times in Plenary. In 2009-10, the cost reduced to £220,000 as, for a significant part of the

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year, translation was required within five working days (at £84/1000 words) rather than overnight (£127/1000 words).

5.5. If the Commission was minded to reinstate translation of the Record from English to Welsh in some form, we could take three approaches to carrying out translation work, which could be combined:

- outsourcing translation to external providers;
- using machine-based translation coupled with proof reading and quality control;
- using our own staff to do translation.

External translation

5.6. In 2010, the average number of words spoken in each Plenary meeting was 45,000, of which, on average, 36,000 were in English. Plenary meetings so far in this Assembly have been longer – around 50,000 words in total – but the calculations in this paper are based on last year's averages. The annual cost of translating, within five working days, 36,000 words from each Plenary throughout a 33 sitting week year would be around £200,000 exclusive of VAT (£240,000 inclusive).

5.7. It would be possible to reduce these sums if slower turnaround times were accepted though the lowest possible cost would still exceed £175,000 including VAT.

Internal resource

5.8. To undertake this work entirely in-house would be more expensive. On average, an experienced translator will translate around 2,500 words per day. The work would therefore occupy between seven and eight full-time translators during sitting weeks, costing in the region of £350,000.

Machine translation

5.9. Last week, we undertook a pilot exercise to establish if a web-based machine-translation service could provide a feasible alternative to commissioned external translation. A 5,000 word

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section of a Plenary record was successfully uploaded to *Google Translate* and an experienced member of staff quality assured the output. As a result, we estimate that a typical Plenary would require around 36 hours of proof reading, currently charged at £39/hour. The estimated annual cost would be around £110,000, including VAT.

- 5.10. Though currently free to users, Google recently announced its intention to withdraw its translation application¹ and, possibly, to replace it with a paid service. If the Commission wished to pursue this option, it should be assumed that additional cost would be incurred for the use of a paid service. Notwithstanding Google's announcement, it would in any case be a risky strategy to rely on any free application for the delivery of the Record. Prior to the Commission's meeting we will try to obtain further information on the availability and cost of an equivalent secure service.
- 5.11. Variations on these costed options for providing a fully bilingual Record of proceedings are set out in Annex F.

6.0 The (Draft) National Assembly for Wales (Official Languages) Bill

- 6.1. At present, the Government of Wales Act 2006 provides that:

"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."
(Section 35(1))

and

"In the exercise of the functions of the Assembly Commission 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

¹ <http://googlecode.blogspot.com/2011/05/spring-cleaning-for-some-of-our-apis.html>

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equality.”

(Schedule 2, paragraph 8(3))

- 6.2. The controversy surrounding the Commission’s decision to change the arrangements for translating the Record of Proceedings, and in particular the uncertainties relating to the legal position of the Welsh Language Scheme and to the relationship between the Assembly, the Commission, the Welsh Language Board and Welsh Ministers, led to consideration being given to clarifying and strengthening the legislative provisions relating to the position of the Welsh language in the affairs of the Assembly and of the Commission.
- 6.3. Further impetus was given to this initiative by the changes to the law to be made by the proposed Welsh Language Measure, which became law earlier this year, and the work of the Independent Review Panel on Bilingual Services (the Review Panel).
- 6.4. Although detailed legislative provisions were not within the specific remit of the Review Panel and its recommendations, the Review Panel nevertheless felt it worth stating that “the merits of a National Assembly for Wales (Languages) Measure are worth exploring further”. This view was based on evidence put before the Review Panel about the ways in which duties relating to bilingual provision were defined in the legislation of other bilingual or multilingual countries such as Canada, Ireland and Switzerland.
- 6.5. The legislative framework governing the Commission’s bilingual services provision was out of date because it was modelled on that of the Welsh Language Act 1993 (now superseded by the Welsh Language Measure 2011. In line with fundamental constitutional principles neither the Assembly nor the Commission are subject to these new arrangements but continue to be subject to the duties imposed by the 2006 Act (see paragraph 6.1 above).
- 6.6. For these reasons, the Commission agreed to propose new legislation to clearly place the duties of the Assembly and of the Commission in relation to the provision of bilingual services on a sound statutory footing. These provisions are outlined in Annex B as the (Draft) National Assembly for Wales (Official Languages)

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Bill, and the Commission is asked to approve the content of these.

7.0 Proposed new Official Languages Scheme

7.1. The existing Welsh Language Scheme has been reviewed in the light of the report of the Review Panel, the legislative proposals of the (Draft) National Assembly for Wales (Official Languages) Bill, our experiences over the third Assembly, consultation with the Welsh Language Board and good practice in other bilingual legislatures. The Scheme, once adopted, could be revised from time to time subject to the same requirements for consultation and approval by the Assembly as apply to the original Scheme itself.

7.2. The Scheme (Annex C):

- states clearly that Welsh and English are the official languages of the Assembly and should be treated equally;
- outlines the practical arrangements to enable the Assembly to operate bilingually;
- guarantees the right of anyone who takes part in Assembly proceedings (witnesses as well as Members) to do so in either of the Assembly's official languages;
- outlines how the Assembly will provide bilingual services to the public;
- outlines how the Assembly's corporate arrangements enables and supports the ambitions to deliver bilingual services; and
- explains our procedure for dealing with complaints of non-compliance with the Scheme, whether made by Members or by the public.

8.0 Consultation

8.1. It is proposed that public consultation on the draft Bill and draft Official Languages Scheme take place over August-October 2011 as outlined in Annex D. Comments would then be taken into

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account and amendments made to the draft Scheme in the Autumn term, prior to the introduction of the Bill for scrutiny.