



DLG 08

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol  
Communities, Equality and Local Government Committee  
Local Government Draft (Wales) Bill / Bil Llywodraeth Leol (Cymru) Drafft  
Ymateb gan: Comisiynydd y Gymraeg  
Response from: Welsh Language Commissioner

Christine Chapman AM  
Chair  
The Communities, Equalities and Local Government Committee  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

19/01/2016

## Consultation on the Draft Local Government (Wales) Bill

1. The Welsh Language Commissioner welcomes the opportunity to respond to the above consultation. The Commissioner submitted comments on the Welsh Government's consultations on the *White Paper - Reforming Local Government: Power to Local People*; the Welsh Government's *White Paper: Reforming Local Government* and the *Devolution Democracy and Delivery White Paper: Public Services Staff Commission* that are relevant to the Draft Bill. The Commissioner also responded to the Communities, Equalities and Local Government Committee's consultation on the Local Government (Wales) Act 2015.
2. Our comments on the *White Paper - Reforming Local Government: Power to Local People* highlighted the following:
  - The Welsh Government should ensure that the Welsh language and increasing the use of the Welsh language are central considerations in planning the intended reforms to Local Government in accordance with the Welsh Government's strategic aims as outlined in *A living language: a language for living*, the Welsh Government's Strategy for the Welsh Language 2012-2017.
  - The Welsh Government should undertake significant research and planning in order to ensure that the proposed changes to Local Government have a positive effect on the Welsh language.
  - The Welsh Government should, in particular, consider the language duties placed upon Local Authorities in accordance with the Welsh Language (Wales) Measure 2011 in planning the reforms. This is most pertinent in the context of service provision.
  - The Welsh Government should consider accountability in the provision of Welsh language services when reforming public services.
  - The Welsh Government should consider the changes to the legal model for Welsh language service provision as introduced by the Welsh Language (Wales) Measure

Comisiynydd y Gymraeg  
Siambrau'r Farchnad  
5-7 Heol Eglwys Fair  
Caerdydd CF10 1AT

Welsh Language Commissioner  
Market Chambers  
5-7 St Mary Street  
Cardiff CF10 1AT

0845 6033 221  
post@comisiynyddygybraeg.org  
Croesewir gohebiaeth yn y Gymraeg a'r Saesneg

0845 6033 221  
post@welshlanguagecommissioner.org  
Correspondence welcomed in Welsh and English



- 2011.
- Full consideration should be given to the new administrative and governance structures, specifically in terms of developing the Welsh medium workplaces that currently exist and incorporating a clear message regarding the strategic expectations in supporting and developing the use of Welsh in the workplace.
3. We are pleased that the Welsh Government has responded to some of the above considerations, particularly in relation to the impact of reforming Local Government on the use of Welsh in the workplace, by establishing the Working Group on the Welsh Language in Local Government Administration and Economic Development chaired by Rhodri Glyn Thomas AM. We have also had constructive dialogue with Welsh Government Ministers in relation to alternative methods of service provision. The comments below echo our previous response to the consultation on the *White Paper - Reforming Local Government: Power to Local People* but refer specifically to parts of the Draft Bill.
- 4. Welsh Language Commissioner**
- 4.1 The principal aim of the Welsh Language Commissioner is to promote and facilitate the use of Welsh. This entails raising awareness of the official status of the Welsh language in Wales and imposing standards on organizations. This, in turn, will lead to the establishment of rights for Welsh speakers.
- 4.2 Two principles underpin the Commissioner's work:
- In Wales, the Welsh language should be treated no less favourably than the English language;
  - Persons in Wales should be able to live their lives through the medium of the Welsh language if they choose to do so.
- 4.3 In due course, secondary legislation will introduce new powers allowing the setting and imposing of standards on organizations. Until then, the Commissioner will continue to inspect statutory language schemes through the powers inherited under the Welsh Language Act 1993.
- 4.4 The role of Welsh Language Commissioner was created by the Welsh Language (Wales) Measure 2011. The Commissioner may investigate failure to implement a language scheme; interference with the freedom to use Welsh in Wales and, in future, complaints regarding the failure of organizations to meet standards.
- 4.5 One of the Commissioner's strategic aims is to influence the consideration given to the Welsh language in terms of legislative and policy development. Thus one of the Commissioner's main functions is to provide comments in accordance with this remit, acting as an independent advocate on behalf of Welsh speakers in Wales who might be affected by these proposed changes. This approach is used to avoid any possible compromise of the Commissioner's functions in the area of regulation, and should the



Comisiynydd y  
Gymraeg  
Welsh Language  
Commissioner

Commissioner wish to formally review the performance of individual bodies or the Welsh Government in accordance with the provisions of the Measure.

## 5. Welsh Language (Wales) Measure 2011 Standards

5.1 As you are aware the Welsh Language Standards (No. 1) Regulations 2015<sup>1</sup> were approved in the National Assembly's Plenary on 24 March 2015 and came into force on 31 March 2015. Following a consultation period, the Commissioner issued final compliance notices to 26 organizations under section 44 of the Welsh Language (Wales) Measure 2011 in September 2015. These organizations will be required to comply with the standards relevant to their particular organization from 30 March 2016. The Welsh Government, the current 22 local authorities and the National Parks of Wales make up the 26 bodies. They will be required to comply with standards in 5 areas:

- Service delivery
- Policy making
- Operational
- Promotion
- Record keeping

## 6. The Welsh Language

The Welsh Language is an official language across all communities in Wales in light of the Welsh Language (Wales) Measure 2011. Despite this, the 2011 Census results found the language to be in a vulnerable situation with a continued decline in the numbers and percentage of the population who speak Welsh. Furthermore, the data showed that the number of communities where the Welsh language is spoken as the main language is decreasing. Of the 868 communities in Wales today, only 39 remain where Welsh is spoken by more than 70% of the population. However, Welsh is spoken in every community in Wales.

## 7. Part 1: Local Government Areas and County Councils

7.1 Chapter 1 of this section deals with the proposed new local government areas, and the possible proposals are detailed in Table 1 and Table 2 in Schedule 1 of the Draft Bill. I welcome the Government's comments in the consultation document giving consideration to the best option in terms of supporting the Welsh language. I am of the view that the reorganisation of Local Government should be a means of reinforcing the use of the Welsh language in the community and in the workplace. Accordingly the current linguistic practices within those local authorities that are to be merged should be considered, together with methods of strengthening those practices. Reforming local government is a unique opportunity to expand and develop those workplaces throughout the local authorities in Wales and to contribute to the aims of *A living language: a language for living*, the Welsh Government's Strategy for the Welsh Language 2012-2017<sup>2</sup> to increase opportunities for people to use the Welsh language in the workplace and to strengthen the

<sup>1</sup> [http://www.legislation.gov.uk/wsi/2015/996/pdfs/wsi\\_20150996\\_mi.pdf](http://www.legislation.gov.uk/wsi/2015/996/pdfs/wsi_20150996_mi.pdf) %e2%80%99r%20gymraeg%20(rhif%201)%202015/sub-ld10115-w.pdf [accessed 19/01/2016]

<sup>2</sup> <http://gov.wales/topics/welshlanguage/policy/living/?skip=1&lang=en> [accessed 19/01/2016]



Comisiynydd y  
Gymraeg  
Welsh Language  
Commissioner

language within the community. Therefore, I welcome the establishment of the Working Group on the Welsh Language in Local Government Administration and Economic Development.

7.2 The draft Explanatory Memorandum states that 'the intention is that Shadow Authorities, to be elected in 2019, will determine the names of their new County (in English and Welsh forms)'. It should be noted in this context, that some areas in Wales do not have English names, e.g. Powys, and therefore it would not be reasonable to give an English name to a number of the proposed new Counties.

7.3 It was interesting to note in the Welsh Language Impact Assessment, that the Welsh Government intends that the Transition Committees established by the Local Government (Wales) Act 2015 will be subject to the Welsh language Standards.

## 8. Part 2: General Power of Competence

8.1 The Draft Bill intends to grant a general power of competence to Local Authorities and to Community Councils with competence. This facilitates alternative delivery models and will be a means of enabling them to undertake new approaches. This could lead to significant changes in public service delivery by local authorities in Wales. It is vital that the Welsh language, together with increasing the use of the Welsh language in relation to the provision of services, is a central consideration in planning the reforms in order to ensure continuity in the provision of Welsh language services by local authorities. This is in accordance with the aim of objective 5 in *A living language: a language for living* to increase and improve Welsh language services for citizens so that more Welsh language services of quality are available to the public and more use is made of those services.

8.2 As outlined in 3 above, Local Authorities will be subject to the Welsh Language Standards from 30 March 2016. Specifically in this context, there are standards in relation to service provision, promotion of the Welsh language and policy making, and in drawing up these policies it is necessary to consider their impact on people's opportunity to use Welsh. The standards are relevant to activities carried out by third parties on behalf of those organizations subject to the standards. We would wish to ensure that the current practice of service provision through the medium of Welsh continues in relation to any organization responsible for their provision in future. In other schemes, documents and guidelines<sup>3</sup> published by the Welsh Government, a variety of methods are proposed for transferring assets and services to other organizations. I am already in discussions with the Welsh Government regarding methods of trying to ensure the continuity of Welsh language services. Despite this, I am concerned that Welsh language services could be undermined in the process of transferring assets and services to other organizations. The Welsh Language Impact Assessment of the Bill notes 'where the general power is used to develop alternative delivery models on behalf of a County Council, for example involving co-operatives, mutuals or other partners, it is worth noting that the delegated function

<sup>3</sup> Please see for example *Alternative delivery models in public service delivery: an action plan for consultation*, October 2015. <http://gov.wales/consultations/improving/alternative-delivery-models-public-service-delivery/?skip=1&lang=en>; *the National Assets Working Group: Community Asset Transfers in Wales - a Best Practice Guide*, March 2015 <http://gov.wales/docs/dpsp/policy/1504010-cat-guidance-en.pdf> [accessed 18 January 2016]



Comisiynydd y  
Gymraeg  
Welsh Language  
Commissioner

continues to be a function of the County Council and so subject to the Welsh Language Standards'. Whilst I would welcome this, I would appreciate further explanation with regard to linguistic duties for organizations who will be providing services previously delivered directly by the Local Authority.

## **9. Part 3: Community Area Committees**

9.1 The Draft Bill proposes ways of increasing public participation in Local Government. This, of course, is to be welcomed. It is proposed that local authorities establish community area committees to ensure that the interests of communities are represented to the Council. It is vital that Local Authorities are aware of, and consider the interests of Welsh speakers. Consequently, I welcome the proposal in the Welsh Language Impact Assessment to include the Mentrau Iaith (local language initiatives) in the membership of these Committees, and every opportunity should be taken to engage with other organizations that promote the use of the Welsh language, such as the Urdd and Mudiad Meithrin who also operate on a regional level.

9.2 Sections 55-58 of the Draft Bill propose that county council functions could be transferred to a community area committee. Once again, as explained in 3 above, it should be noted that county councils are required to comply with the Welsh language standards. If council functions were to be transferred to Community Area Committees, I would expect the Council to consider the impact of this on the use of the Welsh language and require the Committee to carry out the function as if it were being carried out by the council.

## **10. Part 5: County Councils: Improvement of Governance**

10.1 Chapter 2 of this section refers to the requirement on councils to produce a corporate plan to include information on the council's strategies in specific areas. I should note that there will be a requirement upon councils to publish six types of strategies in accordance with the Welsh Language (Wales) Measure 2011.

10.2 There is a proposal in chapter 3 of this part that there should be a duty to carry out a combined assessment of local authority governance arrangements, to be conducted jointly by Estyn, CSSIW and the Auditor General for Wales. The Commissioner, in accordance with the aim of promoting and facilitating the use of Welsh, is responsible for the regulation of organizations' compliance with the Welsh Language (Wales) Measure 2011. I would therefore welcome the opportunity to contribute to these combined assessments, together with the other organizations named in the Draft Bill.

10.3 Again, in chapter 5, it is noted that the relevant regulators will be required to have regard to the need for a co-ordinated approach in the exercise of relevant functions and that Welsh Ministers may, by regulations, make further provision for the co-ordination of the exercise by relevant regulators of relevant functions. I would welcome the opportunity to work jointly on issues that are related to the promotion and facilitation of the Welsh language.



Comisiynydd y  
Gymraeg  
Welsh Language  
Commissioner

## 11. Part 6: Community Councils

11.1 Chapter 1 of this section outlines the intention that the Local Democracy and Boundary Commission for Wales undertake a review of community councils in relation to each of the counties in Wales. In undertaking the review, I ask that the Boundary Commission consider the use of the Welsh language in those communities served by the community councils in order to try to ensure that if there are changes to boundaries, this will not undermine the use of the Welsh language on a community level and by the community council as an administrative language. In this context, the Welsh language should be considered part of 'any local ties which will be broken by the setting of any particular boundaries' in accordance with 154 (3) of the Draft Bill.

## 12. Part 7: Workforce Matters

12.1 Chapter 1 of this part notes that Welsh Ministers may issue guidance to public bodies about workforce matters and that a public body to which guidance is issued must have regard to it. I am of the view that the Welsh Government could provide specific guidance in relation to planning the bilingual workforce necessary for the public sector in order to meet the requirements of the Welsh Language (Wales) Measure 2011 and in order to meet the aspirations of the Welsh Government as outlined in *A living language: a language for living* of seeing the Welsh language flourish in Wales; increasing opportunities for people to use the Welsh language in the workplace and increasing and improving Welsh services for citizens.

12.2 Chapter 2 deals with the Public Services Staff Commission. I have had constructive talks with the Chair of the Public Services Staff Commission. I sincerely hope that the Commission will be able to publish strategies and advice to ensure that the public services workforce in Wales meet the needs of a bilingual country.

13. Thank you for this opportunity to respond to the consultation on the Draft Local Government (Wales) Bill. The Draft Bill proposes significant changes to Local Government in Wales during a period of considerable financial, social and technological change. The Welsh language faces the same challenges, coinciding with the beginning of a new period of a legislative model regarding linguistic duties upon Local Authorities in line with the Welsh Language (Wales) Measure 2011. In light of these changes, and the huge challenges that are placing the Welsh language at risk in our communities and at a national level, I ask that you consider the impact of each element of the reforms proposed in this Draft Bill on the use of the Welsh language.

Yours faithfully,

**Meri Huws**  
Welsh Language Commissioner