



The Right. Hon. Alun Cairns MP  
Secretary of State for Wales  
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14/07/2016

Dear Alun

### **The Proposed Wales Bill**

I write to express some concerns regarding the possible effects of the proposed Wales Bill on the Welsh language, in the hope that you can alleviate those concerns by addressing the points raised below. My concerns relate to the Bill's potential to hinder the full implementation of the Welsh Language (Wales) Measure 2011 and to limit the current powers of the National Assembly for Wales to legislate for the Welsh language.

The Welsh Language Measure (Wales) 2011 empowers Welsh Ministers to introduce through regulations statutory duties relating to the Welsh language i.e. Welsh Language Standards, and to make those duties specifically applicable to a wide range of persons. Exercising that power enables me to notify relevant persons that they must comply with the duties introduced, to set timetables for compliance and to enforce compliance where necessary. The Measure allows for making duties specifically applicable to Ministers of the Crown only with the consent of the Secretary of State.

Schedule 1 of the proposed Bill lists reserved matters. Paragraph 200 of that schedule specifies that conferring, imposing, modifying or removing Welsh language functions of a person is not a reserved matter, except in relation to courts.

Schedule 2, paragraph 8 of the proposed Bill ('General Restrictions') states that an Act of the Assembly cannot include provision to confer, impose, modify or remove a function of a Minister of the Crown without the consent of the appropriate Minister. This reflects the provisions of the Welsh Language (Wales) Measure 2011. However the proposed Bill also requires the consent of the appropriate Minister in order for an Act of the Assembly to make provision for conferring or imposing functions on government departments and reserved authorities, or for modifying or removing the functions of such persons. It appears

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Correspondence welcomed in Welsh and English



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therefore that should the National Assembly decide in future to legislate for the Welsh language, following the passing of the proposed Wales Bill, it would not be able to include a provision in an Act to confer or impose Welsh language functions on government departments and reserved authorities, or modify or remove the Welsh language functions of such persons. If that is an accurate interpretation of the proposed Bill, then the National Assembly for Wales would not be able to legislate for the Welsh language in future without doing so in a context where its powers are significantly reduced in so far as government departments and reserved authorities are concerned. I would be grateful if you would confirm that this is an accurate interpretation of the potential effects on the Welsh language of paragraph 8, Schedule 2 of the proposed Bill. If so, I would appreciate an explanation of the reasons for limiting the Assembly's current powers to legislate for the Welsh language in this way.

If my interpretation is accurate then it would be a matter of grave concern as government departments and reserved authorities provide a very wide range of services to the people of Wales, services that many people are obliged to use and many of which have been available in Welsh for quite some time.

I fear that paragraph 8, Schedule 2 of the proposed Bill, should the Bill become law, would lead some government departments and reserved authorities to question the Assembly's powers to make Welsh language duties specifically applicable to them in accordance with the Welsh Language (Wales) Measure 2011, without the consent of the appropriate UK Minister. I would appreciate an undertaking from you that passing the proposed Bill would not effect implementation of the Welsh Language (Wales) Measure 2011 in this or in any other way.

Paragraph 11(1)(b), Schedule 2 of the proposed Wales Bill specifies that an Act of the Assembly cannot modify or remove a Welsh language function of a Minister of the Crown without the consent of the appropriate UK Minister. I would appreciate an explanation of the reasons for referring specifically to Welsh language functions within this paragraph. I would also like to know the reasons why this paragraph requires the Assembly to seek the consent of the appropriate Minister in order to modify or remove a Welsh language function of a Minister of the Crown, rather than require the Assembly to consult with the appropriate Minister, as is required in order to modify or remove other certain types of functions of a Minister of the Crown.

On another matter, I would appreciate an update on progress in implementing the following recommendation made by the Silk Commission in relation to the Welsh language:

*'We believe that all the areas mentioned by the Commissioner should be reviewed by the UK and Welsh Governments with a view to amending the law to give equal status to the Welsh language. More generally, we believe that the UK Government and Welsh Government should systematically assess and then keep under review the way in which the Welsh language is used across government.'*



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I wrote to your predecessor on this matter and received a reply in December which noted the following:

*'The Government will continue to seek opportunities to revise laws which do not provide equal status for the Welsh language. This includes legislation on registration where the General Registry Office, part of HM Passport Service, is working with the Wales Office and Welsh Government to seek appropriate legislative opportunities to introduce amendments' (my translation of a letter received in Welsh only).*

I would appreciate an update on progress since December in implementing this recommendation, as well as a response to the questions raised above in relation to the proposed Wales Bill. As the proposed Bill is swiftly making its way through Parliament, I would greatly appreciate a prompt response to this letter.

Yours sincerely

**Meri Huws**  
Welsh Language Commissioner