

Communities, Equality and Local Government Committee

National Assembly for Wales (Official Languages) Bill

Paper 1: Welsh Language Board

1. Is there a need for a Bill to make provision about the use of the English and Welsh languages in proceedings of the National Assembly and by the Assembly Commission in the discharge of its functions? If so, why? If not, what alternatives do you propose?

The legal framework for the Welsh language has changed as a result of the Welsh Language (Wales) Measure 2011. For constitutional reasons, neither the Assembly nor the Assembly Commission are named in the Measure. With the establishment of the the Welsh Language Commissioner and the confirmation of the status of Welsh as an official language in Wales, it is inevitable that the Assembly urgently needs a revised legal framework.

2. Do you think the Bill delivers the purpose of the Bill as referred to in question 1 and paragraphs 4.1 to 4.4 on page 6 of the Explanatory Memorandum? Please explain your answer.

We believe that the Bill delivers the purpose as stated on page 6 of the Explanatory Memorandum. The Bill sets out the legislative context and makes clear that Welsh and English are the official languages of the Assembly and that individuals have the right to use either language when dealing with the Assembly. It also outlines what needs to be included in the Assembly's Official Languages Scheme.

3. Section 1(2) of the Bill replaces section 35(1) of the Government of Wales Act 2006 and introduces four new provisions relating to the equality of treatment between English and Welsh in the Assembly. What is your view of these provisions?

We welcome the provisions in section 1 (2) that confirm the official status of the Welsh language in the Assembly and the unequivocal commitment that gives persons the right to use Welsh in their dealings with the Assembly.

4. Section 2(2) introduces 9 new subparagraphs to paragraph 8 of Schedule 2 to the Government of Wales Act 2006 (listed as subparagraphs (3) to (11)). These contain detailed provisions defining the Commission's duties in relation to the use of English and Welsh in the Assembly, and are explained in paragraphs 12.1 to 12.12 on pages 22 - 24 of the Explanatory Memorandum.

What is your view of these provisions?

In general, we welcome the provisions specified in this section, in particular clauses 7 and 8 that respond to the Board's comments on the consultation in autumn 2011. We believe that these clauses provide a firmer foundation for the Assembly Commission's accountability in implementing the Official Languages Scheme. We note, however, that there is no specific reference to the Record of Proceedings in the Bill. We are not convinced by the reasons against doing so contained in the Explanatory Memorandum. We believe that a reference to the Record in the Bill could assure the public that the type of decision made by the Commission during the third Assembly to end full translation would not happen again.

In setting out your views you may wish to consider the following points:

(i) new subparagraph (4) says the Commission must publish an Official Languages Scheme specifying the measures it proposes to take in order to comply with its duties under new subparagraph (3).

We believe that the statutory duties placed on the Commission to adopt and publish an official languages scheme are appropriate. Nevertheless, we believe that further consideration is needed to ensure the Commission's accountability in implementing this scheme. In our response to the consultation on the draft Bill, we noted: *'if the Commission is not accountable to an independent regulator, such as the Welsh Language Commissioner, clear and robust accountability arrangements will be needed in the Assembly. We propose, for example, that a Members' committee is responsible for scrutinising the delivery of the Bilingual Services Scheme and that there is a duty on the Commission to report to the committee. The committee should also be able to call for external evidence and opinions.*

Do you think it is appropriate for the Commission's duties to be delivered by means of an Official Languages Scheme and if so, why? If not, what alternative do you suggest?

As explained in our response to question 1, we believe that provision through an Official Languages Scheme is appropriate for the Commission under the circumstances. However, we must bear in mind the risk of confusion among the public as other organisations go about implementing a system of language standards.

(ii) New subparagraph (5) deals with some of the issues that the Scheme would need to address, namely the provision of simultaneous interpretation and the publication of documents bilingually.

What is your view of this provision?

No further comments.

(iii) New subparagraph (6) provides that not necessarily “all words spoken or written in one of the official languages” would be required to be interpreted or translated.

What is your view of this provision?

The Board’s view on this clause has not changed since our response to the consultation in autumn 2011. We understand that the purpose of the clause is to provide flexibility for the Official Languages Scheme to define the exact service that will be provided. Although the principle is reasonable, there is a risk that it could be interpreted as a clause that means that the Commission will not have to provide a fully bilingual Record of Proceedings. We believe that this can be overcome by including another clause in the Bill to clarify that at least the Record of plenary proceedings will be published bilingually in full.

(iv) New subparagraph (7) requires the Scheme to explain how complaints should be dealt with.

What is your view of this provision?

We welcome this commitment to address comments made by the Board in its response to the consultation in autumn 2011.

(v) New subparagraph (9) requires the Scheme to be reviewed at least once every five years.

What is your view of this frequency of review?

We believe that the provision is reasonable.

(vi) New subparagraph (10) sets out the process for the adoption of a Scheme.

Is the process clear? Please explain your answer.

We believe that the process outlined is reasonable. The new provision under the Bill imposes a duty on Assembly Members to scrutinise and monitor the content and implementation of the Scheme. Assembly staff will need to ensure that Members are fully aware of their responsibilities and the duty upon them due to the absence of an external regulatory body in the process.

Does there need to be a specific reference to any consultation? Please explain your answer.

No further comments.

This was received in the medium of Welsh and has been translated by the Assembly Commission

(vii) New subparagraph (10)(b) specifically refers to the Assembly Commission considering representations made about the Scheme by (i) members of the public and (ii) the Assembly.

Should any other person or organisation be specifically included in the list? If so, who?

The Scheme commits the Assembly Commission to hold a public consultation on any review of the Scheme. We believe that that is reasonable.

5. Overall do you think the right balance has been struck between the specific requirements contained on the face of the Bill and the provisions to be included in the Scheme? Please explain your answer.

Yes, other than our response to question four above.

6. What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill take account of them?

No further comments.

7. What are your views on the financial implications of the Bill, if any? In answering this question you may wish to consider Part 2 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the Bill.

No further comments.

8. On 3 August 2011 the Assembly Commission published a Draft Bill for consultation¹. The Bill was changed by the Commission to take account of the consultation responses received². Paragraph 6.18 on page 11 of the Explanatory Memorandum explains the changes made. What comments, if any, do you have on these changes?

We support the changes that have been made as they correspond, on the whole, to the Board's response to the consultation.

9. Are there any other comments you wish to make about specific sections of the Bill?

No further comments.

Questions on the Draft Scheme

10. What are your views on the Draft Official Languages Scheme, included as Annexe B to the Explanatory Memorandum?

On the whole, we believe that the Scheme supports the Assembly's ambition of becoming a truly bilingual organisation.

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We believe that the latest draft largely addresses the views submitted by the Board to the consultation. For example, we welcome the new explanation about the need for distinct legislation for the Assembly. We also welcome the clear vision set out in the introduction and welcome the explanation about the use of information technology in internal administration and translation. Finally, we note the new and detailed section on the complaints procedure under the Scheme.

The Commission has not responded to all the comments on the Scheme made by the Board during the consultation, such as:

- 1) A reference to the Assembly's commitment in using social networks.
- 2) A commitment to provide language awareness training to officers who are already employed.
- 3) A reference to how the Commission will benchmark itself against other bodies that provide in accordance with the standards system.
- 4) A stronger commitment to the organisation's public image; the words 'aim to deliver' are still included.

Another of the Board's comments that was not considered was that regarding the wider responsibilities of the Commission and committees in the making of policies and legislation. We felt that the Scheme needed to address this in order to secure a procedure to assess the impact of any new policies or legislation on the Welsh language. We must ensure that all policies and legislation are made in accordance with the fundamental principle that the official languages of the Assembly should be treated on an equal basis.

However, we believe that the greatest weakness in the Scheme as it stands is the absence of any reference to an action plan and targets to measure progress. Such a system will be required to implement the Scheme effectively. We understand that work is under way on the development of an action plan and we can understand why it would not be practical to follow the same adoption process as the Official Languages Scheme itself, but it should at least be referred to in the Scheme.

11. The Commission also published, with the draft Bill, the draft Scheme for consultation in August 2011. The Scheme has been changed by the Commission to take account of the consultation responses received. Paragraph 6.19 on page 11 of the Explanatory Memorandum explains the changes made. What comments, if any, do you have on these changes?

No further comments.