

Meri Huws
Comisiynydd y Gymraeg
Welsh Language Commissioner

01/10



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The Culture, Welsh Language
and Communications Committee

08/10/2018

Short inquiry into the implications of Brexit on areas within the Culture, Welsh Language and Communications Committee's remit

Thank you for the opportunity to respond to your inquiry. I would like to emphasise the following points:

- We do not yet know what the relationship between the UK and the EU will be following March 2019. The lack of clarity in this regard makes it difficult to predict the possible implications of Brexit for various policy areas, including the Welsh language. However, it is fair and appropriate to draw attention to risks and challenges that could arise as a result of the process.
- The risks for Welsh speakers and Welsh-speaking communities as a result of the UK's exit from the European Union are a cause for concern. Among other implications, Brexit could:
 - impact on the provision of programmes and projects in Wales that are fundamental to creating skilled bilingual workforce and supporting the use of Welsh in the community and in business (section 3);
 - impact on economic sectors that are important to Welsh speakers and to a large extent sustain Welsh-speaking communities, including agriculture and post-16 education (section 4);
 - prevent Welsh speakers from benefiting from European initiatives supporting cultural and linguistic diversity (section 5);

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- undermine the respect for minority communities in Britain, including linguistic communities, and marginalise their voice in public life (section 6).
- impact on the human rights regime in the UK, with possible effect on linguistic rights as well (section 7)
- Of the aspects above, so far the Welsh Government has dedicated some attention to the effect of Brexit on the Welsh language in the context of the agriculture sector. However, there has not been so much attention to its other possible implications.
- It is absolutely essential that Brexit does not undermine the efforts to create more Welsh speakers or to increase the use made of the Welsh language. In order to protect the Welsh speakers, the Welsh Government must dedicate attention to the possible implications of Brexit for the Welsh language also beyond the agriculture sector; and make plans as a matter of urgency to mitigate any detrimental effects.

1. The context of this response

The principal aim of the Welsh Language Commissioner is to promote and facilitate the use of the Welsh language. In doing so the Commissioner seeks to increase the use of the Welsh language with regards to the provision of services, and via other opportunities. In addition, she will also address the official status of the Welsh language in Wales and, by imposing standards, place statutory duties on organisations to use the Welsh language. One of the Commissioner's strategic aims is to influence the consideration given to the Welsh language in terms of policy development, as is the case here. Further information on the Commissioner's work can be found on the website www.welshlanguagecommissioner.wales.

2. Opening remarks

With six months separating us from the date set for Brexit, we still do not know what the future relationship between the UK and the EU will be. The lack of clarity in this regard makes it difficult to predict the possible implications of Brexit for various policy areas, including the Welsh language. However, it is fair and appropriate to draw attention to risks and challenges for the Welsh speakers that could arise as a result of the process.

Over the recent year, I contributed comments in response to several consultations relevant to this issue. These include:



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- External Affairs and Additional Legislation Committee [Inquiry 'Resilience and preparedness: the Welsh Government's administrative and financial response to Brexit'](#) (November 2017);
- The Finance Committee [Inquiry into preparations for replacing EU funding streams in Wales following the UK's exit from the EU](#) (May 2018)
- The Climate Change, Environment and Rural Affairs Committee consultation [UK Common Frameworks on agriculture and environment](#) (May 2018)
- Children Young People and Education Committee consultation [Impact of Brexit on Higher and Further Education](#) (June 2018)

These comments consider primarily the effect of Brexit on the economy. I will summarise the main points below, but I also encourage the Committee to consider the comments above in full if possible.

3. The impact of Brexit on specific economic programmes and projects

There are examples of European funding being utilised to support specific programmes and activities with potential to combine economic and linguistic benefits. These include training programmes contributing to creating skilled bilingual workforce; and projects supporting the use of Welsh in the community and in business by capitalizing at the same time on the language as an economic asset. These examples include:

- 'Skills for the Digital Economy' programme, that is a £4.38 million initiative delivered between 2011 and 2015 with the financial assistance of the European Social Fund, offering training in the creative field in order to promote a competitive industry in Wales.¹ The project set a target of 20 per cent participation by Welsh speakers.²
- Urdd Gobaith Cymru programme 'Routes to the Summit' which operated between 2009 and 2013 with financial support of the European Social Fund, and aimed to give opportunities to young people to develop skills connected to the workplace,

¹ Interim evaluation of the Skills for the Digital Economy programme (10 January 2013) <http://gov.wales/funding/eu-funds/previous/project-evaluations/digital-economy/?skip=1&lang=en>. Arad Research was commissioned to produce a final evaluation but we have been unable to find a public version of the document: <https://arad.wales/project/creative-skillset-cymru-final-evaluation-of-the-skills-for-the-digital-economy-programme-2015/>

² Creative Skillset, Diversity and environmental sustainability, http://creativeskillset.org/nations/wales/skills_for_the_digital_economy/diversity_and_environmental_sustainability



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support their personal and social development, and help them develop through the medium of Welsh in their local communities.³

- success of Menter Iaith Conwy in attracting a grant of £85,000 to create a Welsh-medium nursery in Llandudno Junction.⁴
- success of Four Cymru to attract financial support from European Agricultural Fund for Rural Development to deliver project 'Welsh Medium Labour Market', in partnership with Mentrau Iaith Cymru. The aim of this project is to 'develop the Welsh language as an economic catalyst to develop and revitalise the Rural Wales'.⁵

4. The impact of Brexit on the economic sectors of particular importance for the Welsh speakers

Several reports explain the connection between economy viability of Welsh-speaking communities.⁶ Brexit could impact on the economic sectors which are important for employment of Welsh speakers and which to a large extent sustain Welsh-speaking communities.

We know from the 2011 Census and further research⁷ that agriculture, hospitality and food services are amongst the sectors with high numbers and percentages of Welsh speakers.⁸ As the Welsh Government recognises, these are the areas of employment that support communities in rural areas where the percentages and numbers of Welsh speakers are high traditionally but where they have decreased over the last decade.⁹ EU support for these sectors is far-reaching. In June 2017 the EU Select Committee in the House of Lords was warned of the possibly 'destructive' impact that Brexit could have on

³ <http://www.urdd.org/cms/llwybrau> [publication in Welsh only].

⁴ BBC, Effaith y refferendwm ar fudiadau sy'n hybu'r Gymraeg (5 Gorffennaf 2016) <http://www.bbc.co.uk/cymrufyw/gwleidyddiaeth-refferendwm-ue-36707297> [publication in Welsh only].

⁵ <http://four.cymru/wordpress/wp-content/uploads/2017/09/Marchnad-Lafur-Cymraeg.pdf>

⁶ For arguments on the relationship between the Welsh language and the economy, see, for example, [Increasing the Number of Communities where Welsh is the Main Language](#) (December 2013); [Report of the Task & Finish Group on Welsh Language and Economic Development](#) (January 2014); Bangor University, *Using Welsh within the Community. Research Study* (October 2015); Report of the Working Group on the Welsh language and Local Government [Language, work and bilingual services](#) (June 2016); A report by the Census Working Group to Carmarthenshire Council, *The Welsh language in Carmarthenshire* (March 2014) Welsh Language Commissioner, *The Potential of the Welsh Language to Contribute to realising the aims of the European Funding Programmes 2014–2020*; Mentrau Iaith Wales, [Cynllun Marchnad Lafur Cyfrwng Cymraeg](#); *Iaith Pawb: A National Action Plan for a Bilingual Wales* (2003); *A Living Language: A Language for Living - Welsh Language Strategy 2012-17* (March 2012); *A living language: a language for living – Moving forward* (August 2014); *Cymraeg 2050: A Million Welsh speakers*(2017).

⁷ Welsh Government, *Welsh language skills needs in eight sectors* (2014).

⁸ The industries with the highest percentage of workers who are Welsh-speaking are agriculture, energy and water (29.5 per cent). High numbers and percentages of Welsh speakers are also employed by the distribution, accommodation and food services industry – approx. 44,000 or 15 per cent of the sector's workforce. <http://gov.wales/docs/statistics/2013/131129-welsh-language-labour-market-en.pdf>

⁹ *Cymraeg 2050: A Million Welsh speakers*(2017), p. 16.



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economically vulnerable rural communities, which are also strongholds of the Welsh language.¹⁰

Other sectors of the economy are likely to be affected as well. For example, the creative sector benefited in the past from financial support from the EU's MEDIA programme and more recently Creative Europe in order to support the production of 'Hinterland'.¹¹

Another sector deserving attention in this context is post-16 education. The sector is central in the efforts to create a capable bilingual workforce. At the same time, the post-16 educational institutions make a significant contribution to the local economy. Currently, these institutions benefit from far-reaching financial support from Brussels, including through programmes such as Horizon 2020 to support research and innovation; the Structural Funds for various training programmes; and Erasmus+ to support the exchange of students and staff with educational institutions abroad. Since 2014, over £40 million has been awarded to institutions in Wales through Erasmus+ and over 7000 individuals have benefitted from this support.¹² One specific example could be the success of CollegesWales to attract the Erasmus+ funds to support practitioners from the post-16 sector in Wales to travel to the Basque Country and Catalonia in order to develop a better understanding of bilingual education in these contexts.

As I noted elsewhere, in general the use of the Welsh language in post-16 education is low.¹³ Since there is no certainty as to the long-term future of the current funding streams in the post-16 sector, there is a risk that Brexit could reduce the financial opportunities available to educational institutions in the FE and HE sector. This, in turn, could undermine opportunities for Welsh speakers in these sectors. There are also challenges unique to Welsh-medium provision. Due to the lower numbers who are inevitably likely to study Welsh medium higher education courses, Welsh modules tend to cost more per head to offer. This was the interpretation of a [report by the London School of Economics](#) for HEFCW in 2006. While these findings were made in relation to the situation in the HE sector, it can be assumed that they are also relevant to the FE and WBL sectors. If so, I am concerned that the Welsh-medium provision could come under disproportionate strain if the funding opportunities in all these sectors are reduced

5. The impact of Brexit on opportunities for Welsh speakers at the European level

The EU is also an important platform for speakers of a variety of minority languages to work together and benefit from financial and political support.

¹⁰ House of Lords, EU Select Committee, Brexit, [Brexit: devolution](#) (June, 2017) p.32.

¹¹ BBC, Hinterland shows Wales way for more EU funding (16 Gorffennaf 2014), <http://www.bbc.co.uk/news/uk-wales-28313857>

¹² <https://www.erasmusplus.org.uk/results-and-statistics>

¹³ See the Commissioner's Five Year Report:

<http://www.comisiynyddygymraeg.cymru/Cymraeg/Rhestr%20Cyhoeddiadau/Adroddiad%205-mlynedd%20-%205-year%20Report.pdf>



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The EU is committed to raising awareness of the value of linguistic diversity; encouraging the breaking down of barriers that prevent intercultural dialogue; and supporting the principle that every citizen should master two languages as well as their mother tongue.¹⁴ In 2013, the European Parliament adopted a [resolution](#) on linguistic diversity and endangered languages within the European Union - the latest step in a series of resolutions, action plans and strategies on this subject.¹⁵ Lesser used languages are also promoted through events such as the [European Day of Languages](#).

In addition, the EU supports language research as well as specific projects that focus on promoting multilingualism. For instance, in 2017, one of the European Parliamentary committees commissioned a [study](#) 'Minority Languages and Education: Best Practices and Pitfalls', that considers the situation of minority languages based on 13 case studies. The EU also supports the European Centre for Modern Languages (ECML) and NPLD (Network to Promote Linguistic Diversity). Between 2013 and 2016 the EU funded [LEARNMe](#) (Language and Education Addressed through Research and Networking by Mercator) was jointly introduced by six research centres across Europe, including Mercator, the Institute for Media, Languages and Culture at Aberystwyth. Promoting linguistic diversity and language learning are amongst the main aims of the Erasmus+ programme.

Brexit may prevent Welsh speakers from benefitting from European initiatives that promote linguistic and cultural diversity.

6. The impact of Brexit on attitudes towards minorities

In a lecture on 18 March 2018¹⁶ Emyr Lewis suggested that there was an element of xenophobia linked to the vote to leave the EU; and that there was a danger that Brexit would lead to the marginalisation of minority communities in political debate, thus undermining respect towards them.

We cannot ignore this argument in the context of the consistent evidence that shows a significant increase in the number of hate crimes since the Brexit vote. There was a 41 per cent increase in the number of these crimes reported in July 2016, compared with

¹⁴ [COM\(2008\) 0566](#)

¹⁵ For example: ([COM\(2003\) 0449](#); [COM\(2005\) 0596](#)).

¹⁶ <http://gwallter.com/politics/wales-and-brexit-by-emyr-lewis.html>



July 2015.¹⁷ There was a 29 per cent increase in the number of these crimes reported in 2016/17 compared with the previous year.¹⁸

Neither can we ignore this argument in the context of the derogatory comments aimed at Welsh speakers, such as those in the article of the columnist Rod Liddle, on Wales in April this year.¹⁹ Although it is important to respect the freedom of expression on various subjects, the increase in the derogatory comments on Wales, the Welsh language and its speakers, is of grave concern. Over the past months we have seen a number of situations where people are belittled - and this is totally unacceptable.

Although there is no firm research linking such comments with Brexit, I am of the view that the current social climate following the vote is creating an environment favourable to the proliferation of attitudes such as these.

I am in discussions with individuals and groups regarding this issue in order to explore how we can move the agenda forward. Amongst the options, I believe that there is a need to consider legislation to protect rights and prevent hate towards the language.

7. The impact of Brexit on the rights system in the UK, including language rights

Finally, Brexit could affect the system in place in the UK to protect fundamental human rights. Although the possible impact on individual's language rights appears to be comparatively limited at present, there is a need to carefully monitor the debate as it develops on the future of the 1998 Human Rights Act and the plans to introduce a British Bill of Rights in its place.

The language rights of Welsh speakers derive from several sources. On an international level, the UK is bound by the European Convention on Human Rights (ECHR); the EU Charter of Fundamental Rights (EUCFR); the European Charter for Regional or Minority Languages (ECRML); and the Council of Europe's Framework Convention for the Protection of National Minorities (FCPNM). On a UK level, some of the ECHR's articles were incorporated into British law through the Human Rights Act 1998. On a national level, we have the Welsh Language (Wales) Measure 2011.

- The ECHR (article 14) and the Human Rights Act 1998 prohibit discrimination based on language. The ECHR derives from the Council of Europe, and is enforced by the European Court of Human Rights in Strasbourg. However,

¹⁷ <https://fullfact.org/crime/hate-crime-and-eu-referendum/>

¹⁸ <https://fullfact.org/crime/hate-crime-england-and-wales/>

¹⁹ <https://www.bbc.co.uk/cymrufyw/43697936>



following the introduction of the 1998 Act, it is possible to seek justice for the breach of this right in British courts.

It's important to emphasise that the 1998 Act does not protect from discrimination in all areas. To exercise this right, individuals must demonstrate that the discrimination has affected their enjoyment of one or more rights within the Act. There is other legislation that offers more general protection, such as the Equalities Act 2010. However, language is not a protected characteristic under the 2010 Act.

- The EUCFR also prohibits language discrimination, and establishes the duty of the Union to respect linguistic diversity. The EUCFR originates from the European Union and is policed by the Court of Justice of the European Union (CJEU).
- The Welsh language, Scottish Gaelic and Irish are protected under Part II and some specific articles under Part III of the ECRML.²⁰ The Charter commits the UK to taking active steps to protect and to act for the benefit of those languages.²¹ A specific committee within the Council of Europe monitors that the ECRML is implemented in practice, based on periodic reports and visits to the member-states. They may make recommendation but cannot enforce them.
- Under FCPNM, Britain is bound by a duty to protect the use of minority languages in public and privately, and also, under specific conditions, in relation to public authorities. The methods of policing the FCPNM are similar to those of the ECRML.
- Finally, the Welsh Language (Wales) Measure 2011 established new rights and freedoms for Welsh language users. The Commissioner imposes Welsh language standards on organisations, which is a list of the things they must provide and undertake through the medium of Welsh. These standards create rights for individuals. The Measure also establishes the freedom to use the Welsh language with others in Wales. The Welsh Language Commissioner is responsible for regulating compliance with the requirements of the Measure.

In light of the above, Brexit may impact on the avenues available to Welsh speakers in seeking justice for breach of their rights; and the level of rights and protections available to them.

²⁰ 52 for the Welsh language, 39 for Scottish Gaelic and 36 for Irish

²¹ https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/148/declarations?p_auth=adpW1NPI



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The EU (Withdrawal) Act 2018 provides for the removal of the EUCFR from UK law. Also, according to the Act, after Brexit, the CJEU will have no role in interpreting new laws, and courts will not be required to consider CJEU case law in future. This means that individuals seeking to challenge discrimination on the basis of language will lose one avenue of appeal.²²

At the same time, the protections based on ECHR, ECRML and FCPNM will continue. These are Council of Europe frameworks and the UK will continue to be part of the Council after Brexit. Also, article 14 of the EHRC, will continue to be part of British law through the 1998 Act. The protections that originate from the Welsh Language (Wales) Measure 2011 will also continue.

However, it should be noted, that the future of the 1998 Act is uncertain. In 2014, the Conservative Party proposed that the Act be repealed thus ending the authority of the European Court of Human Rights authority in determining rights in Britain.²³ At the same time an intention was noted to introduce a British Bill of Rights to replace the 1998 Act. There have since been some suggestions since that these proposals are still being considered.²⁴

If so, this debate must be carefully monitored, together with any possible impact on language rights in Britain. Certainly, no changes should undermine or weaken the rights of Welsh speakers. At the same time, the protections under the 1998 Act are limited, and it is not possible to enforce recommendations based on the ECRML and the FCPNM monitoring work. Language is not a protected characteristic under the Equality Act 2010. Perhaps we therefore have an opportunity to revisit how the present system defines and protects the rights of Welsh speakers.

8. The Welsh Government response to date

I welcome the commitment by the Welsh Government to protect the rural heartlands of the Welsh language from any possible adverse effects of Brexit on the farming sector²⁵ - and also in response to a recent recommendation from the Climate Change, Environment and Rural Affairs Committee.²⁶ I look forward to seeing more specific plans from the Government as to how it will manage and alleviate the effect of Brexit on the Welsh language in the sector. In this respect, I think that the current Government

²² This is consistent with the EHRC and other's assessment of the wider implications of losing EUCFR:

<https://www.equalityhumanrights.com/en/our-human-rights-work/what-does-brexit-mean-equality-and-human-rights-uk>

²³ 'Protecting Human Rights in the UK',

²⁴ E.g. On 25 April 2016, Theresa May [stated](#) that she would like Britain to leave the ECHR but stay as a member of the EU. [Liz Truss](#) stated on 22 August 2016 that the Government continued in its wish to introduce the Bill, but no timetable was given.

²⁵ *Cymraeg 2050: A Million Welsh Speakers* (2017), p. 62.

²⁶ National Assembly Wales, The Climate Change, Environment and Rural Affairs Committee, '[Common frameworks for the environment following Brexit](#)' (July 2018)



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consultation 'Brexit and our Land' provides a golden opportunity to establish the direction and basic principles for these plans.

At the same time, there has not been much consideration to other possible implications of Brexit for the Welsh language. As the process of leaving the EU proceeds, it is imperative in my view, that due attention is given to its impact on the Welsh language in all aspects of the Government's work.

9. Conclusion

It is vital that Brexit does not undermine the efforts to create more Welsh speakers or to increase the use made of the Welsh language. In order to protect Welsh speakers, the Welsh Government must consider the possible implications of Brexit on the Welsh language on a wider level beyond the farming sector; and put in place urgent plans to mitigate any adverse impact.

I trust the above comments will be useful to you.

Yours sincerely,

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The Welsh Language Commissioner