



LG 47
Bil Llywodraeth Leol ac Etholiadau (Cymru)
Local Government and Elections (Wales) Bill
Ymateb gan: Comisiynydd y Gymraeg
Response from: Welsh Language Commissioner

Equality, Local Government and Communities Committee
National Assembly for Wales
Cardiff Bay
Cardiff
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By e-mail: SeneddCommunities@assembly.wales

08/01/2020

Dear Committee,

Consultation on the Local Government and Elections (Wales) Bill

1. Thank you for the opportunity to contribute to the above consultation. My comments are limited to the impact of the legislation on the Welsh language and the opportunities to use it. This is done particularly in the context of the Welsh Language (Wales) Measure 2011 and the Welsh language standards deriving from it.

Background

2. Since 2016 local authorities have been required to comply with the Welsh language standards¹ in accordance with the Welsh Language (Wales) Measure 2011. The standards that apply to local authorities relate to service delivery, policy making, promotion of the Welsh language, operation (i.e. the internal activities of an organization) and record keeping. The policy making standards are intended to ensure that the following are taken into account when making a policy decision:

¹ See the relevant standards in [compliance notices](#) for all local authorities on the Welsh Language Commissioner's website.

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(a) what effects, if any, (whether positive or adverse) the policy decision would have on opportunities for people to use the Welsh language, or on treating the Welsh language no less favourably than the English language;

(b) how the decision could be made so that the decision has positive effects, or increased positive effects, on opportunities for people to use the Welsh language, or on treating the Welsh language no less favourably than the English language;

(c) how the decision could be made so that the decision does not have adverse effects, or has decreased adverse effects, on opportunities for other persons to use the Welsh language, or on treating the Welsh language no less favourably than the English language.

The requirement to comply with these policy making standards should be kept in mind when imposing new duties on local authorities under the Local Government and Elections (Wales) Bill and when drawing up any relevant guidelines.

Specific comments

3. We would like to comment specifically on the following sections of the Bill:

- Section 4 – Duty to promote awareness and provide assistance
- Section 22 – Registration of local government electors without application
- Section 29 – Translations etc. of documents at local government elections in Wales
- Section 31 – Local authority’s general power of competence
- Section 34 – Limits on doing things for commercial purpose in exercise of general power
- Section 47 – Strategy on encouraging participation
- Section 48 – Public participation strategy: consultation and review
- Section 51 – Guidance on exercise of functions under this Chapter
- Section 53 – Electronic broadcasts of meetings of certain local authorities
- Section 74 – Guidance about collaborative working
- Chapter 3 – Establishing corporate joint committees where request has been made
- Section 119 – “Relevant regulators” and “relevant functions”
- Section 122 – Guidance about merger applications
- Section 123 – Merger regulations
- Section 130 – Restructuring regulations
- Section 156 – Information sharing between regulators, the Auditor General for Wales and the Welsh Ministers

4. **Section 4 – Duty to promote awareness and provide assistance**

In order to comply with the requirements of the Welsh language standards, it is expected that any information provided by councils to promote young people’s awareness of electoral registration arrangements, and any practical steps to help young people, will be provided in Welsh.



Returning officers and electoral registration officers

5. The Commissioner has expressed concern on several occasions about the roles of returning officers and electoral registration officers, who are not subject to statutory language duties. The way in which those officers deal with the Welsh language is therefore mixed, and therefore the experience of Welsh speakers is not equal to the experience of non-Welsh speakers. The Commissioner last highlighted this situation in correspondence to the Local Government Democracy Division on 3 July 2019. Further information can be found in the Commissioner's reports on the 2015 General Election and 2016 National Assembly for Wales and Police and Crime Commissioner Elections.² The Local Government and Elections (Wales) Bill amends a number of other laws relating to electoral arrangements. Consideration should be given to how the Bill could be used to ensure that the above officers are subject to Welsh language standards.
6. **Section 22 – Registration of local government electors without application**
Following the comments above about electoral registration officers, the Committee is encouraged to consider how any information or correspondence produced by these officers could be provided in Welsh.
7. **Section 29 – Translations etc. of documents at local government elections in Wales**
In connection with Section 22 it is noted that Section 29 (3) of the Bill, in amending the Representation of the People Act 1983, refers to the person ("P") who is required or authorized to provide documents relating to a local government election. We note that, if "P" is a local authority, it has a duty to provide documents in Welsh. However, if "P" is a returning officer or an electoral registration officer, our understanding is that he/she is not likely to be under such a linguistic duty. The legislation should be clear about the extent to which registration and electoral results functions will be provided in Welsh to the same standard as English in local government elections.

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<http://www.comisiynyddygydraeg.cymru/English/Publications%20List/General%20Election%202015%20Review.pdf>;

<http://www.comisiynyddygydraeg.cymru/English/Publications%20List/Adroddiad%20Etholiad%20Saesneg.pdf>

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8. **Section 31 – Local authority’s general power of competence**
This section gives local authorities extensive power. The Commissioner would like assurances that the duties that the Welsh language standards have imposed on authorities will also apply to them when using this power. These include the duty imposed by the policy making standards to consider the effects of policy decisions on the Welsh language.
9. **Section 34 – Limits on doing things for commercial purpose in exercise of general power**
This section explains that a local authority must operate through a company when doing things for a commercial purpose. We would like assurances that such an arrangement would not undermine the Welsh language situation or the rights of individuals in light of the standards to receive Welsh language services from local authorities. I refer to my responses to the previous consultations on the Draft Local Government (Wales) Bill (27 January 2016) and on the White Paper, Reforming Local Government: Power to Local People (27 April 2015).³ I highlighted in these responses the importance of protecting the rights of individuals to receive Welsh language services in the context of the Welsh Language (Wales) Measure 2011 and the Welsh language standards, when transferring responsibilities to third parties. I would like to emphasize that local authorities have the right to impose conditions on third parties who provide services to the public. These conditions should include commitments that ensure that Welsh language duties are fulfilled. Again, the requirements of the policy making standards are relevant in this case.
10. **Section 47 – Strategy on encouraging participation**
The strategy described in this section should be formulated and published in accordance with the requirements of the Welsh language standards.
11. **Section 48 – Public participation strategy: consultation and review**
Local authorities should consider how best to ensure that Welsh speakers contribute to any consultations on the strategy.
12. **Section 51 – Guidance on exercise of functions under this Chapter**
Any guidelines produced should provide guidance on operating in accordance with the Welsh language standards.
13. **Section 53 – Electronic broadcasts of meetings of certain local authorities**
In the context of broadcasting meetings, it is stated in the Explanatory Memorandum to the Bill that complying with Welsh language requirements would present challenges, with the need to ensure that the simultaneous translation service works in the different locations. We would like to emphasize that electronic broadcasting should not restrict the ability of anyone attending a meeting remotely

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[http://www.comisiynyddygybraeg.cymru/English/Publications%20List/20160211%20S%20LI%20Ymateb%20i%20ymgyngghoriad%20ar%20Fil%20Llywodraeth%20Leol%20\(Cymru\)%20drafft.pdf](http://www.comisiynyddygybraeg.cymru/English/Publications%20List/20160211%20S%20LI%20Ymateb%20i%20ymgyngghoriad%20ar%20Fil%20Llywodraeth%20Leol%20(Cymru)%20drafft.pdf);

<http://www.comisiynyddygybraeg.cymru/English/Publications%20List/20150413%20S%20LI%20Ymateb%20i%20r%20Papur%20Gwyn%20ar%20Ddiwygio%20Llywodraeth%20Leol%20Grym%20i%20Bobl%20Leol.pdf>



to take advantage of simultaneous translation provision. Any guidance provided by the Welsh Ministers should discuss this principle.

14. Section 74 – Guidance about collaborative working

In the context of joint working between councils, any guidelines produced by the Welsh Ministers should consider the potential effects of such collaboration on the ability of the workforce to use the Welsh language in the workplace. There is wide variation between local authorities in terms of the percentage of fluent Welsh speakers in the workforce, from 1.4% in Torfaen County Borough Council to 94% in Gwynedd Council. There is also variation between neighbouring authorities. Compared to Gwynedd Council's workforce, for example, 19% of Conwy County Borough Council's workforce are fluent Welsh speakers.

The operational standards that local authorities are required to comply with require them to develop a policy on the internal use of Welsh, with the aim of promoting and facilitating the use of Welsh within the authority. The standards also detail issues around recruitment, recruitment information sharing, information technology, skills development and staff training. Authorities will currently be at different stages in the type of policies they will adopt on the internal use of Welsh. As is well known, for example, Welsh is the language medium of Gwynedd Council administration. The Isle of Anglesey County Council has expressed an intention to conduct its administration in Welsh while Carmarthenshire County Council intends that specific council departments will conduct their administration through the medium of Welsh. When it comes to collaboration between local authorities, it should be ensured that the strongest commitments in terms of conducting administration through the medium of Welsh are adopted when working together. This should be reflected in guidelines produced by the Welsh Ministers.

The Government's *Cymraeg 2050* strategy emphasizes the importance of using Welsh in the workplace and one of its aims is to increase the use of Welsh in the workplace across all sectors. The strategy highlights the influence of the Welsh language standards in this context:

“Current legislation has provided a framework to ensure that bodies that are subject to Welsh Language Standards provide bilingual customer-facing services. This has required these bodies to improve the way they plan their



bilingual workforce and to identify posts where Welsh language skills are desirable or essential. In turn, this has provided more opportunities for individuals to acknowledge enhance or acquire Welsh language skills in the workplace.

Some bodies are already leading the way in this respect and use the Welsh language as the language of internal administration, subsequently increasing the demand for, and opportunities to use, Welsh language skills. As the main employer of front-line public services in Wales, increasing the use of Welsh within the workplaces of local government and the health and social care sector will be very important in this regard.”

It is essential that collaboration between councils supports these developments rather than undermining them.

15. **Chapter 3 – Establishing corporate joint committees where request has been made**

When planning formal collaboration between local authorities, including through joint corporate committees, consideration should be given to the duties of those authorities under the Welsh language standards and it should be ensured that the Welsh language is protected under the new arrangements. In particular, the requirements of the policy standards should be kept in mind when considering the establishment of joint committees and this should be highlighted in local authority decision making. The Bill should clarify the legal status of the joint corporate committees in order to avoid ambiguity and for the joint committees to act in accordance with the Welsh language standards as soon as possible if they are deemed to be statutory bodies with the same status as local authorities. As noted above when discussing co-operation between authorities, it must be ensured that the strongest practices with regard to the use of the Welsh language are adopted if formal collaboration takes place.

16. **Section 119 – “Relevant regulators” and “relevant functions”**

We ask what consideration was given to including the Commissioner among the relevant regulators. The Welsh Language Board was listed in the Local Government (Wales) Measure 2009 as a relevant regulator and that responsibility was transferred to the Commissioner.

17. **Section 122 – Guidance about merger applications**

In the context of applications to merge councils, any guidelines produced by the Welsh Ministers should ensure that local authorities consider the potential effects of such a move on the Welsh language in accordance with the policy making standards. This is especially true in the context of the workforce’s ability to use Welsh in the workplace as noted above.

18. **Section 123 – Merger regulations**

Any merger regulations drawn up by the Welsh Ministers should ensure that the duties on the relevant authorities in relation to the Welsh language are transferred



to the new council without delay. It is essential to avoid a period where no Welsh language requirements apply.

19. **Section 130 – Restructuring regulations**
We would like to make the same comments in the context of restructuring regulations, as made in paragraph 18.
20. **Section 156 – Information sharing between regulators, the Auditor General for Wales and the Welsh Ministers**
We ask the Committee to consider including the Commissioner among the members of the information sharing group listed in Table 2.

Thank you once again for the opportunity to respond to this consultation and I hope that the comments above will be of use to you.

Yours sincerely,

Aled Roberts
Welsh Language Commissioner

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