

Appendix 2: Draft Response Report

Gwynedd Council's response to the consultation document

Part 1: Promoting the Welsh language

This section deals with the Government's role in promoting the Welsh language.

It outlines the areas of national policy that are critical to the Welsh language. Here, it addresses the education policy and the new 30 hour provision of free child care. This of course coincides with the commitments of Cymraeg 2050, which places much greater emphasis on creating Welsh speakers through the education system.

What has been left out here is any specific reference to areas such as planning and the economy. Point 51 (p.15 in the full document) refers to "Planning, local government, social services and health are amongst other policy areas which have an important impact on the vitality of the Welsh language." but it does not elaborate on this.

This section also suggests changing the way in which bodies such as the Mentrau Iaith, the Urdd and the Young Farmers' Clubs are funded and their lines of accountability, in addition to uncertainty about additional funding streams in this area in future.

The third part of this section, "Options" outlines the possible options for a new structure and where the various functions and responsibilities will sit. The Government favours

Draft response:

Welsh Government's Role:

Other areas of national policy that are critical to the Welsh language - mention here of education and the areas mentioned in the Strategy, but no mention of other areas where there is potential to influence language use. The same weakness can be seen in the 2050 strategy itself, namely no mention of planning, the economy or tourism.

Additional key area: We suggest that influencing Universities' research work could be included here – to encourage practical research into issues and themes that arise from the Standards that would improve our understanding of how people use services. Technology is a specifically important field- before investing in Welsh content, we must have an evidence and research base to show how people use the Welsh language on-line.

This could be beneficial for organisations and bodies in language planning.

Other Welsh Government resources:

These changes are not explained clearly in the white paper, and therefore this uncertainty is causing us concern. We have worked hard in recent years to nurture a relationship and understanding with the Government officials, especially in terms of Gwynedd's unique situation and the promotional requirements and needs that apply to the county, and therefore having to establish a new relationship with another body could be problematic.

The feeling that the Commission would have to make more promotional work, but without extra funding.

Options:

Mae **Options 2 and 3** involve establishing 3 bodies, and we would not support this under any circumstances. We strongly believe there is a need to work on that which already exists and amend responsibilities, rather than creating more change and complexity too early. Time must be allowed for arrangements to be established before enforcing another major change.

The advantage of **Option 4** and the idea of establishing a single body is that there would be an element of independence, and the promotional function would be at arm's length of the function of setting standard.

Nevertheless, we are concerned about this option for a number of reasons.

- Such a change, although this is actually a form of restructuring and amending the Commissioner's office to a model that greater resembles the previous Welsh Language Board, will still be a major change, and it takes time for any change to have effect. A likely long period of stabilising and adapting to responsibilities could lead to another unstable period for the bodies and agencies that need guidance and support.
- We are not sure that all the responsibilities that have been outlined would sit comfortably under the same umbrella. Centralising the promotional functions makes sense on the face of it, but the Standards provide us with a very different context therefore any body needs to be able to respond to this current context. The proposed option also requires the body to monitor the Standards (but not to impose them) and to be a contact point and a grant allocator for activities relating to promoting the Welsh language. Clear arrangements and structure would be needed to ensure that all areas receive due attention, and therefore the white paper alone does not give us this assurance.
- Removing the duty of imposing standards is one thing, but if the enforcement and complaints investigation role still remains with the Commissioner / Commission, the possibility of a conflict of interest remains. Can one organisation really be both the carrot and the stick simultaneously? It is very difficult to maintain a balance and there would be a need to ensure that any monitoring is done in the spirit of seeking to improve services rather than scrutinise weaknesses. This would require organisations to change their attitude, and also the officers of public bodies who are already part of the Standards procedure, in order for everyone to move forward together.
- There is also the question, if the Government is responsible for imposing Standards it should also be responsible for enforcing and penalising. Even with the proposed changes to the complaints procedure, which makes it more flexible, it is difficult to see how one body could be promoting and providing support if it is also the one that is investigating.
- **Option 4** also means that this body would allocate grant funding for organisations such as the Mentrau Iaith.

- There is a danger for this one body to be overstretched, and that resources will be too scarce to make any real difference. Therefore, there would be a need to ensure that the budget is appropriate, and that it increases as needed, rather than expecting the body to undertake more duties under the same budget.

Part 2: Governance and accountability:

This outlines new potential governance arrangements. It offers several governance models, depending on which model will be selected in part 1. As the Government is favouring the establishment of a Commission, option 3 is obviously favoured here.

This section also deals with the Government's duties to draw-up a language strategy.

Draft response:

In principle, we support Option 3, namely establishing a Welsh Language Commission, in order to obtain assurances for accountability - in particular in terms of the new responsibilities.

Certainly, many of the concerns about the current system have been associated with the fact that an individual has the power to make decisions in a field that is often grey rather than black and white. There would be a need to see a proposed departmental structure for the body in order to ascertain how it would work and how the various functions would be given fair attention.

Welsh Government's duties under section 78 of the Welsh Government Act 2006

There is some uncertainty regarding this proposal. Although we welcome the idea that the Commission's strategy would make a direct contribution towards the vision of Cymraeg 2050 - and that this reflects how we here in Gwynedd Council are attempting to combine the direction and long-term strategic vision by tying-in the Strategy with the Well-being Plan and so forth - we are concerned that what is offered here is ambiguous.

We do not believe that the independent body (Commission) should be responsible for delivering Cymraeg 2050, although they should, like every other organisation and public body, be able to show how they contribute towards it.

We agree that reporting every year on a long-term strategy is unrealistic, however, it is not possible to wash your hands of broader responsibilities.

Therefore, there is concern that there is no clear accountability for Government departments, as a civil service themselves to show the way and lead by example.

Part 3: The Welsh Language Standards

This part explains the changes proposed to the current Language Standards system.

The changes attempt to shift to a more balanced and fair system, with less "enforcement" and more emphasis on "remedy".

It also proposes changes that will attempt to remedy much of the uncertainty that exists around defining a number of standards.

Draft response:

In its proposals, the Government may well be attempting to be too flexible and attempting to answer everyone's problems, and this could ultimately lead to more inconsistency. Many are talking about amending or abolishing standards, and there will be a need to be careful that this does not complicate things further.

Basically, what is needed is an understanding that we are on a journey and that bodies will reach the aim at different times. However, there is a risk by not imposing the relevant standards from the start that bodies will take their time to act without monitoring where they need to reach in the end. There is a need to reduce the exceptions and work on how to encourage a continuum of improvement.

Exception schemes (option 4) would give organisations too much power, and by setting a small set of general standards one runs the risk of weakening the commitment to act that is starting to manifest amongst public bodies.

Although we agree that the best option is to amend the current system, much more information will be required, along with specific examples so that we can be completely certain.

Rights for individuals to use Welsh

We believe that this option should be considered separately to the considerations around amending the Standards. We believe that the measure should include some kind of basic commitment to the rights of individuals. Although we acknowledge that this would be difficult to define, we believe that people need assurance that their linguistic needs are respected, and that this can only be achieved by setting a legal right. Gwynedd Council follows the principle that what is best for the residents comes first, and that we will achieve this by delivering services that place the people of Gwynedd at the centre of everything. In the context of the standards and implementation of our language policy, this means that we consider what is best for the individual, and what they need, rather than what is most convenient or most practical to the provider. By following the same principle, and setting a precedent in the Measure, it can be ensured that organisations are duty bound to respond to the needs of people and provide a Welsh-medium service if it is really needed. This would tie-in with the principles of More Than Just Words, which sets a framework for health and care services, to consider language "need" rather than "choice". The Standards already include a reference to meetings relating to well-being, for example, and one could simply expand on this. Imposing a right for individuals to choose and use the Welsh language in situations relating to well-being and personal matters, for example, would strengthen the public's rights.

Without imposing this basic right, there is a risk that some organisations will continue to argue that there is no "demand".

Distribution of Standards and linguistic planning duties

Although there is a risk that changing the distribution of standards will again add to the confusion and inconsistency, it is possible to agree to the definition of standards relating to the rights of individuals and the standards relating to linguistic planning. It is true that the majority of standards as they relate to procedures, and that they are of no interest whatsoever to those who are receiving services, and therefore, defining the standards under these two headings could make things clearer and assist organisations to understand their duties.

We agree that there is a need to place more expectation on organisations to plan linguistically, and it is important for them to see how their efforts to plan the workforce and so forth contribute to the broader vision.

A clearer link is also required between the Standards and other relevant frameworks and policies, such as the More Than Just Words framework and the Well-being of Future Generations Act, and placing a linguistic planning duty, which encourages organisations to look at the links and merge relevant plans, is a way of achieving this.

However, organisations would need to receive clear guidance so that they understand the expectations.

Procedures for making, imposing, implementing and enforcing Standards

Making and imposing standards on bodies

We agree with the proposal to give responsibility for imposing the Standards to Government, and that the consultation process prior to their imposition is as simple and swift as possible.

We are not so certain about the proposal to give powers to publish codes of practice or guidelines in relation to the standards to Welsh Government. One could argue that if the proposed Commission is responsible for promotion that this duty should lie with that body.

If the intention is to seek clarity on the definition of standards, it could sit with Government, otherwise, and if the intention is to offer guidance and share good practice, then surely the most suitable location for this duty would be with the promotional arm. Under the current system, the Commissioner has not been the most effective at producing codes of practice and guidelines, but this may well be because of the difficulty in defining the two roles, and offering advice and guidance on the exact standards they should be regulating. There is a need to ensure that the same conflict does not occur in the future and we believe that any guidelines would be better received by the independent body if the main intention of these changes is to nurture goodwill and positive attitudes.

Making and imposing standards on sectors

Agree that Government should have powers to impose standards on specific sectors.

Complaints

Generally, we agree with the changes proposed to the complaints procedure. In respect of the proposed Commission's right to hold investigations individually if a matter comes to its attention suggesting that a body is not complying, it must be ensured that the evidence base for any

investigation is robust, and that it is not based on the views of an individual or on one random incident only. Bodies must be allowed to respond in a full and meaningful way to complaints, and this means that there is a need to know the nature of the complaint, including details about location and date, etc. If information is concealed and if it is not made clear what the complaint is, an organisation cannot determine what information is needed and what evidence is essential. By having full details from the start, it will be possible to simplify the process and ensure that bodies do not waste time and scarce resources.

Part 4: The scope of bodies covered by Welsh language legislation

We agree in principle with the proposal that should remove the restrictions imposed in the current Measure so that the Government can set standards on private sector bodies, but we do not agree that this should be restricted to standards relating to services delivered to customers only. Although there is a desire to see a general reduction in administrative burden in the Standards, we do not believe that it would be wise to exempt the record keeping standards in their entirety. Considering the previous discussion about linguistic planning functions, record keeping is an essential way of evidencing that bodies purposefully plan to respond to the public's requirements and needs.