

WLE 07

Ymateb gan: Comisiynydd y Gymraeg

Response from: Welsh Language Commissioner

Thank you for the opportunity to present this written evidence, and for the invitation to give oral evidence on the Welsh Language and Education (Wales) Bill.

My main aim as Commissioner is to promote and facilitate the use of the Welsh language. The Welsh Language (Wales) Measure 2011 states that I can provide advice and/or comments to any person. In that context, and in line with my role as an independent advocate for the Welsh language and its speakers, I provide the comments below.

1. General principles of the Welsh Language and Education (Wales) Bill and the need for legislation to achieve the stated policy intention

- 1.1. I support the general principles of the Welsh Language and Education (Wales) Bill ("the Bill") and consider that legislation is necessary to achieve the stated policy intention. I very much welcome the Bill which, in my opinion, reflects the scale of the Welsh Government's ambition for the Welsh language. The legislation has the potential to make a substantial contribution towards achieving the vision and objectives of Cymraeg 2050.
- 1.2. Since devolution, we have seen the efforts of a number of policies and strategies aimed at strengthening planning processes in relation to Welsh language education. Nevertheless, a clear gap remains between the trajectory based on the data and empirical evidence of the past twenty years and the theoretical trajectory which is central to the objectives and targets of Cymraeg 2050. Delivering the objectives and vision of the Cymraeg 2050 strategy is reliant on increasing the numbers leaving the education system as confident and independent Welsh speakers. There is clear evidence, therefore, that bolder policies and legislation are needed for the Welsh language in education, and I therefore very much welcome the fact that the Government is responding firmly to the challenge by introducing this Bill.
- 1.3. I set out above a rationale for legislating, that is to say, it is a necessary step to achieve the Welsh Government's policy objectives. But it also needs to be stressed that there is an important ethical and principled basis for the policy in itself. As the Explanatory Memorandum emphasises, the Welsh language belongs to us all, and it is vital that all children have a real opportunity to develop into confident Welsh speakers. It is a matter of social justice that the education system in Wales affords everyone this opportunity. Not only is this Bill an opportunity for Wales to again lead the way in terms of language policy, but it sets out a clear and exciting vision for the future of education in a modern bilingual country. This is very timely in the context of the other significant developments afoot, including the implementation of the new Curriculum for Wales and the reform of the Additional Learning Needs system in Wales.
- 1.4. What is being proposed in the Bill is substantial and responds to many of the shortcomings of the current planning regime. It is fair to say that the Bill represents a historic turning point in the development of the Government's education and Welsh language policy. For the first time, some of the most important targets and commitments in the Government's Welsh language strategy will be set out in legislation. This includes a crucial focus on increasing the use of the Welsh language, which of course is also central to my work as Commissioner.
- 1.5. I also welcome the fact that the Bill contains powerful legislative mechanisms that will enable much more direct influence on the delivery of some of these targets. The proposed development

of a framework to describe Welsh language ability as the centrepiece of language planning policy is innovative, and underpins important provisions in the Bill, for example, the language categories and planning frameworks at national, local authority and school level.

- 1.6. One of the main regulatory aims of the Welsh language standards is to increase the opportunities available for people to use the Welsh language, whether by receiving public services, in the workplace or in our wider communities. With that in mind, I welcome the duty placed on Welsh Ministers in Part 1 of the Bill to review the Welsh language standards.
- 1.7. I believe that the relevant standards specified in the Bill have the potential to make a difference. They have a role to play in terms of language progression and the relationship between developing the Welsh language skills of children and young people through the education system and increasing individuals' use of these skills as they enter the world of work. In addition, there is further potential for the Welsh language promotion standards to be used as a tool for interweaving planning in education and skills with the wider strategies that exist for the promotion of the Welsh language and facilitating its use. I therefore very much welcome the fact that this Bill makes a clear link between educational policy and the Welsh language standards regime.
- 1.8. The Commission for Welsh-speaking Communities' report on communities with a higher density of Welsh speakers also recognises the need to strengthen the Welsh language standards. For example, it recommends imposing a new duty on relevant bodies to formulate a community language planning strategy. It also recommends taking steps to move organisations along a linguistic continuum by increasing their use of the Welsh language internally over a specified period.
- 1.9. These standards are currently fairly limited in their impact, but with amendments and increased support from us as an office, I believe that they could play a key role in the increasing use of the Welsh language in workplaces, and in promoting and maintaining the Welsh language more widely. With our increased focus on the outcomes of our regulatory work, these areas of the standards are ones we have already identified as a priority, and we are keen to play an increasingly proactive role in supporting organisations with this vital work. With that in mind, I welcome the opportunity to contribute to the Welsh Ministers' review of the standards, and to discuss how the Commissioner can best contribute further towards achieving some of the Bill's objectives.

2. Are there any potential barriers to the implementation of the Bill's provisions and does the Bill take these into account?

- 2.1. The obvious obstacle to implementing the provisions of the Bill is ensuring an increasingly bilingual education workforce. If we want schools and pupils to move along a linguistic continuum, it is inevitable that the education workforce will have to move along the continuum in the first place. Schemes for pupils and schools can go no further than the capacity of the workforce to offer and develop their Welsh language provision. Substantial intervention is needed here, and this is one area where Welsh Ministers have the ability to intervene in a direct and significant way in order to achieve the objectives of the Bill and the Cymraeg 2050 strategy.
- 2.2. The Welsh Government already has a *Welsh in education workforce plan* which includes a number of actions and interventions to increase the capacity of the education workforce to teach through the medium of Welsh. However, the content and scope of this plan will clearly need to be

revisited with the introduction of the Bill. Interventions will need to be developed and delivered on a much larger scale. The establishment of the Institute is an essential part of the solution, but I believe that this needs to be combined with a comprehensive national education workforce strategy that reflects the ambition of the Bill, and that would give clear context and direction to the work of the Institute and other key partners.

- 2.3. The establishment of the Institute addresses the key issue of planning language support and training for the education workforce. What is needed alongside this is the integration of the proposed provision as an integral part of training for teaching in Wales, and as part of the professional development of the education workforce. In other words, it must be ensured that sufficient numbers within the education workforce undertake the training on offer, and that this takes place in a strategic way and on a scale consistent with the objectives of the Bill. The Welsh Government needs to lead on this in partnership with the Institute and a number of other organisations, for example, the Education Workforce Council, Medr, the Coleg Cymraeg Cenedlaethol and universities.
- 2.4. For example, the current *Welsh in education workforce plan* could be built upon by developing a five-year language training framework for teachers who will train and teach in Wales in the future. I am confident that the Institute will be able to lead on curriculum and provision planning, but it is the Government which has the capacity to make it a requirement for new teachers to undertake this training. In collaboration with the partners identified above, the Government should ensure that a Welsh language training programme is put in place as a core part of all Initial Teacher Education courses, and then continues as a required part of the induction and professional development phase of new teachers for the first four years of their career.
- 2.5. Another key issue that should be considered is creating much stronger links between the Welsh language training that will be offered by the Institute and the targets of the National Framework for Welsh Language Education and Learning Welsh, the commitments in Welsh in Education local strategic plans, and school delivery plans. Schools committed to moving along the language continuum should have access to a specific package of resources and support, with language training for the workforce as a core part of this. The resources and training need to be prioritised strategically and in alignment with planning at a national, local and school level.
- 2.6. I am certain that the Government will agree with the need to develop such a strategy following the passing of the Bill. However, I believe that this priority could be expressed more clearly by placing a duty in the Bill on Welsh Ministers to produce and publish a Welsh in Education Workforce Plan as part of the National Framework for Welsh Language Education and Learning Welsh. Section 23(3)(d) already refers to training, professional development and support for education practitioners, but this provision does not reflect the importance of education workforce planning to achieve the Bill's aims. An education workforce strategy ought to be central to the National Framework, and I believe an additional section is required in Part 4 of the Bill focusing on education workforce planning. This section would place a duty on Welsh Ministers to set out the steps they intend to take to ensure that the education workforce has sufficient Welsh language skills to achieve the objectives of the National Framework for Welsh Language Education and Learning Welsh.
- 2.7. Such a duty would provide a statutory basis to set targets, to develop and introduce necessary interventions in education workforce planning (see 2.4 above), and to set clear responsibilities for key partners regarding the implementation and ownership of elements of the plan. Such a duty

would also be consistent with other requirements in the Bill, for example, the planning and reporting cycles of the National Framework and the Welsh in education local strategic plans. This would be one obvious way to strengthen the Bill and to address one of the main challenges of its implementation.

3. The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation

- 3.1. Overall, I believe that the Bill strikes the right balance in this context. Although many of the important issues will be introduced in subordinate legislation, the Bill contains sufficient detail regarding the substance of the provisions that will be in subordinate legislation. One matter of concern, however, is a lack of detail on the nature of language categories.
- 3.2. I accept the benefits of defining and explaining the categories in more detail in subordinate legislation. However, more detail and certainty are needed on the face of the Bill regarding the fundamental nature of these categories. This is too important and fundamental an issue to be included in regulations alone; it is central to the meaning and implications of the rest of the Bill.
- 3.3. As I elaborate below, it is essential that the Bill protects and provides for the expansion of Welsh-medium education – and language categories are integral to securing this. I wish further clarity that the ‘Primarily Welsh Language’ category will reflect the nature of Welsh-medium provision as currently understood. One way of providing such clarity would be to include an additional clause in Section 10 of the Bill that specifies a minimum for the range that can be provided for the ‘Primarily Welsh Language’ category. For example, it could be stated that in specifying the range for the ‘Primarily Welsh Language’ category, Welsh Ministers may not specify a minimum for the range that is less than 80% of Welsh language education.
- 3.4. I welcome the fact that Section 17(2)(a) prohibits changing a school’s language category from a ‘Dual Language’ category to a ‘Primarily English Language, partly Welsh’ category, and that Section 17(2)(b) prohibits changing a school’s language category from a ‘Primarily Welsh Language’ category to a ‘Dual Language’ category or a ‘Primarily English Language, Partly Welsh’ category. As the Explanatory Memorandum states, the principle that schools ought not to offer less Welsh language education than they have previously offered is very important. Even though Section 17 of the Bill ensures that schools will not be able to move down a language category, I am not convinced that there is a robust mechanism for ensuring schools do not slip backwards within the range of a language category. That is, it is possible that the range of the categories will be very broad, and that schools could offer less Welsh language provision without changing the language category of the school. I believe it would be possible to strengthen Section 14(1)(e) of the Bill in order to make it clear that the expectation is that schools’ Welsh language education delivery plans set out proposals to maintain or increase their Welsh language provision. The Explanatory Memorandum (paragraph 3.145) is clear on this policy objective. This would provide further certainty regarding the future of Welsh-medium education as currently understood.

4. Are there unintended consequences arising from the Bill?

- 4.1. I welcome the fact that this Bill has the objective of raising standards within English-medium schools, and also of encouraging more schools to move along the linguistic continuum. However, care must be taken to ensure that the aspiration to raise standards in the English-medium and bilingual sector does not inadvertently involve slippage from the other end of the continuum. I

want the Bill to be as robust as possible in protecting and ensuring the future of immersion education and Welsh-medium education.

- 4.2. The evidence clearly shows that immersion education and Welsh-medium education are most likely to create proficient Welsh speakers. Expanding Welsh-medium education and increasing the numbers of pupils reaching the higher levels of the linguistic continuum are essential in the context of the vision of Cymraeg 2050. This is particularly true in the context of increasing the use of Welsh, which is not only central to the aims of this Bill but also to my work as Commissioner.
- 4.3. The Welsh Government's Cymraeg 2050 strategy (p.21) states that '*Welsh-medium immersion education is our principal method for ensuring that children can develop their Welsh language skills, and for creating new speakers*'. The strategy is explicitly clear that there are two interconnected objectives in terms of the contribution of the education sector to achieving the aim of reaching a million Welsh speakers and doubling the daily use of the language by 2050. The first is increasing the number of pupils attending Welsh-medium schools. The second is improving and increasing the Welsh language provision in English-medium and bilingual schools so that an increasing number of pupils leave school able to speak Welsh. The trajectory to a million speakers is based on achieving two sets of targets concerning both interconnected strategies above. This is important because there is recognition here of the significance of immersion education and Welsh-medium education in the context of ensuring as many proficient Welsh speakers as possible, speakers who are more likely to use and transmit the language.
- 4.4. In several places the Bill makes it clear that the above policy intention remains. For example, Section 23(5)(b) distinguishes between targets to:
- (i) Increase the number of pupils of compulsory school age receiving education in 'Primarily Welsh Language' category schools in their areas
 - (ii) Increase the number of schools that are 'Dual Language' category or 'Primarily Welsh Language' category schools in their areas
 - (iii) Increase the provision of Welsh language education in 'Dual Language' category schools and 'Primarily English language, partly Welsh' language category schools in their areas

Section 23(3)(c) also refers to promoting education in 'Primarily Welsh Language' or 'Dual Language' category schools, and increasing the number of pupils attending those schools.

- 4.5. In other parts of the Bill however, the same clarity is lacking. Instead, the Bill refers to the more general concept of '*increasing the provision of Welsh language education*'. The Bill explains that the meaning of '*Welsh language education*' in the Bill is:
- (i) Teaching Welsh, and
 - (ii) Education and training through the medium of Welsh

'Increasing the provision of Welsh language education' could therefore mean increasing 'Primarily Welsh Language' education or increasing Welsh language provision in 'Dual Language' or 'Primarily English Language, partly Welsh' schools. The concept of '*increasing the provision of Welsh language education*' does not differentiate between the two. For example, Section 1 (Welsh language strategy targets) places a duty on Welsh Ministers to set targets to '*increase the provision of Welsh language education*'. Similarly, Section 28 (Local Welsh in education strategic

plans) requires local authorities to ‘*promote and facilitate Welsh language education*’, ‘*improve provision of Welsh language education*’, and ‘*improve the process of planning the provision of Welsh language education*’. These sections of the Bill would benefit from further clarity in terms of the Welsh Government’s policy objectives, that is, that a specific focus is needed on increasing ‘Primarily Welsh Language’ education.

4.6. I believe the Bill would be clearer and more robust if it were to distinguish consistently throughout between the two key interconnected aims of the Bill, namely 1) to increase the number of pupils of compulsory school age receiving education in ‘Primarily Welsh Language’ category schools, and 2) to increase the Welsh language provision in ‘Dual Language’ and ‘Primarily English language, partly Welsh’ category schools. I believe this should be looked at again to ensure clarity and consistency between the requirements of the Welsh language strategy (Section 1), the National Framework for Welsh Language Education and Learning Welsh (Section 23) and the Local Welsh in education strategic plans (Section 28). With the exception of Part 3 where reference is made to the concept of Welsh language education provision for the purpose of defining school language categories, I believe reference to the vague and imprecise concept of ‘*increasing the provision of Welsh language education*’ should be avoided. This will help avoid any ambiguity regarding the interpretation and implementation of the Bill.

5. What are the financial implications of the Bill (part 2)?

5.1. Although the Explanatory Memorandum discusses the budget of the National Institute for Learning Welsh, there is little clarity regarding the exact expectations that will be placed on the Institute in this context, or how much funding will be available to achieve this. The Explanatory Memorandum (p. 151) states that the assumption is that ‘*the resource for providing support and training to the education workforce in the National Institute for Learning Welsh will come from elsewhere in the system*’... but that ‘*it will not be possible to identify from where the resource will be moved from or provide accurate BAU or Option 2 costs until the Review of School Improvement - the roles and responsibilities of education partners in Wales has concluded*’. Neither does the Explanatory Memorandum cover the current programme costs of the National Centre for Learning Welsh, which include the crucial funding allocations to providers of Welsh language training courses for adults.

5.2. If the objectives of this Bill are to be realised, it will be necessary to secure adequate funding to design and deliver language training to the education workforce on a much larger scale than currently exists (see point 2.3 above). Shifting resources from other parts of the system may enable the Institute and other key partners to do more than is currently being done. But additional investment may be needed to offer language training to a substantially larger number within the education workforce in the future. As I have already made clear in my response to the second question above, I believe that further developments will be needed in terms of a national and comprehensive strategy for ensuring language training for the education workforce of the future. It therefore follows that I am also keen to ensure that sufficient resources and funding are available to achieve this.

5.3. As noted in the Explanatory Memorandum, most the Bill’s financial implications fall on existing recurring budgets and operational costs. One obvious implication of passing this Bill will be the need for these budgets to facilitate the achievement of the Bill’s objectives. One of the most important areas where this needs to be done is capital expenditure on the schools of the future. It

is essential that the capital plans agreed between the Government and local authorities as part of the *Sustainable Communities for Learning Programme* facilitate the achievement of the national and local targets that will have been set through the provisions of this Bill.