



Department for Digital, Culture, Media and Sport  
By email to:  
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07/03/2023

Dear Committee,

### Minority languages inquiry

Thank you for the opportunity to respond to this consultation. We respond as a body established by the Welsh Language (Wales) Measure 2011 with the statutory aim of promoting and facilitating the use of the Welsh language. The provisions of this Measure, and the very existence of the Commissioner's office, are central to the subject matter of this inquiry. Therefore, before attempting to answer your specific questions we outline the provisions of the Measure and the work of the Welsh Language Commissioner. **We would welcome the opportunity to give a more detailed presentation to the Committee about our work as there are initiatives and legislation in Wales that clearly have the potential to benefit other minority languages in the UK.**

### Welsh Language (Wales) Measure 2011

The Welsh Language (Wales) Measure 2011 declares unambiguously that Welsh has official status in Wales and creates a number of other important provisions for the language, including:

- the official status of the Welsh language in Wales
- Welsh Language Standards, which require organisations to behave in a certain manner, or carry out certain activities in relation to the Welsh language
- the independent role of Welsh Language Commissioner.

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## **The main statutory aim of the Welsh Language Commissioner is to promote and facilitate the use of Welsh**

The Commissioner may do *anything that he or she thinks to be appropriate* to promote and facilitate the use of Welsh. The Commissioner's long-term vision is a Wales where people can live their life in Welsh. To achieve this vision the Commissioner is working towards increasing the provision of Welsh language services and other opportunities for people to use the language.

The Commissioner has a three-year Strategic Plan that sets out the Commissioner's priorities in order to achieve this vision: [Strategic plan](#).

The Commissioner extends people's rights to use Welsh by imposing legal duties on organisations and enforcing them where necessary. Requests relating to interference with the freedom to use Welsh in Wales are also investigated.

The Commissioner seeks to influence policy where doing so is strategically important to the Welsh language. It also facilitates the wider use of Welsh by working with the third and private sectors and giving recognition to those offering Welsh language services through the [Cynnig Cymraeg](#) (Welsh Offer) scheme. The Commissioner is also responsible for administering the innovative [Iaith Gwaith](#) (Working Welsh) scheme, the orange speaking bubble which signals that a Welsh service is on offer, and runs regular campaigns to promote the opportunities to use Welsh, for example, [Welsh Language Rights Day](#). The Commissioner also has a unique responsibility to standardise Welsh place-names: [Place-names](#).

The Welsh Language Commissioner is currently the Chair of the International Association of Language Commissioners ([IALC](#)). The Association's primary mission is to support and promote linguistic rights, equality, and diversity across the world.

All this is undertaken in order to fulfil the principle established by the Measure that Welsh should not be treated less favourably than English.

### **1. What are the key factors determining whether an indigenous minority language thrives?**

The Government of Wales Act 2006 creates a statutory requirement for Welsh Ministers to adopt a Welsh language strategy. Wales has an ambitious and long-term national language strategy of seeing one million people enjoy speaking and using Welsh by 2050:



[Cymraeg 2050](#). The Government has identified 3 strategic themes to make this vision a reality:

1. Increasing the number of Welsh speakers
2. Increasing the use of Welsh
3. Creating favourable conditions – infrastructure and context

Pages 14–19 of the strategy lay out the conceptual basis of this threefold strategy with reference to the work of leading academics in the field of language planning.

The Commissioner has a statutory duty to produce a report every 5 years on the position of the Welsh language. The latest was published in 2021 and offers some commentary on the objectives of the Cymraeg 2050 strategy and what the Government, and others, have achieved so far: [The position of the Welsh language 2016–20](#). The Commissioner argues in this report that there is another cornerstone of language planning that is not given due regard in the Government's three-part strategy: **Status**. Ensuring the status of a language is essential to support and underpin all other efforts. As such, the first part of the 5-year report is devoted to discussing the journey of Welsh from being a forbidden and downgraded language to becoming an official language. **We recommend that members of the Committee read this chapter in its entirety as it provides a key to understanding the status of the Welsh language today as well as the psychology of its speakers.**

This is not unique to the Welsh language, of course. We therefore argue that there are four pillars to language planning and that strategic planning and investment is necessary in each of them in order for a language to flourish:

1. Confirming the status of a language
2. Increasing the number of speakers
3. Increasing usage
4. Creating favourable conditions – infrastructure and context

There is no opportunity to go into further detail here about each of these pillars or the investment and work programmes necessary to support them. **Scrutinising the 5-year report would give Committee members a taste of what has been achieved so far under the Cymraeg 2050 banner along with the Commissioner's views on the priorities of the next phase.**



## 2. What lessons can be learned from countries whose populations achieve widespread fluency in both a majority and indigenous minority language?

There are two main methods of creating speakers: people can acquire the language at home or later through the education system. If the language is not transmitted in the home, immersing children in the language as early as possible in the education and care system is the most likely way to create fluent speakers. The majority of today's young Welsh speakers are likely to have learnt Welsh in the education system: this is testament to the strategic importance of Welsh medium education in Wales and the considerable expertise developed over recent decades, including in the field of late immersion. Significant expertise has also been developed in the field of teaching Welsh to adults and Wales has invested in an innovative [National Centre for Learning Welsh](#) to co-ordinate these efforts and create digital resources and platforms to facilitate the introducing Welsh to everyone, including newcomers to Wales: [New 'Croeso i Bawb' resources \(All are welcome\) | Learn Welsh](#). **The other languages of the UK would be able to draw on the considerable expertise and resources in Wales in relation to immersion education and Welsh for adults and adopt and imitate relevant models.**

Looking outside the UK, there is much that could be learned from the Basque Country, where the Basque language flourishes alongside Spanish and French. The history of the Basque language over recent centuries has been one of decline and that was its fate for much of the twentieth century. But data from the VI Sociological Survey (2016) for the Basque Autonomous Community shows that 33.9% of the population over the age of 16 speak Basque, and that a further 19.1% are passive speakers. That's 212,000 (or 10%) more speakers than in 1991. The largest increase has been in the under 35 age group, although there has been an increase in all age groups under 65. 71.4% of 16–24 year olds now speak Basque; in 1991 the percentage was only 25%. This was achieved through a conscious commitment to immersion education and to the normalisation of the use of Basque in public life, thereby confirming its status.

The Welsh Government has a Memorandum of Understanding with the Basque Country to support this exchange of information and the University of Wales Trinity Saint David has [created a Chair of Basque Studies for Wales](#). The Ombudsman of the Basque Country ([Ararteko](#)) is also a valued member of the International Association of Language Commissioners and we would be more than happy to facilitate contact between you. **The Committee should consult with these networks to draw on the relevant expertise.**



### 3. What should be the criteria for judging whether a minority language should receive official status?

It is ultimately a political decision to determine whether a minority language – or a minoritised language – should receive official status. It can be a deliberate decision to restore or make amends for past policies, actions or laws. This short video, for example, effectively and visually summarises those factors that contributed to the decline of the Welsh language: [Ein Iaith: Shadows of Yesterday - Long Shadows.mp4](#).<sup>1</sup> The language legislation of the 20<sup>th</sup> century, which culminated in the Welsh Language (Wales) Measure 2011, are an attempt to reverse that position by declaring the official status of the language in Wales.

In addition to these rights established by the Measure, Welsh speakers have rights deriving from other statutes. For example, at UK level, some of the articles of the Charter of Fundamental Rights of the European Union (EUCFR) were incorporated into British law through the Human Rights Act 1998. Of course, the EU (Withdrawal) Act 2018 made provision to remove the EUCFR from UK law and the British Government took steps towards realising the Conservative Party's manifesto commitment to replace the Human Rights Act 1998 with the Bill of Rights published in summer 2022. **The Members of this Committee should monitor closely the development of this Bill and any potential weakening of language rights in Britain that may result from it. The Human Rights Act 1998 only provides limited protection and language is not recognised as a protected feature under the Equality Act 2010. This may be a golden opportunity to revisit the fundamental question of how the rights of minority language speakers in the UK are currently protected.**

The UK has also signed the European Charter for Regional or Minority Languages (the Charter). By signing this Charter the UK has already declared the importance of preserving historical or minority regional languages and recognised that 'the right to use a regional or minority language in public and private life is an inalienable right'.<sup>2</sup> The Charter is designed to protect these languages and the ability of speakers to use them in their personal and professional lives. It places the onus on Governments to *promote* these languages in many areas, including education, justice, public administration, and the media. Therefore, the Charter goes further than merely defending against discrimination, by insisting that Governments take proactive steps to promote minority languages. However, it is for

<sup>1</sup> Although slightly dated, Committee members may be interested in the other videos in this collection showing the turning of the tide and the consequences of that, that Welsh is a living language: [Repository - Hub \(gov.wales\)](#).

<sup>2</sup> [European Charter for Regional or Minority Languages \(coe.int\)](#).



individual Governments to determine what parts of the Charter they adopt. For example, Welsh is protected under Part II and certain articles of Part III of the Charter. The same articles apply to Irish, Scottish Gaelic,<sup>3</sup> and Manx (since 2020), but only Part II articles apply to Cornish, Scots, and Ulster Scots. **Consideration should be given to the attributing the provisions of Part III of the Charter to each of these languages.**

A committee of experts monitor the implementation of the Charter. They are able to make recommendations but not enforce them. This committee's reports contain more than a suggestion that the UK Government does not always give due regard to the work of this committee or its recommendations, e.g. 'The United Kingdom authorities submitted their fifth periodical report with a delay, on 23 January 2018, again failing to provide information on Northern Ireland [our emphasis]'.<sup>4</sup> We welcome the recent appointment of Professor Rob Dunbar to this committee: he has particular expertise in relation to the Scottish situation as well as an in-depth understanding of the position of the Welsh language. It would be advantageous to invite Professor Dunbar to give evidence to this Committee in his new role. **It must be ensured that the UK Government and the relevant devolved governments pay attention to and respond in a timely manner to the committee's reports and recommendations.**

The European Union has a long history of being committed to raising awareness of the value of linguistic diversity. Lesser-used languages are also promoted through campaigns such as the [European Day of Languages](#) and supported by multilingualism projects and research. For example, in 2017 the study 'Minority Languages and Education: Best Practices and Pitfalls' was commissioned, and Welsh was included as one of the case studies. **It must be ensured that Brexit does not prevent Welsh speakers, or speakers of the UK's other minority languages, from taking advantage of European interventions that promote cultural and linguistic diversity. It must also be ensured that the opportunities to share good practice from Wales with Europe's minority linguistic communities are not lost.**

Welsh had 'co-official' status in the European Union since 2008, the same status as Catalan and Basque. This status gave citizens some limited rights, such as the right to correspond in Welsh with the European Commission, and to receive a response in Welsh. It also meant that some Welsh was used in the European Parliament. Welsh does not yet have this kind of status in Westminster, although we have seen a few examples of limited use of Welsh by members of parliament in recent years. **As the Welsh language lost its status within the European Union as a result of Brexit, it is more important than ever**

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<sup>3</sup> Part II (article 7) and Part III (articles 8–14).

<sup>4</sup> [Fifth report of the Committee of Experts in respect of the United Kingdom \(coe.int\)](#).



**that Westminster considers the Welsh language in non-devolved matters and in legislation introduced as a result of leaving the European Union.**

The need to consider the Welsh language at UK level – and ensure its status – was highlighted very clearly in the context of the COVID-19 pandemic when the decision was taken to procure and organise a number of key responses centrally by Westminster's Department of Health and Social Care. The result of these centralisation efforts by a non-devolved department was that not all of the services were designed with Welsh as a central consideration. **Lessons must be learned from this to ensure that the Welsh language has adequate status at UK level to ensure the provision of necessary services to Welsh citizens, particularly in times of crisis.**

#### **4. What should be the role of the UK Government in supporting and developing indigenous minority languages?**

**There are two main things the UK Government can do to support and develop indigenous minority languages, namely:**

- 1) Legislate in their favour**
- 2) Ensure that they are given due consideration in reserved policy matters**

We elaborate on these points below:

##### **1) Legislating to confirm the status of a language and the rights of its speakers**

It was an Act passed by the UK Government – the Welsh Language Act 1993 – that established the principle that Welsh and English should be treated on the basis of equality in the conduct of public business and in the administration of justice in Wales (so far as is both appropriate in the circumstances and reasonably practicable). However, it is over 30 years since Westminster legislated in favour of the Welsh language and the linguistic and political landscape has changed fundamentally since then, especially in the devolved Wales of today.

The Welsh Language (Wales) Measure 2011 and the resulting Standards have been a huge step forward from the Welsh Language Act 1993 and the associated language scheme regime. The Standards have provided a level of certainty for organisations and users alike, creating new opportunities to use Welsh and further cementing the status of the language.<sup>5</sup>

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<sup>5</sup> There results of opinion polls published in the Commissioner's [Assurance reports](#) consistently testify to the fact that the experiences of Welsh speakers are improving due to Welsh Language Standards.



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People now have legal rights to use Welsh in a wide range of situations in their daily lives in Wales and the Commissioner has broad enforcement powers to ensure those duties are implemented.

But, the current devolution settlement sets limitations on the Commissioner's powers as a number of major UK organisations are not subject to the Standards but rather, continue to operate Welsh Language Schemes, where the Commissioner's powers are limited.

The consequence of not imposing Standards on non-ministerial institutions of the UK Government and Crown bodies is that there are two statutory regimes in force in Wales today. This is confusing for the public as they are allowed to come to the Welsh Language Commissioner immediately to complain about organisations under Standards but they do not have the same right to complain directly about failings in the context of key Welfare State services, for example.

One recent case that highlights the shortcomings that arise with Welsh Language Schemes, in contrast to Welsh Language Standards, is the injustice that Welsh speakers face if they want to take their driving tests through the medium of Welsh. The Commissioner published a report based on an investigation into the operation of the Driver and Vehicle Standards Agency's Welsh Language Scheme (DVSA – which is a Crown agent), in which it concluded that the agency was acting contrary to its commitment to treat Welsh and English on the basis of equality. The full report may be read here: [Welsh speakers facing injustice if they want to sit their driving test through the medium of Welsh \(welshlanguagecommissioner.wales\)](https://welshlanguagecommissioner.wales)

**The only way to resolve these injustices, in the Commissioner's view, is to bring the DVSA and similar organisations under the Welsh Language Standards regime.** That would also enable the Commissioner to *enforce* improvement rather than just recommend. It is already possible to achieve this within the existing legal framework, but it is dependent on political will or the consent of the Secretary of State.

## **2) Ensure that they are given due regard in reserved policy matters**

The matters reserved by schedule 7A of the Government of Wales Act 2006 include a number that directly or indirectly affect the position of the Welsh language. These policy areas include, but are not limited to, justice, economy and trade, immigration, and broadcasting. It's impossible to discuss these topics further here but a more detailed analysis may be found in the Commissioner's recent response to the Independent Commission on the Constitutional Future of Wales.<sup>6</sup>

It is easy to see how decisions about some of these fields, broadcasting, for example, are vital to ensuring the visibility of the Welsh language and opportunities for people to hear and use it every day. There are other areas where the link to Wales and Welsh is less

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<sup>6</sup> [Welsh Language Commissioner's response to the Independent Commission on the Constitutional Future of Wales consultation.](#)





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obvious at first glance, but it is not impertinent. For example, in early 2020 the Home Office outlined its intentions for a points-based system of immigration to the UK. The policy did not reflect the fact that Welsh is an official language in Wales and is necessary for a number of jobs. **It is essential that the Welsh language is considered in all policies and legislation at UK level and that there is flexibility to vary regulations and statutory instruments to create provision to promote and facilitate the use of Welsh in Wales.**

In theory, the expectation is that consideration would be given to the impact of policy decisions on the Welsh language as a result of the requirements of the Welsh Language Schemes of many of the departments that make them. However, in practice this does not always happen. The fact that the departments making the policy decisions are not subject to Standards significantly limits the Commissioner's ability to regulate them and to ensure that they have due regard for the Welsh language.

The provisions of the Welsh Language Act 1993 are outdated and do not reflect the position of the Welsh language or the expectations of users in Wales today. **I recommend that the Committee needs to urgently consider this situation to try to ensure that the UK Government's provisions in relation to Welsh do not remain static.**

Yours sincerely,

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Welsh Language Commissioner