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Consultation on decriminalising TV licence evasion

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Dear DCMS

# Consultation on decriminalising TV licence evasion

1. Thank you for the opportunity to respond to the above consultation. Before doing so I should explain that the main aim of the Welsh Language Commissioner is to promote and facilitate the use of the Welsh language. The two principles that underpin our work are that in Wales, the Welsh language should be treated no less favourably than the English language; and that persons in Wales should be able to live their lives through the medium of the Welsh language if they choose to do so.

2. The consultation document states that the UK Government’s objectives and determining factors when deciding whether to decriminalise TV licence evasion or not will include:

* whether an alternative, non-criminal enforcement scheme is fairer and more proportionate;
* the cost and difficulty to implement any alternative scheme;
* the potential impact on licence fee payers, particularly the most vulnerable and those with protected characteristics; and
* the overall impact on licence fee collection.

3. One of the Commissioner’s strategic aims is to influence the consideration given to the Welsh language in policy development. My comments below concentrate on the possible effect of decriminalising TV licence evasion on Welsh speakers. With this in mind I ask that you consider the following points:

* The UK Government committed in the Conservative Party 2019 general election manifesto to support the ambition of one million Welsh speakers by 2050 in accordance with the Welsh Government’s Cymraeg 2050 Strategy.
* The licence fee contributes significantly to Welsh language broadcasting services through S4C and directly through the BBC’s services. The Cymraeg 2050 Strategy acknowledges the importance of broadcast and digital media to the vibrancy of the Welsh language and achieving the goals of the Cymraeg 2050 Strategy.
* There is a risk that decriminalising TV licence evasion will decrease the revenue that would come from the licence fee and affect the funding available to the BBC and S4C to provide programmes and services in Welsh.
* Considering the situation of the Welsh language as a minority language it is very possible that decreasing the funding available as a result of decriminalising TV licence evasion could mean that there is less revenue available for broadcasting in Welsh and in so doing could have a disproportionate affect on broadcast services to Welsh speakers and also undermine the aims of the Cymraeg 2050 Strategy. I ask that you give significant weight to this matter as you consider the possible effects on licence fee payers.
* I ask that you ensure that you have developed this consultation in accordance with DCMS’ Welsh Language Scheme and that you will give full consideration to the Scheme’s requirements when you decide whether to decriminalise TV licence evasion or not.
* I ask that you ensure that you have developed this consultation in accordance with DCMS’ Welsh Language Scheme and that you will give full consideration to the Scheme’s requirements when you decide whether to decriminalise TV licence evasion or not.
* I ask that you consider whether moving to civil monetary penalties would ensure that Welsh language services are available to the public to the same degree as they are currently under the criminal procedure.
* Again I ask that you ensure that the civil debt procedure does not undermine the level of services currently provided to the public in Welsh, especially if the services of enforcement agencies were used.

**Broadcasting in Welsh**

4. The licence fee contributes significantly to Welsh language broadcasting and digital content. The Welsh Government’s Cymraeg 2050 Strategy[[1]](#footnote-1) underlines the importance of broadcast media to the Welsh Language stating: ‘The broadcast media has played a key role in our efforts as a nation to revitalise the language over a number of decades.......It is imperative that this should continue and that this provision should increase, and we will do all we can to support and enhance Welsh-language provision, whatever the nature of such provision will be in future’[[2]](#footnote-2) and also ‘The role of public service broadcasters in Wales is particularly important, considering the weakness of the print media sector. Coverage of Welsh life and society – including the Welsh language culture – is sparse in UK newspapers and UK broadcasting services, the main media outputs in Wales. The image of Wales in the UK media needs to better reflect the rich and varied culture of our country, and this includes awareness of the Welsh language[[3]](#footnote-3). The UK Government committed in the Conservative Party manifesto for the 2019 general election to support the ambition of one million Welsh speakers in Wales by 2050[[4]](#footnote-4). The contribution of the licence fee to the Welsh language and the culture of Wales can be found in the BBC’s response to the National Assembly for Wales’ Culture, Welsh Language and Communications Committee consultation on the devolution of broadcasting in January 2020[[5]](#footnote-5).

5. S4C receives licence fee funding directly from the BBC Trust in accordance with the BBC’s Royal Charter from 2017. This was worth £74.5 million for the S4C in 2018-19 and the sum is fixed in until the end of the current licence fee period in 2021/22. This has allowed a degree of stability for S4C and the ability to plan for the longer term in accordance with Euryn Ogwen Williams’ findings in the review of S4C on behalf of DCMS in 2017[[6]](#footnote-6). An opinion paper[[7]](#footnote-7) published by my predecessor as Welsh Language Commissioner at the time of the review states clearly the importance of the Welsh language for the vibrancy of the Welsh language as a minority language and emphasises that the wide range of quality Welsh medium content provided by S4C is essential in order to create new Welsh speakers and support the use of Welsh. S4C’s annual report for 2018-19[[8]](#footnote-8) states that it has followed Euryn Ogwen Williams’ findings[[9]](#footnote-9) in the review and has established a number of partnerships with the Welsh Government, the Mudiad Meithrin[[10]](#footnote-10) and the National Centre for Learning Welsh in order to help deliver the Welsh Government’s commitment of reaching 1 million Welsh language speakers by 2050.

6. S4C also gives the Welsh language an important economic foothold by placing value on Welsh language skills in the workplace and offering work opportunities through the medium of Welsh; helping independent companies grow; and supporting supply chains across Wales. S4C’s annual report from 2018/19 states that S4C worked with more than 50 production companies and partners across Wales and the UK. The annual report states that each £1 invested by S4C is worth £2.09 to the Welsh economy and that each £1 invested by S4C in the economy more than doubles its worth. Furthermore the annual report explains that 44% of S4C’s expenditure happens in the north and west of Wales which are areas that are economically disadvantaged and are also areas where there is a high density of Welsh speakers. S4C also recently moved its headquarters to Carmarthen in the west of Wales. The Welsh Government’s Cymraeg 2050 Strategy 2050 underlines the importance of maintaining and developing those communities that have a high density of Welsh speakers.

7. The BBC’s response to the Culture, Welsh Language and Communications Committee demonstrates that the contribution of the licence fee is not limited to the funding provided to S4C directly. It explains that the 1990 Broadcasting Act requires that the BBC provides no less than 520 hours of content per annum to S4C. It explains that indeed the BBC provided 557 hours of original content in 2018/19 and that these programmes were worth £22 million. These included news and current affairs programmes, drama, sport, the National Eisteddfod as well as some other factual programmes. It is important to discuss current affairs and news in Welsh as a means of giving confidence to Welsh speakers in their language as a modern and vibrant language. The response also states that the BBC gives added value to S4C by for example providing live international sports programming to S4C without passing on any of the rights costs incurred by the BBC; access to iPlayer and the BBC’s archive and news collection Services. The BBC’s contribution to S4C’s services is significant therefore and as a result important to the vitality of the Welsh language.

8. However the licence fee’s contribution goes further that S4C. Through BBC Radio Cymru and BBC Radio Cymru 2 the BBC is the main provider of Welsh language radio content, and the only broadcaster that broadcast in Welsh only. According to RAJAR data 17.5% of Welsh speakers (4.4% of the population of Wales over 15 years old) listen to Radio Cymru every week, which is a significantly higher percentage of Welsh speakers than the reach of a number of the BBC’s other UK wide radio services. This underlines the importance of BBC Radio Cymru to Welsh speakers. BBC Cymru Fyw is the BBC’s Welsh language online provision and it provides a variety of content through the medium of Welsh. The Welsh Government’s *Welsh language technology and digital media action plan*[[11]](#footnote-11) underlines the importance of creating Welsh language digital content and the contribution of BBC Cymru Fyw and the BBC’s Welsh language digital content, as well as S4C’s content is an important part of this. Consider for example that in 2018, the average weekly browsers for BBC Wales Online (Welsh language) content was 198,036; for the purpose of comparison, there are 562,000 Welsh speakers in Wales according to the 2011 census. Content is also being created specifically for Welsh speakers under 35 on BBC Sounds also. This age group is very important for the Welsh language as many people lose their Welsh language skills when leaving statutory education because of a lack of opportunities to do so in the workplace and in further and higher education. It is therefore vital to provide them with engaging content on digital new media.

9. Increasing the percentage of people that leave statutory education able to speak Welsh is one of the foundations of the Cymraeg 2050 Strategy. The BBC contributes to this through Welsh language content on BBC Bitesize. In the same way, the Welsh for Adults sector is an important sector in reaching a million Welsh speakers, and like S4C the BBC works with the National Centre for Learning Welsh to do so and produces a weekly news programme specifically for those learning Welsh.

10. The consultation document refers to the Perry Review’s findings which ‘found that the threat of a criminal offence itself was a strong deterrent to TV licence evasion. As such, depending on the exact circumstances, the Review concluded that TV licence evasion rates could increase by up to 3.9% under a civil enforcement scheme’. The consultation goes on to explain that ‘the Perry Review estimated a likely increase in evasion could mean a loss of up to £156 million in licence fee revenue per year. This would have an impact on the amount of money available to the BBC and S4C to provide the programmes and services’[[12]](#footnote-12). We have explained how important the contribution of the licence fee is to the viability of the Welsh language. The broadcast activities that it funds provides a mirror on the varied culture and experiences of the people of Wales through the medium of Welsh in accordance with the purpose of public service broadcasting as found in the Communications Act 2003[[13]](#footnote-13) and makes a significant contribution to realising the vision of the Welsh Government’s Cymraeg 2050 Strategy.

* Considering the situation of the Welsh language as a minority language it is very possible that decreasing the funding available as a result of decriminalising TV licence evasion could mean that there is less revenue available for broadcasting in Welsh and in so doing could have a disproportionate affect on broadcast services available to Welsh speakers and also undermine the aims of the Cymraeg 2050 Strategy. I ask that you give significant weight to this matter as you consider the possible effects on licence fee payers.

**DCMS Welsh Language scheme**

11. The DCMS has a Welsh Language Scheme which was published in accordance with the Welsh Language Act 1993[[14]](#footnote-14)[[15]](#footnote-15). The Scheme states that DCMS will do the following in formulating and delivering policies and initiatives that impact on Wales:

* ensure that the linguistic consequences have been assessed;
* ensure that the contents of such policies and initiatives are consistent with this Scheme, and do not undermine it or the schemes of other organisations;
* ensure that the measures contained in this Scheme are also applied to new policies and initiatives when they are implemented, as well as to existing policies;

.......

* promote and facilitate the use of Welsh wherever practicable;
* whenever possible, our consultation documents will discuss in consultation documents the relationship between the Welsh language and the policies, initiatives and services under development;

......

* contribute to the development or delivery of policies and initiatives, services or legislation led by other organisations in a way that is consistent with this scheme;
* take advantage of every opportunity to ensure that new primary and secondary legislation supports the use of Welsh.
* I ask that you ensure that you have developed this consultation in accordance with DCMS’ Welsh Language Scheme and that you will give full consideration to the Scheme’s requirements when you decide whether to decriminalise TV licence evasion or not.

**Welsh Language Standards**

12. In accordance with the Welsh Language (Wales) Measure 2011 the BBC is required to comply with Welsh language standards in four fields which include providing services to the public; policy making; operational standards (relating to the internal operations of the organisation) and record keeping. More information about these standards can be found in the BBC’s compliance notice on the Welsh Language Commissioner’s website[[16]](#footnote-16). Whilst the Welsh Language (Wales) Measure 2011 allows for an exception to be made for the BBC’s broadcast activities, the compliance notice specifically states that standards are relevant to ‘TV Licensing – which means the administration and enforcement of the television licence fee by the BBC and its agents’. It is not clear from the consultation what the effect of moving to decriminalising TV licence evasion would be on TV Licensing and its agents and through that on Welsh language services.

* I ask that you ensure that any change to the current means of collecting the licence fee does not undermine the present level of Welsh language services provided to the public by TV Licensing in accordance with the BBC’s compliance notice.

**Civil monetary penalty**

13. The consultation document explains that the two non-criminal enforcement schemes most commonly identified as replacements for the TV licensing offence are a civil monetary penalty or treatment as a civil debt. It explains that examples of other civil monetary penalties ‘include penalty charge notices (PCNs) issued in relation to traffic infractions, including parking fines and unpaid congestion charges.’ As Commissioner I have received many complaints from members of the public concerning Welsh language services in relation to collecting civil monetary penalties procedures, including on behalf of a number of public bodies. The ability of a number of private companies that administer civil monetary penalties to provide services in Welsh is therefore a matter of concern. It should be emphasised however that the expectation is that public bodies should ensure that these agents that work on their behalf should work in accordance with their language duties (be they Welsh Language Standards or Welsh Language Schemes) and that it is the responsibility of public bodies to ensure this.

* However, bearing these concerns about private companies in mind, I ask that you consider whether moving to civil monetary penalties would ensure that Welsh language services are available to the public to the same degree as they are currently under the criminal procedure.

**Civil debt**

14. The consultation document explains that the licence fee could be recoverable through a money claim in the civil courts. Debtors could be taken to County or Magistrate’s Courts. It is explained that ‘under this option, if the debt remained unpaid, the licensing authority could take steps to enforce the charge through the civil courts. The enforcement methods available would depend on the value of the debt and the court used, but they could include taking control of goods by enforcement agents (bailiffs), the use of attachment of earnings orders and charging orders’.

* Again I ask that you ensure that the civil debt procedure does not undermine the level of services currently provided to the public in Welsh, especially if the services of enforcement agencies were used.

I hope that you will give full consideration to the possible effects of decriminalising TV licence evasion on Welsh Language services and fully consider my comments in so doing.

Yours sincerely,

**Aled Roberts**

Welsh Language Commissioner

Cc: Welsh Language Division, Welsh Government

1. <https://gov.wales/sites/default/files/publications/2018-12/cymraeg-2050-welsh-language-strategy.pdf> [↑](#footnote-ref-1)
2. Ibid. p. 65. [↑](#footnote-ref-2)
3. Ibid. p. 65. [↑](#footnote-ref-3)
4. <https://assets-global.website-files.com/5da42e2cae7ebd3f8bde353c/5dda924905da587992a064ba_Conservative%202019%20Manifesto.pdf> [↑](#footnote-ref-4)
5. <http://www.senedd.assembly.wales/documents/s97875/DoB23%20-%20BBC.pdf> [↑](#footnote-ref-5)
6. <https://www.gov.uk/government/publications/building-an-s4c-for-the-future-an-independent-review-by-euryn-ogwen-williams> [↑](#footnote-ref-6)
7. <http://www.comisiynyddygymraeg.cymru/English/Publications%20List/20171101%20DG%20S%20Papur%20safbwynt%20S4C%20FERSIWN%20TERFYNOL.pdf> [↑](#footnote-ref-7)
8. <https://dlo6cycw1kmbs.cloudfront.net/media/media_assets/s4c-adroddiad-blyn-2018-19.pdf> [↑](#footnote-ref-8)
9. Recommendation 3 is: S4C should establish a language partnership with the Welsh Government and others to help deliver the Welsh Government’s commitment to reach 1 million Welsh language speakers by 2050. [↑](#footnote-ref-9)
10. Mudiad Meithrin is a voluntary organisation and is the main provider of Welsh-medium early years care and education in the voluntary sector. Please see <https://www.meithrin.cymru/> [↑](#footnote-ref-10)
11. <https://llyw.cymru/sites/default/files/publications/2018-12/cynllun-gweithredu-ar-gyfer-technoleg-cymraeg-a-chyfryngau-digidol.pdf> [↑](#footnote-ref-11)
12. <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/863584/Consultation_on_decriminalising_TV_licence_evasion.pdf>, p. 14. [↑](#footnote-ref-12)
13. Section 264 (4) of the Communications Act 2003 states:

    The purposes of public service television broadcasting in the United Kingdom are—

    (a) the provision of relevant television services which secure that programmes dealing with a wide range of subject-matters are made available for viewing; [↑](#footnote-ref-13)
14. https://www.gov.uk/government/publications/dcms-welsh-language-scheme-2007-to-2011 [↑](#footnote-ref-14)
15. Although the scheme was approved in 2007 with the intention of being reviewed in 2011, the scheme remains operational. [↑](#footnote-ref-15)
16. <http://www.comisiynyddygymraeg.cymru/English/Publications%20List/20190417%20Hysbysiad%20Cydymffurfio44%20Y%20Gorfforaeth%20Ddarlledu%20Brydeinig%20(en).pdf> [↑](#footnote-ref-16)