



Comisiynydd y
Gymraeg
Welsh Language
Commissioner

Welsh Language Commissioner Governance Statement

Approved by the Management Team: July 2020
To be reviewed: July 2022

Background

The principal aim of the Welsh Language Commissioner, an independent body established under the Welsh Language Measure (Wales) 2011, is to promote and facilitate the use of Welsh. This entails raising awareness of the official status of the Welsh language in Wales and imposing standards on organisations. This, in turn, will lead to the establishment of rights for Welsh speakers.

Two principles will underpin the work:

- In Wales, the Welsh language should be treated no less favourably than the English language
- Persons in Wales should be able to live their lives through the medium of the Welsh language if they choose to do so

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1 The Welsh Language Commissioner's Governance Statement

1.1 This Statement sets out for our staff and stakeholders the basis on which the Welsh Language Commissioner has been established; the way in which it is governed and managed; and how it is accountable for what it does.

The Role of the Commissioner

1.2 The Welsh Language (Wales) Measure 2011 (the Measure) sets out the Commissioner's general duty:

“The principal aim of the Commissioner in exercising his or her functions is to promote and facilitate the use of the Welsh language.”

1.3 The Commissioner is therefore required to work towards achieving this aim of promoting and facilitating the use of the Welsh language.

1.4 According to the Measure, the actions which the Commissioner must undertake in exercising functions include working towards increasing:

- The use of the Welsh language in the provision of services, and
- Other opportunities for persons to use the Welsh language

1.5 Also according to the Measure, in exercising functions the Commissioner must have regard to:

- the official status which the Welsh language has in Wales
- the duties to use Welsh which are imposed by law, and the rights which arise from the enforceability of those duties
- the principle that, in Wales, the Welsh language should be treated no less favourably than the English language
- the principle that persons in Wales should be able to live their lives through the medium of the Welsh language if they choose to do so.

1.6 Therefore, increasing people's opportunities to use Welsh in general, and through the standards regime is a central part of the Commissioner's work. Attention must be given to the official status of the Welsh language and the duties which arise from the standards in her work. The two following principles are broad. They are not limited to the Commissioner's regulatory work only, and the Commissioner must have regard to opportunities to use the Welsh language through mandatory duties and means of persuasion alike.

1.7 The Commissioner operates in accordance with the values outlined in his Strategic Plan.

1.8 Part of the Commissioner's remit involves dealing with complaints by members of the

public. In this context, the Commissioner's aim is to provide an objective, high quality service to deal with complaints and the rights which arise from being able to enforce those duties.

2 Accountability of the Commissioner

- 2.1 The Commissioner is appointed by The First Minister. The post is independent of government. The appointment of the Commissioner is for a set, single period of 7 years. The Commissioner may only be removed before that time following a decision by the First Minister, as set out in the Measure.
- 2.2 The Commissioner reports on all its activities through a statutory Annual Report outlined in section 18 of the Measure. Annual Accounts are also produced under arrangements agreed with the Treasury, which are subject to audit by the Wales Audit Office. Both the Annual Report and the Accounts are published together in the same document.
- 2.3 The Commissioner's functions are relevant to the Welsh Parliament and the Culture Committee scrutinises our work and invites us to give expert evidence as necessary. We are funded by Welsh Ministers and our strategic relationship is defined in a memorandum of understanding with the Welsh Government.
- 2.4 The Commissioner is solely responsible and accountable for the conduct and administration of all work carried out by all officers and for the decisions made in each case. Decisions of the Commissioner may be judicially reviewed by application to the Courts; a specific Complaints Procedure drafted under section 14 of the Measure is also available. The relationship between the Commissioner and the Welsh Government (and with other relevant organizations) is set out in memoranda of understanding.
- 2.5 According to the Welsh Language (Wales) Measure 2011 (12)(6), the Commissioner must obtain the approval of the Welsh Ministers for—
 - (a) the number of staff that may be appointed,
 - (b) the terms and conditions of the service of the staff, and
 - (c) payments made under any of subsections (3) to (5).

Subsections (3) to (5) read as follows:

- (3) The Commissioner may pay remuneration to the members of the Commissioner's staff.
- (4) The Commissioner may pay allowances (including, but not limited to, travelling and subsistence allowances) and gratuities to the members of the Commissioner's staff.
- (5) The Commissioner may pay—

(a) pensions to, or in respect of, persons who have been members of the Commissioner's staff, and

(b) amounts for or towards provision of pensions to, or in respect of, persons who have been members of the Commissioner's staff.

3 Regulator

- 3.1 The Commissioner's Enforcement Policy is a statutory document produced in accordance with section 108 of the Measure. The document sets out advice and information on the Commissioner's intended approach to the exercise of the Commissioner's functions under Part 5 of the Measure. The Enforcement Policy was approved by Welsh Ministers on 26 March 2015 in accordance with section 108(4) of the Measure.
- 3.2 The Commissioner's Regulatory Framework, which became operational on 1 April 2016, explains how the Welsh Language Commissioner implements her work programme for regulating Welsh language standards more generally.

Accountability in relation to regulatory duties

- 3.3 The Welsh Language Tribunal was established in April 2015 under section 120 of the Measure.
- 3.4 In accordance with section 58 of the Measure, relevant persons have the right to appeal to the Welsh Language Tribunal ("the Tribunal") and ask the Tribunal to determine whether or not the requirement to comply with a standard, or comply with the standard in a particular respect, is unreasonable or disproportionate.
- 3.5 In accordance with section 95 of the Measure, an organisation may appeal against the Commissioner's determination that it has failed to comply with a standard and against enforcement actions which are unreasonable or disproportionate in its opinion.
- 3.6 If the Commissioner concludes that an organisation did not fail to comply with a standard, then in accordance with section 99 of the Measure a complainant may appeal against the Commissioner's determination.
- 3.7 In accordance with section 103 of the Measure, if the Commissioner decides not to investigate a complaint the complainant has the right to ask for a review of that decision. It is also possible to ask for a review if the Commissioner decides to investigate a complaint but, for specific reasons, discontinues the investigation

4 The Commissioner's Salary

- 4.1 Any annual increase in the Commissioner's remuneration will take into account the recommendations made to the First Minister by the Senior salary review board

(SSRB) a body which advises the Prime Minister and the devolved administrations on public sector pay levels.

5 The Advisory Panel

- 5.1 Section 23 of the Measure stipulates that the Welsh Ministers must appoint an Advisory Panel. National Assembly for Wales Statutory Instrument (2012 No. 59 (W.13)) The Advisory Panel to the Welsh Language Commissioner (Appointment) Regulations 2012 makes further provision regarding the Advisory Panel.
- 5.2 The Welsh Language Commissioner is not accountable to the Panel. The Commissioner may consult the panel on any matter. The Panel's Terms of Reference have been agreed.

6 Audit and Risk Committee

- 6.1 The Welsh Language Commissioner has an Audit and Risk Committee, appointed by external advertisement which is responsible for providing advice and assurance to the Accounting Officer and the Management Team on the adequacy and effectiveness of internal control and risk management. It also oversees internal and external audit arrangements which cover all areas of the Commissioner's work, including both financial and non-financial systems. The Commissioner and the Management Team have the responsibility for risk management. A Senior Officer operates as the Risk Manager; it is the responsibility of the Risk Manager to coordinate the work of revising, assessing and updating the Risk Register.

7 The Commissioner's Officers

- 7.1 The Commissioner is supported by officers to whom authority may be delegated. They are employed by and work for the Commissioner, a corporation sole, funded by The Welsh Ministers. The Commissioner is its Accounting Officer under arrangements agreed with the Treasury. As Accounting Officer, the Commissioner has responsibility for ensuring the regularity and propriety of the all activities and resources used, and for effective financial and internal control systems.

Deputy Commissioner

- 7.2 In accordance with Sections 12 and 13 of the Welsh Language (Wales) Measure 2011, the Welsh Language Commissioner must appoint a person to be the Deputy Commissioner. The Deputy Commissioner will deputise for the Commissioner during holidays and sickness absences and at any other time at the special request of the Welsh Language Commissioner.

8 Executive Management of the Commissioner

Management Team

- 8.1 A Management Team, chaired by the Commissioner, and comprising of Directors sets the Commissioner's strategic direction on all his functions and activities. The Management Team is responsible for leading, agreeing and delivering the Commissioner's strategic vision. The Management Team's Terms of Reference have been agreed.
- 8.2 The Management Team meets regularly and is responsible for leadership across the organisation. It is the ultimate forum (supported appropriately by other groups) for making strategic decisions about resource, communications and other administrative matters in order to implement the strategic and all other business planning processes, and for monitoring performance. The role of the Management Team in decision making carries recognition that on occasion there will be some issues for which the decision-maker is the Commissioner alone. Decisions on investigations and enforcement are made outside of the Management Team, see 8.8.
- 8.3 Management Team members also meet formally with other officers, corporately and in their directorates, to steer and lead on strategically important areas of work.
- 8.4 The Management Team members have a specific responsibility to act if they believe the Commissioner is acting illegally or in gross violation of duties. This responsibility is intended to provide an explicit and transparent assurance to the Welsh Ministers and the public that the high standards of the Office will be protected.
- 8.5 The Commissioner has two Strategic Directors who are responsible for different teams and functions. The two Directors and the Commissioner are members of the Management Team.
- 8.6 The Commissioner operates a performance management system for all officers. This system includes an individual annual development scheme.
- 8.7 The Commissioner has agreed, and operates in accordance with a Handbook of Financial Management and Procedures.

The Welsh Language Commissioner's Investigations and Enforcement Panel

- 8.8 There are statutory processes to be followed in the Commissioner's exercise of the enforcement functions. The Investigation and Enforcement Panel is the decision making forum in this regard. The Commissioner herself makes decisions in respect of the full range of enforcement work. The Deputy Commissioner will make decisions in the absence of the Commissioner.

Reporting Structures

- 8.9 The formal governance structure of The Commissioner is supported by reporting structures set up to manage and provide assurance on specific areas of importance to the Commissioner. These include:
- Regular reports and drafts of documents to the Management team on the Commissioner's responsibilities.

Consultation

- 8.10 The Commissioner will consult with the Union Committee (Trade Unions) on internal policies and procedures which will impact on officers.

Review of Governance Statement

- 8.11 This Governance Statement will be reviewed every two years.

Date: July 2020