

IG11(o) - Mudig dau Dahlu'r Gymraeg

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LC5 (proposed Welsh Language LCO)

**Legislation Committee No. 5, the National Assembly for Wales
Consultation on the Legislative Competence Order: The Welsh Language
March 2009**

We present Celebrating Our Language's evidence to Legislation Committee No. 5, the National Assembly for Wales, and we welcome the opportunity to expand on the points in this paper in our meeting on 17 March.

1. Should the National Assembly for Wales be able to make laws on the promotion and use of the Welsh language?

Celebrating Our Language agrees with the principle that the National Assembly for Wales is the appropriate place to legislate on any matters that relate to the Welsh language. To this end, Celebrating Our Language believes that no aspects of legislation on the Welsh language should remain in the Westminster Parliament if it can be transferred. However, we believe that it is important to go beyond the argument regarding the need to legislate on the Welsh language in the Assembly, in order to focus efforts on ensuring that the scope of the Legislative Competence Order is as wide as possible to ensure that this prolonged process will not have to be followed in order to produce a set of measures on the Welsh language in the future.

2. Should the National Assembly for Wales be able to make laws about which services the public should be able to receive bilingually?

Celebrating Our Language believes that it is the National Assembly for Wales that has the right to legislate on the Welsh language. It is therefore logical that it is the Assembly that should outline, following wide consultation, which services the public should receive bilingually. As is outlined in the explanatory memorandum by the Welsh Assembly Government, the Government wants to invest in "a programme of action to deliver efficient, effective, citizen centred public services." (p.4). If that is the case, every public service, no matter which sector the provider is in, should be included in the Order.

3. Should the National Assembly for Wales be able to make laws on the freedom of persons to use the Welsh language with each other?

Yes. In accordance with points 1 and 2, the responsibility of ensuring transparent rights for the citizens of Wales to converse in Welsh lies with the Assembly. We do not believe that there should be any restrictions on this fundamental principle.

4. What are your views on the general principle that legislative competence in the area identified in Matters 20.1 and 20.2 be conferred on the Assembly? i.e.: Matter 20.1: Promoting or facilitating the use of the Welsh language; and the treatment of the Welsh and English languages on the basis of equality; Matter 20.2: Provision about or in connection with the freedom of persons wishing to use the Welsh language to do so with one another (including any limitations on it).

Celebrating Our Language supports the principle that legislative competence should be conferred on the Assembly in the fields set out in Matter 20.1 and Matter 20.2. However, there is room to argue in favour of expanding the level of competence (see the answer to question 6), and to lessen the limitations within the Order.

5. The Explanatory Memorandum states that Matter 20.1 would echo and build on the principles that underpin the Welsh Language Act 1993 and would allow the Assembly to legislate on the range of functions carried out at present by the Welsh Language Board, and to build on these functions. Do you agree that it will allow the Assembly to do this? If not, how should it be amended?

We agree that the content of Matter 20.1 builds on the functions of the Welsh Language Board and the principles of the 1993 Act. This development is to be commended, naturally, but there is room to expand the principles of the legislation. We commend the desire to “revisit and update the legislative framework established by the 1993 Act to address specific shortcomings that have become apparent” (p. 4) in order to further develop the foundation of principles found in the 1993 Act.

6. What are your views on the scope of the proposed Order with respect to the categories of persons on whom it would allow the Assembly to impose duties to provide particular services bilingually to the public e.g. is it too narrowly or broadly drawn (Matter 20.1 (a) – (i))? Please indicate clearly to which sub-section(s) your comments relate i.e. (a) – (i) and any particular sub-sub-sections under (h).

Celebrating Our Language believes that the focus of the legislation needs to stay on users, namely the citizens of Wales. In doing so, it is possible to follow the logic that it is not only regulated bodies that should come under the scope of the LCO but also the main services from every sector that the public come in contact with from day to day. To that extent, supermarkets, banks and international private companies should be considered as being as important to users in Wales as the utility companies. We believe that the scope of any legislation in the future should also cover these sorts of companies.

7. Is the definition used for “public authorities” for this Matter appropriate (“each public authority within the meaning of section 6 of the Human Rights Act 1998”)? If not, what definition should be used and why?

It appears that the definition is appropriate, although the Assembly must ensure more clarity for citizens in terms of the definition when it comes to forming a measure.

8. Matter 20.1 would allow duties to be imposed on “telecommunications services” and “postal services and post offices” (Matter 20.1 sub-section (h)(iii) and (h)(iv)). Are the definitions used for “postal services” and “telecommunications services” under the “Interpretation of this field” section in the proposed Order necessary and appropriate? If not, how should they be re-drafted and why?

To ensure clarity, it is necessary that the definitions for telecommunications services and postal services (especially given the steps to privatise part of this service) remain as they are in order to ensure continuity when it comes to forming the measure.

9. In relation to Matter 20.1 sub-section (e) – “persons providing services to the public who receive public money amounting to £200,000 or more in a financial year”, and includes

“moneys made available directly or indirectly”: (i) Is it necessary to set out the definition of “public money” in the proposed Order? If so, is it appropriate (as set out under “Interpretation of this field”)? (ii) Duties would only be imposed on the recipients of more than £200,000. Is £200,000 the right threshold for the Assembly to have legislative powers?

Celebrating Our Language approves of this clause. (i) It appears that the definition of public money is appropriate and is necessary in terms of clarity. (ii) The sum of £200,000 is ambiguous, and there needs to be more detail on this clause. There is potential for this clause to obstruct the citizen. Will the citizens of Wales be required to keep an eye on which companies receive this sum before expecting to receive complete services? Will companies provide bilingual services for longer than a year after receiving the sum?

10. Is the scope of Matter 20.2 appropriate (“provision about or in connection with the freedom of persons wishing to use the Welsh language to do so with one another (including any limitations on it”)? Will it allow the Assembly to legislate in future to implement the policy proposal as outlined in the Explanatory Memorandum?

Celebrating Our Language welcomes the intention to ensure that there is no infringement of the freedom of citizens to use the Welsh language. This freedom should be redefined as a *right*, which would put an end to any intervention regarding a citizen’s wish to use the Welsh language in Wales.

11. What are your views on Articles 4 and 5 of the proposed LCO which deal with the application of the proposed LCO to Crown bodies?

There is no reasonable argument for excluding Crown bodies from implementing the duties placed on other public bodies. We believe that there should be an office with the power to regulate bodies that come under the legislation, including Crown bodies. This regulator should have the legal right to give redress if there is an infringement of rights.

12. Are there any other issues which would have implications for the effectiveness of any future Measures, because the proposed LCO is insufficiently broad? If so, can you suggest how the proposed LCO would have to be broadened to address these issues?

Celebrating Our Language believes that the One Wales Government’s positive statement on the need to establish Welsh language rights and official status for the Welsh language, and to appoint a commissioner, is to be applauded. However, this must be more than just rhetoric. It must be ensured that giving official status to the language is a core principle that will filter through any other legislation on the Welsh language that is introduced. In addition, it must be ensured that this has a far-reaching effect on considerations in other areas also, to ensure that measures in other areas reaffirm the One Wales Government’s commitment to protecting the linguistic rights of the people of Wales. For example, in the context of Welsh-medium education, the right to implement the legislation must be placed in the hands of the citizens of Wales and not in the hands of their representatives, who can choose not to do so. At the same time, the appointment of a commissioner for the Welsh language should ensure that there are far-reaching developments in terms of regulatory mechanisms in the area of legislation on the Welsh language. When discussing the concept of the rights of the individual in Wales, it must be ensured that those rights extend to every sector, including large parts of the private sector. If they are not extended to these sectors, it could be argued that the LCO will restrict the rights of citizens in Wales instead of establishing new rights.

**Celebrating Our Language
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Celebrating Our Language includes: Friends of the Earth, the Welsh Folk-Song Society, the Fellowship of Reconciliation in Wales, the Association of Welsh Translators, the Association of Schools in favour of Welsh-medium Education, the Welsh Language Society, Cymuned, the National Eisteddfod of Wales, Mentrau Iaith Cymru, Merched y Wawr, Wales Young Farmers Clubs, Parents for Welsh Medium Education, UCAC, Aberystwyth Welsh Students' Union, Bangor Welsh Students' Union, Farmers' Union of Wales, Urdd Gobaith Cymru.

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