

National Assembly for Wales Public Consultation: Welsh language LCO

05 March 2009



WLGA • CLILC

INTRODUCTION

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities, the three fire and rescue authorities, and four police authorities are associate members.
2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh local government and the communities they serve.
3. The WLGA is pleased to be provided with the opportunity to submit written evidence to the National Assembly for Wales's public consultation on the Welsh language Legislative Competence Order. We also have the opportunity of providing additional information when giving evidence to the legislative committee on the 24th March.
4. The WLGA also welcomes the Assembly Government's commitments in the 'One Wales' manifesto, to bring forward Assembly Measures, if legislative competence is gained, in order to confirm official status for both Welsh and English; ascertain linguistic rights in the provision of services; and establish a Language Commissioner.
5. The proposed Welsh Language LCO was discussed at the February meeting of the WLGA's Council where all 22 councils in Wales are represented. All the local authorities provided unanimous, cross-party support to the principle that matters relating to the Welsh language should be devolved to the National Assembly for Wales through the proposed LCO.
6. Please find our answers to the specific consultation questions regarding this Welsh language LCO set out below:

GENERAL CONSULTATION:

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

Under the current 1993 Welsh Language Act, the National Assembly for Wales has no powers to legislate on the Welsh language. The WLGA believes that the National Assembly for Wales should be able to make laws in the promotion and use of the

Welsh language. The proposed LCO would provide the Assembly with the necessary legislative powers to achieve this.

It is difficult to come up with a more perfect example of an LCO request that has complete justification for legislative decisions on the subject matter to be made in Wales. This proposed LCO relates entirely to Wales, its people and its culture.

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

The WLGA is of the opinion that the National Assembly for Wales should be able to make laws about the services the public should be able to receive bilingually.

The competence sought under the proposed LCO would enable the Welsh Assembly Government to update the current legislative framework under the 1993 Act to address issues that have arisen during the past 15 years.

At the full WLGA Council meeting held in February 2009 members agreed unanimously that this should be the case.

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?

The WLGA endorses the principle that the National Assembly for Wales should be able to make laws on the freedom of persons to use the Welsh language with each other.

At the full WLGA Council meeting held in February 2009 members agreed unanimously that this should be the case.

DETAILED CONSULTATION:

4(a). What are your views on the general principle that legislative competence in the area identified as Matter 20.1 be conferred on the Assembly?

The WLGA considers that the legislative competence sought under Matter 20.1 should be conferred on the Assembly.

All local authorities in Wales have been delivering Welsh language schemes in accordance with the 1993 Welsh Language Act for some years now. However, over the past 15 years, it has become apparent that the current processes that must be undertaken can be cumbersome without necessarily improving Welsh language services. Conversely, there are current gaps which could be tightened to improve the way Welsh language provision in public authorities is developed.

The WLGA would wish to see a modernised and simplified legal framework governing the provision of Welsh language services. The LCO could enable that to happen through future Measures.

4(b). What are your views on the general principle that legislative competence in the area identified as Matter 20.2 be conferred on the Assembly?

The WLGA believes that the legislative competence sought under Matter 20.2 should be conferred on the Assembly.

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?

The WLGA agrees that Matter 20.1 of the LCO echo and build on the principles outlined in the 1993 Welsh Language Act and that the Assembly should be allowed to legislate and build on the current range of functions.

Local authorities have worked closely and successfully with the Welsh Language Board from the outset, working within the principles set out under the 1993 Act, namely to promote and facilitate the use of the Welsh language and to treat English and Welsh on the basis of equality.

Building on the current range of functions will enable the Welsh Assembly Government to legislate on issues regarding the Welsh language to fully achieve its vision as stated in Iaith Pawb 2003 of creating a *“truly bilingual nation...where people can choose to live their lives through the medium of either Welsh or English,*

and where the presence of the two languages is a visible and audible source of pride and strength."

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? (Matter 20.1 a-i)?

The WLGA is happy with all those covered in the list (a-h). This is a robust and detailed list which clarifies the current cloudy and unclear situation within section 6(1) of the 1993 Welsh Language Act.

Our members - the 22 local authorities, the 3 national parks authorities and the police and fire and rescue authorities - are all covered by sub section 20.1 a.

The need for greater clarity has become more and more apparent as a result of the emergence of new service providers and changes to the structure of certain public services. The list provided under Matter 20.1 subsections (a) to (h) in the proposed LCO seems to cover this need successfully.

7. Is the definition used for 'public authorities' for this Matter appropriate? If not, what definition should be used and why?

The definition of a 'public authority' is critical to the development of any future Measures. The WLGA believes that the definition used for 'public authorities' is an appropriate one as it is a regularly used definition from section 6 of the 1998 Human Rights Act. The definition covers local authorities.

8. Matter 20.1 would allow duties to be imposed on 'telecommunications services' and 'postal services and post offices'. Are the definitions used necessary and appropriate? If not, how should they be re-drafted and why?

The WLGA believes that the definitions proposed for 'telecommunication services' and 'postal services and post offices' are appropriate.

- 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**
- (i) Is it necessary to set out the definition of ‘public money’ in the proposed Order? If so, is it appropriate?**
 - (ii) Duties would only be imposed on the recipients of more than £200,000. Is this the right threshold?**

The definition of ‘public money’ in the proposed Order seems to be clear and sensible and the WLGA believes that the £200,000 threshold is appropriate and reasonable.

However, we would welcome clarity on the definition of ‘moneys made available directly or indirectly by the National Assembly for Wales’. Would this cover persons receiving £200,000 or more of public money (e.g. as grants) via local authorities?

- 10. Is the scope of Matter 20.2 appropriate? Will it allow the Assembly to legislate in future to implement the policy proposal as outlined in the Explanatory Memorandum?**

The WLGA believes that the scope of Matter 20.2 is appropriate and seems to allow wide enough scope for any future legislative purposes.

As specific Measures are developed under the scope of Matter 20.2, the WLGA would welcome detailed discussion with the Welsh Assembly Government on how any new policy proposals could affect local government.

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

The WLGA supports Articles 4 and 5 of the proposed Order in respect of the amendments needed to be made to the Government of Wales Act 2006 and the functions of Crown bodies.

The modifications to current paragraphs in Schedule 5 of the 2006 Act seems to provide the Assembly with the necessary competence to create Measures which would avoid the Crown providing a different level of service to the rest of the public sector.

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

Local authorities have an important role to play as key public service providers across a wide range of sectors in Wales. The WLGA looks forward to working closely with the Welsh Assembly Government in the drafting of any subsequent Measures that should result from this LCO.

For further information please contact:

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