

National Assembly for Wales

**Culture, Welsh Language and Communications Committee**

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# Supporting and Promoting the Welsh Language

July 2019



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# Supporting and Promoting the Welsh Language

July 2019



# About the Committee

The Committee was established on 28 June 2016. Its remit can be found at: [www.assembly.wales/SeneddCWLC](http://www.assembly.wales/SeneddCWLC)

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## Committee Chair:



**Bethan Sayed AM**  
Plaid Cymru  
South Wales West

## Current Committee membership:



**Mick Antoniw AM**  
Welsh Labour  
Pontypridd



**John Griffiths AM**  
Welsh Labour  
Newport East



**Delyth Jewell AM**  
Plaid Cymru  
South Wales East



**Carwyn Jones AM**  
Welsh Labour  
Bridgend



**David Melding AM**  
Welsh Conservatives  
South Wales Central

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The following Members were also members of the Committee during this inquiry.

Jayne Bryant AM  
Siân Gwenllïan AM  
Neil Hamilton AM  
Vikki Howells AM  
Jane Hutt AM  
Caroline Jones AM  
Dai Lloyd AM  
Rhianon Passmore AM  
Jenny Rathbone AM

The following Members attended as substitutes during this inquiry.

Suzy Davies AM  
Vikki Howells AM  
Dai Lloyd AM

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## Recommendations

**Recommendation 1.** We recommend that this Committee, or an equivalent Committee in the Sixth Assembly commit to a full review of standards and duties placed on organisations. This review should also include how usage of the Welsh language is growing..... Page 15

**Recommendation 2.** A future review should also include an analysis of developments and modifications made within the existing legislative framework, along with the impact of those changes. .... Page 15

**Recommendation 3.** That the Welsh Government should ensure that any future proposals to amend or replace the Welsh Language (Wales) Measure 2011 is supported by the widest evidence base. This should include a comprehensive public consultation, because it will fundamentally affect the right of Welsh speakers. The evidence should show how such changes will enhance rights for Welsh speakers..... Page 15

**Recommendation 4.** We recommend that the Welsh Government explore options to adapt Welsh language standards, within the current legislative framework. This could be done by streamlining or combining multiple standards that have the same aim or outcome. Any changes made should not have a detrimental impact on the provision of services for Welsh speakers. .... Page 23

**Recommendation 5.** Any potential changes to standards should only be made for sectors which are not currently implementing the Welsh language standards under the 2011 Measure, such as housing associations, utilities and transport bodies. .... Page 23

**Recommendation 6.** We also recommend, where possible within the current legislative framework, that the Welsh Government and the Welsh Language Commissioner explore options to speed up the process for the introduction and implementation of standards in sectors which are not already implementing Welsh language standards. The Welsh Government should publish a time table for this work..... Page 23

**Recommendation 7.** The Welsh Government should as soon as possible, but only after taking account of the need to review standards, introduce the next set of regulations on health regulators and water companies. .... Page 23

**Recommendation 8.** The Welsh Language Commissioner and the Welsh Government must explore options, where flexibility exists within the legislative framework, to speed up the complaints process. This should ensure best use of public resource, and provide the service user with swift resolution of their complaint where possible..... Page 27

**Recommendation 9.** The Welsh Language Commissioner should keep its complaints procedures under constant review both in terms of its effectiveness and its impact on the service user. .... Page 27

**Recommendation 10.** The Welsh Government should set out clear demarcation of roles and responsibility between itself and the Welsh Language Commissioner, and that is communicated clearly with stakeholders and the public..... Page 35

**Recommendation 11.** The Welsh Government should move to enhance the status and role of the Welsh Language Unit. The Unit, in addition to its current responsibilities, would be responsible for drawing together external knowledge and expertise that will provide a strategic overview of language planning nationally. The Unit should also have an increased cross-governmental role, ensuring internal arrangements for effective implementation of Cymraeg 2050 is undertaken across government departments. .... Page 35

**Recommendation 12.** The Welsh Government must ensure adequate funding for promotional activities undertaken by Government, the Commissioner or external agencies if it is to succeed in its aim for a million Welsh speakers by 2050.  
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**Recommendation 13.** The Welsh Government should work closely with those conducting research in academia to identify gaps in knowledge, and develop programmes of research to support the Cymraeg 2050 Strategy..... Page 38

**Recommendation 14.** The Welsh Government should review urgently how it can develop the Welsh Language Partnership Council to provide the expertise required for supporting policy development and language planning in Wales.  
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## Summary

- 1.** The Culture, Welsh Language and Communications Committee (the CWLC Committee) decided to undertake an inquiry into the legislation designed to support and promote the Welsh language in the Autumn of 2018. The timing of the inquiry coincided with the Welsh Government's White Paper proposals for a Welsh language Bill, but the key aim was to assess the impact and the implementation of the Welsh Language (Wales) Measure 2011.
- 2.** Members felt it was important to understand how the current legislation is working to support the language, before it is possible to determine the need for a new Bill. The Committee heard evidence that the Welsh language standards framework is complex and bureaucratic, and that the complaints system is considered by some to be excessively long and burdensome. However, the Committee also heard that the current framework provides certainty for organisations, as well as strong rights for Welsh speakers.
- 3.** Nevertheless, for some, establishing the legislative framework has deflected attention and resources away from the "softer" elements of language planning, specifically promotion of the language. Lack of clarity in roles and responsibility, and loss of momentum in the years after introducing the 2011 Measure is a concern, and will need to be addressed moving forward.

## Introduction

**4.** In September 2018, the Culture, Welsh Language and Communications Committee began taking evidence on its inquiry – *Supporting and Promoting the Welsh Language*.

**5.** The primary purpose of the inquiry was to undertake post-legislative scrutiny of the Welsh Language (Wales) Measure 2011. The terms of reference for the inquiry focussed on the following:

- Post legislative scrutiny of the *Welsh Language (Wales) Measure 2011* to assess the perceived successes and limitations of the legislation, and the impact and effectiveness of the standards in increasing access to Welsh language services.
- To assess whether the legislative framework supports or limits Welsh language promotion and its use.
- An international perspective - gathering evidence on legislation to protect and promote minority language planning in other countries.

**6.** The Committee undertook 11 separate evidence sessions with witnesses, including a scrutiny session with the Minister for International Relations and the Welsh Language (the Minister), Eluned Morgan AM. The Committee, as part of its inquiry, also visited the Basque Country to hear and learn about minority language planning and legislation within this region of Spain.

## 1. Background

**7.** In August 2017, the Welsh Government published a White Paper Consultation Document – *Striking the right balance: proposals for a Welsh Language Bill*. The purpose of the consultation was to seek views on a proposal for a new Welsh Language Bill that would change aspects of the existing legislative framework. The proposals included changing the standards setting procedures, amendments to the complaints process, and removing constraints on the criteria for including a body within the standards framework.

**8.** The proposals also suggested a shift in emphasis onto promoting and facilitating the use of the language, albeit keeping an amended regulatory framework. However, possibly the most significant proposal, and potentially most controversial in the White Paper was the proposal to establish a Welsh Language Commission. This body would replace the Welsh Language Commissioner, and have a chair and a number of members appointed by the Welsh Government.

**9.** In publishing the White Paper, the then Minister for Lifelong Learning and Welsh Language, Alun Davies AM, told [BBC Wales](#) that the Welsh Government wants to “refocus our efforts on promotion and make changes to the way the Welsh Language Standards system works - to make sure it is as efficient and effective as possible in giving people rights to use Welsh”.

**10.** In response, Cymdeithas yr Iaith, having long called for a new Welsh Language Act, told the [Culture, Welsh Language and Communications \(CWLC\) Committee](#) that they are in a:

“very strange situation at present, where we’re actually saying ‘no thanks’ to new legislation, because, for the first time, rather than having legislation that is strengthened every generation, as we saw in 1942, 1967, 1993 and 2011... We have a Government in Cardiff that is deciding, no, we have to take a retrograde step. That is how we view that White Paper. That is why we’re saying, ‘No, don’t make any further legislation for the time being’.”

**11.** Dyfodol i’r Iaith (Dyfodol) on the other hand was supportive of the Welsh Government’s proposals, which included some of the key elements of Dyfodol’s Manifesto – [Creu Dyfodol i’r Gymraeg](#), published in 2015. Dyfodol had called for establishing an “Asiantaeth Iaith Genedlaethol” (National Language Agency), which would be responsible for implementing the Welsh Government’s policies, which are currently the primary responsibility of the Welsh Government’s Welsh

Language Unit and Education Department. Dyfodol i'r Iaith in its written evidence to the Committee has been critical of the bureaucratic and complex legislative framework established under the 2011 legislation, which has veered away from the promotional activity that is required:

“For some years, Dyfodol i'r Iaith have argued that the emphasis of the Welsh Language Measure is too narrow in scope. Naturally, we agree completely with the Measure's principles, namely establishing the Welsh language's status and protecting the rights for its use. But as the Language Commissioner focused on status and rights, not enough attention was given to promote Welsh as a natural language of the community.”

**12.** The issue around the balance between regulation and promotion of the language has been and still is, a topic of debate. The Welsh Government placed it at the core of its White Paper consultation document, noting that:

“This White Paper makes proposals on how we think the law as it relates to the Welsh language needs changing. In particular, by looking at what we currently do and how it could be done better, we believe we need to look again at the mix of policy approaches we are taking. This means considering the duties we place on public bodies and the current arrangements for imposing and enforcing Welsh Language Standards, and the many different ways we promote and facilitate use of the Welsh language.”

**13.** Its key objectives in its White Paper were to:

- strike the right balance between promoting and facilitating the use of the Welsh language and regulating Welsh language duties and to;
- reduce bureaucracy and ensure value for money.

### The Committee's approach to the inquiry

**14.** Despite the Welsh Government's proposals for a Welsh Language Bill, the CWLC Committee was of the view that in order to look forward, it was important, first and foremost, to look back. The Committee began its post-legislative scrutiny of the Welsh Language (Wales) Measure 2011 on 20 September 2018. Its first witness was the former Heritage Minister with responsibility for the passage of the Measure in 2010, Alun Ffred Jones.

## 2. The 2011 Measure

**15.** The Welsh Language (Wales) Measure 2011 (the 2011 Measure) was an important milestone in the history of the Welsh language. It was the culmination of 70 years of legislative developments and provisions that had offered some protections for Welsh speakers' rights. From the legislative provisions in the Welsh Courts Act 1942 to the Welsh Language Acts of 1967 and 1993, each Act was considered to have built on the previous one. However, the 2011 Measure, for the first time, declared the official status of the Welsh language in Wales. It provided rights for Welsh speakers that did not exist previously, and sought to provide clarity for both bodies and service users as to expectations around the provision of Welsh language services.

**16.** The official status of the language was a “symbolically very important”, according to Cymdeithas yr Iaith, while Emyr Lewis noted that it was “historically important”:

“The fact that here we see Wales, for the first time, taking ownership of the Welsh language as something that is at the heart of the Welsh constitution... I do think that the declaration of official status for the Welsh language is historically important in order to settle questions in relation to the status of the Welsh language and the status of Welsh speakers in Wales.”

**17.** The then Welsh Language Commissioner, Meri Huws, (the Commissioner) stated that the Measure dealt with the deficiencies in the 1993 Act, which had previously only given “recognition of equality”, without providing a “clear declaration as to the official status of the language”. The Measure, she noted, “had dealt with that issue”.

**18.** The former Heritage Minister, Alun Ffred Jones noted however that status alone was not sufficient, and that the legislation needed to be relevant to people's lives, which required a change in culture:

“The whole purpose of the legislation was to change the way in which people worked, bodies worked, and the way in which they viewed the Welsh language within their own structures.”

**19.** The Commissioner's evidence suggested that the 2011 Measure was having a positive impact on the provision of Welsh language services, noting “we are seeing shoots of success coming through”. It is also having an impact on the internal culture of a number of organisations. Despite the initial difficulties with

establishing a new regime, the Commissioner stressed that it was still early days to judge its success fully:

“When introducing a new system, you need to have time for the system to settle for us to get the evidence of the impact of the regime or system change. I still believe it’s too early for us to take decisions on changing something. I’m in a position, and our office is in a position, through our monitoring work, through dealing with complaints, through our regulatory work and through the daily contact that we have with organisations, both the heads of those organisations and the officials, to see the change. Change is happening.”

### Good but not perfect legislation

**20.** While the 2011 Measure is considered to be a significant step and improvement on the 1993 Act as a whole, several witnesses who expressed a view were under no illusion that the legislation was in any way perfect. However, in the Commissioner’s view, this did not mean new legislation was required as a result:

“You will see from my evidence that I do not believe that we need to legislate. The Measure that we have at present is not perfect—I recognise that. And I believe that, at times, it would be possible to make it a little bit more flexible. But, fundamentally, the Measure gives the scope; it’s not restrictive, and I don’t believe that we have yet—well, I wouldn’t, having spent five or six years doing this—used the Measure to its greatest potential, by a long way.”

**21.** Alun Ffred Jones accepted that the existing legislation is overcautious, due in part to concerns within the One Wales Government at the time about the reaction of organisations to the legislation. For instance, it provides an appeals process for organisations which “does make the process a longer one” according to the former Heritage Minister.

**22.** Emyr Lewis referred to the Measure’s complexity and detail, which emerged from the Legislative Competence Order (LCO) process. This process, he said, “defined and limited the freedom of the Assembly to legislate in this area”.

“Some of the complexity contained within the Measure emerges from that micromanagement from Westminster, which could be identified in that statutory instrument that gave power to the Assembly to legislate.”

**23.** The Irish Language Commissioner, Rónán Ó Domhnaill, provided an “outsider” look at the 2011 Measure and its successes and weaknesses. In his evidence to the Committee, he noted that Ireland was looking to learn from the Welsh experience:

“From an Irish perspective, the system of standards is something that I would like to see brought in to Ireland, and the Government have committed to doing that in the heads of a new Bill, which is due to be published shortly. We hope they intend to move from the system of language schemes to a system of standards. So, I think that’s something, certainly, that we would hope to learn from here.”

**24.** While the 2011 Measure is not considered to be perfect, the Commissioner emphasised that the legislation is one “we can be proud of”. Similarly, the former Heritage Minister stated the following:

“I think Government and the Assembly, given the evidence submitted, should be very proud of what has happened. Not for one second am I claiming that it’s perfect, but it has moved things forward.”

## Rights for Welsh speakers

**25.** The provisions within the 2011 Measure established certain rights for Welsh speakers, specifically, rights to a Welsh language service from organisations subject to standards.

**26.** The Committee heard evidence stating that the Measure had enhanced the rights of Welsh speakers, which was something to be welcomed. One health board representative noted that:

“The official status for the Welsh language is important, and it’s something to be welcomed. Of course, it does enhance the rights of our population and, more importantly, our patients in terms of using the Welsh language on a daily basis.”

**27.** The Local Democracy and Boundary Commission for Wales agreed with this view, noting that:

“The positive outcome, of course, is that it provides rights for ordinary people to use the Welsh language where they choose, particularly in the public sector. And that is perhaps its strength.”

**28.** Similarly, Cymdeithas yr Iaith noted that:

“The rights that have been established through the standards, no matter how many people take advantage of them, are important—because they are rights, they are human rights, and we do have rights as Welsh speakers and the people of Wales to have those rights and to exercise them.”

**29.** Professor Robert Dunbar in his evidence to the Committee believes the Measure has had a positive impact on the rights of Welsh speakers, partly due to the “clarity in how duties are expressed”. He noted:

“I think that the standards, particularly the service delivery standards, are providing much more detail and clarity and are beginning to look like rights, although we’re very early in the process. And from my perspective, I think that’s a positive, not only for the public who, arguably, have a better and clearer understanding of precisely what they can expect in terms of services, but for the regulated bodies themselves.”

**30.** However, Dyfodol questioned the extent to which the Measure has actually provided rights to Welsh speakers, as opposed to providing rights for the Welsh language in the abstract:

“Interestingly, the whole language Measure appertains to the Welsh language in the abstract. It doesn’t appertain to Welsh people. There are rights for the Welsh language. Now, if you want to talk about usage, the standards don’t really apply to that.”

**31.** Emyr Lewis had been sceptical whether the framework established in the 2011 Measure could provide rights to Welsh speakers. In his view, the complexity of the system and the sense that the system didn’t allow Welsh speakers to “directly enforce their rights against a body” would be a problem. However, he stated that the “regime has succeeded in generating compliance”, due in part to the Commissioner’s work and “goodwill within the public sector”. Nevertheless, he also shared his concern that a “lack of interest” and some “opposition to the concept of using the Welsh language in the public sector” could limit those rights.

### **Our view**

The Committee considers the 2011 Measure to be a significant step forwards from its predecessor, the Welsh Language Act 1993. In particular, the 2011 Measure provided for official status of the Welsh language in Wales, and enshrined rights for Welsh speakers by placing Welsh language duties on a

number of bodies, including local authorities, FE and HE institutions and the National Health Service.

We were not convinced, on the whole, of the need for new legislation at this time, or that the evidence for it was particularly robust. However, legislation should never be static, but should reflect the needs of society at that time. We heard evidence that the Measure is not perfect, and that elements within the legislation would benefit from updating. This is particularly true for the process of setting standards and dealing with complaints.

**Recommendation 1.** We recommend that this Committee, or an equivalent Committee in the Sixth Assembly commit to a full review of standards and duties placed on organisations. This review should also include how usage of the Welsh language is growing.

**Recommendation 2.** A future review should also include an analysis of developments and modifications made within the existing legislative framework, along with the impact of those changes.

**Recommendation 3.** That the Welsh Government should ensure that any future proposals to amend or replace the Welsh Language (Wales) Measure 2011 is supported by the widest evidence base. This should include a comprehensive public consultation, because it will fundamentally affect the right of Welsh speakers. The evidence should show how such changes will enhance rights for Welsh speakers.

## 3. Welsh Language Standards vs. Welsh Language Schemes

### Welsh Language Schemes

**32.** The Welsh Language Act 1993 (the 1993 Act) made provision for the preparation and publication of Welsh language schemes.

**33.** These schemes specified measures a public body proposed to take in terms of its use and promotion of Welsh in connection with the provision of services. However, despite the provisions within the Act, many believed the system to be inherently weak. The former Heritage Minister, Alun Ffred Jones in his evidence to Committee noted that:

“I do think it’s fair to say that the 1993 Act was a step forward, and that the language schemes themselves had been a step forward, but there were weaknesses in that regime. There was no way of enforcing the language schemes. They were voluntary schemes, between the organisation and the Welsh Language Board.”

**34.** Similarly, the Welsh Language Commissioner, who was formerly the Chair of the Welsh Language Board noted in her evidence that the Welsh Language Board could not “enforce, monitor or regulate, and over the years, that became a clear weakness”.

**35.** The Committee heard that schemes varied considerably between organisations, and that Welsh speakers could not be certain with which services they could expect to be provided. According to the Chair of Cymdeithas yr Iaith, the situation now is much improved over the previous regime:

“It’s much less bureaucratic than the former 1993 Act, where everybody had to prepare a scheme according to their own wishes, in a way, and it was impossible for the general public to know what was contained in the schemes of the various organisations.”

**36.** Ensuring consistency and clarity for the organisation and service user was seemingly one of the intentions of the 2011 Measure and the Welsh language duties framework it established. Dr Elin Royles noted that the Measure has enabled “greater consistency across institutions”, which had not existed previously. Professor Diarmat Mac Giolla Christ also noted in his evidence that the standards

are now “less ambiguous in terms of their content than the language schemes, and that was one of the aims of the Measure originally”.

**37.** A health board representative is of the view that the Welsh language schemes had improved services over time, but that the Measure now provides consistency across Wales:

“I think that consistency is the other thing that’s important, in terms of the Measure—that there is consistency across Wales. I think the work that we’ve done to date is constructive, with the language schemes. Things have improved over a period of years, but, with standards, we will have that consistency in place.”

**38.** Reverting to a model similar to Welsh language schemes was no longer an option according to some witnesses. The representative for Carmarthenshire County Council noted that it would be a “step backwards” after the “pain” of the standards process:

“I think it’s fair to say that we have gone through the pain of introducing the standards—we’ve gone through that process now—and it would be a step backwards, in our view, to go back to the language schemes as they are at present. All the development work that’s happened over the last four or five years—to throw that back to the status of the language schemes, and the voluntary status in terms of regulation, would be a backward step, and would convey the wrong message.”

## Complex and bureaucratic

**39.** The Welsh Government’s White Paper – *Striking the right balance*, emphasised the level of bureaucracy and complexity the standards framework had created. It noted that it is “unfortunate that some aspects of the Standards introduced by the Measure have dominated the perception of Welsh language policy in the past few years”. This has been driven to some extent by the Measure itself, for which the former Heritage Minister admitted had been “very carefully prepared”, and included “many checks and balances within the process”. This has resulted in a “long, drawn out and complex” process according to the former Minister. The White Paper states that:

“The way the system works imposes a significant administrative burden on public services. The evidence from bodies which are now under the Standards – bodies from various sectors and in all parts of Wales – is clear that the complexity of the consultation, monitoring, compliance

and reporting procedures has tied up significant organisational time and effort.”

**40.** Colegau Cymru summarised some of the difficulties the legislative framework poses for organisations:

“I think one of the problems that we’ve had in FE colleges, mainly, is the complexity of the whole process, and it has been a process, I think—a long, drawn-out, laborious process at times. I think that many of the standards are complex [and] difficult to interpret.”

**41.** This view was shared by a colleague from Coleg y Cymoedd, noting that the problem is often in the interpretation of standard:

“I feel that the problem isn’t necessarily the standard itself, but the interpretation of the standards and all of the documentation on interpretation. When you read those, you see, ‘Well, in reality, it only relates to this, that and the other’. It’s not clear to the user what exactly their rights are under the standards. So, I would say that it’s not necessarily the standards that are the problem, but the whole interpretation that underpins them, which restricts people’s rights.”

**42.** The Welsh Language Commissioner accepted that standards and the process involved are complex and bureaucratic, but this was always likely given the complex nature of some of the services being provided by organisations. The Commissioner stated in her evidence that the prescriptive nature of standards, and the careful process of introducing and implementing them, has nevertheless been “welcomed” by organisations:

“What the standards do is to take services and bodies that can be quite complex—such as local authorities and health boards—and to set out clearly to them what is expected of them as they provide services to the public. Bear in mind too that the standards go further than language schemes because language schemes were restricted to services to the public. These standards relate to the internal operation of institutions, which was very challenging, and deal with policy decisions, which is a new concept—

[...] I accept what you say; some bodies have complained that the initial process was bureaucratic. The Minister explained why that was the case. What we are hearing from organisations now is that they welcome this specific element within the standards. They set out clearly what the expectations are.”

**43.** Some witnesses did call for the Welsh Government to adapt both the standards and the process of implementing them however. The representative for Colegau Cymru noted that some of the standards are “repetitive”:

“It would be good to simplify them. We don’t want to get rid of them, it’s important that they’re still there, but perhaps there is a need to simplify them and group them into situations where we could understand them better, where they’d be easier to interpret and easier to work with. Many of them are repetitive, with just something small changing in each one of them.”

**44.** According to Emyr Lewis, “fewer, simplified more direct standards” would be beneficial, but that any changes to the system should not “lose sight of its value as a regulatory system that is working”. The representative for Torfaen County Borough Council could not understand the need for so many, saying:

“I think those standards could have been simplified significantly... There are a number of different standards that have small tweaks within them, small wordings, that I think could have been combined. So, what it would do is embody the meaning of the standards, but instead of having 174 standards, we might have had 30 that would have embodied what those standards meant.” (Torfaen Council)

**45.** Cymdeithas yr Iaith, in addressing the issue around the complexity of the legislative framework, was keen to point out that the standards provide greater clarity now compared to Welsh language schemes. In its view, the simplicity for the citizen overrides the debate around complexity for the organisation:

“I think what’s important to consider is the experience for the user. So, if work needs to be done within the institutions to ensure that services are offered proactively, then I think what’s important is that there is simplicity for the citizen. And so, there is a great deal of work to do in terms of making our institutions more Welsh in terms of their ethos, and to ensure that that is happening, and that is the purpose of the standards. But if you compare the language schemes with the standards, the reality is that the standards are far simpler. There are many of them, perhaps, but they are entirely clear in terms of what the requirements are. In past times, you would have a lengthy language scheme and you would have to spend half a day looking through it to see what your rights were. Now it’s entirely clear, and I don’t think that the number of standards is of concern to us, particularly.”

## Too early to change?

**46.** The first set of standards, which were applicable to local and national park authorities and the Welsh Government came into force on 30 March 2016, five years after the 2011 Measure was passed. The majority of organisations currently implementing standards have only been doing so for a year or two.

**47.** Despite the Welsh Government’s proposals to overhaul the current legislative framework, the Committee heard evidence stating that it was too early in the process to change the legislation, and with it the standards regime.

**48.** The system, according to stakeholders is only now establishing itself, with Emyr Lewis noting that while the Measure has been in existence for almost eight years, it has been a “relatively short period of time in which the standards have been able to prove their worth”. Dr Huw Lewis of Aberystwyth University noted in a similar vein that “the idea of making such significant amendments to the package now strikes one as something that’s happening exceptionally soon”.

**49.** The Welsh Language Commissioner firmly stated that in her view, it was “much too early to decide that the legislation needs to be amended wholesale” and that the evidence for changing the system “just isn’t there”.

**50.** Despite the short period standards have been existence, there is evidence that the regulatory framework is already having an impact. The Commissioner noted in her evidence:

“I do believe, as we’ve stated in the evidence provided to you, we have seen progress. We have, after a relatively short period of time—and it is a short period of time since the implementation of the Measure—we have seen a change on the ground in terms of the availability of services and the consistency of those services.”

**51.** The Commissioner also noted a significant culture shift and increased awareness within organisations implementing standards. This view was echoed by a number of witnesses currently implementing standards, such as Hefcw (The Higher Education Funding Council for Wales) that has been subject to standards since April 2018. Hefcw told the Committee that the organisation is “starting to see the signs of more use of Welsh in the office and in the workplace”, and that the regime “does increase that culture of bilingualism”. The Arts Council of Wales similarly noted that “it had raised awareness of the Welsh language” and was “much more visible internally”. Similarly, Wrexham County Borough Council noted in its evidence:

“It has set a framework that is of assistance with introducing our services through the medium of Welsh and also has created an awareness internally with the staff and has raised awareness in general, I think, within the council, with the staff, and that the use of the Welsh language is at the forefront now more than it was in the past because of the enforcement.” (Wrexham CBC)

**52.** The **Minister for International Relations and the Welsh Language** told the Committee, following the announcement that the Welsh Language Bill had been withdrawn, that she and her officials were now exploring ways to “simplify the regulatory system” within the current legislative framework:

“I think that everyone understands that it’s crucial that we do seek to simplify the regulatory system, but that it’s possible to do that within the current legislation. And we’ve asked for legal advice in order to ensure that we push the boundaries available to the Commissioner at the moment.”

### A pause on introducing further regulations

**53.** In June 2018, the Minister for International Relations and the Welsh Language stated in **Plenary** that the Welsh Government “will not be introducing more standards for other sectors for the time being”. According to the Minister, this decision was made in order to “concentrate our resources on developing the new Bill.”

**54.** While key publicly funded bodies and critical sectors such as health are now implementing or due to implement standards, the decision brought to a halt the introduction of further standards. Sectors such as transport, the utilities, housing associations, and public bodies created after the 2011 Measure was passed, would not imminently be subject to the standards regime. The decision by the Minister was met with concern by some stakeholders. **Dr Huw Lewis** noted his concerns about the potential impact of the decision on service users for example:

“one of the things that’s a great problem in that decision is that we’re continuing a situation where the health services haven’t come under the standards regime yet. That’s a sector that’s very important, a key sector, and the decision to delay means that there are some key sectors that don’t operate under the current regulatory system, and that is a concern.”

**55.** The former Heritage Minister, Alun Ffred Jones was perplexed by the Welsh Government's rationale for postponing further regulations:

"Well, I don't understand the rationale. If the process has worked within these 107 bodies, where standards have been imposed—although, I regret that the process has taken so long, but there we go—and within a relatively short period of time, according to the Commissioner and her evidence to you, then it has worked. Not extending it to the utilities and not extending it to telecommunications is a mistake, because if it works, then it'll work there too."

**56.** Following the announcement by the Welsh Government that the proposed Welsh Language Bill had been withdrawn, the Minister told the Committee that regulations for some sectors, such as water and health regulators could be introduced "rapidly". Housing associations are expected to be progressed after these, but discussions with utility companies are ongoing. The Minister said:

"One of the things that I've done is that I've written to the utilities companies and asked them to come in and have a discussion about what they're doing already, how far we can persuade them to work at the moment. I think we've got to be careful and sensitive in the way we approach this, because the last thing we want to do is see people not invest in Wales as a result."

### Our view

We agree with the overall view expressed in evidence that now is not the time to bring forward new legislation, and welcome the Welsh Government's decision to withdraw its plans for a Welsh Language Bill.

Nevertheless, we accept that the standards framework established by the 2011 Measure is complex and carefully drafted, and the duties placed on organisations are detailed. The process of introducing and implementing standards is undoubtedly rigorous and consequently takes time. However, we also heard that despite the challenges with the process, the standards, once in place, provide a level of assurance for both the organisation and the service user. The standards themselves also ensure greater consistency of Welsh language service provision across organisations and whole sectors, which did not exist under the 1993 Act and Welsh language schemes.

Standards have only been in place for a short time, and it is our view that there is not enough robust evidence at present to warrant significantly reforming the

legislative framework. In fact, the early indicators from the Commissioner's office suggests that the standards are having an impact on the quality and availability of Welsh language services. The Welsh Government's White Paper proposals for changing the legislative framework could have stalled momentum and add to the uncertainty in sectors already experiencing a challenging financial situation.

Nevertheless, where flexibility exists within the current legislative framework to streamline the standards process (whether via secondary legislation or policy changes) this should be explored fully. However, any changes should be to the benefit of both the person using the service and the organisation.

**Recommendation 4.** We recommend that the Welsh Government explore options to adapt Welsh language standards, within the current legislative framework. This could be done by streamlining or combining multiple standards that have the same aim or outcome. Any changes made should not have a detrimental impact on the provision of services for Welsh speakers.

**Recommendation 5.** Any potential changes to standards should only be made for sectors which are not currently implementing the Welsh language standards under the 2011 Measure, such as housing associations, utilities and transport bodies.

**Recommendation 6.** We also recommend, where possible within the current legislative framework, that the Welsh Government and the Welsh Language Commissioner explore options to speed up the process for the introduction and implementation of standards in sectors which are not already implementing Welsh language standards. The Welsh Government should publish a time table for this work.

**Recommendation 7.** The Welsh Government should as soon as possible, but only after taking account of the need to review standards, introduce the next set of regulations on health regulators and water companies.

## 4. Welsh language complaints procedures

**57.** The complaints framework was a key aspect of the Welsh Government's proposals for a Welsh Language Bill. It noted in its White Paper consultation there was evidence that proved a need for a shift in emphasis from "enforcement" to "remedy". In the Welsh Government's view, complainants should be able to take their complaint to the organisation first (as is the case with other complaints systems) and that minor or "insignificant" breaches of the standards should not be taken to full investigation as is currently the case.

**58.** The Committee heard evidence relating to the operation of the complaints system established by the 2011 Measure (albeit limited on the whole to those with experience of operating within the complaints framework and dealing with complaints, namely local authorities). The evidence suggested that there were issues with the current system, with local authorities calling for changing the approach in line with other complaints processes.

**59.** Due to the broad range of services they deliver, local authorities account for a large proportion of complaints received and investigated by the Commissioner (as highlighted by the Commissioner's [register of investigations](#)). Local authorities were also in the first tranche of organisations to start implementing standards, and therefore have the most experience of working within the complaints framework established by the 2011 Measure.

**60.** Carmarthenshire Council's representative, in her [evidence to the Committee](#), was critical of the current complaint system, noting that it was "not fit for purpose". She continued by stating that:

"At the moment, complaints relating to the Welsh language are treated entirely differently to any other complaints received by the council, and I would argue that complaints related to the Welsh language should go through an internal council process, first of all, and if the complainant isn't content with the response that they receive, then they should be able to go to the Commissioner, just as you would do with any other complaint going to the ombudsman. That's the weakness from our perspective at the moment. We receive complaints at the moment through the Commissioner. It's a long-drawn-out process: you have to establish a remit related to a complaint and very often the complaint has been resolved before the remit of the inquiry has even been agreed. So, it's a waste of resources for us, if truth be told, because we've dealt with the complaint before the inquiry has even commenced."

**61.** This was a view echoed by the officer’s peers from Wrexham and Torfaen respectively:

“So, maybe an opportunity to solve those issues internally before going on to an official complaint would be welcomed, and that would free up some of our time to concentrate on encouraging compliance with the standards in general.

I totally concur... It’s different to every other approach that we take on complaints. It would be fundamentally beneficial to us if the complaints process was brought into alignment with the other processes that we work with in relation to complaints to the ombudsman. So, an internal opportunity to rectify the issue first—informing the customer that that’s been done—I think would definitely improve the process.”

**62.** Professor Diarmait Mac Giolla Christ in his evidence to Committee also emphasised the unique approach to dealing with Welsh language complaints to other complaints made against an organisation. He noted that there should be an “opportunity for the organisation to put the complaint right” first, rather than giving individuals the “right to go immediately to the Commissioner”.

**63.** However, Cymdeithas yr Iaith in their evidence dispute this view, and state that the system makes it far “easier for people to make complaints, because you complain directly to the Commissioner”, and that the framework now “favour[s] the user much more”.

**64.** In evidence to the Committee on the Commissioner’s Annual Report and Assurance Report on 4 October 2018, the Deputy Commissioner noted the impact of the current complaints framework compared to the previous framework established under the 1993 Act:

“There is a difference. Having looked at what was captured under the Welsh Language Act before standards, there wasn’t always certainty that a body would respond at all to complaints about the Welsh language. But now they are duty bound to respond and to provide evidence.

[...] It has empowered the position of the individual. Yes, they may complain directly to us rather than to the institution involved, but the individual is empowered when things aren’t happening as they should through the medium of Welsh, and I think that’s positive.”

**65.** Professor R. Gwynedd Parry noted in his evidence to the Committee that there was certainly “room for improvement”, but that it was a matter of refining the enforcement system, rather than overhauling it. He said:

“It’s clear from our experience that there are elements that require improvement, so I would like to see clear guidance on the principles in terms of the enforcement process.

[...] We know from the decisions of the tribunal that the Measure requires an investigation to take place on almost all occasions. In those cases where the Commissioner says, ‘There’s no point in dealing with this because it has already lapsed’, the tribunal said, ‘Well, no, you have to investigate if there’s a complaint and if it meets the criteria within the Measure’. So, there are elements of the Measure that do require change, in my view, in order to deal with some of these elements that don’t work as well at the moment.”

**66.** The Minister commented on the complaints system in her evidence to the Committee on 13 February 2019 that she and her officials are already in discussion with the Commissioner to see “how far we can push within the current framework”. In the Minister’s view, the experience of the Welsh Language Tribunal suggests that there is an opportunity to speed up the system, and to seek resolution internally before a complaint is taken further by the Commissioner.

### **Our view**

We heard evidence stating that the complaints procedure established by the 2011 Measure was an advancement on the previous system established under the 1993 Act. The current system provides Welsh speakers with a favourable route towards positive outcomes, and provides certainty to complainants that their complaint will be resolved.

It is our view that the Welsh Language Commissioner should retain the ability to investigate complaints that are brought directly to the Commissioner. However, if legislation were to be brought forward in the future, we believe there is scope to consider, in certain circumstances, for a de-minimis process. A de-minimis process could provide for speedier resolution of complaints in certain circumstances, whilst saving valuable resource for the Commissioner and organisations under investigation. As part of the de-minimis process complaints should go through the Commissioner’s office so they can monitor emerging trends.

**Recommendation 8.** The Welsh Language Commissioner and the Welsh Government must explore options, where flexibility exists within the legislative framework, to speed up the complaints process. This should ensure best use of public resource, and provide the service user with swift resolution of their complaint where possible.

**Recommendation 9.** The Welsh Language Commissioner should keep its complaints procedures under constant review both in terms of its effectiveness and its impact on the service user.

## 5. Promoting the Welsh language

**67.** The Welsh Language (Wales) Measure 2011 empowers the Commissioner to do anything that he or she thinks appropriate to promote and facilitate the use of the language. Furthermore, the principal aim of the Commissioner, as set out in section 3 of the Measure, is to “promote and facilitate the use of the Welsh language”. Despite broad ranging powers in the 2011 Measure for the Commissioner to promote and facilitate the language, funding and resource for promotional activity, on the whole, was transferred (from the Welsh Language Board) to the Welsh Government. The expanded Welsh Language Unit (WLU), a sub-division of the Education Directorate of the Welsh Government became and is still responsible for the promotional activities that had previously been the responsibility of the Welsh Language Board. This included running schemes such as Twf – 2 Languages from Day 1, and distributing grant funding to support bilingual and Welsh medium education along with providing grants that support and promote the language across Wales (e.g. the Mentrau Iaith and the Urdd).

**68.** The Government of Wales Act 2006 (GOWA 2006) (as amended by the 2011 Measure) already required Welsh Ministers to “*adopt a strategy (‘the Welsh language strategy’)*” and a plan, “setting out how they propose to promote and facilitate the use of the Welsh language”. Many of the tools required to achieve the aims of the Welsh Language Strategy had been transferred to, and are still in the hands of the Welsh Government.

### Responsibility for the promotion of the language

**69.** The drafting of the 2011 Measure has seemingly caused some confusion as to the Commissioner’s role and responsibilities for promoting the language. The Commissioner has often faced criticism for focussing too much on regulation, rather than placing more emphasis on promotion. Dyfodol has often noted its frustration with this, and stated in its evidence that:

“The Measure gave the Welsh Language Commissioner the right to promote and facilitate the Welsh language—and those terms are included about three or four times in the Measure: ‘promoting and facilitating the language’—I’m afraid that the way that the Commissioner has operated has placed heavier emphasis on the regulation and on status issues and not on promotion and facilitation issues.”

**70.** The Welsh Government's White Paper Overview seemed to reinforce this view, stating that “at present, we believe there is too much emphasis on regulation, and not enough on promotion”.

**71.** The Minister expanded on the Welsh Government's position in her evidence to Committee:

“In terms of promotion, the main point that I was making in the White Paper was that we needed to change the emphasis, so that it is on promotion... we believe, and we still believe, that the emphasis at the moment is too biased towards regulation, at the expense of resources that could be being invested into promotion. And what we want to see is a better balance struck... we were concerned that that work wasn't being done by the Commissioner, then that work is being undertaken by the Government.”

**72.** Evidence by other stakeholders, including the former Minister for Heritage, Alun Ffred Jones, seems to disagree with this viewpoint. In his evidence to the Committee, he noted that he, as Minister, and the Government as a whole were of the view that the responsibility for promoting the language was mainly for the Welsh Government, with a strong Welsh Language Unit driving that promotional work. Placing blame on the Commissioner for not undertaking promotional work was “unfair” in his view:

“It was the Government that were to do much of the work that had been done previously by the Welsh Language Board. If the Government hasn't done that, then it's a matter for the Government to explain why, not to blame the Commissioner for not doing something that truly wasn't within her remit. So, I think it's unfair to expect the Commissioner to be doing all of that promotional work as well as the regulation work.”

**73.** Cymdeithas yr Iaith agreed with this analysis, noting in their evidence that it is the Welsh Government that is ultimately responsible for promoting the language:

“I think it was clear from the decision made by the One Wales Government that the expectation was that the Government would promote the Welsh language, and that's where the resources have gone to do that. And, so, from our point of view, accepting that the system of the Measure and the standards regime aren't perfect, it appears from that split that the work on regulating the Welsh language

has seen a great deal of improvement, and where the weakness is in terms of the promotional work, which is the work that's meant to happen within the Welsh Government."

**74.** Dr Elin Royles stated that in her view, it is "quite clear that it's the role of the Government mainly" to promote the language, with the Commissioner undertaking some elements of promotion. She goes on to note that the legislation, despite the way it's drafted, "doesn't mean that the responsibility is on the Commissioner to be mainly responsible for promoting the Welsh language".

### Scope to expand the Commissioner's role

**75.** The evidence is clear that despite provisions in the Measure for the Commissioner to promote and facilitate the language by any means appropriate, the Commissioner's ability to do this in reality is limited. Aside from the fact that the Welsh Government had assumed many of the Welsh Language Board's promotional activities, the Commissioner simply does not have the resources for such activities.

**76.** The Commissioner in her evidence noted that there is "scope within the current legislation" to strengthen the promotional work of the Commissioner:

"I do think that there is scope within the current legislation, because it's framework legislation, which permits things to happen and is enabling. So, there is scope to strengthen the promotional work of the Commissioner.

[...] I still don't think we've taken full advantage of the powers that exist within the current legislation in terms of promotion and facilitation, and the opportunities that exist within the Commissioner's office to do some of that work... it's a problem of resources that makes that difficult at the moment."

**77.** However, the Commissioner also noted that the main driver for change is the Welsh Government's own strategies, such as the education strategy.

**78.** Cymdeithas yr Iaith agreed with the view that there was "nothing to prevent the Commissioner from promoting the Welsh language". However, the Chair of Cymdeithas yr Iaith also noted that only a third of the Welsh Language Board's resources were transferred to the Commissioner, while the "remainder all went into the Government".

**79.** Professor R. Gwynedd Parry did not believe there was a need for a new Act to deal with promotion, instead, the focus should be on resource and policies:

“I’m not entirely sure if we need law to deal with promotion. If the problem is on the promotional side, I don’t think you need new law. What you need is resources, structures, policies. It’s those things that are needed now.”

## Standards as a form of promotion

**80.** While much of the debate around the promotion of the language has been about “soft” promotion, e.g. encouraging use within families and communities, Dr Huw Lewis stressed the importance of the standards as a tool for promoting the language. In his evidence, he asserted:

“The term ‘promotion’ can be awkward, because you can use it in relation to some of the activities related to encouraging institutions to meet the requirements placed upon them—statutory requirements—but it also relates to encouraging bodies that perhaps aren’t captured in the legislation, or sharing good practice and promoting positive attitudes among the staff. But that is perhaps different to the kind of work that relates to language planning among individuals and families in their day-to-day interactions.”

**81.** The Commissioner also asserted that the standards are a means of promoting the language beyond what is considered generally as language promotion:

“I do believe that standards are also a means of promotion. I think placing expectations on organisations is part of creating service change, and doing that in the way I hope we are doing, where we work very closely with the bodies involved to create services that are modern and bilingual, is a way of promoting and facilitating.”

## Creating an arms-length body to promote the language

**82.** Cymdeithas yr Iaith and Dyfodol i’r Iaith have for some time called for an arms-length agency to have responsibility for the promotion of the language. This agency would focus on the work that the Welsh Government currently undertakes. The Chair of Cymdeithas noted:

“I would agree that we need a body to promote, which is external of Government. We feel very strongly that regulation should be left as it is

for the time being and that we do need a body [to promote the language].”

**83.** However, Cymdeithas yr Iaith also accepted that these are difficult times in terms of public finances, but that in order to achieve the Government’s aim of a million Welsh speakers by 2050, “there is a need for significant activity and investment”:

“We won’t reach that target until we have a Government that is willing to provide the investment and the strategy for that to happen. There is a feeling, I think, that the promotional work needs to step up a gear significantly, and our choice would be to have an external body to promote the Welsh language.”

**84.** Dyfodol i’r Iaith anticipated that an arms-length body would be able to “set the language agenda”. The new body would “have to develop continuous expertise and you’d have language planners that are well established and that provide a programme concerning every aspect of life”.

**85.** Emyr Lewis agreed with the need for an external body to promote the language, which he believes would be more agile than a government could be. He noted that while the Welsh Language Board had weaknesses as a regulator, it was considered to be “successful in being very light-footed and strategic”:

“Governments aren’t like that. They’re not fleet footed and strategic. The way that funds are spent is the subject of internal grappling between Ministers and their departments.”

**86.** UCAC (Undeb Cenedlaethol Athrawon Cymru) also shared a similar view to this, with their representative noting that “the civil service is not necessarily best placed for that promotion and marketing work”.

**87.** Nevertheless, Cymdeithas yr Iaith are also of the view that the Welsh Language Unit (WLU) within the Welsh Government should be strengthened, and should have a broader strategic role across Government:

“It’s also very important that there is a department within Welsh Government that does promote the Welsh language, because...the Government has great power and influence over everything that happens in Wales, and unless there is also a powerful department within Government to promote the Welsh language, then there is a risk that we miss out on opportunities... like education, planning and so on.

So, we need a body outwith the Government and also within Government.”

**88.** Despite calls by some for a separate external body with responsibility for promotion and language planning, Dr Elin Royles, while accepting the arguments that an external agency might be more “fleet of foot”, didn’t accept that it is inevitable that Government cannot deliver the promotional work required:

“Now, I accept some of the arguments about the potential of an external agency to be more fleet of foot... I don’t accept that it’s inevitable that Government can’t do that promotion work. The Government does promotion work in areas such as the environment, health and so on, and makes use of external agencies... In this period of austerity, which is having a huge impact on the fact that we’re having this discussion in the first place, I think it’s very difficult to make a case for having a separate, external agency.”

**89.** Dr Elin Royles made the case for an enhanced Welsh Language Unit, noting that the “budgets for the Welsh language aren’t going to increase substantially”, and that in this period of austerity, it is “difficult to make the case for having a separate external agency”:

**90.** The Minister in her evidence to Committee does not believe that a third body responsible for the promotion of the language is an option. The Minister noted that it would “muddy the waters further”. Instead, she proposed moving some promotion functions to the Commissioner, including the work of Cymraeg Byd Busnes which supports small businesses to increase their use of Welsh:

“It is already difficult for people, I think, to understand that you have the Government and the Commissioner. So, when the rail companies don’t use the Welsh language, who would they contact? I think if you also had an agency that would muddy the waters further. So, we won’t go down the route of having a separate agency for promotional work, but we will now be discussing further where exactly promotion and marketing should sit. There are certain aspects of promotion that will have to remain in Government, but there are others that I think it would make much more sense to transfer them to the Commissioner, if that were possible and if we had the confidence that those people wouldn’t be sucked into regulation. So, I think there is a possibility of going down that route.”

## Our view

It is our view that the criticism aimed at the Commissioner in relation to focussing on regulation rather than promotional activity (that is the softer promotional work) was and is unjustified. It is clear to us that the Welsh Language Commissioner is first and foremost a regulator.

In the initial years, the Commissioner had the difficult task of establishing and implementing a regulatory framework that promotes and facilitates the use of Welsh language services across a broad range of sectors. While there are provisions within the Measure that empower the Commissioner to promote and facilitate the use of the Welsh language more broadly, the evidence was clear that the key promotional functions sit with the Welsh Government. It is the Welsh Government after all that holds the key policy levers and resources in the areas required to increase the number of Welsh speakers and its use. However if more promotional activities are transferred to the commissioner adequate resourcing must be provided for this work.

The drafting of the 2011 Measure has created some confusion as to the wider role and responsibilities of the Commissioner. It would have been entirely possible for the Commissioner, with adequate resources, to carry out many of the promotional activities that some expected him or her to do. And while the Commissioner has done some commendable work to promote the language within the third sector and with small businesses for example, these activities are limited by the Commissioner's budget.

The Measure, as it is drafted, does provide some flexibility that would allow for expanding the role of the Commissioner without the need for legislating anew. The broader promotional functions that are currently the domain of the Welsh Government and its partner bodies could be transferred to the Commissioner. We heard evidence about the potential benefits and downsides of expanding the role of the Commissioner in this way, however. One such issue was the potential conflict between the regulatory and promotional arms for resources. The Commissioner noted in her [evidence](#) that she believes that "regulation and promotion within one organisation isn't a conflict—it's two sides of the same coin".

If the Welsh Government and Commissioner agree to the transfer of some promotional functions, this must be done in an open and transparent manner. As a Committee, we would expect to see a clear demarcation of roles and responsibilities, as well as the provision of sufficient resource.

While we are sympathetic to the views expressed by some for the need for an arms-length agency to promote the language, the evidence did not persuade us that establishing a new agency at present would be good use of public funds. A third agency may also lead to further confusion among the public and stakeholder around roles and responsibilities, and as to where accountability lies.

As a Committee, we would support enhancing the status of the Welsh Language Unit within Government. The enhanced Unit would have a broader strategic role across Government departments, ensuring all Government policies align and create the conditions to support the aims of Cymraeg 2050. An enhanced Unit would have more oversight over government policies and activity relating to education, planning, economic development and rural development for instance.

Ultimately, in our view, it is not where the promotional activity sits that is the main driver here, but how effective that activity is undertaken. Whether there is a robust programme and action plan to implement the promotional activities for instance, and whether there is adequate resourcing, both financial and staff capacity for those activities.

**Recommendation 10.** The Welsh Government should set out clear demarcation of roles and responsibility between itself and the Welsh Language Commissioner, and that is communicated clearly with stakeholders and the public.

**Recommendation 11.** The Welsh Government should move to enhance the status and role of the Welsh Language Unit. The Unit, in addition to its current responsibilities, would be responsible for drawing together external knowledge and expertise that will provide a strategic overview of language planning nationally. The Unit should also have an increased cross-governmental role, ensuring internal arrangements for effective implementation of Cymraeg 2050 is undertaken across government departments.

**Recommendation 12.** The Welsh Government must ensure adequate funding for promotional activities undertaken by Government, the Commissioner or external agencies if it is to succeed in its aim for a million Welsh speakers by 2050.

## 6. International context

**91.** The Committee as part of its inquiry, took some evidence on international comparisons and perspectives. The Committee heard how Wales is an international exemplar of language planning and legislation. Dr Elin Royles noted for instance that Wales is in the “vanguard” in terms of language policy:

“I do think that we truly need to avoid moving in haste towards extensive reform—because the world is watching us. We are leaders on the international stage. We’re looking at international examples, but we are in the vanguard in Wales and we don’t give ourselves that recognition often enough.”

**92.** The Commissioner also asserted in her evidence that we too often fail to recognise our successes as an international example of good practice:

“Ireland looks to Wales at present as the exemplar for legislation that they would wish to adopt. They have a structure of language schemes that they, I believe, would say doesn’t work at all... So, we are able to learn, but I don’t believe that we always realise that we are viewed as an example of good practice internationally as regards legislation at present.”

**93.** Nevertheless, there is undoubtedly much that could be learnt from the experiences of other regions with an indigenous minority language. Comparisons with regions of Spain, particularly Catalonia and the Basque Country were noted on multiple occasions, with the Basque Country of specific interest. The Basque Country, albeit with a significant different history and culture have many parallels with Wales. It has a broadly similar population size, similar demographics with the language strongest in rural areas and among older people. The Committee, as part of its inquiry, undertook a visit to Bilbao and Vitoria-Gasteiz in the Basque Country to learn more about language planning and policies for encouraging the use of the language in this region of Spain.

**94.** The Basque Government has placed significant emphasis on education reform, with a concerted effort over several decades to increase the number of Basque speakers. In this context, some witnesses mentioned their desire to see a statutory right to Welsh education, which would require the introduction of a Welsh Education Act. While the committee thought this was an interesting area to explore, the proposal was beyond the scope of this inquiry.

**95.** Cymdeithas yr Iaith believes Wales has much to learn from other countries and regions, noting in its evidence:

“I would agree that we have much to learn... We very often look at Catalonia and the Basque Country as places that we look to and see that we want to pursue a similar direction. But, of course, they have stronger rights than us, that’s why we are looking at them.”

**96.** Comparative research in relation to minority languages does exist, however, Dr Huw Lewis noted a gap in their own research in this area:

“I think that where you’re going with that question is that one gap in our research, but also generally, in terms of the area of language policy internationally, is systematic comparisons of governance models, if you like, with regard to regional or minority languages, such as the Welsh language. If I was talking to my colleagues in this area, one of the criticisms is that you tend to have studies that look very carefully at individual cases, but not a great deal of comparison between them, and that’s a weakness in the area that we would like to get to grips with in future. So, our research to date hasn’t been able to make that international comparison in terms of comparing models where you have, for example, a commissioner and a government or models where you have a single external agency. That is a weakness in terms of the area as a whole.”

**97.** While it is valuable to compare and learn from the experiences of other countries and regions, there is no panacea either, with the former Heritage Minister noting that language planning is a “long-term venture”:

“things aren’t perfect in the Basque Country. Don’t believe that there are simple solutions there: the power of the Anglo-American culture is exceptionally powerful. And in the Basque Country, the neighbouring language is, of course, Spanish and that is an extremely powerful language. It’s not easy to change those speakers into Basque speakers, and, so, it’s a long-term venture and a very exciting one, and that’s how we should view it. And, certainly, you should look at the Basque Country but also you should look at good practice in other places.”

### **Our view**

In our view, there is a clear need for the Welsh Government, in partnership with the Commissioner and other stakeholders to bring together language planners

and experts in the field. The Welsh Government already have a statutory duty to establish a Welsh Language Partnership Council, which could provide the forum required to develop policies for a broad range of issues in relation to the language.

The measures taken in the Basque Country to increase the number of speakers, and to promote language use, has been significantly different to Wales. The Basque Government has invested significantly in Basque language immersion, moving schools quickly along the language continuum. It has also invested heavily in teacher training in Basque, including intensive sabbatical periods for teachers to learn the language.

There is scope to learn from other regions such as the Basque Country, particularly how the Basque Government has tried to bring all its people and its communities along with them. The Welsh Government should consider how such strategies could be deployed in Wales, particularly around school language categorisation and moving schools along the language continuum.

**Recommendation 13.** The Welsh Government should work closely with those conducting research in academia to identify gaps in knowledge, and develop programmes of research to support the Cymraeg 2050 Strategy.

**Recommendation 14.** The Welsh Government should review urgently how it can develop the Welsh Language Partnership Council to provide the expertise required for supporting policy development and language planning in Wales.

## Annex A

### Summary of the Measure

The Welsh Language (Wales) Measure 2011 gave the Welsh language official status in Wales and established the role of the Welsh Language Commissioner. The Measure was passed in plenary on 7 December 2010, and received Royal Assent on 9 February 2011.

#### Part 1

Provides for official status of the Welsh language,

#### Part 2

Establishes the office of the Welsh Language Commissioner, its roles and functions, and matters relating to staffing, complaints procedures, conducting inquiries, legal procedures and requirements to publish Annual reports and a 5-year report. The Commissioner's principal aim according to Section 3 of the Measure is to "promote and facilitate the use of the Welsh language".

#### Part 3

Relates to the establishment of an Advisory Panel and consultation with the Panel.

#### Part 4

Part 4 forms one of the key aspects of the Commissioner's work. Provisions around duties to comply with standards, the standards themselves and their specification, and provisions in relation to persons subject to standards are found in this part of the Measure. There are also provisions in Part 4 for standards investigations, which are the initial process for determining whether persons should be required to comply with standards, and also the issuing of compliance notices, which set out the standards with which the named persons are required to comply.

Schedule 8 provides a list of other persons who might also be capable of being required to comply. These include gas and electricity suppliers, Water and Sewerage companies, those providing train and bus service and the Post Office among others.

## **Part 5**

Part 5, is in effect, the other half of the standards process. In this part of the Measure, there are provisions that provide enforcement powers to the Commissioner. The Commissioner can investigate failures to comply with standards, and also to impose punitive measures such as a Civil penalty. This part of the Measure also makes provision for an appeals process and settlement agreement.

## **Part 6**

Makes provision for the Commissioner to investigate cases of interference with an individual's freedom to use Welsh.

## **Part 7**

Establishes the Welsh Language Tribunal along with rules and procedures that apply to it.

## **Part 8**

Makes provision in relation to integrity, defamation and restrictions.

## **Part 9**

Makes provision for the abolition of the Welsh Language Board and transfers functions in Part 2 of the 1993 Act (Welsh language schemes) to the Commissioner.

## **Part 10**

Amends section 78 of the Government of Wales Act 2006 so that Welsh Ministers are required to publish an action plan on how they will implement their Welsh Language Strategy. It also makes provision for establishing a Welsh Language Partnership Council.

## **Part 11**

Part 11 contains supplementary provisions including a list of public bodies that are capable of being required to comply with Welsh language standards.

## Annex B

This paper provides a record of the key aspects and learnings from the Culture, Welsh Language and Communications Committee's visit to the Basque Country between 27-29 March 2019.

### 1. EiTb – Basque TV and Radio Broadcaster

- Thursday 28<sup>th</sup> March - Members visited EiTb (Euskal Irrati Telebista), which is the publicly funded broadcaster for Basque and Spanish language TV and radio output in the Basque Country. The visit provided Committee Members with an opportunity to tour the main offices and broadcasting facilities.
- The Committee were greeted by Maite Iturbe, the General Director of EiTb, and Odile Kruzeta, Radio and Editorial Coordination Director. The General Director outlined the background to the organisation and current provision and output offered.

### 2. Budget and content

- EiTb's budget for 2019 is approximately €143 million. The Basque Government provide €130 million in grant funding, while circa 10 per cent (around €13 million) comes via advertising revenue.
- However, the broadcaster's budget has fallen by €45m over the last ten years (€175 million in 2009). Managing resources is challenging for the broadcaster.
- This clearly impacts on the content, which is predominantly magazine in style. Due to the budgetary constraints, the broadcaster produces very few dramas.
- Sixty per cent of the broadcaster's content is produced via independent production.

### 3. How the budget is allocated

- Approximately €110 million is spent on TV broadcast, approximately €25 million on Radio, €3 million on the website and €5 million on administration.

- While EITB is the main Basque language broadcaster, it also broadcasts Spanish language content on both television and radio.

#### 4. Accountability

- The broadcaster's *Board* consist of 19 members. 15 board members are politicians from the 5 main political parties represented in the Basque Parliament.
- The broadcaster reports monthly to the Basque Parliament on the amount of coverage each political party and institution receives on the variety of platforms. The General Director reported that no complaints about political balance had ever been received from the political parties.
- All content is available to the language academy for teaching purposes, but the broadcaster does not make any content specifically for language teachings.
- Their news channel uses the standardised Basque language but all other content tries to reflect all dialects.
- The General Director is appointed by the Basque Parliament. There is no fixed term.

#### 5. CEIP Educational Centre – Siete Campas Zorrozoiti Elementary School

- Following the visit to EITB, Members visited a Basque immersion school in an area of Bilbao called Zorrotza. It is a Spanish-speaking area with high social deprivation, and is also home to many of Bilbao's immigrant population.
- Members were taken to a pre-school classroom, where the children had made a small PowerPoint presentation and a laminated "poster" with a Basque proverb, which had also been translated into Welsh – "the language doesn't die because people don't know it or learn it, it does because those who can use it don't".
- Members were then taken to a primary classroom to see how the children learn in the Basque language.
- Members also attended a meeting in the school hall with representatives from the Basque Government, the school inspector, school consultants, community organisations and family representatives. All are part of a specific project in the area.

## 6. The Zorrotza Community Project 2017-2022

- The Zorrotza Community Project 2017-2022 is unique to the Basque Country, and brings together two primary schools and one high school to promote and immerse children in the Basque language and values. Other agencies involved in the project in addition to those mentioned in paragraph 2.4 include the City Council and health and social care organisations.
- All children at the school come from homes where neither parent or guardian speaks the Basque language.
- The intention of the project is to improve both the school and educational setting by being innovative and ensuring this is done in conjunction with community development.
- The schools involved in the project follow the same model of teaching and schedule, which provides for better transition into high school. The teaching methods are also designed to motivate and generate interest in the children.
- Schools follow the Basque Government's curriculum (Heziberri 2020), and focus on task based learning.
- Great significance is placed on the link between the school and the community, with school involvement in community events and weekend activities that provide the children with opportunities to speak Basque.
- Community groups in the area organise a variety of activities, such as sports events, music and dance. Some of the community groups have been working in the area for 30 years.
- The Committee heard that families are demanding Basque language education for their children, having been deprived the opportunity to learn it themselves under Franco's dictatorship.
- Following the school visit, Committee Members were invited to a working lunch with María Ángeles Elorza, General Secretary of External Affairs of the Basque Government and Mikel Anton, Director for European Affairs for the Basque Government.

## 7. Royal Basque Language Academy

- Members visited the Royal Basque Language Academy in Bilbao, and met with the Vice-Secretary, Erramun Osa. He provided Members with a brief history of the Academy and a tour of the building, which contains historically important Basque literature, artefacts and maps.
- The Royal Academy of the Basque Language is the official body responsible for the Basque language, which includes carrying out research and standardisation of the language.
- The Vice-Secretary presented the Chair of the Committee with a copy of *Linguae Vasconum Primitiae – The first fruits of the Basque language*. The first copy was published in 1545, and is an early example of the language in print and has poetry about daily life and biblical teachings.

## 8. Basque Government

- On the final day of the visit, Members visited Vitoria-Gasteiz, the Capital City of the Basque Autonomous Community and seat of Government. Here, Members met with the Vice-Minister of Linguistic Policy, Miren Dobarán and Eugenio Jimenez, Director of Centers and Planning.
- Members heard that after Franco's dictatorship ended, some 40 Basque immersion schools opened – the children who attended were predominantly from those families who continued to speak the Basque language in the home during the Franco period, even though the language was outlawed.
- Members heard that during Franco's dictatorship, clandestine schools existed, known as *Ikastola*, which had helped keep the language alive during this period.
- The provision of Basque language education has been critical to the survival of the language, and has proven to be the most successful aspect of Basque language planning. It has been successful both in terms of volume of activity and numbers of participants involved. It has also received significant sums of Government funding over the last three decades.
- There is a long-term socio-economic plan to increase usage of Basque in the private sector, and also to develop digital media and productions in the Basque language.

- The ability to speak Basque is a precondition of working for the Government.

## 9. Investment

- In the early period of investment, the priority was to invest in pre-school and primary education.
- The most significant investment has been in teacher training programmes, where teachers who cannot speak Basque, or require upskilling have been allowed a period of two to three years to attend a sabbatical programme. The scheme required significant investment, as it needed to pay the salary of the teacher participating on the programme, as well as the salary of replacement teachers.
- According to data on Basque Government expenditure, in 2018, just over €2.5 billion was budgeted for the education sector, distributed via the Provincial Councils.
- Members heard about the investment in Basque language adult lessons, with the Basque Government spending in the region of €35 million a year. Currently, there are 101 centres across the Basque Country, with some 35,000 people currently participating in lessons. Lessons are free to all adults.

## 10. Education Models

- There are three models for public sector led education in the Basque Country – Model A, B and D (model C was abandoned early on. According to Nicholas Gardner in a Paper submitted to the National Assembly's Education and Lifelong Learning Committee in 2002, this was done, in part at least, due to organisational reasons.)
  - **Model A:** all subjects taught in Spanish except for Basque;
  - **Model B:** both Spanish and Basque used for teaching. Mathematics and learning to read and write are generally taught in Spanish.
  - **Model D:** all subjects except Spanish taught in Basque
- Gradually moving schools from Model A to Model B, and eventually to Model D has been Government policy for many years.

- Members heard however that in order to succeed with such a policy, it has to include families and the community as a whole. The top down approach does not work according to the Basque Government.
- Of the school groups in the Basque Country (479 total), 440 choose Model D (92%), 24 school groups choose Model B, and 15 choose Model A.
- Significant effort has also been made to ensure student studying at Higher Education institutions in the Basque Country can choose to study in Basque, bilingually or in Spanish. However, vocational education in Basque is still an area that requires investment and development.

## 11. Basque Parliament

- Before leaving the Basque Country, Members had the opportunity to visit the Basque Parliament. Here, they were greeted by the Basque President, Bakartxo Tejeria, along with other Members of the Basque Parliament.
- All Committee Members signed the book of honour to mark their visit to the Parliament. Here also, the President presented the Chair of the Committee with a wood carving of a tree (which is symbolic to the Basque people) to mark the Committee's visit.
- After the presentation, Members took their place in a committee meeting room, where a joint session was held with Members of the European Affairs and External Relations Commission. Members had the opportunity to share their experiences on matters relating to language policy and areas of commonality between the two nations.
- During the meeting, Members heard that there had been great effort and investment to promote the language, but that the next step was to increase Basque language use and to mainstream the language across all government bodies, including the health service.

## Annex C

The Committee received written responses to the consultation questions from the following individuals and organisations. The responses have been published on our website: <http://senedd.assembly.wales/mgConsultationDisplay.aspx?id=315>

Dyfodol i'r Iaith  
Barry Town Council  
Coleg y Cymoedd  
Welsh Language Commissioner  
The Local Democracy and Boundary Commission for Wales  
Coleg Cymraeg Cenedlaethol  
Carmarthen Town Council  
Irish Language Commissioner  
Colegau Cymru  
Centre for Welsh Politics and Society  
National Museum Wales  
Arts Council of Wales  
Higher Education Funding Council for Wales  
Swansea University  
Academi Hywel Teifi  
Commissioner of Official Languages of Canada  
Mudiad Meithrin  
Abergele Town Council  
Social Care Wales  
Carmarthenshire County Council  
Welsh Language Tribunal  
Cymdeithas yr Iaith Gymraeg  
Dathlu'r Gymraeg  
Welsh NHS Confederation  
Welsh Local Government Association  
Betsi Cadwaladr University Health Board  
Undeb Cenedlaethol Athrawon Cymru  
16 members of the public

## Annex D

The Committee heard from the following individuals and organisations at our meetings. The transcripts of these meetings are available on our website:

<http://record.assembly.wales/Search/?type=2&meetingtype=445>

Date	Name and Organisation
20 September 2018	Alun Ffred Jones, Former Minister for Heritage Meri Huws, Welsh Language Commissioner Dyfan Sion, Strategic Director, Welsh Language Commissioner's Office
10 October 2018	Emyr Lewis, Blake Morgan Dr Huw Lewis, Centre for Welsh Politics and Society, Aberystwyth University Dr Elin Royles, Centre for Welsh Politics and Society, Aberystwyth University
24 October 2018	Heini Gruffydd, Chair, Dyfodol i'r Iaith Osian Rhys, Chair, Cymdeithas yr Iaith Gymraeg Bethan Williams, Cymdeithas yr Iaith Gymraeg
8 November 2018	Llinos Roberts, Colegau Cymru Lois Roberts, Coleg y Cymoedd Dr Ioan Matthews, Chief Executive, Coleg Cymraeg Cenedlaethol Rebecca Williams, Undeb Cenedlaethol Athrawon Cymru (UCAC) Dr Gwenllian Lansdown Davies, Chief Executive, Mudiad Meithrin R. Gwynedd Parry, Swansea University
28 November 2018	David Blaney, Chief Executive, HEFCW Celia Hunt, HEFCW Siân Tomos, Arts Council of Wales Owen Watkin Chair, Local Democracy and Boundary Commission for Wales

<b>10 January 2019</b>	<p>Teresa Owen, Executive Director of Public Health, Betsi Cadwaladr University Health Board</p> <p>Mandy Collins, Powys Teaching Health Board</p> <p>Sue Ball, Assistant Director of Organisational Development, Aneurin Bevan University Health Board</p> <p>Rónán Ó Domhnaill, Irish Language Commissioner</p> <p>Professor Robert Dunbar, Chair of Celtic Languages, Literature, History and Antiquities, University of Edinburgh</p> <p>Diarmait Mac Giolla Christ, School of Welsh, Cardiff University</p>
<b>16 January 2019</b>	<p>Gwyneth Ayers, Corporate Policy and Partnership Manager, Carmarthenshire County Council</p> <p>Lyndon Puddy, Head of Public Services Support Unit, Torfaen County Borough Council</p> <p>Sioned Wyn Davies, Head of Corporate &amp; Customer Services, Wrexham County Borough Council</p>
<b>13 February 2019</b>	<p>Eluned Morgan AM, Minister for International Relations and the Welsh Language, Welsh Government</p> <p>Bethan Webb, Welsh Government</p>