

Pre-legislative public consultation on Bilingual Services

Evidence from Dr Simon Brooks

Pre-legislative public consultation on Bilingual Services: Draft National Assembly for Wales (Official Languages) Bill

I would like to respond to the public consultation as follows:

Equality, citizenship and the Assembly as Wales's civic space

Bilingual services have been treated as a linguistic issue thus far. However, the National Assembly for Wales's unique status as the people of Wales's civic space means that this issue has far wider, and deeper, implications.

Since its inception, the Assembly has stated that every Welsh citizen is equal, and that the Assembly is an inclusive and transparent body. The proposed legislation, in its current form, falls short of these fundamental principles that lie at the heart of democracy in Wales.

The failure to maintain bilingual services in the civic space of the people of Wales is different to the failure to maintain them elsewhere in Wales, and has more serious implications.

The Assembly should not act in a manner that contradicts the principle that Welsh citizens are equal. Any decision to abandon the principle of equality in the civic space could have far-reaching consequences: as regards how the Assembly is perceived by the people of Wales, but also, and more importantly, in setting an extremely dangerous precedent, that could, if interpreted widely, lead to discrimination against all kinds of minority groups within society.

The National Assembly's Record of Proceedings

Based on the argument set out above, the Assembly's Record of Proceedings has a special role: this is where the civic space of Wales is visible to the people of Wales, via their elected representatives' open and democratic

discussions. A failure to make these available in the two languages of Wales would be a fundamental neglect of the principle of equality.

Therefore, the draft Bill should be amended to include a specific commitment to providing a written Record of Assembly Proceedings, and to doing so bilingually.

I note that the Consultation Paper (August 2011) states that ‘subparagraph (6) makes it clear that the Act does not necessarily require the Scheme to provide for interpretation and translation both from Welsh into English and from English into Welsh in all situations.’ (p.6.)

This is justified by referring to the specific example of Ireland. However, there is a fundamental difference between Wales and Ireland as regards: i) use of the minority language; ii) the percentage of the population for whom the minority language is their mother tongue; iii) the population’s perception of the role of the minority language in national life.

The comparison is completely misleading.

It would be far better to follow the good practice of the state of New Brunswick, Canada in this field. The New Brunswick Official Languages Act 2002 is referred to on pages 4-5 of the Consultation Paper, in arguing in favour of the case (which I support) for including ‘a clear, simple statement that the English and Welsh languages are the official languages of the National Assembly’.

However, in doing so, it is appropriate to outline the practical implications of the above statement in the New Brunswick legislature.

The New Brunswick Official Languages Act 2002 states:

Proceedings of the Legislative Assembly

6 English and French are the official languages of the Legislature and everyone has the right to use either language in any debate and other proceeding of the Legislative Assembly or its committees.

7 Simultaneous interpretation of the debates and other proceedings of the Legislative Assembly shall be made available by the Legislature.

8 The records, journals and reports of the Legislative Assembly and its committees shall be printed and published in English and French and both language versions are equally authoritative.

<http://www.gnb.ca/0062/acts/acts/o-00-5.htm> (viewed on 14 October 2011)

A version of clause 8 of the New Brunswick Official Languages Act 2002 should be incorporated into the draft Bill, becoming clause 1C in Section 35 of the proposed version of the 2006 Act, which, to refer to it in English, would be:

8 The records, journals and reports of the National Assembly for Wales and its committees shall be printed and published in Welsh and English and both language versions are equally authoritative.

Other statements regarding linguistic equality on the face of the Government of Wales Act 2006

Furthermore, we recommend that officials and elected Members should examine clauses 6-15 of the New Brunswick Official Languages Act 2002 to see whether there are additional clauses that it would be appropriate to include on the face of the Government of Wales Act 2006.

The draft Bilingual Services Scheme

I believe that the draft Bilingual Services Scheme could be amended as follows:

- a. by setting appropriate, measurable targets in the Bilingual Services Scheme.
- b. By improving the section on how to deal with evidence submitted by external public bodies.

It states on pp.7-8 of the scheme:

‘Where this might be to the detriment of National Assembly business, e.g. if a document is submitted in Welsh only, it may be necessary for the National Assembly to request an English summary or arrange a translation from the third party.’

I agree that it is appropriate to provide a translation of Welsh-language documentation for elected Members when the papers have not been submitted bilingually.

However, it is inappropriate that there is a possibility that there would only be a summary in English of Welsh documentation. Unfortunately, the wording of this section also anticipates a situation where some public bodies would fail to fulfil their duties to submit evidence in Welsh (‘Where it is not possible to secure documents in both languages...’) (p.7.), and where the evidence would be considered in full in English anyway.

At the same time, it is anticipated that it will not be possible, in all cases, to consider equivalent evidence in full if it is submitted in Welsh only. Also, there is a suggestion that the Assembly could transfer the responsibility for providing a translation to the relevant public body. Therefore, public bodies that fail to submit evidence bilingually are treated differently if that failure affects evidence in English rather than in Welsh.

This paragraph, as it currently stands, could set a precedent of linguistic discrimination.

- c. I disagree with the wording in the recruitment section, which states that a candidate who is appointed to a post for which Welsh is essential does not have to be able to speak Welsh. In other areas, when specific qualifications are essential, the candidate is expected to have those qualifications before applying for the post. In Cardiff University, for example, every foreign student must have an English-language qualification before they can start at the University.

Indeed, the section on equal opportunities (p.16) notes specifically that it is vital that individuals should be appointed to posts on the basis on qualifications and skills.

If the National Assembly wishes to start appointing individuals to posts for which they do not have the appropriate qualification, that individual should be expected to gain the qualification, or skills, in the period between being appointed to a post and starting to work in that role.

For example, a member of staff could be sent on an intensive Welsh course that would lead to a recognised qualification in the Welsh. After gaining that qualification, the individual could start in their role. The Welsh Government already funds vocational courses of this kind (for example, for teachers who wish to improve their language skills).

At present, there is no reference in the scheme to what steps would be taken if a non-Welsh speaking candidate for a post where Welsh is essential failed to obtain the necessary language skills (would they be moved from the post?).

It is a cause for concern that this clause could set a precedent for other public bodies in Wales, leading to a situation where a high number of individuals who do not speak Welsh, and who will not learn Welsh to a specific level in due course either, will be appointed to roles where the Welsh language is essential. In turn, this could seriously restrict the right of members of the public to receive services through the medium of Welsh.

Oral evidence

I am willing to present oral evidence to a committee, and would like to be considered as a possible witness.

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