

Wales Council for Voluntary Action

Supporting charities, volunteers and communities

2. Running your organisation

2.10 Welsh language - legal context



Background

The principle of treating Welsh and English on the basis that both languages are equal was established and enshrined in the Welsh Language Act of 1993.

The Welsh Language Act 1993

Following the passing of The Welsh Language Act, the Welsh Language Board was formed and given responsibility for promoting and facilitating the use of the Welsh language. The Act requires that **public bodies** develop a language scheme under the supervision of the Welsh Language Board, setting out how the body will treat both English and Welsh on an equal basis. Public Bodies are defined in section 6 of the Act, which consists of a descriptive list and confers additional power on the Secretary of State to specify further public bodies by way of secondary legislation. Crown bodies are also required to prepare schemes. There is no statutory requirement that voluntary organisations should draw up a language scheme, however they can be required to comply with the provisions of the Act under any contract they may enter into with a public body – this is now normal practice (see comments on section 16 of the Act below). In this case the voluntary organisation will usually be required to conform to the language scheme of the public body it contracts with.

The easiest way of doing this is to adopt an appropriate scheme that ensures the organisation meets its Welsh language obligations under the contract. This scheme would state which services you intend to offer bilingually, for example helplines or information centres, and state how you will go about delivering them.

Under section 16 of the Act, Welsh language schemes should include a commitment to ensure that conditions with regard to the use of Welsh are included with any offer of a grant. Recently, the Welsh Language Board conducted a public consultation on the draft document *Awarding Grants: Welsh Language Issues*. The consultation was completed in August 2006. The guidelines are still under discussion but under the heading 'general principles' it is noted 'When awarding grants, public bodies should ensure that the principle of equality is reflected by the grant supported activity. Public bodies are funded by the public purse and the grants they distribute come from public funds. As such, the principle of equality should follow those funds'. It is also possible that language issues will be a condition of grant in European grant projects distributed by the Welsh Assembly Government between 2007-13. Public bodies that provide match funding for European grant projects will need to ensure that projects properly reflect the linguistic nature of the targeted community or clientele.

Important publications

In August 2005 the Welsh Language Board published *The future of Welsh – a strategic plan*. The document outlines what the Board believes needs to be accomplished to see 'the Welsh language flourishing in a truly bilingual Wales' and names eleven priority areas. Amongst these are use of Welsh by young people, promoting and facilitating the use of Welsh in the community, Welsh language schemes and developing and providing services in the Welsh language, normalising bilingualism and promoting language rights as part of the equal opportunities field.

There are cross-references to *laith Pawb* the Assembly Government's detailed plan for creating a bilingual Wales (published in 2003), for each priority.

Promoting equality and diversity

During recent years voluntary organisations have come to recognise the importance of promoting equality and diversity. This affirms the Welsh Assembly Government's vision outlined in the Voluntary Sector Scheme (2000), which recognises that everyone has a right to participate and be included in the life of their community through volunteering. In order to respect equality and ensure social inclusion here in Wales, organisations are increasingly looking to operate bilingually. The publication of the Welsh Assembly Government's document *laith Pawb – a National Plan for a Bilingual Wales* in 2003 and its commitment to Wales becoming a truly bilingual country has further promoted the benefits of bilingualism.

Although the main argument for promoting diversity and equality is one of social justice, by operating bilingually your organisation can also benefit by:

- Adopting good practice -giving a client real choice regarding the use of language is the essence of good practice.
- Improving its image as a Welsh organisation.
- Reflecting the community it serves.
- Appealing to a wider spectrum of volunteers.
- Improving its chances of attracting funding from bodies who look favourably on an organisation with a policy of attracting volunteers from a cross section of society.
- Improving its quality of services to the public.

Future developments

By May 2007, following the Assembly elections the Government of Wales Act 2006 will become fully operational. At this point a formal, legal separation will be made between the National Assembly for Wales and the Welsh Assembly Government, with the former taking on the legislature role and the latter taking on the executive role. From September 2007 onwards the National Assembly for Wales will be able to acquire enhanced legislative powers for matters approved by Parliament with full legislative powers if approved in a referendum. In addition, the Welsh Assembly Ministers must adopt a strategy setting out how they propose to promote and facilitate the use of the Welsh language and they must adopt a comprehensive Welsh language scheme.

As part of the Government of Wales Act, 'the Assembly must, in the conduct of Assembly proceedings, give effect, so far as is both appropriate in the circumstances and reasonably practicable, to the principle that the English and Welsh languages should be treated on a basis of equality'.

Other legislation that should be given consideration

The Children Act 1989

In making decisions as to the welfare of a child, the court has to take his or her background into account. This includes the child's cultural background. When a local authority is responsible for the care of a child, it must give due consideration to the child's religious, racial, cultural and linguistic background and provide appropriate services that are sensitive to these factors.

Similar provisions are made for registered children's homes and those who care for children under the age of eight.

Children's Commissioner Act Wales 2001

The Children's Commissioner for Wales is there to help make sure that children and young people in Wales are

- safe from harm and abuse
- get the opportunities and services they need and deserve
- respected and valued
- have a voice in their communities
- able to play as full a part as possible in decisions that affect them
- know about their rights and the UN Convention on the Rights of the Child

The Children's Commission has the duty to deliver upon a Welsh Language Scheme.

Mental Health Act 1983

In making a decision as to whether a patient should be admitted compulsorily to a mental hospital, he or she must be interviewed in a 'suitable manner' Although the Act does not provide a specific explanation as to what the 'suitable manner' may be, a code of good practice has been published which states that the ability to understand the patient's preferred language is essential.

Race Relations (Amendment) Act 2000

In recruiting staff to posts where the ability to speak Welsh is considered essential, organisations should be alert to the implications of the Race Relations Act 1976/2000.

If the ability to speak Welsh is an essential condition for fulfilling the terms of the post, the organisation should be able to demonstrate, in an objective fashion, that there is justification for this requirement.

Whether the ability to speak Welsh is considered essential or desirable, the centrally important point is to remain objective, so that all appointments are made fairly and consistently.

The Equality Act 2006

An Act to make provision for the establishment of the Commission for Equality and Human Rights; to dissolve the Equal Opportunities Commission, the Commission for Racial Equality and the Disability Rights Commission; to make

provision about discrimination on grounds of religion or belief; to enable provision to be made about discrimination on grounds of sexual orientation; to impose duties relating to sex discrimination on persons performing public functions; to amend the Disability Discrimination Act 1995; and for connected purposes.

The Commission shall establish a decision making committee to be known as the Wales Committee.

Other strategies that should be given consideration

Iaith Pawb – A National Action Plan for a Bilingual Wales 2003

This document by the Welsh Assembly Government sets out a national policy framework, clearly defining its role in providing political and strategic leadership, the goals to be achieved and the broad strategies by which 'a truly bilingual nation' can be achieved.

The Welsh Language Board's Youth Strategy 2006

The strategy aims to increase the social use of Welsh by young people in the 11-25 age group. The voluntary sector has a role to play in the provision of services for young people available in Welsh throughout Wales. The strategy notes that although the voluntary and private sectors 'have no statutory responsibility to offer language choice in their services for young people this should be encouraged as good practice. In cases where voluntary bodies receive public funding it is the responsibility of the funding body to ensure that the requirements of their Welsh language scheme are implemented'.

The Future of Welsh – A Strategic Plan by the Welsh Language Board

In August 2005 the Welsh Language Board published the important document *The future of Welsh – a strategic plan*. The document outlines what the Board believes needs to be accomplished to see 'the Welsh language flourishing in a truly bilingual Wales' and names eleven priority areas. Amongst these are use of Welsh by young people, promoting and facilitating the use of Welsh in the community, Welsh language schemes and developing and providing services in the Welsh language, normalising bilingualism and promoting language rights as part of the equal opportunities field.

Bilingual Software Guidelines and Standards by the Welsh Language Board

This document should be read by all those with an interest in, or responsibility for, IT projects intended for use in Wales – managers, developers and users as it offers practical guidelines for implementing systems bilingually.

Further information

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Disclaimer

The information provided in this sheet is intended for guidance only. It is not a substitute for professional advice and we cannot accept any responsibility for loss occasioned as a result of any person acting or refraining from acting upon it.

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