

A response to the call for written evidence on the proposed Welsh Language (Wales) Measure

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About us

Consumer Focus Wales is a statutory organisation campaigning for a fair deal for consumers established through the Consumers, Estate Agents and Redress Act 2007.

Our structure reflects the devolved nature of the UK. Consumer Focus Wales looks at issues that affect consumers in Wales, whilst at the same time feeding into and drawing on work done at a GB, UK and European level.

In campaigning on behalf of consumers we aim to influence change and shape policy to better reflect the needs of consumers. We do this in an informed way owing to the evidence we gather through research and our unique knowledge of consumer issues. We have a particular focus on vulnerable consumers, particularly those on low incomes, people with disabilities, people living in rural areas and older people. In addition, we also seek to identify where other consumers may be disproportionately disadvantaged by a particular consumer issue or policy.

Consumer Focus Wales welcomes the opportunity to submit written evidence on the proposed Welsh Language (Wales) Measure. We feel the consumer voice has been long absent from the debate and would like to share our recent findings on the consumer experience of current Welsh language services. ***On this basis, we would also welcome the opportunity to give oral evidence to the Committee.***

The Measure has implications for all Welsh speaking consumers. The introduction of Standards should make it clearer to consumers about what levels of service to expect and who they can expect to receive a Welsh language service from. This move towards consistency and clarity is a positive step forward for Welsh language consumers.

However, there must be opportunities for consumers to inform the development of the Standards to ensure that the services provided under them better suit the needs of Welsh language speakers. Engaging with the public is integral to the success of any service, so we have recommended a number of ways in which this can be safeguarded through legislation. Supporting this, we believe the monitoring and evaluation of the use of services, as well as the use of the language, should be included in the Measure as one of the Commissioner's duties.

We have concerns about the knock on effect on consumers if any companies to be covered by the new Standards pass any additional costs arising from the Measure to

consumers. We acknowledge that the Measure is intended to be reasonable and proportionate and not place any undue burdens on organisations and businesses. We ask that you bear in mind that reasonable and proportionate must extend to the financial impact on their customers. We will be looking at this issue in more detail and welcome the opportunity to work with the Welsh Assembly Government in finding workable solutions to any potential problems.

Overview

When responding to the consultation on the National Assembly for Wales (Legislative Competence) (Welsh Language) Order 2009, we said more research needed to be done on the consumer experience of Welsh Language services. Following this, Consumer Focus Wales commissioned an all Wales survey to better understand what consumers think of the current level of services provided through the medium of Welsh by both public sector and private providers and our findings are reflected in this evidence. We will be publishing a full report on the findings in the Autumn. As we have advocated citizen centred services for many years, these principles are also integral to our response.

We have responded to each question in detail under the specific consultation questions. However, there are a number of key points to consider, which we feel the Measure should better reflect. In particular, we would like to see the Measure;

- make more provision for consultation and dialogue with the public
- ensure greater clarity and consistency for service users
- address issues that are of concern to Welsh speakers, including confidence
- put in place more robust monitoring and evaluation processes

Welsh Language (Wales) Measure: Consultation Questions

1. Is there a need for a proposed Measure to deliver the stated objectives of (as set out in paragraph 3.10 of the Explanatory Memorandum):

- ***providing greater clarity and consistency for Welsh speakers in terms of the services they can expect to receive in Welsh;***

We welcome the steps taken to provide greater consistency and clarity for Welsh speakers through the introduction of the Standards. However, these need to be visible to the public from the very start. Although the detail of how this will be achieved will be addressed by the new Commissioner, when developing the specific Standards, we believe the principles of consultation and open dialogue on the development of the Standards should be safeguarded through provisions made in the Measure.

While we appreciate that the Measure cannot stipulate a duty to consult on those bodies the Standards will be conferred upon, we are concerned that there is currently no duty either on the Commissioner to consult with the public in investigating service sectors to inform the development of the Standards, or in developing the Standards themselves. As we understand it, the only formal consultation is likely to be from the Welsh Assembly Government on the regulations that set out the Standards. This does not go far enough.

There is an opportunity under Section 61 to extend the consultation on the development of the Standards to the wider public. As drafted, this is likely to be used to enable consultation with other key stakeholders rather than consumers themselves. To better understand what Standards should be put in place, much would be gained at this stage from consulting with consumers who use Welsh language services and importantly those who do not currently use services.

It also is important that the organisations who will comply with the Standards have a duty to engage with the public (both those Welsh Language consumers who currently use their services and those who do not) in planning and implementing delivery. Whilst we appreciate that the Measure cannot stipulate a duty to consult on those bodies the Standards will be conferred upon, consideration should be given in Section 26 (4) to inclusion of consultation with the public within the regulations following this Measure. This will give consumers further opportunity to help shape the services they want to see and are most likely to use.

The Committee should consider how the Commissioner could provide support to service providers as to how to engage and consult with consumers. We would like to see the Commissioner using their powers to issue a code of practice for service

providers (different versions may need to be produced for public and private providers) to enable them to engage effectively and innovatively with consumers.

In summary, we would like to see consideration given to how the Commissioner, the Welsh Assembly Government and service providers engage with the public when developing Standards. These are the foundations of the services the public will receive, so should reflect the services the public want to use.

Recommendation: We believe amendments should be made to the following Sections of the Measure:

- **Section 5(1)** stipulate a duty to consult the public as part of the reporting period
- **Section 26** include the provision for subsequent regulations to include requirements on service providers to consult the public on the development of standards
- **Section 61** include a duty on the Commissioner to consult the public in investigations into standards to be imposed Guidance on innovative approaches to engagement should be developed by the Commissioner to support all bodies that fall under the Standards.

➤ ***reducing the administrative demands placed upon those subject to duties by moving the focus away from the preparation of schemes;***

We agree that the Measure will reduce the bureaucracy of the current system of developing schemes and welcome the new simplified arrangements.

However, we do have concerns about the financial implications on customers where an organisation that has not been in compliance with a Scheme previously and may choose to pass the costs of providing Welsh language services to consumers. In their recent evidence to the Committee, Scottish Power¹ stated that the increased costs of complying with Standards would be reflected in increased tariffs for customers. Consumer Focus Wales, as the organisation with statutory responsibility for representing consumers in gas and electricity markets, is extremely concerned about these statements. We believe that a reasonable and proportionate approach to financial planning of any new services should apply not only to the businesses but to their customers as well.

¹ LC2(3)-08-10 : Paper 3 : 29 April 2010

In investigating what Standards will be conferred on organisations the potential costs to the consumer must also be considered. We intend to monitor this issue closely over the coming months to assess any negative financial impact on consumers in Wales, particularly those who are most vulnerable.

Recommendation: The Committee should work with Consumer Focus Wales towards a solution for customers and companies that ensures customers do not incur any unfair costs as a result of the Measure.

- ***establishing a system that will ensure that duties imposed on bodies are both reasonable and proportionate;***

Consumer Focus Wales believes the Standards system will introduce a fairness and consistency to Welsh language services. It is important that consumers know what to expect and are given the opportunity to comment as to whether the Standards are in line with their expectations. As discussed above, it is vital that there is opportunity for public consultation as the Standards are developed. Unless this is done, and done in an open and visible and effective manner, we are concerned the Standards will reflect the service providers' interpretation of a reasonable and proportionate service more than that of the service user.

Recommendation: Section 26 should stipulate a duty to consult with the public when developing the Standards.

- ***within particular sectors, ensuring that there is consistency in terms of those bodies subject to duties with the aim of ensuring a level playing field;***

Our research findings show that there is inconsistency between different bodies within the public and private sectors, so we welcome the development of a level playing field. We note that the Measure, as outlined in the LCO, places a duty upon telecommunications services to comply with the Standards. Interestingly, our research showed that this sector rated lowest of all those we surveyed people on, with 58% rating their Welsh language service as bad or awful². This clearly shows the need for greater consistency across sectors.

² Consumer Focus Wales (unpublished) Welsh Language Service Provision survey (Q15b)

The Explanatory Memorandum to the Measure refers to the Standards allowing for differences between different regions and sectors (Section 43 (3)(b)). We would like reassurance from the Committee that there will be no potential detriment to consumers arising from these variations. Minimum standards or benchmarks are needed to ensure that, as well as flexibility, consumers can expect a certain level of consistency across sectors. The Commissioner will also have to consider how to communicate to the public about the difference in Welsh Language provision between areas of Wales and why this is. It is important the public are aware of these so they know the level of service to expect and the reasons why the Commissioner has deemed any variations necessary. As current Welsh Language Schemes are consulted upon, we would expect a similar system will be put in place for the particular circumstances of individual organisations. We appreciate that at this stage the Measure cannot place a duty on bodies to do this but the Committee should be mindful of this issue.

We would also like clarity over the requirements that could be placed upon service providers under Schedules 7 and 8. The Measure refers to Service and Record Keeping Standards being imposed upon the bodies listed. However, it is unclear whether this means either or both would be imposed. If either can be imposed, it is vital that all bodies in Schedules 7 and 8 have a duty to comply with the Record Keeping Standard for the purpose of monitoring and evaluating the service they are providing. Without this, there is no statutory basis to collate information on compliance with the Standard or complaints and therefore no evidence base to call upon for monitoring and evaluation.

Recommendation: If **Section 8** refers to either Standard being imposed, this should stipulate all bodies must comply with the Record Keeping Standard for accountability and monitoring for service users.

We would like confirmation that the variations across area or sector referred to in **Section 43** will have no detrimental effect on consumers.

- ***developing the responsibility of the Welsh Assembly Government and local authorities in Wales with regard to promoting the use of Welsh more widely;***

In our recent survey of Welsh speakers, current promotion arrangements did not rate particularly well with respondents. Promoting or raising awareness of Welsh language services wasn't something that respondents felt could improve the services they currently received. Only 6% felt promotion and awareness of services would improve the Welsh language service provided in the public sector, rising to 14% in

the private sector³ and some felt the current promotion campaigns weren't being used as well as they could be. The Bwrdd yr Iaith badge scheme was mentioned by some respondents as not being used widely enough by the private sector to enable customers to easily identify who they could speak to in Welsh⁴. It is important that future promotion arrangements address this through innovative campaigns that include long term evaluation of their impact.

In order to reflect the issues that are important to Welsh speakers, any promotion policy should consider any issues the Commissioner has deemed relevant to the Welsh language that are determined under Section 17(2) as part of the annual reporting process. However, when investigating what these issues may be, there should be a commitment from the Commissioner to establishing a strong dialogue with the public so that they are given an opportunity to consider and comment on their own experiences.

Supporting this, a research duty should be imposed upon the Commissioner as either part of the annual or five year reporting period. We appreciate that evaluation of the census is included under section 4 (five year reports) but this does not include evaluation of service use, only levels of Welsh spoken. In order to inform future service development and ensure the Standards remain relevant, a research duty into the use of Welsh language services as well as effective engagement strategies should be included.

According to our survey, a lack of confidence in their own language skills was one of the biggest barriers to people using Welsh Language services. This was true across all levels of fluency. Of those Welsh speakers who rarely or never used Welsh with public bodies, 70% cited a lack of confidence as the reason and 84% told us that they feel they don't have enough Welsh. Notably, almost half of those who said this were fluent or almost fluent in Welsh.⁵

Of all respondents, 13% cited a lack of confidence in their ability to speak Welsh as the reason for not using it when dealing with the public sector. This dropped to 9% for the private sector. For the public sector, 23% said it was because they didn't speak much Welsh or weren't fluent, this was similar for the private sector at 20% of people.⁶ This suggests a lack of confidence amongst learners and second language Welsh speakers to use the language in a real-life setting and not just in the classroom.

It is therefore vital that the Measure and resulting arrangements are able to identify and address issues such as this in order to ensure that consumers feel more confident in using services. The Welsh Assembly Government will need to consider

³ *ibid*(Q6;Q12)

⁴ *Ibid* (follow up interview)

⁵ *Ibid* (Q7)

⁶ *Ibid* (Q6; Q12)

how to do this as part of their promotional role, as will the Commissioner when monitoring the impact of the Standards on the use of Welsh language services.

The Commissioner (as part of their guidance role) should develop a code of practice for providers as to how to best promote services to consumers. This would obviously be for the Commissioner to decide upon, but it is something the Committee can consider recommending at this stage. We look forward to the opportunity to discuss this in greater detail at the next stage of planning.

Recommendation: When developing the Promotion Standard, **Section 30** should include a duty to monitor and evaluate the impact of promotion arrangements.

The Commissioner should report on the use of Welsh Language services that have Standards conferred on them and support this with effective research and engagement strategies (**Section 4** and **Section 17**)

Guidance on innovative approaches to promotion and monitoring and evaluation arrangements should be developed by the Commissioner to support providers on which the standards are conferred.

➤ ***developing a more effective enforcement regime in relation to any duties that will be imposed;***

It is vital that there is a clear route for complaints and we welcome the suggestion for a more flexible system regarding the way in which people can raise concerns or issues of non compliance with the Standards (as mentioned under paragraph 3.6 of the Explanatory Memorandum). We look forward to seeing how the Commissioner will develop an open, inclusive and above all simple redress system. However, the processes will be largely ineffectual if not visible to the public. Section 13(5) states that the complaints procedure must be visible to any interested persons. Consumers must be regarded as key stakeholders in wishing to use and understand the process. The arrangements for publicising the complaints procedure must ensure it is easy for the public to understand how the process works and how they can use it.

Alongside any official complaints procedure that the Commissioner develops, it is most important he maintains a dialogue with Welsh speaking service users so that any issues can be addressed and resolved as part of the everyday business of the Commissioner, not simply through official processes.

In order for a complaints process to be effective for consumers, they must be kept constantly updated and have feedback on the outcome of their complaint⁷. The new process does include feedback mechanisms under Section 81, but does not include interim feedback at all stages. Although the real detail on how this can be done can be addressed at the next stage of the legislative process, the duty to maintain contact with the complainant at all stages should be stipulated in the Measure.

We also feel there is a role for the Commissioner in evaluating the individual complaints procedures of the organisations that will be subject to the Measure. Under section 31(1)(b) of the Measure, the Record Keeping Standard will ensure complaints are recorded by the individual organisations. Some organisations may not record queries and complaints that fall outside the official complaints process, so we would like to see the Commissioner work with organisations to develop how they will record and evaluate all other comments and feedback. We would hope the duty to encourage best practice (Section 3(2)(b)) will include evaluation of individual complaints and feedback procedures to ensure they both suit the needs of service users and take account of all their comments.

Recommendation: Section 95(5) to include provision to notify the person(s) of options for redress or appeal should the complainant not be satisfied with the Commissioner's response and if the complaint is taken up by the Commissioner.

The process should also include arrangements to consult or feedback to the complainant for the duration of the complaint itself.

- ***providing a strong and independent voice for the Welsh language through the establishment of the Commissioner as an identifiable champion and advocate for the language;***

It is important that the Commissioner is independent and represents users of the Welsh language. This means reflecting the views of Welsh speakers by engaging with them. In order to truly reflect the voice of the people, the Commissioner must ensure that he or she builds a dialogue with the public. This should also be reflected through the members of the Advisory Panel, with at least one member representing the varied needs of service users. It is vital that the Panel reflects the diversity within Welsh speaking communities in Wales, not only in terms of regions of Wales and levels of Welsh but also to be able to better connect Welsh issues and broader diversity issues such as disability. For example someone who prefers to communicate through the medium of Welsh, who also has a communication disability, could be doubly disadvantaged in trying to access services. It is important

⁷ Consumer Focus Wales *Engaging with People: Report to CSSIW* (January 2009)

the Commissioner has the expertise on such issues available to him. Schedule 4 (3) allows for the provision of principles to be followed in appointing members of the panel and we look forward to being able to comment on this in more detail at the next stage of the process.

In addition, we would like to see consideration given to developing supporting mechanisms for gathering and reflecting the views of Welsh speaking consumers, for example through standing consumer panels to inform the Advisory Panel and Commissioner's work.

➤ ***making further provision with regard to the status of the Welsh language; and***

It remains of great importance to people that they can access services in Welsh. In our survey, 8 out of 10 respondents said Welsh speakers should have the right to access all services in Welsh⁸. Similarly, 72% felt Welsh speakers were disadvantaged if they cannot express themselves in the language they feel most comfortable⁹. Consumer Focus Wales believes one of the basic and fundamental rights of the consumer is the right to be heard.¹⁰ We therefore welcome further provisions to safeguard and extend the status of the language in Wales under Section 1 of the Measure.

➤ ***making provision with regard to investigating and reporting on those instances of interference with people's freedom to use Welsh with one another.***

Please see comments under '*developing a more effective enforcement regime in relation to any duties that will be imposed*'.

2. Is it easy to understand the practical implications of the proposed Measure for your organisation? Please explain the reasons for your answer.

It is clear to us we will have to comply with the Standards but not clear at this stage the exact nature of the service we will be required to provide. We are committed to providing a first class service throughout our communications with the public and will continue to do so under the new system.

⁸ Consumer Focus Wales Welsh Language Service Provision survey (Q18i)

⁹ Consumer Focus Wales Welsh Language Service Provision survey (Q18vi)

¹⁰ Consumers International consumer rights

<http://www.consumersinternational.org/Templates/Internal.asp?NodeID=89647#rightsdefined>

3. Subject to any answer given in relation to question 2, how will the proposed Measure change what your organisation does currently and what impact will any such changes have?

We do not feel we have sufficient information to comment on this until the Standards are developed.

Summary and conclusions

Our research confirms the importance of the language to Welsh speakers in Wales. In our recent survey, 92% of respondents said providing Welsh language services is important to help keep the language alive¹¹. We therefore feel the Measure is a positive step in developing Welsh language services in Wales, whilst simplifying the process at the same time.

We do however have a number of specific concerns regarding the Measure, which we would like to see taken into account by the Committee. These include;

- engagement with consumers in the development of the Standards
- engagement with service users when developing future language policy
- maintaining a dialogue with consumers throughout processes relating to the functions of the Commissioner
- arrangements for monitoring and evaluation of service use as well as language use

We are also concerned about any potential detriment to consumers should companies pass on the cost of complying with the Standards to them. We look forward to the opportunity to work with the Committee and Welsh Assembly Government in tackling this potential problem and around the Measure more broadly as it develops.

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¹¹ Consumer Focus Wales Welsh Language Service Provision survey December 2009 / January 2010 (Beaufort Research); Q18(iv)