



Buan-Chomhchoiste na Gaeilge, na Gaeltachta agus Phobal Labhartha na Gaeilge

Ráiteas Tosaigh de chuid Choimisinéir Teanga na Breataine Bige ar an ábhar ‘Beart Teanga na Breatnaise agus na Caighdeáin a mBaineann Leis’

Dé Céadaoin 22 Meán Fómhair 2021 ag 2.00pm i Seomra Coiste 3, Tithe an Oireachtais

Achoimre Ráitis

- In ainneoin go dtugtar gealltanais láidre i scéimeanna teanga Breatnaise, is lag iad a gcur i bhfeidhm agus na cumhachtaí rialaithe a bhaineann leo. Tá toradh i ndiaidh a bheith ar chumhachtaí forfheidhmithe Bheart Teanga na Breatnaise.
- Bhain dúshlán leis an athrú struchtúrtha, agus tá acmhainn dhóthanach ag teastáil chun socruithe nua a bhunú. Is ann do riachtanais shoiléire reachtúla atá infheidhmithe.
- Is ar an Rialtas atá an fhreagracht maidir le caighdeáin a leagan amach. Ina dhiaidh sin féin, is den tábhacht é go mbíonn ról cuí ag foireann an rialálaí i dtús phróiseas ullmhaithe na gcaighdeán.
- Sa Bhreatain Bheag, ní bhíonn an Rialtas páirteach sa phróiseas socraithe dualgas.

Ráiteas Oscailte

1. Is mise Aled Roberts agus is mé an Coimisinéir Teanga Breatnaise reatha – an té atá freagrach as réim na gcaighdeán a rialú i Sasana agus sa Bhreatain Bheag. Tá an cur i láthair seo á dhéanamh i mo cháilíocht mar Choimisinéir Teanga Breatnaise agus bainfidh mo thráchtairacht le mo thaithí féin ar réimeas socraithe agus forfheidhmithe na gcaighdeán sa Bhreatain Bheag.
2. Is corporáid aonair an Coimisinéir – entiteas dlíthiúil ina mbíonn na cumhachtaí uile dílsithe i nduine aonair. Is iad Airi na Breataine Bige a mhaoiníonn an post agus is é an Céad-Aire a cheapann an Coimisinéir de bhun próisis cheapacháin phoiblí – ar feadh tréimhse 7 mbliana. Cé nach



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bhfuil an post neamhspleách ar an Rialtas, is comhlacht páirtspleách é. Is ról gar-bhreithiúnach é a gceanglaítear ar an bpostsealbhóir breithniú a dhéanamh ar chásanna.

3. Tá an Coimisinéir freagrach don Bhinse um Theanga na Breatnaise i ndáil lena gcinntí rialála uile: tá de chumhacht ag an mBinse breith de chuid an Choimisinéara a dhearbhu, a aisghairm nó a leasú nuair atá caighdeán á shocrú nó á fhorfheidhmiú. Féadfaidh eagraíocht nó gearánaí cás a chur faoi bhráid an Bhinse um Theanga na Breatnaise.
4. Seachas an ról rialála, fostaítear foireann a dhéanann éascaíocht agus forbairt ar úsáid na Breatnaise ar mhodhanna neamhreachtúla san earnáil phríobháideach agus deonach.

Comhthéacs

5. Is den tábhacht a thuiscint go mbaineann dhá réim reachtúla le teanga na Breatnaise. De bhun dílártaíthe tá de cheart ag Parlaimint na Breataine Bige [Senedd Cymru] reachtaíocht a rith i réimse theanga na Breatnaise. Tháinig Beart na Breatnaise (An Bhreatain Bheag) i bhfeidhm in 2011 agus rinneadh aisghairm ar mhórchuid d'Acht na Breatnaise 1993 a tháinig roimhe. De bharr na gcúinsí reachtacha, ní raibh de dhlínse ag an Senedd reachtaíocht a rith i réimse an cheartais nuair a toillíodh le Bearta Teanga na Breatnaise. Dá bharr sin, tá feidhm i gcónaí le Cuid 3 d'Acht na Breatnaise a bhaineann le húsáid na Breatnaise sna Cúirteanna. Ina cheann sin, ní foláir cead Aire a fháil sula gcuirfead caighdeán i bhfeidhm ar Ranna Airí Westminster agus bíonn Scéimeanna Teanga Breatnaise á bhfeidhmiú acu go dtí an lá inniu. Tá Caighdeán Teanga Breatnaise á gcur i bhfeidhm ag breis is 200 eagraíocht.
6. Is beart creatlaigh Beart Teanga na Breatnaise e.g. is trína bhíthin a bhunaítear oifig Choimisinéir Teanga na Breatnaise, An Binse um Theanga na Breatnaise; chun gur féidir rialacháin, cóid chleachtais a dhéanamh chomh maith le Polasaí Forfheidhmithe a ullmhú agus próisis a thionscnamh srl. Tugtar achoimre ghairid ar phróiseas na gcaighdeán mar seo a leanas:

Taighde agus moltaí

Molann an Coimisinéir d'Airí na Breataine Bige cé acu ar cheart d'eagraíocht



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nó earnáil lena mbaineann an Beart a bheith faoi réir fhorfheidhmiú na gcaighdeán.

Polasaí

Is ag Airí na Breataine Bige a fhágtar an ceapadh beartais agus dá bhrí sin is é Rialtas na Breataine Bige a shocraíonn caighdeán.

Toiliú

Cuirfidh Airí na Breataine Bige Rialacháin Chaighdeán faoi bhráid an Senedd le go dtoilfí leo. Téann an Coimisinéir i ndáilchomhairle le heagraíocht agus is é a shocraíonn caighdeán ar eagraíocht trí Fhógra Reachtúil Comhlíonta. Bíonn sé de cheart ag eagraíocht dúshlán a thabhairt agus an dúshlán a chur faoi bhráid an Bhinse um Theanga na Breataine má mheastar nach bhfuil an dualgas á leagan ar an eagraíocht réasúnach agus cóir.

Cur i bhfeidhm

Níl aon fhoráil sa Bheart i dtaca leis an tréimhse feidhmithe. Is faoi dhiscreid an Choimisinéara a dhéantar faireachán, suirbhéanna; a réitítear fadhanna córasacha, a roinntear cleachtais éifeachtacha agus a chuirtear comhairle e.g. i dtaca le hearcaíocht, conraitheoireacht, teicneolaíocht srl. Foilsíonn an Coimisinéir tuarascáil maidir le feidhmíocht eagraíochtaí agus is é a chuireann an pobal ar an eolas ionas go mbeidh tuiscint ar a gcuid eispéireas teanga agus is é a ghníomhnaíonn de bhun moltaí.

Forfheidhmiú

Má bhíonn an Coimisinéir den tuairim nach bhfuil eagraíocht i mbun comhlíonta, nó má shocraítear gearán a fhiosrú, féadfaidh sé tús a chur le himscrúdú agus breithniú a dhéanamh ar chás. Tá cumhachtaí forfheidhmithe aige. Is ceart a lua nach foláir do Choimisinéir Teanga na Breataine imscrúdú a chur san áireamh i ndáil le gach gearán bailí a fhaightear agus dá réir sin is dlúthchuid dá chúram an forfheidhmiú.

Gearáin agus cumhacht an fhorfheidhmithe

7. Mar seo a leanas atá na cumhachtaí forfheidhmithe:

- plean gnímh a ullmhú chun teacht roimh an loiceadh láithreach agus feasta



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- céimeanna a ghlacadh chun teacht roimh an loiceadh láithreach agus feasta
- aird phoiblí a tharraingt ar loiceadh comhlíonta ar chaighdeán
- iallach a chur ar eagraíocht aird phoiblí a tharraingt ar a loiceadh comhlíonta ar chaighdeán
- pionós sibhialta a ghearradh

Féadfaidh an Coimisinéir freisin:

- moltaí a dhéanamh
- comhairle a chur ar eagraíocht nó ar aon duine eile
- féachaint le socrú réitigh a dhéanamh leis an eagraíocht

8. In ainneoin go raibh na gealltanais sa Scéim Teanga Breatnaise láidir, ba mhinic go raibh an cur i bhfeidhm lag de bharr easpa cumhachtaí rialála. Tá toradh ar chumhachtaí forfheidhmithe an Choimisinéara. Tá cuid de bhreithnithe an Bhinse um Theanga na Breatnaise i ndiaidh staid na Breatnaise a neartú. [Penderfyniadau | Welsh Language Tribunal \(llyw.cymru\)](http://www.welshlanguage.com)

Caighdeáin a Thabhairt Isteach

9. Is féidir cúig aicme rangaithe a dhéanamh de Chaighdeáin a leagtar amach faoi réir Bheart Teanga na Breatnaise faoina n-áirítear sainmhínithe ar chuspóirí na gcaighdeán úd. Is fairsing iad raon na gcaighdeán agus gan iad a bheith teoranta do sheirbhísí e.g. tá dualgais ann cur le húsáid na Breatnaise sa láthair oibre; is ann do chaighdeáin a thugann ar Údaráis Áitiúla straitéisí 5 bliana a dheardh chun líon na gcainteoirí Breatnaise a chaomhnú nó a mhéadú. Déantar rangú ar na caighdeáin mar seo a leanas:

- caighdeáin seachadta seirbhíse
- caighdeáin cheaptha beartais
- caighdeáin oibríochta
- caighdeáin choimeádta taifead
- caighdeáin bholscaireachta

10. Is é Rialtas na Breataine Bige atá freagrach as na caighdeáin a dheardh. Is sainchaighdeáin iad seachas caighdeáin leathana ar bhonn prionsabail. Bíonn siad soiléir agus sothuigthe – ó thaobh na n-úsáideoirí agus na n-



05/07

eagraíochtaí de. Tá an pobal in ann brath orthu dá réir. Is caighdeáin iad a chuireann leis an úsáid teanga seachas cinn a choscann úsáid teanga. Leagtar caighdeáin ar eagraíocht seachas mar thoradh ar idirphlé.

11. Tugann an Coimisinéir faoi imscrúdú caighdeán sula ndéanfaidh an Rialtas caighdeáin a dhearadh. Ón tús, rinne an Coimisinéir measúnú bonnlíne chun scrúdú a dhéanamh ar leibhéal na ngealltanais a rinneadh i scéimeanna teanga Breatnaise. De bhrí gur deimhníodh bonnlíne faisnéise, cinntíodh nach raibh caighdeáin nuadheartha ní ba laige ná na gealltanais a tugadh sna scéimeanna reatha teanga Breatnaise.
12. Tugtar caighdeáin isteach go céimniúil ar shraith eagraíochtaí earnálacha – is de réir a chéile a chuirtear an clár athraithe i gcrích.

Céard a dhéanfá ar dhóigh eile?

13. Ní thig liomsa mar Choimisinéir Teanga na Breatnaise tráchtairacht a dhéanamh ar réim atá faoi mo chúram rialála féin. Tá tuarascáil choiste Senedd i ndiaidh scrúdú a dhéanamh ar an réim agus is mian liom aird an Bhuan-Chomhchoiste a dhíriú ar an tuarascáil:
<https://senedd.wales/media/hpbpjiga/cr-ld12636-e.pdf>
14. Baineann dúshlán le hathrú eagraíochtúil agus a lorg sin ar an athrú ó chur chuige an chur chun cinn sna scéimeanna teanga i dtreo mhúnla socraithe agus forfheidhmithe na gcaighdeán. Mar sin féin, is ann anois do riachtanais shoiléire reachtúla agus ní mór iad a chomhlíonadh. Tá acmhainn dhóthanach ag teastáil le socruithe nua a chur i bhfearas agus chun cur le feacht i dtaobh na socruithe nua. Ceal a leithéid d'acmhainn ní féidir an pobal a chur ar an eolas i gceart agus glacfaidh sé tamall níos faide ná is gá ar eagraíochtaí an cur chuige a thuiscint. Sa Bhreatain Bheag, is dúshlánaí fós an chumarsáid phoiblí a dhéanamh de bharr go bhfuil dhá chóras reachtúla i bhfeidhm. Is den riachtanas é múnla atá oiriúnach dá fheidhm a dhearadh.
15. Chomh fada agus a bhaineann sé leis na caighdeáin iad féin, is fiú a thabhairt faoi deara go mbíonn ról cuí ag foireann an rialálaí ag tús phróiseas ullmhaithe na gcaighdeán. Sa Bhreatain Bheag, baineann luach leis an bpróiseas faoina réitítear Tuarascáil Caighdeán agus moltaí. Is iad foireann an rialálaí, iad siúd a bhíonn ag plé go díreach leis, is fearr a thuigeann cén



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áit ar cheart an dualgas a leagan.

Múnla na Breataine Bige a chur i gcomparáid le mianaidhm na hÉireann

16. Cé go mbíonn an Coimisinéir ag déileáil le gearáin agus féadfaidh aon duine gearán a dhéanamh leis an gCoimisinéir, ní hionann an ról agus ról Ombudsman. Feidhm rialála atá ann a ghearrann pionós ar chomhlacht de bharr neamhchomhlíonta seachas seirbhís stocaireachta don phobal.
17. Ní ceapachán de chuid Pharlaimint na Breataine Bige é, cé go ndearnadh iarracht sa Bhillle um Theanga na Breatnaise deimhin a dhéanamh de fhorfheidhmiú neamhspleách.
18. De bharr an tsocraithe díláraithe baineann raon Bheart Teanga na Breatnaise le Sasana agus an Bhreatain Bheag.
19. Tugann Beart Teanga na Breatnaise droim láimhe do mhúnla na scéimeanna teanga agus cuireann ar ceal é, e.g. an cleachtas faoina ndéantaí gealltanais scéimeanna teanga Breatnaise a shocrú de bhun idirphlé idir an eagraíocht agus Bord na Breatnaise. Cé gur cuireadh go leor i gcrích maidir le gealltanais a aontú, ní bhíodh an cur i bhfeidhm chomh tréan sin mar ní leantaí den fhorfheidhmiú.
20. Ní bhíonn idirbheartaíocht ar bith le linn an phróisis chomhairliúcháin ar na caighdeáin a bhfuil toiliú na Parlaiminte leo. Faoi réir réim na gcaighdeán, is ar an eagraíocht a thiteann sé fianaise a sholáthar ina mínítear cad chuige nár cheart don eagraíocht teacht faoi réir caighdeán. Is é cúram an Choimisinéara ná breithniú a dhéanamh ar dhualgas institiúideach réasúnach agus cóir ar thaobh amháin agus toil an Senedd ar thaobh eile. Is é an Rialtas sa Bhreatain Bheag a shocraíonn na caighdeáin agus ní bhítear páirteach sa phróiseas socraithe dualgas.

Focal scoir

21. Is fiú a lua go bhfuil cumhachtaí agus feidhmeanna ag an gCoimisinéir de bhreis ar réim na gcaighdeán e.g. cumhachtaí leathana in alt 4 (2) de Bheart Teanga na Breatnaise a chuireann ar chumas an Choimisinéara



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tráchtairacht a dhéanamh nó comhairle a chur ar aon duine nó moltaí a dhéanamh d'Airí na Breataine Bige. Féadfaidh sé fiosrúchán a riaradh agus tá cumhachtaí aige idirghabháil a dhéanamh nó imeachtaí dlí a thionscnamh. Féadfaidh sé imscrúdú a dhéanamh ar chásanna inar cuireadh isteach ar an gceart chun an Bhreatnais a úsáid sa Bhreatain Bheag chomh maith.



Cyflwyniad gan Gomisiynydd y Gymraeg ar gyfer y Comhchoiste ar y pwnc ‘Mesur y Gymraeg a’r Safonau y mae’n eu gosod’

Dydd Mercher 22 Medi 2021 am 2.00 p.m. yn Ystafell Bwyllgor 3, Tŷ'r Oireachtas

Crynodeb Datganiad

- Er bod yr ymrwymadau cryf mewn cynlluniau iaith tuedd yw bod y gweithredu a’r pwerau rheoleiddio’n wan. Mae pwerau gorfodi Mesur y Gymraeg wedi cael traweffaith.
- Roedd y newid cyfundrefnol yn waith caled a rhaid wrth adnodd digonol i alluogi gosod trefniadau newydd yn eu lle. Mae wedi arwain at ofynion statudol clir a gorfodadwy.
- Y Llywodraeth sy’n gyfrifol am wneud safonau. Fodd bynnag, mae’n bwysig bod rôl briodol gan staff y rheoleiddiwr yn gynnar yn y broses paratoi safonau.
- Yng Nghymru, nid yw’r Llywodraeth yn rhan o broses gosod dyletswyddau.

Datganiad Agoriadol

1. Aled Roberts ydw i. Fi yw Comisiynydd y Gymraeg a’r person cyfrifol am reoleiddio’r gyfundrefn safonau yng Nghymru a Lloegr. Mae’r cyflwyniad hwn yn cael ei wneud yn rhinwedd fy swydd fel Comisiynydd y Gymraeg a bydd fy sylwadau’n deillio o’r profiad i o weithredu’r drefn gosod a gorfodi safonau yng Nghymru.
2. Mae’r Comisiynydd yn gorff un-dyn. Caiff y swydd ei hariannu gan Weinidogion Cymru a phenodir y Comisiynydd fel rhan o broses penodiadau cyhoeddus gan y Prif Weinidog – a hynny am gyfnod o 7 mlynedd. Er nad yw’r swydd yn annibynnol oddi ar y Llywodraeth, mae’n sefydliad hyd braich. Mae’n rôl lled farnwrol sy’n disgwyl i’r deilydd swydd ddyfarnu ar achosion.

3. Mae'r Comisiynydd yn atebol i Dribiwnlys y Gymraeg am ei holl ddyfarniadau rheoleiddio: mae gan y Tribiwnlys y pŵer i gadarnhau, diddymu neu i newid dyfarniad a wnaed gan y Comisiynydd wrth osod neu orfodi safon. Gall sefydliad neu achwynydd gyflwyno achos i sylw Tribiwnlys y Gymraeg.
4. Y tu hwnt i'r rôl reoleiddiol cyflogir staff sy'n gwneud gwaith hybu a hwyluso defnyddio'r Gymraeg drwy ddulliau anstatudol.

Cyd Destun

5. Mae'n bwysig nodi y ceir dwy gyfundrefn statudol ar gyfer y Gymraeg. Yn sgil datganoli cafodd Senedd Cymru yr hawl i ddeddfu ym maes y Gymraeg. Daeth Mesur y Gymraeg (Cymru) i rym yn 2011 gan ddiddymu rhannau helaeth o'r ddeddf a'i blaenorodd, sef Ddeddf yr Iaith Gymraeg 1993. Oherwydd y cyd destun deddfwriaethol ar adeg ei gydsynio nid oedd gan y Senedd gymhwysedd i ddeddfu yn y maes cyfiawnder. Canlyniad hynny yw bod Rhan 3 o Ddeddf yr Iaith Gymraeg, sy'n ymwneud â defnyddio'r Gymraeg yn y Llysoedd, yn parhau'n weithredol. Rhaid hefyd derbyn cydsyniad Adrannau Gweinidogol San Steffan cyn gellir gosod safonau arnynt a hyd yma maent yn parhau i weithredu Cynlluniau Iaith Gymraeg. Mae dros 122 o sefydliadau'n gweithredu Safonau'r Gymraeg.
6. Mesur fframwaith yw Mesur y Gymraeg e.e. yn creu swydd y Comisiynydd, Tribiwnlys y Gymraeg; hawl i wneud rheoliadau, codau ymarfer a pharatoi Polisi Gorfodi ac ati a sefydlu prosesau. Dyma'r drefn yn fras:

Ymchwilio ac argymell

Mae'r Comisiynydd yn argymell i Weinidogion Cymru a ddylai sefydliad neu sector sydd o fewn cwrpas y Mesur orfod bod yn ddarostyngedig i weithredu safonau.

Polisi

Gyda Gweinidogion Cymru mae'r cyfrifoldeb dros lunio polisi ac felly Llywodraeth Cymru sy'n paratoi safonau.

Cydsynio

Bydd Gweinidogion Cymru yn cyflwyno Reoliadau Safonau i Senedd Cymru er cydsyniad. Y Comisiynydd sy'n ymgynghori a gosod safonau ar sefydliad drwy Hysbysiad Cydymffurfio statudol. Mae gan sefydliad hawl i herio ac i fynd â her ymlaen i sylw Tribiwnlys y Gymraeg pe na bai o'r farn bod y ddyletswydd osodwyd arno yn rhesymol a chymesur.

Gweithredu

Nid oes darpariaeth yn y Mesur ar gyfer y cyfnod gweithredu. Mater i'r Comisiynydd yw monitro gweithrediad y drefn yn ôl ei ddisgresiwn gan fonitro a chynnal arolygon, datrys problemau systemig, rhannu arferion effeithiol a chynghor e.e. ym maes recriwtio, contractio, technoleg ac ati, Bydd yn cyhoeddi adroddiad ar berfformiad sefydliadau ac ymgysylltu gyda'r cyhoedd i ddeall eu profiadau iaith gan weithredu ar ganfyddiadau.

Gorfodi

Os yw'r Comisiynydd yn amau nad yw sefydliad yn cydymffurfio, neu os yw'n penderfynu ymchwilio i gŵyn, gall agor ymchwiliad a dyfarnu ar achos. Mae ganddo bwerau gorfodi. Dylid nodi bod rhaid i Gomisiynydd y Gymraeg ystyried agor ymchwiliad i bob cwyn ddilys ac felly mae gorfodi yn rhan annatod o'i waith.

Cwynion a'r pŵer gorfodi

7. Mae'r bwerau gorfodi fel a ganlyn:

- paratoi cynllun gweithredu er mwyn atal y methiant rhag parhau neu gael ei ailadrodd
- cymryd camau er mwyn o atal y methiant rhag parhau neu gael ei ailadrodd

- rhoi cyhoeddusrwydd i'r methiant i gydymffurfio â safon
- dweud wrth y sefydliad bod rhaid iddo roi cyhoeddusrwydd i'w fethiant i gydymffurfio â safon
- gosod cosb sifil

Mae'r Comisiynydd hefyd yn gallu:

- gwneud argymhellion
 - rhoi cyngor i sefydliad neu i unrhyw berson arall
 - ceisio ymrwymo mewn cytundeb setlo gyda sefydliad
8. Yn achos cynlluniau iaith, er bod yr ymrwymadau'n ynddynt yn gryf, y tuedd yw bod y gweithredu yn wan oherwydd diffyg pwerau rheoleiddio. Mae pwerau gorfodi'r Comisiynydd yn cael traweffaith. Mae rhai o ddyfarniadau Tribiwnlys y Gymraeg hefyd wedi cryfhau sefyllfa'r Gymraeg. [Penderfyniadau | Welsh Language Tribunal \(llyw.cymru\)](#)

Cyfnod Cyflwyno Safonau

9. Ceir pum dosbarth o safonau ar wyneb y Mesur gyda diffiniadau ynghylch bwriad y mathau hynny o safon. Mae cwmpas y safonau yn eang ac nid ydynt yn gyfyngedig i wasanaethau e.e. ceir dyletswyddau ar gyfer cynyddu defnyddio'r Gymraeg yn y gweithle; safonau i Awdurdodau Lleol fabwysiadau Strategaethau 5 Mlynedd er mwyn cynnal neu gynyddu niferoedd sy'n medru'r Gymraeg. Y dosbarthiadau yw:
- safonau cyflenwi gwasanaethau
 - safonau llunio polisi
 - safonau gweithredu
 - safonau cadw cofnodion
 - safonau hybu.
10. Llywodraeth Cymru sy'n gyfrifol am lunio'r safonau. Maent yn safonau penodol yn hytrach na safonau egwyddorol eang. Maent yn rheolau eglur a hawdd eu deall – i

ddefnyddwyr a'r sefydliad. Canlyniad hynny yw eu bod yn cynnig cysondeb i'r cyhoedd. Mae'r safonau yn hyrwyddol nid gwaharddol. Caiff y safonau eu gosod ar sefydliad, nid eu negodi.

11. Mae'r Comisiynydd yn gwneud ymchwiliad safonau cyn bod y Llywodraeth yn datblygu safonau. Yn y cyswllt hwn fe wnaeth y Comisiynydd asesiad o lefel ymrwymadau cynlluniau iaith a phennu gwaelodlin ffeithiol. Sicrhawyd nad oedd y safonau yn wannach nag ymrwymadau oedd yn bodoli mewn cynlluniau iaith Gymraeg.
12. Caiff safonau eu cyflwyno ar set o sefydliadau fesyl sector - mae'n rhaglen newid raddol.

Be fydddech yn ei wneud yn wahanol?

13. Nid yw'n bosibl i mi fel Comisiynydd y Gymraeg wneud sylwadau ar gyfundrefn rwy'n gyfrifol am ei rheoleiddio. Ceir adroddiad Pwyllgor Senedd yn pwysu a mesur y drefn a hoffwn gyfeirio'r Pwyllgor hwn at yr adroddiad: <https://senedd.wales/media/hpbbjiga/cr-ld12636-e.pdf>
14. Mae newid cyfundrefnol yn waith caled a bu newid o drefn hyrwyddol cynlluniau iaith i fodel gosod a gorfodi yn anodd. Er hynny, mae wedi arwain at ofynion statudol clir, lle nad yw cydymffurfio'n ddewisol. Mae angen adnodd digonol i alluogi gosod trefniadau newydd yn eu lle ac addysgu am y gofynion. Heb yr adnodd nid oes modd rhoi amser i gyfathrebu gyda'r cyhoedd, bydd sefydliadau yn cymryd mwy o amser na sydd raid i ddod i ddeall y drefn. Yng Nghymru mae sefyllfa o fod a dwy gyfundrefn ar waith hefyd yn ei gwneud yn heriol o hyd i gyfathrebu gyda'r cyhoedd. Mae'n hanfodol creu model addas i'r pwrpas.
15. O safbwynt y safonau eu hunain, mae'n bwysig bod rôl briodol gan staff y rheoleiddiwr yn gynnwys yn y broses paratoi. Yng Nghymru mae gwerth i drefn o lunio adroddiad

safonau a gwneud argymhellion. Staff y rheoleiddiwr sy'n gweithio ar wyneb y graig ac yn deall orau ble mae angen gosod dyletswydd.

Cymharu trefn Cymru gyda bwriadau Iwerddon

16. Er bod y Comisiynydd yn delio â chwynion a bod gan berson yr hawl proses i wneud cwyn i'r Comisiynydd, nid yw'r rôl yn un hafal i rôl Ombwdsmon. Rheoleiddiwr sy'n gosod sancsiwn ar gorff am fethu cydymffurfio ydyw nid eirolwr dros y cyhoedd.
17. Nid yw'n benodiad gan y Senedd, er gwnaed ymdrech ym Mesur y Gymraeg i sicrhau annibyniaeth wrth orfodi.
18. Oherwydd y setliad datganoli mae cwmpas Mesur y Gymraeg yn rychwantu Cymru a Lloegr.
19. Mae Mesur y Gymraeg yn cefnu'n llwyr ar y drefn cynlluniau iaith a'i diddymu. e.e. yr arfer oedd cytuno cynlluniau iaith Gymraeg drwy drafodaeth rhwng y sefydliad a Bwrdd yr Iaith Gymraeg. Llwyddodd hyn i gyflawni llawer o ran cytuno ymrwymadau, ond nid oedd y gweithredu cystal gan nad oedd gorfodaeth yn dilyn.
20. Nid oes negodi yn ystod proses ymgynghori ar y safonau mae'r Senedd wedi eu cymeradwyo. Yr hyn sy'n digwydd o dan y drefn safonau yw bod yr onws ar y sefydliad i ddarparu tystiolaeth yn esbonio pam na ddylai fod yn ddarostyngedig i safon. Gwaith y Comisiynydd yw pwysu a mesur beth sy'n rhesymol a chymesur i'r sefydliad ar y naill law yn erbyn ewyllys y Senedd ar y llaw arall. Yng Nghymru, nid yw'r Llywodraeth yn rhan o broses gosod dyletswyddau. Dim ond gwneud y Safonau mae'r Llywodraeth yng Nghymru.



Sylwadau clo

21. Mae'n werth nodi bod gan y Comisiynydd bwerau a swyddogaethau y tu hwnt i'r drefn safonau e.e. mae pwerau eang yn adran 4(2) Mesur y Gymraeg yn ei alluogi i wneud sylw neu roi cyngor i unrhyw berson neu i wneud argymhellion i Weinidogion Cymru. Gall hefyd gynnal ymholiad ac mae ganddo bwerau i ymyrryd neu gychwyn achosion cyfreithiol. Gall hefyd ymchwilio i achosion o ymyrraeth gyda'r rhyddid i ddefnyddio'r Gymraeg yng Nghymru.



Presentation by the Welsh Language Commissioner to the Joint Committee on the subject of 'The Welsh Language Measure and the Standards it sets'

Wednesday 22 September 2021 at 2.00 p.m. in Committee Room 3, Oireachtas House

Statement Summary

- Although strong commitments are made in Welsh language Schemes, their implementation and associated regulatory powers are weak. Enforcement powers of the Welsh Language Measure have had an impact.
- The structural change was difficult, and the establishment of new arrangements requires sufficient resources. It has led to clear and enforceable statutory requirements.
- The Government is responsible for making standards. However, it is important that the regulator's staff have an appropriate role early in the process of preparing standards.
- In Wales, the Government is not involved in the duty-setting process.

Opening Statement

1. My name is Aled Roberts and I am the current Welsh Language Commissioner - the person responsible for regulating the standards regime in England and Wales. This presentation is being made in my capacity as Welsh Language Commissioner and my comments will derive from my experience of operating the standards setting and enforcement regime in Wales.
2. The Commissioner is a corporate sole – a legal entity where all powers are vested in a single person. The post is funded by the Welsh Ministers and the Commissioner is appointed through a public appointments process by the First

Minister - for a period of 7 years. Although the post is not independent of Government, it is an arm's length organization. It is a quasi-judicial role which requires the post holder to adjudicate on cases.

3. The Commissioner is accountable to the Welsh Language Tribunal for all its regulatory decisions: the Tribunal has the power to confirm, revoke or amend a judgment made by the Commissioner when setting or enforcing a standard. Any organization or complainant may submit a case to the Welsh Language Tribunal.
4. Beyond the regulatory role, staff are employed who undertake work to promote and facilitate the use of Welsh through non-statutory means within the private and voluntary sector.

Context

5. It is important to note that there are two statutory regimes relating to the Welsh language. Devolution gave the Welsh Parliament [Senedd Cymru] the right to legislate in the field of the Welsh language. The Welsh Language (Wales) Measure came into force in 2011 repealing much of the Welsh Language Act 1993 which preceded it. Due to the legislative context, the Senedd had no competence to legislate in the area of justice at the time the Welsh Language Measures was given assent. As a result, Part 3 of the Welsh Language Act, which deals with the use of Welsh in the Courts, remains in force. Also, Ministerial approval must be obtained before standards can be imposed on Westminster Ministerial Departments and, to date, they continue to implement Welsh Language Schemes. There are over 122 organizations implementing Welsh Language Standards.
6. The Welsh Language Measure is a framework measure e.g. it creates the office of the Welsh Language Commissioner, Welsh Language Tribunal; enables making regulations, codes of practice and preparation of an Enforcement Policy and establishes processes etc. A brief outline of the standards process is as follows:

Research and recommendations

The Commissioner recommends to the Welsh Ministers whether an organization or sector within the scope of the Measure should be subject to the implementation of standards.

Policy

Responsibility for policy-making rests with the Welsh Ministers and therefore the Welsh Government makes standards.

Consent

The Welsh Ministers will submit Standards Regulations to the Senedd for consent. The Commissioner consults and sets standards on an organization through a statutory Compliance Notice. An organization has the right to challenge and to progress with a challenge to the Welsh Language Tribunal if it does not consider that the duty imposed on it is reasonable and proportionate.

Implementation

There is no provision in the Measure relating to the implementation period. The Commissioner monitors at his discretion and conducts surveys, resolves systemic problems, shares effective practices and offers advice e.g. in relation to recruitment, contracting, technology etc, The Commissioner will publish a report on organizations' performance and will engage with the public to understand their language experiences and acts on findings.

Enforcement

If the Commissioner suspects that an organization is not compliant, or decides to investigate a complaint, it can open an investigation and adjudicate on a case. It has enforcement powers. It should be noted that the Welsh Language Commissioner must consider opening an investigation into every valid complaint received and enforcement is therefore an integral part of his work.

Complaints and the power of enforcement

7. The enforcement powers are as follows:

- prepare an action plan to prevent the failure continuing or being repeated
- take steps to prevent the failure from continuing or being repeated
- publicize the failure to comply with a standard
- tell the organization that it must publicize its failure to comply with a standard
- impose a civil penalty

The Commissioner can also:

- make recommendations
- give advice to an organization or any other person
- seek to enter into a settlement agreement with the organization

8. Although the commitments contained in Welsh Language Scheme were strong, there was a tendency towards weak implementation due to a lack of regulatory powers. The Commissioner's enforcement powers are having an impact. Some of the Welsh Language Tribunal's judgments have also strengthened the position of the Welsh language. [Penderfyniadau | Welsh Language Tribunal \(llyw.cymru\)](#)

Introduction of Standards

9. Standards laid out on the face of the Welsh Language Measure fall into five classes with definitions relating to the purpose of those standards. The standards are broad in scope and are not limited to services e.g. there are duties for increasing the use of Welsh in the workplace; standards requiring Local Authorities to adopt 5 year strategies to maintain or increase the number of Welsh speakers. The standards are classed as follows:

- service delivery standards
- policy making standards
- operational standards
- record keeping standards
- promotional standards

10. The Welsh Government is responsible for drawing up the standards. They are specific standards rather than broad principled standards. They are clear and easy to understand - both from the perspective of the consumers and the organization. As a result, they offer consistency to the public. The standards are promotional not prohibitive. The standards are set on an organization, not negotiated.
11. The Commissioner undertakes a standards investigation before the Government draws up standards. At the outset, the Commissioner conducted a baseline assessment looking at the level of commitments made in Welsh language schemes. The factual baseline established ensured that newly developed standards were not weaker than the commitments within existing Welsh language schemes.
12. Standards are progressively introduced on a set of sector-wide organizations - it is a gradual programme of change.

What would you do differently?

13. It is not possible for me as the Welsh Language Commissioner to comment on a regime that I am responsible for regulating. A Senedd Committee report has examined the regime and I would like to refer this Committee to the report:
<https://senedd.wales/media/hpbpjiga/cr-ld12636-e.pdf>

14. Organizational change is difficult, and this has been proved in moving from the promotional nature of language schemes to a model of standard setting and enforcement. However, it has led to clear statutory requirements, where compliance is not optional. Sufficient resource is needed to enable new arrangements to be put in place and to enable awareness raising about the requirements. Without such resource it is not possible to fully communicate with the public also, organizations will take longer than necessary to understand the procedure. In Wales, having two statutory systems in place makes communication with the public challenging. Creating a fit for purpose model is essential.
15. With regards to the standards themselves, it is important to note that the regulator's staff have an appropriate role to play early in the standards preparation process. In Wales the process of producing a Standards Report and making recommendations has value. The regulator's staff, working on the rock face, are best placed to understand where duties need to be imposed.

Compare the Welsh model with Ireland's intentions

16. Although the Commissioner deals with complaints and a person has the right to make a complaint to the Commissioner, the role is not the same as that of an Ombudsman. It is a regulatory function that imposes sanctions on a body for non-compliance, not an advocate for the public.
17. It is not an appointment by the Welsh Parliament, although an effort has been made in the Welsh Language Bill to ensure independence in enforcement.
18. Due to the devolution settlement the scope of the Welsh Language Measure spans England and Wales.

19. The Welsh Language Measure completely abandons and abolishes the model of language schemes, e.g. the practice of negotiating Welsh language scheme commitments through discussion between the organization and the Welsh Language Board. Whilst much was achieved in terms of agreeing commitments, implementation was not as good as enforcement did not follow.
20. There is no negotiation during the consultation process on the standards that Parliament has approved. What happens under the standards regime is that the onus is on the organization to provide evidence explaining why it should not be subject to a standard. The Commissioner's job is to weigh up what is reasonable and proportionate to the institution on the one hand against the will of the Senedd on the other hand. In Wales, The Government in Wales makes the standards and is not involved in the duty-setting process.

Concluding remarks

21. It is worth noting that the Commissioner has powers and functions beyond the standards regime e.g. wide powers in section 4 (2) of the Welsh Language Measure enabling the Commissioner to comment or give advice to any person or make recommendations to the Welsh Ministers. It can also conduct an inquiry and has powers to intervene or initiate legal proceedings. It can also investigate cases of interference with the freedom to use Welsh in Wales.