

Act to Action Update: Wales

February
2010

Language Rights

- The Welsh Courts Act of 1942 removed the prohibitive barrier of section 17 of the 1536 Act of Union, and enacted that Welsh could be used in any court in Wales.
- Welsh not accorded many rights under more recent legislation whose use of the Welsh language tends to be more permissive rather than as an established right.

Language Legislation (1)

- Welsh Courts Act of 1942
- The Welsh Language Act 1967
- The Welsh Language Act 1993
- The Government of Wales Act 1998
- Language Measure 2010

The Welsh Language Act 1967

- Passed following the Hughes Parry Report of October 1965, but did not propose equal status for Welsh and English.
- It gave any party or witness the right to use the Welsh language in the legal proceedings of Wales.
- It undid the effect of the Wales and Berwick Act 1746, whereby 'England' now meant England and not England and Wales.
- Welsh became an 'official' language in administrative policy.

The Welsh Language Act 1967 (2)

- It made provision in section 3(1) for Welsh versions of statutory forms.
- It declared that anything done in Welsh authorised by that subsection had equal validity as if done in English.
- Yet, where a conflict ensued the English version would prevail, thus entrenching the inequality of the Welsh language.
- This power used often, "making the Act's application of the principle of equal validity illusory" (Roddick, 2007, p, 273).

Welsh Language Act 1993

- Established the Welsh Language Board
- Gave the Board specific functions
- Placed a duty on public sector to treat Welsh and English on an equal basis by means of Welsh Language Schemes
- Gave statutory basis to bilingualism in many aspects of socio-economic life

Welsh language schemes 2010

- 526 Public Sector bodies have approved Statutory Welsh Language Schemes
- 150 Companies agreed a voluntary scheme with the WLB.
- 73 Voluntary Sector bodies have approved Welsh Language Schemes

Welsh language schemes

A quality service is a bilingual service



Core Elements of Language Scheme

- Service delivery
- Language choice
- Customer-driven
- Departmental plans
- Monitoring
- Internal customer
- Translation
- Recruitment and training

Language Schemes



Factors that make the legislation work

- Statutory Duties
 - Correspondence in Welsh
 - Simultaneous publication of most public documents in Welsh and English
 - Cumulative experience, fifteen years of practice
 - Staff recruitment and skills training

Factors that make the legislation work

- WLB monitoring implementation of Act – through review of implementation of schemes
 - Findings of WLB Review of Implementation of Schemes
 - By year end 19 March 2008
 - New Schemes 57 Revised Schemes 38 Monitoring Reports 152
 - By year end 20 March 2009
 - New Schemes 39 Revised Schemes 27 Monitoring Reports 162

Eight Case Studies in Wales

Five Local Authorities

- Conwy, Gwynedd in the north
- Carmarthen, Caerffili, Cardiff in the south

Three public bodies

- North Wales Police Force
- Carmarthen Health Board
- Pembroke National Park Authority

U.K. Government Departments and Crown Bodies

- The Home Office: ten directorates
- The Central Office of Information
- The Department of Works and Pensions including DWP Network Agencies viz.
- Jobcentre Plus, The Pensions Service
- Disability and Carers Service, Child Support Agency and other Businesses.

Sources of Data: WLB

- Initial interviews with Welsh Language Board Chief Executive and Unit Team Leaders
- Full and unfettered access to the files of the WLB
- Insights and advice from WLB staff who administer the Welsh Language Schemes

Sources of Data: WLB

- Interviews with Welsh Language Board Chief Executive and Unit Team Leaders
- Full, unfettered access to WLB case files
- Insights and advice from WLB staff who administer the Welsh Language Schemes

Sources of Data: Public Bodies

- Interviews with Language Officers
- Interviews with Senior Management
- Interviews with other staff not directly responsible for the implementation of the Welsh Language schemes
- Interviews with selected politicians
- No interviews – clients/customers

Sources of Data: UK Departments

- Interviews with Welsh Language Officers
- Home Office, Central Office of Information
- Department of Works and Pensions
- Other civil servants not directly responsible for the implementation of the WLS
- Data and secondary material produced by Crown Bodies and UK departments.

Results: Public Bodies

- Welsh Language Schemes: strong evidence of compliance in most cases but application varies quite considerably
- Gwynedd represents best practice on linguistic continuum :- it operates in Welsh, all internal memoranda and written communication with public bodies in Wales are in Welsh only, it adopts a proactive policy which goes well beyond the guidelines of the 1993 Welsh Language Act

Bilingual services

- In Gwynedd the delivery of services to public in Welsh/bilingually is the norm
- Most other bodies report a fragmented if improving service
- Involvement of WLGA 'Rhwydiaith', private consultancy agencies and language lobby groups directly impacts on quality of service
- Customer complaints and satisfaction less of a factor. Why is this?

Results: Public Bodies

- Welsh Language Schemes: strong evidence of compliance in most cases but application varies quite considerably
- Gwynedd represents best practice on linguistic continuum :- it operates in Welsh, all internal memoranda and written communication with public bodies in Wales are in Welsh only, it adopts a proactive policy which goes well beyond the guidelines of the 1993 Welsh Language Act

Leadership/management

- Commitment by senior management infuses the culture of the body, (Gwynedd, Conwy and the North Wales Police)
- Introspective approach, without close liaison with WLB or own internal staff, leads to inaction and isolation of Welsh as a policy field (Cardiff City Council)

Bilingual services

- In Gwynedd the delivery of services to public in Welsh/bilingually is the norm
- Most other bodies report a fragmented if improving service
- Involvement of WLGA 'Rhwydiaith', private consultancy agencies and language lobby groups directly impacts on quality of service
- Customer complaints and satisfaction less of a factor. Why is this?

Staffing

- County Councils operate a Language Skills Strategy whereby language skills are considered in staff appointments
- Staff language awareness and skills training is very good in Gwynedd and North Wales Police, moderate and occasional in other bodies surveyed, poor in the Cardiff case up to 2007.

Partnership and Resources

- When County Councils lead partnerships they ensure that public provision complies with their own Language Schemes
- Significant evidence that failure to guarantee such provision, especially when dealing with UK government departments and commercial contractors, prompts complaints. Often little effective remedy

Strategies for implementation

- Many examples of good practice across the range of services
- Language Officers crucial to implementation but organisational support at senior level the determining factor in all cases surveyed
- Aims of Language Schemes often thwarted by attitude of well-established middle managers (Caerphilly), lack of confidence by citizens and some staff in using Welsh (Conwy, Cardiff, Local Health Board), lack of mainstreaming strategies

Processes

- Customers are regularly surveyed as to bilingual services
- Complaints procedure is monitored to improve bilingual provision
- Periodic revision of Language Scheme and resubmission for approval by WLB occasions improvements in service delivery and scheme management

Complaints Procedure

- The Welsh Language Board receives and addresses complaints to the responsible bodies in a fully accountable manner
- Strong evidence of good monitoring and follow up of the complaints procedure when dealing with Welsh public bodies
- Less effective when dealing with Crown Bodies and those institutions who disregard or defy the WLB
- Occasional need to refer cases for Ministerial intervention

Formal WLB Investigation of Non-Compliance

- 07/2008 Conwy Denbigh Health Authority
- 09/2008 Her Majesty's Court Services.
- 09/2008 Conwy Borough Council
- 11/2008 Carmarthenshire County Council
- 01/2009 North West Wales Health Trust
- 02/2009 Cardiff and the Vale Health Trust
- 05/2009 HMRC Customs and Excise

UK Government Departments

- Surprisingly large number of bilingual services offered and publications to support mainline services
- Responsible Language Officers and Line Managers show exemplary commitment to Language Schemes
- Transitional period whereby disparate Welsh language compliance and control systems are replaced by uniform work processes

UK Departments: Main Obstacles

- Reticence of some UK Ministers to consider bilingual services as an integral part of their remit, hence long delays in compliance with WLB's directives
- Lack of skilled personnel to administer Language Schemes
- IT difficulties and co-ordination problems
- No inter-departmental co-operation

Characteristics of Successful Schemes

- Corporate ownership
- Support for non-Welsh speakers
- Bilingual identity
- Forward Planning
- Normalising bilingualism in the workplace
- Clear guidance to staff
- Regular language awareness training
- Marketing Welsh language services

Critique of Language Schemes

- Key role of WLB in setting the tone of the relationship with partner body, much evidence of a maturing partnership, regular dialogue and mutual trust
- Some criticism of the 'light touch' approach as recalcitrant managers use the WLB either as an excuse for inaction or as an external pressure for periodic initiatives

Critique of Language Schemes

- 'Progressive' bodies such as North Wales Police raise the threshold of public's expectation and act as catalyst throughout the police service and pressurise the Home Office
- Increasing flexibility of Language Schemes offers more mature approach but can also lead to complacency. Widening of Language Schemes should now be accompanied by enrichment in quality of bilingual service, work ethic and improved training.

Factors that make the legislation work

- Monitoring implementation of Act – thorough review of implementation of schemes
By year end 20 March 2010
 - 526 Statutory Language Schemes, many voluntary in private sector.
 - 2008/9:- 39 New Schemes; 27 Revised Schemes; 162 Monitoring Reports
- Well developed process for review, monitoring and feedback by WLB.

Is Welsh Language Act effective?

- Statutory basis has improved delivery of bilingual services
- Enforceability of language obligation an issue for some agencies and Crown Bodies
- Lack of individual language rights
- Privatization of former public utilities and dynamism in market place makes single overarching legislation impossible

Issues for Welsh Language Board

- Consideration of a review process similar to Estyn (education) or Audit Commission
- Calibration of various approaches adopted by WLB to different sectors over the recent past.
- Several interviewees called for robust monitoring and greater clarity re the legislative status of WLB's power of enforcement and role of Assembly Government

Issues for National Assembly

- Operation of principle of language equality
- Decide how Welsh will be a cross-cutting issue for all policy matters
- Extend the application of the Language Schemes into parts of private sector
- Address the issue of language rights
- Implement broader raft of language legislation as a result of LCO competence
- Establish a Language Commissioner

Conclusions

- In formal, legislative terms Wales has experienced a quantum improvement in the range of bilingual services available
- Issues of quality, consistency, accessibility remain a significant impediment to the full realization of service provision as fact
- Is there too close a relationship between the major actors in the field?