

Memorandum of understanding between the Welsh Government and the Welsh Language Commissioner

1. Background

1.1. This Memorandum outlines the relationship between the Welsh Language Commissioner ("*the Commissioner*") and the Welsh Government ("*the Government*"). Its purpose is to ensure that the Commissioner and the Welsh Government collaborate effectively and constructively to implement the Welsh Language (Wales) Measure 2011 ("*the Measure*"). Both bodies also commit to contribute jointly to the objectives of *Taking Wales Forward* - the Programme for Government, and *Cymraeg 2050* - the Government's Welsh language strategy. In undertaking their work, both will work towards the seven well-being goals in the Wellbeing of Future Generations Act (Wales) 2015, especially the goal to create "a Wales of vibrant culture the thriving Welsh language". The Memorandum and the arrangements contained within it have been agreed by the Minister for International Relations and the Welsh Language on behalf of the Welsh Ministers, and by the Welsh Language Commissioner.

1.2. This Memorandum is not legally binding, but the Commissioner and the Government agree to act in accordance with it. The Memorandum does not replace or take precedence over the provisions of the Measure.

1.3. To ensure stability and consistency, this Memorandum establishes working arrangements for the current Assembly term, and aligns with the Programme for Government and the *Cymraeg 2050* strategy. The Commissioner should consider the Programme for Government and the *Cymraeg 2050* in preparing an annual work plan.

2. Principles

2.1 The provisions in [Schedule 1, paragraph 1\(4\) of the Measure](#) safeguard the ability of the Commissioner to act independently of the Welsh Ministers by ensuring the Welsh Ministers have regard to the fact that it is desirable that the Commissioner is under as few constraints as reasonably possible. Linked to this, [Section 16 of the Measure](#) states when Ministers may give directions to the Commissioner.

2.2 The Welsh Ministers respect that the Commissioner needs to work independently in order to be an independent and strong voice for the Welsh language and be able to scrutinise the Government's work. The Measure confers powers on the Commissioner to make recommendations and give advice to the Welsh Ministers, and it is important that he has the confidence to

do so without being influenced by Ministers.

2.3 The Welsh Ministers have powers to give directions to the Commissioner. Section 16 of the Measure states the exceptions to these powers:

Welsh Ministers' power of direction

(1) The Welsh Ministers may give directions to the Commissioner.

(2) But the Welsh Ministers may not direct the Commissioner in relation to the following matters -

(a) giving a compliance notice to a person under Chapter 6 of Part 4 (including the content of a compliance notice to be given to a person);

(b) Part 5 (enforcement of standards);

(c) Part 6 (the freedom to use Welsh).

(3) The Commissioner must comply with directions given by the Welsh Ministers.

2.4 The Welsh Government considers the Commissioner a key partner in delivering the Welsh Government's [Welsh Language Strategy - Cymraeg 2050](#). Both commit to work in partnership in order to provide a firm foundation to meet the strategy's targets.

2.5 Working together to realise these targets is central to the relationship between the Government and the Commissioner, as is ensuring that both understand how the other contributes to this. The two main targets in *Cymraeg 2050* are:

- the number of Welsh speakers to reach 1 million by 2050
- the percentage of the population that speak Welsh daily, and can speak more than just a few words of Welsh, to increase from 10 per cent (in 2013-15) to 20 per cent by 2050.

2.6 The Commissioner considers the Welsh Government a key partner and funder. The Commissioner agrees to provide regular updates on his work programme and any other important matters, so that the Welsh Ministers are briefed in a timely and appropriate manner. Similarly, the Government will to provide information relevant to the Commissioner's work, including information regarding Government projects and policies and any financial and funding issues that affect the Commissioner. Section 4 provides more detail on sharing documents and statements.

3. Governance

3.1 This section sets out the Commissioner's governance arrangements.

Accounting Officer function

3.2 The Commissioner is appointed by the First Minister under the provisions of the Measure. Paragraph 16 (1) of Schedule 1 to the Measure states that the Commissioner is the accounting officer for the Commissioner's office.

3.3 The Accounting Officer's responsibilities include, amongst other things, the signing of accounts and personal responsibility for the propriety and regularity of the public finances for which he or she is responsible. The Accounting Officer is also responsible for ensuring the economy, efficiency and effectiveness with which resources are used.

3.4 The full responsibilities of the Accounting Officer are set by the UK Treasury.

Governance of the Commissioner's office

3.5 Advisory Panel

Section 23 of the Measure provides that the Welsh Ministers must appoint persons to be members of a panel of advisers to the Commissioner. The Measure also specifies that the Welsh Ministers must secure, as far as is practicable, that there are at least 3, but not more than 5 members of the Advisory Panel at any time. When appointing members, the Welsh Ministers will act in accordance with regulations - the current regulations (on signing this memorandum) are [The Advisory Panel to the Welsh Language Commissioner \(Appointment\) Regulations 2012](#).

When the Panel members' term of office ends, the Welsh Ministers will discuss the Panel's needs in terms of expertise with the Commissioner before a public appointments process begins.

The Commissioner will consult with the Advisory Panel in accordance with the provisions of the Measure. The references in the Measure allow the Commissioner to consult with one or more Panel members or with all members.

3.6 Audit and Risk Committee

As Accounting Officer, the Commissioner is responsible for ensuring that the Commissioner's office is managed economically, efficiently and effectively to ensure value for public money. The Commissioner has an Audit and Risk Committee to provide assurance of this to the Welsh Ministers, the Assembly and the public. This Committee advises the Commissioner on the strategic processes concerning risk management and governance. It is for the Commissioner to determine the number of members, appoint members and arrange meetings.

3.7 The Commissioner's Management Team

It is for the Commissioner to decide on the membership of the Management team and the frequency and form of meetings. The main purpose of this team is to provide support and advice to the Commissioner on the body's strategic direction and programme of work. The Management team is responsible for the strategic leadership of the body and manages its day to day activities.

4. Information sharing

Documents

- 4.1 When publishing a report on the Welsh Government or on area of Government policy, the Commissioner will provide a draft version in advance and provide the Government with an opportunity to consider and comment on the report before publishing a final version.
- 4.2 Where the Welsh Ministers must approve or give consent a document drawn up by the Commissioner, the Commissioner will provide an early draft and consider any comments prior to consultation.
- 4.3 The Commissioner will inform the Government at least two working days in advance of any intention to publish a report or document (including reports and documents on which the Government has already commented) and will provide a copy. The Government will not discuss or share these externally before the Commissioner has made an announcement.
- 4.4 Similarly, the Government will inform the Commissioner at least two working days in advance if it intends to publish any report or document that directly affects the Commissioner's work, and will provide a copy. The Commissioner will not discuss or share these externally before the Government has made an announcement.
- 4.5 Reports drawn up under Part 5 of the Measure (enforcement of standards), and reports on matters in Section 16(2) of the Measure (see point 2.3 of the Memorandum) are excluded from this arrangement.
- 4.6 When the Commissioner responds to a consultation by the Welsh Government, a copy of the response will be sent to the Welsh Language Unit.

Statements

- 4.7 The Commissioner and the Government will each notify the other in advance of any intention to publish a press release regarding each other's work. A copy of the release will then be shared as soon as practically possible.

4.8 The Government will notify the Commissioner in advance if a Minister intends to make an oral or written statement to Assembly Members regarding the Commissioner's work and will provide a copy after the statement has been made.

5. Meetings

5.1 Meetings between the Welsh Minister with responsibility for the Welsh language and the Commissioner:

The Minister will meet with the Commissioner at least four times a year in order to share information on their respective activities and progress against objectives, including in the context of working towards the targets in *Cymraeg 2050*. Every year, one of these meetings will focus on the Commissioner's budget for the following financial year. The agenda for the meetings will be agreed one week prior to the date of the meeting.

5.2 Meetings between the Commissioner and other Ministers:

Occasionally, the Commissioner may wish to meet with Ministers who are responsible for other policy areas. The Minister responsible for the Welsh language will be informed of any such meetings in advance, but it will be for the Commissioner to liaise directly with the offices of other Ministers to arrange these meetings.

6. The Welsh Language Commissioner's Annual Report

6.1 Section 18(2) of the Measure requires an Annual Report to be produced and Section 19(3) states that each report must be published no later than 31 August in the financial year following the financial year to which the report relates.

6.2 Section 18(2) makes the following provision:

(2) An annual report must include the following matters -

(a) a summary of the action taken in the exercise of the Commissioner's functions;

(b) a review of issues relevant to the Welsh language;

(c) a summary of the Commissioner's work programme;

(d) the Commissioner's proposals for a work programme for the following financial year;

(e) a summary of the complaints made in accordance with the procedure established under section 14.

7. Funding for the Welsh Language Commissioner

7.1 Schedule 1, paragraph 17 of the Measure provides that the Commissioner must prepare annual estimates. In accordance with paragraph 17(2), the Commissioner must submit the estimate to the Welsh Ministers at least five

months before the beginning of the financial year to which it relates. The Welsh Ministers will examine the estimate and must then lay it before the National Assembly for Wales (with the modifications (if any) they think appropriate).

- 7.2 Following the approval of the Welsh Government budget by the National Assembly, the Commissioner will be informed as soon as possible of the budget available to the Commissioner's office in the following financial year
- 7.3 The Welsh Government may transfer funds to the Commissioner for specific purposes. In such circumstances, the terms will be set out clearly in a letter.
- 7.4 The Commissioner will invoice the Government on a quarterly basis and the funding will be transferred in a timely manner. The payment will be processed in line with the Government's financial arrangements and timescales.
- 7.5 The Commissioner recognises that the Permanent Secretary, as the Welsh Government's Principal Accounting Officer, has a duty to put in place suitable arrangements to ensure that the annual allocation is used with regularity, propriety and value for money. In this respect, the Commissioner will provide any information that the Welsh Government requires in advance for discussions at relevant meetings.
- 7.6 The Government will notify the Commissioner and the Audit and Risk Committee as soon as possible of any audit or review it intends to carry out which could affect the Commissioner's office. The Welsh Government will provide information about the audit or review and will send the final report to the Commissioner as soon as possible. The Commissioner commits to provide any assistance necessary to prepare for and carry out reviews and audits.

8. Welsh Government and the *Cymraeg 2050* strategy

- 8.1 The Welsh Ministers have a duty under Section 78 of the Government of Wales Act 2006 to prepare a strategy on how they intend to promote and facilitate the use of Welsh. The current strategy is *Cymraeg 2050*. Therefore, the Welsh Government is responsible for setting national policies in relation to the Welsh language and for establishing annual plans, structures and systems to implement the strategy.
- 8.2 The Government will use all policy tools available to it to take forward the objectives of the *Cymraeg 2050* strategy. To this end, the Welsh Language Division will operate across Welsh Government to mainstream the Welsh language in all aspects of the Government's activities.

8.3 The responsibilities of the Welsh Government and the Welsh Language Commissioner are outlined in Annex 1. This will be reviewed yearly to ensure that the objectives of *Cymraeg 2050* are being realised.

9. Principles for joint working

When exercising their functions, the Commissioner and the Welsh Government are in agreement that they should act as follows:

- 9.1 The Welsh Government's Welsh Language Division and the Commissioner's management team will meet formally at least twice a year. The purpose of these meetings will be to plan programmes of work and ensure a shared understanding of how their respective activities contribute to the delivery of the *Cymraeg 2050* objectives. There will be a specific discussion on the work undertaken to increase the use of Welsh.
- 9.2 The Commissioner will provide data and written analysis to the Welsh Government on a yearly basis on how their work has contributed to the *Cymraeg 2050* strategy.
- 9.3 Committees will be established as necessary with officials from both bodies in order to discuss specific areas of work. Some committees will be permanent and others will be temporary in order to address a specific issue or project.
- 9.4 The Commissioner and the Government will both embrace collaboration, co-production and the sharing of information and expertise.
- 9.5 The Commissioner will operate at arms length from Government - and provide an independent opinion - but will have a clear focus on increasing the use of the Welsh language in a way that contributes to delivering the *Cymraeg 2050* strategy.
- 9.6 They Commissioner will create partnerships across different sectors and inspire others to act for the benefit of the Welsh language.
- 9.7 The Commissioner will also offer practical support and guidance to help bodies who are subject to Welsh language schemes or standards to increase the use of their Welsh language services.

Signed by:

Eluned Morgan AC/AM, Minister for the Welsh Language and International Relations, on behalf of the Welsh Ministers.

Aled Roberts, Welsh Language Commissioner

9.8 ANNEX 1

As noted in 8.3 above, this division of responsibilities will be reviewed annually to ensure that the objectives of *Cymraeg 2050* are realised.

1.1 The Welsh Language Commissioner will exercise the statutory functions of the Welsh Language Measure including the setting, monitoring and enforcement of the Welsh language standards, as well as implementing the Welsh language scheme system adopted under the Welsh Language Act 1993. The Commissioner will also lead on the following policy areas:

- Third sector: working with charities and voluntary organisations to increase the provision and use of Welsh language services
- Work with banks, supermarkets and large businesses to increase the provision and use of Welsh language services
- Provide advice to Local Authorities and others on place names
- Provide advice to Local Authorities on the development of 5 year language strategies in line with the Welsh language standards
- Developing policy to increase the use of Welsh in workplaces and to help bodies plan their workforces
- Policy: independently scrutinise the Government's policies for the Welsh language.

1.2 The Welsh Government will ensure that the principles of language planning are followed when implementing policies in line with the *Cymraeg 2050* work programme. The Government will lead on the following policy areas:

- The transmission of Welsh between parents and their children
- Increasing the use of Welsh amongst children and young people
- Technology and the Welsh language
- Corpus and terminology
- Welsh in Business
- The creation of gateway (called 'Llinell Gyswllt' during the development phase prior to launch) which refers individuals and businesses to appropriate sources of help in order to increase the use of Welsh
- Language planning interventions on a regional/area level: for example, Welsh in Education Strategic Plans; town and country planning; economic development; mentrau iaith.
- Research, data and evaluation
- Language awareness initiatives (as part of the understanding bilingualism programme) and appropriate messages to increase the use of Welsh
- The use of Welsh in communities.