



Bethan Sayed AM
Chair
Culture, Welsh Language and Communications Committee

3/12/2018

Dear Bethan

Further information on the Commissioner's work

Thank you for your recent letter following my appearance before the Committee in October and for your kind words about my office's work.

You wished to receive further information on three specific topics, namely annual accounts; the Welsh Language Standards; and the provision of Welsh-medium early years education. I will deal with the topics one by one.

Annual accounts

Before I answer the question regarding the level and use of the reserve, I would like to begin by providing a little background and context.

In October 2014, I appeared before the Assembly's Public Accounts Committee as part of the committee's scrutiny of the 2013-14 accounts. One of the issues considered by the committee in relation to a number of public bodies was the level of the reserve.

In my evidence to the committee I stated that substantial legal costs could be incurred as the organisation carries out its new functions, and also the need to retain some funds in reserve for unforeseen expenditure. I told the committee that it would be reasonable to retain a reserve of £200,000 to £250,000.

The 17/18 annual accounts declare a statutory value of £501,000 for the reserve. When planning I need to consider the impact of transactions paid in cash where they are not

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accounted for through the income and expense account at the end of the financial year. The three main elements are:

- Depreciation of the organisation's fixed assets down to a net value of £0 (£84,000)
- Calculating the cost of agreements where an element of the cost relates to the 2018-19 financial year (£63,000)
- Acknowledging income on a sub-let where an element of the income relates to the 2018-19 financial year (£20,000)

The net impact of the three elements above is to reduce the base level of the reserve to £374,000 at the end of 2017-18 which is higher than the £250,000 normally planned to be retained. The 2017-18 Annual Report reveals that the 2018-19 internal budget plans for an overspend of £82,000. Since the publication of the Annual Report, the 2019-20 Estimate was submitted to the Welsh Ministers, requesting a budget for the coming years. The most recent expenditure forecast assumes an overspend of £167,000 for 2018-19 which would lead to a reserve of £238,000 at the end of the financial year. We have taken a strategic decision to spend above the budget received by the Welsh Government in order to reduce the reserve to a reasonable level.

I include a copy of the 2019-20 Estimate for your attention in order to provide the committee with further information in relation to the organisation's plans over the medium term, the funding requirements and the impact of not receiving additional funding. Further information on the Plans can be found in the Estimate.

The following 3 options were presented to the Welsh Ministers:

		Expenditure 2019-20 £000	Funding 2019-20 £000
Plan A	Additional projects and employing 47 posts	3,825	3,798
Plan B	Additional projects	3,568	3,541
Plan C	Continuing to operate as before	3,240	3,168

At the end of my term as Welsh Language Commissioner, I therefore foresee a reserve of £238,000 which aligns with the sustainable level I have identified over a number of years in the Annual Reports. However, over the medium term, there are profound risks to the organisation's ability to live within the current budget and continue to operate.

You also asked about the impact of this on staff numbers and our ability to fulfil functions. I note that there will be 42.6 FTE officers employed on 01/04/2019, which is approximately 10% less than the staff resources within the full structure. Also, there is no capacity within the current funding level to employ officers on a temporary basis when officers are on maternity leave. Finally, I have received notice of an increase to employer contributions to the Civil Service Pension Scheme, which will increase employment costs by a minimum of £117,000 and there is no capacity within the current budget to bear this additional burden.



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These factors put increasing pressure on the ability to employ sufficient numbers of officers to fulfil the organisation's functions and duties.

In relation to the administrative costs of running the organisation, robust steps have been taken over the years to reduce costs in order to save money. Compared to 2013-14 and 2014-15 where the average expenditure was £965,000, the expenditure forecast for 2018-19 is £717,000, which is a saving of 26%. There aren't many further opportunities to save money without having a harmful effect on the organisation's ability to operate effectively.

The level of expenditure on programmes and projects has reduced over my term as Commissioner as funding from the Welsh Ministers has reduced. During 2013-14 and 2014-15 the expenditure averaged around £440,000 per year. In the following three years until 2017-18 there was a reduction in expenditure to around £240,000 per year. The expenditure for 2018-19 is forecast at £193,000 and the Estimate anticipates an expenditure of £140,000 under Plan C. Expenditure on programmes is funded through the reduction of the reserve and a strategic decision was taken to spend above the budget received from the Welsh Government.

As shown in paragraph 2.15 of the Estimate, even if the Welsh Ministers cover the additional pension costs, over the next two years expenditure will reduce the reserve to a less than desirable level. It is inevitable that, without additional funding, there will be a risk to the new Commissioner's ability to fulfil their full functions and duties; with officer resources falling below the full structure, and the money available to deliver important programmes and projects being further limited.

Welsh Language Standards

You requested information on standards investigations, which is the initial step of mapping what kind of services should be imposed on sectors before the Government creates standards regulations. There are no organisations currently subject to a standards investigation. However, standards investigations have been conducted into a number of organisations that have been included in regulations. Four rounds of standards investigations have been conducted and the details are as follows along with confirmation of which regulations (if any) apply to the organisations:

Standards investigation round	Round 1	Round 2	Round 3	Round 4
Number of organisations	26	119	64	318
Type of organisations	Local authorities, Welsh Ministers,	A number of general public organisations such as	Social housing providers, UK Government departments,	Gas and electricity suppliers, rail services and



	National Parks	National Museum Wales, Children's and Older People's Commissioner, health boards, colleges and universities	water companies, Royal Mail Group and Post Office	bus companies
When the standards investigation was conducted	January – March 2014	November 2014 – February 2015	May – August 2015	Phased timetable: March – June 2016 July – October 2016 August – November 2016
Publication of the standards investigation report	May 2014	May 2015	October and November 2015	November 2016 and February 2017
In regulations?	All within: <input checked="" type="radio"/> No. 1 Regulations	A number within: <input checked="" type="radio"/> No. 2 Regulations <input checked="" type="radio"/> No. 4 Regulations <input checked="" type="radio"/> No. 5 Regulations <input checked="" type="radio"/> No. 6 Regulations <input checked="" type="radio"/> No. 7 Regulations Some of the remaining organisations not within regulations, e.g. health professions regulators	No	No



You also requested information on organisations the Welsh Ministers plan to include in draft regulations, or organisations Welsh Ministers have consulted on draft regulations.

In June 2018, the Minister for Lifelong Learning and Welsh Language, Eluned Morgan, made a statement confirming that no further standards would be issued until the new Welsh Language Bill was in effect. She also confirmed that as a result she would not be adding organisations to regulations already passed.

My understanding therefore is that Welsh Ministers do not intend to include any organisation in draft regulations until the new Welsh Language Bill is in effect. As you know, there is no published timetable for when that will be likely yet.

The Welsh Ministers have already consulted with the health professions regulators and water companies on draft regulations. The Commissioner understands that the Welsh Ministers have corresponded with these organisations to explain that final regulations will not be issued to them for the time being for the reasons identified above.

You also asked me to provide information on organisations my office is in the process of issuing compliance notices. We are currently issuing compliance notices to the following 18 organisations named in the No. 7 Regulations:

1. Powys Teaching Health Board
2. Aneurin Bevan University Health Board
3. Cwm Taf University Health Board
4. Abertawe Bro Morgannwg University Health Board
5. Betsi Cadwaladr University Health Board
6. Cardiff and Vale University Health Board
7. Hywel Dda University Health Board
8. Board of Community Health Councils in Wales
9. Abertawe Bro Morgannwg Community Health Council
10. Aneurin Bevan Community Health Council
11. Betsi Cadwaladr Community Health Council
12. Powys Community Health Council
13. Cardiff and Vale Community Health Council
14. Cwm Taf Community Health Council
15. Hywel Dda Community Health Council
16. Welsh Ambulance Services NHS Trust
17. Velindre NHS Trust
18. Public Health Wales NHS Trust

In addition, the Regulations provide for adding Social Care Wales to No. 4 Regulations. We are therefore in the process of issuing a compliance notice to them, following the same timetable.



The following is an overview of the timetable for issuing the notices, including the actions that have already been taken and the pending actions.

March 2018	Approval of the Regulations by the Assembly.
May 2018	Briefing sessions for all organisations held by the Commissioner.
June 2018	Regulations come into effect and the Commissioner holds individual meetings with each organisation.
18 July – 10 October 2018	12 week consultation on the draft compliance notice.
October – November 2018	Consideration of responses and preparation of draft compliance notices.
November 2018	Aim to issue final compliance notices by the end of November.
End of May 2019	6 months from date of issuing the compliance notices, the earliest imposition day comes into force. This is also when the current Welsh Language Scheme ceases to be in effect.

Finally on this topic, you asked me to explain to the Committee, considering those organisations not currently subject to the standards, the impact of this for Welsh speakers in Wales.

A number of organisations continue to be subject to Welsh language schemes rather than the standards. This may be because they have not yet been named in standards regulations or because they cannot legally come under the standards at present.

Examples of organisations awaiting regulations are noted within the table in response to the first question regarding the standards. Standards cannot be imposed on some other organisations at present, the most prominent example being Ministers of the Crown.

There are clear benefits to the public of an organisation implementing standards compared to a Welsh language scheme. These benefits include:

- The Commissioner's enforcement powers to impose the standards give the public and persons rights to use the Welsh language in specific situations.
- That gives better assurance to Welsh language users regarding their right to use Welsh and they are entitled to complain immediately to the Commissioner about a suspected failure.
- The existence of the Welsh Language Tribunal protects those rights further as it is possible for a complainant to request that the Commissioner's decision is reviewed in some circumstances.
- Although there is a right to complain about a failure to comply with provision within a Welsh language scheme, the Commissioner has no enforcement powers in this regard, only the ability to make recommendations.



- One of the benefits of detailed standards is that it gives the public better clarity in terms of what they can expect to receive in Welsh compared to Welsh language schemes which often include broad commitments.
- The standards are published in regulations which apply to whole sectors and all sets are very similar to each other. That means there is more consistency within the services provided by organisations implementing standards as opposed to Welsh language schemes as the latter are agreed on an individual basis only and are dependent on an organisation's commitment to provision.
- My latest assurance report (which was discussed in the Committee on 4 October) showed that there is now unequivocal evidence that standards have resulted in improved Welsh language services.

Furthermore, some organisations that have been subject to standards investigation do not have a Welsh language scheme either. Some other bodies, such as Qualifications Wales, were established after the standards regime came into force. The Government has decided not to include them in standards regulations at present, so we are working on Welsh language schemes with these bodies.

The provision of Welsh-medium early years education

The Government has responded to the recommendations within my briefing note on childcare provision and Welsh-medium early years education. Despite this, the introduction of the 30-hours offer and reforming the Welsh in Education Strategic Plans (WESPs) framework is ongoing, therefore it is difficult to assess the extent to which the Government has fully responded to and implemented the recommendations.

The briefing note included 3 main recommendations.

1. The Welsh Government needs to ensure that the Welsh language and its vision for 2050 are key considerations in the process of planning, funding and implementing its plans for childcare and early years education.
2. The Welsh Government should ensure that Welsh in Education Strategic Plans (WESPs) develop as an effective framework for ensuring growth in the Welsh-medium childcare sector
3. The Welsh Government needs to take the lead in reforming the way childcare data is collected and shared.

The data published in our briefing note shows that only 13% of childcare provision in Wales is available through the medium of Welsh (see appendix 1 and 2). Given that around twenty-two percent of children in Wales attend Welsh-medium primary education, it is clear that radical change is needed in order for the childcare sector to catch up with the statutory education sector. The commitment to open 150 new nursery groups over the next decade, and the decision to invest £13 million of the Childcare Offer Capital Grant in



Welsh-medium childcare provisions, are important and significant steps. Despite this, these schemes alone will not transform the childcare landscape from a Welsh language perspective. I therefore believe that much more needs to be done in order to drive the far-reaching changes that the sector requires in order to realise the Cymraeg 2050 vision.

Since publication of the briefing note, my officers and I have had constructive meetings with the Minister for Children, Older People and Social Care and relevant civil servants. During these meetings, we have discussed our recommendations in more detail and have received further information on the Government's plans. These meetings have highlighted the opportunities that exist to shape the '30-hours offer' in ways that will lead to substantial growth in Welsh-medium childcare provision.

The second recommendation of the briefing note highlighted the potential of WESPs as a framework for more long-term planning in order to ensure growth in the numbers receiving Welsh-medium childcare and early years education. Like a number of other stakeholders, I firmly believe that there needs to be a focus on this sector as the beginning of the Welsh-medium education journey. Aled Roberts has been appointed to lead the board which will be responsible for reforming the WESPs framework. We have presented evidence to the advisory board and had constructive meetings with Aled Roberts regarding the way forward. I hope the work of this board will lead to significant changes to the Welsh-medium education planning framework and that the childcare sector will be a central part of that.

The third recommendation of the briefing note emphasises the need for valid and reliable data regarding the childcare sector. As highlighted in the briefing note, there are currently fundamental problems with the quality and reliability of the data. Unless the quality of this data is improved, it is difficult to see how progress could be measured meaningfully. We have discussed these problems during our meeting with the Minister for Children, Older People and Social Care and also Care Inspectorate Wales (CIW), and have provided further information and recommendations to CIW as they adapt their methods of gathering data on the language medium of childcare services. Therefore, it is my understanding that the Government and CIW acknowledge the problems, and that there is work in progress to improve the quality of this data.

Finally, you asked for an assessment of the extent to which parents can access the free Welsh-medium childcare offer and what steps the Welsh Government should take to ensure that the provision meets the demand.

To date, there is no public data regarding the childcare offer that would enable me to provide a valid assessment. I understand that the Government will publish an evaluation of the pilot scheme before the end of the year, and that this evaluation will provide current information on the availability of Welsh-medium provision.

Although I cannot provide a detailed assessment of the childcare offer, the briefing note did include a statistical analysis of the situation regarding Welsh-medium childcare provision more generally. I am concerned about the validity and reliability of the existing



data, but one thing that is fairly clear is that there is a lack of Welsh-medium childcare provision across Wales (see appendix 1 and 2).

Considering that only 13% of childcare services in Wales are available through the medium of Welsh, it is inevitable that there will be fundamental problems in terms of enabling parents to take up the childcare offer through the medium of Welsh. It is reasonable to conclude that the vast majority of parents who opt for Welsh-medium education for their children also wish to access Welsh-medium childcare where available. 22% of children currently attend Welsh-medium primary education; therefore it appears that childcare provision in Wales is nowhere near meeting the demand of parents, not to mention attracting more parents to choose Welsh-medium childcare and education for their children. The data also highlights the fact that parents' ability to access the childcare offer through the medium of Welsh varies significantly from one area to another.

The main actions we have suggested and discussed with the Welsh Government are as follows:

1. **Including childcare outcome and targets in the WESPs** – see above
2. **Improving validity and reliability of childcare data** – see above
3. **Childcare Offer Capital Grant and other funding schemes** – the Government has announced that £60 million of funding will be available over the next three years for capital projects to develop and improve childcare provisions in Wales. The Government recently announced that £13 million of this grant has been used alongside the Welsh-Medium Education Capital Grant for the purpose of projects that co-locate Welsh-medium childcare and education. Given the current lack of Welsh-medium childcare provision, and also the Cymraeg 2050 vision, I recommend the Government considers the Welsh-medium or bilingual provision a condition for releasing capital funding to any project involved in the programme. Due to the lack of integration of the Cymraeg 2050 agenda and the '30 hours offer' from the outset, this capital funding is one direct way of increasing Welsh-medium provision across Wales. Other funding schemes should also be used and expanded, for example the work being undertaken with Mudiad Meithrin to open new nursery groups.
4. **Childcare Funding (Wales) Bill** – although this Bill relates to a fairly technical part of the implementation of the 30-hours offer, it provides an opportunity to strengthen the legislation in terms of Welsh-medium childcare provision. For example, the legislation may strengthen and expand the requirements already included in the regulations and statutory guidance resulting from the Childcare (Wales) Act 2006. This could include:
 - A duty to gather information from parents regarding the provision they would wish their child to receive.



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- Providing information on the benefits of Welsh-medium education and bilingualism in general.
- A duty on local authorities to ensure the adequacy of Welsh-medium childcare, in line with the wishes of parents and in the light of the Government's Cymraeg 2050 strategy and the local authority's WESPs targets.

Any new legislation would need to consider carefully the reasons for the lack of progress in Welsh-medium childcare provision in the context of the current legislation.

5. **The workforce** – it is difficult to see how any of the above plans could be delivered without ensuring that sufficient numbers of the workforce have adequate Welsh language skills. The Welsh Government has a plan for improving the skills of the workforce, and projects like Cam wrth Gam have been successful in increasing the numbers of qualified Welsh-medium staff in the sector. However, it is clear that further schemes and investment are needed to this end.

I have attempted to answer the Committee's questions as fully as possible, but please feel free to contact me if you wish to receive further information on these points.

Yours sincerely

Meri Huws
Welsh Language Commissioner



Appendix 1: The main language of provision in numbers and percentages in all local authorities, according to CIW data (25 September 2017)

Awdurdod Lleol	Cymraeg		Saesneg		Y Ddwy Iaith	
Cymru Gyfan	500	13%	2993	77%	389	10%
Abertawe	7	3%	205	93%	9	4%
Blaenau Gwent	2	3%	62	94%	2	3%
Bro Morgannwg	9	4%	207	93%	6	3%
Caerdydd	28	6%	390	88%	24	5%
Caerffili	20	8%	214	87%	13	5%
Castell-nedd Port Talbot	5	3%	138	93%	6	4%
Casnewydd	2	1%	158	96%	4	2%
Ceredigion	46	41%	30	27%	35	32%
Conwy	27	19%	94	68%	18	13%
Gwynedd	129	64%	19	9%	55	27%
Merthyr Tudful	3	7%	38	84%	4	9%
Pen-y-bont ar Ogwr	8	5%	135	92%	4	3%
Powys	22	11%	160	82%	12	6%
Rhondda Cynon Taf	18	7%	221	88%	13	5%
Sir Benfro	19	13%	121	82%	7	5%
Sir Ddinbych	24	17%	92	67%	22	16%
Sir Gaerfyrddin	76	35%	66	30%	78	35%
Sir y Fflint	9	4%	221	91%	14	6%
Sir Fynwy	1	1%	121	98%	1	1%
Torfaen	3	3%	89	94%	3	3%
Wrecsam	11	5%	178	88%	13	6%
Ynys Môn	31	28%	34	31%	46	41%



Appendix 2: The percentage of 7 year old children receiving Welsh-medium education (Welsh Language Strategy annual report 2016-17) and the percentage of Welsh-medium childcare settings (according to CIW data) by local authority

	% of 7 year old children receiving Welsh-medium education in 2016	Percentage of Welsh-medium childcare provisions according to CIW data in 2017
Anglesey	72%	28%
Gwynedd	98%	64%
Conwy	23%	19%
Denbighshire	27%	17%
Flintshire	7%	4%
Wrexham	13%	5%
Powys	19%	11%
Ceredigion	75%	41%
Pembrokeshire	21%	13%
Carmarthenshire	57%	35%
Swansea	15%	3%
Neath Port Talbot	17%	3%
Bridgend	8%	5%
Vale of Glamorgan	15%	4%
Rhondda Cynon Taf	19%	7%
Merthyr Tydfil	11%	7%
Cardiff	16%	6%
Caerphilly	17%	8%
Blaenau Gwent	4%	3%
Torfaen	11%	3%
Monmouthshire	7%	1%
Newport	5%	1%
Wales	22%	13%