Investigation under section 17 of the Welsh Language Act 1993

Cardiff University

The Welsh Language Commissioner's report and recommendations issued under section 19 of the Welsh Language Act 1993

Ref. 047
Background

The principal aim of the Welsh Language Commissioner, an independent body established by the Welsh Language (Wales) Measure 2011, is to promote and facilitate use of the Welsh language. This entails raising awareness of the official status of the Welsh language in Wales by imposing standards on organizations and reviewing and investigating compliance with the Measure and the Welsh Language Act 1993. This, in turn, will lead to the establishment of rights for Welsh speakers.

Two principles will underpin the work:

- In Wales, the Welsh language should be treated no less favourably than the English language
- Persons in Wales should be able to live their lives through the medium of Welsh if they choose to do so

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Foreword

This investigation report is issued by the Welsh Language Commissioner (the Commissioner) in accordance with section 19 of the Welsh Language Act 1993 (the Act) following the transferral of relevant functions under the Act to the Commissioner through a series of statutory instruments.

Part II Welsh Language Act 1993

Compliance with schemes – Investigations

An investigation is held into the possible failure of a public body to implement its language scheme under section 17 of the Act:

17. – (1) Where it appears to the Board\(^1\), whether on a complaint made to it under section 18 below or otherwise, that a public body may have failed to carry out a scheme approved by the Board, the Board may conduct an investigation in order to ascertain whether there has been a failure.

(2) The procedure for conducting an investigation under this section shall be such as the Board considers appropriate in the circumstances of the case, and in particular an investigation may be conducted in private.

Compliance with schemes – Complaints for non-compliance

Section 18 of the Act applies when an individual submits a complaint regarding a public body's failure to implement its language scheme:

18. – (1) This section applies where –

(a) a written complaint is made to the Board by a person who claims to have been directly affected by a failure of a public body to carry out a scheme approved by the Board,

(b) the complaint is made within the period of twelve months beginning with the day on which the complainant first knew of the matters alleged in the complaint, and

(c) the Board is satisfied that the complainant has brought the matter complained of to the notice of the public body concerned and that that body has had a reasonable opportunity to consider it and to respond.

(2) Where this section applies, the Board shall either investigate that complaint under section 17 above or shall send to the complainant a statement of its reasons for not doing so.

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\(^1\) The Welsh Language Board was abolished on 31 March 2012 and investigatory power was transferred to the Welsh Language Commissioner on 1 April 2012. Any reference to the Board in this foreword is synonymous with a reference to the Commissioner.
Compliance with schemes – Reports on investigations

A report is to be produced under section 19 of the Act based on the findings of the investigation:

19. - (1) Where the Board undertakes an investigation under section 17 above, it shall send a report of the results of the investigation to the public body concerned, to the Secretary of State and, where the investigation is conducted on a complaint made under section 18 above, to the complainant.

(2) Where the Board considers that it would be appropriate for a report of the results of an investigation to be published, either in the form of the report made under subsection (1) above or in some other form, the Board may arrange for publication in such manner as it thinks fit.

(3) Where on completing an investigation the Board is satisfied that the public body concerned has failed to carry out the scheme, the Board may include in its report recommendations as to action to be taken by the public body in order to remedy the failure or to avoid future failures.

Compliance with schemes – Directions by Secretary of State

If, following the publication of a report, the Commissioner believes that a public body has failed to implement the actions recommended by her, she may refer the matter to the Minister responsible for the Welsh language:

20. – (1) If at any time it appears to the Board that a public body has failed to take any action recommended in a report under section 19 above, the Board may refer the matter to the Secretary of State.

(2) If on a reference under this section the Secretary of State is satisfied, after considering any representations made to him by the Board and by the public body concerned, that the body has failed to take any action recommended in the report, he may give such directions to the public body as he considers appropriate.

(3) Any directions given by the Secretary of State under subsection (2) above shall be enforceable, on an application made by him, by mandamus.

This investigation was conducted following a complaint made under section 19 of the Welsh Language Act 1993 by a member of the public. The Commissioner decided to exercise her powers under section 17 to conduct an investigation in order to ascertain whether there had been a failure to implement Cardiff University's Welsh language scheme. The report is based on correspondence between the University and the Commissioner and documentation received.

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Following the establishment of the National Assembly for Wales in 1999, reports under section 19 of the Act are sent to the Welsh Government Minister responsible for the Welsh language.
1 Context

1.1 Cardiff University (the University) is the largest University in Wales. During the 2014/15 academic year it had 30,480 registered students.\(^3\)

1.2 The University has a Welsh language scheme that was revised under section 16 of the Welsh Language Act 1993 (the Act). The revised language scheme was ratified by the Welsh Language Commissioner (the Commissioner) on 6 February 2014. The University’s original Welsh language scheme was approved by the Welsh Language Board on 1 August, 2004 following the merger of the University of Wales College of Medicine and Cardiff University.

1.3 The language scheme states that the University has adopted the principle that, in the conduct of its public business in Wales, it will treat the English and Welsh languages on a basis of equality. The scheme outlines how the University will implement that principle when providing services to the public.

1.4 This report’s main aim is to draw conclusions, based on the evidence gathered, on the University’s compliance with specific clauses of its language scheme. The report does not come to conclusions about the University’s general performance in carrying out its language scheme.

1.5 This is the first investigation conducted by the Commissioner under section 17 of the Act in relation to the University. The Commissioner would like to thank the University for its co-operation during the investigation.

\(^3\) HESA, HE students by HE provider 2014/15. Available at [https://www.hesa.ac.uk/data-and-analysis](https://www.hesa.ac.uk/data-and-analysis) [Accessed 15 December, 2016].
2 Basis of the investigation

2.1 The basis of the investigation was a complaint by a member of the public. On 15 December 2015, I received a letter alleging that the University has sent correspondence solely in English to the member of the public (the complainant) who’s chosen language was Welsh. Evidence in the form of screen shots of the University’s correspondence was enclosed with complaint. The correspondence appeared to be written solely in English and can been seen in Appendix 1 of this report.

2.2 The allegations specifically related to the following pieces of correspondence which were sent to the complainant by email:

1. Email entitled A Warm Welcome from Cardiff University Sport dated 18 September 2015.
2. Electronic newsletter entitled A Big Welcome to our New and Returning Students! dated 20 September 2015.
3. Email to students from the School of Law and Politics.
4. English only response from the Postgraduate Department to an email which was written in Welsh.

2.3 In addition to the above, the complainant alleged that no information about the University’s Welsh medium academic and social provision was available during a postgraduate open day on 25 November 2015.

2.4 The complainant alleged that there was uncertainty about how to complain to the University about the implementation of its language scheme.

2.5 The complainant was also of the opinion that the University lacked robust governance and monitoring arrangements to ensure that it operates in accordance with the language scheme. The complainant was concerned that the University had failed to notify me of changes to the language scheme in accordance with a commitment within it.

2.6 The complainant provided a copy of a complaint that he had made to the Head of Welsh Language Services in September 2015 about correspondence received in English. He claimed that the complaint had not been acknowledged nor resolved.

2.7 My officers sought information from the University to try to resolve matters that raised suspicions about its compliance with its language scheme. This was done informally with a view to achieving a swift resolution. On 26 January 2016 my officers wrote to the University with questions in relation to the complainant’s allegations.

2.8 On 4 February 2016, the University’s first response was received. In that response, the University explained that it was not possible to investigate some of the allegations fully without further information. However, the University confirmed that the Coleg Cymraeg Cenedlaethol’s Co-ordinator was not present and that there was no appropriate material on social provision available in Welsh during the postgraduate open day. The University made a commitment to ensure that the officer and appropriate material would be available for postgraduate open days in future.

2.9 On 19 February, my officers wrote again to the University and, with the complainant's consent, further details were provided to enable the University to investigate the matters
raised by the complainant fully. The University was also asked to provide further clarification of some matters.

2.10 The University's second response was provided on 4 March 2016. This response gave assurances that the Professional Services Leadership Team would ensure that the University operates in accordance with the requirements of its language scheme during open days. It was therefore decided not to correspond further with the University about commitments relating to open days.

2.11 The complainant's complaint was valid in accordance with section 18 of the Welsh Language Act 1993 and raised suspicions that the University may have failed to carry out several clauses of its language scheme. Following a period of informal correspondence the University had failed to provide me with adequate assurance that it has operated in accordance with its language scheme.
3 The investigation

3.1 I decided to exercise my powers under section 17 of the Act to conduct an investigation in order to ascertain whether the University had failed to carry out its language scheme. The University’s President and Vice-chancellor were informed of this on 6 April 2016.

3.2 A letter was sent to the University on 19 April 2016 outlining the nature of the investigation along with its procedure, and included questions for the purpose of gathering information. It was explained that the investigation would consider the implementation of clauses 5.1, 5.2, 5.4, 5.10, 13.3, and 14.1 of the language scheme:

5.1. – The University welcomes correspondence in Welsh and undertakes that all correspondence received by the University in Welsh receive a signed reply in Welsh or a pre-printed reply in Welsh.

5.2. – Circulars and standard letters that are sent to the public will be bilingual. There will be instances, however, where it is acceptable to write in Welsh only, for example in dealings with Welsh medium secondary schools or activities within the University’s School of Welsh. Colleges, Schools and Departments will receive guidance with regard to the linguistic requirements of correspondence.

5.4. – Students are asked on registration at the University to state whether they prefer to receive their personal correspondence in Welsh or English or bilingually. Correspondence with students thereafter will be in their preferred language.

5.10. – Electronic correspondence is subject to all clauses in this section.

13.3. – The recently established Steering Group along with Welsh Language Services will ensure that the Language Scheme is operative throughout the University. They will also increase awareness amongst Colleges, Schools, Departments and individual members of staff of the ways in which the Scheme is to be implemented. This will be done by tailored guidelines, by consulting with heads of Colleges, Schools and Departments and by offering appropriate courses.

14.1. – Complaints about the operation of the University’s Scheme by members of the public and University staff should be addressed in the first instance to the Head of the University’s Welsh Language Services. If, following investigation, the matter is not resolved to the satisfaction of the complainant, the matter will be referred to the Director of Registry, Governance and Students for consideration. Complaints by students will be considered and resolved in accordance with the University’s Students Complaints Procedure.

3.3 It was noted that the investigation would be conducted in private by my Investigation and Enforcement team and that it would be carried out as follows:

- Receive information and evidence from the University by 3 May 2016.
- Undertake a desktop analysis of the information received and consider whether any further information is required, for example through a meeting with University officers.

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Prepare a draft report on the investigation findings and provide the University with an opportunity to verify the facts of the report.

Send a copy of the final report to the University, the complainant, and the Minister responsible for the Welsh language.

Publish the final report.

3.4 On 29 April 2016, the University applied for an extension to provide evidence. Upon receiving clarification regarding the grounds for the application, an extension was granted until 13 May 2016.

3.5 This report evaluates the University’s compliance with specific clauses of its language scheme. It is based on information and evidence received from the University on 13 May 2016. A copy of the University’s correspondence is available on Appendix 3 of this report.

3.6 A draft copy of this report was given to the University on 17 January 2017 so that it could verify its contents. The University’s response was received on 31 January 2017 and is included in Appendix 4. Consideration was given to new information included in that response when preparing the final investigation report.
4 The evidence

Consideration 1: Dealing with the Public

There were suspicions that the University had failed to carry out the following clauses of its language scheme, *Dealing with the Public*:

5.1.— The University welcomes correspondence in Welsh and undertakes that all correspondence received by the University in Welsh receives a signed reply in Welsh or a pre-printed reply in Welsh.

5.2.— Circulars and standard letters that are sent to the public will be bilingual. There will be instances, however, where it is acceptable to write in Welsh only, for example in dealings with Welsh medium secondary schools or activities within the University’s School of Welsh. Colleges, Schools and Departments will receive guidance with regard to the linguistic requirements of correspondence.

5.4.— Students are asked on registration at the University to state whether they prefer to receive their personal correspondence in Welsh or English or bilingually. Correspondence with students thereafter will be in their preferred language.

5.10.— Electronic correspondence is subject to all clauses in this section.

4.1 All correspondence provided as evidence by the complainant was sent to him electronically. Therefore the requirements of clause 5.10 are considered alongside the requirements of clause 5.1, 5.2 and 5.4 where appropriate.

Clause 5.1

4.2 The evidence suggested that the complainant had received an English only response from the postgraduate enquiries email account on 28 November 2015 to an email sent, in Welsh, on 25 November.

4.3 Furthermore, a copy was provided of a complaint made in Welsh by the complainant which was sent, by email, to the Head of Welsh Language Services in September 2015. The complaint related to receiving English only correspondence and the complainant alleged that it was not acknowledged nor resolved by the University.

4.4 To ascertain whether the University had complied with clause 5.1 it was asked to verify the complainant’s allegations and, if correct, to explain why the above correspondence was sent solely in English.

4.5 The University’s response appeared to confirm that it had sent an English only email to the complainant on 28 November 2015 describing the incident as ‘unfortunate’.\(^5\)

4.6 The response acknowledged that the complaint, which was sent by the complainant by email on 22 September 2015, was overlooked.

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\(^5\) Cardiff University, letter dated 13 May 2016. Available at Appendix 3.
Clause 5.2

4.7 The complainant’s evidence suggested that the University had sent an English only email entitled *A Warm Welcome from Cardiff University Sport* on 18 September 2016 and an English only electronic newsletter entitled *A Big Welcome to our New and Returning Students!* on 20 September 2017.6

4.8 To ascertain whether the University had complied with clause 5.2 it was asked to verify the complainant’s allegations and, if correct, to explain why the above was sent solely in English. The University was also asked to outline its arrangements or procedures for ensuring that clause 5.2 is complied with.

4.9 In its response the University said that procedures were not followed on this occasion and that the Welsh Language Services had been in contact with the relevant departments:

> Welsh Language Services has worked closely with the departments responsible […] to ensure that they have procedures in place to correspond in Welsh as and when necessary.7

4.10 The University explained that it had instructed each of its departments to produce materials in both Welsh and English and to share them with students accordingly, in their chosen language. It claimed that it had repeatedly issued this instruction to the departments complained about ‘in writing and by visit’.8

Clause 5.4

4.11 Evidence was provided suggesting that the School of Law and Politics had sent an email with an English only message, signature and timetable to the complainant, contrary to his preferred language.

4.12 In order to ascertain whether the University has complied with clause 5.4 it was asked how it records language choice. It was also asked how it ensures that students who have specified Welsh as their preferred language receive correspondence in Welsh, including electronic correspondence sent by the University’s different colleges, schools and departments. Information was also requested regarding the University’s arrangements and procedures for ensuring that its colleges, schools and departments correspond with students in their preferred language.

4.13 The University explained that it has a procedure for ensuring that students receive correspondence in their chosen language. Students may state their language preference when enrolling with the University; they may choose to receive correspondence in Welsh, in English or in both languages. The University cited the following information for prospective students on its website:

> *We’ll ask you to register if you prefer to receive your personal correspondence in Welsh or English or bilingually. The student will then be communicated with in their language of choice.*9

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6 Appendix 1.
7 Appendix 3.
9 Appendix 4.
4.14 The University stated that students’ language choice is recorded on its student information management system (SIMS) and that this information is available to all departments. The response confirmed that the complainant’s language choice had been recorded but that the departments in question ‘had failed to observe and access this’.  

Consideration 2: Supporting and Monitoring the Scheme

There were suspicions that the University had failed to carry out the following clause of its language scheme, *Supporting and Monitoring the Scheme*:

> 13.3.– The recently established Steering Group along with Welsh Language Services will ensure that the Language Scheme is operative throughout the University. They will also increase awareness amongst Colleges, Schools, Departments and individual members of staff of the ways in which the Scheme is to be implemented. This will be done by tailored guidelines, by consulting with heads of Colleges, Schools and Departments and by offering appropriate courses.

4.15 The University’s language scheme undertakes to consult with the Welsh Language Commissioner before changes are made to the language scheme. The complainant alleged that the steering group referred to in clause 13.3 had been abolished and that the University lacked governance and monitoring arrangements to meet the requirements of the language scheme.

4.16 When corresponding with the University in an attempt to resolve the complaint informally (see sections 2.8-2.10) attention was given to clauses within the language scheme which make specific reference to the steering group. The University was asked to provide assurance that it has robust governance and monitoring arrangements in place to enable compliance with those clauses. In a response dated 4 February, the University stated that:

> members [PSLT / Welsh Language Steering Group] members have cross-University operational responsibility for implementing the changes required by the scheme. The Project Steering Group reports to the Enabling Services Portfolio Group, which is chaired by the Chief Operating Officer.  

4.17 In order to ascertain whether the University had complied with clause 13.1 it was asked whether the complainant’s allegations regarding the abolition of the steering group were true. If correct, the University was asked what considerations had led to its decision and what consideration was given to the Welsh language scheme.

4.18 In its response the University confirmed that the steering group referred to in the language scheme had been abolished. It explained that the steering group had approved a new governance structure and that it is now project-based, in accordance with the University’s portfolio management framework. It stated that the Professional Services Leadership Team (PSLT) operates as the steering group under the new arrangement. It was also stated that there is an intention to establish a Welsh language advisory group.

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10 Appendix 3.
11 Appendix 3, document 2.
4.19 The University explained that it has introduced a new governance process in preparation for the Welsh language standards. In a letter to the complainant regarding this matter, it was noted that a new structure had been designed:

for ensuring the embedding of the revised Welsh Language Scheme, and the approach needed in respect of the forthcoming Welsh Language Standards.\(^{12}\)

4.20 Further to the above, the University was asked to clarify the new structure and the PSLT’s terms of reference, confirming whether it involves more efficient implementation and monitoring of the language scheme. Confirmation was also sought regarding when the steering group was abolished and the PSLT established and details about how many PSLT meetings have been held since its establishment were requested.

4.21 In its response the University stated that compliance with the language scheme is reported to, and monitored by, the PSLT:

Activities and compliance are reported to and monitored by the Professional Services Leadership Team which implements and monitors compliance with the Scheme and the forthcoming standards.\(^{13}\)

4.22 On 4 March 2016, the University presented a simple flow chart of the new governance structure. Information was also provided about the PSLT’s membership which includes representatives from different departments within the University.\(^{14}\)

4.23 In relation to the introduction of new governance arrangements, the University stated:

Governance arrangements for Welsh language issues at Cardiff University were restructured last autumn, as part of the [Welsh language] Framework programme.

4.24 The University explained that following the abolition of the steering group it had reviewed progress against language scheme and had gathered that action was required:

When the [PSLT] took on the governance responsibility it reviewed progress against the scheme and determined that more focus needed to be given to driving forward progress. [It] commissioned a project supported by a project manager to clarify actions needing to be taken across the University; set out a project plan with timescales and milestones and report regularly on progress.\(^{15}\)

4.25 In terms of the frequency of the PSLT’s meetings, the University’s response stated that it meets weekly and that ‘each month one meeting is dedicated to reviewing and considering progress against the Welsh Language Scheme’.\(^{16}\)

4.26 In order to better understand the University’s new governance arrangements and ascertain the University’s compliance with clause 13.3, it was asked to confirm when the Welsh language advisory group is expected to be fully operational, and how often it will meet.

\(^{12}\) Appendix 3, document 6.
\(^{13}\) Appendix 3.
\(^{14}\) Appendix 3, document 4.
\(^{15}\) Appendix 4.
\(^{16}\) Appendix 4.
In its response the University explained that it was still in the process of establishing the advisory group, and that its membership would include people with an interest or expertise in the area in order to advise and influence policy and strategic decisions.

Additionally, it is suggested that the group's membership will include academics, the Coleg Cymraeg Cenedlaethol representative, students and external stakeholders. It was noted that the group's constitution will be finalised following the approval of the Higher Education Regulations.

No specific information was provided to the Commissioner about how often the group will meet but in a letter from the University to the complainant, it is suggested that it will meet twice a year.  

In a letter dated 4 March 2016, the university outlined that the group’s terms of reference would include:

- To advise and comment on the approach the University takes to achieve its overall objectives for the Welsh language;
- To act as a critical friend and advisor in relation to the University's plans to promote the Welsh language;
- To inform and support the Welsh Language Framework project in its impact generating activities – offering constructive and balanced advice;
- To receive and comment on an annual report for the Welsh Language Commissioner (currently on the Welsh Language Scheme in May 2016);
- To provide assistance to the COO when formulating Welsh Language Policy and help transform policy decisions into action;
- Serve as a way to build public consensus on controversial issues before the University makes a decision;
- Give the community a forum for discussion in greater depth than is possible in the University's committees.

Consideration 3: Complaints and Improvements

There were suspicions that the University had failed to carry out the following clause of its language scheme, Complaints and Improvements:

14.1.– Complaints about the operation of the University's Scheme by members of the public and University staff should be addressed in the first instance to the Head of the University’s Welsh Language Services. If, following investigation, the matter is not resolved to the satisfaction of the complainant, the matter will be referred to the Director of Registry, Governance and Students for consideration. Complaints by students will be considered and resolved in accordance with the University’s Students Complaints Procedure.

17 Appendix 3, document 6.
18 Appendix 3, document 4.
4.31 The complainant provided a copy of a complaint he had made to the head of Welsh Language Services in September 2015. He alleged that the complaint had not been acknowledged nor resolved by the University. The complainant was also uncertain as to which complaints procedure students should use to make a complaint about the implementation of the language scheme.

4.32 In order to ascertain whether the University had complied with clause 14.1 it was asked to explain how it records complaints about the implementation of the language scheme. It was also asked how it ensures that complaints made by students about Welsh language issues are dealt with in accordance with its students’ complaints procedure.

4.33 In its response the University explained that the students’ complaints procedure is the appropriate procedure for students wishing to complain about the implementation of the language scheme and that it is ‘available to all students’. All Universities are required to have such a procedure.

4.34 The University stated that the procedure follows a clear process and that students have the right to appeal:

Complaints are submitted to a specific address, using a standard form, with guidance and advice signposted. Submission of complaints on the standard form and via the standard process ensures that complaints are logged; investigated; responded to; and resolved or adjudicated. There is an internal appeal process and the opportunity once internal procedures are complete for the student to take the complaint to the Office of the Independent Adjudicator.

4.35 In its response the University explained that complaints which are dealt with in accordance with the procedure are reported upon:

An annual report setting out complaints by category and topic is produced for consideration by the Executive and by the University’s governors at its Governance Committee and then at the Council meeting.

4.36 The University claimed that the intention of clause 14.1, in stating that students should use the complaints procedure, is to assure ‘both complainant and University that the matter is being dealt with within a documents process’ which has been ‘tried and tested’.

4.37 The University felt that clause 14.1 lacks clarity as ‘is does not expressly state that complaints by students must be submitted in accordance with the [complaints procedure].’ It said that it would amend the clause as a result.

4.38 The University’s response acknowledged that it had failed to address a complaint made by the complainant in September 2015 in accordance with its complaints procedure. According to the response an apology and response was sent to the complainant on 22

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19 Appendix 3.
20 Appendix 4.
21 Appendix 4.
22 Appendix 4.
23 Appendix 4.
February 2016.\textsuperscript{24} The University’s response acknowledged that the complaint was overlooked as a result of a similar complaint being made to the Welsh Language Services:

It has been acknowledged that this email from the complainant was overlooked by the Welsh Language Services probably due to the exact same complaint being received from another student, which was responded to immediately.\textsuperscript{25}

4.39 In its response the University explained that it does not consider students to be members of the public for the purposes of the language scheme. However, clause 1.2 of the University’s language scheme gives the following definition:

The public includes University staff and current students along with prospective students and the public in general in Wales.

4.40 The University went on to explain that the reason for distinguishing between students and members of the public is that students ‘have access to a more detailed and regulated complaints procedure, specific to their needs and status.’\textsuperscript{26} It claimed that the students’ complaints procedure offers a more comprehensive service for individuals who have a ‘more regular and indeed contractual relationship with the University, rather than to deny the classification of students as members of the public for the purposes of the Act.’

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{24} Appendix 3, document 5.
\item \textsuperscript{25} Appendix 3.
\item \textsuperscript{26} Appendix 4.
\end{itemize}
\end{footnotesize}
5 Conclusions

5.1 This report draws conclusion regarding Cardiff University’s compliance with three aspects of its Welsh language scheme, namely Dealing with the Public, Supporting and Monitoring the Scheme and Complaints and Improvements.

5.2 In light of the evidence available, it is concluded that the University has failed to implement clauses 5.1, 5.2, 5.4, 5.10, 13.3 and 14.1 of its Welsh language scheme:

- Conclusion 1

  Dealing with the public: Clauses 5.1, 5.2, 5.4, and 5.10

  5.1.– The University welcomes correspondence in Welsh and undertakes that all correspondence received by the University in Welsh receive a signed reply in Welsh or a pre-printed reply in Welsh.

  5.2.– Circulars and standard letters that are sent to the public will be bilingual. There will be instances, however, where it is acceptable to write in Welsh only, for example in dealings with Welsh medium secondary schools or activities within the University’s School of Welsh. Colleges, Schools and Departments will receive guidance with regard to the linguistic requirements of correspondence.

  5.4.– Students are asked on registration at the University to state whether they prefer to receive their personal correspondence in Welsh or English or bilingually. Correspondence with students thereafter will be in their preferred language.

  5.10.– Electronic correspondence is subject to all clauses in this section.

The University acknowledges that it failed on two occasions to respond in Welsh to correspondence received in Welsh from the complainant. I acknowledge that the University has taken steps to draw the relevant departments’ attention to these failures. Although the University states that procedures and arrangements are in place to ensure that Welsh language correspondence receives a response in Welsh, I am not satisfied that they are sufficient to ensure systematic compliance with clauses 5.1 and 5.10 of the language scheme.

Clause 5.2 states that circulars and standard letters sent to the public will be bilingual or written in Welsh. As clause 1.2 classifies students as members of the public for the purposes of the language scheme it is reasonable to conclude that circular and standards letters sent to students should be bilingual or in Welsh. The University acknowledges that procedures were not followed when an English only circular and email were sent to the complainant. I accept that the University has acted to bring these failures to the attention of the relevant departments. However, I am not satisfied that its procedures are sufficient to ensure systematic compliance with clauses 5.2 and 5.10.

The University also acknowledges that it has failed to correspond with the complainant in his preferred language on more than one occasion. I accept that the University has recorded the complainant’s language choice and that there are arrangements in place in order to do so. However, it does not appear that there are adequate arrangements in
place to ensure that this information is used by departments within the University in order to comply with clauses 5.4 and 5.10. Furthermore, further examples of English only correspondence from the University to the complainant suggest that its linguistic conduct has not changed and that adequate steps have not been taken to ensure compliance with clauses 5.4 and 5.10.²⁷

Based on evidence received from the complainant and the University’s acknowledgement that it failed to respond in Welsh to correspondence received in Welsh, that procedures were not followed when sending circulars and standard emails and by failing to correspond with the complainant in his preferred language on more than one occasion, I am of the opinion that the University has failed to implement clauses 5.1, 5.2, 5.4 and 5.10 of its language scheme.

**Conclusion 2**

*Supporting and monitoring the language scheme: Clause 13.3*

13.3.– The recently established Steering Group along with Welsh Language Services will ensure that the Language Scheme is operative throughout the University. They will also increase awareness amongst Colleges, Schools, Departments and individual members of staff of the ways in which the Scheme is to be implemented. This will be done by tailored guidelines, by consulting with heads of Colleges, Schools and Departments and by offering appropriate courses.

The University states that the Professional Services Leadership Team (that replaced the former Steering Group) ensures that the language scheme is carried out across the University. However, in light of the failures identified by this investigation, I am not satisfied that the University’s monitoring and supporting arrangements are sufficiently adequate to ensure that the language scheme is systematically implemented.

I acknowledge that the University has notified me of changes to its reporting structure as part of the monitoring process. I also welcome the fact that the Professional Services Leadership Team has identified a need to drive forward progress in relation to the language scheme across the University. However, I am concerned about the lack of support from the proposed Welsh language advisory group until the standards come into force, specifically because its terms of reference include some activities that are relevant to the language scheme, for example ‘receive an annual report for the Welsh Language Commissioner’.

In light of the failures identified by this investigation, I am of the opinion that the University’s governance and monitoring arrangements do not adequately ensure that the language scheme is implemented across the organisation. On this basis I conclude that the University has failed to carry out clause 13.3 of its language scheme.

²⁷ During the drafting of this report the complainant provided further examples of English only correspondence from the University. The Commissioner received evidence from the complainant on 16 May, 26 May, 17 July and 6 September 2016.
Conclusion 3

Complaints and improvements: Clause 14.1

14.1.– Complaints about the operation of the University’s Scheme by members of the public and University staff should be addressed in the first instance to the Head of the University’s Welsh Language Services. If, following investigation, the matter is not resolved to the satisfaction of the complainant, the matter will be referred to the Director of Registry, Governance and Students for consideration. Complaints by students will be considered and resolved in accordance with the University’s Students Complaints Procedure.

I understand that the University is required to have a robust procedure for dealing with complaints from students. It is this procedure that should be used by students to complaint about any failures to carry out the language scheme.

Clause 14.1 of the language scheme states that ‘Complaints by students will be considered and resolved in accordance with the University’s Students Complaints Procedure’. However, in accordance with clause 1.2 of Cardiff University's language scheme, it is reasonable to conclude that students are considered to be members of the public. I accept that this can cause confusion when a student wishes to make a complaint to the University. Nonetheless, I stress that the University should address complaints about a lack of Welsh language provision under the provisions of the Welsh Language Act 1993 and any associated guidance. In accordance with this the University should ensure that it defines members of the public appropriately and in accordance with the meaning provided in the Act.

I am not of the opinion that there is anything to prohibit the University from dealing with complaints from students about a lack of Welsh language provision in accordance with its students’ complaints procedure while also respecting the provisions of the Act. In light of this the University should ensure that students are made aware of their right to complain to the Welsh Language Commissioner, in addition to the Office of the Independent Adjudicator, if they are unhappy with the outcome of their complaint.

Despite having a complaints procedure, the University failed to deal with the complainant’s concerns about the implementation of the language scheme. However, I can only conclude that the failed to act in accordance with its own procedures on this occasion.

On the basis that the University failed to deal with a complaint from a student about the implementation of the language scheme I conclude that it failed to carry out clause 14.1.
6 Recommendations

6.1 On the basis of the findings of this investigation, I am of the opinion that Cardiff University should carry out the following recommendations:

- **Recommendation 1**
  The University should review and amend its practices for corresponding with students and provide the Commissioner with information in relation to how those amended practices ensure compliance with the language scheme.
  
  *Evidence of this should be provided by 31 July 2017*

- **Recommendation 2**
  The University should ensure that governance arrangements in relation to the Welsh language are ratified at the highest level and that they are adequate and fit for purpose, and should provide the Commissioner with information in relation to those arrangements.
  
  *Evidence of this should be provided by 31 July 2017*

- **Recommendation 3**
  The University should furnish the Commissioner with the minutes of meetings discussing matters relating to the Welsh language and outline how it ensures adequate provision for carrying out actions identified in the language scheme.
  
  *Evidence of this should be provided by 31 July 2017*

- **Recommendation 4**
  The University should ensure that its students’ complaints procedure deals with complaints about a lack of Welsh language provision in accordance with the provisions of the Welsh Language Act 1993 and any associated guidance, ensuring that it defines members of the public appropriately and in accordance with the definition given in the Act.
  
  *Evidence of this should be provided by 31 July 2017*
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\[i\] Documentation is appended in the language in which it was produced or published.