

Welsh Speaking Prisoners and Duties Regarding the Welsh Language Guidance for Members

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Document History

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Introduction

Welsh speakers have rights to see, hear and use the Welsh language in all parts of Wales.

- 1.1 This guidance sets out information and advice relating to parole cases where the prisoner speaks Welsh as their first or preferred language, as well as any other individual or organisation that communicates with the Board in Welsh. It sets out the legislation, the policy adopted by the Board, and best practice on managing communications and parole cases to ensure that we comply with our duties.
- 1.2 The guidance was prepared following a Welsh Taskforce group that undertook scoping work throughout 2019, including pilot work and engagement with colleagues across prison and probation. In particular, the Best Practice section has been largely informed by feedback from Welsh speaking prisoners and practitioners.

Legislation

- 2.1 The Welsh language was enshrined in law in 1967 by giving the Welsh language official status and providing the right for Welsh speakers to receive services in their native language.
- 2.2 The core of the law relating to the Welsh language is to be found in primary legislation made by either the UK Parliament or the National Assembly for Wales. The principal statutes which contain provisions that apply in relation to the Welsh language are:

The Welsh Language Act 1993 (WLA 1993)

- 2.3 The WLA 1993 put the Welsh language on an equal footing with the English language in Wales with regard to the public sector.
- 2.4 The Act achieved three things:
 - setting up the Welsh Language Board, answerable to the Secretary of State for Wales, with the duty of promoting the use of Welsh and ensuring compliance with the other provisions;
 - giving Welsh speakers the right to speak Welsh in court proceedings;
 - obliging all organisations in the public sector providing services to the public in Wales to treat Welsh and English on an equal basis.

The Welsh Language (Wales) Measure 2011 (WLWM 2011)

- 2.5 The WLWM 2011 modernised the existing legal framework regarding the use of the Welsh language in the delivery of public services. It included provision about the official status of the Welsh language and established the office of Welsh Language Commissioner which replaced the Welsh Language Board.

2.6 Orders and regulations (subordinate legislation) have been made under both WLA 1993 and WLWM 2011.

Welsh Language Commissioner

3.1 The Welsh Language Commissioner's principal aim is to promote and facilitate the use of the Welsh language and, amongst other things, to work towards ensuring that the Welsh language is treated no less favourably than the English language.

3.2 The Commissioner places language duties on organisations in Wales to achieve this. There are two types of language duties in Wales: Welsh Language Standards and Welsh Language Schemes. These language duties explain how organisations in Wales should use Welsh in the workplace, and with the public.

3.3 The purpose of Welsh Language Standards is to:

- ensure clarity to organisations in relation to the Welsh language;
- ensure clarity to Welsh speakers on what services they can expect to receive in Welsh;
- ensure greater consistency in Welsh language services and improve quality to users;
- promote the Welsh language, ensuring that Welsh has an active role in the organisation's internal administration, and that the language is accessible to the public.

3.4 Welsh language Standards will gradually replace the existing system of Welsh language Schemes provided for by WLA 1993. Only bodies named or who fall within a category listed in WLWM 2011 can be required to comply with Welsh language Standards.

3.5 Legislation requires public organisations to prepare a Welsh Language Scheme to explain which services they will provide in Welsh. Similar to Welsh Language Standards, they place language duties on organisations.

3.6 Where a body has a Welsh Language Scheme under the WLA 1993 in place, it must continue to comply with the Scheme unless it is required to replace it with a Standard.

3.7 The Commissioner also has the power to investigate alleged interferences with individuals' freedom to use Welsh in certain circumstances. The Commissioner is supported by an advisory panel.

3.8 If someone uses the Welsh language with one person or more in Wales, be that in a conversation or in writing, and the other person or people also wish for the discussion to take place through the medium of Welsh, then they should have the freedom to continue to use the language with no interference.

- 3.9 If someone is told that they should not use Welsh, or is told that they will suffer or be caused a disadvantage for using Welsh, then it is likely that their freedom is being interfered with.
- 3.10 If this happens, the Commissioner can undertake an investigation to determine whether interference took place and to give recommendations to try to prevent it from happening again.

Welsh Language Scheme

- 4.1 The Parole Board, as a Non-Departmental Public Body (NDPB) of a Government Department, is required to have a Welsh Language Scheme (rather than a Standard).
- 4.2 The Board's Welsh Language Scheme was prepared in accordance with statutory guidelines issued under Section 9 of the Welsh Language Act 1993. It was published in May 2011, following a public consultation, and approval from the Commissioner. Subsequent revisions or updates need the Commissioner's approval and, depending on the level of change, a further public consultation may be required.
- 4.3 The current version has been subject to monitoring and review, leading to minor revisions, which did not require a public consultation.
- 4.4 Each year, the Board is required to produce an annual monitoring report to be provided to the Welsh Language Commissioner, setting out progress against the commitments within the Scheme.

Duties of the Parole Board

- 5.1 Whilst the Parole Board covers both England and Wales, it is principally located in England and so, for the purposes of organisational management and administration, it is not required to conduct business in Welsh.
- 5.2 However, where it is dealing with individuals, in whatever capacity, whose first, or preferred language is Welsh, there is a duty to communicate in Welsh.
- 5.3 As such, the Board has adopted the principle that in the conduct of public business and the administration of justice in Wales, it will treat the English and Welsh languages on a basis of equality, so far as is both **appropriate in the circumstances and reasonably practicable**.
- 5.4 The Welsh Language Scheme sets out how the Board will give effect to the above principle in the services to the public in Wales for which it is responsible.
- 5.5 In order to support the delivery against the Scheme, the Board publishes an action plan, which contains a range of objectives.
- 5.6 The Welsh Language Scheme and action plan can be found on SharePoint: <https://digitalparole.sharepoint.com/sites/ParoleBoardSite/SitePages/edag.aspx>

Key Consideration

- 6.1 The key consideration to be aware of is that any prisoner who has Welsh as their first language or prefers to communicate in Welsh should have access to information and services in Welsh, where possible.
- 6.2 The Board has identified that the Welsh language should be considered as a *protected characteristic*, requiring us to make appropriate arrangements to avoid disadvantaging anyone who is a Welsh speaker. The Welsh language is now one of the factors to consider when undertaking an Equality Impact Assessment (EIA) for a project or change initiative.
- 6.3 **The Board recognises that some people may express their views and needs better in the Welsh language, and that enabling them to use their preferred language is a matter of good practice rather than a concession.** In implementing the measures of the Scheme, the Board will emphasise respect for the rights and fair aspirations of the users of the Welsh language.
- 6.4 This principle is not just for prisoners but also victims, stakeholders and members of the public who may have cause to contact the Board.

Practical application

- 7.1 As the Board does not have offices in Wales and does not provide general services which are specifically for Welsh people, we take a proportionate approach to how we apply the principle and comply with legislation.

Correspondence

- 7.2 Anyone writing to the Parole Board in Welsh is entitled to have a response provided to them in Welsh. We should aim to do this within the same timescale as we would if responding in English.
- 7.3 Victims have been informed that they can have a summary decision letter provided in English, Welsh or bi-lingually, whichever is their preference.
- 7.4 Any other correspondence, including complaints or general letters will need to be translated into Welsh where requested.
- 7.5 Section eight *Supporting Welsh prisoners in Wales* deals specifically with correspondence with Welsh speaking prisoners.
- 7.6 We have two templates for our headed notepaper:
- Welsh language template – this is a full translation of our usual headed notepaper into Welsh and is used for when writing to individuals who communicate with us in Welsh;
 - Bilingual template – this is a version of our headed notepaper that contains both the English and Welsh translations and is used for writing to organisations that are based in Wales.

7.7 In terms of day to day communications (emails, letters etc.) in carrying out our business with key stakeholders, we will conduct them in English. It is only where an individual or organisation specifically requests that we communicate in Welsh will we respond in Welsh. Where an individual or organisation is based in Wales, we will aim to establish their preference in terms of language.

Publications

7.8 Our publications include reports, consultation papers, recruitment campaigns and leaflets relating to our responsibilities throughout England and Wales. Publications and forms will be available for the public in Wales through the Parole Board web pages on GOV.uk.

7.9 The Board will use the Welsh Language scoring systems for publications and forms to determine whether to make these available in Welsh or in a bilingual format. The Scoring System adopted is as recommended by the Welsh Language Commissioner and is appended to the Board's Welsh Language Scheme.

7.10 Most of our publications do not meet the requirement to be published in Welsh. However, we have taken an inclusive approach and translated a number of sections on our web pages and some general information documents into Welsh.

Policy and Practice

7.11 Any policy or practice should take into account the needs of Welsh speakers and an Equality Impact Assessment (EIA) is required to be undertaken. Internal guidance for staff on undertaking an EIA has been published. Where a policy or practice may impact specifically on Welsh speakers, measures should be put in place to avoid any disadvantage. As with publications, the Welsh language Scoring System should be used to decide whether policy and practice documents need to be translated.

Telephone calls

7.12 The Board's offices are located in London and we have only limited direct contact with the general public. Therefore, it is not practicable for us to offer a Welsh language telephone service. We will offer those who call us and who wish to speak in Welsh the option of writing to us in Welsh or continuing the conversation in English.

Supporting Welsh prisoners in Wales

8.1 The Board will aim to provide Welsh speaking prisoners with information relating to their parole review in the language they feel most comfortable with. It is important for the Board to take a pro-active approach to this so that prisoners are informed and aware of options available to them as early as possible.

- 8.2 In order to support a Welsh speaking prisoner, all agencies involved will need to have a good understanding of the particular considerations that may arise. In some cases, this may be the first time that an agency will be dealing with such a case and so the Board will need to take the lead and direct accordingly.
- 8.3 A two-page information sheet has been produced setting out the entitlements of Welsh speaking prisoners in relation to the Welsh language. This can be found at Appendix I.

Dossiers and parole correspondence

- 8.4 The Parole Board is only responsible for providing Welsh translations of its own documents and Parole Board directed documents from third-party agencies (where they were not part of the initial referral dossier), where considered necessary and appropriate to ensure a fair review. It will be for HMPPS to consider any requests for a Welsh version of the initial referral dossier, or any subsequent documents they produce, and so the Board needs to be careful not to promise that this can be done.
- 8.5 If a prisoner makes a request for written communications to be made in Welsh, consideration should be given about which correspondence can be provided in Welsh. This will most likely be MCA decisions or directions, and any subsequent directions, including adjournments and deferrals, and decisions from oral hearings. Members will need to highlight the requirement when communicating with the Secretariat, so that arrangements can be made to request a translation.
- 8.6 It should be noted that identifying a need for Welsh translation is not the sole responsibility of the Parole Board. **Language needs should have already been identified and assessed by HMPPS ahead of any case being referred to the Board.** However, members will want to satisfy themselves that such needs have been appropriately assessed, and if necessary, the panel will make its own determination to ensure a fair and effective review. See Section 12 for more information on HMPPS responsibility.
- 8.7 If concluding the case at the MCA stage, the prisoner should be offered to have their decision provided in English and Welsh, where it is known they are Welsh speakers. Members should check the dossier to see if the prisoner's preferred language has been indicated as follows:

For GPP cases:

- It can be found in the OASys report under the "preferred language" field in the "Case ID – Offender Information" Section;
- It can be found in the PAROM report in the box entitled "oral hearing considerations".

For recall cases:

- It can be found in the "preferred language" field in the Part A form.

- 8.8 Whilst the references in the dossier may be helpful, there will be some prisoners who, for whatever reason, may not have given their preference. For example, they may feel self-conscious making such a request, or that it may reflect negatively on them, or be perceived as obstructive. As such, the need may come to light much later in the process than expected, and only after seeking clarification.
- 8.9 If directing the case to an oral hearing, MCA members should highlight the fact that the prisoner is a Welsh speaker, where this is indicated as the **preferred language** in the dossier.
- 8.10 MCA members should identify logistical considerations that need to be taken into account in respect of the hearing, and set any requirements out in directions. Again, the prisoner should be offered the opportunity to have MCA directions provided in English and Welsh.
- 8.11 In summary, panels should ascertain if a prisoner's first or preferred language is Welsh (which should already have been flagged by HMPPS) and if so, then:
- it is important to include a note in both languages to the prisoner at the earliest stage about their entitlement to request communication in Welsh if that is their preference (see section 14 *further reading* for an example of a sentence to use);
 - we should offer to provide the MCA decision or MCA directions in Welsh and English;
 - where the case is progressing to an oral hearing, highlight in MCA directions if translated documents might be required and whether an interpreter would be needed (see below for further information about this).

Oral Hearings

- 8.12 The Board aims to ensure that measures are in place at parole hearings to provide for those prisoners who wish to express themselves in Welsh.
- 8.13 However, evidence from scoping exercises and pilots suggests that most Welsh speaking prisoners do not require full parole proceedings to be conducted in Welsh, although language was cited as one of the barriers to fully understanding and engaging in the process.
- 8.14 **There are a number of possibilities that may be considered:**

a) Full proceedings in Welsh – all attendees speaking Welsh

Convening a full Welsh speaking parole panel, and ensuring that all witnesses and the legal representative are fluent Welsh speakers, may be extremely difficult to achieve.

Welsh prisons do have some Welsh speaking staff, including Prison Offender Managers (POM¹) and some Community Offender Managers (COM) will also speak Welsh, but this very much depends on where they are located. It is understood that a number of English law firms practising in Wales do have provisions in place for "buying-in" Welsh language advocates if it is required, and where it is deemed to best represent their client, but the firm itself may not have much experience of representing Welsh speaking prisoners.

The overriding factor for the attendance of witnesses must be that they can give the 'best evidence', and not that they speak Welsh.

b) Full proceedings translated / interpreted in real time

If a prisoner requires a real time translation at oral hearing it will be for the prison to make the necessary arrangements. In these situations, an interpreter will be in attendance for the whole of the proceedings and translate between the prisoner, the panel and the other attendees.

The Board should try to comply with both of the above situations where such an arrangement has been requested, or deemed necessary, but must set out reasons if it cannot, seeking supporting information from HMPPS, as appropriate.

c) Opportunity for the prisoner to give evidence in Welsh

In some cases, it is likely that a prisoner may want to speak Welsh only at certain points in the proceedings, for example when responding to a particular question or setting out their own representations, and where they feel more comfortable to do so in Welsh. Some prisoners find it easier to explain or express a particular point in Welsh and would struggle to articulate effectively in English. In most cases this will involve an interpreter attending the oral hearing and stepping in when needed to translate. An independent interpreter is required for this.

d) Ad hoc support

There may occasionally be a situation where a prisoner struggles to articulate what they are trying to say in English and can only express themselves properly in Welsh. In the absence of an interpreter, if there is someone else present who is fluent in Welsh, they may be able to step in and offer brief support. They may also be able to draw the panel's attention to the fact that the prisoner is struggling to interpret or respond to a question and that they might be assisted if they had more time or the question was rephrased.

¹ POM and COM are used throughout this guidance but in some cases the prisoner will still be allocated an Offender Supervisor or Offender Manager, until OMiC is fully rolled out.

For example, in some cases the relationship between the prisoner and the POM or COM may be well established and communication is ordinarily carried out in Welsh, and they may better appreciate what the prisoner is trying to say and assist to explain it to the panel.

This needs to be approached very cautiously to ensure neutrality, avoiding any perception of leading the prisoner or misleading the attendees, and the translation would need to accurately reflect what the prisoner is trying to express.

This would not be a formal intervention and should only be used as a last resort if the prisoner is seen to be struggling.

In some cases, it may be appropriate for the prisoner to ask a Welsh speaking person to attend the hearing as a supporter. The supporter would not be able to speak on behalf of the prisoner but may provide moral support or assist in finding the right words for the prisoner to use to explain something.

Outside of formal proceedings, it may put the prisoner at ease if greetings/ acknowledgements from the panel and/or witnesses are in Welsh, where felt appropriate. However, extended discussions that are not understood by other attendees must be avoided to ensure there is no perception of collusion or coercion.

Welsh prisoners in English prisons

- 9.1 Many Welsh prisoners are held in prisons outside of Wales, in particular:
 - All Category A/High Security male prisoners
 - All female prisoners
 - Most young offenders
- 9.2 These prisoners are likely to be more vulnerable being isolated from language, culture, home and support networks.
- 9.3 There is no requirement, either in the 1993 Welsh Language Act or in Welsh Language (Wales) Measure 2011 to provide translations or other services in Welsh for service users in England.
- 9.4 However, the Board will take the learning from practices in Welsh prisons and aim to support such prisoners where it can. Therefore, efforts should be made to support these prisoners to access information and communications about their parole review in Welsh should they request it.
- 9.5 English prisons may not come across such cases very often and may be unfamiliar, therefore, with the support that is available or be equipped to readily comply with directions.
- 9.6 Several female prisons, notably HMP Eastwood Park and HMP Styal, do have established Welsh community networks and so enquiries can be made about available support.

9.7 The HMPPS Welsh Language Scheme sets out that all prisoners and offenders, regardless of location, must be asked their language preference at the earliest opportunity.

Best Practice

Spoken Welsh

- 10.1 The incidence of individuals where Welsh is the first or preferred language is predominantly in the areas of Dyfed Powys and throughout North West Wales, particularly in the Caernarfon (Carnarvon) area and parts of Ynys Mon (Anglesey).
- 10.2 For example, in Gwynedd over 90% of offenders on licence have Welsh as their first language. Supervision sessions (and key work sessions in Approved Premises) are conducted in Welsh.
- 10.3 Many Welsh speaking prisoners will be held in custody at HMP Berwyn, but they could be in any one of the other five Welsh prisons, and of course many will be in English prisons.
- 10.4 In most cases, prisoners will want to speak in **conversational Welsh** rather than formal business Welsh. When meeting their POM or COM, they converse in Welsh and it will be in the conversational form. There may, therefore, be a wish to be able to communicate in this way when engaging in parole reviews.
- 10.5 If these discussions were to be officially interpreted, they would present as a more formal version of Welsh and run the risk of losing their emphasis and tone. In many cases, the more formal translation into Welsh would not be accessible to the prisoner, and in some cases unfamiliar to the practitioner, and therefore have little practical benefit.
- 10.6 When asked about language preference prisoners (and some staff) will often NOT say that they have a preference for conversing (at least in part) in Welsh for fear of formal Welsh being used, which they may not understand fully or be able to respond to.
- 10.7 Most prisoners will move naturally between vocabularies and this will not be reflected in formal translation. They are, therefore, having to communicate in formal English during their parole hearing.
- 10.8 Where a Welsh speaking prisoner is identified and makes it known that they will be more comfortable conversing in Welsh, the current practice in HMP Berwyn is to allocate a Welsh speaking POM and COM. Consequently, for some years prior to a parole hearing, and in discussions to prepare for the hearing, all conversations about the offence, triggers and motivations, risk factors, fears and hopes, and resettlement plans will have been in Welsh. This then puts the prisoner, and indeed the POM and COM, at a disadvantage as they try and recap those conversations in formal English at a parole hearing.

- 10.9 It can be challenging, especially in the moment, to find the right word, sentence constructs are in a different order, and it is hard for the prisoner to fully own what is being said: all of which present barriers to being able to express insight, remorse, victim empathy, etc.
- 10.10 It will be of assistance to the panel to establish the wishes of the prisoner, for example:
- Would the prisoner want an interpreter to be present;
 - Would the prisoner feel more comfortable if the panel has an awareness of Welsh (bearing in mind the Board's capacity to fulfil such an arrangement);
 - Would the prisoner feel more comfortable if someone was in attendance who they are familiar with and ordinarily speak in Welsh with. The person could not speak on behalf of the prisoner but may assist in finding the words to reflect what is trying to be said.
- 10.11 Where a Welsh speaking prisoner is held in an English prison the issue is compounded as it is highly unlikely that they will have access to a Welsh speaking POM and there will be no Welsh language lead within the prison.
- 10.12 Prisoners will often wish to talk to their family or COM about the hearing (or other matters) and to seek advice and guidance about the meaning of some correspondence/reports etc.
- 10.13 Their family/ carers/supporters (often grandparents) will often have first language Welsh and they are prevented from having these important discussions as the written material is in English, or prison policy prevents the use of language, other than English, during telephone calls.
- 10.14 This is of particular concern for elderly sex offenders both in custody and then when they return to rural communities. The majority are held in prisons in South Wales and England.

Other Points

- 10.15 It should be noted that Correctional Services Accreditation and Advice Panel (CSAAP) accredited **offending behaviour Programmes are not available in Welsh / bilingually which may put Welsh speaking prisoners at a disadvantage.** It is harder to discuss deeply personal matters, such as shame, guilt and own traumatic childhood experiences when not using a first language.
- 10.16 Prisoners can separate themselves emotionally and psychologically from what they have done as a result. It is then harder to benefit, engage, progress, reflect and articulate change.
- 10.17 However, there may be **non-accredited programmes** provided by other providers/agencies that *may* be able to be conducted in Welsh, for example 1:1 interventions and small non-accredited group-work.

- 10.18 Panels may wish to acquaint themselves with **the geography of Wales**, the distances involved between Approved Premises and resettlement area, the poor transport links, the nature of rural and deprived communities.
- 10.19 Panels may wish to acquaint themselves with the **language differences across the country** and between conversational and formal Welsh, and the implications of having a hearing whereby the panel have no awareness of the difficulties experienced by the prisoner and some professionals.
- 10.20 When preparing a **decision letter**, the prisoner will probably not benefit greatly from having a formal translation of the decision in its entirety. However, a summary of the decision (likely to be different from the one set out in the Parole Board Rules) with bullet points in Welsh would be far more useful and meaningful. If a bespoke summary is proposed then Panel Chairs should inform the Case Manager who will discuss with their Team Leader to see how best to achieve this.

Direction setting for an oral hearing

- 10.21 The following points may be useful when adopting best practice in terms of setting directions and convening oral hearings:
- Try to establish what is the likely best option, as set out in the oral hearings part of Section Eight *Supporting Welsh Speaking prisoners in Wales*;
 - If full proceedings are required in Welsh, directions will need to indicate this so that the parties and witnesses are aware and can make necessary arrangements as appropriate;
 - HMPPS (the prison) should be directed to appoint an interpreter where one is needed;
 - Ascertain if the prisoner wishes to have a Welsh speaking supporter present (if available);
 - Build in additional time for the hearing. As a rule of thumb, assisted evidence may take at least twice as long to elicit and probe;
 - Ascertain if the room arrangements will be sufficient for the number of attendees;
 - A direction should be made instructing the parties to advise by return if any of the arrangements cannot be provided.

Points for an Oral Hearing

- Proceeding at a pace that is suited to the prisoner's ability to understand;
- Adjusting the vocabulary used and the manner in which information is conveyed using plain language;
- Breaking down questions into smaller sections, preparing the prisoner for each stage of the communication;
- Taking regular breaks;
- Regularly checking that the prisoner is following proceedings and/or allowing a Welsh speaking supporter to assist the prisoner if needed;

- Giving the interpreter plenty of time to translate, where in attendance;
- Reassuring everyone that the interpreter is neutral, where in attendance;
- Being aware that the prisoner may wish to answer some questions in English;
- Directing that information be provided about support in the community in terms of Welsh language;
- Asking at the end of the hearing if the prisoner would like the decision in Welsh as well as English.

Requesting Translations and Interpreters

Translation of Parole Board Documents

- 11.1 The Board has access to the Ministry of Justice commissioned translation service The Big Word, a third-party organisation. All translation requests must go through this account.
- 11.2 All requests for Welsh translations are handled by CYMEN a sub account of The Big Word. Cymen translation company has been providing services for over 30 years and is one of Wales' leading Welsh translation companies. Cymen is a fully-fledged member of Cymdeithas Cyfieithwyr Cymru (the association of Welsh translators and interpreters) as well as the Association of Translation Companies.
- 11.3 Requests for translations can be turned around within 48 hours, but more usually in three to four days depending on the length/content of the document. Charges are made per page and so the longer the document the costlier the translation will be. If there are concerns about cost, a quote can be requested before confirming a translation.
- 11.4 Linguists are cleared to baseline Personnel Security Standard (BPSS) and this is sufficient for the work the Board requires. The Big Word does have access to linguists cleared at higher levels (with additional costs) but the majority of cases will not require it. Examples of where a higher security clearance might be required could be terrorism cases, or cases with anonymity orders.
- 11.5 For confidential projects, the linguist does not have a copy of the document. The Big Word HSTE system (Highly Secure Translation Editor) does not allow the linguist to download or copy the text from the system.
- 11.6 The relevant case manager within the Secretariat should be contacted where a translation of a document is required.
- 11.7 **The Parole Board is responsible for arranging and funding the translation of documents produced directly by the Parole Board OR directed from a third-party in directions (unless the originating third-party organisation agrees to provide the translation).**

- 11.8 **However, if the document is one originating from HMPPS or a third-party and disclosed within the initial referral dossier, or subsequently produced by HMPPS then it will be the responsibility of HMPPS to provide the translation and cover the cost.** This arrangement is supported by the *Protocol on Third Party Directions* agreed between the Parole Board and PPCS.
- 11.9 Irrespective of who is responsible, the provision of an important document to a prisoner in a format they can understand is fundamental to fairness and equality.

Interpreters

- 11.10 Where an interpreter is required for an oral hearing, a direction should be issued instructing HMPPS to ensure one is commissioned. It is the prison, on behalf of the Secretary of State, that is responsible for appointing appropriate interpreters. The prison is also responsible for covering the costs of an interpreter.

Further information can be found in Member Guidance on Translations and Interpreters.

HMPPS responsibility

- 12.1 HMPPS has a published Welsh Language Scheme which sets out its obligations for services in Wales, and acts as the instruction to all HMPPS staff. There are a set of four principles and a wide range of commitments; the following are the most relevant for prisoners and parole:

Principle

- Offenders will be given the option of using Welsh.

Commitments

- To ask prisoners on reception if they have a Welsh language preference;
- Recording language preference on prison and probation data management systems;
- To accommodate requests for any material in Welsh where a preference for Welsh is known and ensuring that sites are sufficiently equipped to manage these requests, including the means to seek a Welsh speaker to converse; and where this is not swiftly available, secure translation services without delay;
- To continue to provide the OASys Self-assessment Questionnaire in Welsh for completion in Welsh;
- To ensure that personal documents such as court reports and sentence plans are translated into Welsh where this is the service user's preference.

12.2 The Scheme also sets out how HMPPS will go beyond its statutory obligations and provide services in Welsh for prisoners accommodated outside of Wales:

- **All prisoners and offenders, regardless of location, must be asked their language preference at the earliest opportunity.** They will continue to make efforts to locate Welsh prisoners in Wales where practicable. Where they are not able to do so or where an individual is required to transfer to a prison to carry out a particular requirement of their sentence, translations will be made available for those who request them and have declared a preference for Welsh. This will be at the prison's discretion, based on what is reasonable and achievable;
- They will facilitate sharing of good practice between England and Wales, to raise awareness and to improve the standard of Welsh language provision in England;
- Prisoners can communicate with each other and with external contacts in Welsh if they wish. HMPPS will make sure that staff and prisoners are aware of this. This is subject to specific limitations within the National Security Framework, and they will take steps to clearly explain these scenarios;
- Through the Scheme, HMPPS will ensure that female prisoners, young people and Category A prisoners (who will all be held in English establishments) are given the opportunity to state a preference for Welsh language, and that they are:
 - aware of their right to use Welsh;
 - provided with an opportunity to declare their preference for using Welsh;
 - able to access a Welsh language service where a preference is stated at the prison's discretion, based on what is reasonable and achievable.

12.3 A link to the HMPPS Welsh Language Scheme can be found in Section 14.

Parole Specific Policy

12.4 In terms of making the Parole Board aware that the prisoner is a Welsh speaker and may require communications in Welsh, a note should be provided when the case is referred. The following requirements are set out in the "*Generic Parole Process Policy Framework*" at paragraph 3.6.7 and the "*Recall Review and Re-Release of Recalled Prisoners Framework*" at paragraph 4.9.6:

"Where the prison identifies that the prisoner will require documents to be translated for example due to a disability or language barrier, the prison must ensure that PPCS is notified as soon as possible. PPCS will notify the Parole Board at the point of referral so that where required the necessary arrangements, where possible, can be made. It is the responsibility of the prison to arrange for the translation for HMPPS documents."

- 12.5 At the point of the formal referral, PPCS must notify the Board of this requirement so that, where possible, appropriate arrangements can be made. The PPCS Case Manager must submit an SHRF to the Board Case Manager (responsible for the case) informing them of the request from the prison for translation of documents, along with reasons.
- 12.6 In addition, COMs should highlight the need within the OASys, their PAROM1 report, or Parts A of recall packs, as appropriate.
- 12.7 Within the published HMPPS "*Parole Board oral hearing administration and attendance policy framework*" the following is set out:

Section 3.4.2 - Where Parole Board directions confirm an interpreter is needed for a particular case, prison staff must ensure a qualified interpreter is provided on a face to face basis for the duration of the hearing, and that the arrangements comply with regulations and/or best practice. An interpreter will also be required for any interviews as part of preparing reports.

Prisons are required to comply with the HMPPS Welsh Language scheme ensuring native Welsh language speakers have access to Welsh translations where required.

- 12.8 The Framework additionally sets out:

Section 4.2 - It is not acceptable to rely on a telephone-based interpreter service for an oral hearing.

Section 4.3 - If prison staff are unable to engage the services of an interpreter on the hearing date this should be raised with the PPCS case manager.

- 12.9 Whilst there is a requirement for a face to face interpreter within the Framework, there may be occasions where, with the agreement of the prisoner/legal representative, interpreter services could be delivered remotely over the telephone or video-link. The MCA member or Panel Chair may have to take a decision on this following full appraisal of the evidence and submissions.
- 12.10 Each of the six prisons in Wales has a Welsh language lead point of contact and a list of Welsh speaking staff. Please check with the relevant case manager if you need some assistance from the prison.

Appendices

- 13.1 Please see Appendix I which provides Welsh speaking prisoners with a summary of their entitlements in terms of the Welsh language.
- 13.2 Please see Appendix II which shows locations of prisons and approved premises in Wales.

Welsh statement to include in decisions and directions

- 14.1 The following sentence can be included in directions, adjournment/deferral notices, or decision letters.

To receive a copy of this document in Welsh, please contact the Parole Board at the following address [include Case Manager's email]

Os ydych am dderbyn copi o'r ddogfen hon yn y Gymraeg, cysylltwch â'r Bwrdd Parôl drwy ddefnyddio'r cyfeiriad ebost canlynol

Further Reading

The Parole Board Welsh Language Scheme (revised 2018)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/770792/Parole Board Welsh Language Scheme 2018-2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/770792/Parole_Board_Welsh_Language_Scheme_2018-2020.pdf)

HMPPS Welsh Language Scheme 2020–2023

<https://www.gov.uk/government/publications/hmpps-welsh-language-scheme-2020-to-2023>

The Welsh Language Act 1993 (WLA 1993)

<http://www.legislation.gov.uk/ukpga/1993/38/contents>

The Welsh Language (Wales) Measure 2011

[http://www.comisiynyddygydraeg.cymru/English/Commissioner/history/The%20Welsh%20Language%20\(Wales\)%20Measure%202011/Pages/The-Welsh-Language-\(Wales\)-Measure-2011.aspx](http://www.comisiynyddygydraeg.cymru/English/Commissioner/history/The%20Welsh%20Language%20(Wales)%20Measure%202011/Pages/The-Welsh-Language-(Wales)-Measure-2011.aspx)

The Welsh Language Commissioner report "The Welsh Language in Prisons" December 2018

<http://www.comisiynyddygydraeg.cymru/English/Publications%20List/20181130%20DG%20S%20The%20Welsh%20language%20in%20prisons%20-%20final.pdf>

The Thomas Commission Report "Justice in Wales for the People of Wales" October 2019

<https://gov.wales/commission-justice-wales-report>

Cardiff University Wales Governance Centre "Prison, Probation and Sentencing in Wales: 2019 Factfile"

https://www.cardiff.ac.uk/_data/assets/pdf_file/0010/2446129/Prison,-Probation-and-Sentencing-in-Wales-2019-Factfile.pdf