



HM Courts &
Tribunals Service

Response to consultation on the Welsh Language Scheme

This response is published on 1st March 2023



Contents

Introduction and contact details	4
Background	5
Summary of responses	6
Responses to specific questions	7
Conclusion and next steps	16
Consultation principles	17
Annex A: List of consultation respondents	18

Introduction and contact details

This document is the response to the consultation on His Majesty's Courts and Tribunals' (HMCTS) Welsh Language Scheme

It will cover:

- the background to the report
- a summary of the responses to the consultation
- a response to the issues raised
- the next steps following this consultation

Further copies of this report and the consultation paper can be obtained by contacting Hywel Hughes at the address below:

Welsh Language Unit
Caernarfon Justice Centre
Llanberis Road
Caernarfon
Gwynedd
LL55 2DF

This report is also available at <https://consult.justice.gov.uk/>
Alternative format versions of this publication can be requested from

the above address. Complaints or comments

If you have any complaints or comments about the consultation process you should contact HMCTS at the above address.

Background

1. The consultation paper on the “Welsh Language Scheme” was published on 1st March 2022 and closed on 8th April 2022. It invited comments on HMCTS’ proposed revised Welsh Language Scheme (the “Scheme”). The Scheme is firmly based on the principle in Section 5 of the Welsh Language Act 1993 that, in the conduct of public business and the administration of Justice in Wales, HMCTS will treat the English and Welsh languages on a basis of equality.
2. Respondents were requested to comment on two particular questions:
 - Do you think that the Scheme is clear enough in explaining what services HMCTS will provide in Welsh to the public, staff and the magistracy?
 - What improvements if any would you make to the Scheme? Is there anything that we should include that makes the Scheme better equipped to deal with possible future changes to the work of the courts and tribunals.
3. Respondents were able to submit their views and comments on paper or online in either Welsh or English
4. We are grateful to everyone who responded to our consultation. The responses represent an invaluable source of views, information and ideas which will inform the publication of our revised Welsh Language Scheme
5. This consultation response summarises the responses received, our response to them, and how the consultation process has influenced the revised Scheme. The full list of respondents is given at Annex A.

Summary of responses

6. A total of eight responses to the consultation paper were received.
7. The responses to the consultation were supportive and constructive. The majority of respondents agreed with the content of the proposed Welsh Language Scheme, including its commitments.
8. It was pleasing to note a comment from Cymdeithas Cyfieithwyr Cymru which stated that 'all the pink text within the revised scheme which designated the changes made was an indication of how HMCTS was willing to improve and strengthen its arrangements in relation to the Welsh Language.
9. Cymdeithas Cyfieithwyr Cymru welcomed the statement in paragraph 6.10 in relation to the role of the interpreter i.e. not expected to interpret the meaning of legislation as drafted in Welsh and English.
10. Some comments related to typographical errors and whilst these are not noted within this response they have been corrected within the Scheme itself.

Responses to specific questions

1. Do you think that the Scheme is clear enough in explaining what services HMCTS will provide in Welsh to the public, staff and the magistracy?

The responses to this question were that the provisions of the Scheme were generally clear enough. It was heartening to read one response which said that the individual's understanding of how we operationally provide a Welsh language service had improved considerably after reading the Scheme.

Responses to specific questions

What improvements if any would you make to the Scheme? Is there anything that we should include that makes the Scheme better equipped to deal with possible future changes to the work of the courts and tribunals.

- The main improvements are detailed in the table below. We received a comment along the lines that raising the awareness of court users' right to use Welsh and ascertaining the language choice was key to the success of the Scheme and the need to provide an 'active offer' in court. Also, key was to ensure that all staff in the Court and Tribunal Service Centres understand the process for dealing with a case where Welsh is used.
- There was a comment in relation to the importance of ensuring that all online services for the magistracy are available in Welsh at the same time as the English and that the 'pride' Welsh speaking magistrates take in their Welshness is important for them in being able to offer a bilingual service for those who come before them in the court.
- There was also a comment that if we can't facilitate simultaneous interpretation through our 'recognised' platforms i.e. CVP, Teams or Fully Video Hearings that we should make use of a platform that can do this, namely Zoom.
- Finally, a comment was received in relation to whether we as an organisation in implementing the Scheme might wish to consider how regular stakeholder engagement with the relevant bodies in Wales may be beneficial in identifying future opportunities for service delivery improvements.

Consultation Response Comments

Consultation Comment	HMCTS Response	Amended Welsh Language Scheme
<p>A comment was made that the right to use Welsh in a court hearing appeared too late within the Scheme i.e. at paragraph 6.5</p>	<p>The Scheme follows past format based on the structure recommended by the document Guidelines to Preparing Welsh Language Schemes.</p> <p>However, we cannot see any reason why the reference to Section 22 of the WLA 93 can't be part of the Welsh Language Scheme Policy Statement on Page 4 of the Scheme</p>	<p>HMCTS has adopted the principle that in the conduct of public business and the administration of justice in Wales it will treat the Welsh and English languages on the basis of equality and ensure that the right of any party to legal proceedings in Wales to speak Welsh in a court or tribunal hearing is acted upon.</p> <p>This scheme sets out how HMCTS will give effect to that principle when providing services to the public in Wales.</p>
<p>A comment was made in reference to paragraph 6.6 that the 'right to use Welsh in a court/ tribunal hearing was too limited' and that it suggested that 'only when each party understands Welsh that a Welsh hearing can take place</p>	<p>The purpose of this paragraph is to explain that a defendant can't 'request' a Welsh hearing i.e. there cannot be an expectation that the court provides interpretation of oral evidence given in English to Welsh if the defendant has opted to give their own evidence in Welsh. We qualify this by saying that the court could consider this if it is plain to the Judge that the defendant would struggle to understand evidence given in English.</p>	<p>No amendment to Scheme.</p>
<p>Two respondents made the point that paragraph 6.7 should refer to any 'party' as well as 'witness'</p>	<p>We don't agree with this as 'witness' captures both witnesses and the defendant. However, the wording as it stands could be amended to say</p>	<p>Amended to</p> <p>Any witness who has elected to give evidence in Welsh but is questioned in English by non Welsh</p>

Response to consultation on the Welsh Language Scheme

	<p>'by non-Welsh speaking Counsel or any other representative'</p>	<p>speaking Counsel or any other representative will be given the choice of having the English question translated into Welsh if that makes the process of giving evidence in Welsh easier, or if the person giving evidence has difficulty in understanding English.</p>
<p>the Welsh language as something that is 'unusual' e.g. paragraph 6.18 which states that "we can provide a rather than saying you can have your mediation hearing</p>	<p>We see some merit in this comment. Although by its very nature a Welsh Language Scheme will focus on the services that can be offered in Welsh, highlighting Welsh can appear that we are making a point of it, whereas it should be second nature. We will amend the wording of paragraph 5.39 accordingly and the other examples provided in the individual's reply</p>	<p>Amended to "Civil mediation hearings are arranged by HMCTS and can be facilitated in Welsh or English".</p>
<p>might be helpful if the Scheme highlighted better what provisions are made for hearings and some suggested headings</p>	<p>We acknowledge that the 'use of Welsh in legal proceedings' might be as opposed to being part of a very large Section 5 Our Welsh Language that a brief summary at the beginning of the 'use of Welsh in legal proceedings' also be helpful.</p>	<p>created with paragraphs 5.1 to 5.24 in the Draft remaining and Language Provision' titled 'Using Welsh in Court and Tribunal Hearings' The introductory paragraph Any party to legal proceedings has a legal right to speak following a) submit written English in relation to a hearing, Any request to translate English will need to be approved by the respective</p>

Response to consultation on the Welsh Language Scheme

		<p>Judge.</p> <p>Paragraphs 5.25 to 5.36 as seen in the draft will now carry a new heading called 'General'</p>
<p>internally that any future service development should factor the Welsh language and that all staff training has the service provision integral</p>	<p>We think the Scheme is clear in terms of the organisation's obligations in terms of staff training.</p>	<p>No action required.</p>
<p>Cymdeithas Cyfieithwyr Cymru noted how pleased it was to see the</p> <p>interpretation and</p>	<p>Agreed.</p>	<p>No action required.</p>
<p>Cymdeithas Cyfieithwyr Cymru raised the point</p> <p>refer to just Microsoft Teams as a way of facilitating</p> <p>speaker as there were other</p>	<p>At the time of consultation, the MoJ did not support the use of any other video platform other than Microsoft Teams.</p>	<p>No action required.</p>
<p>In relation to paragraph 6.12 Cymdeithas Cyfieithwyr Cymru mentioned that since HMCTS were stating they</p> <p>to interpret there was no</p> <p>'suitably experienced or qualified Welsh interpreters' as they wouldn't be members in the first place if they were not experienced or</p>	<p>Agreed and the wording will be changed accordingly.</p>	<p>The paragraph will now read: -</p> <p>Interpretation in court/tribunal hearings will be simultaneous (real time) and HMCTS' Welsh Language Unit will be responsible for booking a Welsh interpreter.</p>
<p>In relation to paragraph 6.8 a point was made that it</p> <p>Employment Tribunal</p> <p>and Upper Tribunal Practice Direction</p>	<p>Agreed and the wording will be changed accordingly.</p>	<p>The Scheme will have additional annexes to include the Employment Tribunal Presidential Practice Direction and the First Tier and Upper Tribunal Practice Direction.</p>

Response to consultation on the Welsh Language Scheme

<p>Mention was made in relation to paragraph 6.15</p> <p>and tribunal hearing centres' as opposed to 'courts and hearing centres' as currently</p>	<p>Agreed and both will</p>	<p>Paragraph 6.15 will now read</p>
<p>headings and that there should be a separate heading for SSCS,</p> <p>any jurisdictional nuances</p>	<p>Agreed</p>	<p>The headings Under the new Section 6 'Using Welsh in Court and Tribunal Hearings' will be as follows: -</p> <p>Civil and Family Criminal Courts The Administrative Court The Higher Courts and Upper Tribunals Business and Property Court Court of Protection Employment Tribunal Probate Social Security and Child Support Tribunal Cases transferred to courts outside of Wales Jury Service</p>
<p>A point was raised as to why paragraph 1.2 does not</p> <p>Property and Business Court courts the Scheme applies to</p>	<p>Agree and the wording will be amended to reflect this</p>	<p>The new wording for paragraph 1.2 is changed to reflect this: -</p> <p>This Scheme covers the work of the Crown Court, Magistrates Court, the Single Civil and Family Court, the Social Security and Child Support Tribunal the Employment Tribunal, the Immigration and Asylum Tribunal, the Court of Protection, the Property and Business Court and Probate Service</p>
<p>Paragraph 3.4 mentions the accountability for Probate within the organisation and a question was raised as to why this service was being singled out.</p>	<p>A separate reference to Probate has historically been made in previous Schemes in order to acknowledge the slightly different governance arrangements in relation</p>	<p>No action required.</p>

Response to consultation on the Welsh Language Scheme

	to this work. We feel that this reference should remain.	
A question was raised as to why we were calling out improving our simultaneous interpretation equipment in Swansea Crown Court only.	Swansea Crown Court and Caernarfon Crown Court are the two Crown Courts that hear the most cases that have a Welsh language requirement e.g. in 2019/20 (pre-pandemic) Swansea Crown Court heard 10 cases with a Welsh requirement and Caernarfon Crown Court heard 15. Caernarfon has a bespoke integrated system so that the translations can be recorded but Swansea hasn't. Due to the anticipated costs to install a bespoke system it was felt that Swansea was the logical choice.	No action required.
relation to paragraph 3.6 and that we were missing a trick in not listing some HQ functions as having responsibility to ensure we deliver against the	Agreed and the wording will be amended to include policy officers and Senior Responsible Officers for various projects.	The new wording for paragraph 3.6 is as follows: - The responsibility for co-ordinating and implementing the Scheme rests with all the following: - <ul style="list-style-type: none"> • Chief Executive of HMCTS • Delivery Director for Wales • Head of Welsh Language Services • Senior Management Team centrally • Wales Management Board • Policy Leads and Senior Project Managers in HQ Operations and Delivery Managers in Wales
In relation to paragraph delivery of the Scheme a question was raised at to why 'the use of Welsh is promoted and	Although paragraph 1.3 organisation in supporting the principle of linguistic equality it would do no harm to strengthen the point in	The new wording for the first sentence of paragraph 4.5 under the Delivery heading "HMCTS will promote and

Response to consultation on the Welsh Language Scheme

<p>relation to the Civil Heading on page 25 in that the underlying narrative also referred to Family work. Also, the process of issuing both civil and family cases</p>	<p>language will be promoted and facilitated throughout the organisation and not just specifically in Wales, and the wording amended to say “HMCTS will promote and facilitate the</p> <p>Agreed</p>	<p>Wales we support the use of the Welsh language in our</p> <p>our dealings with other bodies that provide services to the public in Wales.”</p> <p>The heading and first changed to read as follows:</p> <p>Civil and Family Courts</p> <p>For civil and family cases that you may submit your claim in Welsh or English. Eventually both paper and digital claims will be dealt with by the</p> <p>the new online provision for money claims will be available</p>
<p>using a holy text other than</p>	<p>Agreed that the wording of para- graph 6.11 should be changed to</p> <p>all Welsh speakers are</p> <p>wording will need to state that they can use a</p> <p>relevant holy book only</p> <p>expectation upon HMCTS to translate them.</p>	<p>Copies of Welsh language oath readily available, and Welsh and English language Bibles and tribunals together with other holy books as long as</p>

Conclusion and next steps

HMCTS is grateful to everyone who responded to the consultation paper. All comments received have been carefully considered and where appropriate have been included in the revised Scheme. The revised Scheme is published alongside this consultation response.

We continue to recognise the importance, cultural significance and value of the Welsh language and are excited by the opportunities our reform programme affords us to provide digital services through the medium of the Welsh language.

We will continue to work with the MoJ, other partner agencies within the Department, the Judiciary and Magistracy together with other stakeholders in the justice system to further improve and develop Welsh language provision.

Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<https://www.gov.uk/government/publications/consultation-principles-guidance>

