

Interpreting Welsh law: an interpretation act for Wales

Consultation response form

Your name: Sarah Capstick

Organisation (if applicable): Cardiff Third Sector Council

e-mail/telephone number: sarah.c@c3sc.org.uk / 029 2048 5722

Your address: Third Floor, Baltic House, Mount Stuart Square, Cardiff, CF10 5FH

Responses should be returned by 11/09/17 to:

Office of the Legislative Counsel
Welsh Government
Cathays Park
Cardiff
CF10 3NQ.

or completed electronically and sent to:

e-mail: LegislativeCounsel@wales.gsi.gov.uk

Q1: Should we insert a reproduction of Schedule 1 to the Interpretation Act 1978 in the Welsh language into that Act, or should we aim to apply an interpretation Act for Wales to as much Welsh language legislation as possible??

The Legislative Counsel must make Welsh Language Legislation as clear and accessible as possible. With guidance to support organisations adopt and amend relevant policy and practice in order to comply.

Q2: Do you agree with the potential benefits of a Welsh Interpretation Act identified in this consultation paper?

We agree that reducing the length of legislative documents and making them more accessible to all is important, especially with the reduction in legal aid funding. The current system disproportionately disadvantages those from deprived areas or who are on medium and low incomes who cannot afford to fund their own legal support.

We also think that by making legislation more accessible should reduce the possibility of people accidentally breaching laws, because they are not clear, or understandable in basic language.

Q3: Which of the potential solutions to the “two-Act issue” would you consider to be most helpful to users of the legislation?

Option 2 to have a new interpretation Act for Wales would allow for one to be completely written in clear language and reduce the possibility of confusion between the Interpretation Act for Wales which will apply to legislation from the Welsh Government and the Interpretation Act 1978 which will continue to apply to legislation drawn up at Westminster which applies in Wales.

The paper raises issues with some of the outdated issues with the 1978 Act by creating a Wales only interpretation Act these can be dealt with all at once, as well as making it accessible to more of the population. The new Act should utilise elements of the 1978 Act which will still apply, but these could be written so that someone not steeped in the law can still understand it.

A new Act could also be used to highlight that the Interpretation Acts exist, as there appears to be very limited knowledge of the Interpretation Act 1978 from the general public. As it is legislation which sits over all legislation this has a limiting effect on people being able to understand the law and in some cases represent themselves.

Q4: Do you consider there are any practical issues arising from any of the potential solutions to the two-Act issue?

There is a real risk that having two Interpretation Acts which apply to different legislation in Wales. It is essential when the new Welsh Act is being written that if there are areas which will differ largely with the Interpretation Act 1978 that these should be drafted in consultation with practicing solicitors, lawyers, magistrates and judges as this ensure that the language used is not ambiguous in legal terms.

It will need to be clear which legislation the new Wales Interpretation Act applies to, this could be overcome by having it included at the beginning of all legislation that it applies to. If it is not included then the 1978 Act would still apply.

Q5: What are your views on the potential changes to the 'core rules', set out in Chapter 7?

Gender may be important for grammatical purposes for the Welsh language, but the use of it in legislation is discriminatory against two protected characteristics, the first being on sex and the second on gender-reassignment. We therefore strongly support the suggestion that the gender sections 6a and 6b from the 1978 Act should be omitted in the Wales Interpretation Act.

We agree that electronic services such as email should be included alongside services by post, as this demonstrates the changing external environment. We do think that it is important to keep post in as an option, especially with so many people in Wales continuing to be digitally excluded or living in areas with limited access to faster broadband speeds.

The omission of section 10 and reference to the Queen could cause confusion, due to the fact that legislation only becomes law when it receives the Royal Seal.

Q6: What are your views on the potential new provisions that could be included in an interpretation Act for Wales, set out in Chapter 8?

Q7: Are there any extra new provisions, to those set out in Chapter 8, that you would wish to include in an interpretation Act for Wales?

Q8: What are your views on the other matters that could be dealt with in an interpretation Act for Wales, set out in Chapter 9?

If the current system allows for different interpretations of the law depending on if they are written in English or Welsh then we agree that this needs to be resolved as the legislation applies equally to the population in Wales irrelevant of what language they use. This is especially true for people whose first language is not English or Welsh but who still need to maintain their actions within the law.

Regarding point 94, page 39: Equality Impact Assessments to consider population first language English, and the resources (including time) that are required in promoting Welsh ahead of English language. Specifically where information and data management and sharing is affected. Without consideration, this can and may prohibit or confuse (internal and external) business, organisational and visitor communications. Particularly relevant with audiences that are not first language Welsh or English, but second language English.

Q9: We would like to know your views on the effect developing an interpretation Act for Wales could have on the Welsh language, in particular in respect of:

- i) helping people to use Welsh, and
- ii) treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

The inclusion of Welsh Language matters in the Wales Interpretation Act would reduce the current imbalance and meet the requirements that the Welsh and English languages are treated equally.

We do not see the legislation as helping people to use Welsh. It may assist those who wish to operate in a legal structure in Welsh to be able to do so with less need to reference back to the English for clarity of meaning.

Q10: Please also explain how you believe the proposed interpretation Act for Wales could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

The inclusion of Welsh Language matters in the Wales Interpretation Act would reduce the current imbalance and meet the requirements that the Welsh and English languages are treated equally.

We do not see the legislation as helping people to use Welsh. It may assist those who wish to operate in a legal structure in Welsh to be able to do so with less need to reference back to the English for clarity of meaning.

Q11: We have asked a number of specific questions. If you have views on any related issues that we have not specifically addressed, please set them out here:

Cardiff Third Sector Council (C3SC) is a registered charity and umbrella body working to support, develop and represent Cardiff's third sector at local, regional and national level. We have over 1,000 members, and are in touch with many more organisations through a wide range of national and local networks. We are a part of Third Sector Support Wales (TSSW) – a body of membership organisations constituting WCVA and Wales' CVC's; our mission is to provide excellent support, leadership and an influential voice for the third sector and volunteering in Cardiff.

C3SC is committed to a strong and active third sector building resilient, cohesive, active and inclusive communities, giving people a voice, creating a strong, healthy and fair society and demonstrating the value of volunteering and community action.

We welcome the opportunity to respond to the Welsh Government's Interpreting Welsh Legislation consultation. This response is structured in accordance with the questions in the consultation document.

This response is drawn together by C3SC's Health and Social Care Facilitator from experience and knowledge of related issues through their working role, and contributions from C3SC's Senior Management Team.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

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