



Tribiwnlys y Gymraeg  
Welsh Language Tribunal

# The Welsh Language Tribunal

Consultation Document

## Practice Directions 1 and 2

Date of issue: **24 July 2015**

Action required: Responses by **18 September 2015**

# Practice Directions 1 and 2

## Overview

This consultation seeks opinions on two draft Welsh Language Tribunal ("the Tribunal") Practice Directions. The Tribunal will hear cases on decisions made by the Welsh Language Commissioner in relation to Welsh Language Standards.

The Practice Directions will be given formally by the President of the Welsh Language Tribunal, with the assent of the Welsh Ministers. This consultation is jointly organised by the Tribunal and the Welsh Government.

## How to respond

Responses to this consultation should be e-mailed/posted to the address below to arrive by **18 September 2015** at the latest.

## Further information and related documents

Large print, Braille and alternate language versions of this document are available on request.

The consultation documents can be accessed from the Welsh Government's website at [www.gov.wales/consultations](http://www.gov.wales/consultations)

## Contact details

For further information:  
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## **Data protection**

### **How the views and information you give us will be used**

Any response you send us will be seen in full by Welsh Government staff dealing with issues arising from this consultation on matters concerning the Tribunal. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Tribunal intends to publish a summary of responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address to be published, please tell us this in writing when you send your response. We will then blank them out.

Names and addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 (and the Environmental Information Regulations 2004 when relevant) allow the public to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However the law also allows public bodies to withhold information in some circumstances. If anyone asks to see information we have withheld, the Welsh Government will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. The Welsh Government will get in touch with the person and ask their views before finally deciding whether to reveal the information.

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## **An introduction to the Welsh Language Tribunal**

The Welsh Language (Wales) Measure 2011 (“the Measure”) provides for the establishment of a Welsh Language Tribunal. The Tribunal will hear cases against the Welsh Language Commissioner’s (“the Commissioner”) decisions in relation to Welsh Language Standards.

The Tribunal will be fully established before the Commissioner issues a compliance notice to persons (who may be bodies or public office holders) requiring them to comply with Welsh Language Standards. This will ensure that those persons can exercise their right to appeal to the Tribunal against that requirement. Once the Standards are imposed upon a person, a number of further situations may arise which would give that person, and others, the right to submit an application to the Tribunal.

Keith Bush QC was appointed the first President of the Welsh Language Tribunal in July 2014.

## **Welsh Language Standards**

The Measure enables Welsh Ministers to determine standards pertaining to behaviour in relation to how the Welsh language is treated. The Standards will gradually take the place of the present system of Welsh Language Schemes, which are provided for under the Welsh Language Act 1993.

Standards are being created in order to give Welsh speakers more rights; rights which are enforceable. Standards will be imposed upon institutions in relation to provision of services, policy making, and matters relating to operation, promotion and record keeping. The first set of standards deal specifically with Local Authorities, National Park Authorities and the Welsh Government.

The Standards are made by being determined in statutory regulations. The role of the Welsh Government has been to draft the Standards and also the Regulations. The Regulations which included the first set of Standards were approved by the National Assembly on 24 March 2015, and the Standards came into force on 31 March 2015. It will be a matter for the Commissioner to decide which Standards to impose upon Local Authorities, National Park Authorities and the Welsh Ministers, and to ensure that they comply with them. The Commissioner intends to issue the compliance notices during September 2015.

## **Functions of the Welsh Language Tribunal**

The Measure provides for the Tribunal to conduct hearings on the following matters:

1. Appeals against the Commissioner’s determinations in relation to the imposition of Welsh Language Standards.
2. Appeals against the Commissioner’s determinations in relation to a failure by a person to comply with a requirement of the Welsh Language Standards.

3. Appeals against the Commissioner's enforcement actions.
4. Appeals by a complainant against the Commissioner's determination that a person has failed to comply with a Standard.
5. Reviews of the Commissioner's determinations not to investigate a complaint (or to discontinue an investigation).

## **Tribunal Rules**

Section 123 of the Measure requires the Tribunal President to introduce Rules on the practice and procedures to be followed in the Tribunal. The President produced the first draft of the Rules and then a joint formal consultation was held by the Tribunal and the Welsh Government on 24 November 2014 for a period of 8 weeks.

During the consultation, a series of seminars were held across Wales to inform the public about the purpose and functions of the Tribunal and to raise awareness of the consultation. A wide range of stakeholders attended the seminars.

The Tribunal President submitted the Rules formally to the First Minister on 25 February 2015. The Rules were approved by the First Minister on 8 April 2015. The Tribunal Rules were laid before the National Assembly for Wales in a statutory instrument on 9 April 2015 and came into force on 30 April 2015.

The purpose of establishing operational rules is to ensure that every case which appears before the Tribunal is treated fairly and consistently. Everybody who appears before the Tribunal must understand exactly which actions they need to take in order to present the facts of the dispute and their arguments effectively to the Tribunal. They and any other party involved with the case must also be aware which other arguments will be considered by the Tribunal.

Link to the Rules:

<http://www.legislation.gov.uk/en/wsi/2015/1028/contents/made/english>

## **The draft Practice Directions**

### **Purpose of the Practice Directions**

The purpose of the Practice Directions is to provide practical advice on how to interpret and apply the Rules. The Measure provides for the President to make directions governing the practice and procedures to be followed in the Tribunal. The Welsh Ministers must approve the Practice Directions before they are published.

The contents of the Directions do not alter the provisions of the Rules (nor of the Measure) in any way. If there is any inconsistency between the Direction and the provisions of the Rules (or of the Measure), those provisions shall have precedence.

## **Practice Direction 1**

Rule 10 of the Rules provides that an application to the Tribunal must be commenced by submitting to the Tribunal a written document (notice of application). Rule 12 prescribes the information which must be included in and with a notice of application.

The purpose of this Practice Direction is to publish a form which, when used by an applicant, will assist the applicant (or the applicant's representative) to conform with the requirements of Rule 12. That form should be used to submit a notice of application.

It is not a legal requirement to use this form. An applicant may supply the information prescribed under Rule 12 by some other means. But the use of this form will:

- ensure that all the required information is given;
- assist the Tribunal to consider that information in the most consistent and effective way possible.

## **Practice Direction 2**

Rule 6 of the Rules provides –

- that the English and Welsh languages shall be the languages of the Tribunal;
- that every party or witness shall have the right to use either language in the proceedings of the Tribunal.

The purpose of this Practice Direction is to provide practical advice on how to interpret and apply the Rules in accordance with Rule 6.

In accordance with Rule 4(4), the contents of this Direction are subject to any instructions given to the Tribunal in relation to a specific case.

The Practice Direction deals only with communications which form part of the Tribunal transactions, in relation to a specific case, and which are governed by the provisions of the Rules.