



Llywodraeth Cymru  
Welsh Government

# The future of Welsh law: A programme for 2021 to 2026

## Annual Report 2021-2022



October 2022

“And by the common counsel and agreement ... they examined the old laws, and some of them they allowed to continue, others they amended, others they wholly deleted, and others they laid down anew.”

*Book of Iorwerth 1240*

## Purpose of report

1. This annual report has been prepared under section 2(7) of the Legislation (Wales) Act 2019. It sets out the progress made under the Government's programme to improve the accessibility of Welsh law: [The Future of Welsh Law: a programme for 2021 to 2026](#), from the programme's launch on 21 September 2021 to 14 October 2022.

## Background to programme

2. Each programme prepared under the Legislation (Wales) Act 2019 must include projects which:
  - a. contribute to an ongoing process of consolidating and codifying Welsh law;
  - b. maintain the form of Welsh law (once codified);
  - c. promote awareness and understanding of Welsh law;
  - d. facilitate use of the Welsh language.
3. The first programme under the 2019 Act was laid before the Senedd on 21 September 2021 and contains a blend of legislative and non-legislative projects designed to achieve this requirement. This report provided an update on these projects by reference to our overarching aims in respect of:
  - a. classification of Welsh law,
  - b. consolidation of Welsh law,
  - c. codification of Welsh law, and
  - d. communication of Welsh law.

## Classification of Welsh law

### Programme commitments:

During this Senedd term the Government will:

- a. review and revise the existing draft taxonomy of subjects (originally prepared and consulted upon in 2019) so as to establish which enactments in devolved areas of law should belong to each tier of the taxonomy.
- b. work with The National Archives team responsible for [legislation.gov.uk](http://legislation.gov.uk) to provide additional functionality on that site so that users may access Welsh law by subject.

## ***Progress during reporting period***

### *Taxonomy for the organisation of Welsh law*

4. Further work has been undertaken to test the model taxonomy developed in 2019, by mapping potential subject areas for many of the Welsh Statutory Instruments made to date. This has demonstrated that further user testing will be beneficial, as this work has confirmed our earlier findings that there are no absolute divisions between subjects. This means there is potential for overlap between Codes that should be avoided, as well as inevitable connections between some provisions of different Codes. It is likely that these connections will require signposting and possibly other forms of clarification. Further user testing will be taken forward when The National Archives are able to work with us on better organising Welsh legislation on the legislation.gov.uk website (see below).

### *Organisation of legislation on legislation.gov.uk by subject*

5. The National Archives have prioritised work on improving the functionality of the legislation.gov.uk website to enable amendments to Welsh law in the Welsh language to be displayed in context (see below) – in other words to ensure that legislation that is subsequently amended by later legislation is published in up-to-date form in both languages. However, they have not had capacity to work on the organisation of legislation project with us over the past year.
6. Instead the Government has further developed the functionality requirements we would like to see introduced, in order to better inform The National Archives' development work when they are able to progress it. This includes areas where we consider testing will be important to assess how the functionality may best support users.
7. There are currently just under 6,000 items of legislation that will potentially need updating, so we are assessing the resourcing implications of 'tagging' this legislation with additional information. Tagging would allow users to search Welsh legislation on the site by a range of identifying features, alongside its subject.
8. In August the Counsel General wrote to the King's Printer (who is also the Chief Executive of The National Archives) to, amongst other matters, confirm that this project is the Government's next non-legislative priority to improve the accessibility of the law. The National Archives is a vital partner in aiding the delivery of improved accessibility of the law – both in terms of how legislation is printed and published, and how it is made available in a free to access and use digital form.

## Consolidation of Welsh law

### Programme commitments:

During this Senedd term the Government will develop:

- a. a consolidation Bill which brings together the law on the historic environment.
- b. a consolidation Bill which simplifies and modernises the law on planning.
- c. a consolidation Bill which repeals or disapplies legislative provisions from across the statute book that are obsolete, spent, or are no longer of practical utility in relation to Wales.

We will also:

- d. review the existing legislation in a number of areas with a view to identifying a further two consolidation projects to be prepared during this Senedd term.
- e. develop the package of subordinate legislation expected to be required to implement the historic environment Bill.
- f. undertake a phased project of consolidating key town and country planning subordinate legislation.
- g. remake and update the rules of the conduct of local government elections in Wales.
- h. prepare the 'Representation of the People Order' bilingually ahead of the general election to the Senedd in 2026.

### *Progress during reporting period*

#### *Historic Environment (Wales) Bill*

9. The Counsel General introduced the [Historic Environment \(Wales\) Bill](#) into the Senedd on 4 July 2022. This is currently at Initial Consideration, under Senedd Standing Order 26C, being scrutinised by the Legislation, Justice and Constitution Committee.
10. The Bill brings together legislation currently set out in a number of Acts, mainly:
  - a. The Historic Buildings and Ancient Monuments Act 1953;
  - b. Parts 1 and 3 of the Ancient Monuments and Archaeological Areas Act 1979;
  - c. the Planning (Listed Buildings and Conservation Areas) Act 1990;
  - d. Part 4 of the Historic Environment (Wales) Act 2016.

11. The Bill also restates the following planning legislation:
- a. provisions in Parts 14 and 15 of the Town and Country Planning Act 1990, and
  - b. Part 5 of the Planning and Compulsory Purchase Act 2004, so far as it applies to decisions under the 1990 Listed Buildings Act.
12. In addition to bringing together relevant provisions from the numerous Acts, the Bill also incorporates some provisions of subordinate legislation made under the Acts being consolidated, and some case law and practice which is important in understanding the operation of those Acts. Additionally, the Bill gives effect to a number of recommendations made by the Law Commission in its final report on Planning Law in Wales<sup>1</sup>.

### *Simplification and modernisation of planning law*

13. Within Government, planning policy officials and lawyers are working with legislative counsel, translators and jurilinguists, to prepare a Bill to consolidate planning law. This work has benefitted from the experience of preparing the Historic Environment (Wales) Bill, and some of those who worked on that Bill are also working on the planning project. Good progress is being made but this is a very large and time-consuming project that involves producing a Bill that is likely to be around 400 pages long (800 pages in both languages).

### *Statute Law (Repeals) (Wales) Bill*

14. The Counsel General launched a [consultation on a draft Statute Law \(Repeals\) \(Wales\) Bill](#) on 7 October 2022. The proposed repeals and amendments in the Bill have been selected on the basis that they deal with provisions that are –
- a. obsolete, spent or otherwise no longer of practical utility,
  - b. unlikely to be commenced, having remained un-commenced for a period of time over which the original context has changed, or
  - c. otherwise unnecessary (for example, where the end is met by some other means).
15. At the end of the consultation the Government will consider the responses received and issue a summary report of them. The draft Bill will be considered in light of the responses received, with a view to a Bill being introduced into the Senedd at a suitable point in the legislative programme.

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<sup>1</sup> Law Commission of England and Wales (2018) Planning Law in Wales (Law Com 383)

16. The Government's programme to improve the accessibility of Welsh law originally envisaged a Bill dealing with repeals of statute law would be introduced into the Senedd under the Senedd's Standing Order 26C. It is now considered more appropriate to introduce the Bill under the Senedd's Standing Order 26, which sets out the procedure for law reform Bills.

#### Scoping of further subject areas

17. We expect work on scoping projects to be undertaken later in this programme. However, one area of the law was provisionally considered in the past year but was not considered suitable for consolidation at that time because law reform work is being taken forward instead.

#### Subordinate legislation on local government elections in Wales.

18. This commitment has been delivered through the [Local Elections \(Principal Areas\) \(Wales\) Rules 2021](#), [the Local Elections \(Communities\) Rules 2021](#) and [the Local Elections \(Miscellaneous and Consequential Amendments\) \(Wales\) Regulations 2022](#). The Rules, and subsequent regulations, were used for the conduct of local elections in Wales in May 2022.

#### The National Assembly for Wales (Representation of the People) Order 2007

19. Work has begun on consolidating and remaking the National Assembly for Wales (Representation of the People) Order 2007, ahead of the Senedd elections in May 2026. A consultation will be held on a draft of the proposed Order, to inform further work.

## Codification of Welsh law

### Programme commitments:

There were no immediate proposals to codify Welsh law in the programme, but this is being kept under review.

20. As noted above the Historic Environment (Wales) Bill has been introduced into the Senedd. If agreed by the Senedd, the Act, together with subordinate legislation made under it, will form a Code of Welsh law on the Historic Environment. As set out in the Explanatory Memorandum to the Bill:

*The significance of this status is twofold. The first is that the Welsh Government intends to publish all enactments that form part of the Code together. The second is that the Government also envisages, subject of course to the Senedd's agreement, a*

*change to the Senedd's Standing Orders to seek to ensure that future changes to the law that forms part of a Code are made by amending or replacing the enactments rather than making different, "stand-alone", provisions that would again lead to a complex proliferation of laws.*

21. In evidence to the Legislation, Justice and Constitution Committee on the Bill, the Counsel General has committed to engage with the Llywydd on possible changes to Standing Orders during the first half of 2023. Further annual reports will set out progress on this.

## Communication of Welsh law

### Programme commitments:

During this Senedd term the Government will:

- a. work with the team behind the [legislation.gov.uk](https://legislation.gov.uk) site to ensure that bilingual Acts and Statutory Instruments are available in an up-to-date form in both languages.
- b. significantly expand and improve the content of the Cyfraith Cymru/Law Wales website to achieve a 'one stop shop' for accessing and understanding Welsh law.
- c. explore ways to move from a model of promulgating legislation based on 20th century printed versions to a modern, digital-based system.
- d. develop our approach to preparing bilingual legislation, using linguistic technology to its full potential.
- e. explore the potential for using machine learning and artificial intelligence to make Welsh law more accessible.

### Progress during reporting period

[Ensuring Welsh law is available in up-to-date form on \[legislation.gov.uk\]\(https://legislation.gov.uk\)](#)

22. We have worked closely with the editorial team in The National Archives' Legislation Services division who have developed the functionality of the editorial system that supports [legislation.gov.uk](https://legislation.gov.uk). The system is now able to apply amendments to the Welsh language texts of Acts, Measures and Statutory Instruments. Testing of the new functionality took place over the summer to enable the new system to go live at the end of October 2022.

23. A small cadre of staff within Welsh Government have received training on the annotation system and have been applying amendments to English language texts in preparation for the new functionality that will enable Welsh language amendments to be incorporated. This has provided valuable experience and helped shape the proposed approach and time estimates for tackling approximately 46,000 outstanding “effects” (changes to the statute book) yet to be applied to the texts of Welsh law on the site.
24. Looking ahead to when legislation is being updated bilingually routinely, we intend to initially prioritise primary legislation, starting with the most recent legislation made and working backwards to 2007. This will be continue to be maintained as further amendments are made by future legislation. Work will then begin on updating and annotating Welsh Statutory Instruments informed by our experience with primary legislation. Future reports will therefore set out progress towards ensuring Welsh legislation is fully updated in both languages.

#### *Expanding and improving Cyfraith Cymru/Law Wales*

25. Just prior to the launch of the Government’s programme to improve the accessibility of Welsh law, the Cyfraith Cymru/Law Wales website was moved to a new platform and significantly upgraded. This year we have concentrated on developing new content for the site. This has included:
- a. updating a major section of the site on housing law,
  - b. adding a new section on the UK’s withdrawal from the EU to replace the existing outdated pages, and
  - c. publishing new articles on various aspects of the law provided free of charge by law firms in Wales.
26. Progress on updating and publishing other sections on the site (relating to education and the environment in particular) has not been possible due to a lack of internal resource to review and validate content prior to publication.
27. Enquiries to the site about a range of aspects on Welsh law have increased steadily throughout the year. These vary enormously in terms of range and complexity, but demonstrate an ongoing interest in content and finding out more about the law in Wales.
28. A range of issues relating to the accessibility of the site have been dealt with. The website is now fully compliant with the Web Content Accessibility Guidelines version 2.1, achieving Level AA standard. We also made further changes to add new functionalities to the website to ensure it remains user friendly and informative.

### Identifying opportunities to improve digital accessibility of legislation

29. Some of the commitments in the programme relating to digital accessibility require engagement with the King's Printer and officials at The National Archives. As noted earlier, they have prioritised the annotation of Welsh language texts of Welsh law over the past year. They remain committed to working with us to continue to develop and improve the digital accessibility of legislation. It is anticipated work on these matters will take place during this Senedd term.

### Reviewing the Government's approach to preparing bilingual legislation

30. The Welsh Government's Translation Service is in the process of procuring and establishing a new translation memory and terminology management system. The supplier has been selected and discussions are underway regarding the contractual details.
31. It is hoped that the new system will lead to increased efficiency and accuracy in the translation process, as well as enabling more efficient ways of researching, consulting on and standardising terminology to be explored.
32. A project to compare the legislative terms in the Translation Service's online terminology database, TermCymru, with the Drafting Glossary, to ensure complete consistency between both term bases, has been completed. This involved considering and standardising hundreds of legislative terms. Following this one-off project, procedures have been put in place to ensure TermCymru and the Drafting Glossary are updated regularly and remain consistent in future.
33. In addition, the usual terminology standardisation processes linked to Bill projects have continued during the year. These included the Historic Environment (Wales) Bill standardisation process, which will also be valuable for future legislative work in this area, and which resulted in 105 new, amended or confirmed terms in TermCymru.
34. The Translation Service has also held a series of workshops for the Office of the Legislative Counsel and the Legal Services Department focusing on how the translation process can help to improve the bilingual text.
35. Steps are being taken to establish a project to better coordinate Welsh Language infrastructure. This will include raising awareness of the dictionary and terminology resources available to make it easier for people to use them and find answers concerning the Welsh language. This service will eventually help ensure standardised legislative terms are widely available and increase the profile of the work already being done in this area.

36. In addition to this, Canolfan Bedwyr at Bangor University is being funded by the Welsh Government to develop domain-specific machine translation for the law and legislation by April 2023. The intention of this is that users working in this field will be able to access a secure on-line product which produces more specific and accurate results than general-purpose machine translation.

*Machine learning / artificial intelligence and legislation*

37. A time limited project has been undertaken during the past year to:

- a. establish if and how machine learning and artificial intelligence is being used in the preparation of legislation within Welsh Government;
- b. understand what machine learning technologies are being implemented in other drafting offices;
- c. consider whether artificial intelligence could be used to identify specific features of legislation (for example, whether is it possible to 'read' legislation to see if it relates to the legislative competence of the Senedd);
- d. explore whether natural language programmes could 'read' and answer questions on legislation.

38. None of the legislative drafting offices contacted are using artificial intelligence to assist with their work, although two of the offices consulted are conducting other projects which could be included under the 'digital' umbrella. The project concluded there are limited opportunities for the immediate use of artificial intelligence in this sphere, because:

- a. artificial intelligence is still an emerging technology,
- b. portions of the statute book, particularly Welsh language texts, have not been annotated into a machine-readable format.

39. We also concluded that in its current state, artificial intelligence cannot identify legislative features such as whether items of legislation would be within the legislative competence of the Senedd. The project noted some emerging uses of 'chatbots' but that these rely on resource intensive programming rather than technology to read and answer questions on legislation. Other simpler digital technologies could be used to answer frequently asked questions, however.

40. In June, the Government co-hosted a week-long conference and 'hackathon' with the Legal Innovation Lab Wales, based at Swansea University. This brought together experts in the legal sector and the technology sector to examine issues holding back the legal system, with the goal of creating concept solutions that will improve and accelerate the process of making the law more accessible. The first three days followed a traditional conference format with speakers from a range of backgrounds, from the purely

technical to academics in the field, together with a session led by Welsh Government staff focussing on our ambitions for this programme. The subsequent two-day hackathon saw delegates split into teams and asked to consider an accessibility of the law challenge by proposing innovative technological solutions which could potentially be developed in future. The conference/hackathon format was seen as a useful way of bringing two different disciplines together to understand challenges and opportunities in this area of the law.

41. There is clearly scope for using emerging technology to help make information about the law more accessible and easier to understand in respect of specific issues such as tax liabilities or housing rights. However, as things stand this would require a significant commitment of time and expertise using traditional ways of working. We are currently some way away from being able to use machine learning and other forms of artificial intelligence as a “short cut”.
42. The time limited project has now concluded, but if further resource becomes available future work could focus on aspects of the learning gained through this early research.

#### *Updating guidance and preparing additional guidance*

43. In May the Government published the second edition of [Common legislative solutions: a guide to tackling recurring policy issues in legislation](#). This document provides potential solutions to commonly occurring legislative problems to help those who develop, scrutinise, and use legislation understand how best to address them.
44. The *Legislation Handbook on Assembly Bills* is an internal working document that is shared externally in the interests of openness and transparency. It sets out the practical process for developing legislation and for taking legislation through the Senedd. The content is being kept under review, and a revised edition is likely to be published during this Senedd term.
45. *Writing Laws for Wales* sets out the main principles and techniques that the Welsh Government applies to legislative drafting. It remains subject to ongoing review, but it has not been considered necessary to issue a revised version during the past year.
46. Work is ongoing to collect the lessons learned from preparing the first consolidation Bills, which will be used to prepare new guidance later this Senedd term.

## Other projects

### Programme commitments:

During this Senedd term the Government will continue to work with the Law Commission.

### *Progress during reporting period*

47. The Law Commission of England and Wales has sought views on proposals for its Fourteenth Programme of Law Reform, this will include projects relating to the law in Wales and could include one or more special projects at the request of the Welsh Ministers. The Law Commission is expected to make further announcements on this in the coming months.
48. In addition, the Welsh Ministers will continue to use their powers to refer matters to the Law Commission for the Commission's advice and information. Such references have led to completed projects which are now being taken forward within the Welsh Government, including in relation to [Regulating Coal Tip Safety in Wales; Devolved Tribunals in Wales](#) and [Planning Law in Wales](#). The Welsh Ministers published their [Report on the Implementation of Law Commission Proposals](#) in February 2022.

## Revisions to the programme

49. Section 2(6) of the Legislation (Wales) Act 2019 permits the Welsh Ministers and Counsel General to revise the programme. This has not happened over the previous year.
50. The next annual report to the Senedd will also include a review of the Legislation (Wales) Act 2019, in line with commitments given by the (then) Counsel General during the Senedd's scrutiny of the Bill.

## Concluding matters

51. The introduction of the Historic Environment (Wales) Bill was a major milestone that marked the beginning of a new endeavour to bring more order to the statute book of Wales, and the introduction of Codes of Welsh law. Although the consolidation and codification of Welsh law will take a generation or more to achieve, we are confident the increased accessibility and simplicity of the law makes this a worthwhile and important undertaking. Consolidation of the law on the historic environment is also a significant step forward for the Welsh language, as a vast area of the law that was previously only

available in English will be available bilingually in future, if the Senedd sees fit to pass the Bill.

52. Another landmark was the recent development and forthcoming introduction of new functionality on [legislation.gov.uk](http://legislation.gov.uk) allowing us to start annotating Welsh language texts of legislation. This is hugely significant as it brings about overdue parity for both our languages when publishing legislation.
53. Despite this, introducing the first programme to improve the accessibility of Welsh law has not been without its challenges:
  - a. The National Archives is an essential partner in our efforts to improve the digital accessibility of legislation. Nevertheless, we in the Welsh Government must acknowledge that they also serve the whole of the United Kingdom. They have a duty to all four nations and must balance their priorities carefully, especially against the backdrop of the UK Government's proposed cuts to the Civil Service and in light of the ongoing impact of EU withdrawal and the pandemic.
  - b. Internally, a small team within the Office of the Legislative Counsel is supporting delivery of the programme, but it is of course a whole Government endeavour. As more work is done under the programme, involving an ever-increasing circle of contributors, we expect it to become an established aspect of Government life – albeit one that we will have to achieve against a backdrop of competing priorities.
54. We conclude that the programme is currently on track and are pleased to report the good progress made.