

Welsh Language Board

**INVESTIGATION UNDER SECTION 17 OF THE WELSH LANGUAGE ACT
1993**

**The Welsh Language Board's report and recommendations to the Arts
Council of Wales published under Section 19 of the Welsh Language Act
1993**

November 2008

Part II Section 17 Welsh Language Act 1993

Investigations - Compliance with Schemes

An investigation is held to the possible failure of a public body to implement its Language Scheme, under section 17 of the Welsh Language Act 1993.

'17.- (1) Where it appears to the Board, whether on a complaint made to it under section 18 below or otherwise, that a public body may have failed to carry out a scheme approved by the Board, the Board may conduct an investigation in order to ascertain whether there has been a failure.

(2) The procedure for conducting an investigation under this section shall be such as the Board considers appropriate in the circumstances of the case, and in particular an investigation may be conducted in private.....'

Reports

A report is produced under section 19 of the Welsh Language Act based on the findings of the investigation. The Welsh Language Board usually publishes its reports on the internet at www.byig-wlb.org.uk

19. - (1) Where the Board undertakes an investigation under section 17 above, it shall send a report of the results of the investigation to the public body concerned, to the Secretary of State and, where the investigation is conducted on a complaint made under section 18 above, to the complainant....'

'(2) where the Board considers that it would be appropriate for a report of the results of an investigation to be published, either in the form of the report made under subsection (1) above or in some other form, the Board may arrange for publication in such manner as it thinks fit.

(3) Where on completing an investigation the Board is satisfied that the public body concerned has failed to carry out the scheme, the Board may include in its report recommendations as to action to be taken by the public body in order to remedy the failure or to avoid future failures'.

Contact Point

Any queries with regard to this report should be directed to Alun Lloyd Jones, Welsh Language Board, Llys Clwyd, Lôn Parcwr Industrial Estate, Ruthin, Denbighshire LL15 1NJ

1. Background

- 1.1 The Arts Council of Wales (ACW) had its first Welsh Language Scheme approved by the Welsh Language Board on 23 January, 1998 and the revised scheme, the current scheme, was approved by the Welsh Language Board under section 16 of the Welsh Language Act 1993 on the 5th May 2006.
- 1.2 It notes that ACW has adopted the principle that it will treat the Welsh and English languages equally when conducting public business in Wales. The Scheme notes how ACW will achieve that principle when providing services to the public in Wales.
- 1.3 ACW was established in 1994 through a Royal Charter. It is responsible for funding and developing the arts in Wales. The Welsh Assembly Government provides grant aid to ACW in order to fund the arts in Wales and, as an Assembly Sponsored Body, it is accountable to the Government for the way in which this funding is spent.
- 1.4 The Board would like to thank ACW for its co-operation in providing information during the investigation.

2. The Investigation

2.1 This investigation was held after receiving two letters from Dyfed Dance (18 February and 14 March 2008). The letters were sent following ACW's decision to abolish Dyfed Dance's revenue grant within six months. They were complaints.

The nature of the complaint

2.2 Dyfed Dance expressed concern regarding ACW's staffing policy, especially with regard to the management team, and also a failure to assess the linguistic outcomes of new policies and initiatives.

2.3 Dyfed Dance also alleged that:

- no Council officers had seen their work during the previous three years, and that this was possibly due to the lack of Welsh speakers at the Council;
- Council officers had failed to understand the needs and linguistic and cultural potential of the region;
- Council officers had not considered the effect of their decision to abolish the grant on the development and training of Welsh language dancers, tutors and community dance practitioners.

2.4 It appeared to the Board that ACW could have failed to meet the requirements of its Language Scheme in implementing some of the measures: New Policies and Initiatives and Staffing (sections 3.1.3 and 6.1.1 – 6.1.3 of the Language Scheme).

2.5 The Board decided to hold an investigation in order to determine whether there had been a failure on ACW's part to fulfil what is identified in its Language Scheme.

2.6 On 16 May 2008 the Board sent a letter to the Chair of ACW informing him of the Board's intention to conduct an investigation into the implementation of the language scheme, and asked ACW to provide information and/or evidence by 15 June 2008. ACW was asked to respond to the following:

- was there a lack of direct contact and as a result a lack of understanding of the value of Dyfed Dance;
- the arrangements made by the Council to ensure a Welsh medium service for Dyfed Dance;
- when the Council decided to abolish its grant for Dyfed Dance what, if any, consideration was given to the linguistic nature of the area;
- the Council's arrangements to ensure that those in receipt of grant aid that would be relocated, would be able to operate through the medium of Welsh;
- any further comments that the Council would like to make in response to the complaint.

- 2.7 On 9 July the Board received a response via a letter directed to the Cardiff office, dated 17 June from the Chair of ACW's Welsh Language Monitoring Group (internal).
- 2.8 The Board sent a further letter on 24 July 2008, requesting further details, and a final response was received on 22 September 2008.

3. The Findings of the Investigation

- 3.1 This report forms an opinion on ACW's compliance with its statutory Welsh Language Scheme on the basis of the evidence found by the Board and the evidence provided by ACW.
- 3.2 This is a final report and presents recommendations to ACW under section 19 (3) of the Welsh Language Act 1993.
- 3.3 Having received the information, it is the Board's opinion that ACW, in this instance, has acted in accordance with its Language Scheme.

4 Compliance with the New Policies and Initiatives clause

- 4.1 The complainant's first assertion was that the Welsh language was not a factor when considering the effect of abolishing the grant.
- 4.2 Point 3.1.3. of ACW's Welsh Language Scheme, New Policies and Initiatives notes:

'ACW is committed to assessing the linguistic consequences of all new policies and initiatives to establish what effect they are likely to have on the use of the Welsh language. ACW accepts that the linguistic medium in which opportunities presented can have a direct effect on participation. ACW is conscious of the position of the Welsh language as a very defining trait and will ensure that its activities do not adversely affect the character of the communities concerned. ACW will ensure that measures in its Welsh Language Scheme are adhered to in each case'.

- 4.3 In order to review the situation the Board asked a number of investigative questions and responses to them were as follows:
- 4.4 ***What consideration did the Council give to the effect of the decision to abolish Dyfed Dance's grant on the linguistic nature of the area;***
ACW's Response:
"Chapter 3 of ACW's Language Scheme deals with New Policies and Initiatives and clause 3.1.3 explains our commitment to consider the effect on language in these type of circumstances.

The Senior Dance Officer has confirmed that bilingual provision is central to ACW's strategy. As a result, a sub-committee of experts was established and it is a subject found on the agenda of most of ACW's regional dance forums."

4.5 ***What arrangements does the Council have to ensure that those bodies in receipt of the relocation grant aid, will be able to operate through the medium of Welsh;***

ACW's Response:

"Our Language Scheme also refers to this matter and we can recall a range of examples which confirm that we do adhere to the requirements of clause 6.7.1.

We are in discussions with prospective suppliers and we are currently required to respect commercial sensitivity. These discussions occur under the leadership of the Regional Director at our office in Carmarthen. We have been discussing the community dance provision and have given a brief of what is required including requirements with regard to quality, equality and language."

4.6 As part of the response ACW outlined the reasons for refusing the grant, and it was confirmed that there were no linguistic factors attached to the decision.

5 Compliance with the Staffing clause

5.1 Dyfed Dance's second assertion was the shortcomings of bilingual staffing including no arts officer on ACW's management team who could speak Welsh, and no chief officer for the Mid and West Wales region who could speak Welsh.

5.2 On the issue of staffing ACW's Welsh Language Scheme notes

Staffing

6.1.1 'ACW will ensure that workplaces which have contact with the public have access to sufficient and appropriately skilled Welsh speakers to enable those workplaces to deliver a full service through the medium of Welsh.

6.1.2 ACW will identify those workplaces and posts where the ability to speak Welsh is essential and those where it is desirable, to identify the level of proficiency expected in each case, and to formulate team descriptions and job descriptions accordingly.

6.1.3 ACW managers and others responsible for recruiting staff will assess the organisation's needs for Welsh-speaking staff when making appointments and will keep this aspect of recruitment under constant review'.

5.3 The Board investigated the assertion by sending queries to the body and we received the following responses:

5.4 ***Did the lack of direct contact result in a lack of understanding of the value of Dyfed Dance;***

ACW's Response:

“This question does not relate to linguistic matters alone. I understand that the Appeal Panel (independent) is satisfied with the fact that ACW has recorded sufficiently the direct link with Dyfed Dance and that the assumption that ACW does not understand the value of the body is unfounded.”

5.5 ***The arrangements made by the Council to ensure a Welsh medium service for Dyfed Dance;***

ACW's Response:

“It is not clear at what stage our Welsh language service was not available to Dyfed Dance. We must say that we received a complaint with regard to the lack of translation facilities at one of the Regional and West Wales dance forums. The validity of that complaint was accepted at a meeting of the Language Monitoring Group and was communicated in a letter dated June 19 2007.”

5.6 The Board enquired about the organisation's staffing percentages and ACW's response was that three officers on the arts management team have Welsh skills, with two of these being learners. The Head of the Mid and West Wales Region had also noted even though she could not speak Welsh fluently that she had a very good understanding of the language. The percentage of ACW's Welsh language staff in Carmarthen has been at an average of 60% since 2004/05.

6. Conclusions

6.1 In considering the first allegation it appears to the Board, from the information gathered, that linguistic considerations had been given attention in order to ensure that a bilingual provision is central to the dance service in the Region concerned. The Board is therefore satisfied that ACW has acted in line with the clause in the Language Scheme which relates to New Policies and Initiatives (3.1.3).

6.2 From the information collected it appears to the Board that a high percentage of staff are able to provide a bilingual service at the Carmarthen office, and that officers on the arts management team are able to speak Welsh. The Board is therefore satisfied that the percentage of staff employed in Mid and West Wales is not likely to be so low as to cause them to fail to provide a Welsh language service to Dyfed Dance.

6.3 On the basis of all the information which has been received the Board is satisfied that ACW has acted according to its Language Scheme and in light of the complaint made that there is no case to answer.

7. Recommendations made under Section 19(3) of the Welsh Language Act 1993

- 7.1 As the relocation of funding has not yet come to an end, the Board recommends that ACW should provide a progress report to the Board outlining developments in the field of dance in Mid and West Wales, explaining to the Board in which ways the linguistic requirements of the provision were considered when funding was relocated. In addition a meeting between the Board and appropriate officers from within ACW should be held within three months of the date of this report to discuss the progress report.

Annex A

Chronology of the investigation

18 February 2008	Receive Dyfed Dance's letter
22 February 2008	The Board acknowledges receipt of the above letter
14 March 2008	Receive another letter from Dyfed Dance
29 April 2008	ACW publishes the decision of the independent Appeals Panel regarding Dyfed Dance
16 May 2008	A letter from the Board to the Chair of ACW notifying him of our intention to carry out an investigation
2 June 2008	The Chair of ACW acknowledges receipt of the Board's letter
9 July 2008	Receive ACW's report on the investigation
24 July 2008	A further letter from the Board requesting further details
28 July 2008	A letter from Dyfed Dance asking if ACW had provided a report
29 July 2008	The Board responds to Dyfed Dance's letter
18 August 2008	ACW requests additional time because specific officers are out of the office
19 August 2008	The Board agrees (via e-mail) to extend the date of the response to September 19.
22 September 2008	Receive the final response from ACW
23 October 2008	Further letter from Dawns Dyfed asking if we had received an adequate response
28 October 2008	The Board responds to Dyfed Dance's letter