

<b>Institution: : Cardiff University</b>
<b>Unit of Assessment: : UoA 28 Modern Languages</b>
<b>Title of case study: Devolution and the Creation of a New Language Law Regime in Wales</b>
<p><b>1. Summary of the impact</b> (indicative maximum 100 words)</p> <p>By 2008, Welsh language policy was failing to deliver consistent bilingual public services in Wales. Research at Cardiff University's School of Welsh helped UK and Welsh Government policy-makers understand the weaknesses and inconsistencies of the language regime. The research also made policy-makers aware of alternative regimes and legislation in state-wide and devolved governments overseas. Outcomes based on Cardiff recommendations include:</p> <ul style="list-style-type: none"> <li>• Devolution of Welsh language responsibility from Westminster to the Welsh Government;</li> <li>• A Welsh Government commitment to a national standard of bilingual public services, replacing Welsh Language Board (WLB)-agreed Language Schemes;</li> <li>• Establishment of a Welsh Language Commissioner and complaints tribunal;</li> <li>• Legislation improving the National Assembly for Wales' operation as a bilingual parliament.</li> </ul>
<p><b>2. Underpinning research</b> (indicative maximum 500 words)</p> <p>The Language, Policy Planning Research Unit (LPPRU) at the School of Welsh is led by Williams (Research Professor, since 1994) and Mac Giolla Chríost (Professor, since 2007). Their keystone project is From Act to Action (Funded Research Project FRP 1). In 2005, the EU, the Welsh Language Board (WLB) and equivalent bodies in Finland and Ireland commissioned Sandberg (Åbo Akademi, Finland), Ó Flatharta (Dublin City University) and Williams to evaluate the implementation of language legislation in the EU with specific reference to Finland, Ireland and Wales.</p> <p><b>Structural problems with Welsh language policy</b></p> <p>Mac Giolla Chríost was co-investigator with Williams in studying public authorities, the health, police and environment agencies and UK Crown Bodies in Wales. They identified five problems with the Welsh Language Schemes, set up by Welsh Language Act 1993. <sup>3.2; 3.4; 3.5</sup> The Schemes were standard agreements for the delivery of bilingual services agreed by the WLB with individual public bodies and some private companies. The problems were:</p> <ul style="list-style-type: none"> <li>• Lack of institutional capacity and resources to deliver bilingual services;</li> <li>• Lack of buy-in from senior management;</li> <li>• Inconsistent adherence to fixed deadlines for remedial action;</li> <li>• Insufficient internal communication of policy objectives;</li> <li>• Poor monitoring of implementation and updating of the language schemes.</li> </ul> <p><b>Best practice: overseas precedents</b></p> <p>To inform the development of an alternative language regime and legislation, Cardiff also systematically researched best practice elements of other UK policy fields and international experiences. This included in-depth work on legislative devolution and National Assembly deliberations in cognate policy fields (Funded Research Project 1); Language Rights <sup>3.1 3.3</sup> and Language Commissioners in Canada and Ireland (FRP 3), <sup>3.5</sup> and language regulatory systems in Catalonia and the Basque Country. This involved interviewing senior civil servants, national and local politicians, legal advisers, language officers and academic specialists in all the named jurisdictions. The key findings were:</p> <ul style="list-style-type: none"> <li>• The constitutional and legislative advantages of devolving language policy responsibility to regional/provincial Assemblies;</li> <li>• The effectiveness of Canadian and Irish language commissioners in regulating the implementation of bilingual service standards (FRP 2);</li> <li>• The emergence of bodies of language rights, not operationalised yet in Wales, despite intense debate and discussion;</li> <li>• The need for effective investigative and complaints procedures to uphold these rights;</li> </ul>

- Tensions arising from split responsibilities in promoting and regulating language policy;
- The advantages of conferring Official Language Status on Welsh <sup>5.1, 5.3, 5.4, 5.5.</sup>

### 3. References to the research (indicative maximum of six references)

1. **Mac Giolla Chríost, D.** (2012) "A Question of National Identity or Minority Rights? The Changing Status of the Irish Language in Ireland since 1922". Nations and Nationalism vol. 18 No. 3 pp. 398-416. <http://dx.doi.org/10.1111/j.1469-8129.2011.00508.x> [REF 2014 Output].

2. **Williams C. H.** "Articulating the Horizons of Welsh" (2007) in C.H. Williams (ed.), Language and Governance, pp. 387-433. Cardiff: University of Wales Press. ISBN: 9780708321126

3 **Williams C. H.** Linguistic Minorities in Democratic Context (2007, hbk) (2013, pbk) Basingstoke: Palgrave Macmillan, pp. i-xii + 440. ISBN: 9781403987211

4. **Williams, C. H.** "From Act to Action in Wales" (2010) in D. Morris (ed.), Welsh in the Twenty- First Century, Cardiff: University of Wales Press, pp. 36-60. ISBN: 9780708322994

5. **Williams, C. H.** Minority Language Promotion, Protection and Regulation: The Mask of Piety, (2013) Basingstoke: Palgrave. ISBN: 9781137000835 [REF 2014 Output].

All outputs are available from the HEI upon request.

### Funded Research Projects

1. Ó Flatharta, Sandberg, **Williams**, "From Act to Action – Implementing Language Legislation in Finland, Ireland and Wales" Svenska Kulturfonden, Foras na Gaeilge, WLB, (2005-2009). Value €120,000.

2. Prof Cardinal, Ottawa University and ARUC/CURA Team where **Williams** is the International Co-ordinator, "New Methods of Action for the Canadian Francophone Minorities and Other Linguistic Minorities" Canadian Social Sciences and Humanities Council and Ottawa University, (2009-2014). Value \$2m, <http://www.socialsciences.uottawa.ca/aruc-cura/eng/index.asp>

3. **Williams** (P.I) and **Mac Giolla Chríost** (C.I.), "The Office of Language Commissioners in Wales, Ireland and Canada" ESRC (2012-2015). Grant Value £343,606.

### 4. Details of the impact (indicative maximum 750 words)

The UK Government had used legislation to embed bilingual practices in Welsh national life and public administration. By 2008, the language regime based on the UK Parliament's Welsh Language Act of 1993 was facing difficulties in terms of consistency and effectiveness. The Cardiff research was key to informing policy changes in four main areas:

- Legislative responsibility for the Welsh Language;
- Replacement of Language Schemes with a set of new national standards;
- Introduction of a Welsh Language Commissioner;
- The National Assembly for Wales' own bilingual operation.

M. P. Jones, former Chief Executive of the Welsh Language Board, has described Williams' research as "absolutely crucial to the reforms which were undertaken by the Government of Wales in relation to establishing a new language regime in Wales". <sup>5.6</sup> A. Ff. Jones, former Heritage Minister of the Welsh Government (2008-11) stated that "the research carried out by the Language, Policy Planning Research Unit [LPPRU] was invaluable in analysing the Welsh Language Act 1993, Welsh Language Schemes, the Legislative Competence Order process and in looking at comparative language policy and regulatory bodies in Canada and Ireland." <sup>5.7</sup>

### Legislative responsibility

The LPPRU research was critical to two stages of devolving legislative competence for Welsh language policy from the UK Parliament to the National Assembly for Wales in 2009. In 2009 Mac Giolla Chríost was appointed as Specialist Advisor to the Commons Select Committee on Welsh Affairs, advising in confidence on the Proposed Draft National Assembly for Wales (Legislative Competence) (Welsh Language) Order 2009 [LCO]. The UK Parliament Select Committee was charged with deciding whether to devolve this power. Mac Giolla Chríost drew on his research as co-investigator on From Act to Action [FRP 1]

to draw attention to the deficiencies of the existing regime and the advantages of devolved language structures overseas. He provided the Select Committee with an initial briefing paper on the LCO, reviewed the evidence submitted by stakeholders and helped draft sections of its final report, including the central recommendation which was to devolve legislative competence from Westminster to the National Assembly<sup>3.4, 5.4</sup>. Meanwhile Williams also informed the passage of the LCO through a series of briefing and evidence papers to the National Assembly in early 2009. As an individual he discussed language policy issues with Ministers and their advisers and also as a Member of the Welsh Language Board he briefed senior civil servants and NAFW Committees providing evidence-based alternative models and detailed best practice examples based on his research within other jurisdictions, notably Canada, Ireland, Catalonia and Finland. He highlighted From Act to Action's finding that bilingual service standards were inconsistently applied across Wales. He argued that building the necessary capacity to deliver satisfactory standards should be organised at a Welsh level, following the models of devolved legislatures abroad.

### **Replacement of Welsh Language Schemes**

Following the devolution of language powers in 2009, Williams continued to advise the National Assembly. In invited submissions, he advocated an overall national standard of bilingual services to the public, citing his research showing this was a stronger alternative to the inconsistent system of locally-agreed Welsh Language Schemes.<sup>3.4,5.1</sup> In the Welsh Language (Wales) Measure 2011, the Welsh Government committed to a series of National Standards as a replacement for the Language Schemes. Williams has subsequently informed the thinking of the Minister for Education and Skills and civil servants on the drafting and implementation of this transition from Schemes to Standards.

### **A Language Commissioner for Wales**

The 2011 Welsh Language Measure also created the new post of Language Commissioner. Again, Williams gave written and oral evidence to the Assembly referring to his research into the deficiencies of the 1993 Welsh Language Act. He also cited several international precedents, including the effect of language commissioners in Canada, Ontario, New Brunswick and Ireland.<sup>5.3</sup> He argued that a Language Commissioner for Wales would act as a more robust ombudsman and articulator of Welsh language rights and expectations. Drawing on his work on language rights overseas, Williams also provided expert advice which informed the decision to include in the 2011 Measure a Tribunal with power to challenge the Commissioner's decisions.

On April 1, 2012, the new Welsh Language Commissioner replaced much of the Welsh Language Board, the body responsible for enforcing the previous language regime established by the 1993 Act. The Board also held responsibility for promoting the Welsh language across Wales. Williams' international research had shown how regulatory responsibility could best be guaranteed by the appointment of an independent commissioner, freed from government intervention, while government was best placed to take on responsibility for promotional work on language policy. In his evidence in 2009-10, Williams recommended that the Welsh Government should take responsibility for promotional activity. At the end of March 2012, the Board was abolished and its promotional functions transferred to the Welsh Government<sup>3.4, 5.3</sup>. The work of the Language Commissioner in comparative perspective is the focus of an ESRC award for 2012-5 (FRP3).

### **Operation of the National Assembly**

In 2011-2, the National Assembly for Wales reconfigured the functions governing its own bilingual operations. Williams was invited to contribute to the independent review (NAW Report, 2010), while Williams, Mac Giolla Chríost and S. Brooks informed a later stage through providing expert evidence to the Assembly (NAW Report, 2012). These interventions were based on research undertaken in Ireland and Wales (FRP 1),<sup>3.4</sup> demonstrating the advantages of giving a language official status.<sup>5.2, 5.5</sup> The resultant Official Languages Bill, requiring all departments to treat English and Welsh equally, was passed in October 2012. The former

Heritage Minister, Mr A. Ff. Jones has described the Cardiff research as “influential in that it gave us international perspectives on the establishment of a Language Commissioner.”<sup>5,7</sup>

**5. Sources to corroborate the impact** (indicative maximum of 10 references)

1. National Assembly for Wales Legislation Committee no 5 (Legislative Competence (Welsh Language) Order 2009, June 2009 at <http://www.assemblywales.org/cr-ld7537-e.pdf> specifically at paras 3.31;3.48;3.55; 3.57;3.80; 3.81; 5.19; 5.111; 6.4; 6.21;6.25; 8.5;8.6 and evidence by Williams as Member of Welsh Language Board and as independent witness.

This relates to the transfer of responsibility for the Welsh language from the UK Parliament to the National Assembly for Wales.

2 National Assembly for Wales, Review of Bilingual Services in the NAFW. May 2010. “The NAFW’s Bilingual Services”; <http://www.assemblywales.org/review-of-bilingual-services-report-english.pdf> specifically at paras 27; 93-5; 98; 105 and expert witness evidence by Williams, NAFW 5 February, 2010. This relates to the effectiveness of the Welsh Language Act, particularly its Language Schemes.

3. National Assembly of Wales, Legislative Committee No 2. Report July 2010 Williams evidence recorded specifically at paras 66; 139; 189;191;212;260;317;437 and as Member of Welsh Language Board available at <http://www.assemblywales.org/cr-ld8168-e.pdf>. Evidence recorded as <http://www.assemblywales.org/bus-home/bus-committees/bus-committees-perm-leg/bus-committees-third-lc2-agendas.htm?act=dis&id=177248&ds=5/2010> and at

“A Language Commissioner for Wales: International Precedents” MI 6 at LC2 (3)-0710. Paper 2:22 April 2010; <http://www.assemblywales.org/bus-home/bus-third-assembly/bus-committees/bus-committees-perm-leg/bus-committees-third-lc2-agendas.htm?act=dis&id=177262&ds=5/2010> Further additional evidence on LC2 and Proposed

Welsh Language Measure Transcript of Proceedings available at

<http://www.assemblywales.org/bus-home/bus-committees/bus-committees-perm-leg/bus-committees-third-lc2-agendas.htm?act=dis&id=178623&ds=4/2010> This confirms Cardiff research informed the proposals for a Welsh Language Commissioner.

4. UK Parliament Welsh Affairs Select Committee. “Proposed National Assembly for Wales (Legislative Competence) (Welsh Language) Order 2009 - Welsh Affairs Committee Contents.”, expert advice, given in confidence, by D. Mac Giolla Chríost, February – June, 2009 (available on request from the Clerk to the Welsh Affairs Committee). This advice relates to the transfer of responsibility for Welsh from the UK Parliament to the National Assembly for Wales.

5. Communities, Equality and Local Government Committee of the Welsh Assembly, submitted 2 March 2012.<http://bit.ly/RcqEz0>. See NAW Report May 2012.

<http://www.assemblywales.org/bus-home/bus-business-fourth-assembly-laid-docs/cr-ld8894-e.pdf?langoption=3&ttl=CR-LD8894%20-%20Communities%2C%20Equality%20and%20Local%20Government%20Committee%3A%20%20St%20age%201%20Committee%20Report%2C%20National%20Assembly%20for%20Wales%20%28Official%20Languages%29%20Bill> specifically at paras 25. 51, 52. 66-75. 107, 138-9, 153-5, 163, 182, 208. Expert evidence by LPPRU (D Mac Giolla Chríost with S. Brooks) under OLB4. This relates to the Official Standing of the Welsh language in Wales.

6. Factual Statement, Chief Executive of the Welsh Language Board (30/04/2013). Corroborates Williams’ research as crucial to the establishment of a new language regime.

7. Factual Statement, former Heritage Minister of the Welsh Government (17/07/2013), describes research of LPPRU, Cardiff University, as invaluable in analysing Welsh Language Act 1993, Welsh Language Schemes, the Legislative Competence process and models of Language Commissioners in Ireland and Wales to inform creation of Welsh Language Commissioner.

[All documents have been saved as pdf’s and are available from the HEI upon request]