

The Criminal Injuries Compensation Authority Welsh Language Scheme



A response by the Association of Personal Injury Lawyers

Date: 10 March 2011

The Association of Personal Injury Lawyers (APIL) is a not-for-profit organisation with a 20-year history of working to help injured people gain access to justice they need and deserve. Our 4,977 members are committed to supporting the association's aims and all sign up to APIL's code of conduct and consumer charter. Membership comprises mostly solicitors, along with barristers, legal executives and academics.

APIL has a long history of liaison with other stakeholders, consumer representatives, governments and devolved assemblies across the UK with a view to achieving the association's aims, which are:

- To promote full and just compensation for all types of personal injury;
- To promote and develop expertise in the practice of personal injury law;
- To promote wider redress for personal injury in the legal system;
- To campaign for improvements in personal injury law;
- To promote safety and alert the public to hazards wherever they arise;
- To provide a communication network for members.

APIL's executive committee would like to acknowledge the assistance of the following members in preparing this response:

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Introduction

Welsh speakers in the United Kingdom

The 2001 Census indicated that 20.8 per cent of the population of Wales said that they could speak Welsh. Welsh speaking is concentrated in some parts of Wales. For example, according to the same census, 69 per cent of Gwynedd residents are Welsh speakers with the greatest percentage of Welsh speakers in the Caernarfon and Penygroes areas where the percentage is about 88 per cent. However, there are more Welsh speakers in southern Wales than in the north. The 69 per cent of Gwynedd represents almost 78,000 Welsh speakers. But a smaller 50 per cent of Carmarthenshire in the south represents more than 84,000 speakers.¹ Even in traditionally less Welsh speaking areas such as Cardiff, ten per cent (primary) and eight per cent (secondary) of schoolchildren are educated through the medium of Welsh. Welsh is an official language of Wales and the people of Wales are therefore entitled to be expected to be able to use it with an official body such as the CICA.

It is extremely likely, therefore, that the CICA will deal with citizens from these regions in particular, who would prefer to deal with the CICA, as they deal with all other transactions with other locally based public bodies, in Welsh.

The consultation question

Please comment on whether the measures proposed by the CICA will treat the English and Welsh Languages on a basis of equality

Telephone communications

The CICA admits, in its consultation paper, that it has no Welsh speakers currently employed and that no Welsh telephone service can be provided at present.

At a Policy and Equality forum at the CICA on 27 January 2011, we were informed that paper application forms are about to be withdrawn from circulation this year. Applicants will be encouraged to complete their application either on-line or by telephoning the CICA call-centre.

Our concern is that a Welsh speaker may need to telephone at any stage in the proceedings and it fundamentally undermines this initiative if there is no one who can speak Welsh to take the call. It is likely, at the start of the process, that confronted with a detailed application form in English, a Welsh speaking person may decide to call the CICA call centre to complete their application over the phone, as they will be invited to do by the CICA literature and website. Every Welsh speaker knows of someone who can give a much better account of themselves in Welsh, rather than in English. If those individuals contact the call centre it is essential that their application can be dealt with in Welsh.

Services provided by third parties

It is crucial that the CICA has contingencies to ensure that Welsh speakers are directed to reputable members of Victim Support, the CAB or the legal profession, for example: not simply individuals who happen to speak Welsh – but those who are best placed to advise who *also* speak Welsh.

Publications

We note that the CICA will publish its guide to the scheme in Welsh. While we welcome this, it is also important that the scheme rules are reproduced in Welsh (including any version found on the website). In particular, it is important that applicants can find out how to appeal their award and this crucial information must be translated into Welsh as well being available in English.

We also take the view that, in order to ensure that the English and Welsh languages are treated equally, there should be a Welsh translation of the application form / web-based form available, too.

Hearings/appeals

There is no real detail in this consultation on what would happen if a Welsh speaker applicant decided to appeal his award and had to attend an appeal hearing. All Welsh speakers have the right to speak Welsh in court proceedings and appeal hearings should be treated no differently. It is a prerequisite, we think, that in order to treat the English and Welsh languages equally when conducting its business, the CICA ought to be able to facilitate appeal hearings for Welsh speakers. In such cases, the appeals panel ought to comprise at least one Welsh speaker, and it is possible that the CICA representative should also be able to converse in Welsh to ensure that the applicant's appeal is dealt with fairly in his native language.

Final comments

The Welsh Language Act 1993 established a duty on public bodies which provide services in Wales to produce a Welsh Language Scheme. We would like to see a commitment from the CICA to not only producing a paper scheme, but actually ensuring that Welsh is treated equally to English. Our concern is that this paper pays lip service to the CICA's legal obligations, but fails to offer practical solutions to ensure that those duties are fulfilled.

Association of Personal Injury Lawyers

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ⁱ BBC Voices. Welsh Today by Prof Peter Wynne Thomas.
<http://www.bbc.co.uk/voices/multilingual/welsh.shtml>