

SECURING THE STATUS OF GAELIC? IMPLEMENTING THE GAELIC LANGUAGE (SCOTLAND) ACT 2005

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The Gaelic Language (Scotland) Act 2005 received the unanimous support of the Scottish Parliament in April 2005 and came into effect in February 2006. This legislation, which followed a long campaign by Gaelic organisations and a drawn-out process of recommendations, reports and consultations, is a milestone in the institutionalised provision for the language. The Act promises to bring significant changes in the way public bodies in Scotland deal with the Gaelic language and the Gaelic community, and should go some way towards achieving its stated objective of ‘securing the status of Gaelic as an official language of Scotland commanding equal respect with the English language’.

Nevertheless, it remains far from clear how the Act will be interpreted and implemented, and what its practical impact will actually be. The fact that the Act was passed unanimously might actually be considered a warning sign, for Scotland is by no means united in its view of Gaelic: for a small minority Gaelic is a central feature of daily life and personal and community identity, but for many the language is remote, little-understood and rarely thought-about, and for some it is irritating, anachronistic or pointless. Much of the real controversy concerning public provision for Gaelic has effectively been deferred, for the Act is deliberately vague in key respects. In particular, it remains to be seen how Scotland’s public bodies will interpret their responsibilities under the Act, and whether the Gaelic community and Gaelic organisations, especially Bòrd na Gàidhlig, the new statutory language development body, will be satisfied by their response.

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This article will review the background to the Act and give a summary of its key provisions before assessing the principal issues that will arise in the course of implementation. Compared to language legislation in other jurisdictions, the Act is a mild enactment: it creates no enforceable rights, enforcement mechanisms are weak, and the timescale for implementation is extremely gradual. This mildness, coupled with strategic drafting that postponed and deferred any real controversy, may explain why the Act achieved unanimous parliamentary support.

THE ROAD TO THE GAELIC LANGUAGE ACT

From Catalonia to Quebec, Ireland to New Zealand, language legislation has increasingly been recognised as an essential component of strategies to sustain minority languages. Although initiatives at the level of family and neighbourhood are fundamental, legislation can play a key role in shaping institutional provision, which in turn may significantly enhance the status of the language within the language community. In short, legislation is now generally perceived as a necessary, but not sufficient, instrument in a wider programme of language revitalisation (Williams 2006).

The campaign for a Gaelic Language Act began in the mid-1990s, as the Gaelic community began to perceive that the progress that had been achieved from the 1980s onwards in terms of provision for Gaelic was somewhat precarious. In particular, the unstable position of Gaelic education — subject to constant threats of cutback and closure, and, unlike other aspects of educational provision, lacking any statutory footing — was undermining parental confidence in the system and jeopardising its potential for growth. Responding to this climate of uncertainty, and looking to the Welsh Language Act 1993 as a possible model, the Gaelic development organisation Comunn na Gàidhlig (CnaG) set up a working group to study the question of official status for Gaelic and to make appropriate recommendations. The working group submitted an initial report to the then-Scottish Office in December 1997, and followed this up with a more detailed draft brief for a language bill in 1999 (Comunn na Gàidhlig 1997, 1999; see McLeod 1997).

1997-99 was of course New Labour's honeymoon period, and rhetoric on Gaelic matters was positive; the Gaelic community fully anticipated that the Government would respond to the recommendations for 'secure status for Gaelic' with legislation along the lines proposed by CnaG. Instead, discussions ran into the sand, and, following devolution, the Scottish Executive took the

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position that language legislation was unnecessary and that it was ‘working towards secure status’ by means of various measures, most of them relatively minor adjustments to policies put in place under the former Conservative administration in fields such as education and broadcasting (Dunbar 2003). In 1999, the Executive established its own advisory group to make policy recommendations on Gaelic (Taskforce on the Public Funding of Gaelic 2000); this led only to the creation of a second advisory group, the Ministerial Advisory Group on Gaelic (MAGOG). This second group recommended a raft of measures, including, unambiguously, a Gaelic Language Act (Ministerial Advisory Group on Gaelic 2002). While the Executive accepted many of MAGOG’s recommendations, it held to its earlier position and rejected the call for a Gaelic Language Act. Meanwhile, a members’ bill introduced into the Scottish Parliament in 2002 by SNP MSP Michael Russell and Liberal Democrat MSP John Farquhar Munro was allowed to die for lack of parliamentary time.

In early 2003, however, Scottish Labour reversed its position and decided to make a manifesto commitment to Gaelic legislation, and following the Scottish parliamentary election of 2003 a draft Gaelic bill was published for public consultation. The response was both substantial (more than 3,000 submissions were received, then the largest number for any legislative consultation since devolution) and largely negative, with the Gaelic community disappointed by the weakness of the bill, especially the absence of any rights or obligations relating to Gaelic-medium education and the provision that public bodies should merely be asked to consider whether they should develop Gaelic language plans, not required to do so (Johnstone et al 2004).

In September 2004, the Executive submitted a revised draft bill to the Scottish Parliament. This draft was perceived as a significant improvement, although the continued failure to guarantee the right to Gaelic-medium education was seen as a significant deficiency. The bill received careful scrutiny from the Education Committee and underwent some important revisions during the parliamentary process before receiving final approval in April 2005.

THE GAELIC LANGUAGE ACT: KEY PROVISIONS AND OMISSIONS

The Act is based to a considerable extent on the Welsh Language Act 1993

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(and bears some resemblance to the Official Languages Act 2003 in the Republic of Ireland) but is rather less vigorous.¹ Among its key provisions are the following:

- The official language agency, Bòrd na Gàidhlig, initially established in 2003, is now placed on a statutory footing and given a range of specified powers and responsibilities, including the preparation of a National Gaelic Language Plan and guidance to local authorities with regard to Gaelic-medium education.
- The Bòrd may require any public body in Scotland to prepare a Gaelic language plan, although it is contemplated that such plans will vary considerably according to ‘the extent to which the persons in relation to whom the authority’s functions are exercisable use the Gaelic language’ and ‘the potential for developing the use of the Gaelic language in connection with the exercise of those functions’ (section 3(5)(b)-(c)). As discussed below, this ‘sliding scale’ approach reflects the view of Gaelic organisations that different levels of provision are appropriate in different parts of Scotland, but that Scotland-wide coverage is essential given Gaelic’s increasingly national rather than regional profile and the increasing dispersal of the Gaelic-speaking population (according to the 2001 census, some 45% of Gaelic speakers live outwith the traditional *Gàidhealtachd*) (CnaG 1997; MacCaluim with McLeod 2001; General Register Office for Scotland 2005, Table 1). The Scottish Executive retains control over all stages of the process: it can quash the Bòrd’s request entirely (so that the public body would not have to prepare a plan at all), it can modify the deadline for preparation of a plan, and it can modify the substantive terms of the plan (sections 4(5)-(10), 5(5)-(8)).
- The Act declares its purpose as ‘securing the status of Gaelic as an official language of Scotland commanding equal respect with the English language’, and the Bòrd is required to exercise its functions ‘with a view’ to furthering this objective (preamble; section 1(3)).

¹The texts of the Welsh Language Act 1993 and the Official Languages Act 2003 are available at www.opsi.gov.uk/acts/acts1993/Ukpga_19930038_en_1.htm and www.irishstatutebook.ie/ZZA32Y2003.html respectively. For discussion of these enactments see Williams 2000 and Mac Giolla Chríost 2004, pp.191-97.

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This grant of official status, although not operational in a direct sense, may well inspire increased attention to and provision for the language, a pattern seen in Wales, where various private sector organisations not actually covered by the Welsh Language Act have voluntarily taken measures to promote the Welsh language and to offer bilingual services.

In many respects, however, the omissions from the Act may be more significant than its actual provisions:

- The phrase ‘equal respect’ has no clearly recognised meaning and was chosen precisely to avoid any suggestion that Gaelic would have equal validity or parity of esteem with English, or that the Act might be construed as imposing a general duty to institutionalise Gaelic-English bilingualism (see Dunbar 2005, pp.473-74).
- The National Gaelic Language Plan will not be legally enforceable; Bòrd na Gàidhlig had asked that it be made formally binding, but the Executive rejected this suggestion, arguing instead in its Policy Memorandum accompanying the Gaelic bill that the Plan should ‘develop a holistic approach to Gaelic language development’ and take a ‘consensual approach’ (paragraph 33). Holistic consensus is certainly a worthy objective, but there is a danger the Plan will end up gathering dust on a shelf unless it is imbued with sufficient authority (cf. Dunbar 2005, pp.474-75).
- Unlike the Russell-Munro bill introduced into the first Parliament, the Act says nothing about the content of public bodies’ language plans, and, as discussed in detail below, it is possible that some bodies may contemplate merely tokenistic schemes that do not involve the delivery of any Gaelic-medium services. An even greater problem is that the Act does not give a specific definition of what language plans are to consist of. The Act does provide that the Executive, in consultation with Bòrd na Gàidhlig, may prepare regulations or guidance in this regard, and that public bodies ‘must have regard to’ such guidance when they prepare language plans (section 3, subsections (5)(e), (7) and (8); section 8). How demanding this guidance will be, especially for public bodies outside the Gaelic areas, remains unclear; as with the Act as a whole, substantive political controversy has effectively been deferred.

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- Bòrd na Gàidhlig's powers to enforce compliance with Gaelic language plans are weak in comparison to those given to comparable agencies or offices in Wales and Ireland. The Bòrd may request public bodies to provide reports concerning their compliance with their language plans, but the range of its investigatory power is not clear and it has no power of enforcement. If it feels that a public body is 'failing to implement adequately measures in its Gaelic language plan', all it can do is report the matter to the Executive, which may either 'direct the authority in question to implement any or all of the measures in its Gaelic language plan' or simply 'lay a copy of the [Bòrd's] report before the Scottish Parliament' (an action of questionable significance, as the Parliament has no authority to compel compliance) (sections 6(4)-(5)). Unlike in Ireland, individual complainants do not have the right to bring their complaints before the courts.
- There is nothing in the Bill concerning rights to receive, or obligations to deliver, Gaelic education or (unlike the Welsh Language Act; see Dunbar 2003, pp.150-51) to use Gaelic in the courts; indeed, the Bill creates no language rights at all.
- As an enactment of the Scottish rather than Westminster Parliament, the Act does not extend to UK-wide public bodies. As such, important authorities ranging from the Inland Revenue and the Department for Work and Pensions to the Post Office and Coast Guard will have no obligations under the Act. This makes it difficult to develop an integrated strategy for Gaelic development in the public sector, and may lead to confusion and frustration for Gaelic speakers. Matters are less complex in Wales, for the Welsh Language Act 1993, as a Westminster enactment, reaches all public bodies that operate in Wales. The Welsh Language Act does not extend to Crown bodies such as departments of the Westminster government, but the government gave a commitment when the Act went through Parliament that these bodies would prepare Welsh language schemes as if they were required to do so by the Act; this commitment has been adhered to, although government departments have generally taken much longer to agree their schemes than other public bodies (Commission on the Powers and Electoral Arrangements of the National Assembly for Wales 2004, pp.97-98; Williams 2005, pp.6-7). There has been no such commitment with regard to Gaelic,

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although there have been inconclusive discussions to secure some degree of Gaelic provision from Westminster departments.

- The Act does not address the private sector at all; indeed, the possibility of imposing Gaelic-related obligations on private companies was never seriously contemplated. Although this omission may be reasonable enough given the state of the language, it is somewhat disturbing that the issue was not even addressed, particularly in light of the fact that at the same time as the Gaelic bill, drawing considerably on the Welsh Language Act 1993, was going through the Scottish Parliament, Welsh-language campaigners launched a direct-action campaign for a new, and in their view more viable, Welsh Language Act that would reach the private sector (cf. Williams 2005, pp.8-10).²

Although Bòrd na Gàidhlig will have principal responsibility for implementing the Act, all real power remains in the hands of the Executive, most obviously with regard to the development and implementation of public bodies' language plans. There is a risk that the Bòrd will be used to insulate the Executive from political difficulty through a devolution of (perceived) responsibility rather than power, while at the same time constraining and controlling the Bòrd's actions behind the scenes. The danger here was well stated by Comhairle nan Eilean Siar, the local authority for the Western Isles:

It is important ... that Bòrd na Gàidhlig is not cast in the role of a lone, national Gaelic policeman sent out by the Executive to browbeat recalcitrant organisations to sing from the Gaelic hymn sheet.
(Comhairle nan Eilean Siar 2005, [2])

Experience from Wales and Ireland suggests that government needs to assume a sense of ownership of language development policy to prevent such an unproductive dynamic from developing (Williams 2004).

The Financial Memorandum submitted to the Parliament concurrently with the Gaelic bill gives useful insight into the Executive's view of the Act and the likely trajectory of implementation. This document suggests that the Executive

²Another irony of the timing is that just when Bòrd na Gàidhlig is being established as a statutory body, the Welsh Language Board is now set to be abolished and subsumed within the Welsh Assembly Government.

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does not see the Act as working a fundamental shift in national policy towards Gaelic:

- The Executive states that it expects Bòrd na Gàidhlig to produce only about ten language plans per year (paragraph 82). Given that there are several hundred public bodies in Scotland, full implementation of the legislation at such a rate would take decades. As the Executive is empowered to rescind any notice the Bòrd sends out to a public body requiring the preparation of a language plan, and controls the funding of the Bòrd and thus its staffing resources, the Executive can readily impose this expectation of languid progress.
- The Executive indicates that the Bòrd should not require bodies in areas with ‘few’ Gaelic speakers to produce plans ‘in the years immediately after the enactment of the Bill’ (paragraph 92). The terms ‘few’ and ‘immediately’ were not explained further. While the Bòrd’s initial efforts would surely focus on areas with significant concentrations of Gaelic speakers (including urban as well as ‘heartland’ areas), it might be appropriate to give attention to large local authorities in Lowland areas that currently make no Gaelic education provision (such as Fife and Dundee).
- The Executive indicates that annual staff training costs in connection with a public body’s Gaelic language plan should amount to no more than £5,000 a year (paragraph 91). Given that some public bodies in Scotland (e.g. Glasgow City Council and the Scottish Executive itself) have several thousand employees, it would seem that the Executive does not contemplate that such plans should effect a significant change in the working culture of public bodies by significantly upgrading organisational Gaelic-language capacity. For example, it would cost well in excess of £5,000 to send a single employee on a Gaelic immersion course.
- The Executive suggests that ‘most public authorities would wish to give serious consideration’ to ‘providing a commitment to respond to Gaelic language correspondence in Gaelic’ (paragraph 91). The converse is necessarily implied here: that in some cases at least, the Executive could envision blessing a public body’s ‘Gaelic policy’ under which the authority would refuse to reply in Gaelic to letters written in Gaelic, or even to ignore such correspondence altogether.

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- A Gaelic Language Development Fund established by the Executive is to meet most of the costs of implementing Gaelic language plans. Ominously, the Executive indicates that the Bòrd ‘will take into account’ the extent of funding available from this source before it can request the development and implementation of language plans (paragraph 94); whether or not a plan could be deemed reasonable in the circumstances might well depend on whether such funding were actually available. As such, by ungenerous funding of this Development Fund, the Executive could effectively constrain the Bòrd’s work and ensure that language plans are limited in their scope. The history of the Gaelic Broadcasting Fund, whose value has been seriously eroded over the years by inflation and cuts, leading to significantly reduced programming output, inspires little confidence (see Dunbar 2006, pp. 7-10).

IMPLEMENTING THE ACT: THE ‘SLIDING SCALE’ APPROACH

The crucial mechanism for the implementation of the Act and the institutionalisation of ‘secure status for Gaelic’ is that of public authorities’ Gaelic language plans. The success or failure of the Act will depend substantially on the extent to which such plans bring about significant change, both in terms of such authorities’ use of Gaelic and the more general institutionalisation and status of the language. The mechanism by which such plans are to be developed, involving negotiation and preparation with one individual organisation after another, will necessarily be piecemeal and incremental. Here again the controversy inherent in the Act has been deferred, not least because each proposed plan will involve a public consultation by the authority in question (section 3(6)), so that Gaelic organisations and the Gaelic community will have to gear themselves up for battle after battle.

More problematically, there is a serious possibility that the failure of the Act to specify more clearly what is expected of different kinds of public bodies will lead to fundamental differences of views between, on the one hand, Bòrd na Gàidhlig and the Gaelic community, and, on the other, public bodies long accustomed to monolingual operation and with little understanding of the Gaelic situation. What seems reasonable to the Gaelic community might be considered burdensome or excessive by a public body for which Gaelic is low on (indeed hitherto absent from) its list of priorities; what seems reasonable to such a public body might be considered tokenistic or derisory by the Gaelic

community.

A key underlying difficulty is that the situation of Gaelic is distinctly unusual, being accorded national status even though only 1.2% of the national population can speak the language (General Register Office for Scotland 2005, Table 1). Granting such recognition is very important in status planning terms, as discussed above, but there are significant challenges when it comes to transforming that formal, high-level commitment into concrete, operational language policies. In other jurisdictions where legislation has been enacted to promote minority languages in the public sector, the proportion of minority language speakers is considerably higher; more than 20% of the population of Wales can speak Welsh, more than 30% of the Basque Autonomous Community can speak Basque, and even in the Republic of Ireland, where only about 3% of the population actually uses Irish on a daily basis, more than 40% of the population claimed the ability to speak the language in recent censuses (McLeod, forthcoming).

An obvious solution here, adopted in countries such as Finland, is to regionalise the legislation, bringing in a bilingual regime only in areas where the proportion of Gaelic speakers is sufficiently high, i.e. above some designated numerical threshold. Political and practical difficulties preclude this solution. Although it has largely been confined to the *Gàidhealtachd* in recent centuries, Gaelic is increasingly perceived as a national language by both Gaels and non-Gaels (McLeod 2001a). Perhaps more important, some 45% of the Gaelic-speaking population now lives outside the traditional *Gàidhealtachd*, even if their density is very low in the Lowland areas; no legislation could 'secure the status of Gaelic' while excluding almost half the speaker community.

In addition, Gaelic has now declined to such an extent that there are too few areas in which Gaelic is widely spoken to make such a regionalised regime meaningful or workable. By way of illustration, a density of 8% minority language speakers is sometimes used as a benchmark for designating a particular district as bilingual; this is the level used in Swedish-speaking areas of Finland, for example (Modeen 1999; see Finland Language Act 2003, sections 5-6).³ If the 8% threshold were applied, however, only 1 of the 32 local authority areas in Scotland would be covered, Comhairle nan Eilean Siar.

³The text of the Act (No. 423/2003) is available on-line at www.finlex.fi/pdf/saadkaan/E0030423.PDF.

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Lowering the threshold to 5% would add only two more local authorities, Argyll & Bute and Highland; indeed, there are not even any smaller districts or localities within the remaining 29 council areas where the 5% threshold is reached. Almost 75% of the Scottish population lives in local authority areas where less than 1% of the population speak Gaelic.⁴

Developing Gaelic language plans in areas where Gaelic is relatively widely spoken and has a high local profile is by no means a straightforward matter. Certainly there has been relatively little effort up to now, and still less success, in terms of institutionalising bilingualism. The two local authorities with the largest Gaelic-speaking populations, Comhairle nan Eilean Siar and Highland Council, have been proactive in certain fields, particularly Gaelic-medium education, but in other respects, such as developing bilingual operations and services, there has been much less institutional effort to normalise Gaelic, in striking counterpart to ‘heartland’ local authorities in Wales (McLeod 2001b, pp.19-21). For example, in 2005 Highland Council adopted a ‘Gaelic Language & Culture Plan’ in which any references to the offer of Gaelic-medium services were very general and tightly qualified: the Council undertook only to ‘publish a selection of key reports and documents bilingually’ and to ‘respond to the members of the public who wish to conduct their business with the Council through the medium of Gaelic’ ‘so far as resources permit’ (Highland Council 2005, p.13). This plan contrasts sharply with the highly specific and systematic programmes regarding the offer of bilingual services that are set out in Welsh language schemes under the Welsh Language Act, even those adopted by bodies in the most Anglicised areas of Wales (Welsh Language Board 1996; see, e.g., Monmouthshire County Council 1998).

Nevertheless, if councils serving ‘traditional’ Gaelic areas have made only limited progress in institutionalising Gaelic provision, the challenge of devising appropriate Gaelic language plans for Scotland-wide bodies and authorities serving parts of the country with extremely low proportions of Gaelic speakers

⁴*In some cases, the absolute number of speakers, not their density in the population, may be more meaningful. In Finland, a municipality may also be designated as bilingual if it has more than 3,000 minority language speakers. If that criterion were applied in Scotland, only five local authorities would be covered (Argyll & Bute, Edinburgh, Eilean Siar, Glasgow and Highland); lowering the figure to 1,000 would add another five (Aberdeen, Fife, North Lanarkshire, Perth & Kinross and South Lanarkshire).*

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involves difficulties of a different order of magnitude. Wholesale bilingualism is clearly out of the question in this context: when less than 2% of the local population (and the local labour force) speak Gaelic, it is manifestly impossible to offer the full range of services through the medium of Gaelic. What then can realistically be done in such circumstances, and what would be the most effective course in terms of ‘securing’ the language — increasing the confidence of Gaelic speakers, increasing actual levels of Gaelic use, increasing rates of Gaelic language transmission and acquisition? There is a real risk of strategic miscalculation, with time, money, and energy spent on things (most obviously translations of arcane documents) that have little if any real utility.⁵

LANGUAGE PLANS OUTWITH THE HEARTLAND: CHALLENGES AND POSSIBILITIES

Different organisations in ‘non-heartland’ areas will probably respond to the Act in different ways. A degree of outright opposition and hostility is inevitable. Some bodies made clear during the legislative process that obligations relating to Gaelic would be unwelcome, usually because they perceived no historical connection to Gaelic (e.g. Dumfries and Galloway Council 2004, West Lothian Council 2004). Outright anti-Gaelic prejudice is a minor but constant factor here; research suggests the persistence of a small but hard core of anti-Gaelic sentiment in Scotland (now aired most often in tabloid newspapers) (Sproull and Chalmers 1998; Market Research UK 2003). Individual antipathy may be particularly problematic when Gaelic language plans come to be implemented: individual managers or intermediate-level policy-makers can readily block, divert or dissipate strategic decisions taken at a high level in the organisation, and such interventions may prove difficult to unblock, even to detect.

Institutional or individual hostility is likely to be a relatively minor issue, however; most public bodies appeared reasonably satisfied with the legislation as it was going through the Parliament, with most of the concerns focusing, predictably, on the question of financing any additional Gaelic provision that

⁵*For a detailed practical discussion of how ‘non-heartland’ authorities might reasonably endeavour to implement the Act in a strategically useful fashion with achievable but non-tokenistic measures, see McLeod, 2006b.*

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might result from the implementation of the Act. The immediate challenge is simply that almost all public bodies in Scotland have always operated as English-only organisations, so that the monolingual mindset and monolingual ethos is deeply rooted in the institutional culture. Most public bodies in Scotland have no real concept of how to operate bilingually, or of how they might deal with Gaelic in a more meaningful and helpful fashion. The same was true of Wales in the 1960s, but decades of institutional change have brought about a fundamental transformation. Rejecting calls for Gaelic legislation in 2000, the late Donald Dewar specifically stated that he did not want Scotland to 'go down the Welsh road' (Campbell 2000). It remains to be seen whether key policy-makers and civil servants have really moved on from Dewar's viewpoint.

One risk is that public bodies will seek to adopt minimalist policies that reflect the view that Gaelic is of limited importance and marginal relevance. In the case of local authorities, there is a particular danger that Gaelic will be narrowly conceptualised as a matter relating only to the spheres of education and the arts, rather than the mainstream of business. The Act does make clear that language plans must address both internal operations and the provision of services; the 'functions' of a public body are defined so as to take in both '(a) functions relating to its internal processes' and '(b) the provision by the authority of any services to the public' (section 10(4)). However, the latter subsection could be construed as relating only to certain discrete services (such as those relating to education and culture) and not the spectrum of operations. The danger here is illustrated by the Gaelic policies adopted in recent years by public bodies such as the Scottish Arts Council and Scottish Natural Heritage; while these voluntary initiatives clearly demonstrate a degree of institutional interest in and support for Gaelic, none are comparable to the detailed operational policies of the kind put in place in Wales and envisaged by many in the Gaelic community in the wake of the Gaelic Language Act (compare Scottish Arts Council 2003 and Scottish Natural Heritage 2000 with Arts Council of Wales 1998 and Countryside Council for Wales 1998).

An important provision was added to the Gaelic bill at the behest of the Education Committee: in developing their Gaelic language plans, public authorities must have regard not only to 'the extent to which the persons in relation to whom the authority's functions are exercisable use the Gaelic language' but also 'the potential for developing the use of the Gaelic language in connection with the exercise of those functions' (section 3(5)(b)-(c)). In other words, they must consider not only the current position of Gaelic vis-à-

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vis the organisation but also how the organisation might contribute to the strengthening of Gaelic in the future. This provision may be said to embed the principle of ‘active offer’, a key concept in language planning — that it is not sufficient to respond passively only to proven and demonstrated demand for a minority language and that it is instead necessary to stimulate and increase the demand for and delivery of services in the language in an effort to strengthen and secure it more generally (Mac Donnacha 2002). Taken at face value, section 3(5)(c) is potentially almost limitless in its scope — in theory, Gaelic could conceivably be ‘developed’ to the point of becoming the default language of the organisation’s operations — but this provision clearly must be interpreted in line with the overall approach of the Act, which does not seek to impose unreasonable burdens.

The key challenge for Scotland-wide or ‘non-heartland’ bodies, then, is to find an approach that is both realistic and useful. Bòrd na Gàidhlig’s forthcoming guidance to public authorities concerning the content of language plans (to which public authorities ‘must have regard’) will play a crucial role here. The counterpart guidance from the Welsh Language Board (1996) is exhaustive and highly specific. Plans of this character contemplated by the Welsh Language Board would probably be unworkable for ‘non-heartland’ bodies in Scotland, at least in the short term, and efforts by the Bòrd to promulgate guidance of comparable rigour or to require plans along these lines would probably be quashed by the Executive. The challenge for the Bòrd is to produce guidance that is both operationally meaningful and politically acceptable. Once again, the mechanism of the Act means that controversy — inevitable controversy? — has been deferred.

PLANNING FOR GROWTH: THE ROLE OF EDUCATION

Education will certainly be a major topic in any local authority’s language plan, even if, as explained above, it would be inappropriate to conceptualise Gaelic development as relating entirely, or even primarily, to the field of education. Nevertheless, education is an important area for both strategic and practical reasons. Acquisition planning (that is, developing and implementing strategies to ensure the effective acquisition of the language) is one of the main strands in language planning, even if it is now generally accepted that language revitalisation requires much more than school-based language acquisition (Fishman 1991). As a practical matter, all local authorities can readily make some kind of contribution in this area, more so than with regard to services that

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could be offered in Gaelic only by individuals with both Gaelic language abilities and specialist skills.

Gaelic education is now fairly well-established in Scotland, although it has developed relatively recently, and only on a limited scale, compared to provision for similarly situated minority languages (McLeod, forthcoming). In 2005-6, 2068 primary school pupils at 61 schools and 315 secondary school pupils at 20 schools were enrolled in Gaelic-medium education; 3699 secondary school pupils at 42 schools were studying Gaelic as a subject (University of Strathclyde 2006). The institutional framework for Gaelic education remains inchoate in many respects; crucially, although various duties arise from the Standards in Scotland's Schools etc Act 2000 and the guidance that now accompanies it, there is still no obligation to provide Gaelic education and no right to receive it. Most local authorities still make very little provision for Gaelic, or indeed no provision at all. 18 of Scotland's 32 education authorities do not offer Gaelic-medium education in any of their primary or secondary schools; and of the 14 authorities that do provide such education only three, the 'heartland' authorities of Argyll and Bute, Eilean Siar and Highland, make it available in more than one school. 19 of the 32 local authority areas do not offer Gaelic as a subject in any of their secondary schools; in Scotland's four largest cities, a total of three secondary schools teach Gaelic.

The crucial dynamic here is the proper role of parental demand. Local authorities generally agree to provide Gaelic-medium education only after a sufficiently large group of parents becomes organised and pressures and lobbies the council (a process that is laborious and time-consuming at best, frustrating and fruitless at worst). Gaelic (whether as a subject or the teaching medium) is almost never offered as a matter of course in the way that French (to say nothing of Mathematics) is.

In light of this difficulty, and the Act's command that local authorities must exploit 'the potential for developing the use of the Gaelic language',⁶ a basic

⁶Another relevant requirement arises from the *European Charter for Regional or Minority Languages*, a Council of Europe treaty ratified by the United Kingdom in 2001. The UK government has bound itself to paragraph 8(i)(b)(i) and (c)(i) with regard to Gaelic, which requires it 'to make available' primary and secondary education in Gaelic. The UK government adhered to the strongest of four alternative formulae in this area; its commitment is interpreted as referring to provision of both

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provision of any local authority's Gaelic plan might be to ensure that at least one of its primary schools offers Gaelic-medium education and at least one of its secondary schools offers both Gaelic-medium education and Gaelic as a subject. In line with the 'active offer' principle discussed above, it would be appropriate for such provision to be put in place by the local authority, i.e. arranged and promoted on its own initiative, not only in response to a parental campaign. Of course, such an initiative might end up attracting little interest despite best efforts, but the burden would have shifted from individual parents to the local authority.

This would of course be only a small step forward for the institutionalisation of Gaelic, although it would probably be extremely unpopular with certain local authorities. Mechanisms would be needed in any language plan to ensure constant and consistent development. Gaelic education is currently minimal in scale, but, theoretically at least, there is no limit to its potential for growth: as an indication of what can be achieved, Wales now has 448 Welsh-medium primary schools enrolling more than 50,000 pupils, some 20% of the total (McLeod forthcoming, Table 1). Although it is most unlikely that Gaelic-medium education will ever catch up with Wales, language plans need to ensure that there is a defined trajectory for any potential growth.

Such an approach shows a way forward in one crucial area. Similarly bold and imaginative measures in a range of fields would need to be taken more systematically in order to to fulfill the Act's potential.

CONCLUSION

The Gaelic Language Act is without question a major development for the institutionalisation of Gaelic, and the final version of the legislation is significantly more promising than might have been expected given the Executive's reluctance to legislate in this area and the deficiencies of its

Gaelic as a subject and Gaelic-medium education, which is to 'be made available without condition to all who request it' (Council of Europe 2004, p.32, paragraph 192). The geographic limits of this obligation are not entirely clear, as it applies within 'the geographical area in which [Gaelic] is the mode of expression of a number of people justifying the adoption of the various protective and promotional measures provided for in this Charter'; this would certainly include the traditional Gàidhealtachd and the larger urban authorities in Lowland Scotland, but might not extend to smaller Lowland local authority areas where very few Gaelic speakers live.

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original draft bill. The actual impact of the Act will depend significantly on how it is interpreted by Bòrd na Gàidhlig, by the Executive, and, especially, by public authorities across Scotland. The Act can certainly ensure some progress towards its stated goal of ‘securing the status of Gaelic’. Yet language legislation is only one element in the complex mix of actions and initiatives that are required for a successful language planning programme. The position of Gaelic has been compared to ‘an overcoat wrapped around an invisible man’ (MacKinnon 1998). While a proper protective overcoat is clearly required, there is a danger that too much effort may go towards the continuous thickening of the overcoat rather than the nourishment of its wearer. No matter how many bilingual websites are developed and bilingual reports published, the language will continue to decline unless children continue to learn it and those who speak the language choose, and are equipped, to use it. All institutional efforts to sustain Gaelic must be connected to the main goal of securing the position of the language within the home and the community.

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