

## Explanatory Memorandum

### The proposed title of the Bill

Protection of Historic Place Names (Wales) Bill<sup>1</sup>

### The proposed policy objective(s) of the Bill

**The purpose of the Bill is to protect historic place names in Wales.**<sup>2</sup>

This Bill will prevent the loss of a key element in our national heritage. Its policy objective includes those names that:

- have an association with, and reflect, topography/place;
- have an association with historic or notable person(s);
- have an association with past events (e.g. battles) or periods (e.g. invasions) that have had an impact on Wales' socio-cultural and economic history;
- have an association with the cultural history of locations (e.g. links to traditions, industry, legends).

It is clear that there is a need for a reliable and authoritative register of Welsh historical place names which will provide the basis for any legislative protection or promotion.

The Historic Environment (Wales) Act 2016 places a duty on Welsh Ministers to “compile and maintain a list of historic place names in Wales”, and it therefore seems pragmatic to use this as the basis for any new legislation in this area.

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<sup>1</sup> As required by Standing Order 26.91B, I consider this proposed title to be consistent with that provided in my pre-ballot information. It has been slightly amended to provide greater clarity that the Bill will protect all historic place names, be they in Welsh, English or any other language

<sup>2</sup> As required by Standing Order 26.91B, I consider this policy objective to be consistent with that stated in my pre-ballot information. The additional information under 'Policy Objectives of the Bill' (compared to that included in the pre-ballot information), has been provided so that Members have a greater level of clarity on my thinking as to how the policy objective may be achieved.

### *Type of Name:*

It is proposed that the Bill will seek to protect historical place names including houses and farms, fields, natural features, designed landscapes and the historic and archaeological environment.

The Bill will seek to protect place names (be they in Welsh, English or any other language).

### *Type of Name Change:*

It is proposed that the Bill will encompass; a complete change of name, partial change of name, change in spelling, and the addition of a Welsh or English name to the standard or official name.

### *Type of duty:*

There are a range of options by which historical place names might be protected. These include:

- Ensuring that landowners are aware of the historical significance of place names;
- Introducing a requirement on landowners or public bodies to consult with an identified public body (or identified public bodies) when changing a historical place name;
- Introducing a consent regime when seeking to change a historical place name
- Introducing a general prohibition on changing a historical place name;
- Requiring landowners or public bodies to use historical place names, when producing publicly accessible information; and
- A combination of the different options above, potentially dependent on the type of name or situation in which a name change may occur.

Following the determination of the most appropriate option(s) for achieve the Bill's policy objective, through consultation with stakeholders, the Bill would then adopt a proportionate enforcement regime, again following consultation with stakeholders.

## Details of any support received for the Bill, including details of any consultation carried out

Following the ballot of 25 January 2017, a number of organisations and individuals with an interest in protecting historical place names have shown their interest and support for the Bill's overall principle and policy objectives.

As a result, on 17 February 2017, a stakeholder event was held, with a view to bringing interested parties together to discuss the scope of the bill, the options in terms of legislative frameworks and the possible costs of the bill. The event was attended by representatives from the following organisations:

- Royal Commission on Historical and Ancient Monuments;
- National Trust;
- Ordnance Survey;
- Welsh Place Name Society;
- Cardiff University;
- Welsh Local Government Association;
- Welsh Language Commissioner's Office;
- Cymdeithas yr Iaith Gymraeg.

A number of individuals with a personal or professional interest in the protection of historical place names were also in attendance.

Written submissions of interest were also received from representatives of the Centre for Advanced Welsh and Celtic Studies and Mynyddoedd Pawb, who were unable to attend the stakeholder event.

Support for the Bill's Policy Objectives has been received from the Welsh Place Name Society, Mynyddoedd Pawb, the Welsh Language Commissioner and a range of individuals, including academics and experts in the field.

## An initial assessment of any costs and/or savings arising from the Bill

Under Standing Order 26.91A (iv) there is a requirement for an initial assessment of any costs and/or savings arising from the Bill.

I am looking at a spectrum of options in terms of how this Bill will be developed and it is clear from my initial stakeholder event, on 17 February, that there will be opportunities to craft a Bill that will minimise the impact of the Bill while holding true to the principles of the intention to protect historical Welsh place names.

The main potential areas where costs will fall on the introduction of such a Bill are around:

1. writing guidance and communicating changes to legislation;
2. setting up or validating existing list of places and names;
3. any consultation costs that might be part of a system implemented by the Bill and/or costs involved in processing applications for historic place name consent;
4. enforcing the legislation and dealing with appeals / tribunal costs; and
5. any unforeseen consequences.

1. Any costs of writing guidance and communicating changes to the public would fall on the Welsh Government. There would be a need to communicate this change of status and requirements to owners of properties or features impacted upon by this Bill. As a proxy, it was estimated in the [Historic Environment Bill RIA](#) that “specific guidance for owners and Local Planning Authorities on the protection and management of historic parks and 2016–2017” **would cost around £5,000**. The actual costs will be dependent on the complexity of the guidance and the number of people / organisations that would need to be contacted in relation to the changes in legislation. I expect costs to be somewhere in the region of this figure, although there could be additional communication costs to ensure that all owners of properties are aware of the new requirements of this legislation. The minimisation of costs in relation to this requirement can be explored through using existing systems that local or community councils have in place.

2. While setting up a list of places and names could potentially be a significant cost, the Historic Environment (Wales) Act 2016 already states that “The Welsh Ministers must compile and maintain a list of historic place names in Wales”.

In terms of what this list is meant to contain, the Explanatory Memorandum to the Bill stated:

*Historic place names provide invaluable evidence about social, cultural and linguistic history. The names of settlements, houses and farms, fields and natural features provide information about past and present agricultural practices, local industries, changed landscapes and current and former communities. They provide evidence for the development of a rich linguistic heritage — Welsh, English and other languages.*

There is currently a requirement to publicise this list and keep it up to date. So I will explore how well this register fits in with the needs of the Bill that will be developed. A view would need to be taken on the quality of the information contained on this list and whether there would need to be any validation or further work to be done to ensure that the names on the list are sufficiently valid. Nevertheless, the existence of a list, and pre-existing funding to compile such, means that the financial consequence of this element of the Bill may be minimised.

The Royal Commission on Historical and Ancient Monuments have advised that they currently receive £60,000 funding a year primarily to compile and maintain this list. Raising the status of this list means that more input may be needed to ensure that the names on the list are robust and fit for purpose. I will consider during development of the Bill whether there should be different levels of protection for more historically significant names.

The Heritage Bill RIA estimated that setting up a statutory register of historic parks and gardens would cost £48,400 over two years. In developing this legislation I will balance the need to minimise costs with the ability to achieve the aims of the Bill.

3. I will explore the potential for a scale of options in the Bill from a requirement to consult with an identified public body when changing a historical place name (from the list) through to a consent regime.

**The costs for simply consulting an identified public body would be fairly minimal and I will work with partners to ensure that the proposals are as costs effective as possible.** Where possible this should be able to be processed online, while ensuring that all those affected are aware of any potential change. The [Local Government \(Democracy\) \(Wales\) RIA](#) demonstrated that community councils would be expected to have the capacity to publish information online either individually or collaboratively. Where this is part of a change of use or planning application, I may find that this could simply form part of the existing process.

The Bill could create a requirement for an individual to seek consent from an authority when seeking to change the name of any place whose name is included on the list of historic place names. This authority might be the local planning authority (as is the case with listed building consent) or the Welsh Government (as is the case with scheduled monument consent). The consent process – including how decisions are reached and how to appeal against these decisions – could then mirror that in use either for listed buildings or scheduled monuments, or some combination of the two.

A possible objection to this approach would be the cost involved in processing applications for historic place name consent. During Stage One scrutiny of the Historic Environment Bill, there was concern among respondents that the existing financial challenges facing local authorities, and the heritage sector more generally, would be a barrier to the effective implementation of the Bill's provisions. If such an approach were to be considered in developing this Bill, I would work closely with delivery partners to ensure that an efficient system is designed that is not burdensome in terms of administration or enforcement.

4. In terms of the cost of such appeals, the scope of any appeal would be small and focussed. There may be potential for initial appeals in terms of whether items should be on the heritage place names list as well as periodic appeals going forward.

**An important part of research into this area will be the identification of how many such cases are likely to happen each year.** Input from stakeholders will be crucial and where possible I will also draw on international experience.

A key theme from scrutiny of the Historic Environment Bill, arising in evidence from local authorities, was the pressure that they feel in resourcing this policy area. I will work closely with colleagues in the local authorities and community councils to ensure that burdens on them are minimised and hope they will be partners in developing this legislation.

A key aspect of developing this legislation will be the minimisation of costs relating to enforcement and appeals. In terms of previous estimates of tribunal costs for relatively contained issues relating to a single property, the [RIA of the Housing \(Wales\) Bill](#) (para 7.381) estimated that tribunal costs in relation to revaluations cost on average around £170 per case. The Food Hygiene (Wales) Bill RIA estimated according to the WLGA that an appeal on average takes 3 hours to consider at a rate of £40 per hour, a total of £120. **I believe that the number of disputes can be minimised by adding to the Welsh Government historic place names list and having clear, simple and proportionate legislation.**

5. I will consult widely during the Bill's development to minimise the potential for unintended consequences (for example on less directly impacted on/upon organisations, such as the National Trust).

There is also the potential that the implementation of this Bill could raise the profile of the current list being developed by the Welsh Government and expectations. So there could be more demand to add names to the list.

Development of the Bill will look to minimise the likelihood of appeals by having a clearly defined list, provided by simple and proportionate legislation.