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Humphries, E., & Ayres-Bennett, W. (2023). The hidden face of the UK's public language policy. *Languages, Society & Policy*. <https://doi.org/10.17863/CAM.100155>

Published in:
Languages, Society & Policy

Document Version:
Publisher's PDF, also known as Version of record

Queen's University Belfast - Research Portal:
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The hidden face of the UK's public language policy

| Emma Humphries and Wendy Ayres-Bennett | May 2023 | Policy paper

- Our analysis challenges three common misconceptions:
 1. The United Kingdom (UK) has little to no language policy;
 2. UK language policy concerns 'modern languages' only; and
 3. UK language policy is primarily, if not exclusively, found in the Education domain.
- Our analysis of UK legislation shows that much of the language policy is actually 'hidden' in legislation which is primarily about another issue and is therefore not easily visible to either the public or policymakers. We found 1,501 examples of primary and secondary language legislation, most of it 'hidden'.
- Legislation concerning the UK's indigenous languages is more numerous than modern language policy, which is perhaps surprising given that the UK is often seen as monolingual.
- We found language policy in 21 domains, including Public health and safety, Law and crime, and Media, much more than just Education.
- With over 90% of language legislation hidden—some of which marks important landmarks in the status of languages—legal coverage for languages is patchy and the importance of languages risks being overlooked. This is a barrier to a coherent, joined up language(s) strategy.
- Most language legislation is being drafted by policymakers and civil servants whose expertise lies in other domains. Those drafting legislation might benefit from training and support which encourages a systematic consideration of whether their portfolio has a language dimension, in the same way that gender and ethnicity are now considered.
- Further work is needed to determine the extent to which 'hidden' language policies are implemented. There is doubt about this first, because of a potential lack of awareness of the policies, and second, due to the way legislation is

formulated. The use of hedging clauses, permissive auxiliaries such as 'may' and vague phrasing may mean that the legislation is not consistently applied.

- With the diversity of language policies in the different jurisdictions of the UK, more cross-jurisdictional comparison and collaboration might be beneficial to highlight best practice where it is found.

Introduction

The United Kingdom (UK) is often considered to lack a strong and coherent public language policy, and to have little to no interest in languages. One consequence of this is that the UK and its devolved nations are likely not harnessing the full potential of the country's language skills. Primary legislation (the main laws passed by legislative bodies) and secondary legislation (used to fill in details of Acts) relating to the UK and the devolved nations are one significant part of the language policy landscape. For our study (Humphries and Ayres-Bennett 2023), we created and analysed a corpus of all primary and secondary legislation (January 1918–January 2021) from the UK and devolved administrations which concerns language(s). This can be consulted in the [repository of language policy documents](#) built as part of the Promoting Language Policy project, funded by the Arts and Humanities Research Council. Since 1998, certain powers in Northern Ireland, Scotland and Wales have been devolved from the UK government and Parliament, creating distinct governments and parliaments or assemblies in each jurisdiction with differing abilities to make primary and secondary legislation. For instance, Education and training are devolved in all jurisdictions, whereas Immigration policy is a reserved area, i.e. it is the responsibility of the UK Parliament alone. Since devolution, and in some cases pre-devolution, the language policy of the constituent jurisdictions has diverged, notably regarding Education (Ayres-Bennett and Carruthers 2019).

All legislation was collected from the UK government's online legislation database. Using search terms, we looked for any reference to language, either generally or a specific language, in the title and/or content of legislation. Searching both title and content meant that the searches returned explicit language policy, i.e. policy which has a language-related term in its title, and 'hidden' language policy, which is primarily about another subject but contains one or more clauses relating to language issues.

We found 1,501 examples of UK language legislation. The corpus of legislation was then categorized as follows:

1. Explicit vs hidden legislation
2. Jurisdiction (UK wide, England, Northern Ireland, Scotland, Wales)
3. Legislation type (primary or secondary)
4. Language type (community, indigenous, modern languages (ML))
5. Domain

In our categorization, ML is understood in the narrow sense of ML educational policy, typically in the UK the teaching of French, German, Spanish and, to a lesser extent, Italian, Mandarin, Russian. In what follows, we take three common beliefs about UK language policy and, using our corpus, show how these are in fact misconceptions. When referencing sections of legislation, we use Art. for Article, Para. for Paragraph and S. for Schedule.

Misconception 1: The UK has little to no language policy

As noted, perhaps contrary to expectations, our search revealed 1,501 pieces of primary and secondary language legislation. It is hardly surprising, however, that it is commonly believed that the UK has little to no language policy as over 90% of this legislation is 'hidden' in legislation primarily on another topic. For instance, the [Scottish Land Court Act 1993](#) stipulates that 'one of the members of the Land Court shall be a person who can speak the Gaelic language' (Art.5). This primary legislation, which sets out the Court's authority in matters concerning Scottish agriculture and crofting (a system of landholding unique to Scotland), contains this single, but nonetheless significant, clause concerning Gaelic. Just 108 pieces of language legislation (7.2% of the corpus) are categorised as explicit, i.e. make explicit reference to language(s) or a specific language in the title. Of these, six are examples of primary legislation (four relating to Wales, two to Scotland); the remaining 102 are secondary legislation. The explicit primary legislation all concerns the status, protection and promotion of languages, specifically Welsh and Gaelic, e.g. the [Welsh Language Act 1993](#) and the [Gaelic Language \(Scotland\) Act 2005](#).

Legislation type	No.	%
Explicit	108	7.2%
'Hidden'	1,393	92.8%

Table 1: Explicit vs 'hidden' legislation

Language legislation which is 'hidden' in legislation which primarily concerns another topic represents 92.8% of the corpus (n=1,393), of which 13.4% is primary (n=187) and 86.6% is secondary legislation (1,206). In some cases, 'hidden' language legislation contains landmark provision for languages. For example, primary legislation in the Nationality and citizenship domain sets out the language(s) a person must speak to become a British citizen. The [British Nationality Act 1948](#) states that one requirement for the 'naturalisation of an alien' is 'sufficient knowledge of the English language' (S.2, 1.d). This is amended in the [Immigration Act 1971](#) to include Welsh (Appendix A to S.1, Art.2D), and in the [British Nationality Act 1981](#) Gaelic is added (S.1, Art.1)—equating, in legislative terms, English, Welsh and Gaelic as legal markers of 'Britishness'. Given that the Gaelic Language (Scotland) Act was not enacted until 2005, this represented a significant milestone for the status of Gaelic in 1981. The [Immigration Act 2014](#) serves as a point of contrast here, amending Art.8 of the [Nationality, Immigration and Asylum Act 2002](#) as follows:

(2) It is in the public interest, and in particular in the interests of the economic wellbeing of the United Kingdom, that persons who seek to enter or remain in the United Kingdom are able to speak English, because persons who can speak English—(a) are less of a burden on taxpayers, and (b) are better able to integrate into society.

Whereas earlier Nationality and citizenship legislation was inclusive of certain indigenous languages, the 2014 Act stresses the importance of English, reinforcing a monolingual ideology that positions a monolingual society as practical and inclusive. This significant legislative position, which affects the language policy landscape of the UK, is 'hidden' within immigration legislation.

Misconception 2: UK language policy only concerns modern languages

A second misconception is that UK language policy principally concerns ML, with little to no legislation for the indigenous (including British Sign Language (BSL), Cornish, Gaelic, Irish, Manx, Scottish Gaelic, Scots, Ulster Scots, and Welsh) and community languages of the UK, i.e. those of the UK's immigrant communities, both recent and longstanding. Whether explicit or 'hidden', legislation about indigenous languages outnumbers ML legislation. Looking at the corpus as a whole (Table 2), legislation

concerning ML is, in fact, the smallest section, with three times more legislation concerning community languages (n=270) and over seven times more concerning indigenous languages (n=686). This misconception is perhaps explained by the fact that the highest proportion of ML legislation (n=17) is found in the explicit language legislation category, although, here too, it is still outnumbered by indigenous language legislation (n=87). This numerical imbalance is explained by the substantial body of legislation relating to Welsh and, to a lesser extent, Gaelic. Conversely, Scots, Cornish, Manx feature minimally in legislation in other domains, and legislation for Irish remains highly contentious because of the political association of the Irish language traditionally with the Catholic, Nationalist and Republican community. As mentioned above, much of the explicit legislation for indigenous languages concerns their status, protection and promotion.

Language type	No.
Indigenous	686
Community	270
ML	90

Table 2: Legislation by language type

Within the chronological scope of our corpus, Scotland also has primary legislation dedicated to BSL, the [British Sign Language \(Scotland\) Act 2015](#). However, landmark legislative provision for BSL was introduced in April 2022, and with the [British Sign Language Act 2022](#) BSL is now recognized as a language of England, Wales and Scotland. There is no comparable for BSL or Irish Sign Language (ISL) in NI (De Meulder, 2015 provides a useful summary of the legal recognition of sign languages).

The corpus contains relatively little legislation relating to community languages, and the vast majority of what does exist is 'hidden' and may be coloured by a prevailing monolingual ideology. In fact, just one piece of explicit language legislation provides for community-language speakers ([The Right to Interpretation and Translation in Criminal Proceedings \(Scotland\) Regulations 2014](#)). Much of the 'hidden' legislation concerns the provision of documents and information in languages other than English. For instance, the [Electoral Administration Act 2006](#) lists the alternative formats in which documents should be made available for voters, including Braille, and 'languages other than English'. While not explicitly stated, this presumably encompasses provision for

community-language as well as indigenous-language speakers. However, the decision about the language(s)/format(s) in which to provide information is left to 'the person who is required or authorized to give or display the document' whose choice should be made 'as he thinks appropriate' (Art.36), potentially limiting the legislation's effects (note that legislation drafting guidelines now encourage the use of gender-neutral language). The teaching of community languages often forms little or no part of curricula in mainstream UK schools, their teaching falling instead to the strong network of volunteer-run complementary or 'Saturday' schools. Whilst community-language speakers are offered some linguistic protections in UK legislation, in our corpus, there is no legislation relating to community languages education.

Misconception 3: UK language policy is primarily, if not exclusively, found in the Education domain

It is commonly thought that UK language policy only relates to the Education domain. There is, of course, significant language legislation in this domain; 283 pieces of language legislation concerned Education (18.9% of the corpus). This includes, for instance, ML legislation which determines the statutory requirements for language teaching in schools, including the age from and to which languages should be taught (e.g. [The Education \(National Curriculum\) \(Modern Foreign Languages\) Order 1989](#)), and student exemptions from languages education (e.g. [The Education \(National Curriculum\) \(Exceptions at Key Stage 4\) Regulations 1998](#)). However, Education is just one of the domains in which language legislation is found (Table 3).

Domain	No.	%
Public health and safety	316	21.1%
Education	283	18.9%
Law and crime	197	13.1%
EU law and Brexit	114	7.6%
Social care	92	6.1%
Business	84	5.6%
Finance	82	5.5%
Health services	53	3.5%
Elections and voting	49	3.3%
Transport	47	3.1%
Registration of births, deaths and marriages	28	1.9%
Status, protection and promotion of languages	28	1.9%
Media	26	1.7%
Government	23	1.5%
Nationality and citizenship	20	1.3%
Land and property	19	1.3%
Census	15	1.0%
Tax	4	0.3%
Charities	3	0.2%
Armed forces	2	0.1%
Other	16	1.1%

Table 3: Legislation by domain

We have found abundant evidence that language issues permeate society, from prisons, appeals and tribunals to health and social care, food labelling and the media, not just the obvious domains concerning corpus and acquisition planning. Overall, 21 domains were represented, the top three being Public health and safety, followed by Education, and Law and crime. Where public safety or access to justice are concerned, practical considerations outweigh the impetus to promote English over other languages. For instance, the [Juvenile Justice Centre Rules \(Northern Ireland\) 2008](#) state: 'Where a child is not fluent in English all reasonable steps shall be taken to provide the services of an interpreter' (Art.11). However, the caveat of 'all reasonable steps' once again apparently mitigates the obligation of such provision.

As outlined above, in some cases legislation from other domains can represent a landmark in provision or status of languages. To give one example, language is not currently a protected characteristic in the UK, unlike, for instance, sexual orientation and race, but in certain legislation concerning the domains of Health services and Law and crime it receives the same protections. Art.16 of [The Private and Voluntary Health Care \(England\) Regulations 2001](#) states that suitable arrangements shall be made to ensure that a healthcare establishment is conducted 'with due regard to the sex, religious and spiritual needs, racial origin, and cultural and linguistic background and any disability of patients'. Here language is legally equated with other protected characteristics within the domain of Health services, where consideration for the safety and protection of patients dominates (see Blumczynski and Wilson 2023 for another example of the consequences of this intersection between language and health care). Many of today's protected characteristics have a slow history of becoming protected; for instance, the 2010 Equality Act consolidates legislation prohibiting racial discrimination starting from 1965.

Recommendations and policy implications

With so much of the UK's language legislative policy 'hidden' within legislation which is primarily on another topic entirely, it is hardly surprising that the scale of UK language legislation is underestimated. Existing language policy may be forgotten or overlooked; stipulations such as 'as he thinks appropriate' and other caveats further increase this risk. Furthermore, the majority of language legislation is being prepared and written by policy makers and civil servants whose areas of expertise are in other domains, e.g. Law and Crime or Transport, rather than language.

We believe this has significant repercussions for the language landscape in the UK and make the following recommendations:

- Language policy permeates legislation across at least 21 domains. This suggests that when legislation is being drafted, it is important to consider whether there may be a language dimension to it, even in areas where this may not initially be obvious. Civil servants might moreover benefit from training to raise awareness of how their portfolios may have a language(s) dimension.
- Over 90% of the UK's language legislation is 'hidden' in policy which is primarily about something else. This militates against a joined-up, coherent language

strategy. If the UK is to use its language skills to their full potential, greater cross-government collaboration is needed, across ministries, departments and jurisdictions. In addition, more cross-jurisdictional comparison might be a fertile area for future research to highlight best practice.

- More work is needed on how 'hidden' policies, in particular, are implemented. The use of hedging clauses and permissive auxiliaries such as 'may' in the formulation of current language legislation potentially leaves it open to not being applied consistently; similarly, ambiguous phrasing, e.g. references to 'different languages' with no further specification, means that it is often unclear what is—or is not —protected by legislation.

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Cite this article

Humphries, Emma and Wendy Ayres-Bennett. 2023. 'The hidden face of the UK's public language policy'. *Languages, Society and Policy*. <https://doi.org/10.17863/CAM.100155>