

Welsh Language Standards (Health Sector) Regulations

Consultation response form

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Responses should be returned by **14 October 2016** to

Welsh Language Division
Education and Public Services
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Or completed electronically and sent to:

e-mail: UnedlaithGymraegWelshLanguageUnit@wales.gsi.gov.uk

About Community Pharmacy Wales

Community Pharmacy Wales (CPW) represents community pharmacy on NHS matters and seeks to ensure that the best possible services, provided by pharmacy contractors in Wales, are available through NHS Wales. It is the body recognised by the Welsh Assembly Government in accordance with *Sections 83 and 85 National Health Service (Wales) Act 2006* as 'representative of persons providing pharmaceutical services'.

Community Pharmacy Wales is the only organisation that represents every community pharmacy in Wales. It works with Government and its agencies, such as local Health Boards, to protect and develop high quality community pharmacy based NHS services and to shape the community pharmacy contract and its associated regulations, in order to achieve the highest standards of public health and the best possible patient outcomes. CPW represents all 716 community pharmacies in Wales. Pharmacies are located in high streets, town centres and villages across Wales as well as in the major metropolitan centres and edge of town retail parks.

Part 1: Delivery of services by health boards and trusts

Question 1 – Do you agree that the definitions of clinical consultation and health provision are clear and comprehensive?

Yes	<input type="checkbox"/>	No	X
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Supporting comments

Regulation 1(4) defines a 'clinical consultation as 'a health provision interaction between an individual and a body which includes the assessment, diagnosis or treatment of that individual'. We believe that this definition is potentially confusing when the care is provided by an individual on behalf of a body. We would suggest that the wording 'between an individual and a body, or an individual acting on behalf of a body', be used.

Question 2 – Is the proposed standard 25 (clinical consultation) practical in the various scenarios described in the consultation document?

Yes	<input type="checkbox"/>	No	X
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Supporting comments

CPW understands that the standards, as proposed, are 'targeted specifically at bodies within the health sector' and the requirements around clinical consultation apply in the main to Health Boards, NHS trusts, Community Health Councils and the NHS Business Services Authority.

Given the fact that this is underpinning legislation, CPW has a particular concern in relation to the Regulations seeking to embed in law the definition of 'clinical consultations' as there is a risk, at some stage in the future, that some of the regular patient interfaces in primary care could inadvertently be regarded as clinical consultations. For example: there are over 35,000 visits each day to community pharmacies in Wales by people seeking advice, in the main at healthcare counters, on their health and also seeking treatment for common ailments. The majority of these transactions are handled by trained healthcare staff, who first ascertain the nature of the condition before recommending treatment. This interaction will currently fall within the proposed definitions in the Regulations of a 'clinical consultation'. We are sure that the Commissioner will recognise that applying the Standards to high volume consultations that typify primary care services is operationally impractical and that neither individual contractors nor NHS Wales as a whole would have the capacity to manage a change of this magnitude.

CPW recognises and fully supports the pragmatic approach being taken by the Commissioner, in that the Standards proposed are not applicable to individual community pharmacies or pharmacists at this stage. We do however have a slight unease in that there is a provision within Regulation 4 to require The General

Pharmaceutical Council (GPhC) to comply with Welsh Language Standards through the issuing of a Compliance Notice. In this scenario the GPhC could well turn to its registrants to discharge some aspects of its responsibilities and this would then have the effect of subverting the intention of the Regulations as they apply to primary care. CPW would feel more comfortable if it was clear in both the Regulations and any guidance that requirements that fall on a regulatory body, fall on that body only and not the health or social care professionals that the body regulates.

Question 3 – Is keeping a record, and acting in accordance with the individual’s language preference practical?

Yes	<input type="checkbox"/>	No	X
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Supporting comments

CPW are not opposed to the language preference of an individual being discussed prior to a clinical consultation, on the contrary CPW would encourage this, as it is an important principle that a person is able to fully engage in decision making about their care. In addition CPW believes that this principle should equally apply to other residents in Wales whose first language is neither English nor Welsh.

CPW is however concerned that, should the standards be applied to primary care professionals at some stage in the future, the standards would be extremely challenging for primary care professionals to meet particularly those involved in high volume, time limited consultations and those operating in more remote locations where support networks are less developed. CPW would also draw attention to the fact that a number of clinical consultations with people resident in Wales now take place on-line with clinicians outside of Wales even for NHS services. In addition CPW has concerns that in seeking to make arrangements for a consultation to take in a patient’s language of choice this could well result in a delay in care and a risk of potentially negative outcomes for a patient.

If the healthcare professional or another member of the team does not have the language skills to conduct the consultation through the medium of Welsh then the standards require that the healthcare professional offers a translation service. CPW therefore believes that, if the standards are to be introduced as proposed, there is responsibility on the Welsh Government and its Health Boards and Trusts to ensure that adequate translation capacity exists in their areas of responsibility. As NHS care is moving to 24/7 care then translation services will need to be available on the same basis.

The consultation document is a little confusing as it is currently written in that Page 7 paragraph 2 states that “the body **must** provide Welsh language support at clinical consultations’ whereas paragraph 3 states that ‘the principle underpinning Welsh language support is, **where possible**, the body holds the clinical consultation in Welsh.

Question 4 – Do you agree with the concept of Welsh language support during clinical consultations?

Yes	X	No	<input type="checkbox"/>
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Supporting comments

CPW is fully supportive of the concept of providing care to a patient through the language medium of their choice during a clinical consultation, provided, as stated in our response to Question 2 , that ‘clinical consultation’ is more clearly defined.

CPW’s does have concerns however that an over vigorous application of the Regulations, could result in a delay in care or a deterioration in a patient’s condition and also in relation to the availability of accessible and timely translation resources.

Question 5 – Do you agree that the definitions of case conferences and health-related provision are clear and comprehensive?

Yes	X	No	<input type="checkbox"/>
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Supporting comments

CPW is content with the definitions subject to its response to question 1.

Question 6 – Do you agree that case conferences should be treated differently to clinical consultations and other meetings?

Yes	<input type="checkbox"/>	No	X
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Supporting comments

If the purpose of providing a clinical consultation to a patient through the language medium of their choice is to improve understanding and to make the consultation less stressful for a patient, then CPW believe that the same principle should be applied to any discussion with a patient that may affect their health or well-being.

Question 7 – Does the list of healthcare professionals at paragraph 38 capture everyone who may be involved in a case conference or meeting that involves only healthcare professionals?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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Supporting comments

CPW do not have the experience of case conferences to respond adequately to this question. CPW do however feel that it may not be good practice to seek to capture all roles in Regulations or Regulatory Guidance as Regulations often have a fairly long life span and roles could well change during the life-time of the Regulations.

Question 8 – Do you agree with the approach that an individual can expect compliance with the Welsh language standards imposed (if any) on the body who is physically providing or carrying out the clinical consultation or case conference?

Yes	<input type="checkbox"/>	No	X
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Supporting comments

While CPW is content with the principles it does not feel comfortable with the standards being a legal requirement that will no doubt end up with compensation claims for non-compliance. NHS Wales faces unprecedented challenges on its time and financial resources and CPW does not feel comfortable with valuable resources being diverted from patient care to defend compensation claims.

Question 9 – Do you agree that health care provision in prisons should be treated in the same way as other health care?

Yes	X	No	<input type="checkbox"/>
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Supporting comments

CPW believe that an individual's rights to receive quality care should not be affected by their imprisonment.

Question 10 – Do you agree with the proposed exemptions and the reasons why?
E.g. responding to Civil contingencies and emergencies, excluding private hospitals and hospitals outside Wales?

Yes	X	No	<input type="checkbox"/>
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Supporting comments

CPW feels that the proposed exemptions appear to be appropriate and pragmatic. CPW would however question why a private hospital commissioned to provide a service on behalf of NHS Wales should be treated any differently to an independent contractor being commissioned to provide a service on behalf of NHS Wales, in that: if the Standards are extended to primary care they should simultaneously be extended to private hospitals.

Part 2: Primary care

Question 11 – Do you agree that contracted primary care services and services of a similar type provided directly by the local health board should be treated in the same way?

Yes	X	No	<input type="checkbox"/>
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Supporting comments

While CPW supports the principle of the Standards applying to NHS Bodies it is aware that the requirements are likely to encompass regulatory bodies at some stage in the future. If this is the case then there will be an additional regulatory burden imposed on these bodies and the cost of meeting that additional cost could fall on the people it regulates. If this is to be avoided then the cost of compliance should be reimbursed by Welsh Government.

CPW is pleased to see that the consultation recognises the particular challenges of primary care provision and the Commissioner has adopted a pragmatic approach to the introduction of the Standards in primary care. CPW is fully supportive of the approach being proposed in that the Standards are more appropriately applied to health boards rather than to individual healthcare professionals or contractors.

The following comments relate to specific health board standards:-

Standard 83 – While the principle of raising awareness of the availability of primary care providers, willing and able to provide services through the medium of the Welsh language, is to be applauded, it is important to recognise and acknowledge that, due to ‘lone working’ in primary care, this will not be possible at all times, as the provision of services may well change when key members of staff are on holiday, off sick or on a rest day.

Standard 84 and standard 96 – CPW is also fully supportive of a health board provided translation service for signage and the provision of badges to identify that a member of the team is a Welsh speaker, provided that there is no cost associated with the provision of this service and the health board is responsible for the accuracy of the translation.

Standard 107 and 107a – CPW wishes to flag this up as a serious concern. With the imminent change to the control of entry arrangements for the granting of community pharmacy contract, from the current arrangements, to one built around a Pharmaceutical Needs Assessment (PNA), there is a risk that the absence of an ability to provide a service through the medium of Welsh, could be considered by a health board as inadequate service provision and a reason to open the market to a new entrant.

CPW wishes to bring to the attention of the Commissioner that this has the potential to significantly impact on and distort the pharmacy market. CPW sees this as a potential unintended consequence of two parallel pieces of legislation being introduced and would ask that Welsh Government introduces appropriate safeguards in the proposed Control of Entry Regulations.

Question 12 – Do you agree with the proposed new standards that place duties on local health boards in relation to primary care services, both contracted and those provided directly?

Yes	X	No	<input type="checkbox"/>
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Supporting comments

CPW supports the balanced and pragmatic approach being taken to the application of standards in primary care.

Question 13 – Do you have any other comments in relation to Welsh language provision in primary care services?

Yes	<input type="checkbox"/>	No	X
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Supporting comments

Not applicable

Question 14 – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

1) At a time where there is considerable focus in primary care on reducing risk, it is important that the Commissioner recognises that the conducting of a clinical consultation through the services of a translator introduces an additional tier of risk. Clinical consultations by their very nature are often complex in nature and the terminology used is not always directly translatable, this significantly increases the risk of a less than optimal outcome and raises a number of liability issues in the event of an incorrect diagnosis.

2) CPW would wish it to be clearly stated in the Regulations, and accompanying guidance, that written communications between healthcare professionals, which includes the writing of prescriptions, must be through the medium of English. In addition it is essential that it is made clear that the writing of medical records is also in English. This will ensure that non Welsh speaking healthcare professionals, or those whose grasp of Welsh is not of a high standard, are not prevented from providing optimal care to patients and a delay in care, which could well be critical care, does not result. This is particularly important when care is provided outside of Wales. Where healthcare professionals are comfortable to talk together in Welsh this is not an issue as long as any records or instructions stemming from the consultation are in English. In a similar vein, CPW would not want to see any requirements brought forth that allow instructions to patients or other healthcare professionals to be written in Welsh unless an English translation accompanies the instructions..

3) CPW feel that the introduction of Welsh Language Standards should only be part of the process and that it is in the interest of the Commissioner to support healthcare professionals who feel they may want to learn the Welsh Language. Currently Welsh Language courses are often unavailable outside of normal working hours and in many cases have a significant cost attached to them which will need to be borne by the healthcare professional themselves. CPW would encourage the Commissioner to look at current barriers and to make Welsh Language teaching more accessible.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: