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Llywodraeth Cymru  
Welsh Government

Welsh Government  
Consultation Document

# Welsh Language Standards (Health Sector) Regulations

Improving services for Welsh speakers

Date of issue: 14 July 2016

Action required: Responses by 14 October 2016

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.  
This document is also available in Welsh.

# Welsh Language Standards: (Health Sector) Regulations

## Overview

This consultation seeks views on the draft Regulations to specify Welsh Language Standards for the health sector. These standards will enable the Welsh Language Commissioner to place duties in relation to the Welsh language on NHS Wales local health boards, NHS trusts in Wales, Community Health Councils, the Board of Community Health Councils in Wales, and the NHS Business Services Authority.

The draft Regulations also amend The Welsh Language Standards (No.4) Regulations. The following bodies will be included in the No.4 Regulations: the Care Council for Wales, the General Chiropractic Council, the General Dental Council, the General Medical Council, the General Optical Council, the General Osteopathic Council, the General Pharmaceutical Council, the Health and Care Professions Council, the Professional Standards Authority for Health and Social Care, and the Nursing and Midwifery Council.

We are holding this consultation to ensure that everyone with an interest has had ample opportunity to have their say on this set of standards. The Welsh Language Commissioner held a standards investigation with the bodies that will be subject to this set of standards between 17 November 2014 and 6 February 2015. The Commissioner's findings, which were presented to Welsh Ministers in the form of a standards report, were based on the comments the Commissioner received during that investigation. Having given due regard to the Commissioner's report we now want members of the public, the bodies that will be subject to the standards, and anyone else with an interest to have their say on the Regulations which will specify the standards to inform their development.

## How to respond

Responses to this consultation should be e-mailed/posted to the address on the following page to arrive by **14 October 2016** at the latest.

## Further information and related documents

**Large print, Braille and alternative language versions of this document are available on request.**

*Welsh Language Commissioner's Standards Report – Section 64 Welsh Language (Wales) Measure 2011 (Welsh Language Commissioner, 2015)*

*Welsh Ministers' response to the Welsh Language Commissioner's second standards investigation reports (2015)*

Welsh Language (Wales) Measure 2011

*More than just words.... Strategic Framework for Welsh*

*Language Services in Health, Social Services and Social Care*  
(2016)

The consultation documents can be accessed from the Welsh Government's website at [www.gov.wales/consultations](http://www.gov.wales/consultations)

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**Data  
protection**

**How the views and information you give us will be used**

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

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## Ministerial foreword

The Welsh Government is committed to strengthening the provision of Welsh language services to the people of Wales. The next step in this process is bringing health sector bodies under the Welsh language standards regime.

The draft standards build on the foundations laid by *More than just words...* strategic framework which has helped to improve Welsh language services within the sector but we recognise that there is more to do. We should not forget that receiving health services in Welsh is not just a matter of choice, for some people it is a matter of need.

Welsh language standards are part of the journey of ensuring that Welsh speakers can receive health services in their first language. During the process of drafting these standards we have been mindful that some of the bodies in this sector operate 24 hours a day, 365 days a year offering a range of services from routine treatments to open heart surgery, accident and emergency treatment and end-of-life care. Mainstreaming Welsh language services into this sector is challenging, it will take time and will require bodies to operate differently. I am confident that the pragmatic approach we have taken in these draft standards acknowledges these difficulties whilst still moving the process of securing more opportunities for Welsh speakers to engage with the health sector in Welsh forward.



**Alun Davies AM**  
**Minister for Lifelong Learning and Welsh Language**

## Introduction

The Welsh Government is preparing Welsh Language Standards ('standards') under the Welsh Language (Wales) Measure 2011 ("the Measure") which give Welsh speakers improved and enforceable rights to use the Welsh language.

Regulations that specify standards for bodies are being introduced gradually and are prepared with the aim of being reasonable, proportionate and relevant to the bodies named in the Regulations. The draft Regulations subject to this consultation are targeted specifically at bodies within the health sector. This includes all NHS Wales Local Health Boards, NHS Trusts, Community Health Councils, the NHS Business Services Authority and the regulatory bodies for health and social care professions.

Schedule 6 to the draft Regulations lists all the bodies subject to the draft standards set out in Schedules 1 to 5 (the 'draft standards'). Regulation 4 lists the bodies that we propose to include in the Welsh Language Standards (No 4) Regulations 2016, which were approved by the National Assembly for Wales in March 2016.

Between 17 November 2014 and 6 February 2015, the Welsh Language Commissioner ('the Commissioner') held a standards Investigation with the bodies listed at Annex A<sup>1</sup>. The Welsh Ministers have decided to hold a consultation on the draft standards. This commitment was made by Welsh Ministers in their response to the Commissioner's Standards Investigation Report<sup>2</sup> published in October 2015.

This consultation is an opportunity for anyone with an interest in the draft Regulations to have their say about them, and to see how we have incorporated the Commissioner's conclusions from her Standards Investigation Report into the draft Regulations.

## Respective roles of the Welsh Government and the Commissioner

The standards have to be made by specifying them in Regulations. Guided by the Commissioner's Standards Investigation Report and stakeholder engagement, the role of the Welsh Government has been to draft the standards and the Regulations which contain them. Once the Regulations are approved by the National Assembly for Wales, it will be for the Commissioner to choose which standards to impose on individual bodies in the health sector through compliance notices.

## Who is subject to the draft Regulations?

A full list of the bodies is at Annex A.

## Building on Welsh Language Schemes and More than just words....

Currently the bodies that are subject to this consultation (with the exception of NHS Business Services Authority and the General Chiropractic Council) deliver Welsh language services based on their Welsh Language Schemes operated under the Welsh Language Act 1993.

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<sup>1</sup> <http://www.comisiynyddygydraeg.cymru/English/Publications/Pages/SearchResults.aspx?Category=Legislation%20and%20subordinate%20legislation&Year=2015>

<sup>2</sup> <http://gov.wales/docs/dcells/publications/151019-second-standards-investigations-en.pdf>

The Schemes have been successful in raising the profile of services that should be available to the public in Welsh, as well as ensuring that many of those services are now provided. Where they fall short, however, is the ability to issue sanctions when requirements contained within a Scheme have not been met.

The standards have been drafted so as to build on the Schemes. Bodies required to comply with the draft standards will be under a duty to take a more proactive, strategic approach to mainstreaming the Welsh language. We are confident that the draft standards provide a solid foundation, which will enable the Commissioner to impose standards in a pragmatic way that will continually improve Welsh language services for Welsh speakers.

*More than just words....*, the Welsh Government's strategic framework for Welsh language services in Health, Social Services and Social Care works to support Welsh Language Schemes to address issues in a planned and co-ordinated way across the whole sector outlining the actions required to strengthen Welsh language services in the sector. It introduced the principle of the active offer which simply means offering a service in Welsh without some-one having to request it which is embedded in the draft standards.

Whilst the standards will replace the Welsh Language Schemes, *More than just words....* will continue to provide the wider policy infrastructure within which the standards will sit and will continue to be an important policy document for the sector that will support the implementation of standards.

Other reports and legislation that set the policy context for delivering Welsh language services in the health sector are in Annex B.

## **The process – how will the standards work?**

The draft Regulations set out the standards that we propose to make specifically applicable to the bodies listed in Schedule 6 to the draft Regulations. These follow the same format as previous Welsh Language Standards Regulations made for other sectors such as Welsh Government, local authorities and national parks, Welsh tribunals, the police and fire and rescue service. Standards are tailored to reflect the way the bodies named in the Regulations deliver services. These draft Regulations include new standards and specific conditions to reflect the way services are delivered by bodies in the health sector.

Before a body has to comply with a standard a number of conditions have to be met. The relevant conditions to the health sector bodies are:

- (i) The body falls within (or within a category in) Schedule 5 and 6 of the Measure;
- (ii) The standard has been made specifically applicable to the body. This means that the Welsh Ministers have, in regulations, authorised the Commissioner to give a compliance notice to the body requiring the body to comply with the standard;
- (iii) The Commissioner has given a compliance notice to the body which requires it to comply with the standard, and that compliance notice is in force.

The standards come under 5 headings:

**1 – Service delivery standards** will be imposed in relation to the delivery of services in order to promote or facilitate the use of the Welsh language, or to ensure that it is treated no less favourably than English.

**2 – Policy making standards** will require bodies to consider what effect their policy decisions will have on the ability of persons to use the language and on the principle of treating Welsh no less favourably than English.

**3 – Operational standards** deal with the internal use of Welsh by bodies. If operational standards are imposed on a body, that body will be expected to increase the opportunities to use Welsh in their internal arrangements.

**4 – Record keeping standards** will make it necessary to keep records about some of the other standards, and about any complaints received by a body. These records will assist the Commissioner in regulating the body's compliance with standards.

**5 – Supplementary standards** The draft Regulations also contain supplementary standards. These standards deal with various matters including the production of an annual report, monitoring arrangements and the provision of information to the Commissioner.

## **Compliance notices**

The draft Regulations set out the range of standards which could be imposed on a body. There is no requirement on the Commissioner to require every body to comply with every standard.

As such the Commissioner has flexibility in choosing which standards, and the extent to which, a body has to comply as well as setting the date by which the body is required to comply with a standard.

The Commissioner will therefore have several options when it comes to which standards to impose on a body. The body may have to comply with a standard only in some circumstances and not in others or in some areas and not in others – depending on what is appropriate for them. This approach provides for the gradual improvement of their provision in future.

Some standards are dependent on each other. The regulations therefore contain a table to accompany the service delivery and operational standards, detailing which other standards will also need to be imposed when a particular standard is included in a compliance notice.

## **Means of appeal**

A body will be able to challenge the requirement upon it to comply with a particular standard on the grounds of whether it is reasonable and proportionate to require it to do so.

In the first place, a body will be able to present a challenge to the Commissioner herself, asking her to determine whether the requirement upon it to comply with a particular standard in the compliance notice is reasonable and proportionate. If they are unable to resolve the dispute, there is a route of appeal available to the Welsh Language Tribunal, and thereafter to the High Court (on a question of law).

## **Sanctions**

The Commissioner will have the responsibility for enforcing compliance with standards. In cases where the Commissioner determines that a body has failed to comply with a standard, the Commissioner may take enforcement action.

## **What outcomes do we anticipate?**

The standards have been drafted with the aim of:

- improving the Welsh language services Welsh speakers can expect to receive from bodies in the health sector
- increasing the use people make of Welsh language services through mainstreaming the active offer principle.
- making it clear to bodies what they need to do in terms of the Welsh language
- ensuring that there is an appropriate degree of consistency in terms of the duties placed on bodies in the same sectors

## **From whom do we want to hear about the Regulations and what do we want to know?**

We are eager to hear from anyone with an interest in the standards, and in the use of Welsh in the health sector. This consultation will be open until 14 October to ensure that members of the public, the bodies that will be subject to these standards, and other interested stakeholders have had ample opportunity to have their say on the standards. Please feel free to make any comments you wish on any aspect of the draft Regulations. This is the opportunity for you to comment on the standards from which the Commissioner can choose to impose on the bodies set out in Schedule 6. The Commissioner cannot vary the standards later, only choose whether to require the body to comply, or in which circumstances or areas the body has to comply.

In particular this consultation seeks to collect views on whether the standards provide the correct baseline of Welsh language services actively offered to individuals. The accompanying questionnaire asks for your views on specific aspects of the draft Regulations in particular where changes have been made to those used by the Commissioner in her Standards Investigation.

Part 1 deals with provision of services by health boards and trusts

Part 2 deals with primary care

Part 3 deals with amendments to Welsh Language Standards (No 4) Regulations

## **Part 1: Delivery of services by health boards and trusts**

### **Clinical consultation**

One of the key considerations in developing the draft standards was the difference between a clinical consultation and other meetings. A clinical consultation means a health provision interaction between an individual and a body which includes the assessment, diagnosis or treatment of that individual. (Regulation 1(4))

When an individual attends a clinical consultation, the individual must be asked if they would like Welsh language support during the consultation. If they wish to receive Welsh language support, a record must be kept of that wish, and the body must provide Welsh language support at clinical consultations thereafter unless the clinical consultation can be carried out in Welsh. Welsh language support means that the body must give support in the Welsh language to make sure that the individual understands what is happening during the consultation. This could be by providing a Welsh speaking member of staff who is able to check that the individual understands what has been said and, if necessary explain in Welsh what has been said, or by providing translation (standard 25 and paragraph 39 of part 3 of Schedule 1 to the Regulations).

The principle underpinning the concept of Welsh language support is, where possible, the body holds the clinical consultation in Welsh. If that is not possible, the Welsh language skills within the existing workforce should be used to facilitate clinical consultations to reduce the dependency on translation.

This definition is intended to capture a variety of scenarios. For example, an individual attending an out-patient clinic, an in-patient at a hospital, an individual attending an appointment with a consultant, receiving treatment in a non-emergency vehicle, a visit at home from a health visitor or an individual attending a mobile clinic e.g. breast clinic. Often one appointment entails interactions with various members of staff, for example an antenatal appointment will involve interactions with healthcare assistants, sonographers, midwives and consultants depending on the particular circumstances of the individual.

The draft Regulations treat each separate interaction as a clinical consultation, and this approach gives the body flexibility in how to comply with the standard depending on the circumstances and the members of staff involved in the clinical consultation. As a result, if an individual wished to receive Welsh language support, a different person could provide that support in each interaction, and it could be provided in a different way. For example, the healthcare assistant may be a Welsh speaker willing to undertake the consultation in Welsh, but the other members of staff may need to seek a Welsh speaking member of staff or a translator in order to comply with the standard.

The same principles apply to an in-patient in a hospital.

The standards do not require an individual to respond before a clinical consultation indicating whether they want Welsh language support. In many cases therefore, even if the consultation is prearranged, the response could be given when the patient arrives at the appointment.

## **Case conference and health-related provision**

A Case conference means a meeting between

- an individual, and
- at least one of the bodies listed in Schedule 6 to the draft Regulations, and
- at least one other body (one of which must be a county or county borough council in Wales (Regulation 1(4)).

The main purpose of the case conference is to discuss an individual's health related provision which means the provision of services to an individual which may have an effect on the health of that individual but are not health services provided as part of the health service. For example, a case conference may discuss how an individual can be supported to move back home following treatment. In such a scenario, the body must ask whether the individual wishes to use Welsh during the case conference and if so, unless the case conference is held in Welsh, translation from Welsh to English and English to Welsh must be provided. (Standards 26, 26A & 26B).

The draft standards have been drafted to deal with case conferences in a different way to clinical consultations and other meetings as they involve a number of agencies where a number of different issues maybe discussed. In these circumstances, if the conference cannot be held in Welsh, it is important that the individual is able to contribute and hear the contribution of others in Welsh if that is their choice.

A case conference (or any other meeting) which only involves health professionals listed in paragraph 38 of schedule 1 part 3, are not subject to Welsh language standards. We do not consider it reasonable to expect these types of meetings to be subject to standards as they may be convened at short notice, happen frequently, no patient is present and they often discuss more than one case and could involve contributions over the phone or video conference.

## **Clinical consultations and case conferences provided by one health board or trust on behalf of another**

In circumstances when an individual attends a case conference or a clinical consultation provided by one health board or trust in Wales on behalf of another health board or trust in Wales, the standards that apply (if any) are those that apply to the body who is conducting the conference or consultation. For example if an individual is referred by Hywel Dda UHB to Abertawe Bro Morgannwg UHB for a clinical consultation the standards that apply are those placed on Abertawe Bro Morgannwg UHB. Similarly, if Public Health Wales (who is responsible for a number of screening programmes) invites an individual to attend a screening appointment (i.e. a clinical consultation) which is carried out on their behalf by another trust or a health board, the standards that apply are those placed on the trust or health board carrying out that screening appointment.

This is different to the approach taken in previous standards Regulations in relation to sub-contracting and in all other circumstances where the body sub-contracts. In those circumstances, a body would be in breach of standards if a third party delivering services on its behalf failed to comply with the standards placed on the body. This change acknowledges that one health board could be carrying out a clinical consultation or a case conference on behalf of one or more health board, which may be subject to different standards, at the same time e.g. on a hospital ward.

In such circumstances it would be unreasonable to expect the health board who is physically carrying out a clinical consultation or a case conference to be asked to comply with each commissioning health board or trust's standards, which could all be different. Equally we consider it unreasonable to expect the commissioning health board or trust to ensure that their standards are complied with every time a clinical consultation or a case conference is provided on their behalf by another body.

We have therefore opted for the approach that the individual can expect compliance with the standards imposed (if any) on the body who is physically carrying out a clinical consultation or a case conference (Regulation 1(7) and (8)).

## **Individual ordinarily resident in Wales**

When the standards refer to an individual this means a member of the public who is ordinarily resident in Wales. This means that the health sector bodies listed in Schedule 6 to these draft Regulations will only be required to comply with the standards (subject to their compliance notice) in so far as the individual concerned ordinarily lives in Wales. They will not be required to comply with the standards when dealing with a person who lives outside Wales. For example, someone who lives in England but is treated in a hospital or clinic in Wales (Regulation 1(4)).

## **Healthcare in prisons**

Health boards are responsible for primary care services in public sector prisons in Wales and for the secondary and tertiary health care needs of all prisoners. We consider that health care provision within prisons should be treated in the same way as all other health care.

## **Exemptions**

The draft Regulations set out some circumstances when the standards imposed on the bodies would not apply.

These include:

- responding to a civil contingency as set out in the Civil Contingencies Act 2004.
- other emergencies that occur outside the hospital which include answering and responding to calls made to 999 and 112 and urgent action to control or mitigate a disease, infection or contamination.
- when a body listed in Schedule 6 to the Regulations sub-contracts with a private hospital in Wales or a hospital located outside Wales to provide or carry out an activity on its behalf. This means if an individual is treated or attends a private hospital in Wales or a hospital outside Wales on behalf of one of the bodies listed in Schedule 6 to the draft Regulations, the body will not be required to comply with the standards. In practice therefore, if an individual is referred by a health board in Wales to a hospital in England for treatment the standards will not apply.
- when a body listed in Schedule 6 to the draft Regulations sub-contracts with a primary care provider to provide service or carry out an activity on its behalf.

- when medical research is undertaken or commissioned by one of the bodies listed in Schedule 6 to the draft Regulations. We do not consider these activities to be a core part of the bodies' services to the public and we do not wish standards to interfere with the bodies' commercial activities. We want bodies to focus on providing frontline Welsh language services in their core areas of work so that people can access the services they desire. Medical research does not fall into this category, and we see no benefit in putting bodies under an unreasonable duty to extend Welsh language services to this specialised area of work.
- the standards do not apply when a body provides primary care services (whether provided directly or contracted), except as described in Part 2.

## Part 2: Primary care

As well as directly employing professionals to provide health services, health boards contract a range of services from independent providers, such as private hospitals and services provided from outside Wales, (see Part 1) GPs, dentists, optometrists and community pharmacists and they also secure services from the voluntary sector, usually referred to as the third sector.

In the draft Regulations primary care has been defined as general practice (GP), dental, ophthalmic and pharmacy services. This includes services which have been contracted as well as services of a similar type which are provided directly by the local health board. As part of the process of preparing these draft Regulations we have given careful consideration to how the Commissioner's conclusion about primary care can be achieved.

The Commissioner concluded that;

*'As primary care is the first point of contact for the majority of the public in terms of the health service the Welsh Language Commissioner believes that it is essential to ensure consistency in terms of linguistic behaviour across the health service in Wales in its entirety. As a result, primary care services provider must be subject to the Welsh language standards under the same statutory framework as the health organisations that were subject to this standards investigation. Therefore, the Commissioner concludes that additional standards are needed to enable this to happen'.*

In response to this, we explored a number of options. We considered whether standards should be placed on individual primary care providers – that is individual General Practitioner (GP) surgeries, dental surgeries, opticians and pharmacies. There are approximately 460 GP surgeries and 2,000 GPs, 1,500 dentists, 800 optometrists and 700 community pharmacies across Wales. These range from single-handed providers to large companies. In our opinion, this approach would be excessively bureaucratic requiring the Commissioner to issue compliance notices to each individual contracted provider and regulate each contracted provider. We don't believe that the bureaucracy involved in this approach is justified or that it would achieve the anticipated outcomes of the Measure.

We assessed whether the standards placed on health boards (standards 1 – 82) should extend to primary care. This would treat a local health board that sub-contracts primary care in the same way as a local health board sub-contracting any other service<sup>3</sup>. It would make the health board responsible for any failure to comply with standards by one of the primary care providers despite the fact they do not have any direct influence on the individual provider. This approach could lead to a lack of clarity for both the public and the primary care providers as the Welsh language standards would only apply to the services the primary care providers provide on behalf of the local health boards. As many providers also undertake private work, the circumstances when they would be expected to comply with standards would not necessarily be clear – an individual may receive a mixture of both NHS and private services at the same time.

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<sup>3</sup> Unless it is a clinical consultation or case conference: see paragraph above entitled "Clinical consultations and case conferences provided by one health board or trust on behalf of another"

Another significant factor in our consideration was the capacity within individual primary care providers to be able to offer Welsh language services to the same extent as the health boards and the trusts, and how they would be able to comply with standards in practice.

When considering the extension of standards to primary care, we consider that new specific standards should be imposed on health boards as it is the health board's responsibility to plan and meet the health needs of the population of Wales, including securing primary care services. Standards 83 – 97, 107 and 107A will provide the public with information about how to access Welsh language primary care services which should encourage the increased use of those services. They will also increase the visibility of the language through signage, staff wearing badges and the availability of Welsh language documents, which in turn will encourage more use of the Welsh language.

Below we have listed the proposed new standards in more detail which we believe will provide an important first step to enhancing Welsh language provision within primary care.

#### Standard 107 and 107A

We want health services, both directly provided and contracted, to be planned and delivered in a way that improves Welsh language services. For this reason we have introduced a duty on local health boards to develop a policy that considers the effect of their decisions in relation to providing primary care services on the opportunities for a person to use the Welsh language and not treating the Welsh language less favourably than the English language.

#### Standard 83

Health boards will be required to promote on their website any primary care providers who are willing to provide all or part of its primary care service in the medium Welsh. This will provide members of the public with accessible information about Welsh language services in their area.

#### Standards 84 and 84A

These standards require health boards to provide a translation service for use by primary care providers to enable them to obtain Welsh language translations of signs displayed in connection with its services. We are of the opinion that making it easier for primary care providers to access translation for signage will encourage the use of bilingual signage.

#### Standards 85 and 86

Health boards will be required to produce any document in relation to primary care services which is for public use in Welsh.

#### Standards 87

This standard requires the health board to provide a Welsh language version of any document they make available to primary care providers that is intended for public use.

#### Standards 88 – 92

These standards make sure that information about primary care on the health board's website is available in Welsh.

#### Standard 93 -95

These standards make sure that all apps published by health boards which relate to primary care are available in Welsh and that the Welsh language is treated no less

favourably than the English language when they use social media in relation to primary care services.

Standards 96 and 96A.

These standards require the health boards to provide and promote the wearing of badges that convey that a primary care provider (or staff member) speaks Welsh. These standards aim to make it easier for members of the public to know that someone is able to speak Welsh and therefore start the conversation in Welsh without having to ask.

Standard 97

The health boards are required to provide training courses, information or hold events aimed at primary care providers to raise awareness of the Welsh language and how it can be used in the workplace.

## **Part 3: Amendments to the Welsh Language Standards (No.4) Regulations and Regulatory Impact Assessment**

The draft Regulations also amend The Welsh Language Standards (No.4) Regulations. The No.4 Regulations were approved by the National Assembly for Wales on 15 March 2016.

The bodies listed in regulation 4 of the attached draft Regulations share similar characteristics to those already subject to the No.4 Regulations (see Annex A for a full list of bodies). They are independent bodies who oversee the health and social care profession by regulating individual professionals. They register and maintain the register of professionals who are qualified and fit to practice, approve education and set standards of practice and deal with complaints and concerns about an individual on their register. They conduct fitness to practise hearings, which are similar in their structure and layout to the Tribunal hearings conducted by the other bodies in the No.4 Regulations. Such hearings investigate and hear allegations of unacceptable professional conduct that might call into question a registered practitioner's fitness to practise. Appeals from these hearings are to the Appeals Court of England and Wales for the Care Council for Wales and to the High Court for all the other bodies, which fed into our decision that the hearings were of a similar nature to warrant their inclusion in the No 4. Regulations.

To reflect the fact that some of the bodies we propose to include in the No.4 Regulations do not have an office in Wales we do not propose to make all the standards in the No.4 Regulations specifically applicable to them. Regulation 4(1) deals with this issue.

The Welsh Ministers can only make standards specifically applicable to the body provided it is in relation to Wales. Additionally, from a practical point of view, we do not consider it appropriate for a body based in England to comply with all of the standards specified in the No 4 Regulations. For example a body that does not have an office in Wales should not be expected to provide a Welsh language reception service i.e. to provide a person who is able to greet people in Welsh at any of its reception areas.

### **Regulatory Impact Assessment**

The bodies subject to these draft Regulations were asked to take part in a Welsh Government Regulatory Impact Assessment (RIA) as part of the Welsh Language Commissioner's second standards investigation. The RIA questionnaire was distributed with the Commissioner's Standards Investigation documentation. The Commissioner's investigation was conducted between 7 November 2014 and 9 February 2015, and bodies were asked to submit their RIA responses directly to the Welsh Government.

The RIA responses were based on the draft No1.Regulations prepared for the Welsh Ministers, local authorities and national park authorities which the Commissioner used as the basis for the Investigation. The No1.draft Regulations were published in a consultation issued by the Welsh Government on 7 November 2014. As a result of the responses received during that consultation the Regulations were revised before being approved by the National Assembly for Wales in March 2015.

There are significant differences between the current draft Regulations and those used during the Investigation. We are therefore asking those bodies that will be subject to these Regulations to complete another RIA based on the draft Regulations. The purpose of the

RIA is to help the Welsh Ministers consider the impact of proposed regulation on the interests of individuals, groups, bodies etc. to weigh the costs and benefits of all options available to them before implementing a policy; and a means of presenting for scrutiny the relevant evidence on the positive and negative effects of such interventions

## **How to respond**

Specific questions are listed in the separate response form; and you are invited to provide answers to these questions, or to comment in more general terms. This may be submitted electronically or in hard copy, using the contact details on page 2 of this document by 14 October 2016.

We will be holding consultation events over the next few months in different locations in Wales further information will be published on the Welsh Government website.

## Annex A: Health sector bodies within the proposed Regulations

Bwrdd Iechyd Addysgu Powys	Powys Teaching Health Board
Bwrdd Iechyd Prifysgol Aneurin Bevan	Aneurin Bevan University Health Board
Bwrdd Iechyd Prifysgol Cwm Taf	Cwm Taf University Health Board
Bwrdd Iechyd Prifysgol Abertawe Bro Morgannwg	Abertawe Bro Morgannwg University Health Board
Bwrdd Iechyd Prifysgol Betsi Cadwaladr	Betsi Cadwaladr University Health Board
Bwrdd Iechyd Prifysgol Caerdydd a'r Fro	Cardiff and Vale University Health Board
Bwrdd Iechyd Prifysgol Hywel Dda	Hywel Dda University Health Board
Bwrdd Cynghorau Iechyd Cymuned Cymru	Board of Community Health Councils in Wales
Cyngor Iechyd Cymuned Abertawe Bro Morgannwg	Abertawe Bro Morgannwg Community Health Council
Cyngor Iechyd Cymuned Aneurin Bevan	Aneurin Bevan Community Health Council
Cyngor Iechyd Cymuned Betsi Cadwaladr	Betsi Cadwaladr Community Health Council
Cyngor Iechyd Cymuned Powys	Powys Community Health Council
Cyngor Iechyd Cymuned Caerdydd a'r Fro	Cardiff and Vale Community Health Council
Cyngor Iechyd Cymuned Cwm Taf	Cwm Taf Community Health Council
Cyngor Iechyd Cymuned Hywel Dda	Hywel Dda Community Health Council
Ymddiriedolaeth GIG Gwasanaethau Ambiwlaens Cymru	Welsh Ambulance Service NHS Trust
Ymddiriedolaeth GIG Felindre yn cynnwys: <ul style="list-style-type: none"> <li>Gwasanaeth Gwybodeg GIG Cymru</li> <li>Partneriaeth Cydwasanaethau GIG Cymru</li> </ul>	Velindre NHS Trust Including: <ul style="list-style-type: none"> <li>NHS Wales Informatics Service</li> <li>NHS Wales' Shared Service Partnership</li> </ul>
Ymddiriedolaeth GIG Iechyd Cyhoeddus Cymru	Public Health Wales NHS Trust
Awdurdod Gwasanaethau Busnes y GIG	NHS Business Services Authority

## Bodies we propose to include in The Welsh Language Standards No.4 Regulations

Cyngor Gofal Cymru	The Care Council for Wales
Y Cyngor Ceiropractig Cyffredinol	The General Chiropractic Council
Y Cyngor Deintyddol Cyffredinol	The General Dental Council
Y Cyngor Meddygol Cyffredinol	The General Medical Council

Y Cyngor Optegol Cyffredinol	The General Optical Council
Y Cyngor Osteopathig Cyffredinol	The General Osteopathic Council
Y Cyngor Fferyllol Cyffredinol	The General Pharmaceutical Council
Y Cyngor Proffesiynau Iechyd a Gofal	The Health and Care Professions Council
Yr Awdurdod Safonau Proffesiynol ar gyfer Iechyd a Gofal Cymdeithasol	The Professional Standards Authority for Health and Social Care
Y Cyngor Nyrsio a Bydwreigiaeth	The Nursing and Midwifery Council

## Annex B: Reports and legislation

These reports and legislation set the policy context for delivering Welsh language services in the health sector. They demonstrate that language is an integral part of every aspect of healthcare and that it is core to demonstrating patient dignity and respect. We believe that the draft standards will make a tangible contribution to achieving these aims.

### ***My Language, My Health: The Welsh Language Commissioner's Inquiry into the Welsh Language in Primary Care***<sup>4</sup>

Published by the Commissioner on 10 June 2014, the inquiry focused on the primary care sector as this is the first point of contact for many members the public with the healthcare system. The need for adequate Welsh language services to be available in this sector was reflected in the Commissioner's conclusions following the inquiry and in the Welsh Minister's response to that inquiry in December 2014.

### **Well-being of Future Generations (Wales) Act 2015**

The Act sets out seven goals for the well-being of future generations in Wales One of these goals aims to ensure 'A Wales of vibrant culture and thriving Welsh language'. The implementation of Welsh language standards contributes to this goal. It will increase the opportunity for people to access services in Welsh and to live their lives through the medium of Welsh thus protecting and promoting the language, the culture and heritage of Wales.

### **Prudent Healthcare**

Standards will assist in the culture change required to deliver Prudent Healthcare. By providing Welsh language services and support, the standards will ensure that Welsh speakers have understood what has been said to them to ensure they are able to participate properly in the provision of their services. In this way, standards can help service providers across the health sector to satisfy the 'do no harm' and 'carry out the minimum intervention required' principles of Prudent Healthcare.

### **Our plan for a primary care service for Wales up to March 2018**<sup>5</sup>

Our plan for primary care service for Wales proposes action on five priority areas:

- Planning care locally
- Improving access to quality
- Equitable access
- A skilled local workforce
- Strong leadership

Health boards have established 64 primary care clusters across Wales as effective mechanisms for enabling collaboration and pooling resources and expertise to meet the needs of local communities. Assessing the needs of the population, and planning the use of available resources, including the skills of the workforce, is most effective when done at a very local level for communities of between 25,000 and 100,000 people. Health boards through cluster working aim to improve access to services in the Welsh language by making

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<sup>4</sup> <http://www.comisiynyddygyymraeg.cymru/English/Publications%20List/Health%20inquiry%20full%20report.pdf>

<sup>5</sup> <http://www.wales.nhs.uk/sitesplus/documents/986/Our%20Plan%20for%20Primary%20Care%20in%20Wales%20up%20to%20March%202018.pdf>

best use of the Welsh language skills within the workforce, whether they are directly employed or contracted.

### **Declaration of Rights for Older People in Wales**

In 2014, the Welsh Government issued its Declaration of Rights for Older People in Wales which sets out the rights contained within the Equality Act 2010 and the European Convention on Human Rights to life for older people in Wales. Within the Declaration, it is made clear that older people have the right to use their language of choice to communicate. The proposed standards will increase the sensitivity of bodies in the health service to people's rights and needs concerning the Welsh language.

### **Legislation concerning children**

Legislative provision such as the Children Act 1989 and 2004 protect the rights of children. The language rights of children are strengthened by the Rights of Children and Young Persons (Wales) Measure 2011 which gives further effect in Wales to the United Nations Convention on the Rights of the Child. The Convention protects the rights of children to be treated fairly no matter what language they speak.

### **European Charter for Regional or Minority Languages**

The European Charter for Regional or Minority Language has been ratified by the UK Government and establishes the principle that: the right to use a regional or minority language in private and public life is an inalienable right.

Article 13 of the Charter is concerned with 'Economic and Social Life' and provides , as far as reasonably possible,:

' ensure that social care facilities such as hospitals, retirement homes and hostels offer the possibility of receiving and treating in their own language persons using a regional or minority language which are in need of care on grounds of ill-health, old age or for other reasons' .

The most recent monitoring report from COMEX<sup>6</sup> (Council of Europe's Committee of Experts) in 2010 showed that there is still much to be achieved. They made the following recommendation:

'...that the authorities of the United Kingdom ... take concrete steps to further increase the use of Welsh in health and social care'.

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<sup>6</sup> COMEX (Council of Europe's Committee of Experts) 2010