

Agenda – Culture, Welsh Language and Communications Committee

Meeting Venue:

Committee Room 3 – Senedd

Meeting date: 14 March 2018

Meeting time: 09.00

For further information contact:

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Committee Clerk

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- 1 Introductions, apologies, substitutions and declarations of interest**

- 2 SL(5)193 – The Welsh Language Standards (No. 7) Regulations 2018: Evidence Session 1: Welsh NHS Confederation**
(09:00 – 10:00) (Pages 1 – 120)
Sue Ball, Assistant Director, Workforce & Organisational Development, Aneurin Bevan University Health Board.
Mandy Collins, Board Secretary, Powys Teaching Health Board.
Sian-Marie James, Head of Corporate Office, Hywel Dda University Health Board.
Enfys Williams, Manager of Welsh Language Services, Hywel Dda University Health Board.

- 3 SL(5)193 – The Welsh Language Standards (No. 7) Regulations 2018: Evidence Session 2: BMA Cymru Wales / Gwerfyl Wyn Roberts**
(10:00 – 11:00) (Pages 121 – 127)
Dr Phil White, BMA Cymru Wales
Dr Llion Davies, BMA Cymru Wales
Gwerfyl Wyn Roberts, Former Senior Lecturer in Health at Bangor University
Dr Emyr Humphreys, Consultant Rheumatologist



**4 SL(5)193 – The Welsh Language Standards (No. 7) Regulations
2018: Written Responses**

(Pages 128 – 153)

**5 Motion under Standing Order 17.42 to resolve to exclude the
public from the meeting for the following business:**

**6 SL(5)193 – The Welsh Language Standards (No. 7) Regulations
2018: Technical Briefing: Welsh Government Officials**

(11:00 – 12:00)

Bethan Webb, Deputy Director, Welsh Language

Sioned Rees, Head of Escalation & Special Measures Support, Health and
Social Services.

7 Consideration of Evidence

(12:00 – 12:30)

Agenda Item 2

Document is Restricted

Draft Regulations laid before the National Assembly for Wales under section 150(2) of the Welsh Language (Wales) Measure 2011, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2018 No. (W.)

WELSH LANGUAGE

**The Welsh Language Standards
(No. 7) Regulations 2018**

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Welsh Language (Wales) Measure 2011 (nawm 1) (“the 2011 Measure”) makes provision for the specification of standards of conduct in relation to the Welsh language (“standards”). These replace the system of Welsh language schemes provided for by the Welsh Language Act 1993 (c. 38).

Section 26 of the 2011 Measure enables the Welsh Ministers to specify standards, and section 39 enables them to provide that a standard is specifically applicable to a person by authorising the Welsh Language Commissioner (“the Commissioner”) to give a notice to that person requiring compliance with the standard (a “compliance notice”).

These Regulations specify standards in relation to the conduct of Local Health Boards, National Health Service Trusts in Wales, Community Health Councils and the Board of Community Health Councils in Wales (which are referred to in the Regulations as “bodies”).

The Regulations also authorise (subject to certain exceptions set out in regulation 3(2)) the Commissioner to give a compliance notice to those bodies, in relation to standards specified by the Regulations. In relation to Social Care Wales the Regulations authorise the Commissioner to give that body a compliance notice in relation to standards specified in the Welsh Language Standards (No. 4) Regulations 2016 (S.I. 2016/405 (W. 125)).

In accordance with section 44 of the 2011 Measure, the Commissioner may (by way of a compliance

notice) require a body to comply with one or more standards that are specifically applicable to it. To reflect that, the standards specified by the Regulations are expressed in the second person narrative, meaning that they are in “you must” form (where “you” means the relevant body in each case).

Using the flexibility provided by section 44 of the 2011 Measure the Commissioner may (if it is reasonable and proportionate, and the Commissioner wishes to do so) require a body to comply with one standard in some circumstances and another standard in other circumstances. For example, if a standard is specifically applicable to a body the Commissioner may require the body to comply with the standard in some circumstances but not others, or require it to comply with the standard only in some areas. Similarly if two or more standards relate to a specific conduct (for example, standards 8 to 10 in relation to answering telephone calls), the Commissioner may (by way of a compliance notice) require a body to comply with one of those standards only, or with different standards at different times, in different circumstances, or in different areas; as is appropriate for the body. The Commissioner is not, therefore, obliged to require every body to comply with every standard.

In accordance with section 46 of the 2011 Measure, the compliance notice given to a body must state the imposition day, or imposition days; meaning the day or days upon which the body becomes required to comply with a standard (or comply with a standard in a specific way). Using the flexibility provided for by section 46, the Commissioner may set an early imposition day for a body to comply with a standard (provided this is at least 6 months after the date on which the body was given the related compliance notice), or set an imposition day further in the future (for example in relation to more challenging standards).

The Regulations require a body to comply with the standards—

- (a) whether it is carrying out the activity or providing the service; or
- (b) whether it is carried out or it is provided on its behalf by a third party under arrangements made between them.

However, in the case of an individual attending a clinical consultation or a case conference, or an individual who is an in-patient, it is the standards that apply to the third party carrying out the activity or providing the service on behalf of the body that apply. This means, for example, that if Cardiff and the Vale University Health Board carries out or provides a case conference on behalf of Betsi Cadwaladr University Health Board, then Cardiff and

the Vale University Health Board's standards would apply, not Betsi Cadwaladr University Health Board's standards. It also means that if an individual is an in-patient at Cardiff and the Vale University Health Board's hospital on behalf of Betsi Cadwaladr University Health Board, then Cardiff and the Vale University Health Board's standards would apply, not Betsi Cadwaladr University Health Board's standards.

Where the third party is a primary care provider, or where the service provided or the activity carried out on the body's behalf is provided or carried out in a private hospital or private clinic in Wales, a private ward in a hospital in Wales or a hospital or clinic outside of Wales, then no standards apply. No standards apply when the service provided or the activity carried out on the body's behalf is a care home service.

Where a standard specified in these Regulations requires written material to be displayed or provided in Welsh, or for a service to be provided in Welsh, this does not mean that the material must be displayed or provided in Welsh only, or that the service must only be provided in Welsh (unless that is specifically stated).

Schedule 1 to the Regulations specifies **service delivery standards**. Section 28 of the 2011 Measure provides that a "service delivery standard" means a standard that relates to a service delivery activity, and is intended to promote or facilitate the use of the Welsh language, or to work towards ensuring that the Welsh language is treated no less favourably than the English language when that activity is carried out. A "service delivery activity" means a person delivering services to another person, or dealing with any other person in connection with delivering services to that other person, or to a third person.

Schedule 2 to the Regulations specifies **policy making standards**. Section 29 of the 2011 Measure provides that a "policy making standard" means a standard that relates to a policy decision, and is intended to secure, or to contribute to securing, that the person making the policy decision considers one or more of the following—

- (a) what effects, if any, (whether positive or adverse) the policy decision would have on opportunities for persons to use the Welsh language, or on treating the Welsh language no less favourably than the English language;
- (b) how the decision could be made so that the decision has positive effects, or increased positive effects, on opportunities for persons to use the Welsh language, or on treating the

Welsh language no less favourably than the English language;

- (c) how the decision could be made so that the decision does not have adverse effects, or has decreased adverse effects, on opportunities for other persons to use the Welsh language, or on treating the Welsh language no less favourably than the English language.

Schedule 3 to the Regulations specifies **operational standards**. Section 30 of the 2011 Measure provides that an “operational standard” means a standard that relates to the functions, or a business or other undertaking (“relevant activities”) of a person (“A”), that is intended to promote or facilitate the use of the Welsh language—

- (a) by A in carrying out A’s relevant activities,
- (b) by A and another person in dealings between them in connection with A’s relevant activities, or
- (c) by a person other than A in carrying out activities for the purposes of, or in connection with, A’s relevant activities.

Schedule 4 to the Regulations specifies **record keeping standards**. Section 32 of the 2011 Measure provides that a “record keeping standard” is a standard relating to the keeping of records about other specified standards, records about complaints concerning compliance with other specified standards, or records about other complaints concerning the Welsh language.

Schedule 5 to the Regulations specifies **standards that deal with supplementary matters**. These are supplementary to the matters dealt with in Schedules 1 to 4.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Language Unit, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

Draft Regulations laid before the National Assembly for Wales under section 150(2) of the Welsh Language (Wales) Measure 2011, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2018 No. (W.)

WELSH LANGUAGE

**The Welsh Language Standards
(No. 7) Regulations 2018**

Made

Coming into force

29 June 2018

The Welsh Ministers, in exercise of the powers conferred upon them by sections 26, 27, 39 and 150(5) of the Welsh Language (Wales) Measure 2011⁽¹⁾, having received the approval of the National Assembly for Wales in accordance with section 150(2) of that Measure, make the following Regulations:

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is the Welsh Language Standards (No. 7) Regulations 2018.

(2) These Regulations come into force on 29 June 2018.

(3) These Regulations apply in relation to Wales.

(4) In these Regulations—

a “body” (“*corff*”) means a person listed in Schedule 6;

a “care home service” (“*gwasanaeth cartref gofal*”) has the same meaning as in section 2(2) of, and paragraph 1 of Schedule 1 to, the Regulation

(1) 2011 nawm 1.

and Inspection of Social Care (Wales) Act 2016⁽¹⁾;

a “case conference” (“*cynhadledd achos*”) means an interaction the main purpose of which is to discuss an individual’s (“A”) health related provision and is between—

- (a) A,
- (b) one or more bodies, and
- (c) one or more persons where at least one of those persons is a county council or a county borough council in Wales;

a “clinic” (“*clinig*”) is a surgery or consulting room in which—

- (a) a clinical consultation; or
- (b) a private clinical consultation;

takes place;

a “clinical consultation” (“*ymgyngoriad clinigol*”) means a health provision interaction between one or more individuals and a body;

“health provision” (“*darpariaeth iechyd*”) means the provision of health services as part of the national health service to an individual and includes the assessment, diagnosis or treatment of that individual;

“health related provision” (“*darpariaeth sy’n ymwneud ag iechyd*”) means provision of services to an individual which may have an effect on the health of that individual but which are not health provision or private health provision;

a “hospital” (“*ysbyty*”) means—

- (a) any institution for the reception and treatment of persons suffering from illness,
- (b) any maternity home, and
- (c) any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation,

and includes clinics, dispensaries and out-patient departments maintained in connection with any such home or institution;

an “individual” (“*unigolyn*”) means a natural person ordinarily resident in Wales acting in their personal capacity; but does not include an individual acting in their capacity as a volunteer;

an “in-patient” (“*claf mewnol*”) means an individual who is admitted to hospital for at least one night;

an “in-patient admission” (“*derbyniad fel claf mewnol*”) begins on the day the in-patient is

(1) 2016 anaw 2.

admitted to hospital and ends on the day the in-patient ceases to be in hospital;

a “member of staff” (“*aelod o staff*”) means an employee of a body or a natural person working for a body but not a person appointed to a body by the Welsh Ministers, a Minister of the Crown, Secretary of State, a county council or county borough council or a voluntary organisation⁽¹⁾ (and “staff” (“*staff*”) must be construed accordingly);

“national health service” (“*gwasanaeth iechyd gwladol*”) means the comprehensive health service in Wales continued under section 1(1) of the National Health Service (Wales) Act 2006⁽²⁾;

a “national health service clinic” (“*clinig gwasanaeth iechyd gwladol*”) means a clinic vested in the Welsh Ministers, a Local Health Board or a National Health Service Trust;

a “national health service hospital” (“*ysbyty gwasanaeth iechyd gwladol*”) means a hospital vested in the Welsh Ministers, a Local Health Board or a National Health Service Trust;

a “primary care provider” (“*darparwr gofal sylfaenol*”) means a person who provides a primary care service on behalf of a Local Health Board;

a “primary care service” (“*gwasanaeth gofal sylfaenol*”) means a service provided under a contract, arrangement or agreement made under or by virtue of any of the following provisions of the National Health Service (Wales) Act 2006—

- (a) section 41(2)(b) (primary medical services);
- (b) section 42(1) (general medical services contracts);
- (c) section 50 (arrangements by Local Health Boards for the provision of primary medical services);
- (ch)section 57(1) (general dental services contracts);
- (d) section 64 (arrangements by Local Health Boards for the provision of primary dental services);
- (dd)section 71 (arrangements for general ophthalmic services);
- (e) section 80 (arrangements for pharmaceutical services);

(1) See for example regulation 7 of the Community Health Councils (Constitution, Membership and Procedures)(Wales) Regulations 2010 (S.I. 2010/288 (W. 37)) which relates to the appointment of members to Community Health Councils by voluntary organisations.

(2) 2006 c. 42.

(f) section 81 (additional pharmaceutical services);

(ff) section 92 (pilot schemes);

(g) section 102 (local pharmaceutical services schemes);

a “private clinic” (“*clinig preifat*”) means a clinic which is not a national health service clinic;

a “private clinical consultation” (“*ymgyngoriad clinigol preifat*”) means a private health provision interaction between one or more individuals and a person;

“private health provision” (“*darpariaeth iechyd breifat*”) means the provision of health services not as part of the national health service to an individual and includes the assessment, diagnosis or treatment of that individual; and

a “private hospital” (“*ysbyty preifat*”) means a hospital which is not a national health service hospital.

(5) Subject to paragraphs (7), (8), (9) and (10), in these Regulations—

(a) references to any activity being carried out by a body, or to any service being provided by a body, are to be read as including a reference to that activity being carried out on the body’s behalf or to that service being provided on the body’s behalf by a third party under arrangements made between the third party and the body;

(b) accordingly, unless a compliance notice provides to the contrary, a body will have failed to comply with a standard in respect of an activity or service it has arranged to be carried out or provided by a third party if that activity or service has not been carried out or provided in accordance with the standard.

(6) Nothing in these Regulations requires a body to comply with a standard in relation to an activity carried out by it or a service provided by it where it is carrying out that activity or providing that service on behalf of a third party under arrangements made between it and the third party, except in relation to—

(a) a clinical consultation,

(b) a case conference, or

(c) an in-patient (when the in-patient is not attending a clinical consultation).

(7) Nothing in these Regulations requires a body to comply with a standard in relation to an activity carried out on its behalf or a service provided on its behalf by a third party under arrangements made between it and the third party in relation to—

(a) a clinical consultation,

- (b) a case conference, or
- (c) an in-patient (when the in-patient is not attending a clinical consultation).

(8) Nothing in these Regulations requires a body to comply with a standard in relation to an activity carried out by it or a service provided by it where that activity is carried out or that service is provided on its behalf—

- (a) in a private hospital or private clinic in Wales,
- (b) on a private ward in a hospital in Wales, or
- (c) in a hospital or clinic located outside of Wales.

(9) Nothing in these Regulations requires a body to comply with a standard in relation to an activity carried out by it or a service provided by it where that activity is carried out or that service is provided on its behalf by a primary care provider.

(10) Nothing in these Regulations requires a body to comply with a standard in relation to an activity carried out by it or a service provided by it where the activity carried out or the service provided on its behalf is a care home service.

Standards specified

2.—(1) In Schedule 1—

- (a) Part 1 specifies service delivery standards;
- (b) Part 2 provides that a compliance notice must require a body to comply with certain standards specified in Part 1 if it has required the body to comply with certain other standards;
- (c) Part 3 defines a number of words and expressions.

(2) In Schedule 2—

- (a) Part 1 specifies policy making standards;
- (b) Part 2 provides that a compliance notice must require a body to comply with certain standards specified in Part 1 if it has required the body to comply with certain other standards;
- (c) Part 3 defines a number of words and expressions.

(3) In Schedule 3—

- (a) Part 1 specifies operational standards;
- (b) Part 2 provides that a compliance notice must require a body to comply with certain standards specified in Part 1 if it has required the body to comply with certain other standards;

- (c) Part 3 defines a number of words and expressions.
- (4) In Schedule 4—
 - (a) Part 1 specifies record keeping standards;
 - (b) Part 2 defines a number of words and expressions.
- (5) In Schedule 5—
 - (a) Part 1 specifies standards that deal with matters which are supplementary to the matters dealt with in the standards specified in Schedules 1 to 4;
 - (b) Part 2 makes provision about interpreting the supplementary standards.

Standards that are specifically applicable

3.—(1) The Welsh Ministers authorise the Welsh Language Commissioner to give a compliance notice to the persons listed in Schedule 6 requiring them to comply with any of the standards specified under regulation 2 and Schedules 1 to 5.

(2) But the Commissioner is not authorised to give a compliance notice to—

- (a) National Health Service Trusts in Wales requiring them to comply with the following standards—
 - (i) 65 to 68,
 - (ii) 78 to 78A;
- (b) Community Health Councils and the Board of Community Health Councils in Wales requiring them to comply with the following standards—
 - (i) 23 to 25,
 - (ii) 64 to 68,
 - (iii) 78 to 78A,
 - (iv) 110 and 110A.

Amendment of Welsh Language Standards (No. 4) Regulations 2016

4.—(1) In regulation 3 of the Welsh Language Standards (No. 4) Regulations 2016 (“the No. 4 Regulations”)(¹) for paragraph (2) substitute—

“(2) But the Commissioner is not authorised to give a compliance notice to—

- (a) the Agricultural Land Tribunal (Wales), the Mental Health Review Tribunal for Wales, the Residential Property Tribunal Wales and the

(1) S.I. 2016/405 (W. 125).

Special Educational Needs Tribunal for Wales requiring them to comply with the following standards—

- (i) 92 to 139,
- (ii) 144 to 148,
- (iii) 161 to 166;

(b) Social Care Wales⁽¹⁾ requiring it to comply with standard 60.”

(2) In Schedule 6 to the No. 4 Regulations in the appropriate place insert—

“Social Care Wales (*“Gofal Cymdeithasol Cymru”*)”.

Minister for Welsh Language and Lifelong Learning,
under the authority of the Cabinet Secretary for
Education, one of the Welsh Ministers

Date

(1) See section 67 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) which continued the Care Council for Wales in existence, but renamed it as Social Care Wales.

SCHEDULE 1 Regulation 2(1)
Service Delivery Standards

PART 1

THE STANDARDS

1 Standards relating to correspondence sent by a body

(1) When a body replies to correspondence

Standard 1: If you receive correspondence from a person in Welsh you must reply in Welsh (if an answer is required), unless the person has indicated that there is no need to reply in Welsh.

(2) When a body initiates correspondence

(a) When a body corresponds with an individual

Standard 2: When you correspond with an individual (“A”) for the first time, you must ask A whether A wishes to receive correspondence from you in Welsh, and if A responds to say that A wishes to receive correspondence in Welsh you must—

- (a) keep a record of A’s wish,
- (b) correspond with A in Welsh when corresponding with A from then onwards, and
- (c) send any forms that A is to complete from then onwards in Welsh.

(b) When a body corresponds with more than one member of the same household

Standard 3: When you send correspondence addressed to one or more individuals who are members of the same household (for example,

the parents of a child) for the first time, you must ask them whether they wish to receive correspondence from you in Welsh; and if—

- (a) all individuals respond to say that they wish to receive correspondence in Welsh, you must keep a record of that wish and correspond in Welsh from then onwards when sending correspondence addressed to all of those individuals;
- (b) one (but not all) of the individuals responds to say that he or she wishes to receive correspondence in Welsh, you must keep a record of that wish and provide a Welsh language version of correspondence from then onwards when sending correspondence addressed to all of those individuals.

(c) When a body corresponds with several persons (for example, when it sends a circular, or sends the same letter to a number of homes)

Standard 4: When you send the same correspondence to several persons, you must send a Welsh language version of the correspondence at the same time as you send any English language version.

(3) General standards relating to correspondence

Standard 5: If you don't know whether a person wishes to receive correspondence from you in Welsh, when you correspond with that person you must provide a Welsh language version of the correspondence.

Standard 6: If you produce a Welsh language version and a corresponding English language version of correspondence, you must not treat the Welsh language version less

favourably than the English language version (for example, if the English version is signed, or if contact details are provided on the English version, then the Welsh version must be treated in the same way).

Standard 7: You must state—

- (a) in correspondence, and
- (b) in publications and notices that invite persons to respond to you or to correspond with you,

that you welcome receiving correspondence in Welsh, that you will respond to correspondence in Welsh, and that corresponding in Welsh will not lead to delay.

2 Standards relating to telephone calls made and received by a body

(1) Telephone calls made to a body's main contact number and to any helplines or call centres

Standard 8: When a person contacts you on your main telephone number (or numbers), or on any helpline numbers or call centre numbers, you must greet the person in Welsh.

Standard 9: When a person contacts you on your main telephone number (or numbers), or on any helpline numbers or call centre numbers, you must inform the person that a Welsh language service is available.

Standard 10: When a person contacts you on your main telephone number (or numbers), or on any helpline numbers or call centre numbers, you must deal with the call in Welsh if that is the person's wish until such point as—

- (a) it is necessary to transfer the call to a member of staff who does not speak Welsh who can provide a service on a specific

subject matter; and

- (b) no Welsh speaking member of staff is available to provide a service on that specific subject matter.

Standard 11: When you advertise telephone numbers, helpline numbers or call centre services, you must not treat the Welsh language less favourably than the English language.

Standard 12: If you offer a Welsh language service on your main telephone number (or numbers), on any helpline numbers or call centre numbers, the telephone number for the Welsh language service must be the same as for the corresponding English language service.

Standard 13: When you publish your main telephone number, or any helpline numbers or call centre service numbers, you must state (in Welsh) that you welcome calls in Welsh.

Standard 14: If you have performance indicators for dealing with telephone calls, you must ensure that those performance indicators do not treat telephone calls made in Welsh any less favourably than calls made in English.

Standard 15: Your main telephone call answering service (or services) must inform persons calling, in Welsh, that they can leave a message in Welsh.

Standard 16: When there is no Welsh language service available on your main telephone number (or numbers), or on any helpline numbers or call centre numbers, you must inform persons calling, in Welsh (by way of an automated message or otherwise), when a Welsh language service will be available.

(2) Telephone calls made to

departments and to members of a body's staff

Standard 17: If a person contacts one of your departments on a direct line telephone number (including on staff members' direct line numbers), and that person wishes to receive a service in Welsh, you must deal with the call in Welsh until such point as—

- (a) it is necessary to transfer the call to a member of staff who does not speak Welsh who can provide a service on a specific subject matter; and
- (b) no Welsh speaking member of staff is available to provide a service on that specific subject matter.

Standard 18: When a person contacts you on a direct line number (whether on a department's direct line number or on the direct line number of a member of staff), you must ensure that, when greeting the person, the Welsh language is not treated less favourably than the English language.

(3) Telephone calls made by a body

Standard 19: When you telephone an individual ("A") for the first time you must ask A whether A wishes to receive telephone calls from you in Welsh, and if A responds to say that A wishes to receive telephone calls in Welsh you must keep a record of that wish, and conduct telephone calls made to A from then onwards in Welsh.

(4) A body dealing with telephone calls using an automated system

Standard 20: Any automated telephone systems that you have must provide the complete automated service in Welsh.

Standards relating to a body holding meetings that are not open to the public

(1) Meetings between a body and one other invited person

Standard 21: If you invite one person only (“P”) to a meeting—

- (a) you must ask P whether P wishes to use the Welsh language at the meeting, and inform P that you will conduct the meeting in Welsh or, if necessary, provide a translation service from Welsh to English for that purpose, and
- (b) if P has informed you that P wishes to use the Welsh language at the meeting, you must conduct the meeting in Welsh or, if necessary, arrange for a simultaneous or consecutive translation service from Welsh to English to be available at the meeting.

(2) Meetings between a body and more than one invited person

Standard 22: If you invite more than one person to a meeting, you must ask each person whether they wish to use the Welsh language at the meeting.

Standard 22A: If you have invited more than one person to a meeting, and at least 10% (but less than 100%) of the persons invited have informed you that they wish to use the Welsh language at the meeting, you must arrange for a simultaneous or consecutive translation service from Welsh to English to be available at the meeting.

Standard 22B: If you have invited more than one person to a meeting, and at least 20% (but less than 100%) of the persons invited have informed you that they wish to use the Welsh language at the meeting, you must

arrange for a simultaneous or consecutive translation service from Welsh to English to be available at the meeting.

Standard 22C: If you have invited more than one person to a meeting, and at least 30% (but less than 100%) of the persons invited have informed you that they wish to use the Welsh language at the meeting, you must arrange for a simultaneous or consecutive translation service from Welsh to English to be available at the meeting.

Standard 22CH: If you have invited more than one person to a meeting, and all of the persons invited have informed you that they wish to use the Welsh language at the meeting, you must conduct the meeting in Welsh or, if necessary, arrange for a simultaneous or consecutive translation service from Welsh to English to be available at the meeting.

4 Standards relating to in-patients

Standard 23: You must ask an in-patient (“A”) on the first day of A’s in-patient admission whether A wishes to use the Welsh language to communicate with you during that in-patient admission.

Standard 23A: If the in-patient (“A”) informs you that A wishes to use the Welsh language to communicate with you during an in-patient admission you must identify to your staff who are likely to communicate with A, that A wishes to use the Welsh language to communicate with you during that in-patient admission.

Standard 24: You must produce and publish a policy on how to establish whether an in-patient (“A”) wishes to use the Welsh language during A’s in-patient admission if A is unable to inform you that A wishes to use the Welsh language to communicate with you during an in-patient admission.

5 Standards relating to case conferences

Standard 25: If you invite an individual (“A”), to a case conference which will be held 5 or more working days after the invitation is sent—

- (a) you must ask A whether A wishes to use the Welsh language at the case conference, and inform A that, you will conduct the conference in Welsh, or if necessary provide a translation service from Welsh to English and from English to Welsh for that purpose, and
- (b) if A has informed you that A wishes to use the Welsh language at the case conference, you must conduct the conference in Welsh or, if necessary, provide a simultaneous or consecutive translation service from Welsh to English and from English to Welsh.

6 Standards relating to meetings arranged by a body that are open to the public

Standard 26: If you arrange a meeting that is open to the public and at which public participation is allowed you must state on any material advertising it, and on any invitation to it, that anyone attending is welcome to use the Welsh language at the meeting.

Standard 27: When you send invitations to a meeting that you arrange which is open to the public and at which public participation is allowed, you must send the invitations in Welsh.

Standard 28: If you invite persons to speak at a meeting that you arrange which is open to the public and at which public participation is allowed, you must—

- (a) ask each person invited to speak whether he or she wishes to use the Welsh language, and
- (b) if that person (or at least one of those persons) has informed you that he or she wishes to use the Welsh language at the meeting, provide a simultaneous or consecutive translation service from Welsh to English for that purpose (unless you conduct the meeting in Welsh without a translation service).

Standard 29: If you arrange a meeting that is open to the public and at which public participation is allowed, you must ensure that a simultaneous translation service from Welsh to English is available at the meeting, and you must orally inform those present in Welsh—

- (a) that they are welcome to use the Welsh language, and
- (b) that a simultaneous translation service is available.

Standard 30: If you produce and display any written material at a meeting that you arrange which is open to the public, you must ensure that the material is displayed in Welsh, and you must not treat any Welsh language text less favourably than the English language text.

7 Standards relating to public events organised or funded by a body

Standard 31: If you organise a public event, or fund at least 50% of a public event, you must ensure that, in promoting the event, the Welsh language is treated no less favourably than the English language (for example, in the way the event is advertised or publicised).

Standard 32: If you organise a public event, or fund at least 50% of a public event, you must ensure that the Welsh language is treated no less favourably than the English language at the event (for example, in relation to services offered to persons attending the event, in relation to signs you produce and display at the event and in relation to audio announcements made at the event).

8 **Standard relating to a body's publicity and advertising**

Standard 33: Any publicity or advertising material that you produce must be produced in Welsh, and if you produce the material in Welsh and in English, you must not treat the Welsh language version less favourably than you treat the English language version.

9 **Standards relating to a body displaying material in public**

Standard 34: Any material that you produce and display in public must be displayed in Welsh, and you must not treat any Welsh language version of the material less favourably than the English language version.

Standard 35: Any material that you produce and display at a public exhibition organised by you must be displayed in Welsh, and you must not treat any Welsh language version of the material less favourably than you treat an English language version.

10 **Standards relating to a body producing and publishing documents and forms**

Standard 36: If you produce a form that is to be completed by an individual, you must produce it in Welsh.

Standard 37: If you produce a document (but not a form) which is available to one or more individuals, you must produce it in Welsh—

- (a) if the subject matter of the document suggests that it should be produced in Welsh, or
- (b) if the anticipated audience, and their expectations, suggests that the document should be produced in Welsh.

Standard 38: If you produce a document or a form in Welsh and in English you must—

- (a) not treat any Welsh language version less favourably than you treat the English language version (whether separate versions or not);
- (b) not differentiate between the Welsh and English version in relation to any requirements that are relevant to the document or form (for example in relation to any deadline for submitting the form, or in relation to the time allowed to respond to the content of the document or form); and
- (c) ensure that the English language version clearly states that the document or form is also available in Welsh.

11 Standards relating to a body's websites and on-line services

(1) Websites published by a body

Standard 39: You must ensure that—

- (a) the text of each page of your website is available in Welsh,
- (b) every Welsh language page on your website is fully functional, and
- (c) the Welsh language is not treated less favourably than the English language on your website.

- Standard 40:** You must ensure that—
- (a) the text of the homepage of your website is available in Welsh,
 - (b) any Welsh language text on your homepage (or, where relevant, your Welsh language homepage) is fully functional, and
 - (c) the Welsh language is treated no less favourably than the English language in relation to the homepage of your website.

- Standard 41:** You must ensure that when you publish a new page on your website or amend a page—
- (a) the text of that page is available in Welsh,
 - (b) any Welsh language version of that page is fully functional, and
 - (c) the Welsh language is treated no less favourably than the English language in relation to that page.

Standard 42: If you have a Welsh language web page that corresponds to an English language web page, you must state clearly on the English language web page that the page is also available in Welsh, and you must provide a direct link to the Welsh page on the corresponding English page.

Standard 43: You must provide the interface and menus on every page of your website in Welsh.

(2) Apps published by a body

Standard 44: All apps that you publish must function fully in Welsh, and the Welsh language must be treated no less favourably than the English language in relation to that app.

12 **Standards relating to a body's use of social media**

Standard 45: When you use social media you must not treat the Welsh language less favourably than the English language.

Standard 46: If a person contacts you by social media in Welsh, you must reply in Welsh (if an answer is required).

13 Standards relating to signs and notices displayed or published by a body

Standard 47: When you—

- (a) erect a new sign or renew a sign (including temporary signs); or
- (b) publish or display a notice;

any text displayed on the sign or notice must be displayed in Welsh (whether on the same sign or notice as you display corresponding English language text or on a separate sign or notice); and if the same text is displayed in Welsh and in English, you must not treat the Welsh language text less favourably than the English language text.

Standard 48: When you—

- (a) erect a new sign or renew a sign (including temporary signs); or
- (b) publish or display a notice;

which conveys the same information in Welsh and in English, the Welsh language text must be positioned so that it is likely to be read first.

Standard 49: You must ensure that the Welsh language text on signs and notices is accurate in terms of meaning and expression.

14 Standards relating to a body receiving visitors at its buildings

Standard 50: Any reception service you make available in English at your

reception must also be available in Welsh, and any person who requires a Welsh language reception service at your reception must not be treated less favourably than a person who requires an English language reception service.

Standard 51: If you have no face to face Welsh language reception service available at your reception, you must ensure that a Welsh language reception service is available over a phone in your reception.

Standard 52: You must display a sign in your reception which states (in Welsh) that persons are welcome to use the Welsh language at the reception.

Standard 53: You must ensure that staff at the reception who are able to provide a Welsh language reception service wear a badge to convey that.

15 Standards relating to a body awarding grants

Standard 54: Any documents that you publish which relate to applications for a grant must be published in Welsh, and you must not treat a Welsh language version of such documents less favourably than an English language version.

Standard 55: When you invite applications for a grant, you must—

- (a) state in the invitation that applications may be submitted in Welsh and that any application submitted in Welsh will be treated no less favourably than an application submitted in English; and
- (b) not treat applications for a grant submitted in Welsh less favourably than applications submitted in English (including, amongst other matters, in relation to the closing date

for receiving applications and in relation to the time-scale for informing applicants of decisions).

Standard 56: When you inform an applicant of your decision in relation to an application for a grant, you must do so in Welsh if the application was submitted in Welsh.

16 Standards relating to a body awarding contracts

Standard 57: Any invitations to tender for a contract that you publish must be published in Welsh if the subject matter of the contract suggests that it should be produced in Welsh, and you must not treat a Welsh language version of any invitation less favourably than an English language version.

Standard 58: When you publish invitations to tender for a contract, you must—

- (a) state in the invitation that tenders may be submitted in Welsh, and that a tender submitted in Welsh will be treated no less favourably than a tender submitted in English, and
- (b) not treat a tender for a contract submitted in Welsh less favourably than a tender submitted in English (including, amongst other matters, in relation to the closing date for receiving tenders, and in relation to the time-scale for informing tenderers of decisions).

Standard 59: When you inform a tenderer of your decision in relation to a tender, you must do so in Welsh if the tender was submitted in Welsh.

17 Standards for raising awareness about Welsh language services provided by a body

Standard 60: You must promote any Welsh

language service that you provide, and advertise that service in Welsh.

Standard 61: If you provide a service in Welsh that corresponds to a service you provide in English, any publicity or document that you produce, or website that you publish, which refers to the English service must also state that a corresponding service is available in Welsh.

18 Standard relating to a body's corporate identity

Standard 62: When you form, revise or present your corporate identity, you must not treat the Welsh language less favourably than the English language.

19 Standard relating to courses offered by a body

Standard 63: If you offer an education course to one or more individuals, you must—

- (a) undertake an assessment of the need for that course to be offered in Welsh;
- (b) offer that course in Welsh if the assessment indicated that the course needs to be offered in Welsh.

20 Standard relating to public address systems used by a body

Standard 64: When you announce a recorded message over a public address system, you must make that announcement in Welsh and, if the announcement is made in Welsh and in English, the announcement must be made in Welsh first.

21 Standards relating to primary care

Standard 65: When you know that a primary care provider is willing to provide a primary care service or part of a primary care service through the

medium of Welsh, you must designate and maintain a page on your website (in Welsh) containing that information.

- Standard 66:** You must—
- (a) provide an English to Welsh translation service for use by a primary care provider to enable it to obtain Welsh language translations of signs or notices displayed in connection with its primary care service, and
 - (b) encourage the use of the translation service provided by you in accordance with this standard.

- Standard 67:** You must—
- (a) make available to a primary care provider a badge for it or its staff to wear to convey that they are able to speak Welsh, and
 - (b) promote to a primary care provider the wearing of the badge.

- Standard 68:** You must provide training courses, information or hold events so that a primary care provider can develop—
- (a) an awareness of the Welsh language (including awareness of its history and its role in Welsh culture); and
 - (b) an understanding of how the Welsh language can be used in the workplace.

PART 2

STANDARDS THAT ARE RELIANT ON OTHER STANDARDS – SPECIAL CONDITIONS

- 22** When a compliance notice requires a body to comply with one of the

standards listed on a specific row in column 1 of Table 1, that compliance notice must also require that body to comply (in whatever way the Welsh Language Commissioner considers appropriate) with the standard or standards listed in column 2 of that row (or with one or more of those standards where that is stated).

TABLE 1

<i>Row</i>	Column 1 <i>Main standard</i>	Column 2 <i>Reliant standard</i>
(1)	Replying to correspondence Standard 1	Standard 7
(2)	Corresponding with members of the same household Standard 3	Standard 6
(3)	Corresponding with several persons Standard 4	Standard 6 Standard 7
(4)	General standards relating to correspondence Standard 5	Standard 6 Standard 7
(5)	Raising awareness about corresponding in Welsh Standard 7	Standard 1
(6)	Receiving telephone calls Standard 9	Standard 10
(7)	Receiving telephone calls	

	Standard 10	Standard 9 Standard 13
(8)	Raising awareness about telephone services in Welsh Standard 13	Standard 10 Standard 15 and Standard 16
(9)	Meetings with more than one person Standard 22	One or more of the following: Standard 22A Standard 22B Standard 22C and also; Standard 22CH
(10)	Meetings with more than one person Standard 22A, 22B, 22C or 22CH	Standard 22
(11)	In-patients Standard 23	Standard 23A
(12)	In-patients Standard 23A	Standard 23
(13)	Public meetings Standard 26	Standard 29
(14)	Public meetings Standard 29	Standard 26
(15)	Documents and forms Standard 36 or 37	Standard 38
(16)	Websites Standard 39, 40 or 41	Standard 42
(17)	Signs and notices	

	Standard 47 or 48	Standard 49
(18)	Reception Standard 50	Standard 52 Standard 53
(19)	Reception Standard 51	Standard 52
(20)	Raising awareness of Welsh-language services in a reception Standard 52	One or more of the following: Standard 50 Standard 51
(21)	Grants Standard 55	Standard 56
(22)	Contracts Standard 58	Standard 59

PART 3

INTERPRETING THE STANDARDS

- 23** The standards specified in Part 1 of this Schedule must be interpreted as follows.
- 24** The standards only apply to the extent that a body—
- (a) delivers services to a person, or
 - (b) deals with any other person in connection with delivering services—
 - (i) to that other person, or
 - (ii) to a third person.
- 25** The standards do not apply to the extent that the activity carried out or the service provided relates to research.

26 A body is not required to produce, to display or to send material in Welsh to the extent that another enactment has specified the wording of a document, a sign or a form which would run contrary to that requirement.

27 For the purposes of the standards—

- (a) a requirement to produce, to send, to publish, to display, to make available or to issue any written material in Welsh does not mean that the material should be produced, sent, published, displayed, made available or issued in Welsh only, nor does it mean that the material should be produced in Welsh first (unless that is specifically stated in the standard);
- (b) a requirement to provide a service in Welsh does not mean that that service should only be provided in Welsh (unless that is specifically stated in the standard).

28 (1) A body is not required to translate into Welsh any text that it has not produced (“text A”).

(2) A body will not be treating the Welsh language less favourably if it does not translate text A into Welsh but see sub-paragraph (3).

(3) A body must use the Welsh version of text A if another person has produced text A in Welsh in accordance with—

- (a) its Welsh Language Scheme;
- (b) a duty to comply with standards;
- (c) Standing Orders of the Assembly;
- (ch) section 35(1C) of the 2006 Act; or
- (d) the Assembly Commission’s Official Languages Scheme.

(4) In this paragraph—

- (a) “Welsh Language Scheme” means a Welsh language scheme produced in accordance with Part 2 of the Welsh Language Act 1993⁽¹⁾;
- (b) “a duty to comply with standards” means a duty to comply with a standard under section 25 of the Welsh Language (Wales) Measure 2011;
- (c) “the 2006 Act” means the Government of Wales Act 2006⁽²⁾;
- (ch) “Standing Orders of the Assembly” means standing orders made under section 31 of the 2006 Act;
- (d) “the Assembly Commission’s Official Languages Scheme” means the Scheme adopted and published under paragraph 8 of Schedule 2 to the 2006 Act.

29

(1) If—

- (a) the conditions in paragraphs (i) to (iii) are met, or
- (b) the condition in subparagraph (2) is met,

a person or body listed in Schedule 1 to the Civil Contingencies Act 2004⁽³⁾ (“the 2004 Act”) is not required to comply with any of the standards in respect of an activity or a service referred to in paragraph (ii)—

- (i) the first condition is that an emergency has occurred, is occurring or is about to occur;
- (ii) the second condition is that the activity being carried out or the service being provided

(1) 1993 c. 38.

(2) 2006 c. 32.

(3) 2004 c. 36.

by the person or body is necessary for the purpose of preventing, controlling or mitigating an aspect or effect of an emergency; and

(iii) the third condition is that the need for the activity or the service referred to in paragraph (ii) is urgent.

(2) The condition is that the person or body is undertaking an emergency drill.

(3) In this paragraph, “emergency” has the same meaning given to it in section 1 of the 2004 Act subject to sub-paragraph (4).

(4) If the condition in sub-paragraph (2) is met, then the reference to “an emergency” in sub-paragraph (1)(ii) is to be read as “the simulated emergency situation”.

30

(1) Where the emergency is not an emergency within the meaning of paragraph 29, and—

- (a) the conditions in paragraphs (i) to (iii) are met, or
- (b) the condition in sub-paragraph (2) is met,

a body is not required to comply with any of the standards in respect of an activity or a service referred to in paragraph (ii)—

- (i) the first condition is that an emergency has occurred, is occurring or is about to occur;
- (ii) the second condition is that the activity being carried out or the service being provided by the body is necessary for the purpose of preventing, controlling or mitigating an aspect or effect of an emergency; and
- (iii) the third condition is that the need for the

activity or the service referred to in paragraph (ii) is urgent and it is occurring outside of a hospital building.

(2) The condition is that the body is undertaking an emergency drill.

(3) If the condition in subparagraph (2) is met, then the reference to “an emergency” in subparagraph (1)(ii) is to be read as “the simulated emergency”.

31

(1) Where a body is responding to the notification of a suspected disease, infection, causative agent or contamination within the meaning of the Public Health (Control of Diseases) Act 1984⁽¹⁾ (“the 1984 Act”) or any regulations made under the 1984 Act, and—

- (a) the conditions in paragraphs (i) and (ii) are met, or
- (b) the condition in subparagraph (2) is met,

a body is not required to comply with any of the standards in respect of an activity or a service referred to in paragraph (ii)—

- (i) the first condition is that a proper officer (within the meaning of the 1984 Act) determines that the case is urgent; and
- (ii) the second condition is that the activity being carried out or the service being provided by the body is necessary for the purpose of preventing, controlling or mitigating an aspect or effect of a disease, infection, contamination or the causative agent.

(2) The condition is that the body is undertaking a drill.

⁽¹⁾ 1984 c. 22.

(3) If the condition in sub-paragraph (2) is met, then the reference to “a disease, infection, contamination or causative agent” in sub-paragraph (1)(ii) is to be read as “the simulated disease, infection, contamination or causative agent”.

- 32 For the purposes of standards 2, 3 and 19, a body corresponds with an individual or makes a telephone call to an individual for the first time when it corresponds or makes a telephone call for the first time after the date on which a compliance notice has required the body to comply with the standard.
- 33 Standards 1 to 5 do not apply to correspondence which contains the report of a clinical consultation (including, for example, test results).
- 34 Standards 4 and 5 do not apply to correspondence between a body and a person (who is not an individual) about one or more individuals.
- 35 Standards 8 to 10 and 13 to 16 do not apply to calls made to the following telephone numbers—
(a) 999;
(b) 112.
- 36 Standard 19 does not apply to the extent that the activity carried out or the service provided relates to a primary care service.
- 37 In standard 20 an “automated” telephone system means a system that answers telephone calls and guides persons through a set procedure with a recorded message which, for example, asks a person to press different keys in order to choose different options.
- 38 (1) The standards in sub-paragraph (2) do not apply to a meeting between the body and one or more persons to discuss the assessment, diagnosis or treatment of one or more named individuals and none of those individuals are present at that

meeting.

(2) The standards referred to in sub-paragraph (1) are—

- (a) standards 8 to 20 (telephone calls);
- (b) standards 21 to 22CH (meetings);
- (c) standards 26 to 30 (meetings open to the public);
- (ch) standard 32 (public events);
- (d) standards 39 to 44 (websites and online services);
- (dd) standards 45 and 46 (social media).

39

(1) The standards in sub-paragraph (2) do not apply to a clinical consultation or a case conference (see standards 23 to 24 for in-patients and standard 25 for case conferences).

(2) The standards referred to in sub-paragraph (1) are—

- (a) standards 8 to 20 (telephone calls);
- (b) standards 21 to 22CH (meetings);
- (c) standards 26 to 30 (meetings open to the public);
- (ch) standard 32 (public events);
- (d) standards 39 to 44 (websites and online services);
- (dd) standards 45 and 46 (social media).

40

In standard 25—

- (a) a “working day” means any day other than a Saturday, a Sunday or a day which is a bank holiday within the meaning of section 1 of the Banking and Financial Dealings Act 1971 or other public holiday;
- (b) a “working day” does not include the day on which the invitation was sent.

- 41** Standard 32 does not apply to—
- (a) performances of music;
 - (b) artistic or dramatic productions;
 - (c) seminars or oral presentations relating to the performance or production; or
 - (ch) any recording of the performance, production, seminar or oral presentation.
- 42** Standards 32 and 64 do not apply when the message that you announce over a public address system is made during an emergency or an emergency drill.
- 43** Where a standard refers to material that is to be produced in Welsh (with the exception of standards 39 to 44 (websites and apps), 45 and 46 (social media) and 57 (invitations to tender)), references to treating the Welsh language no less favourably than the English language, or to treating a Welsh language version no less favourably than an English language version, include, amongst other matters (and in addition to specific matters referred to in any individual standard), treating the Welsh language no less favourably as regards—
- (a) the visual presentation of material (for example in relation to the colour or font of any text);
 - (b) the size of the material;
 - (c) the position and prominence of the material in any public place;
 - (ch) when and how the material is published, provided or exhibited; or
 - (d) the publication format of the material.
- 44** For the purposes of standard 37 references to documents or other materials being available to one or

more individuals do not include documents or materials that are only available to individuals by virtue of the Freedom of Information Act 2000⁽¹⁾.

45

(1) Standards 36 and 38 do not apply to the forms listed in sub-paragraph (3).

(2) For the purposes of standard 2, a body is not required to send a Welsh language version of the forms listed in sub-paragraph (3).

(3) The forms are—

- (a) forms used by a body to recruit employees (see standards 107A and 108 in relation to recruitment);
- (b) forms used when applying for grant assistance from a body (see standards 54 to 56 in relation to applications for grants); and
- (c) forms used when submitting a tender to enter into a contract with a body (see standards 57 to 59 in relation to tendering for a contract).

46

Standards 36 to 38 do not apply—

- (a) to an enactment made by a body or to a draft enactment prepared by a body;
- (b) to any advertising material contained in a document;
- (c) to rules specified in an enactment or in a draft enactment prepared by a body; or
- (ch) when a form or document produced by the body provides information in relation to a named individual.

47

Standards 39 to 43 (websites) do not apply to—

- (a) documents to which a link is provided on a website,

(1) 2000 c. 36.

advertising material on a website, or to video and audio clips on a website (see standards 36 to 38 for specific provision in relation to documents, and standard 33 in relation to advertising material produced by a body);

- (b) information presented by persons (other than the body) on an interactive page published on a body's website (for example on a section for comments or on a discussion forum); or
- (c) a webpage which contains the report of a clinical consultation (including, for example, test results).

48

(1) For the purpose of standard 44 an 'app' is a software application designed to undertake a specific task on an electronic device.

(2) Standard 44 does not apply to any advertising material on an app (see standard 33 in relation to advertising material produced by a body).

49

For the purpose of standards 39 to 41 (websites), 44 (apps) and 45 (social media), references to treating the Welsh language no less favourably than the English language include, amongst other matters (and in addition to specific matters referred to in any individual standard), treating the Welsh language no less favourably as regards—

- (a) the visual presentation of the material (for example in relation to the colour, size, font and format of any text), or
- (b) when material is published on the website, app or social media;

but it does not mean that Welsh language material must appear on the same page as English language material, or on a page that a person is likely to find before the English

language page when searching.

50 (1) Standards 1 to 7 (correspondence) do not apply to correspondence sent by social media (see standards 45 and 46 in relation to social media).

(2) Standards 39 to 44 (websites and apps) do not apply to social media (see standards 45 and 46 in relation to social media).

51 Standards 45 and 46 (social media) do not apply to—

(a) documents to which a link is provided through social media, or to video and audio clips provided through social media (see standards 36 to 38 for specific provision in relation to documents, and standard 33 in relation to advertising material produced by a body);

(b) information presented by persons (other than the body) on a body's social media account (for example on a section for comments); or

(c) information sent by social media which contains the report of a clinical consultation (including, for example, test results).

52 For the purposes of standards 50 to 53 (receiving visitors)—

(a) “reception” means an area in a body's hospitals, offices and service locations where staff's main role is to welcome persons; and

(b) “reception service” means a service for welcoming persons to the body's hospitals, offices or service locations by staff whose main role is for that purpose.

53 For the purposes of standards 7 and

47 to 49 a “notice” means any notice that a body publishes, but it does not include notices prescribed by an enactment.

54

For the purposes of standard 57 (invitation to tender)—

- (a) a body is not required to publish an invitation to tender in Welsh in the Official Journal of the European Union;
- (b) a reference to treating a Welsh language version no less favourably than an English language version includes, amongst other matters, treating the Welsh language no less favourably as regards—
 - (i) the visual presentation of material (for example in relation to the colour or font of any text);
 - (ii) the size of the material;
 - (iii) the position and prominence of the material in any public place;
 - (iv) when and how the material is published, provided or exhibited; or
 - (v) the publication format of material;

but a body will not be treating the Welsh language less favourably than the English language by not publishing an invitation to tender in Welsh in the Official Journal of the European Union.

55

(1) For the purposes of standard 62, the reference to a body forming or presenting its “corporate identity” includes, amongst other things, the way a body presents itself by means of visual statements, the name or names used by a body, and a body’s branding and slogans (for example, branding and slogans printed on its

stationery).

(2) Standard 62 does not apply to the extent that an enactment requires a body to use a legal name.

56

For the purposes of standard 63 (courses), an “education course” means any seminar, training, workshop or similar provision which is provided in order to educate or to improve the skills of individuals; but does not include—

- (a) an education course that prepares a participant for a qualification or an exam;
- (b) an education course where the majority of participants are undertaking the course as part of their professional development;
- (c) an education course where the majority of participants will be members of staff; or
- (ch) an education course for which a fee is paid.

57

For the purposes of the standards “enactment” means an enactment (whenever enacted or made) comprised in, or in an instrument made under—

- (a) an Act of Parliament; or
- (b) a Measure or an Act of the National Assembly for Wales.

SCHEDULE 2 Regulation 2(2)

Policy making standards

PART 1

THE STANDARDS

1 Standards relating to considering the effects of a body's policy decisions on the Welsh language

Standard 69: When you formulate a new policy, or review or revise an existing policy, you must consider what effects, if any (whether positive or adverse), the policy decision would have on—

- (a) opportunities for persons to use the Welsh language, and
- (b) treating the Welsh language no less favourably than the English language.

Standard 70: When you formulate a new policy, or review or revise an existing policy, you must consider how the policy could be formulated (or how an existing policy could be changed) so that the policy decision would have positive effects, or increased positive effects, on—

- (a) opportunities for persons to use the Welsh language, and
- (b) treating the Welsh language no less favourably than the English language.

Standard 71: When you formulate a new policy, or review or revise an existing policy, you must consider how the policy could be formulated (or how an existing policy could be changed) so that the policy decision would not have adverse effects, or so that it would have decreased adverse effects, on—

- (a) opportunities for persons to use the Welsh language, and

- (b) treating the Welsh language no less favourably than the English language.

Standard 72: When you publish a consultation document which relates to a policy decision, the document must consider, and seek views on, the effects (whether positive or adverse) that the policy decision under consideration would have on—

- (a) opportunities for persons to use the Welsh language, and
- (b) treating the Welsh language no less favourably than the English language.

Standard 73: When you publish a consultation document which relates to a policy decision the document must consider, and seek views on, how the policy under consideration could be formulated or revised so that it would have positive effects, or increased positive effects, on—

- (a) opportunities for persons to use the Welsh language, and
- (b) treating the Welsh language no less favourably than the English language.

Standard 74: When you publish a consultation document which relates to a policy decision the document must consider, and seek views on, how the policy under consideration could be formulated or revised so that it would not have adverse effects, or so that it would have decreased adverse effects, on—

- (a) opportunities for persons to use the Welsh language, and
- (b) treating the Welsh language no less favourably than the English language.

Standard 75: When you commission or undertake research that is intended to assist you to make a policy decision, you must ensure that the research considers what effects, if any (and

whether positive or adverse), the policy decision under consideration would have on—

- (a) opportunities for persons to use the Welsh language, and
- (b) treating the Welsh language no less favourably than the English language.

Standard 76: When you commission or undertake research that is intended to assist you to make a policy decision, you must ensure that the research considers how the policy decision under consideration could be made so that it would have positive effects, or so that it would have increased positive effects, on—

- (a) opportunities for persons to use the Welsh language, and
- (b) treating the Welsh language no less favourably than the English language.

Standard 77: When you commission or undertake research that is intended to assist you to make a policy decision, you must ensure that the research considers how the policy decision under consideration could be made so that it would not have adverse effects, or so that it would have decreased adverse effects, on—

- (a) opportunities for persons to use the Welsh language, and
- (b) treating the Welsh language no less favourably than the English language.

Standard 78: You must publish a policy on providing a primary care service which requires you to take the following into account when you make decisions in relation to providing a primary care service—

- (a) what effects, if any (and whether positive or negative), the decision would have on—
 - (i) opportunities for persons to use the

- Welsh language, and
- (ii) treating the Welsh language no less favourably than the English language;
- (b) how that decision could be taken or implemented so that it would have positive effects, or increased positive effects, on—
 - (i) opportunities for persons to use the Welsh language, and
 - (ii) treating the Welsh language no less favourably than the English language; and
- (c) how the decision could be taken or implemented so that it would not have adverse effects, or so that it would have decreased adverse effects on—
 - (i) opportunities for persons to use the Welsh language, and
 - (ii) treating the Welsh language no less favourably than the English language.

**Standard
78A:**

On the expiry of 5 years after publishing the policy in accordance with standard 78 (whether or not revisions have been made to that policy) and on the expiry of each subsequent period of 5 years you must —

- (a) assess to what extent you have complied with the policy; and
- (b) publish that assessment on your website within 6 months of the end of the period.

PART 2

**STANDARDS THAT ARE RELIANT ON
OTHER STANDARDS – SPECIAL
CONDITIONS**

a body to comply with one of the standards listed on a specific row in column 1 of Table 1, that compliance notice must also require that body to comply (in whatever way the Welsh Language Commissioner considers appropriate) with the standard or standards listed in column 2 of that row.

TABLE 1

<i>Row</i>	Column 1 <i>Main standard</i>	Column 2 <i>Reliant standard</i>
(1)	Policy on a primary care service Standard 78A	Standard 78

PART 3

INTERPRETING THE STANDARDS

- 3** In Part 1 of this Schedule a “policy decision” means any decision made by a body about the exercise of its functions or about the conduct of its business or other undertaking, and it includes, amongst other things (and as appropriate to the body), decisions about—
- (a) the exercise of statutory powers;
 - (b) the content of policy statements;
 - (c) strategies or strategic plans;
 - (ch) internal structures and location of premises; or
 - (d) the recruitment or use of volunteers.
- 4** In Part 1 of this Schedule a reference to positive or adverse effects is a reference to such effects whether direct or indirect.

5

Standards 75 to 77 do not apply to the extent that the research commissioned or undertaken is or relates to medical research.

SCHEDULE 3 Regulation 2(3)

Operational standards

PART 1

THE STANDARDS

1 Standards relating to the use of the Welsh language within a body's internal administration

Standard 79: You must develop a policy on using Welsh internally for the purpose of promoting and facilitating the use of the language, and you must publish that policy on your intranet.

Standard 80: When you offer a new post to an individual, you must ask that individual whether he or she wishes for the contract of employment or contract for services to be provided in Welsh; and if that is the individual's wish you must provide the contract in Welsh.

Standard 81: You must ask each employee ("A") whether A wishes to receive any of the following in Welsh, and if A wishes to receive one or more in Welsh you must provide it (or them) to A in Welsh—

- (a) any paper correspondence that relates to A's employment, and which is addressed to A;
- (b) any documents that outline A's training needs or requirements;
- (c) any documents that outline A's performance objectives;
- (ch) any documents that outline or record A's career plan;
- (d) any forms that record and authorise annual leave;
- (dd) any forms that record and authorise absences from work;
- (e) any forms that record and authorise flexible working

hours.

Standard 82: If you publish any of the following, you must publish it in Welsh—

- (a) a policy relating to behaviour in the workplace;
- (b) a policy relating to health and well-being at work;
- (c) a policy relating to salaries or workplace benefits;
- (ch)a policy relating to performance management;
- (d) a policy relating to absence from work;
- (dd) a policy relating to working conditions;
- (e) a policy relating to work patterns.

2 Standards relating to complaints made by a member of a body's staff

Standard 83: You must allow and state in any document that you have that sets out your procedures for making complaints that each member of staff may—

- (a) make a complaint to you in Welsh, and
- (b) respond to a complaint made about him or about her in Welsh;

and you must also inform each member of staff of that right.

Standard 84: If you receive a complaint from a member of staff or a complaint about a member of staff, and a meeting is required with that member of staff, you must—

- (a) offer to conduct the meeting in Welsh or, if necessary, provide a translation service from Welsh to English for that purpose; and
- (b) if the member of staff wishes for the meeting to be conducted in Welsh, conduct the meeting in Welsh or, if necessary, with the assistance of a simultaneous or consecutive

translation service from Welsh to English.

Standard 85: When you inform a member of staff (“A”) of a decision you have reached in relation to a complaint made by A, or in relation to a complaint made about A, you must do so in Welsh if A—

- (a) made the complaint in Welsh,
- (b) responded in Welsh to a complaint about A,
- (c) asked for a meeting about the complaint to be conducted in Welsh, or
- (ch) asked to use the Welsh language at a meeting about the complaint.

3 Standards relating to a body disciplining staff

Standard 86: You must—

- (a) allow and state in any document that you have which sets out your arrangements for disciplining staff that any member of staff may respond in Welsh to any allegations made against him or against her, and
- (b) if you commence a disciplinary procedure in relation to a member of staff, inform that member of staff of that right.

Standard 87: If you organise a meeting with a member of staff regarding a disciplinary matter that relates to his or to her conduct you must—

- (a) offer to conduct the meeting in Welsh or, if necessary, provide a translation service from Welsh to English for that purpose; and
- (b) if the member of staff wishes for the meeting to be conducted in Welsh, conduct the meeting in Welsh, or if necessary with the assistance of a

simultaneous or consecutive translation service from Welsh to English.

- Standard 88:** When you inform a member of staff (“A”) of a decision you have reached following a disciplinary procedure, you must do so in Welsh if A—
- (a) responded to allegations made against A in Welsh,
 - (b) asked for a meeting regarding the disciplinary procedure to be conducted in Welsh, or
 - (c) asked to use the Welsh language at a meeting regarding the disciplinary procedure.

4 Standards relating to a body’s information technology and about support material provided by a body, and relating to the intranet

- Standard 89:** You must provide staff with computer software for checking spelling and grammar in Welsh, and provide Welsh language interfaces for software (where an interface exists).

- Standard 90:** You must ensure that—
- (a) the text of each page of your intranet is available in Welsh,
 - (b) every Welsh language page on your intranet is fully functional, and
 - (c) the Welsh language is treated no less favourably than the English language on your intranet.

- Standard 91:** You must ensure that—
- (a) the text of the homepage of your intranet is available in Welsh,
 - (b) any Welsh language text on your intranet’s homepage (or, where relevant, your Welsh language intranet homepage) is fully functional, and

- (c) the Welsh language is treated no less favourably than the English language in relation to the homepage of your intranet.

Standard 92: You must ensure that each time you publish a new intranet page or amend a page—

- (a) the text of that page is available in Welsh,
- (b) any Welsh language version of that page is fully functional, and
- (c) the Welsh language is treated no less favourably than the English language in relation to the text of that page.

Standard 93: If you have a Welsh language page on your intranet that corresponds to an English language page, you must state clearly on the English language page that the page is also available in Welsh, and must provide a direct link to the Welsh language page on the corresponding English language page.

Standard 94: You must designate and maintain a page (or pages) on your intranet which provides services and support material to promote the Welsh language and to assist your staff to use the Welsh language.

Standard 95: You must provide the interface and menus on your intranet pages in Welsh.

5 Standards relating to a body developing Welsh language skills through planning and training its workforce

Standard 96: You must assess the Welsh language skills of your employees.

Standard 97: You must provide opportunities for training in Welsh in the following areas, if you provide such training in English—

- (a) recruitment and

- interviewing;
- (b) performance management;
- (c) complaints and disciplinary procedures;
- (ch) induction;
- (d) dealing with the public; and
- (dd) health and safety.

Standard 98: You must provide opportunities for training in Welsh on using Welsh effectively in—

- (a) meetings;
- (b) interviews; and
- (c) complaints and disciplinary procedures.

Standard 99: You must provide opportunities during working hours—

- (a) for your employees to receive basic Welsh language lessons, and
- (b) for employees who manage others to receive training on using the Welsh language in their role as managers.

Standard 100: You must provide opportunities for employees who have completed basic Welsh language training to receive further training, free of charge, to develop their language skills.

Standard 101: You must provide opportunities for employees to receive training, free of charge, to improve their Welsh language skills.

Standard 102: You must provide training courses so that your employees can develop—

- (a) awareness of the Welsh language (including awareness of its history and its role in Welsh culture);
- (b) an understanding of the duty to operate in accordance with the Welsh language standards; and
- (c) an understanding of how the Welsh language can be used in the workplace.

Standard 103: When you provide information to new employees (for example by means of an induction process), you must provide information for the purpose of raising their awareness of the Welsh language.

Standard 104: You must provide—

- (a) wording or a logo for your staff to include in e-mail signatures which will enable them to indicate whether they speak Welsh fluently or whether they are learning the language, and
- (b) wording for your employees which will enable them to include a Welsh language version of their contact details in e-mail messages, and to provide a Welsh language version of any message which informs others that they are unavailable to respond to e-mail messages.

Standard 105: You must—

- (a) make available to members of staff who are able to speak Welsh a badge for them to wear to convey that; and
- (b) promote the wearing of the badge to members of staff.

6 Standards relating to a body recruiting and appointing

Standard 106: When you assess the requirements for a new or vacant post, you must assess the need for Welsh language skills, and categorise it as a post where one or more of the following apply—

- (a) Welsh language skills are essential;
- (b) Welsh language skills need to be learnt when appointed to the post;
- (c) Welsh language skills are desirable; or
- (ch) Welsh language skills are

not necessary.

- Standard 106A:** If you have categorised a post as one where Welsh language skills are essential, desirable or need to be learnt you must—
- (a) specify that when advertising the post, and
 - (b) advertise the post in Welsh.

Standard 107: When you advertise a post, you must state that applications may be submitted in Welsh, and that an application submitted in Welsh will not be treated less favourably than an application submitted in English.

- Standard 107A:** If you publish—
- (a) application forms for posts;
 - (b) material that explains your procedure for applying for posts;
 - (c) information about your interview process, or about other assessment methods when applying for posts; or
 - (ch) job descriptions;
- you must publish them in Welsh; and you must ensure that the Welsh language versions of the documents are treated no less favourably than any English language versions of those documents.

Standard 107B: You must not treat an application for a post made in Welsh less favourably than you treat an application made in English (including, amongst other matters, in relation to the closing date you set for receiving applications and in relation to any timescale for informing applicants of decisions).

Standard 108: You must ensure that your application forms for posts provide a space for applicants to indicate that they wish an interview or other method of assessment in Welsh and if an applicant so wishes, you must conduct any interview or other method of assessment in Welsh, or, if necessary, provide a simultaneous or consecutive translation service

from Welsh to English for that purpose.

Standard 109: When you inform an applicant of your decision in relation to an application for a post, you must do so in Welsh if the application was made in Welsh.

7 Standards relating to a plan dealing with offering to carry out clinical consultations in Welsh

Standard 110: You must publish a plan for each 5 year period setting out—

- (a) the extent to which you are able to offer to carry out a clinical consultation in Welsh;
- (b) the actions you intend to take to increase your ability to offer to carry out a clinical consultation in Welsh;
- (c) a timetable for the actions that you have detailed in (b).

Standard 110A: Three years after publishing a plan in accordance with standard 110, and at the end of a plan's 5 year period you must—

- (a) assess the extent to which you have complied with the plan; and
- (b) publish that assessment within 6 months.

8 Standards relating to signs and notices displayed or published in a body's workplace

Standard 111: When you—

- (a) erect a new sign or renew a sign in your workplace (including temporary signs),or
- (b) publish or display a notice in your workplace;

any text displayed on the sign or notice must be displayed in Welsh (whether on the same sign or notice as the corresponding English

language text or on a separate sign or notice), and if the same text is displayed in Welsh and in English, you must not treat the Welsh language text less favourably than the English language text.

- Standard 112:** When you—
- (a) erect a new sign or renew a sign in your workplace (including temporary signs); or
 - (b) publish or display a notice in your workplace;

which conveys the same information in Welsh and in English, the Welsh language text must be positioned so that it is likely to be read first.

- Standard 113:** You must ensure that the Welsh language text on signs and notices displayed in your workplace is accurate in terms of meaning and expression.

9 **Standard relating to audio announcements and messages in a body’s workplace**

- Standard 114:** When you make a recorded announcement in the workplace using audio equipment, that announcement must be made in Welsh, and if the announcement is made in Welsh and in English, the announcement must be made in Welsh first.

PART 2

STANDARDS THAT ARE RELIANT ON OTHER STANDARDS – SPECIAL CONDITIONS

- 10** When a compliance notice requires a body to comply with one of the standards listed on a specific row in column 1 of Table 1, that compliance notice must also require that body to comply (in whatever way the Welsh Language Commissioner considers

appropriate) with the standard or standards listed in column 2 of that row.

TABLE 1

<i>Row</i>	Column 1 <i>Main standard</i>	Column 2 <i>Reliant standard</i>
(1)	Intranet Standards 90, 91 or 92	Standard 93
(2)	Recruiting and appointing Standard 106	Standard 106A
(3)	Recruiting and appointing Standard 107	Standard 107A Standard 107B Standard 109
(4)	Plan relating to clinical consultations Standard 110	Standard 110A
(5)	Plan relating to clinical consultations Standard 110A	Standard 110
(6)	Internal signs and notices Standard 111	Standard 113

PART 3

INTERPRETING THE STANDARDS

11

The standards specified in Part 1 of this Schedule must be interpreted as follows.

(1) A body is not required to translate into Welsh any text that it has not produced (“text A”).

(2) A body will not be treating the Welsh language less favourably if it does not translate text A into Welsh but see sub-paragraph (3).

(3) A body must use the Welsh version of text A if another person has produced text A in Welsh in accordance with—

- (a) its Welsh Language Scheme;
- (b) a duty to comply with standards;
- (c) Standing Orders of the Assembly;
- (ch) section 35(1C) of the 2006 Act; or
- (d) the Assembly Commission’s Official Languages Scheme.

(4) In this paragraph—

- (a) “Welsh Language Scheme” means a Welsh language scheme produced in accordance with Part 2 of the Welsh Language Act 1993⁽¹⁾;
- (b) “a duty to comply with standards” means a duty to comply with a standard under section 25 of the Welsh Language (Wales) Measure 2011;
- (c) “the 2006 Act” means the Government of Wales Act 2006⁽²⁾;
- (ch) “Standing Orders of the Assembly” means standing orders made under section 31 of the 2006 Act;
- (d) “the Assembly Commission’s Official Languages Scheme” means the Scheme adopted and published under

(1) 1993 c. 38.

(2) 2006 c. 32.

paragraph 8 of Schedule 2
to the 2006 Act.

13

For the purposes of standards 90 to 92 (a body's intranet), references to treating the Welsh language no less favourably than the English language include, amongst other matters (and in addition to specific matters referred to in any individual standard), treating the Welsh language no less favourably as regards—

- (a) the visual presentation of the material (for example in relation to the colour, size, font and format of any text); or
- (b) when material is published on the intranet;

but it does not mean that the Welsh language material must appear on the same page as the English language material, or on a page that is likely to open before the corresponding English language version of a page.

14

For the purposes of standards 107A (recruitment) and 111 (internal signs and notices), references to treating the Welsh language no less favourably than the English language includes, amongst other matters (and in addition to specific matters referred to in any individual standard), treating the Welsh language no less favourably as regards—

- (a) the visual presentation of the material (for example in relation to the colour or font of any text);
- (b) the size of the material;
- (c) the position and prominence of the material in any public area;
- (ch) when and how material is published, provided or exhibited; or
- (d) the publication format of the material.

- 15** For the purposes of the standards a requirement to publish, provide or display any written material in Welsh does not mean that material should be published, provided or, displayed in Welsh only, nor does it mean that the material should be produced in Welsh first (unless that is specifically stated in the standard).
- 16** Standards 90 to 92 (intranet) do not apply to—
- (a) documents to which a link is provided on the intranet, advertising material on the intranet, or to video and audio clips on the intranet (see standard 82 for specific provision in relation to documents); or
 - (b) information presented by persons on an interactive page published on a body's intranet (for example on a section for comments or on a discussion forum).
- 17** For the purposes of standards 106 and 106A only—
- (a) “post” includes a public appointment;
 - (b) “public appointment” means any appointment to a public body or public office.
- 18** For the purposes of standards 107 to 109 only “post” includes a voluntary post.
- 19** In standard 110 the “5 year period” means—
- (a) 5 years beginning with the imposition date, and
 - (b) each subsequent 5 year period.
- 20** In paragraph 19 the “imposition date” means the day from which a person is required to comply with standard 110 or to comply with it in a particular respect.

21

Standard 114 does not apply when the message that you announce over a public address system is made during an emergency or an emergency drill.

SCHEDULE 4 Regulation 2(4)
Record Keeping Standards

PART 1
THE STANDARDS

1 **Standards relating to a body keeping records**

Standard 115: You must keep a record, in relation to each financial year, of the number of complaints you receive relating to your compliance with standards.

Standard 116: You must keep a record (following assessments of your employees' Welsh language skills made in accordance with standard 96), of the number of employees who have Welsh language skills at the end of each financial year and, where you have that information, you must keep a record of the skill level of those employees.

Standard 117: You must keep a record, in relation to each financial year, of the number of new and vacant posts which were categorised (in accordance with standard 106) as posts where—

- (a) Welsh language skills are essential;
- (b) Welsh language skills need to be learnt when appointed to the post;
- (c) Welsh language skills are desirable; or
- (ch) Welsh language skills are not necessary.

PART 2
INTERPRETING THE STANDARDS

2 The standards specified in Part 1 of this Schedule must be interpreted as

follows.

3

For the purposes of standards 115, 116 and 117 “financial year” means the body's own financial year.

SCHEDULE 5 Regulation 2(5)

Standards which deal with Supplementary Matters

PART 1

STANDARDS

1 A body publicising standards

Standard 118: You must ensure that a document which records the standards with which you are under a duty to comply, and the extent to which you are under a duty to comply with those standards, is available on your website.

2 A body publishing a complaints procedure

Standard 119: You must—

- (a) ensure that you have a complaints procedure that deals with how you intend to deal with complaints relating to your compliance with the standards with which you are under a duty to comply, and
- (b) publish a document that records that procedure on your website.

3 A body producing an annual report regarding standards

Standard 120: (1) You must produce a report (an “annual report”), in Welsh, in relation to each financial year, which deals with the way in which you have complied with the standards with which you were under a duty to comply during that year.

(2) The annual report must include the following information (where relevant, to the extent you are under a duty to comply with the standards referred to)—

- (a) the number of complaints that you received during the

year in question which related to compliance with the standards with which you were under a duty to comply (on the basis of the records you kept in accordance with standard 115);

(b) the number of employees who have Welsh language skills at the end of the year in question (on the basis of the records you kept in accordance with standard 116);

(c) the number (on the basis of the records you kept in accordance with standard 117) of new and vacant posts that you advertised during the year which were categorised as posts where—

(i) Welsh language skills were essential;

(ii) Welsh language skills needed to be learnt when appointed to the post;

(iii) Welsh language skills were desirable; or

(iv) Welsh language skills were not necessary.

(3) You must publish the annual report no later than 6 months following the end of the financial year to which the report relates.

(4) You must ensure that a current copy of your annual report is available on your website.

4

A body providing information to the Welsh Language Commissioner

Standard 121: You must provide the Welsh Language Commissioner (if requested by the Commissioner) with any information which relates to your compliance with the service delivery standards, the policy making standards or the operational standards with which you are under a duty to comply.

PART 2

INTERPRETING THE STANDARDS

- 5** The standards specified in Part 1 must be interpreted as follows.
- 6** For the purpose of standard 120, “financial year” means the body’s own financial year.
- 7** For the purpose of the standards a requirement to produce or publish any written material in Welsh does not mean that material should be produced or published in Welsh only, nor does it mean that the material should be produced in Welsh first (unless that is specifically stated in the standard).

SCHEDULE 6 Regulation 3

The Board of Community Health Councils in Wales
(“*Bwrdd Cyngorau Iechyd Cymuned Cymru*”)

Community Health Councils (“*Cyngorau Iechyd Cymuned*”)

Local Health Boards (“*Byrddau Iechyd Lleol*”)

National Health Service Trusts in Wales
(“*Ymddiriedolaethau Gwasanaeth Iechyd Gwladol yng Nghymru*”)

EXPLANATORY MEMORANDUM TO

The Welsh Language Standards (No 7) Regulations 2018

This Explanatory Memorandum has been prepared by the Welsh Language Division and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Welsh Language Standards (No 7) Regulations 2018.

Eluned Morgan AM
Minister for Welsh Language and Lifelong Learning
26 February 2018

Description

The Welsh Language Standards (No. 7) Regulations ('the Regulations') specify service delivery standards; policy making standards; operational standards; and record keeping standards.

The Regulations also make the standards specifically applicable to the following organisations and categories of organisations, enabling the Welsh Language Commissioner ('the Commissioner') to issue Compliance Notices to those organisations in relation to the standards specified:

The Board of Community Health Councils in Wales
Community Health Councils
Local Health Boards
National Health Service Trusts in Wales

Velindre NHS Trust includes NHS Wales Informatics Service, the NHS Wales' Shared Service Partnership and the Welsh Blood Service. The Welsh Ambulance Service NHS Trust includes the NHS Direct Wales and 111 Wales 24 hour telephone service.

The Regulations also make an amendment to The Welsh Language Standards (No. 4) Regulations 2016 by adding Social Care Wales to Schedule 6 to the Regulations.

Matters of special interest to the Constitutional and Legislative Affairs Committee

Numbers in the Regulations

The Regulations use the Welsh alphabet i.e. (a), (b), (c), (ch) etc. This affects only one group of Standards – Standards relating to meetings a body and more than one invited person (standards 22 – 22CH). It also affects;

- (1) regulation 1(4)
- (2) a small number of sub paragraphs within individual Standards (see Standards 81, 82, 85, 97, 106, 107A, 117).
- (3) paragraphs 28, 38, 39, 41, 43, 46, 56 of Schedule 1, paragraph 3 of Schedule 2, paragraphs 12 and 14 of Schedule 3

This style is different to the usual numbering style adopted in subordinate legislation made by the Welsh Ministers. Usually, the Welsh and English version adopt the English alphabet. In this case, because of the nature and the subject matter of the Regulations, the Welsh alphabet had been used. The Welsh style numbering has been used in the English and Welsh versions to ensure consistency and to remove any possibility of confusion when cross-referring. The same style was adopted within The Welsh Language Standards (No. 1) Regulations 2015 (SI 2015/996) and subsequent Regulations making Welsh language standards.

Name of the Regulations

The title of the Regulations laid is The Welsh Language Standards (No. 7) Regulations 2018. If passed by the Assembly, these will be the sixth¹ Welsh Language Standards Regulations to be made. It has been decided that the title of these Regulations will refer to (No. 7) as they follow on from the Welsh Language Standards (No. 6) Regulations 2017 made in January 2017. It is intended that all the Regulations made under section 26 of the Welsh Language (Wales) Measure 2011 ('the Measure') will be made in a series, in the same way as commencement orders. It is felt that this approach will make the Regulations easier to deal with and to refer to, particularly when Compliance Notices refer to Regulations.

Bodies in Regulation 3 of and Schedule 6 to the Regulations

Schedule 6 to the Regulations lists the bodies that the Commissioner is authorised to give a compliance notice to in respect of the standards specified. Section 43 of the Measure provides that regulations may not make standards specifically applicable to a person unless the standard is potentially applicable to them. The bodies listed are either specified in column 1 of the table in Schedule 6 to the Measure or are within a category of persons specified in that column, and column 2 of their entry sets out which standards are potentially applicable to them (section 36 of the Measure).

Legislative background

The Regulations are made in exercise of the powers conferred on the Welsh Ministers under sections 26, 27, 39 and 150(5) of the Welsh Language (Wales) Measure 2011. Section 26 of the Measure enables the Welsh Ministers to specify standards by regulations. Section 27 enables the Welsh Ministers to specify different standards in relation to different conduct. It also enables them, in relation to a particular conduct, to specify one standard or a number of standards.

Before the Commissioner can give a person a compliance notice requiring them to comply with a standard, that standard has to be specifically applicable to the person (section 25). Section 39 provides that a standard is specifically applicable to a person once the Welsh Ministers have authorised the Commissioner to give that person a Compliance Notice in respect of that standard. Section 105(5) provides that any power of the Welsh Ministers to make regulations includes a power to make such transitional, transitory, consequential, saving incidental and other provision as the Welsh Ministers think necessary or appropriate.

The Regulations, pursuant to section 150(2) of the Measure must be laid before and approved by resolution of the National Assembly for Wales (i.e. the affirmative procedure).

¹Welsh Language Standards (No 3) Regulations were rejected by the National Assembly for Wales.

The First Minister committed at the start of the fifth Assembly to amend the Measure. This commitment is included in the Welsh Government's 5 year plan, *Taking Wales Forward 2016-21*. The Minister for Lifelong Learning and Welsh Language reiterated this commitment in July 2016 adding that the process of making and enforcing standards would be looked into, with the aim of making them less bureaucratic and time-consuming.

A call for evidence exercise followed and in August 2017, the Minister published a White Paper consultation outlining proposals for a new Welsh Language Bill. The White Paper presented the Welsh Governments' preferred option to reform the current standards system, which includes a) removing or amending standards which do not contribute directly to improving services, b) are costly to implement but produce little public benefit, c) give bodies more opportunity to exercise reasonable judgement without undermining the principle of enforceable standards or, d) publishing guidance to help bodies comply with the standards.

Purpose and intended effect of the legislation

The Measure confirmed the official status of the Welsh language in Wales and created a new legislative framework for the language.

A key step in giving effect to the Measure is specifying standards and authorising the Commissioner to require persons to comply with those standards.

Section 25 of the Measure provides that a person is required to comply with a standard specified by the Welsh Ministers where certain conditions are met. Those conditions include:

- i. That a standard is specifically applicable to the person (i.e. the Welsh Ministers have authorised the Commissioner to give that person a Compliance Notice in respect of that standard),
- ii. That the Commissioner has given a Compliance Notice to the person,
- iii. The Compliance Notice requires the person to comply with the standard, and
- iv. The Compliance Notice is in force.

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

The duty to comply with standards will take the place of the Welsh Language Schemes that were developed under the Welsh Language Act 1993 and monitored by the Welsh Language Board until its abolition on 31 March 2012, and the Commissioner since 1 April 2012. Each of the health boards, trusts, community health councils and The Board of Community Health Councils in Wales that are subject to the standards specified in the (No 7) Regulations have held Welsh Language Schemes for many years and are familiar with adhering to the Welsh language commitments made within them.

In addition to Welsh Language Schemes, the health boards and trusts are also well versed with the principles set out in *More than just words...* the Welsh Government's strategic framework for Welsh language services in Health, Social Services and Social Care 2016 - 2019. It introduced the principle of the active offer which simply means offering a service in Welsh without someone having to request it. This principle is embedded in the draft standards. However, it is recognised that there is more to do to consistently implement the active offer advocated in *More than just words...*

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

Links with Integrated Medium Term Plans ('IMTP')

Under the arrangements set out in the NHS Wales Planning Framework and the NHS Finance (Wales) Act 2014 health boards and NHS trusts are under a duty to prepare IMTPs. The plan should set out the actions organisations will take in pursuit of their long-term strategies, through measurable, clearly defined and resourced actions which address key areas of population health need, improve health outcomes and the quality of care, and ensure best value. The health boards and trusts are required to demonstrate within their IMTP 'that services are planned and delivered in line with the strategic framework for health and social care in Wales 'More than just word...;' and the Welsh Government's response to the Welsh Language Commissioner's Primary Care Inquiry Report'.

The NHS Planning Framework 2018/21 that provides guidance on what should be included in the IMTP recognises that the organisations will be required to comply with Welsh language standards in the future. This indicates an expectation that there will be shared aims between the IMTP and the standards. The draft standards in these Regulations are much more specific than the guidance on what should be included in the IMTP (which can be amended) and their implementation will be regulated by the Commissioner which will provide a stronger platform on which to build Welsh language services.

Welsh language Standards Regulations

The Regulations have two purposes. The first is to specify standards.

Standards falling into the following categories of standards are specified in the Regulations:

- **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.
- **Policy-making standards** will require organisations 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.

- **Operational standards** deal with the internal use of Welsh by organisations.
- **Record-keeping standards** will make it necessary to keep records about some of the other standards, and about any complaints received by an organisation. These records will assist the Commissioner in regulating the organisation's compliance with standards.

The standards have been drafted with the aim of:

- Improving the services Welsh-speakers can expect to receive from organisations in Welsh
- Increasing the use people make of Welsh-language services
- Making it clear to organisations 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 organisations in the same sectors.

Some standards are dependent on each other. The Regulations therefore contain tables (in Part 2 of Schedules 1, 2 and 3) to accompany the service-delivery standards, policy making standards and operational standards, detailing which other standards will also need to be imposed when a particular standard is included in a Compliance Notice.

The second purpose of the Regulations is to authorise the Commissioner to give Compliance Notices to the organisations listed above requiring them to comply with the standards specified.

The Regulations, when they come into force, will not have a direct effect on organisations and they will not, by themselves, create rights for Welsh language users. That will only happen when all the conditions in section 25 have been met. However, the Regulations are a crucial step in the Measure's framework, and enable the Commissioner to require organisations to comply with the standards.

It will be for the Commissioner to choose which standards to impose on each organisation by way of a Compliance Notice. The Regulations set the range of standards which could be imposed on an organisation. There is no requirement on the Commissioner to require every organisation to comply with every standard. The organisation may have to comply with the standard only in some circumstances and not in others – depending on what is stated in their Compliance Notice. The Compliance Notice will also set the date by which the organisation is required to comply with a standard.

Means of appeal

Any organisation will be able to challenge the requirements to comply with a particular standard on the grounds of whether it is reasonable and proportionate to require them to do so.

In the first place, an organisation will be able to present a challenge to the Commissioner. If they wish to challenge the Commissioner's decision, there is a route of appeal available to the Welsh Language Tribunal, and thereafter to the High Court.

Sanctions

The Commissioner will be responsible for enforcing compliance with these standards. In cases where the Commissioner determines that an organisation has failed to comply with a standard, the Commissioner may take enforcement action. Enforcement action under the Measure can vary from the making of recommendations or giving advice to an organisation, to the imposition of a civil penalty not exceeding £5,000.

Risks if Regulations are not made

If the proposed Regulations are not made, the following risks will be realised:

- Welsh Language Schemes introduced under the Welsh Language Act 1993 will remain in place for all the organisations listed above.
- If Welsh Language Schemes remain there will be no enforcement mechanism if an organisation breaches their Scheme.
- Currently, Welsh Language Schemes vary from organisation to organisation, and the commitments in some Schemes are not specific. This leads to a situation where the public are unsure about which services they can expect to receive in Welsh. This uncertainty will continue if the Regulations are not made. Although there may still be some variation between organisations, the standards are specific in their nature and will therefore reduce the public's uncertainty.
- Uncertainty on the part of organisations concerning their Welsh language provisions, due to the fact that they have been under the impression that their Schemes will be replaced by standards. Many organisations have started to prepare for the onset of standards and the new monitoring and enforcement regime.
- No improvement as far as organisations' internal use of Welsh is concerned. An organisation's internal use of Welsh would continue to depend on the goodwill of that organisation, with no monitoring system in place.
- A key component of the Measure will not be implemented.

More detailed information about the risks and benefits of implementing the standards can be found in the Regulatory Impact Assessment (RIA) below, with the risks of not introducing standards highlighted in the 'Option 1: do nothing' section of the benefits.

Policy changes between different sets of Regulations

The approach taken by the Welsh Government has been that Regulations specifying standards are prepared so that they are suitable for a specific group of organisations or a sector. The policy approach taken in each set of

Regulations influences and results in different standards being prepared for different sectors.

These Regulations also contain a number of exceptions to standards, some of which are specific and some of which are general. The standards and the exceptions reflect that some of the bodies subject to these Regulations operate 24 hours a day, 365 days a year offering a range of services from routine treatments to accident and emergency treatment to end-of-life care. We consider that without these exemptions it would be unreasonable or disproportionate for the body to comply with the standards.

Consultation

The Commissioner conducted a standards investigation with the 18 organisations required to comply with the standards specified in these Regulations between November 2014 and February 2015. The Welsh Ministers fully considered the conclusions the Commissioner presented in the Standards reports. These reports can be found on the Commissioner's website.

Included in the Commissioner's Standards Investigation report recommendations for health sector organisations was a call for clarity on whether primary care services would be caught by standards. As primary care providers were not included in the Commissioner's investigation, Welsh Ministers undertook a scoping exercise in order to fully explore this issue.

The Commissioner used a draft version of the Welsh Language Standards (No 1) Regulations 2015 as the basis for her Standards Investigation into health sector organisations. Due to the fact that the draft (No.7) Regulations have been prepared specifically for health sector bodies, the Welsh Ministers held a full public consultation on the draft Regulations between July and October 2016. The consultation included a call for organisations to submit revised data to allow the Welsh Ministers to prepare a Regulatory Impact Assessment (RIA).

Further details of the costs and benefits are included in the RIA in part 2, below.

During the consultation, whilst some welcomed the level of detail offered by the standards, it was clear that there was a perception that the Regulations were complex and difficult to understand because of the number of standards included. Some organisations felt that this would make it difficult for their staff to understand what was expected of them in relation to providing Welsh language services.

Responses varied between those that felt the Regulations did not go far enough in securing and safeguarding the rights of Welsh speakers, in particular in relation to primary care. Others found it difficult to justify the likely cost investment required to comply with the standards. Costs associated with

recruitment, Welsh language training and translation were cited, amongst others.

Putting aside dividing opinions to particular aspects of the draft health Regulations, the general consensus was that delivering a Welsh language service within the health sector would have a positive impact on patients and staff. Health boards and trusts acknowledged the importance of being able to provide services in Welsh to their patients and equally so, members of the public cited the importance of being able to receive health care in the language of their choice.

The main concerns raised in the consultation responses related to the proposal to provide Welsh language support during a clinical consultation and the lack of standards on primary care providers. The draft standards have been amended in response to the comments received, as detailed below.

Clinical consultations

We propose to replace the requirement to provide Welsh language support during clinical consultations with standards that will;

- Build on the good practice examples developed by a number of health boards to identify the language choice of inpatients so that the body can look to meet the patient's language needs. The aim of the standard would be to ensure a patient's language choice is made visually apparent to staff, increasing opportunities between patients and (Welsh speaking) staff to interact in Welsh and for the active offer to be implemented.
- Require health boards and trusts to produce and publish an improvement plan with milestones setting out how they will work towards implementing the active offer during clinical consultations; that is providing services in Welsh without someone having to ask for it.

The organisations will be required to assess the extent to which they have complied with their plan.

These new standards together with standards that place a duty on the organisations to record the language choice of individuals in relation to correspondence; telephone calls and also the workforce planning duties will increase the organisations' understanding of the demand for Welsh language services and improve their capacity to offer services in Welsh.

Primary Care

In general there was support for standards 83– 97 in the consultation version of the Regulations, that place duties on health boards in relation to primary care and which also required them to provide some Welsh language services (signs, documents etc.) to primary care providers; GPs, dentists, pharmacists and opticians who provide primary care services on behalf of a local health board. However many felt they did not go far enough. In order to provide a continuous Welsh language service between primary and secondary care their view was that primary care providers should be subject to more service

delivery standards similar to those proposed for health boards and trusts. This was based on the fact that the majority of people's first point of contact with the NHS in Wales is with providers of primary care.

Following consideration of the comments received the draft Regulations have been amended so that primary care services delivered directly by health boards will be subject to the same standards as the other services provided by the health board, subject to the Compliance Notice issued by the Commissioner. This means that some of the draft standards in the consultation version of the Regulations have been deleted as it is no longer necessary to draft specific standards for documents, websites, apps and social media in relation to primary care because the other service delivery standards will apply.

Some specific standards for primary care have been retained: in these Regulations they are standards 65 – 68.

We do not consider it reasonable to place duties on local health boards that would make them responsible for any failure to comply with standards by one of its independent primary care providers. This is because they do not have any direct influence over the way individual providers deliver services. (Regulation 1(9)).

It is therefore proposed that a small number of Welsh language duties on independent primary care providers will be prescribed through the primary care contracts or terms of service agreed between the primary care provider and their local health boards. This will create contractual obligations between the local health board and the independent provider enforceable by the local health board.

This approach recognises that these providers have not previously had Welsh language schemes or operated under any Welsh language duties although there is good practice in some areas. It will embed awareness and improve Welsh language services in a consistent way within the independent sector.

Simplification

Following an announcement by the previous Minister for Lifelong Learning and Welsh Language in July 2016, the standards have been reviewed to identify opportunities to simplify and reduce the bureaucratic burden on the bodies. The most substantial changes have been made to Schedule 4 (Record Keeping Standards) and Schedule 5 (Standards which deal with supplementary matters).

In Schedule 4 the only the standards that have been retained are those that require the body to keep a record of complaints they receive relating to their compliance with standards, the Welsh language skills of their staff and the Welsh language skills required for new and vacant posts. These have been retained because of the importance of workforce planning to the delivery of

the standards and the number of complaints is a valuable indicator of the public's perception of the quality of Welsh language service provided by a body.

Standards within Schedule 5 have been amalgamated to eliminate the repetition of similar standards for each of the previous schedules.

Another example of the changes made is the revisions made to the standards relating to producing and publishing documents. The standards relating to specific types of documents have been deleted. The standard which requires the body to base their decision whether to produce the document in Welsh on an assessment of the subject matter and the anticipated audience has been retained. If the result of the assessment is that the subject matter or the anticipated audience suggests that the document should be produced in Welsh the body will be expected to publish a Welsh version.

On a number of occasions service delivery standards and operational standards have been amalgamated. For instance service delivery standards relating to meetings have been amalgamated into one standard which gives the body the ability to decide whether the meeting will be in Welsh, or if not, which method of translation to use. A number of operational standards placing a duty on a body to provide different types of documents and policies to staff in Welsh have been amalgamated. These changes have not changed the requirements on the bodies.

Social Care Wales

The Regulations also make an amendment to The Welsh Language Standards (No. 4) Regulations 2016 by adding Social Care Wales to Schedule 6 to the Regulations.

PART 2 – REGULATORY IMPACT ASSESSMENT

Background

1. The organisations named in Schedule 6 to these Regulations were included in the Welsh Language Commissioner’s (‘the Commissioner’) second standards investigation, along with a further 98 organisations from sectors including education, police and rescue services. The Commissioner’s investigation was conducted between 7 November 2014 and 9 February 2015 and was based on the draft Regulations prepared for Welsh Ministers, Local Authorities and National Park Authorities.
2. The organisations were asked to take part in a Welsh Government Regulatory Impact Assessment (RIA), which was distributed with the Commissioner’s Standards Investigation documentation. Organisations were asked to submit their RIA responses directly to the Welsh Government. Some organisations were reluctant to base their RIA responses on draft Regulations due to their potential to change and due to the fact that they had not been prepared specifically for health sector organisations. Even so, 12 of the 18 organisations named in Schedule 6 of these Regulations submitted an RIA response.
3. In May and early June 2015, the Commissioner presented her official Standards Investigation response to the Welsh Government in the form of 9 standards reports issued under section 64 of the Welsh Language (Wales) Measure 2011 (‘the Measure’). Welsh Ministers must have due regard (i) to the Commissioner’s Standards Reports in deciding whether and how to exercise the powers in Part 4 of the Measure (which includes the power to specify standards), and (ii) to any advice issued by the Commissioner in writing.
4. Whilst Regulations for the majority of organisations included in the Commissioner’s second Standards Investigation were made during 2016 and early 2017², a decision was made to conduct a full public consultation on draft Regulations for the health sector organisations. This also resulted in a renewed request for those organisations that would be subject to these Regulations to provide a revised RIA. Of the 18 health organisations, 12 submitted a revised RIA.
5. The following analysis of the costs and benefits associated with the standards are based on data provided by those 12 organisations.

Summary of Responses

6. 12 of the 18 organisations (61%) that will be subject to the Welsh Language Standards (No 7) Regulations 2018 provided information on the cost of their current Welsh Language Scheme and an estimate of the cost of complying with the Welsh Language Standards. These organisations were:

² Welsh Language Standards (No.2) Regulations 2016; Welsh Language Standards (No.4) Regulations 2016; Welsh Language Standards (No.5) Regulations 2016; Welsh Language Standards (No. 6 Regulations) 2017

- Aneurin Bevan University Health Board
- Betsi Cadwaladr University Health Board
- Hywel Dda University Health Board
- Cwm Taf University Health Board
- Cardiff and Vale University Health Board
- Abertawe Bro Morgannwg University Health Board
- Velindre NHS Trust (which includes NHS Wales Shared Services Partnership and NHS Informatics Service)
- Powys Teaching Health Board
- Betsi Cadwaladr Community Health Council
- Board of Community Health Councils in Wales
- Welsh Ambulance Services NHS Trust
- Public Health Wales NHS Trust.

Accuracy and Usefulness of Data

7. We have concerns around the data received from organisations and whether it is suitable to produce a robust and accurate RIA
8. To enable an assessment to be made of the additional cost incurred in complying with the Welsh Language Standards, an organisation would have to provide a figure for the cost of delivering their current Welsh Language Scheme and an estimate of what it would cost them to comply with Standards. All but one of the submitted RIA's provided useable data in relation to the costs of delivering their current Welsh Language Scheme. Providing estimations for compliance with Welsh language standards proved more challenging. Several RIAs noted that they expected increases in translation costs and/or ICT costs but failed to quantify costs.
9. Where estimated costs have been provided, many organisations stressed the difficulties of providing accurate data when they did not know which of the draft standards they would be expected to comply with. Some organisations have as a result, provided estimated costs for complying with every single standard.
10. The Commissioner is yet to impose every standard on any single organisation, and the likelihood of this ever occurring is small. None of the 107 organisations currently complying with Welsh language standards have been presented with compliance notices from the Commissioner requiring compliance with the whole set of standards.
11. Organisations have also misunderstood the requirements in the RIA or interpreted the questions in different ways. When asked to include additional cost estimations of complying with Welsh language standards (not, therefore, including the current expenditure for delivering Welsh language services), some organisations incorrectly included as an additional cost, staff currently employed to deliver services in line with their current Welsh language scheme. In addition, there were examples of the same staffing costs being included under each separate category of standards. This has inflated the

estimates provided by some organisations. Where such examples have been found, the organisations have been given the opportunity to review their RIA for quality assurance purposes. This has resulted in a reduction in staff cost estimations for complying with Welsh language standards by approximately £500,000 overall.

12. A number of organisations have provided estimates for compliance that are many times higher than other, similar organisations.
13. Where cost estimations have been provided solely against standards that have now been removed from the draft Regulations they have been deducted from the overall estimated costs provided by that organisation in their RIA. This has been done with the organisations' approval. For example, amendments have been made to the standards relating to awarding contracts. One organisation included cost estimations for translating all tender invitations into Welsh at an annual cost of £200,000. The Regulations have been amended, requiring tender invitations and packs to be published in Welsh only if the subject matter of the contract suggests that it should be produced in Welsh. This amendment could significantly reduce these translation costs.
14. With these issues in mind, this RIA focuses on the economic, social and linguistic impacts on organisations as well as covering the financial impact as far as possible. If the Regulations are passed by the Assembly, further information will be collected from organisations when the Commissioner issues Compliance Notices and organisations are in a position to provide more accurate costs. A full financial impact assessment will then be possible.

Options

15. This Regulatory Impact Assessment considers two options:
 - Option 1: Do nothing – Organisations would continue to operate their existing Welsh Language Schemes under the Welsh Language Act 1993.
 - Option 2: Introduce Welsh Language Standards for the categories of organisations and organisations listed in the Regulations.
16. The following analysis considers the costs and benefits associated with each of these options in turn.

Costs and benefits

Costs

Option 1: Do Nothing

17. There are no additional costs under this option. The organisations would not be required to comply with new Welsh Language Standards but they would be expected to continue to deliver their existing Welsh Language Schemes.

18. Table 1 summarises the information received from the organisations about the cost of complying with the existing Welsh Language Schemes. The range in costs is likely to reflect differences in the size and scope of the organisations involved, which range from Community Health Councils to large Local Health Boards, as well as probable differences in the interpretation of the questions in the questionnaire.

Table 1 - Range of costs for delivering existing Welsh Language Schemes

	Responses	Minimum (£)	Maximum (£)
Staff with role in delivering Welsh language Standards	11	15,000	131,086
Training (staff)	11	0	33,841
Translation (internal and outsourced)	11	0	210,000
Overall costs to deliver WLS	11	43,000	281,242

Option 2: Introduce Welsh Language Standards for the organisations listed in the Regulations.

19. While it has not yet been decided which of the standards will apply to each organisation, it is considered likely that there will be additional one-off and recurrent costs incurred by the organisations to comply with the standards.
20. The main recurring cost is expected to be staffing, in particular staff with expertise in the fields of translation, HR, and ICT. This could be attributed in part to the introduction of operational standards, which focuses on the internal use of Welsh within the organisation. Similar commitments had not previously formed part of Welsh Language Schemes therefore initial costs to comply with these new standards are to be expected. Organisations are likely to need to expand translation facilities, either by recruiting more internal translators³ or more commonly by outsourcing translation work to external providers.
21. In addition, updating ICT software is seen by some as a considerable investment requirement.
22. As noted above, the organisations involved were contacted and asked to provide cost data to inform this RIA. Our concerns about the data collected are outlined above.
23. To demonstrate the variation in responses, the minimum and maximum identified additional costs for these organisations are set out in the table below. While the maximum cost estimate is an outlier (it is approximately

³ Recruitment costs for additional translators were included by several respondents in the category for translation as opposed to the category for staffing.

£500,000 higher than the next highest additional cost estimate), there were other organisations that identified a significant increase in compliance costs.

24. Table 2 - Range of additional costs identified by organisations (£)

	Responses	Minimum (£)	Maximum (£)
Staff with role in delivering Welsh language Standards	11	31,383	470,530
Training (staff)	11	0	135,069
Translation (internal and outsourced)	11	4,872	774,000
ICT		0	1,000,000
Additional costs to deliver Standards	11	32,259	2,070,041

25. As indicated, there are differences in the way that the organisations involved have interpreted the RIA questions and approached the task. The disparity between the estimated staff costs for delivering Welsh language standards can be attributed partially to the organisations' size and remit. As expected, estimations provided by the larger health boards lean towards the maximum cost estimation for the anticipated staff needed to comply with Welsh language standards.

26. Had Welsh Language Schemes been fully implemented as intended, the need for further investment to deliver Welsh language services would be reduced. The aim of Welsh language standards is to build on commitments already made in Welsh Language Schemes. Apart from operational standards the majority of standards should not be entirely unfamiliar to the organisations named in these draft Regulations. With this in mind, some of the information provided in relation to the additional cost estimations in complying with Welsh language standards relative to Welsh Language Schemes is considered unreliable.

27. Estimated additional costs for complying with service delivery standards were on the whole, amongst the highest of the four categories of standards (service delivery; policy making; operational; record keeping). For example, three organisations cited an estimated additional cost in excess of £1million to comply with this category of standards alone. This is despite the service delivery standards being the category of standards that most closely resemble commitments made in Welsh Language Schemes. We would have expected the greatest cost estimations to have come from the operational standards as the category of standard which marks the most significant difference between the standards system and Welsh Language Schemes. What this does

highlight however, is the challenge faced by organisations named in these Regulations to provide a consistent service in Welsh.

28. All 11 organisations which provided information foresaw the need for additional investment in translation services in order to comply with standards. Of the 11 submitted RIAs, 4 organisations provided estimations to extend their translation facilities that were in excess of £200,000, with the highest estimate being £774,000 (although this is something of an outlier). It is worth noting however that these upper cost estimations are likely to have been based on having the full set of standards imposed on them as opposed to a selection of standards.
29. The requirement to comply with standards is likely to incur one-off and recurrent training costs. The one-off training costs are expected to relate to internal administration and training regarding the implementation of standards, with the recurring training costs focusing to a greater degree on the possible need for more statutory staff training through the medium of Welsh and training for staff to improve their Welsh language skills.
30. Many respondents cited costs of several hundred thousand, and more than £1 million in one case, in order to comply with the requirements outlined in standards relating to websites; on-line services and the intranet. Costs refer to the need to adapt or purchase new systems, software and equipment as well as the need to recruit specialist staff. It is worth noting however that whilst the organisations already provide and maintain a bilingual website to varying degrees, they have not been required in the past to extend this service to their intranets. There is no doubt that complying with these standards could be challenging. Health boards and trusts operate and are bound by different ICT systems and organisational structures, even within the same organisation. These duties under the operational standards may incur additional costs.
31. Due to the above concerns, the data is considered incomplete and potentially inconsistent. Organisations have interpreted the RIA questions differently making the process of judging the accuracy of the identified costs more challenging.
32. Following discussions with Government Economists and Statisticians, it has been agreed that the data collected is not sufficiently robust for use in a Regulatory Impact Assessment. Given the ranges in the submitted data and the current uncertainty around which of the Standards will apply to each group, even taking an average of costs is considered unlikely to be an accurate reflection of the cost of complying with the Welsh language standards. The figures presented in Table 2 should therefore only be considered as indicative of the upper and lower points in the potential range of additional costs faced by the organisations.
33. A further round of data gathering was considered when preparing RIA's for previous Regulations but it was decided that the outcome would likely be similar and that it would not be possible to collect the data needed to produce a robust assessment of the cost implications until there is further information

available on which standards will apply to each organisation. The same applies to the health sector organisations. It would only be possible for a body to accurately estimate the cost implications of standards after they have received a compliance notice from the Commissioner informing them of which standards they have to comply with.

34. In addition to the compliance costs incurred by the organisations, there are also likely to be costs incurred by the Welsh Language Commissioner and the Welsh Language Tribunal for monitoring and enforcing compliance with the standards. An appeals process has been established whereby, if an organisation believes that the standards imposed on it are unreasonable and disproportionate, the organisation can appeal to the Commissioner in the first instance, and thereafter to the Welsh Language Tribunal. During 2016-17 the Tribunal received 9 applications from organisations wishing to appeal against decisions made by the Welsh Language Commissioner in her compliance notice to them. The cost of a hearing at a Tribunal is between £2,500 and £3,000. In 2016-17 of the 9 applications received by the Tribunal only 1 proceeded to a decision which was made by the panel without a formal hearing.

35. In addition to the above costs, organisations and the Commissioner would need to allocate resources if they are involved in a case which has been referred to the Tribunal. If an organisation made an appeal to the Tribunal it would have to allocate resources into that process. This is likely to be staff resources working in the organisation's standards compliance field, as well as legal expertise.

Benefits

Option 1: Do Nothing

36. This is the baseline option and there are no additional benefits associated with this option.

37. Doing nothing would maintain the status quo of the Welsh Language Schemes which have been in place since 1993. The regulatory role of the Commissioner would continue along similar lines to that of the Welsh Language Board as would the resource-intensive procedures involved in agreeing and amending schemes, and the current, limited, enforcement system.

Option 2: Introduce Welsh Language Standards for the 18 organisations listed above

38. The purpose of the standards is to improve the level of service which members of the public can expect to receive. At this stage (and until the Welsh Language Commissioner issues the compliance notices), it is only possible to outline the expected benefits in general terms.

39. The standards will make clear what organisations need to do in terms of the Welsh language, so that people will know what to expect with regard to Welsh language services. This clarity, both for the public and the organisations, will help ensure that the standards can be effectively enforced and lead to an increase in the use of Welsh language services.
40. The health boards, trusts, community health councils and Board of Community Health Councils in Wales already operate Welsh Language Schemes and already do many of the things set out in the standards. The standards build on the Schemes and place more rigorous requirements on organisations. However, the Commissioner can only set standards that are reasonable and proportionate for each individual organisation.
41. Organisations will now be required to take a more proactive and strategic approach to mainstreaming the Welsh language. Key to this will be the 'active offer,' which places the onus on the organisation to offer services in Welsh, rather than on the individual to request them. This principle was introduced in the health sector by *More than just words...* and provides a solid foundation to improve services for Welsh speakers.
42. An improved enforcement regime will provide a more effective means of dealing with alleged non-compliance with standards and allow for early and informal resolution of complaints as appropriate.
43. As part of the RIA process, organisations were asked to comment on any economic, environmental, social or linguistic advantages of introducing standards.

Social Care Wales

44. The Regulations also make an amendment to The Welsh Language Standards (No. 4) Regulations 2016 by adding Social Care Wales to Schedule 6 to the Regulations.
45. Social Care Wales did not submit a Regulatory Impact Assessment.

Economic benefits

46. One observation made in reference to the economic benefits was that by developing the Welsh language skills of the workforce, it could be possible to reduce the dependency of external translation costs. Another organisation commented on the increased opportunities that would be available to businesses and SMEs in Wales in relation to bid tenders. Furthermore, as large employers, some saw the development of a bilingual workforce as an opportunity to enable local people to stay in their communities and contribute economically.

Environmental benefits

47. Several respondents noted the benefits – for patients and staff – of being in a visibly bilingual environment. Another organisation felt that providing patients with information in both languages would enhance the patient experience, improve physical flows and management of patient areas.

Social and linguistic benefits

48. As would be expected, the majority of organisations said that Welsh language standards could lead to linguistic and social benefits. One organisation commented that patients being able to communicate in the language of their choice could lead to positive outcomes in relation to recovery and wellbeing.

49. Many felt that the standards could help improve the confidence of bilingual staff. One organisation in particular noted that developing the Welsh language skills of the workforce would increase the quality of communication between healthcare professional and service user, potentially improving the health outcomes of the service user and reducing health inequalities. Another organisation referred to their Welsh speaking staff as an 'invaluable, untapped resource' and that increasing the confidence of Welsh speaking staff to use the language during their working hours would be of benefit to the organisation.

50. Several more noted that the introduction of standards would demonstrate best practice in the sense that patients would be able to receive health care in their language of choice and/or need.

Conclusion

51. The current uncertainty surrounding which of the standards each organisation will need to comply with means that it is not possible to produce a robust assessment of the costs and benefits associated with the Regulations at this stage.

52. The Welsh Language Commissioner will consult with the relevant organisations before issuing final compliance notices. At that stage factors such as reasonability and proportionality of individual standards are likely to be discussed as well as which standards organisations will be expected to comply with and in which circumstances. As part of this process, organisations could present an assessment of the relative costs and benefits associated with the standards. This could be considered by the Commissioner as part of the process of coming to a decision on whether the standards are reasonable and proportionate. This assessment will be completed before the final compliance notices are issued.

Competition assessment

53. A competition assessment has been undertaken – the Regulations are unlikely to have a significant detrimental effect on competition.

Post-implementation review

54. The Measure provides many opportunities for the Commissioner to bring the suitability of the standards specified in the Regulations to the Welsh Ministers' attention. For example:

- The Commissioner may make recommendations or provide advice to the Welsh Ministers (section 4 of the Measure) which could directly recommend amending the Regulations if she sees fit to do so. Advice given by her could also lead to the Welsh Ministers determining that it would be appropriate to review the standards. The Welsh Ministers must have due regard to any written recommendations or advice that the Commissioner makes or gives when exercising the function to which the recommendation or advice relates.
- Section 18 of the Measure requires the Commissioner to produce an annual report which must include a review of issues relevant to the Welsh language (among other matters) and could also include any other matters the Commissioner think it is appropriate to include.
- The Commissioner also has the power to undertake Standards Investigations (sections 61 and 62 of the Measure) which can consider which standards should be, or should continue to be, specifically applicable to a person, whether or not the standards are already specified by the Welsh Ministers. After a Standards Investigation the Commissioner must produce a Standards Report, a copy of which must be provided to the Welsh Ministers. The Welsh Ministers must have due regard to such report in accordance with section 66 of the Measure.

55. Subject to their Compliance Notices, organisations will publish Annual Reports which deal with how they have complied with the standards imposed on them (see standards 120). These Annual Reports could also raise issues regarding the suitability of the standards specified.

	The Welsh NHS Confederation response to Culture, Welsh Language and Communications Committee scrutiny of the Welsh Language Standards (No 7) Regulations 2018.
Contact:	Nesta Lloyd – Jones, Policy and Public Affairs Manager, the Welsh NHS Confederation
Date created:	5 March 2018

Introduction

1. The Welsh NHS Confederation, which represents the seven Health Boards and three NHS Trusts in Wales, welcomes the opportunity to respond to the Culture, Welsh Language and Communications Committee scrutiny of the Welsh Language Standards (No 7) Regulations 2018 for health services.
2. The Welsh NHS Confederation supports our members to improve health and well-being by working with them to deliver high standards of care for patients and best value for taxpayers' money. We act as a driving force for positive change through strong representation and our policy, influencing and engagement work.

Summary

3. The delivery of bilingual NHS services is crucial to the provision of person-centred care. To deliver care and treatment in a patient's preferred language allows NHS bodies to establish a closer relationship with patients, enhances their ability to place the needs of the patient at the heart of the treatment process, and allows the patient to engage more positively in their treatment process by increasing their understanding of the treatment they receive. Health Boards and NHS Trusts have made significant progress in providing bilingual services in recent years and are committed to deliver a truly bilingual NHS for the people of Wales.
4. Throughout Wales, the Welsh language is used across a range of communication platforms. Examples include face to face consultations and providing care across the whole system (acute, primary and community); online and social media platforms; and administrative support, including Executive Board papers and minutes. Our members are using the Welsh language in all parts of their respective organisations and these new Standards will increase the organisations' understanding of the demand for Welsh language services, plan for services now and in future, and improve their capacity to offer services in Welsh.
5. We welcome the progress that has been achieved over the past 18 months and the greater degree of clarity afforded by the Welsh Language Standards (No.7) Regulations 2018 (the Regulations), but significant challenges remain. The Standards must be considered against the challenging backdrop that the NHS is working in, including rising demand, workforce recruitment challenges, finances and the fact that the NHS is a 24/7

service. Health Boards experience different challenges, and in more Welsh speaking population areas it will be easier for those Health Boards to attract and train Welsh speaking workers in lower banded posts than in areas where there are less people speaking Welsh, both in relation to attracting the workforce but also the need for Welsh speaking services in areas where the population of Welsh speakers is low. However, recruitment problems and shortages are the same across all Health Boards when it comes to nurses and specialist areas.

6. While we have highlighted a number of challenges below, we must emphasise that not all concerns highlighted within our submission are relevant to all Health Boards and Trusts. Across Wales, due to local demographics, some Health Boards have already implemented Schemes that address some of the issues that will face other Health Boards going forward.

Achieving a bilingual healthcare system

7. The Welsh NHS Confederation and our members recognise the importance of providing Welsh language services to patient. The Welsh NHS Confederation Policy Forum recently published *'One Workforce: Ten actions to support the health and social care workforce in Wales'*, which highlights the importance of investing in Welsh language provision across the health and social care workforce to ensure that patients and their families receive individual, person-centred care in their chosen language.
8. As highlighted within the Explanatory Memorandum, under the arrangements set out in the NHS Wales Planning Framework and the NHS Finance (Wales) Act 2014, Health Boards and NHS Trusts are under a duty to prepare Integrated Medium-Term Plans (IMTPs). Within current IMTPs, the NHS is required to demonstrate *'that services are planned and delivered in line with the strategic framework for health and social care in Wales 'More than just word...;'* and the Welsh Government's response to the *'Welsh Language Commissioner's Primary Care Inquiry Report'*. In addition, Health Boards and Trusts' commitment to the Welsh language is further outlined by the responsibilities to the *'More than just Words...'* framework and the Well-being of Future Generations (Wales) Act 2015.
9. Our members welcome the growing recognition of the importance of meeting language needs and the impact this can have on the delivery of safe, high quality care and a positive patient experience. In particular, our members support the concept of the 'active offer' in relation to Welsh services and agree that the move from Welsh Language Schemes to a workable set of Welsh Language Standards has the potential to bring about the positive change required. Moreover, our members believe that the Welsh Language Standards should provide greater clarity for both organisations and members of the public on what provision they can expect to be provided in Welsh upon the Standards coming into force over time.
10. The Welsh Language Standards are also sufficiently clear in terms of their purpose in delivering the new legislative framework for NHS Wales. They provide the certain regulatory factors required to ensure that the Welsh language is not treated any less

favourably than English. In this regard at least, our members are fully supportive of the policy intent and the direction of travel towards a truly bilingual NHS for Wales.

Reduction in the number of Standards

11. We welcome the Welsh Governments' preferred option to reform the current standards system, particularly the removing or amendment of those Standards that did not appear to contribute directly to improving services or would have been costly to implement with little benefit or value. We are pleased that this has resulted in 64 fewer Standards than had originally been proposed. As highlighted in our previous written responses, some Standards included in the draft Regulations were unclear, overly onerous and bureaucratic.
12. While there have been substantial changes to Schedule 4 (Record Keeping Standards) and Schedule 5 (Standards which deal with supplementary matters), we are glad that some aspects of Schedule 4 have been retained e.g. those that require the body to keep a record of complaints they receive relating to their compliance with Standards, the Welsh language skills of their staff and the Welsh language skills required for new and vacant posts are recorded. We believe that retaining these Standards will be important for workforce planning, especially in relation to the duty to produce a 5-year improvement plan, and that complaints are considered an important and valuable indicator of the public perception of the quality of Welsh language services provided and where services can make improvements. As our response to '*Review of concerns (complaints) handling within NHS Wales*' highlights, when care does not meet the high standards which patients deserve and expect, we must make sure action is taken to put things right and the feedback and experiences of patients, their families and staff are critical in helping the NHS in Wales to provide the high standards of care that staff strive to deliver on a daily basis.
13. We are pleased also that the Standards relating to specific types of documents being produced and published have been deleted in favour of a more measured approach. We support that the Standard which requires the Health Board/ Trust to base their decision whether to produce the document in Welsh is done on an assessment of the subject matter and the anticipated audience has been retained. This will ensure that Welsh information will be produced or published only if there is an obligation to do so.

Comments relating to specific Standards

Schedule 1: Service Delivery Standards

Clinical consultations

14. We had previously expressed particular concern regarding Standard 25 namely the ambiguity and impracticality of the provision of Welsh language support at a clinical consultation. We support the new approach set out in the Regulations tabled requiring

NHS bodies to publish a 5-year improvement plan setting out the extent to which they are able to offer to carry out clinical consultations in Welsh, the actions they will take to increase their ability to offer clinical consultations in Welsh and a timetable for those actions. The 5-year improvement plan will support the NHS to set out the key milestones on how they will work towards implementing the active offer during clinical consultations and assess the extent to which they have complied with their plan. We consider this to be a much more practical approach that is reasonable and proportionate.

15. In our response to the draft Standards, specifically draft Standard 25 which dealt with the provision of Welsh in clinical consultations, our members suggested that were this Standard to be implemented this could lead to vital information being lost in translation, perhaps in terms of the outcome of the consultation or the severity of what was being discussed. Even in instances where there are Welsh-speaking members of staff working within Health Boards and Trusts, it is likely that a number of these individuals would not feel comfortable delivering care, treatment or a diagnosis in Welsh for fear that their own Welsh language capabilities are not of a sufficient standard to adequately convey information, especially given the complicated nature of medical terminology.

Active offer

16. We support the number of Standards within the Regulations that put forward the principle of an active offer and will sit within the policy infrastructure of '*More than just words....*' as this will continue to play an important part in the understanding and promotion of the 'active offer' as the Standards become embedded e.g. Standard 2, which relates to NHS organisations asking individuals who correspond with them whether they wish to receive correspondence in Welsh, to keep a record of the individuals wish and ensure forms and future correspondence is in Welsh; Standard 19, which relates to telephone calls; Standards 23-24, which require bodies to ask inpatients on the first day of admission whether they wish to use Welsh to communicate; and Standard 25, which relates to case conferences.
17. These Standards build on good practice developed by a number of Health Boards/ Trusts to identify the language choice of inpatients and is a natural progression from existing Welsh Language Schemes and '*Mwy na Geiriau (More than just words)....*'. We are pleased that the active offer principle is embedded in the Standards because it is recognised that there is more to do to consistently implement the active offer advocated in '*More than just Words...*'. The proposed Standards mean that Health Boards and Trusts will be required to take a more proactive and strategic approach to mainstreaming the Welsh language and promoting the active offer.
18. The Standards would ensure a patient's language choice is made clear to staff, thus increasing opportunities between patients and (Welsh speaking) staff to interact in Welsh and for the active offer to be implemented. However, while we support the Standards in principle, it must be highlighted that not all patient administration systems currently have the facility to record language choice.

19. While we support that telephone and correspondence should be bilingual, currently it would be difficult to implement fully as there are several data systems within Health Boards and Trusts which are not compatible with each other. Some departments/clinics also record their data exclusively via paper systems, which would make language choice onerous and difficult to transfer.
20. In addition, the Data Protection Act 1998 prohibits some individuals accessing some systems. All complaints are recorded on a Datix system; however, not all staff have access to this system for confidential reasons and therefore even though language of choice can be recorded on Datix, it is unlikely that this choice will be communicated quickly.
21. The principles of Standards 23, 23A and 24 in relation to inpatients are currently being implemented across Health Board areas. The main concern is scaling up - will this be achievable when trying to implement on a large scale? There is also the challenge of ensuring that computer systems function in such a way that the patient's language choice is clear to staff members even when the patient receives treatment in more than one clinical department.

Primary Care

22. Overall, we support Standards 65 – 68 and the amendments to the draft Standards. The Standards now mean that only primary care services provided directly by Health Boards will be subject to the same standards as the other services provided by the Health Board. This means that the Regulations treat primary care services provided directly by Health Boards in the same way as secondary care services. This will make it easier for Health Boards to plan and organise Welsh language provision across services. Moreover, implementing the Standards within managed practices and encouraging the implementation of Standards within independent primary care providers should lead to improvements for service users.
23. We recognise the need for Welsh language provision within primary care and welcome the flexibility that the Regulations is showing. Our members acknowledge and support the recommendations put forward by the Welsh Language Commissioner in her report '*My Language, My Health: The Welsh Language Commissioner's Inquiry into the Welsh Language in Primary Care*' and our members have taken forward a number of these recommendations.
24. We agree that it is not reasonable to place duties on Health Boards that would make them responsible for any failure to comply with Standards by one of its independent primary care providers as they do not have any direct influence over the way individual providers deliver services. However, we acknowledge and support that in future, awareness and improved Welsh language services could be introduced through prescribing a small number of Welsh language duties on independent primary care providers through primary care contracts or terms of service agreed between the Health Board and primary

care provider. However, whilst supporting their inclusion in the Standards, we remain concerned that the particular workforce challenges in this area will in some cases make some of the Standards impossible to deliver. With reference to the proposed enforcement of Standards for independent primary care providers through the contractual arrangements in place, it is difficult to envisage how this might work in practice. If a particular Standard was not enforced, despite it being included in agreed contractual arrangements, it is not clear whether the compliance action from the Commissioner's Office and potential financial penalty of up to £5,000 would be applied to the Health Board, or the independent primary care contractor.

Websites and on-line services

25. While currently all our members websites, apps and publications are available in Welsh, there needs to be consideration in relation to putting up bilingual information on social media, particularly in instances when a message needs to be conveyed urgently e.g. the unforeseen closure of a GP practice, or the cancellation of outpatient appointments due to unsafe weather conditions.
26. As well as a delay in providing information via social media in Welsh, there will also be translation costs incurred. Not all Health Boards and Trusts have in house translation services and translation work is contracted to external freelance translators which means that the turnaround of translation requests is dependent on the translators' capacity.

Schedule 2: policy making Standards

27. We support the Standards within Schedule 2, which ensure that all policy decisions, strategic plans, consultation documents and research are communicated in Welsh. We particularly support Standard 78 which requires Health Boards to publish an explanatory note for all decisions around Welsh language primary care service, as well as an explanatory note, published and made available via the organisations' website every five years after the implementation of the Standard, that sets out the extent to which the organisation has complied with that Standard. While this will raise awareness, and improve Welsh language provision in primary care, it is important to note that the workforce recruitment and retention challenges that the NHS faces is considered as part of the policy and the assessment.
28. As part of its current requirements under the Welsh Language Scheme, Health Boards/ Trusts assesses all policies, new or revised, for effects on the Welsh language. We do however acknowledge that the scrutiny levels currently in existence require strengthening to ensure policies are also assessed for the opportunity or lack of opportunity to use the Welsh language, as well as treating the Welsh no less favourably.

Schedule 3: Operational Standards

Internal administration

29. Generally, we support the Standards within Schedule 3 because they build on good current practice and work towards producing an improvement plan. This appears to present a more practical and achievable option over a longer period. It also provides the NHS with the tools to monitor and assess the current structure. However, some challenges still need to be considered before coming into force.
30. While we support that a number of operational Standards have been amalgamated e.g. the Standards placing a duty on a body to provide different types of documents to staff in Welsh, we are pleased that our feedback on internal administration has been considered, which is reflected by Standards 79 – 82. As previously highlighted in our response to the draft Standards, while our members felt that they would be able to provide some basic correspondence in Welsh, such as letters informing staff members of changes to their working hours, annual leave application forms and translating more complex letters would incur considerable costs given the fact that each piece of correspondence is likely to be specific for each employee, thereby leading to considerable delays in responses to Welsh-speaking members of staff.
31. Furthermore, our members are positive about adopting a central approach to the implementation of a revised version of the operational Standards if this was to be co-ordinated by the NWSSP (NHS Wales Shared Service Partnership). Our members believe that ensuring compliance with the Standards would be more achievable if they were encouraged to work collaboratively with the NWSSP towards a number of innovative implementation strategies e.g. using All-Wales recruitment templates.

Standards relating to a body disciplining staff

32. In relation to HR issues around complaints and disciplinary matters, as outlined under Standards 82 – 88, offering disciplinary meetings or correspondence in Welsh could cause delay if the organisation does not have Welsh-speaking individuals within their HR team. There are very clear timeframes within employment law practices that employers and employees must comply with, so concerns still remain that the availability of simultaneous translation might delay some processes which have statutory or set timescales. In addition, some meetings to record the initial assessment of facts and/or suspensions might have to be held as soon as possible to manage any risks - it may not be possible therefore to provide simultaneous translation. Situations that could fall in this category include a member of staff turning up for a shift under the influence of alcohol, or a member of staff being abusive to a patient. In both such instances, an immediate/instant removal from the workplace would be required and there would not be time to source a Welsh speaker.
33. In relation to disciplinary issues, meetings in relation to concerns and disciplinaries are conducted within various departments and services, with some requiring specialist

knowledge and expertise. In these circumstances, there would also be a requirement that Trade Union representatives be present at these meetings. It would be impossible to conduct these meetings without the assistance of simultaneous translation. This would prove to be a costly alternative – for example, one of our members stated that they hold approximately 16 Public Forum Meetings a year. Should the Health Board be requested to provide simultaneous translation services for each meeting, this would mean a cost of approximately £5,000 a year on top of the translation costs for the written materials, for which no extra funds are available. Numerous other ‘meetings’ also take place across the Health Board which would incur similar associated costs.

34. In relation to HR, consideration needs to be given to the fact that the National Electronic Staff Register (ESR), where annual leave requests are made, is an all-English NHS system. There has been work ongoing in updating and developing a Welsh section within ESR which is still in the development stages and has been negotiated as part of the new Contract with IBM, however, this will be difficult to implement until sufficient processes are in place. Consideration would also need to be given to the national e-rostering as nursing staff request annual leave through this system.

Intranet

35. Similarly, Standards 89 – 95 are problematic. These Standards specify that an organisation’s intranet systems must be entirely bilingual. Firstly, there is concern because these pages contain large amount of technical information and there would be significant translation costs if all pages were required to be translated. For example, one Health Board has an estimated 1,300 intranet pages with an estimate of 750 words per page, this equates to approximately 975,000 words in total. If the translation team was to translate at the average of 300 words per hour, in an average 37.5 hour week, this would take 86 weeks to complete, with a dedicated translator. Another Health Board has appointed additional translators over the past 18 months, and even with additional resources, they would struggle to achieve these Standards due to the volume of information. However, some of the functionality to deliver this Standard is outside of the NHS control; there are national suppliers of the Content Management System through NHS Wales Informatics Service (NWIS) and the NHS may be reliant on their support to achieve this Standard, especially if a new Intranet is developed.
36. From a functionality viewpoint, a new wireframe would have to be designed, produced and installed across every Health Board and Trust in Wales to ensure that all IT systems were thoroughly bilingual. Associated costs would relate not only to the setting up of an entirely new IT network, but also the employing of managers and technicians to service and maintain the new system. Even if such a system could be developed, the costs involved would far outstrip our members’ financial budgets, rendering them both impractical and unfeasible. Moreover, some of our members employ over 200 devolved editors with full access to uploading content to their individual sites – this reflects the sheer volume of content that is uploaded to these pages on an hourly basis. Thus, the implementation of such Standards would not only put immense pressure on our

members' IT and Communication teams, but also limit the pace at which new content could be uploaded. However, draft Standard 110 does appear to be more reasonable and proportionate in terms of making improvements to the delivery of bilingual services in the long term.

Standards relating to workforce planning and training

37. The Regulations involve the publication of a five-year plan setting out the extent to which they are able to offer and carry out clinical consultations in Welsh, the actions to increase the ability of clinical consultation in Welsh, and a timetable for those actions to be completed (Standards 96 – 105 and 110 – 110A). We are supportive of this as a way forward.
38. Currently there are significant challenges and pressures on the NHS in Wales workforce and it is therefore important that we prioritise the services that must be provided in Welsh. This will require a pragmatic approach that takes on board what actions are achievable and practical at a time of austerity and rising service demands.
39. There are current recruitment challenges across the NHS, especially within certain speciality posts. The health sector operates in an international recruitment market and healthcare workers are sought across the world. Although the demand for Welsh language support in clinical consultations may be lower in some areas in line with the local demographics, it is also known that there are fewer Welsh speaking members of staff, which would make it more difficult to ensure appropriate numbers are available to implement this Standard. Staff availability in clinical settings can prove problematic, and therefore there would need to be reliance on non-clinical staff at times which raises the issue of clinical safety.
40. In relation to Standards relating to training (specifically Standard 97), overall we believe that this Standard is neither reasonable or achievable. Furthermore, demand for this type of training in Welsh is, generally speaking, very low across Health Board areas and would undoubtedly result in significant delays in delivering specific training courses, as well as incurring significant costs. For example, in terms of health and safety training, it is required that specific training is delivered by subject experts, and this is an area of concern in ensuring there are Welsh speakers available to deliver sessions on a regular basis as health and safety is part of the mandatory training programme for all staff. In addition, one of our members highlighted that if induction is used as an example, and the Health Board was to deliver the Standard as suggested, the cost to the Health Board would be circa £20,947.20. However, if the induction was held in Welsh only, once a month, for all new staff who would prefer the session delivered in Welsh, the cost would be circa £2,618.40. This would result in a delay of three weeks in getting staff in post through induction, which would result in additional backfill costs at service level in wards and departments. For example, the cost of filling a Band 2 post for three weeks would be £1,180 and for a Band 5 post would be £5,734. On the basis that there are generally 20 places on a programme, if we calculate 50% support worker and 50% Band 5 backfill for 1

programme a month, the cost would amount to circa £69,140. The first option would not be considered reasonable during this time of austerity and therefore if this Standard remained, the Health Board would have to review the number of induction programmes held throughout the year. This would impact significantly on the turnaround time to secure staff into post, which is not practical or reasonable in the current recruitment environment.

Schedule 4: Record Keeping Standards.

41. We support Standards 115 – 117 in relation to keeping a record each financial year of the number of complaints, assessment of employees Welsh language skills and the number of new and vacant posts that were categorised as Welsh language essential. This will help with workforce planning in the future and the skills required within the workforce having considered the population needs of the Health Board area.

Schedule 5: Supplementary Matters

42. We support the Standards within Schedule 5 because it will ensure that the public are aware of the Standards which the organisation is under a duty to comply with and that an annual report will be produced in each financial year, which ensures transparency and accountability.

Other comments

NHS Planning Guidance

43. It is not clear if the current NHS Planning Framework 2018/21 will be amended to reflect the new Standards. We would suggest that this would be very helpful.

Monitoring the Standards.

44. As highlighted in our previous responses to the draft Standards, a balance is needed between the Commission's ability to support and enforce when necessary. Our members note that some of these Standards are immeasurable, which means that it is extremely difficult for Health Boards and Trusts to monitor the extent to which the Standards are being implemented across such a large, diverse and multidisciplinary organisation across a range of services. Monitoring the Standards could also prove to be difficult to achieve as to ensure consistency across the organisations due to the complexity of the organisational infrastructure. Countless numbers of interactions between staff members, patients, administrators and various others take place every day across a variety of healthcare settings, all of which would require an altogether new and extensive level of bureaucracy to police and monitor. Thus, it would be an almost impossible task for our members to ensure that every one of these interactions complied with the Standards at all times. Indeed, the only way our members would become aware of any potential breach of the Standards would be as the result of a complaint or feedback stating so, whereupon an official investigation and possible penalty would follow. Given that the total NHS Wales

workforce currently stands at approximately 90,000, such an undertaking would inevitably incur significant financial costs as well as being extremely time-consuming.

Process of negotiation after Compliance Notice

45. It is not useful in the context of this response, which requires general views, to comment on each of the proposed 121 Standards. It is worth noting, however, that despite the amendments and deletions made to the original draft Standards following consultation, there remain some Standards in place that within the current resources and context will not be possible to achieve without a disproportionate investment, for example Standards 90 - 95 translation of the Intranet.
46. We recognise that there will be the opportunity for Health Boards and Trusts to express their concerns and negotiate with the Commissioner following the issuing of the Compliance Notice and we will be interested to understand the process for this. The regulations are long and complex and despite the explanatory memorandum are still open to some interpretation. It would be helpful to be assured that the process for negotiation regarding which Standards will be applied will allow for face to face discussions and not solely a written submission.

Recruiting and staffing implications:

47. Our members have highlighted the willingness and ability of the existing workforce and labour market to provide Welsh language services at the levels envisaged in the future. However, the NHS in Wales faces many recruitment and retention challenges, including the recruitment and retention of Welsh language professionals, clinicians and administrative staff (e.g. receptionists, HR, communication professionals such as media and digital etc). The solutions to these challenges often go beyond the remit of Health Boards and Trusts, with the importance of having a truly bilingual education system at the core of the issue.
48. Our members also point out that the Standards relating to increasing the number of Welsh-speaking staff within their specific Health Board or Trust is not solely an organisational or recruitment challenge – making the ability to correspond in Welsh an essential job requirement, for example, will have little or no effect if there is not a sufficiently sizeable Welsh-speaking population within the relevant geographical area in the first place. Achieving this involves sustained, targeted and multidisciplinary Welsh Government approaches that extend far beyond the remit of Health Boards and Trusts and have at their core a truly bilingual education system in Wales. This in itself represents an altogether new policy debate beyond the mandate of our members.

Financial costs of implementing the Welsh Language Standards.

49. Throughout the development of the Standards we have highlighted the range of possible cost implications when the Standards are introduced and we are therefore concerned that

the Explanatory Memorandum states that the “*current uncertainty surrounding which of the Standards each organisation will need to comply with means that it is not possible to produce a robust assessment of the costs and benefits associated with the Regulations at this stage*”.

50. As referenced within the Explanatory Memorandum, our members, provided information on the cost of their current Welsh Language Schemes and an estimate of the cost of complying with the Welsh Language Standards. We acknowledge the concerns highlighted within the Explanatory Memorandum around the data received from organisations and whether it is suitable to produce a robust and accurate Regulatory Impact Assessment (RIA) and the fact that providing estimations for compliance with Welsh language Standards proved challenging. We share this concern and reiterate the difficulty in providing accurate data when Health Boards and Trusts were not aware which of the draft Standards they would be expected to comply with. It is not possible to accurately estimate the cost implications of the Standards until after Health Boards/ Trusts have received their Compliance Notice from the Commissioner informing them of which Standards they have to comply with. This highlights the difficulties both NHS organisations and the Welsh Government have to quantify the cost of implementing the Standards in the future, and with only a six-week consultation period, the timescale to produce this is challenging.
51. While it has not yet been decided which of the Standards will apply to each organisation, it is likely that there will be additional one-off and recurrent costs incurred by the organisations to comply with the Standards. Our members share the view that while they support the general principle of achieving a truly bilingual NHS in the long term, and while they remain committed to doing all they can to support and encourage the improvement of the Welsh language in all matters of service provision, this must only be considered a priority to the extent that it is financially feasible to do so. There is the inherent assumption among our members that the costs involved would be so great that they simply could not be met without a massive financial and human resource investment that is out of the control of the Health Board or Trust, or even the wider health sector either in the short or long term. More specifically, our members highlight a number of areas where they consider the costs involved to be excessive and subsequently unfeasible.
52. The requirement that every correspondence between Health Boards, Trusts and their patients be entirely bilingual is one example of the sort of resource challenge the Standards would bring about. Our members are unanimous in their affirmations that they do not possess the sufficient translation resource provision within their organisations to ensure that every piece of correspondence with patients would be produced and distributed in both Welsh and English.
53. It must be remembered that while the requirement to hire external contractors to translate all correspondence between Health Boards/Trusts and patients brings with it huge financial implications, this problem is brought about in the first instance by the fact that very few staff members within Health Boards and Trusts are professionally competent in Welsh. To train and support the existing non-Welsh-speaking workforce into

a workforce that is professionally competent in Welsh to provide professional medical advice is simply not feasible given the tight financial restrictions Health Boards and Trusts are already experiencing on a daily basis. Even if funds were available, our members point out that the willingness and aptitude of staff members to undertake an extensive and thorough Welsh language teaching programme, whether it takes place at staff members' usual place of work or not, is likely to be extremely diverse. Investment is required not only for the purposes of improving care for patients, but also for ensuring that those who work within the health and social care sectors are adequately supported, thereby making a career in health and social care an attractive prospect for young people.

Conclusion

54. On behalf of our members, the Welsh NHS Confederation welcomes the growing recognition of the importance of meeting language need in the Welsh NHS and the impact this can have on the delivery of safe, high quality healthcare for patients. We continue to support the importance of meeting language need and the 'active offer'. We remain in agreement that it is appropriate and timely to move from Welsh Language Schemes to a reasonable and proportionate set of Welsh language Standards. However, the process of negotiation to achieve this will be critical to success.

55. We encourage the Culture, Welsh Language and Communications Committee to note the significant progress made in recent years by our members in providing services in a patient's chosen language. However, while our members welcome these positive steps and agree wholeheartedly with the wider objectives of the Welsh Language Standards, it is evident that our members' have a number of serious reservations about the practical application of these Standards and their impact on other areas of service provision within their Health Board or Trust given the current financial and recruitment climate.

THE WELSH LANGUAGE STANDARDS (NO. 7) REGULATIONS 2018

Inquiry by the National Assembly for Wales Culture, Welsh Language and Communications Committee

Response from BMA Cymru Wales

07 March 2018

INTRODUCTION

BMA Cymru Wales is pleased to provide a response to the inquiry by the National Assembly for Wales Culture, Welsh Language and Communications Committee into the proposed Welsh Language Standards (No. 7) Regulations 2018.

The British Medical Association (BMA) is an independent professional association and trade union representing doctors and medical students from all branches of medicine all over the UK and supporting them to deliver the highest standards of patient care. We have a membership of approximately 160,000. BMA Cymru Wales represents over 7,100 members in Wales from every branch of the medical profession.

RESPONSE

As we stated in our response to the Welsh Government's 2016 consultation on an earlier, draft version of these Regulations (which we have attached as [Appendix 1](#) to this response), BMA Cymru Wales believes as a general principle that we must support the use of the Welsh language within health care settings in Wales for the benefit of Welsh-speaking patients. We very much recognise that it benefits patients to have the ability to communicate with medical practitioners in their first language.

We recognise that being able to communicate directly with a patient in their first language can be helpful for a doctor in reaching a better diagnosis whatever language is involved. We would note that a major factor for a doctor in arriving at a diagnosis is determining the history conveyed by a patient, and such history can be best relayed by patients in the language in which they are most fluent. As such, if a doctor is able to provide a consultation with sufficient competency through the medium of Welsh to patients who are first language Welsh speakers this can lead to better diagnoses and care, and may also prevent increased costs for diagnostics and secondary care referrals. We would also note that being able to communicate in Welsh to Welsh-speaking patients may be of greater importance to doctors when dealing with young children or more elderly patients, including those with dementia.

Cyfarwyddwr cenedlaethol (Cymru)/National director (Wales):

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However, as we previously acknowledged, in the interests of receiving timely or appropriate clinical care, we recognise that it is not always possible or practical for a Welsh-speaking patient to have a consultation with a doctor, or other health care professional, who is able to undertake a consultation with them through the medium of Welsh.

Within our membership, however, it is only fair to point out that there are differing views regarding the precise standards that should be implemented, as might also be expected amongst the wider population. Our response to the proposed Regulations is therefore provided within this context. In addition, we would point out that we did not respond to all the questions posed by the Welsh Government on the earlier version of the Regulations as we concentrated on those aspects of the proposals which are of most direct relevance to our members. We therefore confine this follow-up response only to aspects of the Regulations on which we have previously commented.

Standards relating to clinical consultations in secondary care

When the initial version of the proposals was consulted upon by the Welsh Government in 2016, we pointed out our support for the potential benefits that can be derived from providing Welsh language support for clinical consultations, depending on the circumstances involved, but we also noted a number of practical difficulties. For instance, we referred to certain circumstances where undertaking doctor-patient interactions through translation might particularly impact on the ability to reach a successful diagnosis, or to effectively discuss very sensitive and emotive issues such as those relating to palliative care.

We understand that the Welsh Government has now concluded, taking on board feedback from ourselves and others, that its original proposed standards for clinical care consultations in secondary care settings are beyond what can currently be achieved or be provided either universally or consistently.

We note the proposed replacement standards will allow longer term planning by local health boards and trusts towards the provision of clinical consultations through the medium of Welsh over a 3-5-year period. We further note that there will also be a new standard to identify and convey to staff the language preference for in-patients, as well as new standards covering the provision of training opportunities for staff to help them improve their Welsh language skills and for health boards and trusts to assess the Welsh language skills amongst their workforce.

These new proposed standards seem to us to be an eminently more practical way forward which we are happy to support. We also feel this more pragmatic approach will help the NHS in Wales to take on board some of the issues and concerns that we previously raised, allowing realistic longer term planning and achievable objectives.

We would reiterate, however, that there are diverse views amongst our membership and it is therefore only fair to point out that some of our members previously told us they were in favour of the original proposed standard. Due to the tight timeframe in which we are having to produce this response to the revised Regulations, however, it has not been possible for us to extensively assess the level of support that exists amongst our wider membership and to determine how that compares to the views they previously expressed regarding the initial proposals.

Standards relating to case conferences

We previously noted that, depending on the circumstances involved, there could be benefit from the provision of translation facilities from Welsh to English, as well as from English to Welsh, for case conferences. However, we also expressed concern about the practicalities of arranging and undertaking case conferences around clinical commitments, and that consideration would need to be given to how the requirement for translation facilities could be delivered without causing further delays to when case conferences can be held.

We therefore welcome the change which the Welsh Government has now introduced to this proposed standard, by resolving that it should only apply to case conferences which are arranged at least five working days in advance of them being undertaken. This would appear to be a very sensible amendment to the proposed Regulations which we again are happy to support.

In our response to the earlier consultation, we noted that case conferences are often undertaken early in the morning or at lunchtime between clinical sessions and are often, by necessity, rushed as a result. Since adding a requirement for translation could lead to case conferences being lengthened, we questioned whether there would necessarily be time for this to be done. We note that this concern has not been addressed by the revised proposal, and therefore our concern about the practicality of this remains.

Standards relating to primary care

We recognise and support the pragmatic approach taken in relation to primary care within the standards.

In relation to primary care services provided directly by local health boards (i.e. managed practices) we would concur with the rationale that the same obligations are placed upon organisations for all the services they provide. We believe it is entirely appropriate that primary care sites are able to benefit from use of health board resources in terms of translation facilities and training for health board employed staff.

The different approach to clinical consultations described in the new draft of the standards somewhat alleviates concerns we previously expressed regarding the practicalities of providing bilingual access to all interactions of that nature, particularly given the long-term recruitment challenges in primary care. However, it remains the case that any negative perceptions relating to how the standards are implemented, and described externally, could further hamper the recruitment of GPs and GP trainees into Wales.

BMA Cymru Wales, in particular the Welsh GP Committee (GPC Wales), looks forward to discussing how Welsh language duties on independent contractors in primary care can be delivered within the GMS (General Medical Services) contract with Welsh Government officials during 2018. We are reassured that the standards relating to primary care retained within the present draft relate to obligations on local health boards to provide translation services, language capability badges and access to training courses for primary care providers and their staff. However, it is as important that the related cost of complying with any changes stemming from the standards should be funded by Health Boards (for instance, including covering the costs of access to training) and not GP practices.

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BMA

Cymru Wales

WELSH LANGUAGE STANDARDS (HEALTH SECTOR) REGULATIONS

Consultation by Welsh Government

Response from BMA Cymru Wales

14 October 2016

INTRODUCTION

BMA Cymru Wales is pleased to provide a response to the consultation by the Welsh Government on the proposed Welsh Language Standards (Health Sector) Regulations.

The British Medical Association (BMA) is an independent professional association and trade union representing doctors and medical students from all branches of medicine all over the UK and supporting them to deliver the highest standards of patient care. We have a membership of over 160,000, which continues to grow every year. BMA Cymru Wales represents over 7,500 members in Wales from every branch of the medical profession.

RESPONSE

As a general principle BMA Cymru Wales believes that we must support the use of the Welsh language within health care settings in Wales for the benefit of Welsh-speaking patients. We very much recognise that it benefits patients to have the ability to communicate with medical practitioners in their first language.

We recognise that being able to communicate directly with a patient in their first language can be helpful for a doctor in reaching a better diagnosis whatever language is involved. We would note that a major factor for a doctor in arriving at a diagnosis is determining the history conveyed by a patient, and such history can be best relayed by patients in the language in which they are most fluent. As such, if a doctor is able to provide a consultation with sufficient competency through the medium of Welsh to patients who are first language Welsh speakers this can lead to better diagnoses and care, and may also prevent increased costs for diagnostics and secondary care referrals. We would also note that being able to communicate in Welsh to Welsh-speaking patients may be of greater importance to doctors when dealing with young children or more elderly patients, including those with dementia.

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Keith Ward

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Listed as a Trade Union under the Trade Union and Labour Relations Act 1974.



However, we recognise that it is not always possible or practical for a Welsh-speaking patient to have a consultation with a doctor, or other health care professional, who is able to undertake a consultation with them through the medium of Welsh. This has clearly also been recognised within the proposals that are now being put forward and which are the subject of this consultation and we are happy to provide a view on these proposals on behalf of the profession.

Within our membership, however, it is only fair to point out that there are differing views regarding the specific proposals being consulted on, as might also be expected amongst the wider population. We therefore respond to the questions that have been posed within this context. It should also be noted that we are not providing a response to every question that has been asked within the consultation document and concentrate on those issues on which we feel able to convey a representative view.

Is the proposed standard 25 (clinical consultation) practical in the various scenarios described in the consultation document? Do you agree with the concept of Welsh language support during clinical consultations?

Taking these two questions together, we would firstly recognise that providing such Welsh language support can be beneficial for consultations, depending on the circumstances involved. As we have touched upon earlier, the benefit may be greater when clinicians are undertaking consultations with both young children and elderly patients who are first language Welsh speakers, including for elderly patients with dementia, as those patients may have the greatest difficulty in communicating effectively in English.

It may also be beneficial for Welsh-speaking patients at times of stress and illness, enabling such patients to feel more comfortable and therefore better able to communicate their problems and symptoms. This may enable a clinician to obtain more accurate information from a patient, but this may be dependent on the quality of the translation or Welsh language support that is able to be provided and the competency of the individual providing this translation or support.

In some circumstances, however, we feel that the proposal may prove less practical and this could risk diminishing the effectiveness of consultations. For instance a non-Welsh speaking psychiatrist undertaking a consultation through a third party translator may find they then have less ability to effectively assess the way in which a patient answers any questions posed, as nuances in the way a patient's responses are expressed could be lost when translated. Indeed many doctors, and not just psychiatrists, would be clear that nuances in the way patients describe their problems can be key to arriving at successful diagnoses.

Another situation where undertaking a consultation through a third-party translator might be detrimental to the quality of the consultation is in the case of palliative care. To undertake a successful consultation in such circumstances, it would be necessary to be fully trained in advanced communication skills as the consultations involved can often be of a very sensitive and emotional nature. A palliative care clinician is trained to deal with the enormity, and emotional nature of such situations. Another member of staff assisting with translation may not possess the necessary skills to undertake that role effectively.

A concern which many of our members have raised is whether or not sufficient Welsh-speaking staff might be available in different health care settings to provide any required Welsh language support. Whilst the consultation document indicates that the intention would be to utilise Welsh language skills within the existing workforce, sufficient staff with such skills may not always be readily available in certain parts of Wales and this may lead to greater dependence on the provision of formal translators.

This, of course, would not come without any cost and some of our members have expressed concern regarding the impact that might have on overall service provision given that resources are already extremely tight and many aspects of health service provision are already suffering directly from a lack of sufficient resources. The extent to which this could be an issue would however depend on what the level of demand might be amongst patients for Welsh language support during clinical consultations, should

this proposal go ahead. That may be difficult to quantify in advance of any decision to implement the proposed regulations.

Some of our members have also raised a concern that greater use of translation, or other Welsh language support, during clinical consultations can have an impact on the time that may then be required for an individual consultation where this is provided. This could mean that fewer consultations are then able to be undertaken during a specific time period and this might have a knock-on effect on waiting times.

Again, we would note that the extent to which this might be a problem of notable significance will be very much dependent on the level of demand for Welsh language support should the proposal go ahead. The concern also needs to be balanced against the fact that in some circumstances providing Welsh language support, such as where it aids a patient in more effectively expressing the nature of their problems and symptoms, may lead to more accurate diagnoses and less time wasted undertaking inappropriate treatments or unnecessary diagnostic tests. We would therefore recognise that the issue is not clear cut, and may vary from circumstance to circumstance.

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

We would accept that a case conference involving an individual, in order to discuss health related provision for that individual, could benefit from the provision of translation facilities from Welsh to English, and English to Welsh, depending on the circumstances involved.

Again, though, many of our members have expressed concern that this should be balanced against the practicalities of undertaking such case conferences. Some have noted, for instance, that there can often be delays at present in undertaking case conferences due to difficulties in being able to get different professionals together at the same time. It would need to be considered how any requirements for the provision of translation facilities at case conferences could be delivered without causing any further delays in them being undertaken. Others have pointed out that currently such case conferences may take place early morning or at lunchtime between clinical sessions and are often, by necessity, rushed as a result. Adding a requirement for translation could lengthen such meetings but there may not be the time available for this to happen. The practicality of the proposal therefore needs to be properly considered.

Some members have also raised concerns that the use of translation facilities may risk greater incidence of misunderstanding. Nuances in the way an individual expresses their needs may be lost through translation in the same way that they might during a clinical consultation. However, it also needs to be recognised some that for some individuals who are first language Welsh speakers, they may be better able to express their needs through the medium of Welsh in the first place. As a result, such concerns may vary depending on the individual involved and the quality of any translation being provided.

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?

We would generally support the proposed list of exceptions. It certainly seems sensible to us that in emergency situations other considerations have to take precedence. Some members have, however, queried why it is being proposed that exemptions should apply to private hospitals in Wales if the standards are to be applied to NHS hospitals.

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? 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?

We agree with the Welsh Government's view that primary care providers should not be subject to the same standards as those being proposed for secondary care. We would concur with the conclusion that

the bureaucracy involved in the approach would not be justified and acknowledge the Welsh Government's belief that it would not achieve the anticipated outcome of the Welsh Language (Wales) Measure 2011.

Given that many Welsh GP practices are under severe strain due to a number of factors – such as increasing workload as a result of an ageing population and an increasing prevalence of chronic disease, funding increases not having kept pace with the rising costs of practice expenses in recent years, and severe and increasing challenges in recruitment and retention – we support the view that it would simply not be practical to apply the same requirements in relation to the Welsh language as those which may be being proposed for secondary care settings.

Given the extent of the problems we have referred to, it would also seem sensible that a common approach is adopted across primary care – regardless of whether services are provided by independent contractors or directly by local health boards.

The proposals which are being suggested in relation to primary care, which place a number of responsibilities upon local health boards, would therefore appear to our members to be a pragmatic, and hence sensible, way forward.

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.

As the Welsh Government will be very much aware, there are already recognised recruitment and retention challenges amongst the medical workforce in Wales – including within a number of secondary care specialties which have been the driver for various service reconfiguration proposals in recent years. A key challenge in addressing such recruitment challenges will be to counter any negative perceptions which could result from the application of the proposed Welsh language standards, particularly those being proposed for secondary care. If this is not done effectively, there is a risk that their implementation could further exacerbate current difficulties in attracting sufficient doctors to work in Wales. This is a concern which has been raised by many BMA Cymru Wales members in relation to these proposals.

Agenda Item 4

Rheoliadau Safonau'r Gymraeg (Rhif 7)

Ymateb Cymdeithas yr Iaith



1. Cyflwyniad

1.1. Mae Cymdeithas yr Iaith Gymraeg yn fudiad sy'n ymgyrchu'n ddi-drais dros y Gymraeg a holl gymunedau Cymru.

1.2. Gofynnwn i'r pwyllgor roi sylw penodol i'r gymhariaeth rhwng y rheoliadau arfaethedig hyn a:

- (i) Rheoliadau Safonau'r Gymraeg (Rhif 1) 2015 ar gyfer awdurdodau lleol, parciau cenedlaethol a Llywodraeth Cymru;
- (ii) Rheoliadau ymgynghorol Safonau'r Gymraeg ar gyfer y maes iechyd a gyhoeddwyd gan y Llywodraeth yn 2016;
- (iii) Argymhellion adroddiad ymchwiliad Safonau Comisiynydd y Gymraeg ar gyfer y maes iechyd (Mehefin 2015);
- (iv) Adroddiad Comisiynydd y Gymraeg "Fy Iaith, Fy Iechyd" (2014); ac
- (v) Egwyddorion strategaeth 'Mwy na Geiriau...' Llywodraeth Cymru

1.3. Mae Safonau'r Gymraeg ar gyfer sectorau eraill eisoes wedi gwneud gwahaniaeth sylweddol o ran gwella darpariaeth Gymraeg cyrff megis cynghorau sir. Oherwydd potensial y system Safonau i wella'r ddarpariaeth Gymraeg yn sylweddol, credwn y dylai'r Llywodraeth flaenoriaethu'r gwaith o'u hymestyn i'r holl sectorau y mae ganddi rym i wneud dan Fesur y Gymraeg 2011, gan gynnwys cwmnïau trên, ynni a thelathrebu.

1.4. Pryderwn, fodd bynnag, y bydd penderfyniadau Gweinidog y Gymraeg o ran union fanylion y set benodol hon o Safonau – gan ei bod wedi ildio i hunan-fuddiannau cyrff yn hytrach na blaenoriaethu anghenion defnyddwyr y gwasanaeth – yn golygu colli cyfle unigryw i wella hawliau pobl ar lawr gwlad i wasanaethau iechyd.

2. Crynodeb

2.1 Credwn fod y rheoliadau'n gwbl annigonol i fodloni hawliau pobl i ddefnyddio'r Gymraeg wrth ddelio â'r gwasanaeth iechyd. Mae'r rheoliadau wedi'u gwanhau'n sylweddol o gymharu â'r Safonau sydd eisoes yn weithredol ar gyfer awdurdodau lleol, a hyd yn oed y rheoliadau ymgynghorol ar gyfer y maes iechyd a gyhoeddwyd yn 2016. Credwn ymhellach fod y rheoliadau yn anwybyddu argymhellion Comisiynydd y Gymraeg ynghyd ag egwyddorion strategaeth 'Mwy na Geiriau...'.

2.2. Hoffem dynnu sylw'r pwyllgor at y ddau brif wendid yn y Rheoliadau arfaethedig:

- (i) Mae gofal iechyd sylfaenol wedi'i eithrio o'r rheoliadau (paragraff 9, tudalen 9) – mae darparwyr fel fferyllfeydd a meddygfeydd, yn cael eu heithrio o'r Safonau er mai nhw yw prif bwynt cyswllt – ac yn aml, unig bwynt cyswllt – y cyhoedd â'r gwasanaeth iechyd;
- (ii) Ni fydd hawl gan bobl i dderbyn gofal iechyd wyneb yn wyneb, gan gynnwys ymgynghoriadau clinigol, yn Gymraeg mewn ysbytai – boed drwy wasanaeth cymorth cyfieithu neu staff sy'n medru'r iaith – sef y prif wasanaeth a ddarperir gan wasanaethau iechyd;

2.2. Nid yw'r Safonau felly yn creu unrhyw hawl i dderbyn gofal iechyd wyneb yn wyneb, gan gynnwys ymgynghoriadau clinigol, yn Gymraeg yn unrhyw ran o'r gwasanaeth iechyd, a byddai unrhyw ddarpariaeth Gymraeg yn parhau i fod yn hollol wirfoddol. Byddai hynny'n golygu colli cyfle unigryw, unwaith-mewn-degawd o bosibl, i gynyddu defnydd o'r Gymraeg o fewn y gwasanaeth iechyd mewn ffordd a fyddai'n gwneud gwir wahaniaeth i gleifion.

2.3. Mae llawer o gymalau yn y Safonau y byddai'r Gymdeithas yn dymuno eu gwella, ond mewn ysbryd adeiladol, gofynnwn i'r pwyllgor argymhell bod y Llywodraeth yn diwygio'r rheoliadau presennol drwy ychwanegu Safonau penodol a fyddai'n:

(i) gosod dyletswydd ar Fyrddau Iechyd i osod amodau o fewn eu cytundebau gyda chyrrff gofal iechyd sylfaenol annibynnol i ddarparu gwasanaethau trwy'r Gymraeg. Mae'r Memorandwm Esboniadol yn dangos bod y Llywodraeth wedi derbyn yr egwyddor o osod amodau mewn cytundebau eisoes, ond byddai gosod hyn fel Safon yn sicrhau cydymffurfiaeth go iawn wedi'i reoleiddio gan Gomisiynydd y Gymraeg yn hytrach nag addewid penagored ac aneglur y Llywodraeth i gynnig gweithredu y tu allan i gyfundrefn y Safonau;

(ii) rhoi hawl i unigolion dderbyn gofal iechyd wyneb yn wyneb, gan gynnwys ymgynghoriadau clinigol, yn Gymraeg;

3. Sylwadau

Gwanhau'n sylweddol ar setiau a drafftiau blaenorol y Safonau

3.1. Mae'r Safonau yn wannach o lawer na Rheoliadau Safonau'r Gymraeg (Rhif 1) 2015, yn ogystal â'r drafft ymgynghorol ar gyfer y maes iechyd a gyhoeddwyd gan y Llywodraeth yn 2016.

3.2. Mae'r Safonau wedi'u gwanhau'n sylweddol mewn sawl ffordd, yn benodol gan eu bod:

- (i) Yn dileu'r hawl i gymorth Cymraeg mewn ymgynghoriadau clinigol yn gyfan gwbl¹, felly er y bydd rhaid cofnodi dewis iaith y claf, ni fydd rhaid gwneud unrhyw drefniant i'w trin yn Gymraeg;
- (ii) Yn dileu hawl y Comisiynydd i osod Safon i sicrhau gwasanaeth ffôn cyflawn Cymraeg, hyd yn oed mewn rhai ardaloedd neu sefyllfaoedd yn unig²;
- (iii) Yn dileu unrhyw hawliau i'r cyhoedd dderbyn dogfennau neu daflenni yn Gymraeg³, megis manylion ymgynghoriadau, taflenni gwybodaeth, canllawiau, cardiau a llyfrynau. Ymddengys bod y gwanhau hwn yn seiliedig ar gasgliadau ymgynghoriad ar Fil arfaethedig y Gymraeg nad ydynt yn gyhoeddus eto;
- (iv) Yn gwanhau'r hawl i gyrsiau addysg a hyfforddiant drwy'r Gymraeg gan ragdybio y bydd pob cwrs yn Saesneg ac mai eithriadau'n unig fydd cyrsiau Cymraeg lle bo 'angen', sy'n gwbl groes i egwyddor y 'cynnig rhagweithiol' a argymhellir yn 'Mwy na Geiriau...' a hysbysiadau cydymffurfio cyrff eraill lle mae rhagdybiaeth y bydd cwrs yn Gymraeg. Mae'r Safonau hefyd yn lleihau ymhellach y nifer o gyrsiau sy'n ddarostyngedig i'r hawl hon⁴;
- (v) Yn eithrio cyrff iechyd o unrhyw ddyletswyddau i ohebu yn Gymraeg ynghylch ymgynghoriad clinigol⁵;
- (vi) Yn atal cyrff allanol rhag gweithredu yn Gymraeg drwy ddileu unrhyw hawliau cyrff i wasanaethau Cymraeg⁶;

1 c.f. Safon 25(c) yn Rheoliadau ymgynghorol 2016

2 c.f.: Safon 10 yn Rheoliadau ymgynghorol 2016

3 c.f. Safon 37-44 yn Rheoliadau ymgynghorol 2016 a Safon 82 Rheoliadau 2018 arfaethedig sy'n rhestru hawliau i ddogfennau i weithwyr dderbyn dogfennau penodol

4 gweler paragraff 56, tudalen 45

5 gweler paragraff 33, tudalen 37

- (vii) Yn eithrio gwasanaethau gofal sylfaenol a gwasanaethau cartref gofal yn benodol o unrhyw ddyletswydd i ddarparu gwasanaethau yn Gymraeg⁷;

Gofal Iechyd Sylfaenol – eithriad cwbl annerbyniol

3.3. Er bod sôn yn y memorandwm esboniadol am ba mor bwysig yw Gofal Sylfaenol, ac er gwaetha'r pryder a fynegwyd yn yr ymatebion i'r ymgynghoriad nad yw Gofal Sylfaenol wedi'i gynnwys, mae'r modd y mae'r Llywodraeth wedi ymateb i hynny yn y rheoliadau yn gwbl annigonol. Mae'r safonau hyn yn diystyru hawliau siaradwyr Cymraeg yn llwyr mewn perthynas â gofal sylfaenol. Mae angen safonau sy'n gwarchod hawliau defnyddwyr ar hyd eu llwybr gofal – o'r cysylltiad cyntaf â'r gwasanaeth iechyd. Meddygon teulu, optegwyr, deintyddion a fferyllwyr yw prif gyswllt y cyhoedd, ac yn aml ein hunig gyswllt, â'r gwasanaeth iechyd, felly byddai creu dyletswyddau iaith ym maes iechyd heb osod dyletswyddau ar y gwasanaethau hyn yn hollol annerbyniol.

3.4. Mae cwynion di-ri am ddiffyg gwasanaethau Cymraeg elfennol ym maes gofal sylfaenol, o ddiffyg gwasanaeth derbynfa Cymraeg, diffyg staff sy'n siarad Cymraeg i ddiffyg arwyddion a gwefannau Cymraeg. Fel dywedodd Comisiynydd y Gymraeg yn ei hymholiad swyddogol cyntaf "Fy iaith, fy iechyd: ymholiad i'r Gymraeg mewn gofal sylfaenol":

"Rwyf wedi fy mrawychu o glywed rhai profiadau dirdynol siaradwyr Cymraeg ac aelodau o'u teuluoedd o fethu â chael gwasanaeth iechyd addas i'w hanghenion."

3.5. Cafwyd argymhelliad clir gan Gomisiynydd y Gymraeg ar sail ei hymholiad i faes iechyd:

"Casgliad 14: Gan mai gofal sylfaenol yw cyswllt cyntaf mwyafrif aelodau'r cyhoedd gyda'r gwasanaeth iechyd, cred Comisiynydd y Gymraeg ei bod yn hanfodol sicrhau cysondeb ymddygiad ieithyddol ar draws y gwasanaeth iechyd yng Nghymru yn ei gyfanrwydd. O ganlyniad, rhaid i ddarparwyr gwasanaethau gofal sylfaenol fod yn ddarostyngedig i safonau'r Gymraeg o dan yr un fframwaith statudol â'r sefydliadau iechyd a fu'n destun i'r ymchwiliad safonau hwn. Daw'r Comisiynydd felly i'r casgliad bod angen safonau ychwanegol er mwyn galluogi hyn i ddigwydd."

ond mae'r Llywodraeth wedi anwybyddu'r argymhelliad yn llwyr wrth lunio ac ail-lunio'r rheoliadau.

3.6. Rydyn ni fel mudiad yn derbyn ymholiadau a chwynion gan ddefnyddwyr gwasanaethau iechyd a gofal cymdeithasol, am eu bod wedi methu â derbyn gwasanaeth yn Gymraeg. Mae'n anodd iawn i bobl gwyno am ddiffyg hawl i wasanaeth yn Gymraeg oherwydd maent gan amlaf yn ceisio cefnogaeth y gwasanaethau yma pan fyddant mewn angen ac yn teimlo'n fregus ac mewn perygl.

3.7. Mae sawl astudiaeth a darn ymchwil yn dangos pa mor bwysig yw gallu cyfathrebu yn eich dewis iaith, yn enwedig mewn sefyllfa o geisio cyfleu problem neu anhawster. Yn wir, mewn cyd-destun fel iechyd, mater o angen yn hytrach na dewis yw gwasanaeth yn eich iaith mewn gwirionedd. Mae sawl enghraifft anffodus o asesiad anghywir a thriniaeth anaddas yn digwydd oherwydd nad yw'r person sy'n ymateb i angen y claf neu'r defnyddiwr gwasanaeth wedi gallu darparu'r gwasanaeth yn Gymraeg. Gall gwasanaeth iechyd yn Gymraeg arwain at fudd sylweddol i iechyd y claf.

3.8. Mae iaith yn elfen allweddol o ofal. Mae pobl yn defnyddio'r gwasanaeth iechyd pan fônt ar eu mwyaf bregus, felly mae'n hanfodol bwysig eu bod yn medru cyfathrebu yn yr iaith maent yn teimlo'n fwyaf cyfforddus yn ei siarad. Dylai'r Safonau gydnabod y ffaith bod gwasanaethau Cymraeg yn y maes hwn yn hawl sylfaenol i bobl Cymru.

3.9. Mae tystiolaeth ein haelodau yn awgrymu bod mwyafrif y darparwyr gofal sylfaenol ledled Cymru yn gweithredu fel pe na bai unrhyw orfodaeth na chanllawiau yn eu cymell i weithredu gydag

6 gweler para 34, tuadlen 38

7 gweler paragraffau 9 a 10, tudalen 9, Rheoliadau 2018 arfaethedig

ystyriaeth i anghenion iaith siaradwyr Cymraeg. Yn aml iawn nid oes staff dwyieithog yn cael eu penodi, ac nid yw arwyddion sylfaenol yn ddwyieithog hyd yn oed.

3.10. Prin bod y Safonau'n gwneud unrhyw beth i newid y sefyllfa o ran gwasanaeth wyneb yn wyneb, oherwydd y penderfyniad i wanhau'r rheoliadau presennol sydd eisoes yn weithredol ar gyfer cynghorau, parciau cenedlaethol a Llywodraeth Cymru.

3.11. Noder bod Safonau'r Gymraeg (Rhif 1) a basiwyd gan y Cynulliad yn unfrydol yn 2015 ac sydd bellach yn weithredol ar bob un awdurdod lleol, parc cenedlaethol a Llywodraeth Cymru yn datgan bod trydydd parti sy'n gweithredu ar ran corff, megis cwmni yn gweithredu ar ran cyngor, yn gorfod cydymffurfio â'r Safonau yn yr un ffordd â'r corff sy'n ddarostyngedig i'r Safonau ei hunan⁸. Yn gwbl groes i'r egwyddor hon, mae'r Rheoliadau hyn ym maes iechyd yn eithrio darparwyr gofal sylfaenol o'r un gofyniad sylfaenol. Felly, mae cwmni preifat sy'n gwneud gwaith ar ran neu drwy gytundeb gyda chyngor sir, megis un sy'n darparu gofal yn y cartref, yn gorfod cydymffurfio â'r Safonau. Fodd bynnag, ni fyddai cwmni sy'n darparu gofal iechyd ar ran Bwrdd Iechyd yn gorfod cydymffurfio gan fod eithriad penodol yn Safonau arfaethedig y Gymraeg (Rhif 7). Credwn fod rhaid newid y cam gwag hwn cyn pasio'r rheoliadau yn y Senedd.

3.12. Erbyn hyn, ymddengys fod y Llywodraeth wedi derbyn ei bod yn gyfreithiol bosibl gosod dyletswyddau cyfreithiol ar ddarparwyr gofal sylfaenol, gan fod eu cyfiawnhad dros beidio â'u cynnwys wedi newid. Yn 2016, dywedasant mewn cyfarfod gyda ni y byddai cynnwys darparwyr gofal sylfaenol fel trydydd parti yn y rheoliadau yn 'anghyfreithlon'⁹, gan na all Byrddau Iechyd fod yn gyfreithiol gyfrifol am y cytundebau na'r meddygfeydd. Yn ogystal, nodwyd y canlynol mewn dogfen ymgynghori yn 2016:

"Gallai'r dull hwn arwain at ddiffyg eglurder i'r cyhoedd a darparwyr gofal sylfaenol gan na fyddai safonau'r Gymraeg ond yn berthnasol i wasanaethau y mae darparwyr gofal sylfaenol yn eu darparu ar ran y byrddau iechyd lleol. Gan fod llawer o ddarparwyr hefyd yn ymgymryd â gwaith preifat, ni fyddai'r amgylchiadau pan fyddai disgwyl iddynt gydymffurfio â safonau yn glir bob amser – gallai unigolyn gael cymysgedd o wasanaethau'r GIG a gwasanaethau preifat yr un pryd."

3.13. Erbyn hyn, nid yw'r Llywodraeth yn defnyddio'r un dadleuon cyfreithiol. Mae'r memorandwm esboniadol yn datgan: "*Nid ydym o'r farn y byddai'n rhesymol gosod dyletswyddau ar fyrddau iechyd lleol a fyddai'n eu dal yn gyfrifol am fethiant ar ran un o'r darparwyr gofal sylfaenol annibynnol i gydymffurfio â'r safonau.*"

3.14. Ymhellach, mae'r Llywodraeth bellach yn cynnig gwneud yr hyn roeddent yn dadlau y byddai'n 'anghyfreithlon' ei wneud drwy ddadlau dros: "*nifer fach o ddyletswyddau ... drwy gcontractau gofal sylfaenol neu gytundeb telerau gwasanaeth rhwng darparwr gofal sylfaenol a bwrdd iechyd lleol.*" Maent yn cynnig gwneud hynny y tu allan i'r gyfundrefn Safonau, gan arwain at ansicrwydd ac anallu i sicrhau'r hawliau mewn cyfundrefn ddeddfwriaethol.

3.15. Y cwestiwn amlwg sy'n codi felly yw: nawr bod y Llywodraeth yn derbyn bod modd i Fwrdd Iechyd Lleol osod amod o ran darpariaeth Gymraeg drwy gcontract gyda darparwyr gofal sylfaenol a'u gorfodi, beth yw'r ddadl yn erbyn gwneud hynny drwy gyfundrefn y Safonau?

⁸ paragraff 5, tudalen 6, Rheoliadau Safonau'r Gymraeg (Rhif 1) 2015: "*mae cyfeiriadau at unrhyw weithgaredd sy'n cael ei gyflawni gan gorff, neu at unrhyw wasanaeth sy'n cael ei ddarparu gan gorff, i'w darllen fel pe baent yn cynnwys cyfeiriad at y gweithgaredd hwnnw yn cael ei gyflawni ar ran y corff, neu at y gwasanaeth hwnnw yn cael ei ddarparu ar ran y corff, gan drydydd parti o dan drefniadau a wneir rhwng y trydydd parti a'r corff.*"

⁹ <http://cymdeithas.cymru/dogfen/safonau-gymraeg-ym-maes-iechyd>

3.16. Argymhellwn fod y pwyllgor yn gofyn i'r Llywodraeth ddiwygio'r Safonau er mwyn cynnwys Safon benodol ychwanegol sy'n gosod dyletswydd gyfreithiol ar bob Bwrdd Iechyd Lleol i osod amodau darpariaeth Gymraeg mewn cytundebau gyda darparwyr gofal sylfaenol. Heb y sicrwydd hwnnw, ni fyddwn yn cefnogi'r rheoliadau oherwydd:

- Bydd hawl cleifion i dderbyn gwasanaethau gofal iechyd sylfaenol drwy'r Gymraeg yn gwbl ddibynnol ar gamau gwirfoddol ar ran y cyrff iechyd, ac felly mewn gwirionedd ni fydd y mwyafrif yn cael gwasanaethau o'r fath yn Gymraeg.
- Na fydd yn rhoi'r gallu i amddiffyn hawliau cleifion i wasanaethau gofal sylfaenol yn nwylo cyfundrefn reoleiddio annibynnol sy'n cael ei chynnal gan Gomisiynydd y Gymraeg;
- Nad oes eglurder ynghylch beth fydd yr amodau yn y cytundebau arfaethedig hyn;
- Nad oes amserlen ynghylch pryd y daw'r cytundebau mae'r Llywodraeth yn sôn amdanynt i rym;
- Nad ydym yn ymddiried yn y Llywodraeth na'r Byrddau Iechyd i weithredu ar y mater.

3.17. Nid yw Safonau 65–68 yn creu unrhyw hawl i unigolyn dderbyn gwasanaeth gofal iechyd sylfaenol o unrhyw fath, er enghraifft mewn meddygfa teulu, drwy'r Gymraeg.

3.18. Noder ymhellach bod y memorandwm esboniadol yn datgan y bydd disgwyl i ddarparwr gofal sylfaenol gydymffurfio â'r Safonau os ydynt yn cael 'eu darparu'n uniongyrchol gan fyrddau iechyd'. Er bod hwn yn gam bach yn y cyfeiriad cywir, prin iawn yw'r enghreifftiau o'r gwasanaethau hyn yn cael eu darparu'n uniongyrchol gan fyrddau iechyd (e.e. nyrsys ardal a meddygfeydd dros dro) ond byddai cynnwys gofal sylfaenol yn gyffredinol yn cael effaith gadarnhaol iawn ar brofiadau cleifion ledled Cymru.

3.19. Mae eithrio cyrff annibynnol sy'n darparu gofal sylfaenol yn gosod gormod o risg i gleifion o ran:

- Asesu effeithiol a dibynadwy
- Pennu archwiliadau
- Cyfeirio
- Cynnal diagnosis
- Penderfyniadau o ran triniaethau / gofal
- Dilyniant

3.20. Yn ogystal, mae angen ystyried effaith colli cyfle hanesyddol a gynigir gan y set hon o Safonau, wedi i gynlluniau iaith fethu â chreu'r hawliau hyn ers chwarter canrif. Drwy fethu â chynnwys gwasanaethau gofal iechyd sylfaenol y tro hwn, caiff gwasanaethau Cymraeg eu dal yn ôl am flynyddoedd eto i ddod. Byddai creu hawliau i gleifion drwy gyfundrefn y Safonau wrth ymwneud â meddygfa, hyd yn oed ar lefel eithaf sylfaenol, yn cael effaith gadarnhaol iawn ar newid agweddau yn y maes.

[Gofal Iechyd Wyneb yn Wyneb mewn Ysbytai – Dim Hawliau \(Safonau 23–24 a 110–110A\)](#)

3.21. Ymddengys fod arwyddocâd iaith fel rhan o ofal iechyd ac egwyddor y 'cynnig rhagweithiol' wedi'u hanghofio yn y rheoliadau hyn. Mae cyfundrefn y Safonau'n rhoi cyfle i ddarparu plattform cryfach ar gyfer adeiladu gwasanaethau cyfrwng Cymraeg ar hyd y llwybr gofal, ond nid yw'r Llywodraeth wedi manteisio ar y cyfle yn y rheoliadau arfaethedig.

3.22. Mae cynghorau sir, parciau cenedlaethol a Llywodraeth Cymru yn ddarostyngedig i Safonau sy'n rhoi'r hawl i bobl gael cyfarfodydd yn Gymraeg os yw'r "cyfarfod hwnnw yn ymwneud â llesiant"¹⁰ –

¹⁰ Safonau 25-26B, tudalen 14-15, Rheoliadau Safonau'r Gymraeg (Rhif 1) 2015

boed hynny drwy drwy gyfieithu ar y pryd neu staff sy'n medru'r iaith. Roedd y rheoliadau ymgynghorol ar gyfer y maes iechyd a gyhoeddwyd yn 2016 yn cynnwys Safon a oedd yn gwarantu, wedi i unigolyn fynegi dymuniad i ddefnyddio'r Gymraeg, "*darparu cymorth Cymraeg i A mewn ymgynghoriadau clinigol o hynny ymlaen (oni bai eich bod yn cynnal neu'n darparu'r ymgynghoriad clinigol yn Gymraeg)*".

3.23. Mewn gwrthgyferbyniad trawiadol â'r Safonau hynny ar gyfer cynghorau a chyrrff cyhoeddus eraill, nid yw Safonau 23, 23A a 24 yn y rheoliadau arfaethedig ar gyfer y gwasanaeth iechyd yn creu'r un hawl i glaf dderbyn gofal iechyd wyneb yn wyneb yn Gymraeg. Nid bai cyfundrefn y Safonau yw hyn, ond diffyg ewylllys gwleidyddol y Gweinidog sy'n gyfrifol amdanynt.

3.24. Noder bod Safon 23A yn gosod dyletswydd i gofnodi dewis iaith claf, ond mewn nifer fawr o achosion, dylai dewis iaith y claf eisoes fod wedi'i gofnodi gan ddarparwr gofal sylfaenol. Dylid adnabod dewis neu angen iaith claf cyn iddo gael ei dderbyn i'r ysbyty er mwyn cael trefnu ar ei gyfer. Mae strategaeth 'Mwy na Geiriau...' yn rhoi dyletswydd ar feddygon teulu i gofnodi dewis iaith wrth gyfeirio cleifion at wasanaethau eilaidd. Dylid gosod y ddyletswydd o fewn y cytundebau felly.

3.25. Cyfeirir drwyddi draw at gleifion mewnol, ond nid oes sôn am gleifion allanol, felly ymddengys na fyddai gan gleifion allanol unrhyw hawliau i dderbyn gwasanaeth yn Gymraeg.

3.26. Argymhellwn y dylid ychwanegu Safon benodol sy'n cadarnhau hawliau cleifion, mewnol ac allanol, i gael derbyn ymgynghoriad clinigol, triniaeth a gofal drwy'r Gymraeg.

3.27. Nid yw Safon 110 yn rhoi hawl i gleifion gael ymgynghoriad drwy'r Gymraeg ychwaith. Yn hytrach, yr unig ofyniad yw gofyn i gyrff amlinellu eu cynlluniau o ran gweithio tuag at hynny. Mae ychwanegu dyletswydd i gyhoeddi cynllun i osod allan sut y bydd Bwrdd Iechyd yn darparu ymgynghoriadau clinigol yn Gymraeg yn waith papur ychwanegol nad yw'n creu dim hawliau i'r unigolyn. Yn ogystal, mae'n gwbl groes i rethreg y Llywodraeth ynghylch y Bil arfaethedig ar y Gymraeg sy'n honni ei bod am 'leihau biwrocratiaeth'. Pe bai'r Llywodraeth yn creu'r hawl fel rydym yn ei argymhell ym mhwynt 3.17 uchod, gellid cadw Safon debyg i Safon 110 – sy'n ymdrin â chynnig cynnal ymgynghoriad yn y Gymraeg – er mwyn esbonio **sut** y dylai corff fynd ati i gynllunio ar gyfer rhoi'r dewis ar waith, er enghraifft drwy gyfeirio'r claf at staff sy'n siarad Cymraeg.

3.28. Yn fwy cyffredinol, mae diffyg manylder o fewn y Safonau Cyflenwi Gwasanaethau o ran asesu, cofnodi a lledaenu gwybodaeth ynghylch dewis neu angen iaith cleifion a rhoi'r cynnig rhagweithiol ar waith. Wedi'r cyfan, dyma'r man allweddol i ddefnyddwyr gwasanaeth sy'n fregus.

Sylwadau Eraill

3.29. Mae llawer iawn o fanylion yn y memorandwm esboniadol am gostau. Fodd bynnag, nid oes dim cyfeiriad at y gwerth sy'n cael ei ychwanegu tuag at y gwasanaeth wrth allu cyfathrebu â phobl yn eu dewis iaith (gan gyfeirio at adroddiad y Comisiynydd o brofiadau pobl).

3.30. Mae'r memorandwm esboniadol yn datgan bod Gofal Cymdeithasol Cymru wedi eu hychwanegu at Atodlen 6, ond nid ydynt i'w gweld yn Atodlen 6 y rheoliadau sydd wedi'u cyflwyno gerbron y Cynulliad.

3.31. Nid ydym wedi gweld esboniad ynghylch pam y dilëwyd "Awdurdod Gwasanaethau Busnes y GIG" o Atodlen 6 ac felly o unrhyw ddyletswydd i gydymffurfio â'r Safonau.

4. Hyfforddiant i wella cynllunio gweithlu'r gwasanaethau iechyd

4.1. Mae nifer o faterion sydd y tu hwnt i sgôp y rheoliadau hyn ond sy'n effeithio ar allu'r gwasanaeth iechyd i ddarparu drwy gyfrwng y Gymraeg, ac fe hoffem dynnu sylw'r pwyllgor atynt.

4.2. Er y bydd effaith gadarnhaol yn deillio o'r Safonau ynghylch recriwtio, nid ydynt yn mynd i'r afael â'r systemau hyfforddi. Dylai'r pwyllgor ystyried y darlun ehangach a'r angen am hyfforddi gweithlu sy'n medru'r Gymraeg.

4.3. Argymhellwn felly y dylid:

- Gosod cwtâu ar ysgolion meddygol a cholegau hyfforddi eraill o ran hyfforddi meddygon, nyrsys a gweithwyr iechyd eraill sy'n medru'r Gymraeg
- Sefydlu Ysgol Feddygol ym Mangor i gynyddu darpariaeth hyfforddiant meddygol yn Gymraeg

5. Casgliadau

5.1. Mae'n amlwg bod y Safonau wedi cael eu hysgrifennu o safbwynt y rhai sy'n rhoi'r gwasanaeth, nid y rhai sy'n eu derbyn. Nid yw'r rhain yn dderbyniol i gleifion, ond maent yn dderbyniol iawn i ddarparwyr gwasanaeth gan eu bod mor wan. Mae'n warthus bod pryderon y cyrff a nodir yn y memorandwm esboniadol wedi cael eu derbyn, tra bod pryderon y cyhoedd, sef defnyddwyr y gwasanaeth, wedi cael eu hanwybyddu.

5.2. Ni allwn gefnogi'r rheoliadau hyn yn eu ffurf bresennol gan nad ydynt yn creu hawliau i bobl mewn dau faes sy'n gwbl greiddiol i ddarpariaeth iechyd drwy'r Gymraeg, sef gofal iechyd sylfaenol a gofal iechyd wyneb yn wyneb mewn ysbytai.

5.3. Mae nifer o fân newidiadau pellach yn y Safonau sy'n gwanhau hawliau pobl ar lawr gwlad nad ydym wedi cyfeirio atyn nhw yn ein hymateb, ond maen nhw bron yn ddieithriad yn gwanhau hawliau pobl i'r Gymraeg o gymharu â Safonau sydd eisoes mewn grym ac o gymharu â'r Safonau drafft ar gyfer y gwasanaeth iechyd a gyhoeddwyd yn 2016.

5.4. Am y rhesymau hyn, credwn y byddai pasio'r Safonau annigonol hyn yn colli cyfle unigryw, efallai unwaith-mewn-degawd, i gryfhau hawliau pobl i'r Gymraeg mewn maes cwbl hanfodol. Argymhellwn fod y pwyllgor yn gofyn i'r Llywodraeth ychwanegu Safonau penodol at y rheoliadau presennol sydd:

(i) yn gosod dyletswydd ar Fyrddau Iechyd i osod amodau o fewn eu cytundebau gyda chyrff gofal iechyd sylfaenol annibynnol i ddarparu gwasanaethau trwy'r Gymraeg

(ii) yn rhoi hawl i unigolion dderbyn gofal iechyd wyneb yn wyneb, gan gynnwys ymgynghoriadau clinigol, yn Gymraeg;

5.5. Oherwydd y newid yn nadleuon y Llywodraeth, mae'n amlwg nad oes rheswm cyfreithiol bellach dros beidio â derbyn ein hargymhellion uchod; diffyg ewyllys gwleidyddol yn unig fyddai'n gyfrifol. Erfyniwn arnoch i sicrhau'r newidiadau hyn er lles cleifion a'u hawliau i driniaeth yn Gymraeg ac i sicrhau gwell gwasanaethau iechyd i bobl Cymru yn y dyfodol.

Is-Grŵp Iechyd, Cymdeithas yr Iaith

Mawrth 2018

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Cadeirydd
Pwyllgor Diwylliant, y Gymraeg a Chyfathrebu
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Annwyl Gadeirydd,

Cyflwynwn drwy'r llythyr hwn dystiolaeth ysgrifenedig ar ran tîm rheoli meddwl.org mewn ymateb i'ch ymgynghoriad byr ar Reoliadau Safonau'r Gymraeg (Rhif 7) 2018 arfaethedig (rheoliadau rhif 7).

Mudiad gwirfoddol yw meddwl.org â'i waith pennaf yn ymwneud â rhedeg y wefan gyntaf i ddarparu gwybodaeth a chynngor am iechyd meddwl, a gofod i rannu profiadau, yn gyfan gwbl drwy'r Gymraeg. Mae'r gwaith hefyd yn ymestyn yn gynyddol i gymryd rhan mewn trafodaethau a chodi ymwybyddiaeth ymysg eraill ar fater pwysigrwydd gofal iechyd meddwl Cymraeg.

Ers blynnyddoedd lawer, mae academyddion ar draws y byd ac yng Nghymru wedi amlygu'r cysylltiad rhwng gallu ieithyddol a'r gallu i fynegi emosiwn. Wrth gwrs, rydym yn cydnabod bod rôl hanfodol gan iaith i'w chwarae mewn cyd-destunau iechyd o bob math, ond o ystyried bod y gallu i gyfathrebu a mynegi emosiwn yn glir ac effeithiol yn gwbl greiddiol mewn triniaethau iechyd meddwl, mae'n wybyddus bellach bod pwysigrwydd cryfach fyth i'r Gymraeg yn y cyd-destun hwn.

Roeddem felly yn awyddus iawn i weld y rheoliadau safonau ar gyfer y sector iechyd yn cael eu gosod er ein bod, wrth reswm, yn effro i'r ffaith na fyddai'r safonau ar eu pennau eu hunain yn mynd i'r afael â'n holl ofnau nac yn sicrhau gweithrediad llawn o fframwaith strategol hanfodol y Llywodraeth, *Mwy na Geiriau....* Fodd bynnag, dylid nodi nad oes unrhyw bŵer cyfreithiol i'r fframwaith hwnnw ac yn hynny o beth, Mesur y Gymraeg (Cymru) 2011 (y Mesur) yw'r unig offeryn â'r gallu i ddwyn i gyfrif y rheiny sydd, ers blynnyddoedd lawer, yn diystyru rhwystrau ieithyddol a'u hymrwymiaid cynllun iaith. Yn anffodus, rydym yn teimlo bod ffaeiddau amlwg i'w gweld yn rheoliadau rhif 7 sy'n golygu na fyddent yn ymateb i brif egwyddor a nod y Mesur o beidio â thrin y Gymraeg yn llai ffafriol na'r Saesneg yng Nghymru.

Mawr groesawn y ffaith fod eich pwyllgor wedi galw'r rheoliadau i mewn a gobeithiwn y bydd ystyriaeth drylwyr a theilwng o'r holl faterion hanfodol. Isod, amlinellir ein prif bryderon mewn perthynas â chynnwys y rheoliadau er eich ystyriaeth.

Dileu safonau'n ymwneud â darparu cymorth Cymraeg mewn ymgynghoriadau clinigol

Yn y rheoliadau drafft y cynhaliwyd ymgynghoriad arnynt yn ôl yn 2016, roedd safon 25 yn ymwneud â darparu cymorth Cymraeg mewn ymgynghoriadau clinigol:

“Pan fydd unigolyn (“A”) yn mynychu ymgynghoriad clinigol a gyflawnir neu a ddarperir gennych am y tro cyntaf rhaid ichi—

- (a) gofyn i A a yw A yn dymuno cael cymorth Cymraeg yn yr ymgynghoriad clinigol,
- (b) os yw A yn eich hysbysu bod A yn dymuno cael cymorth Cymraeg yn yr ymgynghoriad clinigol, gadw cofnod o'r dymuniad hwnnw, ac
- (c) darparu cymorth Cymraeg i A mewn ymgynghoriadau clinigol o hynny ymlaen (oni bai eich bod yn cynnal neu'n darparu'r ymgynghoriad clinigol yn Gymraeg).”

Darparwyd diffiniad yn y rheoliadau blaenorol hynny mai “ystyr *“ymgynghoriad clinigol”* yw *rhyngweithio rhwng unigolyn a chorff ynghylch darpariaeth iechyd.*” Awgryma'r dehongliad hwn na fyddai'r safon yn berthnasol i'r ddarpariaeth iechyd ei hun, dim ond y drafodaeth a geir amdani. Mae'r dehongliad pellach a geir o'r term 'darpariaeth iechyd' sef “*darparu gwasanaethau iechyd fel rhan o'r gwasanaeth iechyd i unigolyn ac mae'n cynnwys asesu, diagnosio, neu drin yr unigolyn hwnnw*” hefyd yn cadarnhau hynny gan wahaniaethu yn gwbl glir rhwng 'ymgynghoriadau clinigol' a 'darpariaeth iechyd'. Yr hyn fyddai'r safon a ddyfynnir uchod wedi'i ganiatáu felly fyddai hawl i unigolion drafod eu hanghenion cychwynnol yn y Gymraeg.

Er nad oedd y safon hon yn caniatáu'r ddarpariaeth Gymraeg llawn, roeddem yn cytuno bod y cyfathrebu'n ystod ymgynghoriad clinigol yn allweddol gan mai ar yr adeg honno y byddai penderfyniad yn cael ei wneud ynghylch anghenion meddygol yr unigolyn. Rydym yn bendant ein safbwynt bod galluogi unigolion i fynegi eu hunain yn y Gymraeg yn hanfodol i sicrhau gwasanaeth o ansawdd ymhob sefyllfa, ond gan hefyd dderbyn yr anawsterau recriwtio cenedlaethol, roeddem yn cydnabod na fyddai'r gallu gan y Byrddau i sicrhau hynny ar hyn o bryd. O'r herwydd, roeddem yn croesawu bod mater y cyfathrebu cychwynnol hwnnw a fyddai'n llywio'r ddarpariaeth gofal am beth amser i ddod wedi cael sylw.

Pryder enbyd i ni fel mudiad felly oedd gweld yr hawl hon wedi'i diddymu yn rheoliadau rhif 7. Ymddengys mai'r safonau sydd wedi'u cynnwys yn lle'r safon uchod yn rheoliadau rhif 7 yw:

“Safon 23: Rhaid ichi ofyn i glaf mewnol (“A”) ar ddiwrnod cyntaf ei dderbyniad claf fel claf mewnol a yw A yn dymuno defnyddio'r Gymraeg i gyfathrebu â chi yn ystod y derbyniad hwnnw fel claf mewnol.

Safon 23A: Os yw'r claf mewnol (“A”) yn eich hysbysu fod A yn dymuno defnyddio'r Gymraeg i gyfathrebu â chi yn ystod derbyniad fel claf mewnol, rhaid ichi roi gwybod i'ch staff sy'n debygol o gyfathrebu ag A, fod A yn dymuno defnyddio'r Gymraeg i gyfathrebu â chi yn ystod y derbyniad hwnnw fel claf mewnol.”

Er ein bod yn croesawu'r bwriad i ddarganfod ac ymateb i ddewis iaith mewn ysbytai, nodwn yn gyntaf oll fod y safonau uchod wedi eu cyfyngu i gleifion mewnol yn unig. Mae'r rheoliadau yn cadarnhau mai ystyr 'claf mewnol' ar gyfer dibenion y safonau hyn yw “*unigolyn sy'n cael ei dderbyn i'r ysbyty am o leiaf un noson*”.

Mae safonau eraill yn y rheoliadau sy'n gwneud darpariaethau mewn perthynas â chynadleddau achos a chyfarfodydd rhwng corff ac unigolion. Yn ôl y rheoliadau, ystyr 'cynhadledd achos' yw “*rhyngweithio a'i brif bwrpas yw trafod darpariaeth unigolyn (“A”) sy'n ymwneud ag iechyd ac sydd rhwng- (a) A, (b) un neu ragor o gyrff, a (c) un neu ragor o bersonau pan fo o leiaf un o'r personau hynny yn gyngor sir neu'n gyngor bwrdeistref sirol yng Nghymru*”. Ymhellach, cedwir y diffiniad blaenorol a nodwyd uchod o 'ddarpariaeth iechyd' sydd, eto, yn gwahaniaethu gan awgrymu nad yw'r safonau sy'n ymwneud â chyfarfodydd rhwng corff ac unigolion (safonau 21-22CH) yn berthnasol chwaith i'r ddarpariaeth iechyd a thriniaeth.

Golyga hyn oll nad oes gan gleifion allanol nad ydynt wedi treulio o leiaf noson yn yr ysbyty unrhyw hawliau mewn perthynas â derbyn unrhyw elfen o'r ddarpariaeth yn Gymraeg, ac yn wahanol i'r rheoliadau drafft blaenorol, nid oes ganddynt bellach hyd yn oed yr hawl i gymorth Cymraeg mewn ymgynghoriadau clinigol. O ystyried mai cleifion allanol yw mwyafrif yr unigolion sy'n derbyn gwasanaethau iechyd yng Nghymru, ac yng ngoleuni'r prinder gwelyau sydd wedi bod (ac felly'r amharodrwydd cynyddol i dderbyn claf yn fewnol os nad oes rhaid), bydd y diffyg hwn yn y gyfundrefn safonau yn cael effaith anffafriol iawn ar siaradwyr Cymraeg. Rydym yn rhagweld y bydd hyn yn effeithio'n arbennig ar y rheiny sydd yn ei gweld hi'n llawer anoddach cyfathrebu am faterion personol a sensitif mewn unrhyw iaith ond y Gymraeg.

Ymhellach na hynny, rydym yn pryderu y bydd y diffyg hwn yn cael effaith gwirioneddol andwyol ar gleifion iechyd meddwl Cymraeg eu hiaith. Unedau arbenigol iawn yw'r rheiny lle y bydd cleifion iechyd meddwl yn dod yn rhai mewnol, ac yn gyffredinol dim ond pan fydd unigolion yn wirioneddol fregus y byddant yn mynd i unedau o'r fath. Hyd yn oed petaent yn cyrraedd y pwynt hwnnw, byr yw eu harhosiad gan amlaf, gyda'r gofal dilynol yn digwydd fel cleifion allanol neu yn y gymuned. Mewn gwirionedd felly, nifer fechan iawn o gleifion iechyd meddwl fydd ag unrhyw hawl i nodi eu dewis iaith. Nodir nad yw'r hawliau uchod yn pennu hawl cyflawn i gyfathrebiad yn Gymraeg fel claf mewnol chwaith ond yn hytrach hawl i gael mynegi'r dewis a sicrhau fod staff yn ymwybodol ohono'n unig.

Mae ymchwil wedi amlygu nad yw cleifion yn gallu mynegi eu hunain mor rhwydd os nad ydynt yn gallu gwneud hynny yn eu hiaith gyntaf, ac o ganlyniad eu bod weithiau'n mynegi eu hunain mewn ffordd nad yw wir yn cyfleu'r hyn a fwriadwyd. Adroddir fod hyn yn cael effaith ar hyder unigolion; ar y 'balans pŵer' lle mae'r claf yn teimlo islaw'r ymarferydd; ar y berthynas therapiwtig a'r gallu i sefydlu cydberthynas a hyd yn oed ar y parodrwydd neu'r 'amynedd' i ymhelaethu a cheisio egluro'r cysyniadau a'r meddyliau dwysaf a mwyaf cymhleth. O'r herwydd felly, mae'r penderfyniad i ddileu cymorth Cymraeg mewn ymgynghoriad clinigol yn galluogi i gyrff iechyd yng Nghymru esgeuluso anghenion y rheiny nad oes 'sgan' na 'thriniaeth amlwg' ar gyfer eu cyflyrau, a lle mae cyfathrebu clir yn gwbl allweddol wrth sicrhau diagnosis cywir, triniaeth effeithiol a gwellhad.

Penderfyniad nad yw'r safonau a osodir ar gyrff iechyd yn berthnasol i unrhyw wasanaethau gofal sylfaenol a ddarperir ar eu rhan gan drydydd parti

Nodwn fod rheoliadau rhif 7 yn datgan:

“Pan fo'r trydydd parti yn ddarparwr gofal sylfaenol... yna nid yw unrhyw safonau yn gymwys.”

Cadarnheir mai 'darparwr gofal sylfaenol' yw “*person sy'n darparu gwasanaeth gofal sylfaenol ar ran Bwrdd Iechyd Lleol*” a bod 'gwasanaeth gofal sylfaenol' yn cynnwys gwasanaethau meddygol sylfaenol, gwasanaethau deintyddol, gwasanaethau offthalmig a gwasanaethau fferyllol.

Bydd nifer o gleifion iechyd meddwl sy'n mynd yn eu blaen i dderbyn gwasanaethau arbenigol yn dod i gyswllt â gwasanaethau iechyd am y tro cyntaf drwy ddarparwr gofal sylfaenol, megis eu meddyg teulu. Wrth reswm felly, mae'n bryder na fydd hawl gan yr unigolyn i unrhyw beth yn Gymraeg wrth ddefnyddio gwasanaeth gofal sylfaenol.

Eglura'r memorandwm esboniadol a gyhoeddwyd gan y Gweinidog Eluned Morgan AC ar y cyd â rheoliadau rhif 7 fod y safonau penodol yn ymwneud â dogfennau, gwefannau, apiau a chyfryngau cymdeithasol mewn perthynas â gofal sylfaenol wedi eu dileu gan y bydd safonau cyflenwi gwasanaethau eraill yn berthnasol. Wrth gwrs, mae'r eithriad a ddyfynnir uchod yn cadarnhau na fydd gwasanaethau gofal sylfaenol a ddarperir drwy gytundeb ar ran Byrddau Iechyd yn dod o fewn cwrpas y safonau. Rydym yn ymwybodol fod hyn oherwydd y tybiwyd y byddai'n afresymol gosod dyletswyddau ar fyrddau iechyd lleol a fyddai'n eu dal yn gyfrifol am fethiant darparwyr gofal sylfaenol annibynnol i gydymffurfio â'r safonau, gan nad oes ganddynt ddylanwad uniongyrchol dros y ffyrdd y mae darparwyr unigol yn darparu gwasanaethau.

O ganlyniad, noda'r memorandwm:

“cynigir y bydd nifer fach o ddyletswyddau sy'n ymwneud â'r Gymraeg yn cael eu gosod ar ddarparwyr gofal sylfaenol annibynnol drwy gontractau gofal sylfaenol neu gytundeb telerau gwasanaeth rhwng darparwr gofal sylfaenol a bwrdd iechyd lleol. Bydd hyn yn creu rhwymedigaethau contractiol rhwng byrddau iechyd lleol a'r darparwyr annibynnol y gall y bwrdd iechyd lleol eu gorfodi.”

O ystyried nifer y darparwyr gofal sylfaenol yng Nghymru, byddai disgwyl i Gomisiynydd y Gymraeg allu gosod a monitro safonau ar bob un yn gofyn am adnoddau eang iawn, ac felly mewn egwyddor, nid ydym yn anghytuno â'r syniad mai mewn rhwymedigaethau contractiol rhwng y bwrdd iechyd a'r sawl sy'n darparu gwasanaeth ar ei ran y dylid delio â'r materion hyn. Wedi dweud hynny, er mwyn caniatáu i'r rheoliadau arfaethedig hyn gael cymeradwyaeth y Pwyllgor, teimlwn fod angen i bob aelod fod yn wir hyderus y bydd hyn yn ddigonol ac yn llwyddiannus.

Ar ddechrau'r memorandwm esboniadol, nodir bod yr holl gyrrff yn Atodlen 6 rheoliadau rhif 7 eisoes yn gyfarwydd â chydymffurfio â dyletswyddau iaith wrth iddyn nhw weithredu eu Cynlluniau Iaith o dan Ddeddf yr Iaith Gymraeg 1993. Fodd bynnag, credwn yn gryf mewn gwirionedd mai nifer fechan iawn oedd yn cydymffurfio ag ymrwymadau eu cynlluniau iaith, ac o ystyried diffyg grym Bwrdd yr Iaith Gymraeg doedd dim ffordd bendant i fynd i'r afael â'r broblem.

Er mwyn i'r cynnig newydd mewn perthynas â darpariaeth gofal sylfaenol lwyddo, bydd angen cymhelliant ar y bwrdd iechyd lleol i sicrhau'r rhwymedigaethau yn y man cychwyn, ac i'w gorfodi wedi hynny. I'r rhai hynny sy'n cydnabod pwysigrwydd iaith mewn gofal ac sydd wedi cydymffurfio â'u cynlluniau iaith, gellir awgrymu y byddent yn gwneud eu gorau yn hynny o beth. I'r mwyafrif helaeth fodd bynnag (h.y.

y rheiny nad oedd yn parchu ymrwymadau eu cynlluniau iaith), mae'n bryder i ni nad oes cymhelliant iddynt sicrhau bod eu darparwyr gofal sylfaenol yn cytuno ac yn cydymffurfio. Os nad oes gan y Comisiynydd yr hawl i ddal y byrddau iechyd hyn yn atebol am eu methiant i sicrhau bod eu darparwyr gofal sylfaenol trydydd parti yn cydymffurfio, ni allwn weld fod ganddynt unrhyw gymhelliant o gwbl.

Nid yw'n glir ychwaith o'r memorandwm nac o reoliadau rhif 7 y bydd unrhyw oblygiadau i'r byrddau iechyd hyn os nad ydynt yn cymryd y cyfrifoldeb hwn mewn perthynas â gofal sylfaenol o ddifri. Rydym yn gwerthfawrogi bod cyfrifoldeb ar y bwrdd iechyd i ystyried sut y byddant yn mynd i'r afael â hyn yn unol â'r safonau llunio polisi, ond ymddengys bod y modd mae disgwyl iddynt wneud hynny'n ddibynol ar eu dehongliad eu hunain. A fydd unrhyw allu cyfreithiol i ganiatáu'r Comisiynydd (neu'r Tribiwnlys hyd yn oed) i fynd i'r afael â hyn?

Gofynnwn i'r Pwyllgor sicrhau eu bod yn gwbl hyderus bod trefniadau priodol mewn lle er mwyn bod yn siŵr bod y rheoliadau hyn yn cyflawni eu potensial i'r eithaf ac yn cael cymaint o effaith positif ag sy'n bosib ar siaradwyr Cymraeg bregus.

Safonau ynghylch corff yn llunio ac yn cyhoeddi dogfennau a ffurflenni

1. Dogfennau

Yn rheoliadau rhif 7, mae'r Gweinidog wedi cynnwys safon sy'n nodi mai dim ond (a) os yw pwnc y ddogfen yn awgrymu y dylid ei llunio yn Gymraeg, neu (b) os yw'r gynulleidfa a ragwelir, a'u disgwyliadau, yn awgrymu y dylid llunio'r ddogfen yn Gymraeg y mae'n rhaid i gorff lunio'r ddogfen yn Gymraeg. Nid yw'r Gweinidog wedi cadw unrhyw un o'r safonau eraill oedd yn ymwneud â llunio dogfennau. Nid yw'r Comisiynydd wedi gosod y safon hon (sydd hefyd ar gael ymhob set o reoliadau) ar unrhyw sefydliad eto gan ei bod o'r farn ei bod yn rhy wan, ond hefyd yn rhy amwys i'r defnyddwyr gwasanaeth.

Mae ymchwil wedi dangos bod nifer o gleifion iechyd meddwl sy'n siaradwyr Cymraeg iaith gyntaf ac sy'n ffafrio defnyddio'r Gymraeg yn amharod i ofyn, neu hyd yn oed derbyn gwasanaeth Cymraeg pan gynigir ef iddynt. Mae sawl rheswm am hyn, ond y rhwystr pennaf yw'r ofn o dderbyn triniaeth llai ffafriol drwy orfod aros yn hirach, teithio ymhellach neu hyd yn oed cael eu hystyried yn lletchwith.

Rydym yn pryderu felly y gallai bwrdd iechyd, er enghraifft, ddadlau nad oes angen llunio dogfen sy'n rhoi gwybodaeth hanfodol i gleifion iechyd meddwl am gyflyrau yn y Gymraeg gan nad oes unrhyw glaf wedi mynegi'r dymuniad i dderbyn gwasanaeth yn yr iaith honno. Ymhellach, pe bai aelod o'r cyhoedd neu ddefnyddiwr gwasanaeth

yn ymweld â gwefan y bwrdd iechyd perthnasol neu'r Comisiynydd er mwyn darganfod a oes ganddynt hawl i ddogfen yn Gymraeg, ac felly a oes ganddynt achos i wneud cwyn nad yw ar gael yn Gymraeg, does dim ateb pendant o gwbl ar eu cyfer. Mae hyn yn debygol o leihau'r nifer o bobl sy'n cwyno gan nad yw'n glir iddynt a ddylent fedru cael y ddogfen honno'n Gymraeg ai peidio. Gellir dadlau y byddai'r diffyg cwynion hwnnw wedyn yn rhoi sail bellach i gyrff ddod i'r casgliad nad oes angen llunio dogfen yn Gymraeg.

Ym mhob set arall o reoliadau safonau mae safon gadarn i'w chael sy'n nodi bod rhaid i unrhyw ddogfen a lunnir ac a gyhoeddir gan gorff fod yn y Gymraeg. Rydym yn ymwybodol i'r Comisiynydd osod 'amgylchiadau penodol' ar y safonau hynny ar gyfer rhai cyrff yn dilyn trafodaethau am resymoldeb a chymesuredd y safon. Lle bo hynny wedi digwydd, mae'r Comisiynydd wedi gosod testun ychwanegol mewn hysbysiad cydymffurfio i egluro hynny'n glir i unrhyw aelod o'r cyhoedd. Rydym o'r farn mai dyma'r ffordd mwyaf effeithiol o sicrhau hawliau ac eglurder i ddefnyddwyr gwasanaeth, gan sicrhau bod y gofynion ar gyrff yn rhesymol a chymesur yn unol â darpariaethau'r Mesur.

Credwn felly y dylai'r gallu i osod safon nad yw'n rhoi rhwydd hynt i gyrff benderfynu a ddylid llunio dogfen yn Gymraeg ai peidio barhau yn rheoliadau rhif 7. Bydd hyn hefyd yn cyfrannu at y brif weledigaeth o normaleiddio'r Gymraeg a sicrhau bod pobl yng Nghymru yn gallu byw eu bywydau yn gyfan gwbl drwy'r Gymraeg petaent yn dymuno gwneud hynny.

2. Ffurflenni

Ym mharagraff 46 yr adran ddehongli ar gyfer y safonau hyn, nodir nad yw'r safonau'n gymwys *“pan fydd ffurflen neu ddogfen a lunnir gan y corff yn darparu gwybodaeth mewn perthynas ag unigolyn a enwir.”*

Yn aml, bydd ffurflenni meddygol yn cael eu hanfon at gleifion gyda rhywfaint o'u manylion personol wedi eu mewnosod ar eu rhan yn barod a'r gweddill yn wag er mwyn iddyn nhw eu cwblhau.

Rydym yn pryderu bod yr eithriad hwn yn berthnasol i ffurflenni o'r fath ac felly gofynnwn i'r pwyllgor ymchwilio i hyn. Mewn rheoliadau blaenorol, roedd safon wedi'i drafftio a oedd yn ymwneud yn benodol â mewnosod gwybodaeth ar ffurflen a chredwn fod yr elfen hon yn hanfodol i sicrhau bod defnyddwyr gwasanaeth yn gallu llywio drwy'r system yn y Gymraeg cymaint â phosib. Yn ogystal, o ystyried y cyfrifoldeb a ddaw yn sgil safonau 2 a 3 (cofnodi dewis iaith a gweithredu'n unol â hynny o'r pwynt hwnnw ymlaen), ni allwn weld rheswm dilys na fyddai modd

defnyddio'r cofnod hwnnw i sicrhau bod manylion a fewnosodir ar ffurflen yn gweithredu'n unol hefyd.

I grynhoi, felly, ein prif bryderon gyda'r rheoliadau yw:

1. Bod safonau'n ymwneud â darparu cymorth Cymraeg mewn ymgynghoriadau clinigol wedi eu dileu o'r rheoliadau arfaethedig. Golyga hyn oll nad oes gan gleifion allanol, nad ydynt wedi treulio o leiaf noson yn yr ysbyty, unrhyw hawliau i dderbyn unrhyw elfen o'r ddarpariaeth yn Gymraeg, ac yn wahanol i'r rheoliadau drafft blaenorol, nid oes ganddynt bellach hyd yn oed yr hawl i gymorth Cymraeg mewn ymgynghoriadau clinigol.
2. Penderfyniad i eithrio gwasanaethau gofal sylfaenol o'r cymal 'trydydd parti' yn llwyr.

Gofynnwn fod y pwyllgor yn eu hystyried yn llawn wrth iddynt graffu ar gynnwys rheoliadau rhif 7. Wrth reswm, rydym yn croesawu bod safonau yn gweld golau dydd ar gyfer y sector yma, ond rydym yn awyddus iawn bod y Cynulliad yn defnyddio'r cyfle gwerthfawr hwn i wneud y mwyaf o'r gyfundrefn werthfawr a gyflwynwyd gan y Mesur a chyflawni ei photensial.

Er gwybodaeth, mae'r holl ddeunydd sydd ar ein gwefan sy'n ymwneud ag iechyd meddwl a'r Gymraeg wedi eu cofnodi yma: <https://meddwl.org/tag/iaith/>.

Edrychwn ymlaen at ddilyn trafodaethau a chasgliadau'r pwyllgor. Mae pob croeso i chi gysylltu â ni am drafodaeth bellach ar y mater hwn, neu yn y dyfodol ynghylch cynyddu gwasanaethau iechyd meddwl Cymraeg yn gyffredinol.

Yn gywir iawn,
Hedd, Manon a Sophie

Tîm rheoli meddwl.org

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Welsh Language Standards for Health Services

Royal College of General Practitioners Wales response to the Culture, Welsh Language and Communications Committee

Monday 05 March 2018

RCGP Wales welcomes the opportunity to respond to the Welsh Government's recently published Welsh Language Standards for Health Services.

The Royal College of General Practitioners Wales represents a network of around 2,000 GPs, aiming to improve care for patients. We work to encourage and maintain the highest standards of general medical practice and act as the voice of GPs on resources, education, training, research and clinical standards.

We note that primary care services will only be subject to these regulations if they are directly run by a health board. In general practice this could include managed practices, out of hours services, and services delivered in settings such as a prison.

We hope due consideration is given to the potential of recruitment to these services being hindered by the need to comply to the regulations. General practice is facing severe recruitment difficulties, and if these standards are seen as a barrier to working as a GP these difficulties will be magnified. We need to attract the best GPs to work in Wales, rather than selecting doctors on their ability to speak Welsh.

The majority of primary care services are run independently from a local health board, and these services will not be subject to the regulations. We are supportive of this approach; as outlined in the Explanatory Memorandum local health boards do not have direct influence over individual providers. The Welsh Government has proposed that a small number of Welsh language duties on independent primary care providers will be prescribed through contracts or terms of service agreements.

RCGP Wales welcomes attempts to support the Welsh language in general practice, and would like patients to be able to speak the language of their choice. There is already significant effort in many practices across Wales to ensure this is the case.

Clear communication is key to consultancy which means patients speaking in their first language can be beneficial. The converse of this, however, is that GPs must have a strong grasp on the language to be able to consult professionally in Welsh. Some GPs who have Welsh as a first language can find doing consultations in Welsh difficult, as they do not have the technical words in Welsh.

We believe attempts to increase its use in general practice will be most effective if the pressures on the profession are kept in mind. There are many practical barriers in primary care that may limit the availability of the Welsh language. A shortage of GPs will inevitably limit the number of Welsh speaking GPs, and workload pressures can make it difficult for non-Welsh speaking GPs to learn the language. Any prescribed duties will need to recognise these factors.

Tackling the pressures on general practice may provide an opportunity to enhance Welsh language provision. For example, a constructive solution would be measures to attract more Welsh speaking GPs to the profession.

We also believe there is scope for the Welsh language in primary care to be enhanced through multidisciplinary working. Working collaboratively with other healthcare professionals should be able to expand Welsh language provision. This can be done outside of these regulations, as multidisciplinary working remains in a relatively early stage of development and we do not want to see any perceived barriers that prevent the transfer of professionals into primary care. This is particularly pertinent for recruitment from other areas in the UK and areas where Welsh is not traditionally spoken.