

## **Constitutional and Legislative Affairs Committee**

### **Draft Report**

#### **CLA**

#### **Title: The Welsh Language Standards (No. 1) Regulations 2015**

The Welsh Language (Wales) Measure 2011 (nawm 1) (“the 2011 Measure”) makes provision for the specification of standards in relation to the Welsh language. 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 the Welsh Ministers, county and county borough councils and National Park authorities (which are referred to in the Regulations as “bodies”). The Regulations also authorise (subject to certain exceptions) the Commissioner to give a compliance notice, in relation to standards specified by the Regulations, to those bodies.

#### **Procedure: Affirmative**

#### **Technical Scrutiny**

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

#### **Merits Scrutiny**

The following points are identified for reporting under Standing Order 21.3(ii) in respect of this instrument – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly.

1. These Regulations are the first to specify standards under the 2011 Measure.
2. The Assembly’s legislative competence in 2011 related to the Welsh Language. That remains the position today. The Assembly cannot therefore legislate in relation to the English language unless it is within competence in another way, such as in the national curriculum. That has resulted in the standards not including things that might be regarded as obvious because they do not relate to services in Welsh.

3. One example is the requirement in standards 49, 50A, 55 and 124 that an English document must state that it is available in Welsh. There is no corresponding requirement that a Welsh document must state that it is available in English.

4. Another example may be found in Standard 79 –

“If you receive a tender in Welsh and it is necessary to interview the tenderer as part of your assessment of the tender you must—

(a) offer to provide a translation service from Welsh to English to enable the tenderer to use the Welsh language at the interview, and ...”

It is expressed in this way because it derives from a Welsh Language Measure. In fact, of course, the tenderer, in those circumstances, would be perfectly capable of using Welsh without a translator. Translation may be needed to enable those listening to understand what is being said i.e. for the benefit of those who do not speak Welsh.

5. Under a reserved powers model of devolution, it is inconceivable that the power to legislate in relation to the English language would have been reserved. Legislation being considered by the Assembly could then be expressed more logically.

**Legal Advisers**

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**March 2015**