



Health and Social Care Committee
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The Welsh Language Commissioner's response to the Health and Social Care Committee consultation: Public Health (Wales) Bill

The Welsh Language Commissioner welcomes this opportunity to respond to the committee's consultation on the Public Health (Wales) Bill.

Background

The principal aim of the Commissioner is to promote and facilitate the use of Welsh. This entails raising awareness of the official status of the Welsh language in Wales and imposing standards on organizations. This, in turn, will lead to the establishment of rights for Welsh speakers.

Two principles underpin the Commissioner's work:

- The Welsh language should be treated no less favourably than the English language in Wales;
- Persons in Wales should be able to live their lives through the medium of the Welsh language if they choose to do so.

In due course, secondary legislation will introduce new powers allowing the setting and imposing of standards on organizations. Until then, the Commissioner will continue to inspect statutory Welsh language schemes through the powers inherited under the Welsh Language Act 1993.

The office of Commissioner was created by the Welsh Language (Wales) Measure 2011. The Welsh Language Commissioner may investigate failure to implement a language

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Croesewir gohebiaeth yn y Gymraeg a'r Saesneg

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scheme, interference with the freedom to use Welsh in Wales and, in future, complaints regarding the failure of organizations to comply with standards.

One of the Commissioner's strategic priorities is to influence the consideration given to the Welsh language in policy developments. The Commissioner provides observations in accordance with this remit, acting as an independent advocate on behalf of Welsh speakers in Wales who might be affected by this consultation. This approach is advocated to avoid any potential compromise of the Commissioner's regulatory functions and should the Commissioner wish to conduct a formal review of the performance of individual bodies or the Welsh Government in accordance with the provisions contained in the Measure.

Context

Recognizing the importance of language in this context, the Welsh Language Commissioner conducted her first statutory inquiry, under Section 7 of the Welsh Language Measure (Wales) 2011, into the Welsh language in primary care. Evidence was gathered from over a thousand patients and members of the public and a broad range of practitioners and other parties with interest in this area. In 2014, a report was published on the inquiry, 'My Language: My Health - the Welsh language in Primary Care'. The evidence gathered supported what is said in '*A Living Language: A Language for Living*', that is, that language is essential to the provision of quality health services and that Welsh language services in the health sector do not fully meet the needs of patients at the present time. This supports the finding of the European Council Committee of Experts on the implementation of the European Charter for Regional or Minority Languages in Wales, which is that there is 'considerable concern about the situation on the ground' with regard to Welsh language service provision in health and care.

In the committee's consultation letter it is noted that one of the committee's functions in scrutinising the general principles of this Bill is to consider to what extent the Bill matches the priorities in relation to the improvement of public health in Wales. One of those priorities is to develop and improve the provision of Welsh language services. The aim is to achieve this by several different means. A specific strategy was drawn up for the Welsh language in health and care, 'More than just Words', together with an action plan to support the strategy. Preparations are in progress to place responsibilities on health and care service suppliers to make provision in Welsh under the Welsh Language Measure (Wales) 2011, thus building on the success of Welsh Language Schemes.

Public Health Bill

In June 2014, in response to the Welsh Government's White Paper on Public Health, the paper that preceded the drafting of this Bill, the Welsh Language Commissioner noted,



*“In order to comply with the general undertakings of Section 78 of the Welsh Government Act 2006, as it was amended, and its Welsh Language Scheme, particular attention should be paid to every opportunity to improve Welsh medium provision. Careful consideration should be given to what opportunities there are to close any gaps in the provision of Welsh language services in health care throughout Wales. There is a responsibility upon local authorities, health boards, other statutory agencies and the Government alike to identify and close these gaps and plan at local and national level in the wake of the Welsh Language Measure (Wales) 2011. **It is essential that organisations endeavour to correct those areas where the Welsh language is being treated less favourably than the English language.**”*

The Welsh Government published an assessment of the impact of the Public Health (Wales) Bill on the Welsh language. It is suggested in the report on that assessment that the direct effects of the Bill on the Welsh Language will be minimal. Some indirect positive effects that will emanate from specific sections of the Bill are identified, including the creation of an entirely bilingual statute book on smoking or the use of e-cigarettes and the publication of bilingual guidelines and signs in relation to certain other specific developments. These effects are to be welcomed. We consider, however, that Part 5 of the Bill, which relates to pharmaceutical services, could have a direct and significant impact on the use of the Welsh language. Therefore, in discussing below to what extent this Bill's general principles accord with the need to improve Welsh language services in health and care, specific attention will be paid to Part 5 of the Bill.

Welsh Language Pharmaceutical Services

Part 5 of the Bill will

- place a responsibility on every LHB to complete a regular assessment of the pharmaceutical needs of its population ('pharmaceutical needs assessment');
- change the "controlled access" test, which the LHBs are required to use in considering applications to join their pharmaceutical list, to one that is more clearly based on meeting local pharmaceutical needs;
- in circumstances where people who are included on their pharmaceutical list are unable to provide specific services to meet the needs identified in the Pharmaceutical Needs Assessment, power is given to the LHB to invite other people, apart from those who are on their list, to provide pharmaceutical services; and



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- provide for regulations that will enable the LHB to remove listed pharmacists or premises from the pharmaceutical list where they consistently and/or seriously breach the terms and conditions of service.

All these provisions are related to the planning and provision of pharmaceutical services that meet the needs of the community being served. However, neither the Bill nor the documentation that supports the Bill, including the assessment of its impact on the Welsh language, explains the relationship between the provisions of Part 5 of the Bill and the measures that are in place for the improvement of Welsh language services in health and care. There is no explanation of how Part 5 of the Bill will support the provision of Welsh language pharmaceutical services.

Is there potential, for example, for the assessments of pharmaceutical needs, which the Health Boards will be obliged to conduct in accordance with Part 5 of the Bill, to include an assessment of the adequacy of the Welsh language provision in community pharmacies in Wales? How should Health Boards take the Welsh language into account when they conduct those assessments, and how should the findings of those assessments be considered when planning Welsh language services for the future? Should the ability to make provision in Welsh be one of the criteria for the 'controlled access test' that the LHBs will be required to apply in considering applications to join their pharmaceutical list? Could a community pharmacist jeopardize his eligibility to be included on a 'pharmaceutical list', if he were to fail to provide Welsh language services?

Unfortunately, the documentation that accompanies the Bill, including the assessment of the Bill's impact on the Welsh language, does not discuss or offer answers to such questions. The Welsh Government's Welsh Language Scheme states '*We will take advantage of every opportunity to ensure that new primary and secondary legislation will support the use of Welsh*'. It is not evident what consideration has been given, if any, to the opportunities for Part 5 of the Bill to support the work of planning and providing Welsh language pharmaceutical services.

Conclusions

The Welsh Language Commissioner's statutory inquiry revealed the need for improvements to the Welsh language primary care service provision, including pharmaceutical services. The Welsh Government is committed to the improvement of these services and has put measures in place to achieve that. Part 5 of the Bill deals specifically with the planning and provision of pharmaceutical services and it may therefore be assumed that there should be a clear connection between the measures that are in place for the improvement of Welsh language pharmaceutical services and Part 5 of this Bill.

However, the documentation that accompanies the Bill does not identify any direct link and, without detailed consideration of that, there is a risk that any opportunities afforded by



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Part 5 of the Bill to support the provision of Welsh language services may be lost. In accordance with the general undertakings of Section 78 of the Government of Wales Act 2006, as amended, and the Welsh Government Welsh Language Scheme, any act that is introduced by the Government is expected to exploit any opportunities available to improve Welsh medium service provision. Therefore, if there is no intention to refer to the Welsh language on the face of the Bill itself, it will be necessary to consider and plan how any secondary legislation that accompanies the Bill, for example, the secondary legislation concerned with conducting an assessment of the pharmaceutical needs of the population, or related advice or statutory guidelines, can contribute to the improvement of Welsh language pharmaceutical service provision. We are of the view that clarity on this matter is necessary in order to allow Assembly Members to reach a judgement concerning the extent to which the Bill accords with national objectives for the Welsh language.

I would be very willing to meet the committee in order to discuss these comments, if that were useful.

Yours faithfully,

Meri Huws
Welsh Language Commissioner