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Welsh Government

## Consultation Document

# Welsh Language Standards: Regulations

Improving services for Welsh speakers

Date of issue: **7 November 2014**

Action required: Responses by **5 December 2014**

# Welsh Language Standards: Regulations

Improving services for Welsh speakers

## Overview

This consultation seeks views on the draft regulations to specify the first Welsh language standards. These standards will enable the Welsh Language Commissioner to place duties in relation to the Welsh language on County Borough and County Councils in Wales, National Park Authorities in Wales, and Welsh Ministers.

We are holding this four-week consultation to ensure that everyone with an interest has had ample opportunity to have their say on the first set of standards. The Welsh Language Commissioner held a standards investigation with the organisations that will be subject to the first set of standards between 27 January and 18 April 2014. Her findings, which she presented to us in the form of three standards reports and an advice note, were based on the comments she received during that investigation. Having given due regard to her feedback we now want members of the public, the organisations that will be subject to the first set of standards, and anyone else with an interest to have their say on the regulations which will specify the standards before we make them.

## How to respond

Responses to this consultation should be e-mailed/posted to the address below by **5 December 2014** at the latest.

## Further information and related documents

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

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

Welsh Language Standards Regulations

*Welsh Ministers' response to the Welsh Language Commissioner's standards reports and advice note (2014)*

Welsh Language (Wales) Measure 2011

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## **Data protection**

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

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

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

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

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## Introduction

The proposed Welsh-language standards are being created in order to give Welsh-speakers improved, enforceable rights in relation to the Welsh language. They will do this by imposing standards on organisations in relation to service provision, policy making, operations, promotion and record keeping. The first set of standards deal specifically with Local Authorities, National Park Authorities and Welsh Ministers.

Between 27 January and 18 April 2014 the Welsh Language Commissioner ('the Commissioner') held a Standards Investigation with the organisations that will be subject to the first set of standards. When she presented her feedback to the Welsh Ministers, she advised us that many people and organisations wanted to have their say on matters that went beyond the scope of her investigation. That being so, she suggested that we hold a consultation to ask people what they thought about the draft regulations to make the standards.

Compared with the draft standards published in January, the draft regulations in the accompanying document provide more detail about the proposed standards. This consultation, therefore, is an opportunity for anyone with an interest in the standards to have a say about them, and to see how we have incorporated the Commissioner's suggestions from her Investigations Reports in the draft regulations themselves.

## **Background**

The standards have to be made by specifying them in regulations. The role of the Welsh Government has been to draft the standards as well as the regulations. Once the regulations containing the standards are approved in the Senedd, it will be for the Commissioner to choose which standards to impose on Local Authorities, National Park Authorities and Welsh Ministers, and also to regulate their compliance with the standards.

### **Where are we now?**

At present, public sector bodies that provide services to people in Wales – such as Local Authorities, National Parks and Welsh Ministers – have Welsh language schemes in place. Some large private companies who provide services to the public – such as The Post Office, utilities companies, and rail companies - also have such schemes.

These schemes are operated under the Welsh Language Act 1993. The new system of standards we are proposing was created under the Welsh Language (Wales) Measure 2011.

The way services are delivered to the public in Wales has changed since the 1993 Welsh Language Act. As a result, Welsh language schemes no longer provide for a consistent, reliable and clear method of regulating the provision of Welsh language services in Wales.

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

Although the schemes system has resulted in some positive outcomes, with certain organisations going to great lengths to protect and encourage the use of Welsh within their organisation, on the whole the delivery of Welsh language services has been dependent on the need to negotiate commitments with the organisation. This has often resulted in progress being slow with no guarantee of delivery.

The standards have been drafted so as to build on the schemes. Organisations who will be required to comply with standards will now be required to take a more proactive, strategic approach to mainstreaming the Welsh language. We are confident that this will provide a solid foundation, enabling the Commissioner to improve services for Welsh-speakers.

The standards will be introduced gradually, replacing Welsh language schemes sector by sector according to a prioritising system.

# The process – how will the standards work?

## The standards

The standards have been drafted in order to deal with a broad range of scenarios.

The draft regulations in the accompanying document will make the first set of standards, which are aimed at Local Authorities, National Park Authorities, and Welsh Ministers. They come under 5 headings:

1. Service-delivery standards
2. Policy-making standards
3. Operational standards
4. Promotion standards
5. Record-keeping standards.

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

**2 – Policy-making standards** will require 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.

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

**4 – Promotion standards** will require organisations to place a duty to adopt a strategy setting out how it proposes to promote and facilitate the use of Welsh.

Only the Welsh Ministers, local authorities and national park authorities can be required to comply with Promotion standards. Therefore they will not be a consideration when drafting future sets of standards. However it will not be possible to give a compliance notice to Welsh Ministers in relation to promotion standards, as a similar duty already exists under section 78 of the Government of Wales Act 2006.

**5 – 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.

## **Compliance notices**

The draft regulations set out 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 or in some areas and not in others – depending on what is appropriate for the organisation. That will be the Commissioner's decision and will be set out in the organisation's compliance notice.

As such the Commissioner has flexibility in choosing with which standards (and the extent to which) an organisation has to comply. The Commissioner will also set the date by which the organisation is required to comply with a standard – and there could be different dates for different standards.

The Commissioner will therefore have several options when it comes to which standards to impose on an organisation. The proposed standards reflect this flexibility (see, for instance, standards 27 and 27A to 27E). This system also gives scope for organisations to improve their provisions in future.

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

## **Supplementary standards**

The draft regulations also contain supplementary standards (in Schedule 6). These standards deal with various matters including the production of an annual report, monitoring arrangements and the provision of information to the Commissioner.

## **Means of appeal**

Any organisation will be able to challenge the requirement 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 herself, querying the standards imposed in her compliance notice.

If they are unable to resolve the dispute, there is a route of appeal available to the newly set up Welsh Language Tribunal, and thereafter to the High Court (on a question of law).



## **Sanctions**

The Commissioner will have the primary responsibility for enforcing compliance with standards.

In cases where the Commissioner determines that an organisation has failed to comply with a standard, she 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.

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

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 bodies in the same sectors

## **From who do we want to hear about the regulations?**

We are conducting this four week consultation to ensure that members of the public and the bodies that will be subject to the first set of standards have had ample opportunity to have their say on those standards. We are eager to hear from anyone with an interest in the standards.

### **Children and young people**

In drafting the standards and the regulations, we kept in mind the special relevance of linguistic rights when it comes to children and young people.

We will ensure that children and young people are represented in the feedback by targeting groups who represent them.

An impact assessment can be viewed upon request.