

# **WELSH LANGUAGE STANDARDS: REGULATIONS**

## ***Improving Services for Welsh-speakers***

### **FAQs**

#### **1 – We already have Welsh Language Schemes – why do we need Standards?**

Even though the way services are delivered to the public in Wales has changed since the 1993 Welsh Language Act, the framework set out by the Act doesn't enable these changes to be taken into account in a consistent way. 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.

For instance, the content of the schemes can be negotiated, so bodies providing similar services in the same geographical area may offer different levels of service. This means there is potential for an uneven playing field within sectors, and uncertainty among Welsh-speakers about the services they can expect to receive.

The Measure will not only enable the Commissioner to investigate non-compliance with the standards, but also to take appropriate steps to enforce them.

Setting up the Welsh Language Tribunal is also a big step forward in relation to the enforcement of compliance and as a route of appeal.

#### **2 – Won't Standards cause more expenditure for organisations?**

The vast majority of organisations which fall within the scope of the Welsh Language (Wales) Measure 2011 already have schemes in place. They should, therefore, already be providing a range of Welsh language services to the public.

In the case of the first set of standards, it is not therefore expected that they will lead to significant new financial burdens on those organisations affected.

Experience shows that the way an organisation plans its bilingual provision can affect the costs incurred. For instance, if both Welsh and English elements of a service are factored into a project from the outset, rather than bolting Welsh onto the English element.

### **3 – The private sector and competition**

The general policy of the Welsh Ministers is not to impose duties on the private sector. However, some private sector organisations fall within the scope of the Measure and therefore could in future be required to comply with standards.

For the small number of private sector companies that may be subject to standards, the aim is to create a level playing field within the same sector with regard to the provision of services in Welsh.

The first set of standards set out in the draft Regulations do not apply to private sector organisations. It is intended that standards for private sector organisations will be drafted in the future.

### **4 – How can you expect organisations to comply with so many Standards / What does “specifically applicable” mean ?**

We do not expect the Commissioner to impose all of the standards on any one organisation. The standards have been drafted so as to enable the Commissioner to choose which ones are the most reasonable or practicable for each organisation.

Given the number of standards, the phrase “specifically applicable” may have caused some concern, with some fearing that all the Standards which are specifically applicable to an organisation will be imposed in their entirety on the organisation. Specifically applicable means that the Welsh Ministers have authorised the Commissioner to require an organisation to comply with a standard.

The fact that a standard is made specifically applicable to an organisation does not mean that it has to comply with the standard and it does not necessarily mean that it will be imposed on it. Whether it is imposed on the organisation is the Commissioner’s decision.

The Commissioner will determine in her Compliance notice to what extent an organisation is required to comply with a particular standard and by which date. The organisation could be required to comply with a standard in some circumstances and not others, or in some areas and not in others.

An advantage of this approach is its flexibility, in that it will allow the Commissioner to amend Compliance Notices in future without having to make Regulations to make new standards specifically applicable to an organisation.

## **5 – What will happen if an organisation doesn't conform with a standard?**

An improved enforcement regime will provide a more effective means of dealing with non-compliance, whilst also allowing for early and informal resolution of complaints as appropriate.

Where the Commissioner determines that an organisation has failed to comply with a relevant requirement she may take enforcement action, which may include one or more of the following:

- requiring that the organisation prepares an action plan or takes steps;
- that the organisation or the Commissioner publicises the failure to comply;
- or that the Commissioner imposes a civil penalty.

The Commissioner may also give recommendations or advice, or may enter into a settlement agreement with that organisation instead of taking enforcement action.

## **6 – People don't use Welsh language services as it is – why take the effort to provide more?**

The reasons people do not use services in Welsh are many and complicated. They include:

- Are the signs and general 'feel' of the organisation Welsh or bilingual?
- Can 'Working Welsh' material (for instance lanyards and badges) be found throughout the organisation – is it obvious that a Welsh service is available?
- Will I receive a poorer service from the organisation in Welsh?
- What is my personal experience of previous dealings with the organisation?
- How much time do I have today and will the Welsh language option cause a delay?

The standards will play a key role in setting up a framework that ensures people can be confident in services they receive in Welsh, and know what to expect. They will help ensure that services offered in Welsh are offered proactively, are promoted well, and are of a quality that will encourage individuals to feel they are not receiving services of a lesser standard than those in English.

If people know what to expect, it follows that they'll be more likely to use the services.

## **7 – How will you ensure that Standards are reasonable and proportionate?**

The Measure allows different standards to be specified for one conduct. This allows the Welsh Ministers to specify a range of standards from which the Commissioner can choose for each individual organisation. In providing a range of standards the

aim has been to ensure that at least one is reasonable and proportionate for an organisation.

However the proportionality and reasonableness of any standard that an organisation is required to comply with is a matter for the Commissioner initially, and upon an appeal, for the Tribunal.

As mentioned above, the Commissioner also has the flexibility to impose a standard on an organisation in some circumstances (but not in others) and in some areas (but not in others). This flexibility could also be used therefore to ensure that a standard is reasonable and proportionate. However, this will be a matter for the Commissioner to determine in relation to each organisation and each standard.

## **8 – What’s the difference between the Commissioner’s standards investigation and this consultation on the regulations?**

Between 27 January and 18 April, the Welsh Language Commissioner held a standards investigation seeking responses from Welsh Ministers, National Parks Authorities and local authorities in Wales on whether the proposed standards were reasonable and proportionate.

Many responses from members of the public reached the Commissioner and the Welsh Government’s Welsh Language Unit which did not fit within the scope of the Commissioner’s investigations, but which suggested people did wish to have their say on the standards. The Commissioner therefore issued an advice note to the Welsh Ministers suggesting they provide people with an opportunity to have their say, and that a consultation at draft regulation stage would be the ideal opportunity to do so.

In a Written Statement the First Minister stated his intention to accept that advice and consult for a period of 4 weeks in November 2014.

This consultation will be an opportunity for people to comment on the contents of the regulations that will specify the standards.

## **9 – What about 3<sup>rd</sup> party contractors?**

Concerns have been expressed about to what extent 3<sup>rd</sup> parties contracted by an organisation to provide a particular service would be bound to adhere to the standards imposed on the organisations.

Service-delivery standards have been drafted according to the activities undertaken by the organisation. Even if those activities are contracted to a third party, the organisation will still be required to comply with the relevant standards.

That being so there is no need to make this explicit in the standards.

### **10 – Which organisations will the Standards apply to?**

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

The first set of standards has been prepared to allow the Commissioner to impose duties on Local Authorities, National Parks and the Welsh Ministers.

The basis for developing standards for these organisations first is that they offer a wide range of services to the public all over Wales, develop policies on a national and local level, and are in position to promote the language and increase its profile.

Forthcoming sets of standards will be prepared for bodies such as the health boards, further and higher education providers, charities and private companies.

### **11 – Won't it be dangerous having road signs in Welsh ?**

One proposed standard will require Welsh to be positioned so that it is likely to be read first on bilingual road signs.

Through Welsh language schemes, current legislation requires public bodies to treat the Welsh and English languages on the basis of equality, and the Welsh Government's own Welsh Language Scheme already commits us to the use of bilingual messages on road signs on trunk roads.

However, it will be for the Commissioner to decide whether the proposed standard is reasonable and proportionate in any given circumstance, and organisations will be able to appeal against these decisions.

Currently, Welsh is placed above English on road signs in seven Welsh local authority areas. The numbers of road traffic casualties in these areas are consistent with other local authorities in Wales.

### **12 – What happens if members of the public complain about an organisation not complying with standards?**

The Commissioner will have the power to investigate allegations made by members of the public that an organisation is in breach of a standard.

Such investigations may lead to the imposition of the sanctions mentioned above, or other enforcement / corrective steps.

### **13 – What can an organisation do if it thinks that the standards imposed on them are not reasonable or proportionate?**

In the first instance, an organisation will be able to appeal to the Commissioner, with a further route of appeal available to the Tribunal.

In the event that a requirement in a compliance notice to comply with a standard is determined to be unreasonable and/or disproportionate, the Commissioner or, where necessary, the Tribunal must either

- revoke that notice
- revoke and give a new compliance notice
- vary the existing compliance notice.

### **14 – What is the role of the Welsh Language Tribunal in relation to standards?**

The Welsh Language Tribunal will hear appeals against the Welsh Language Commissioner's decisions in relation to Welsh language standards.

### **15 – Have organisations got enough welsh speaking employees to provide these services?**

It will be for the Commissioner to assess and decide of what an organisation is capable and what it should be asked to do, and her compliance notices may include lead-in times that give them time to take steps in this respect. However as mentioned, the standards imposed by the Commissioner must be reasonable and proportionate.

The operational standards have been prepared so as to provide a statutory framework to support and reinforce the work of organisations that are already operating internally through the medium of Welsh, as well as encouraging and setting challenging targets for organisations who will be facing these for the first time. It follows that organisations that operate internally through the medium of Welsh will also be able to better meet the other standards.

That is why we consider the operational standards as an important step in promoting the Welsh language more widely, as people's confidence in using Welsh in the home and in their communities could increase due to the ability to use of Welsh in the workplace.