

Welsh Language Standards: Health Sector Regulations

Welsh Language Standards for Health Sector Bodies

1. The Commissioner's second standards investigation included Local Health Boards, Community Health Councils, and NHS Trusts.
2. Following giving due regard to the Commissioner's standards report, we prepared draft Regulations for health sector bodies. The Welsh Ministers held a full consultation on these draft Regulations between July and October 2016.
3. 89 written responses were received. 19 of these used a standard response prepared by Cymdeithas yr Iaith which focused on the lack of standards on primary care providers. Cymdeithas yr Iaith also submitted a petition signed by 759 individuals which again focused on the lack of standards on primary care.
4. General themes from the responses are:
 - An acknowledgement by the health boards and trusts of the importance of being able to provide services in Welsh to their patients. Members of the public noted the importance of being able to receive health care in the language of their choice.
 - Recognition by the boards and trusts that improvements could be made in the provision of Welsh language healthcare services. The bodies recognised that the active offer advocated in "*Mwy na Geiriau...*"¹ has not been implemented universally.
 - Concerns about the cost of implementing the standards and the risk of this diverting expenditure from frontline services.
 - Concern that, because of the range of IT systems used by the health boards and trusts, it would be difficult to ensure that the information about a patient's language choice would be transferred across services and available to all staff. This could make it difficult to comply with some of the proposed standards.
 - Concerns surrounding a lack of Welsh speaking staff within the bodies which led to doubts regarding their capability to comply with some of the proposed standards. This could lead to a dependence on written and oral translation. It was argued that providing translation would be impractical in situations such as outpatients and accident and emergency departments where the turnover of patients can be high and unpredictable.
 - A need was identified to increase the opportunities for professionals to be trained through the medium of Welsh that would be able to use

¹ Mwy na Geiriau ... follow-on Strategic Framework for Welsh Language Services in Health, Social Services and Social Care

Welsh in a healthcare setting. (This is outside the scope of these Regulations)

5. The main policies which caused concern were:

Clinical Consultations

6. The draft standard required the health boards and trusts to ask the individual if they would like Welsh language support at a clinical consultation. If the individual confirmed that they would like to receive Welsh language support the health board or trust would have had to ensure that the individual understands what is happening during the clinical consultation (for example by providing a Welsh speaking member of staff or providing a translation service). There would be no need to provide Welsh language support if the clinical consultation is undertaken in Welsh. The body would then have to provide Welsh language support at any subsequent clinical consultations. The concerns with this policy were:
- The practicality of complying with the standard in all circumstances such as in accident and emergency and outpatients
 - The practicality of arranging Welsh language provision at every clinical interaction during a patient's hospital visit.
 - Providing Welsh language support or translation could lengthen the time of consultations.
 - Nuances of what is said by a patient could be lost in translation.
 - Appropriateness of introducing another person, such as a translator, into a consultation and the bodies' ability to source sufficient translators with experience of working in medical situations.
7. It was also noted that clinical consultations are undertaken by regulated healthcare professionals who work to agreed standards. Some bodies noted a concern that introducing an extra undefined role into this situation (providing Welsh language support or translation), in particular if the patient's consent is being sought, could increase the clinical risk for the clinician and the body.

Policy response

8. In light of the responses, we propose to introduce a service delivery standard that will require health boards and trusts to ask inpatients on the first day of admission whether they wish to use Welsh. The body must provide means for staff to know if an inpatient wishes to speak Welsh. The standards will not place duties on the body to *provide* a Welsh language service to the patient, however the visual prompt (which could be for example the *laith Gwaith* symbol on a board above the bed) will allow staff who are able to speak Welsh to actively offer and start a conversation with the patient in Welsh.
9. A new operational standard will require bodies to produce and publish a 5 year plan setting out the extent to which they are able to offer to carry out

clinical consultations in Welsh. The plan must also include the actions they will take to increase their ability to offer clinical consultations in Welsh, and a timetable for those actions. There will be a requirement for the bodies to report assessing the extent to which they have complied with their plan. In their plan, a body could focus their improvement efforts on a particular area where they have identified a need to offer a Welsh language service (a geographical area or a healthcare area such as children or dementia services).

Primary Care

10. There was general support for the standards that place duties on health boards to provide some Welsh language services (e.g. documents, a translation service for signs) to primary care providers, and to signpost those providers willing to provide a primary care service through the medium of Welsh. Cymdeithas yr Iaith, some members of the public and some health boards noted that these standards did not go far enough to provide Welsh language face to face primary care services to the public. Their view was that primary care providers should be subject to standards in order to provide a continuous Welsh language service between primary and secondary care as the majority of people's first point of contact with the NHS in Wales is with primary care. However, the health boards were of the view that it was not appropriate for them to be responsible for the day to day delivery of Welsh language services by independent primary care providers.

Policy response

11. Following discussions with health policy colleagues, we propose to amend the draft Regulations so that primary care services provided directly by the LHB are covered by the standards in these Regulations.
12. Primary care services that the LHBs sub-contracts to independent primary care providers will not be caught by the standards in these Regulations. The proposed approach is to place Welsh Language duties on independent primary care providers through the primary care contracts and terms of service regulations. Separate advice will be provided on the type of duties that are likely to be included.

Reviewing the standards in light of the White Paper

13. There is a general perception that standards are onerous, complex, and difficult to implement, partly because of the number of standards. Therefore, officials have reviewed the standards and where possible have merged standards and some have been deleted. We estimate that this exercise will reduce the number of standards by approximately 65 without affecting the rights of users.

Indicative timetable for making the Regulations

Action	Date
MA-L providing advice on post consultation amendments to the draft Regulations to the Minister	17.11.2017
Meeting between the Minister and policy officials and lawyers	Week commencing 20.11.2017
Meeting between the Minister and Cabinet Secretary for Health and Social Services	Week commencing 20.11.2017
Laying MA-L to the Minister with final draft Regulations, Explanatory Memorandum and RIA and Government response to the consultation	Week commencing 4.12.2017
Lay the Regulations	Week commencing 11.12.2017
Possible consideration by Scrutiny Committee – potentially the Minister will be asked to appear before the committee	January 2018
Plenary debate	February 2018
Regulations coming into force date	28 February 2018

[hepgorwyd adran 40(2)]
10 November 2017