



Comisiynydd y
Gymraeg
Welsh Language
Commissioner

Welsh Language Commissioner's Standards Report – Section 64 Welsh Language (Wales) Measure 2011

Welsh Ministers

[Ref: 20140530ASGC-1]

Contents

1. Background and context	1
2. Standards investigation in relation to Welsh Ministers	2
3. Reasonableness and proportionality	3
4. Evidence received from Welsh Ministers	5
5. Evidence received from members of the public	17
6. Evidence received by the Welsh Language Commissioner's Advisory Panel	25
7. Conclusions of the Standards Investigation	27
8. The next steps	44
Appendix A - List of the respondents to the standards investigation	45

1. Background and context

The principal aim of the Welsh Language Commissioner, an independent organization established under the Welsh Language (Wales) Measure 2011, 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 will underpin the Commissioner's work:

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

On 6 January 2014 the Welsh Government published a document entitled 'Proposed standards relating to the Welsh language'.¹ These proposed standards have been developed to impose duties upon county councils and county borough councils in Wales, national park authorities and Welsh Ministers.

In introducing the document, the following was noted by the Welsh Government:

The Standards have been drafted with the principles of reasonableness and proportionality in mind. With regards to some services, we have developed a selection of standards that vary in terms of the level of provision that must be provided.²

This document formed the basis for the Welsh Language Commissioner's standards investigation and the Welsh Government's exercise to collect evidence to prepare a Regulatory Impact Assessment.

¹ <http://wales.gov.uk/docs/dcells/publications/140106-consultation-on-standards-relating-to-the-welsh-language-en.pdf>

² <http://wales.gov.uk/docs/dcells/publications/140106-consultation-on-standards-relating-to-the-welsh-language-en.pdf>

2. Standards investigation in relation to Welsh Ministers

In accordance with section 62 of the Welsh Language (Wales) Measure 2011, an exploration notice was presented on 6 January 2014 for the attention of Welsh Ministers. An exploration notice is a notice in writing, stating the Welsh Language Commissioner's intention to carry out a standards investigation, and which specifies the subject matter of the standards investigation. The Commissioner may not carry out a standards investigation unless she has given an exploration notice to each relevant person (organization), at least 14 days before beginning the investigation.

The subject of this standards investigation was to determine which standards (if any) should be specifically applicable to Welsh Ministers (whether or not the standards are already specified by the Welsh Ministers under section 26(1)).

The period of this standards investigation commenced on 27 January 2014. It ended on 18 April 2014.

As part of this standards investigation, information was collected from Welsh Ministers. This was done by receiving a completed questionnaire. Alongside the process of collecting evidence from all relevant persons, evidence was collected from the Advisory Panel and the public.

A public questionnaire was placed on the Welsh Language Commissioner's website. The purpose of this questionnaire was to provide members of the public with an opportunity to note what they felt was reasonable for the organizations to do and to provide in Welsh, considering the requirements involved in the proposed standards published by the Welsh Government on 6 January 2014. Notices were placed in the national press during the standards investigation period drawing the public's attention to this questionnaire. Furthermore, a video was launched in order to provide an introduction to the statutory process, and to provide guidance to the public on how to respond to the standards investigations.

3. Reasonableness and proportionality

In accordance with section 63 (1) Welsh Language (Wales) Measure 2011, the Commissioner must have regard to the need to secure that requirements for persons to comply with standards by virtue of section 25(1) are not unreasonable or disproportionate.

In carrying out a standards investigation, the Commissioner must consider the following:

- (a) whether, in respect of each of the activities specified in Schedule 9 which a person carries out, it is reasonable and proportionate for service delivery standards to be specifically applicable to a person, and
- (b) as respects each such activity, if it is reasonable and proportionate for service delivery standards to be specifically applicable to a person, conclude that service delivery standards should be specifically applicable to a person in relation to that activity.

In considering the question of reasonableness and proportionality, it should be noted that the Measure places a duty upon Welsh Ministers to secure that regulations provide for service delivery standards relating to all of the activities specified in Schedule 9 to be specifically applicable to a person if, and to the extent that, the person carries out those activities.

But Welsh Ministers need not secure that regulations provide for service delivery standards to be specifically applicable to a person in relation to an activity specified in Schedule 9 if, or to the extent that:

- (a) a standards report under section 64 indicates that it would be unreasonable or disproportionate for service delivery standards to be specifically applicable to a person in relation to that activity, or
- (b) Welsh Ministers think it would be unreasonable or disproportionate for service delivery standards to be specifically applicable to a person in relation to that activity.

This does not prevent regulations from providing for other service delivery standards to be specifically applicable to a person.

By making regulations under this Measure exercisable by statutory instrument, the Commissioner is authorised to give a compliance notice to a person.

A compliance notice is a notice given to a person by the Commissioner-

- (a) sets out, or refers to, one or more standards specified by the Welsh Ministers under section 26 (1), and

(b) requires a person to comply with the standard or standards set out or referred to.

The Welsh Language Commissioner will consider the evidence provided in reaching a decision on the content of a compliance notice given to a person.

The fact that a standard is made specifically applicable to a person does not mean that there is a duty to comply with that standard. A duty to comply with a standard is only in force if the Commissioner gives a compliance notice to the person, and that the notice states that particular standard.

The Welsh Language Commissioner will consult with the person before giving the person a compliance notice. The failure of a person to participate in a consultation will not prevent the Commissioner from giving the person a compliance notice.

After the Welsh Language Commissioner has given a compliance notice to a person, that person may apply to the Commissioner asking her to determine whether or not the requirement to comply with that standard, or to comply with it in that respect, is unreasonable or disproportionate. Should the Commissioner inform the person that the requirement to comply with the standard is not unreasonable or disproportionate, they have the right under the Measure to appeal to the Tribunal for determination.

The Welsh Language Commissioner's Criteria

In reaching a conclusion on the subject of this standards investigation, in accordance with the requirements outlined in Part 4, Chapter 8 of the Measure, the following criteria were considered alongside the evidence received as part of the standards investigation:

- Is the organization liable to be required to comply with standards – does the organization come within Schedule 5 and also within Schedule 6, or does it come within Schedule 7 and also within Schedule 8?
- Is the class of standard (service delivery; policy making; operational; record keeping; promotion) potentially applicable to the organization?
- Does the organization carry out the activity³ in question?
- Has the organization already undertaken to provide the activity or action in question, in part or in full, via its statutory language scheme or Welsh language policy?
- Does the organization already provide the service in Welsh (whether this corresponds exactly to the requirements included in the standard or not), or carrying out the activity in accordance with the standard?
- Does the majority of other organizations within the same sector provide services in Welsh, or carry out the activity?
- Are there any other reasons, for or against, making the standard specifically applicable to the organization?

³ This condition will be considered in respect of service delivery standards only.

4. Evidence received from Welsh Ministers

Evidence was received from Welsh Ministers. The evidence consisted of 136 questions in a questionnaire, as well as further evidence that included publications, policies and materials already produced bilingually by the organizations.

Each response was read individually and software was also used to record and analyse the evidence and identify general themes. Regular meetings were held amongst officers of the Welsh Language Commissioner to analyze the evidence received from organizations as part of the standards investigation, along with the current Welsh language schemes commitments of the organization concerned.

In this section an average percentage is given of the organization's Welsh language scheme commitments corresponding to the standards for each activity.

When analysing current Welsh language scheme commitments against the standards, it should be noted that it was not possible to correspond many of the standards in relation to service delivery activities due to the detailed nature of the standards published by the Welsh Government. In some circumstances, it is possible that Welsh Ministers are committed to, or comply with the requirement, but that it is not stated explicitly in their Welsh language schemes. For consistency, those standards were not recorded as corresponding commitments when analysing.

A summary is given of the evidence received from Welsh Ministers. The evidence submitted included information regarding what activities are carried out by the organization in question, what activities they carry out through the medium of Welsh and to what degree they can comply with the standards.

Service delivery standards

Activity 1: Correspondence

Standards for correspondence [1-8]

Welsh Ministers noted that they carry out the activity in question and carry out the activity through the medium of Welsh.

When analysing current commitments in the Welsh language scheme of the organization in question, an average of 100% of commitments corresponded to the standards in relation to correspondence.⁴

⁴ Average percentage of commitments within the organizations' Welsh language schemes, which correspond to the standards for each activity.

However, concern was expressed in terms of complying with standard 8 on a practical level, as there would be insufficient space for the suggested text in the types of items listed and it would therefore be difficult to implement. This was underlined by noting that the wording would not fit on the website homepage or on letter templates.

Activity 2: Telephone calls Standards for telephone calls [9-18]

Welsh Ministers noted that they carry out the activity in question and carry out the activity through the medium of Welsh.

When analysing current commitments in the Welsh language scheme of the organization in question, an average of 100% of commitments corresponded to the standards in relation to telephone calls.⁵

Welsh Ministers considered that making standards relating to telephone calls specifically applicable to them was reasonable and proportionate in general, with one exception. For those reasons outlined above in relation to standard 8, they noted that it would be impractical to set out the wording of standard 16 in the places listed. They noted that they were of the view that it would be more appropriate to ensure language choice during the initial greeting or automated message.

Generally, in order to ensure compliance it was noted that some work would need to be done in terms of raising staff awareness and that a corporate database would need to be developed to record persons' language choice.

Activity 3: Helplines and call centres Standards for helplines and call centres [19-25]

Welsh Ministers noted that they carry out the activity in question and carry out the activity through the medium of Welsh.

When analysing current commitments in the Welsh language scheme of the organization in question, an average of 57% of commitments corresponded to the standards in relation to helplines and call centres.⁶

Welsh Ministers were of the view that making standards relating to helplines and call centres specifically applicable to them was reasonable and proportionate to an extent.

They explained that not all helplines were currently offering the service required by the standards. The need to include the Welsh language as a required skill as staff are replaced during natural turnover was recognised.

⁵ Average percentage of commitments within the organizations' Welsh language schemes, which correspond to the standards for each activity.

⁶ Average percentage of commitments within the organizations' Welsh language schemes, which correspond to the standards for each activity.

Activity 4: Personal meetings Standards for personal meetings [26-29]

Welsh Ministers noted that they carry out the activity in question and carry out the activity through the medium of Welsh.

When analysing current commitments in the Welsh language scheme of the organization in question, an average of 25% of commitments corresponded to the standards in relation to personal meetings.⁷

In a similar context to the standards for correspondence and telephone calls, Welsh Ministers noted that it would be impractical to place the wording of standard 26 in the places listed except for invitations to meetings.

It was noted that offering simultaneous translation in meetings with a small number of people in attendance was impractical in terms of the considerable cost and added resources and that it would not suit the nature of such meetings. Offering translation from English into Welsh and consecutive translation would mean additional training and resources.

In light of these points, Welsh Ministers noted that making all the standards relating to personal meetings specifically applicable to them was not reasonable and proportionate.

This was expanded upon by expressing uncertainty in terms of the exact definition of personal meetings. It is noted that their response is based on the interpretation that the activity relates to external/public meetings, meetings for persons on public business or meetings by prior arrangement where language choice is known.

Activity 5: Public meetings Standards for public meetings [30-38]

Welsh Ministers noted that they carry out the activity in question and carry out the activity through the medium of Welsh.

When analysing current commitments in the Welsh language scheme of the organization in question, an average of 89% of commitments corresponded to the standards in relation to public meetings.⁸

Welsh Ministers confirmed that making standards relating to public meetings specifically applicable to them was reasonable and proportionate. They noted that they had already committed to a bilingual provision in public meetings but acknowledged that guidelines and training should be provided in order to improve current provision.

⁷ Average percentage of commitments within the organizations' Welsh language schemes, which correspond to the standards for each activity.

⁸ Average percentage of commitments within the organizations' Welsh language schemes, which correspond to the standards for each activity.

Activity 6: Publicity and advertising Standards for publicity and advertising [41]

Welsh Ministers noted that they carry out the activity in question and carry out the activity through the medium of Welsh.

When analysing current commitments in the Welsh language scheme of the organization in question, an average of 89% of commitments corresponded to the standard in relation to publicity and advertising.⁹

However, Welsh Ministers stated the view that it would be reasonable and proportionate to make a selection of standards relating to publicity and advertising specifically applicable to them. They explained that there are a number of complexities relating to television advertising and that it was not appropriate to produce everything bilingually. Many marketing campaigns were targeted outside Wales and it was noted that it was more effective and appropriate to use the language of the target market, and providing materials in Welsh could mean that that would not be as effective.

Activity 7: Public exhibitions Standards for public exhibitions [42]

Welsh Ministers noted that they carry out the activity in question and carry out the activity through the medium of Welsh.

When analysing current commitments in the Welsh language scheme of the organization in question, an average of 100% of commitments corresponded to the standard in relation to public exhibitions.¹⁰

In a similar context to the publicity and advertising standards it was noted that a proportion of the work was carried out outside Wales. As a result, it was noted that making standards relating to public exhibitions specifically applicable to them was reasonable and proportionate except when the target audience was situated outside Wales.

Activity 8: Publications Standards for publications [43-45]

Welsh Ministers noted that they carry out the activity in question and carry out the activity through the medium of Welsh.

In analysing current commitments in the Welsh language scheme of Welsh Ministers, an average of 100% of commitments corresponded to the standards in relation to publications.¹¹

⁹ Average percentage of commitments within the organizations' Welsh language schemes, which correspond to the standards for each activity.

¹⁰ Average percentage of commitments within the organizations' Welsh language schemes, which correspond to the standards for each activity.

¹¹ Average percentage of commitments within the organizations' Welsh language schemes, which correspond to the standards for each activity.

Welsh Ministers noted that implementing standards 43 and 44 would be unreasonable. They explained that they produce a wide number of additional materials that are not listed in the standard such as legislation and bills and as a result standard 43 would affect the Translation Service in terms of resources. They added a concern that standard 44 would be unclear for staff.

Activity 9: Forms

Standards for forms [46-49]

Welsh Ministers noted that they carry out the activity in question and carry out the activity through the medium of Welsh.

When analysing current commitments in the Welsh language scheme of the organization in question, an average of 75% of commitments corresponded to the standards in relation to forms.¹²

Welsh Ministers agreed that the requirements relating to standards 46, 48 and 49 were reasonable and proportionate. However, Welsh Ministers were not of the view that it was reasonable in every case to produce explanatory material bilingually due to the nature or length of such material.

Activity 10: Websites and online services

Standards for websites and online services [50-52]

Welsh Ministers noted that they carry out the activity in question and carry out the activity through the medium of Welsh.

When analysing current commitments in the Welsh language scheme of the organization in question, an average of 67% of commitments corresponded to the standards in relation to websites and online services.¹³ It should be noted that Welsh language schemes have not ordinarily covered apps due to the fact that such platforms were not readily available or common practice at time of agreement.

Welsh Ministers agreed that these standards were reasonable and proportionate for the large majority of their websites. However, they listed the websites that were not currently bilingual. The reasons for this varied from the fact that the target audience was situated outside Wales to the difficulty in recruiting staff with the necessary Welsh language skills to maintain a bilingual website.

It was confirmed that every app except one complied with the standard at present. The Traffic Wales app is not completely bilingual as third party information feeds into it.

¹² Average percentage of commitments within the organizations' Welsh language schemes, which correspond to the standards for each activity.

¹³ Average percentage of commitments within the organizations' Welsh language schemes, which correspond to the standards for each activity.

Activity 11: Signage Standards for signage [53-57]

Welsh Ministers noted that they carry out the activity in question and carry out the activity through the medium of Welsh.

When analysing current commitments in the Welsh language scheme of the organization in question, an average of 80% of commitments corresponded to the standards in relation to signage.¹⁴

Signage in relation to Welsh Ministers includes estate signage and signs on trunk roads. The principle of providing bilingual signage according to the standards was accepted but it was noted that significant work would need to be carried out through a replacement programme which would mean that the work would not be completed for some years; in the case of trunk roads, the work could continue up until 2025.

Activity 12: Reception of visitors Standards for the reception of visitors [58-62]

Welsh Ministers noted that they carry out the activity in question and carry out the activity through the medium of Welsh.

When analysing current commitments in the Welsh language scheme of the organization in question, an average of 20% of commitments corresponded to the standards in relation to the reception of visitors.¹⁵

Welsh Ministers noted that these standards were reasonable and proportionate in relation to main receptions. However, it was noted that if standard 58 included Cadw sites it would not be possible to ensure that the 60 permanent staff members and the 100 seasonal staff members would be bilingual. It was explained further that there were difficulties in recruiting new members of staff who were bilingual. However, it was agreed that it would be possible to ensure a Welsh speaker was available in each site where staff are situated.

Activity 13: Official notices Standards for official notices [63-65]

Welsh Ministers noted that they carry out the activity in question and carry out the activity through the medium of Welsh.

When analysing current commitments in the Welsh language scheme of the organization in question, an average of 33% of commitments corresponded to the standards in relation to official notices.¹⁶

¹⁴ Average percentage of commitments within the organizations' Welsh language schemes, which correspond to the standards for each activity.

¹⁵ Average percentage of commitments within the organizations' Welsh language schemes, which correspond to the standards for each activity.

¹⁶ Average percentage of commitments within the organizations' Welsh language schemes, which correspond to the standards for each activity.

Welsh Ministers noted that it would be reasonable and proportionate for them to comply with these standards.

Activity 14: Awarding grants Standards for awarding grants [66-69]

Welsh Ministers noted that they carry out the activity in question and carry out the activity through the medium of Welsh.

When analysing current commitments in the Welsh language scheme of the organization in question, an average of 100% of commitments corresponded to the standards in relation to awarding grants.¹⁷

Welsh Ministers accepted that making standards 66-69 specifically applicable to them would be reasonable and proportionate whilst noting that they were of the view that explanatory material should be subject to a scoring system.

Activity 15: Awarding contracts Standards for awarding contracts [70-73]

Welsh Ministers noted that they carry out the activity in question and carry out the activity through the medium of Welsh.

When analysing current commitments in the Welsh language scheme of the organization in question, an average of 100% of commitments corresponded to the standards in relation to awarding contracts.¹⁸

Welsh Ministers noted that the resources were not available internally to draft contract documents in Welsh, and furthermore it was noted that accepting the standard for every invitation to tender would entail costs that they could not justify from their perspective. As a result it was noted that they considered it reasonable and proportionate to ensure that invitations to tender over £25,000 in value were in Welsh in those instances where provision of Welsh language services was required or where language considerations were vital to meet contractual requirements.

¹⁷ Average percentage of commitments within the organizations' Welsh language schemes, which correspond to the standards for each activity.

¹⁸ Average percentage of commitments within the organizations' Welsh language schemes, which correspond to the standards for each activity.

Activity 16: Raising awareness of Welsh language services that are available
Standards for raising awareness of Welsh language services that are available [74-77]

Welsh Ministers noted that they carry out the activity in question and carry out the activity through the medium of Welsh.

When analysing current commitments in the Welsh language scheme of the organization in question, an average of 50% of commitments corresponded to the standards in relation to raising awareness of Welsh language services that are available.¹⁹

Welsh Ministers agreed with the principle of these standards but in practice it would be difficult to implement them as there would be no way of stating which Welsh language services were available in the places listed in standard 74. The same view was noted in relation to standard 76.

Additional service delivery standards to those listed in Appendix 9

Activity 17: Public events
Standards for public events [39-40]

Welsh Ministers noted that they carry out the activity in question and carry out the activity through the medium of Welsh.

When analysing current commitments in the Welsh language scheme of the organization in question, an average of 50% of commitments corresponded to the standards in relation to public events.²⁰

Welsh Ministers agreed that the standards were reasonable and proportionate acknowledging that each department must ensure that Welsh language skills were available at every future public event.

Activity 18: Corporate identity and branding
Standards for corporate identity and branding [78]

Welsh Ministers noted that they carry out the activity in question and carry out the activity through the medium of Welsh.

When analysing current commitments in the Welsh language scheme of the organization in question, an average of 100% of commitments corresponded to the standards in relation to corporate identity and branding.²¹

¹⁹ Average percentage of commitments within the organizations' Welsh language schemes, which correspond to the standards for each activity.

²⁰ Average percentage of commitments within the organizations' Welsh language schemes, which correspond to the standards for each activity.

²¹ Average percentage of commitments within the organizations' Welsh language schemes, which correspond to the standards for each activity.

As it is current practice for Welsh Ministers, it was confirmed that making the standard specifically applicable to them was reasonable and proportionate in their view.

Activity 19: Courses Standards for courses [79-81]

Welsh Ministers noted that they only undertake the activity in question in standard 79 and that activity is carried out through the medium of Welsh. However, Welsh Ministers noted that they do not arrange Welsh medium education or training courses or Welsh medium education or training courses aimed specifically at those 18 years of age or under.

When analysing current commitments in the Welsh language scheme of the organization in question, on average, none of the commitments corresponded to the standards in relation to courses.²²

Welsh Ministers explained that there were concerns regarding the cost of translating the Academi Cymru programme and products and further concerns regarding the likely number of attendees on these courses. It was noted that internal Welsh medium courses had been cancelled in the past due to a lack of demand. They went on to note that when there is sufficient demand, all efforts are made to provide those courses and materials in Welsh.

Activity 20: Public address systems Standards for public address systems [82-83]

Welsh Ministers noted that they carry out the activity in question and carry out the activity through the medium of Welsh.

When analysing current commitments in the Welsh language scheme of the organization in question, on average, none of the commitments corresponded to the standards in relation to public address systems.²³

Welsh Ministers agreed that it would be reasonable and proportionate for them to be required to comply with these standards but it was noted that they foresaw that it would not always be possible to ensure compliance, especially in urgent situations.

²² Average percentage of commitments within the organizations' Welsh language schemes, which correspond to the standards for each activity.

²³ Average percentage of commitments within the organizations' Welsh language schemes, which correspond to the standards for each activity.

Activity 21: Databases

Standards relating to databases [84-85]

Welsh Ministers noted that they carry out the activity in question and carry out the activity through the medium of Welsh.

When analysing current commitments in the Welsh language scheme of the organization in question, on average, none of the commitments corresponded to the standards in relation to databases.²⁴

Welsh Ministers noted that the scope of these standards was so wide in their view that it would be unreasonable and disproportionate to implement them. They agreed with the principle of creating and maintaining a database of persons identified by the organization as wishing to undertake service delivery activities through the medium of Welsh. However, they noted that creating one corporate database would be unreasonable and disproportionate on the basis that a number of databases existed across the organization already. It was noted that work is underway within individual action plans to develop these databases during the period when new standards will be implemented.

Policy making standards [86-94]

Welsh Ministers were of the view that making policy making standards specifically applicable to them was reasonable and proportionate. However, they noted that conducting an assessment in relation to each individual grant would be unreasonable, explaining that it would be reasonable to conduct such an assessment when grant schemes were being developed.

Operational standards [95-120]

Standards regarding the use of Welsh in internal administration [95-100]

In terms of standards 95-96, it was noted that Welsh Ministers provide employment contracts through the medium of Welsh if the employee or worker wishes. In relation to the remaining documents, these documents are not always available in Welsh. In some cases, such as documents outlining performance aims for individuals, it was noted that the ability to write a performance management report in Welsh depended on the linguistic ability of the employee and manager. The member of staff would have to provide an English version of the form if the line manager did not speak Welsh. Furthermore, they were of the view that it would not be appropriate for the Translation Service to translate this type of documentation.

²⁴ Average percentage of commitments within the organizations' Welsh language schemes, which correspond to the standards for each activity

Welsh Ministers were of the view that translating the policies listed in standard 96 would be unreasonable and disproportionate on the basis that there would be cost implications for their translation together with the fact that they were amended frequently.

Standards regarding ICT and support materials [101-104]

Welsh Ministers confirmed that they provide grammar and spellchecker systems for workers together with Welsh language software interfaces.

Welsh Ministers were of the view that providing intranet pages in Welsh would be unreasonable and disproportionate on the basis that there would be cost implications for translation. Furthermore, they explained that publishing 'new' pages in Welsh could cause confusion for Welsh Government staff in terms of what information they could expect in Welsh on the intranet.

Standards regarding Welsh language skills – workforce planning and training [105-110]

Welsh Ministers noted that they had a bilingual skills strategy and that it would be possible to amend the strategy in line with these standards.

It was confirmed that not all the training courses referred to in standard 105 were provided in Welsh at present except for Recruitment and Interview, Performance Management and Induction. It was expressed that conducting every course listed through the medium of Welsh would be unreasonable and disproportionate. However, it was acknowledged that attention should be given to the Welsh language in such training.

It was accepted that implementing standards 106-110 regarding Welsh language training and Welsh language awareness training was reasonable and proportionate and it was noted that a number of these standards were already being implemented.

Standards regarding recruitment [111-115]

Welsh Ministers were not opposed to the standards regarding recruitment. Welsh Ministers expressed their view that standard 115 was not good practice. They also confirmed that standard 114 could be implemented.

Standards regarding signage [116-119]

Welsh Ministers confirmed that signage displayed within the organization's premises was in Welsh.

Standards for audible announcements and messages [120]

Welsh Ministers confirmed that the audible announcements made within the premises are also in Welsh. It was agreed that implementing these standards would be reasonable and proportionate.

Promotion standards [121-125]

It was explained that Welsh Ministers have a strategy for the Welsh Language, A living language: a language for living. As a result of this strategy, a number of the commitments outlined in these standards are already being implemented. It was explained that they operate a grants scheme and have undertaken to analyse financial results in order to note the expenditure on the Welsh language and to analyse its contribution to the strategy.

As a result of this work it was agreed that making promotion standards specifically applicable to Welsh Ministers was reasonable and proportionate.

Record keeping standards [126-134]

Welsh Ministers noted that it was current practice to keep similar records and as a result it would be reasonable and proportionate to implement these standards in full.

5. Evidence received from members of the public

409 responses were received from members of the public to the standards investigations carried out by the Welsh Language Commissioner. 182 responses to the standards investigation were received by individuals who chose to complete the questionnaire provided for them by the Welsh Language Commissioner on the website. 227 further responses were received based on a template of a standard response published for use by Cymdeithas yr Iaith Gymraeg on its website; in this case, 225 of the responses were the same apart from 2 of them, which were variations on the original. In 15 cases, responses were received from individuals twice. This happened because individuals responded via the Commissioner's consultation as well as completing Cymdeithas yr Iaith Gymraeg's template. The Commissioner has noted every response received. A full list of respondents who were willing for their responses to be published can be seen at Appendix A.

Figure 1 indicates from where the respondents came according to their group and geographical location.

Figure 1 Number of responses to the standards investigation by location²⁵

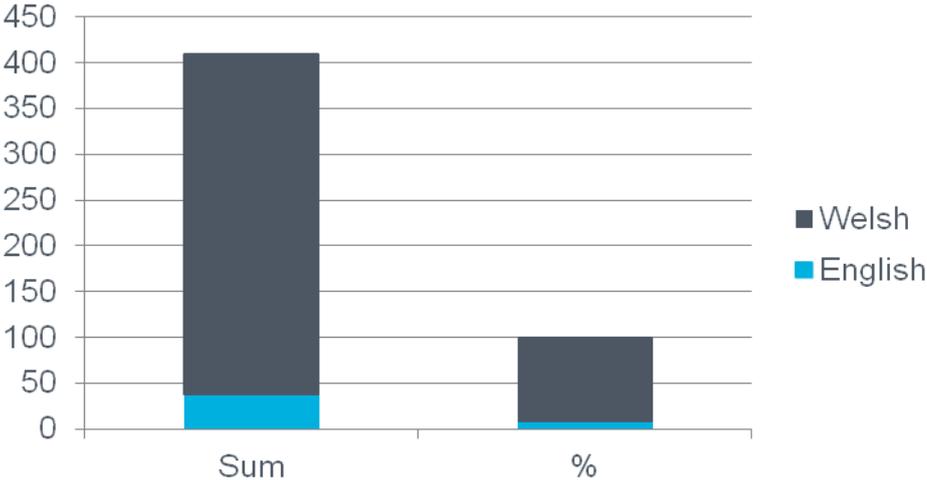
Locations	Number	Percentage (%)
Swansea	7	2
Blaenau Gwent	8	2
Vale of Glamorgan	8	2
Caerphilly	3	1
Newport	4	1
Neath Port Talbot	10	2
Ceredigion	56	14
Conwy	14	3
Cardiff	54	13
Gwynedd	72	18
Merthyr Tydfil	3	1
Bridgend	4	1
Powys	19	5
Rhondda Cynon Taf	15	4
Pembrokeshire	2	0

²⁵ These statistics include all the responses received via the questionnaire, together with the Cymdeithas yr Iaith Gymraeg template.

(Continued) Locations	Number	Percentage (%)
Denbighshire	17	4
Monmouthshire	2	0
Carmarthenshire	50	12
Flintshire	13	3
Torfaen	14	3
Wrexham	5	1
Isle of Anglesey	18	4
Outside Wales	6	4
No information	5	1
Total	409	100

Of the 409 responses received from members of the public, 371 were in the Welsh language. 38 responses were received in English by members of the public (see Figure 2 below).

Figure 2 Number of responses to the standards investigation by language²⁶



The public's response to the subject matter of the standards investigation

Service Delivery Standards

In seeking the public's opinion regarding the reasonableness and proportionality of the requirements attached to the service delivery standards, they were asked to respond to the following question in the questionnaire:

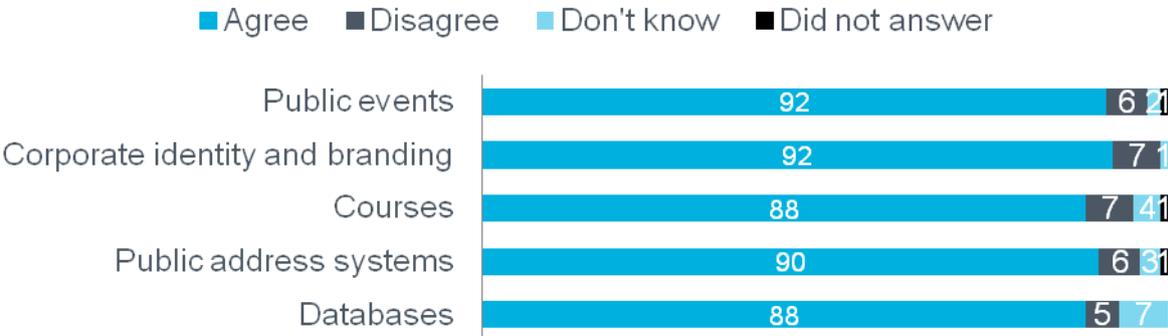
Do you agree or disagree that the organizations in question should conduct the activities set down below in the Welsh language, in order to enable you as a member of the public to use the Welsh language in the following situations?

In answering this question as part of the questionnaire, the public were given the opportunity to respond per activity within the scope of the service delivery standards. These included activities noted in Schedule 9, Welsh Language (Wales) Measure 2011, together with some additional activities for which standards have been drawn up and which were published within the Welsh Government's proposed standards document. Figures 3 and 4 indicate the variety of the responses received.

Figure 3 Response to question 1 of the questionnaire - Service Delivery Standards (Activities designated in Schedule 9, Welsh Language (Wales) Measure 2011)



Figure 4 Response to question 2 of the questionnaire - Service delivery standards (Additional activities to those listed in Schedule 9, Welsh Language (Wales) Measure 2011)



Policy making standards

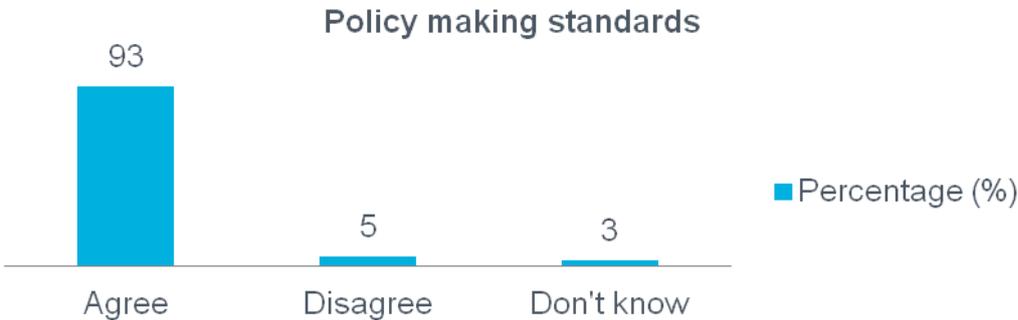
In seeking the public's opinion regarding the reasonableness and proportionality of the requirements attached to the policy making standards, they were asked to respond to the following question in the questionnaire:

Do you agree or disagree that the policy decisions of the organizations in question should improve the opportunities for you to use the Welsh language and ensure better treatment for the Welsh language?

Of the 182 that responded via the questionnaire on our website, 97% (177) had answered this question. Of the 177 that responded, 93% (164) agreed that the policy decisions of the organizations in question should consider the effects of their policy decisions, and secure, or contribute towards securing better opportunities for persons to be able to use the Welsh language and also to ensure better treatment for the Welsh language.

The figure below indicates how members of the public responded to that question:

Figure 5 Response to question 3 of the questionnaire - Policy making standards ²⁶



Operational standards

In seeking the public's opinion regarding the reasonableness and proportionality of the requirements attached to the operational standards, they were asked to respond to the following question in the questionnaire:

Do you agree or disagree that the organizations in question should have to facilitate the use of the Welsh language in accordance with the operational standards?

Of the 182 that responded via the questionnaire on our website, 99% (180) had answered this question. Of the 180 that responded, 92% (166) agreed that the organizations in question should have to facilitate the use of the Welsh language in accordance with the definition of the operational standards in the Welsh Language (Wales) Measure 2011.

²⁶ It is noted that these statistics relate to respondents who had answered this question.

The figure below indicates how members of the public responded to that question:

Figure 6 Response to question 4 of the questionnaire - Operational standards²⁷



Record keeping standards

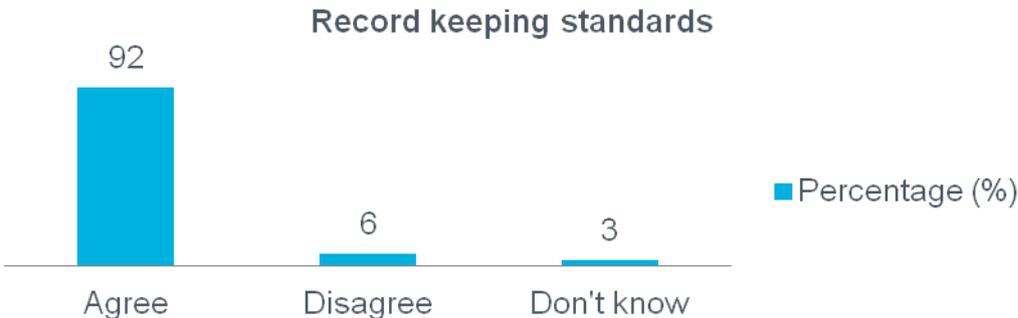
In seeking the public's opinion regarding the reasonableness of the requirements attached to the record keeping standards, they were asked to respond to the following question in the questionnaire:

Do you agree or disagree that the organizations in question should have to keep a record of how they adhere to the Welsh language standards and keep a record of complaints?

Of the 182 that responded via the questionnaire on our website, 98% (178) had answered this question. Of the 178 that responded, 92% (163) agreed that this duty should be imposed on the organizations in question.

The figure below indicates how members of the public responded to that question:

Figure 7 Response to question 5 of the questionnaire - Record keeping standards²⁸



²⁷ It is noted that these statistics relate to respondents who had answered this question.

²⁸ It is noted that these statistics relate to respondents who had answered this question.

Promotion standards

In seeking the public's opinion regarding the reasonableness and proportionality of the requirements attached to the promotion standards, they were asked to respond to the following question in the questionnaire:

Do you agree or disagree that the organizations in question should promote and facilitate the Welsh language more widely as noted in the promotion standards?

Of the 182 that responded via the questionnaire on our website, 99% (180) had answered this question. Of the 180 that responded, 90% (162) agreed that the organizations should have to facilitate and promote the Welsh language more widely.

The figure below indicates how members of the public responded to that question:

Figure 8 Response to question 6 of the questionnaire - Promotion standards²⁹



Further Comments

As well as providing responses to specific questions on the subject of the standards investigation, the public were given the opportunity to note any additional standards they believed should be set down and made specifically applicable to the organizations in question, together with any further comments relevant to this standards investigation.

Of the 182 that responded via the questionnaire on our website, 34% (62) provided additional comments to be considered by the Welsh Language Commissioner as part of the standards investigation.

Figure 9 Further comments provided by members of the public



²⁹ It is noted that these statistics relate to respondents who had answered this question.

General comments

The responses were supportive and welcomed the concept of developing standards in order to see clear rights for Welsh speakers, with regard to Welsh services.

Similarly, there was considerable eagerness to ensure that the standards set were clear, robust and understandable to ordinary people. A number of the comments noted that there was a need for the standards specified to be ambitious and ones which would enable the organizations in question to develop and strengthen the provision available through the existing language schemes over time.

Outlined below are the main themes of the responses received that were in favour:

- The need to ensure that none of the proposed standards are weaker than the Welsh language schemes of the organizations in question
- The lack of standards to ensure that services that are contracted out are provided in Welsh
- The lack of higher tier standards that would ensure that more bodies moved towards internal administration in Welsh
- The need to ensure that the active offer is used as a policy tool in highlighting services to people
- Limited scope of the policy making standards

Some responses were received from members of the public expressing a general objection to language duties. Others noted that any duties imposed on organizations should reflect the needs of the areas served by the organizations.

Outlined below are the main themes of the responses received that were against:

- The need to ensure that the policy of imposing duties upon organizations to comply with standards regarding the Welsh language reflects the needs of the majority of the people of Wales.
- The need to consider the present economic climate, and the way in which public money is spent on the Welsh language.
- The need for standards to be imposed that reflected the number of Welsh speakers, together with the demand there is for Welsh services within areas, using the latest figures published in the 2011 Census.
- The need to consider the appropriateness and reasonableness of imposing a single and consistent standard across organizations.

6. Evidence received by the Welsh Language Commissioner's Advisory Panel

Evidence was received from the Advisory Panel in accordance with the requirements outlined in section 63 (3) of the Welsh Language (Wales) Measure 2011.

The responses received from the Advisory Panel showed support for the purpose of the proposed standards namely to realise the fundamental objectives of the Welsh Language (Wales) Measure 2011, that Welsh is an official language in Wales and that it should not be treated less favourably than English.

The Panel was of the opinion that the reasonableness and proportionality of making the standards specifically applicable to the relevant organizations should be considered alongside the context. That, in their view, included the intention of the legislation and the desire of the legislature in terms of the legal status of the Welsh language; the size of the organizations in question, their involvement with the public and the difference between imposing standards and the timetable for compliance with those standards.

It was added that reasonableness and proportionality could be considered in two ways; the setting of different standards for organizations in different areas of Wales reflecting the linguistic nature of the relevant areas or to set common standards across Wales stating different imposition days regarding when organizations will be required to comply with standards e.g. that an organization where an element of staff training is needed in order to comply with a standard could have more time to comply with the standard than an organization where appropriate staff resources are already available. The Panel was strongly of the opinion that the second method was the most appropriate, considering that ensuring better consistency between organizations in terms of providing Welsh language services is one of the main objectives of the Welsh Language (Wales) Measure 2011.

Service Delivery Standards

The Panel agreed that service delivery standards relating to all the activities should be made specifically applicable to Welsh Ministers, enabling members of the public to use the Welsh language in the situations in question.

Policy Making Standards

The proposed policy making standards were welcomed by the Panel in general. However, the Panel was of the opinion that a further explanation was needed on the exact requirements attached to the policy making standards. It was also noted that there is a need for assurance on whether the requirement on organizations will be to maintain or in fact develop their policies further in order to ensure better treatment of the Welsh language.

The Panel agreed that the policy decisions of Welsh Ministers should improve the opportunities for persons to use Welsh and ensure better treatment for the Welsh language, and that policy making standards should be made specifically applicable to them.

Operational Standards

The Panel agreed that Welsh Ministers should have to facilitate the use of the Welsh language in accordance with the operational standards, and that the operational standards should be made specifically applicable to them.

Record Keeping Standards

The Panel agreed that Welsh Ministers should keep a record stating how they adhere to other specific standards, and keep a record of complaints. The conclusion was reached that record keeping standards should be made specifically applicable to them.

Promotion Standards

The Panel agreed that Welsh Ministers should facilitate and promote use of the Welsh language more widely and that the operational standards to be made specifically applicable to them.

7. Conclusions of the Standards Investigation

General Comments

The following conclusions were reached on the basis of the evidence received by Welsh Ministers, the public and the Advisory Panel on the subject matter of the standards investigation, in addition to independent evidence collected by the Welsh Language Commissioner in relation to the organizations' Welsh language schemes.

It is noted in the Explanatory Memorandum on the Welsh Language (Wales) Measure 2011 that one of the main objectives of the legislation was to modernize and build on the system of Welsh language schemes created under the 1993 Act. Similarly, it is noted that the aim of the Welsh Government in legislating was to ensure better consistency between organizations, especially between organizations in the same sector, in terms of providing Welsh language services.

Similarly, we note that section 42 of the Measure imposes a duty on Welsh Ministers to ensure that regulations provide service delivery standards relating to each of the activities specified in Schedule 9 specifically applicable to the organization if and to the extent that the organization, do those activities.

However, it should be noted that they do not have to do so if the Commissioner indicates in a standards report, or if the Welsh Ministers are of the opinion that it would be unreasonable or disproportionate for service delivery standards to be specifically applicable to an organization in relation to that activity. It should be noted that this section in the Measure does not prevent regulations under section 39 from providing that other service delivery standards to be specifically applicable to organizations.

In accordance with the above, if the standards investigation identifies that an organization carries out the activity³⁰, be that to a lesser or a greater extent, the Welsh Language Commissioner will conclude that all standards relating to that activity should be made specifically applicable. These conclusions were reached due to the fact that the standards introduced by the Welsh Government are interdependent on each other within the scope of the activity.

We also note that the way in which an organization delivers a service under an activity can change in the future and that it would be necessary to adapt to reflect that by varying the compliance notice, rather than going back to regulations.

However, where evidence exists that an organization does not undertake an activity at all, whether by means of evidence acquired as part of the standards investigation, or by other means, the Welsh Language Commissioner will conclude that standards in relation to that activity should not be specifically applicable to them.

³⁰ A service delivery activity as defined in section 28 of the Welsh Language (Wales) Measure 2011.

The Welsh Language Commissioner will consider the evidence provided in order to reach a decision on the content of compliance notices issued to organizations under section 44 of the Welsh Language (Wales) Measure 2011.

Standards that should be made specifically applicable to Welsh Ministers

Service delivery standards

As a result of carrying out this standards investigation, and on the basis of the evidence received, the Commissioner has reached the conclusion that Welsh Ministers should be able to deliver services in relation to the activities specified in Schedule 9. Similarly, the conclusion was reached that Welsh Ministers should be able to deliver services in addition to those listed in Schedule 9.

Welsh Ministers confirmed that they carried out all of the service delivery standards activities and did so in Welsh. However it must be noted that the extent to which they did so varied according to the activity. Although the challenges noted by Welsh Ministers in respect of a number of service delivery standards is acknowledged, the Commissioner has reached the conclusion that there is a need to clearly differentiate between the commitments of an organization (what is expected of them) and performance (to what extent they comply with those expectations at present). Every Welsh language scheme carries the full authority of the organization when agreeing its content. Not to specify standards that are equal to those commitments and to make them specifically applicable to the organizations in question would be a step back and go against the intention of the Welsh Language (Wales) Measure 2011. We note that performance, as well as to what degree the organization can comply with a standard at a specific period in time is a practical matter. Those degrees can improve, deteriorate or remain the same. The Welsh Language Commissioner is of the opinion that commitments should meet the needs of the Welsh language users they serve, with a reasonable timetable set down for dealing with any challenges that exist.

Where Welsh Ministers have raised questions regarding the practicality of some standards in the evidence submitted, this is outlined by the Welsh Language Commissioner in section 4 of the report. Welsh Ministers will need to consider these comments in coming to a decision on which standards should be specified in regulations under section 26. Where there is a lack of clarity on the exact requirements of some standards, it should be ensured that regulations make it perfectly clear to the organization and to service users what exactly could be expected if the organization was required to comply with a standard.

The Welsh Language Commissioner has reached the conclusion that it should be ensured that regulations provide for service delivery standards in relation to the activities below to be specifically applicable to Welsh Ministers.

- correspondence
- telephone calls
- helplines and call-centres
- personal meetings
- public meetings
- publicity and advertising
- public exhibitions
- publications
- forms
- websites and on-line services
- signage
- welcoming visitors
- official notices
- awarding grants
- awarding contracts
- raising awareness of Welsh language services that are available
- public events
- corporate identity and branding
- courses
- database

In relation to courses, Welsh Ministers confirmed that they carried out the activity in question and did so through the medium of Welsh. However it was noted that they did not arrange education or training courses in Welsh or offered education or training courses in Welsh aimed specifically at 18 year olds or under. However, it is possible that courses such as Funky Dragon’s activities, Wales Youth Forum on Sustainable Development, in addition to Jobs Growth Wales could come under this definition. Considering the lack of clarity regarding the exact definition of this activity, Welsh Ministers should ensure clarity on this in specifying standards by regulations.

The Welsh Language Commissioner has reached the conclusion that it should be ensured that regulations provide for service delivery standards in relation to the activity below to be specifically applicable to Welsh Ministers.

- courses

Policy making standards

As a result of carrying out this standards investigation, and on the basis of the evidence received, the Commissioner has reached the conclusion that it is reasonable and proportionate for the policy decisions of Welsh Ministers to improve the opportunities for persons to use Welsh and ensure that the Welsh language is not treated less favourably than English.

The Commissioner's reasons for reaching that conclusion is that there is already an expectation on Welsh Ministers to assess the linguistic implications of new policies, strategies and initiatives, during the process of their creation and review. The required measures that form the basis for the content of Welsh Language Schemes can be seen in the form of statutory guidelines approved before the House of Commons [Guidelines for the Form and Content of Language Schemes were approved by the UK Parliament on 19 July 1995]. It is specified in those guidelines that organizations should specify the measures the organization proposes to take when assessing the impact of new policies, strategies and initiatives and when implementing them.

The Welsh Language Commissioner has reached the conclusion that Welsh Ministers should secure that regulations provide for policy making standards to be specifically applicable to Welsh Ministers.

Operational standards

Section 30 of the Welsh language (Wales) measure 2011 states that the meaning of operational standards are:

a standard that is intended to promote or facilitate the use of the Welsh language

- (i) by A in carrying out A's relevant activities
- (ii) by A and another person in dealings between them in connection with A's relevant activities, or
- (iii) by a person other than A in carrying out activities for the purposes of, or in connection with, A's relevant activities

In response to the comments, the Welsh Language Commissioner collected evidence regarding the internal administration commitments within the current Welsh Language scheme, organizational policies and policy statements.

With the arrival of the operational standards a statutory incentive is highlighted in this area and for the first time in Wales. However, this practice is not new as many organizations use the Welsh language as their main or only administrative language. Where this does not occur, there are departments, such as education departments, which use the Welsh language extensively. Therefore in some areas the practice of

working through the medium of Welsh is one which can be implemented.

The Welsh Government's policy statements in this respect are also positive and over the years the Government has actioned several projects focussing on the internal use of the Welsh language, particularly in its offices in Llandudno and Aberystwyth. As part of the recommendations presented in the Welsh Communities Report, a report recently commissioned by the Welsh Government, it was noted that 'targets should be agreed with relevant agencies in respect of expanding the bilingual workforce and internal bilingual operations within the scope of Welsh Language Standards.'³¹

The Welsh Language Commissioner recognizes that some elements attached to the operational standards are new to the organizations in question, and so inevitably they would need time in order to ensure full compliance with the requirements. However, it should be noted that a number of the requirements are expected from organizations under current Welsh language schemes. These include specifying measures to ensure that workplaces which have contact with the public in Wales seek access to sufficient and appropriately skilled Welsh speakers; measures to identify those posts where the ability to speak Welsh is considered to be essential and those where it is considered to be desirable together with measures to assess the need for training and to provide it for employees.

In collecting evidence in relation to current Welsh language scheme commitments with regard to internal administration, organizational policies and policy statements, the situation can be summarised in stating that Welsh Ministers operate constructively in relation to internal administration but it is stressed that this is to varying degrees in relation to the proposed operational standards. The organization's Welsh language scheme notes that it wants 'to develop more opportunities for our staff to use the Welsh language at work.'³² Similarly it notes that they 'will develop the ability of our Welsh-speaking staff to operate in Welsh by providing vocational training in Welsh, whenever practicable.'³³

A report published³⁴ by the Welsh Government's Welsh Language Task and Finish Group in October 2012 noted:

'A proactive approach should be taken to support and enable staff to use Welsh at work, including identifying and prioritising the services that should be provided bilingually, such as:

- support from Human Resources
- Internal Communications and the intranet
- ICT (including the Atos contract)
- Records Management

- Occupational Health
- Forms for staff use (including electronic and online forms)
- Training

Similarly, recommendations were submitted to Welsh Ministers in a report published in December 2013, ‘Increasing the number of communities where Welsh is the main language’. That report noted that targets should be agreed ‘to extend the bilingual workforce and bilingual internal operations with relevant agencies within the scope of the Welsh Language Standards’. In response to that recommendation, Welsh Ministers noted that they recognise the importance of the workplace for increasing opportunities for people to use Welsh.

To that end, and based on the evidence received, the Commissioner concludes that it is reasonable and proportionate for Welsh Ministers to enable persons to carry out their relevant activities through the medium of Welsh. Regarding those elements that are not embedded in the Welsh language schemes of the organizations in question, the Welsh Language Commissioner has reached the conclusion that it would be reasonable and proportionate to allow adequate time for organizations to comply with those new requirements.

The Welsh Language Commissioner has reached the conclusion that it should be ensured that regulations provide for operational standards to be specifically applicable to Welsh Ministers.

Record keeping standards

As a result of carrying out this standards investigation, and on the basis of the evidence received, the Welsh Language Commissioner concludes that Welsh Ministers should note how they propose to adhere to the standards on which they are expected to comply, along with complaints. It is a requirement under the organization’s Welsh language scheme to determine actions to be taken to publish information on the organization’s performance against the statutory requirements. That was confirmed by the evidence that was received, by Welsh Ministers noting that the record keeping standards, in principle, is current practice.

Record keeping standards note what an organization must keep in the form of a record of its activity in respect of other specified standards. The record keeping standards as they stand do not detail what must be collected.

There are other provisions in the legislation regarding monitoring arrangements and reporting requirements for the standards system (Section 27 - Supplementary Provisions). These arrangements and requirements will be specified in regulations as

³¹ www.wales.gov.uk/topics/welshlanguage/publications/welsh-speaking-communities-report-and-work-plan/?lang=eng

they go before the National Assembly for Wales. The Measure notes the following:

- (4) Standards specified under section 26(1), or regulations under section 26(2), may, among other things, deal with any or more of the following —
 - (a) the preparation, by persons who are under the duty in section 25 to comply with standards, strategies or plans setting out how they propose to comply with the standards;
 - (b) procedures to be followed by persons who are under the duty in section 25 to comply with standards;
 - (c) the collection of information by persons who are under the duty in section 25 to comply with standards, including information about the use of Welsh and the use of English in relation to a particular conduct;
 - (d) information to be made available to the Commissioner;
 - (e) monitoring arrangements and publicity requirements;
 - (f) reporting requirements.

In summary, section 27 of the Measure outlines how a person is expected to comply with standards.

Beyond the elements noted above, the Commissioner must draw up an Enforcement Policy. The Welsh Government policy document 'Inspection, Audit and Regulation'³⁴, explains that the role of inspectors is to "investigate independently using professional expertise and legal powers". This is supplemented by the Crerar Report on inspection in Scotland which notes that the role of external inspectors is to provide independent assurance that services are being managed well and are fit for purpose. According to Crerar, the five main principles are public focus, independence, proportionality, transparency and accountability. Crerar's proposals are consistent with the principles of Hampton which note that inspection should take place on the basis of risk; that inspections should not be carried out for no reason and that regulators should be able to provide authoritative and accessible advice.

There is also an acknowledgement that it is not possible for inspection bodies to oversee everything service providers do. That is, there is an increasing expectation upon service providers to have robust internal scrutiny and audit arrangements. In addition, self-assessment plays an increasingly important role in external audit arrangements.

The Welsh Language Commissioner has reached the conclusion that it should be ensured that regulations provide for record keeping standards to be specifically applicable to Welsh Ministers.

³² <http://wales.gov.uk/docs/drah/policy/20110331wiseng.pdf>

³³ <http://wales.gov.uk/docs/drah/policy/20110331wiseng.pdf>

³⁴ <http://wales.gov.uk/docs/sdqb/minutes/121026welshlanguagereporten.pdf>

Promotion standards

As a result of carrying out this standards investigation, and on the basis of the evidence received, the Welsh Language Commissioner concludes that Welsh Ministers should promote and facilitate the Welsh language more widely. As noted in section 4, Welsh Ministers confirmed that they do promote and facilitate the use of Welsh more widely, through their Welsh Language Strategy, *A living language: a language for living*. It was also noted that their work in mainstreaming the Welsh language also supplements this work.

The Welsh Language Commissioner has reached the conclusion that it should be ensured that regulations provide for promotion standards to be specifically applicable to Welsh Ministers.

Additional standards that should be specified and made specifically applicable to Welsh Ministers

Section 64(3) Welsh Language (Wales) Measure 2011 notes the following:

If -

- (a) the conclusions of the investigation are (in whole or in part) that standards should be specifically applicable to P, and
- (b) any or all of those standards are not specified by the Welsh Ministers under section 26(1), the standards report must set out the standards that are not specified.

The Welsh Language Commissioner received evidence in relation to the proposed standards (those presented by the Government on 6 January 2014). The evidence indicates that certain standards are absent or brings attention to standards that should be revised. Evidence was received from the public and from organizations. Where numerous comments were made by an organization or the public on a particular Standard, current practices and commitments were investigated as well as any other evidence that was considered valid.

The Welsh Language Commissioner concludes that additional standards to the ones introduced by the Welsh Government on 6 January 2014 should be specified. Welsh Ministers should specify the following standards regarding the classes of standards noted below through regulations:

Service delivery standards

Activity: a range of standards relating to visual materials e.g. publications, notices, signs and forms

Many of the proposed standards in relation to visual materials note the following criteria for defining what is meant by ensuring that the Welsh language is not treated less favourably than the English version:

Font, format, colour, size, clarity and prominence.

The Welsh Language Commissioner has reached the conclusion that ‘quality’ and ‘timing’ should be added to that list. On some occasions the ‘publishing cost’ should also be included as a relevant criterion on the basis that not doing so would cause a regression.

Activity: Publications

Welsh Ministers indicated that they did not do everything listed in standard 43 in Welsh (see Welsh Government’s proposed standards document). On the contrary, there was concern by the public that expectations are reduced in comparison with the commitments of Welsh language schemes. Standard 43 was among those standards that was of concern.

In order to avoid regression, the Welsh Language Commissioner has reached the conclusion that the list of categories should also include the following:

- guidelines
- cards
- codes of practice
- statistical publication
- newsletters
- consultative documents
- annual reports and accounts
- minor legislation and statutory instruments
- maps
- white papers and green papers
- posters
- rules and regulations
- arrangements

Similarly, the criteria for considering what other publications that should be produced in Welsh should not be less than what is contained in the guidelines issued by the Welsh Language Board as to the form and content of Welsh language schemes e.g.

³⁴ <http://wales.gov.uk/docs/dpsppublicationsinspectionpolicystatement/090930inspstatementen.pdf>

- o material aimed at the general public in Wales, should be published bilingually
- o consideration should be given to the size and nature of the audience, the nature of the document and how widely it is proposed to distribute it, timing, the likely demand, importance, value for money
- o the Welsh publication must not be treated less favourably than the English version in terms of font, format, colour, size, clarity, prominence, quality, timing and, if relevant, price.

Concerns were raised about their ability to produce agendas, minutes and other papers for meetings, conferences or seminars that are open to persons immediately. There was no objection to the general principle. The Welsh Language Commissioner believes that this element should be taken out of the list on the proposed standards concerning publications and that that they should be included in a separate standard. If it were to be kept in the current standard (43) there would be a risk that the imposition day set for the standard in its entirety would not allow for making the other publications on the list a duty sooner than that.

Welsh Ministers should specify a particular standard for publications relating to agendas, minutes and other papers for meetings, conferences or seminars that are open to persons.

Activity: Forms

Welsh Ministers should specify the following standards in regulations, in addition to standards 46-49.

Organizations must give persons the right to complete a form in Welsh only, if that is their wish.

A form must be equally as easy to obtain at distribution centres.

Where separate forms are produced, a message must be included on each form stating that it is available in the other language.

Welsh Ministers should add the following considerations when specifying standard 47 in regulations:

- o Forms aimed at the general public in Wales, to be bilingual
- o In all other circumstances the following will be relevant: the size and nature of the audience, the nature of the forms and how widely it is proposed to distribute it, , timing, the likely demand, importance, value for money.

Activity: Signage

Regarding standard 57, the word 'reasonable' has been included. This is strange considering the exercise in question. It is not acceptable to grant a discretion within a standard.

Welsh Ministers should specify the following standard in regulations:

Any new, replacement, or temporary sign erected must contain the information to be conveyed by the sign in Welsh, and the Welsh language text must be positioned so as to be read first.

Activity: Service Delivery via joint-provision arrangements

The Commissioner considered the comments received and further research was undertaken into the nature and range of the functions of the organizations which were the subject of this investigation and any evidence enquired about or received as part of the standards investigation.

Section 7 of the standards investigation questionnaire asked about the way services are delivered and, specifically were asked to supply evidence of partnerships they had in force. No evidence was provided by Welsh Ministers to this question, due to the wide range of partnerships that they have. However, a specific section within their Welsh language scheme contains commitments to consider the Welsh language in partnerships.

The evidence received shows that joint service planning takes place on a strategic and operational level and that it is expected practice in some areas in particular e.g. children and young people; care, health and welfare; education; the economy; community safety and the environment. It is worth noting the following comment from the Sir Paul Williams' recent Commission³⁵ that:

citizens need clarification on how responsibilities are allocated amongst various organizations so that they understand their entitlement to services and how to utilize these services. They also have the right to expect continuous and co-ordinated services which together satisfy their needs, without having to negotiate or arrange such provision independently.

It was reported that service planning across complex functional boundaries can lead to poor services. A service in Welsh is open to such a risk unless specific standards are in place which impose a duty on organizations to implement an effective process when working in collaboration.

Neither the standards in respect of the activities in schedule 9 of the Welsh Language (Wales) Measure 2011, nor the additional activities, impose any duty on organizations to consider the Welsh language in respect of cross-boundary joint planning. The policy

making standards do not allow for addressing this to the expected degree and it specifically does not address the matter of accountability.

Standard(s) should be specified which impose an expectation on persons to plan services within the complex contexts that exist and ensure that the accountability is totally clear in all circumstances. Welsh Ministers will need to ensure clarity regarding the expectations in a situation where one organization has a duty to implement standards but that this is not true of others.

Standard(s) should be specified by Welsh Ministers which imposes a duty upon an organization to set down the action taken to deliver services through the medium of Welsh when those services are delivered via joint-provision arrangements. Welsh Ministers should explain what the arrangements will be when standards are imposed on one person within a cross-organizational partnership but that all the persons will not be subject to those standards e.g. promotion standards.

Welsh Ministers should specify the following standards in regulations:

An organization must plan to deliver all services for which it is accountable so that they are, when operational, consistent with the standards to which it is required to comply with.

When an organization leads a partnership or is part of another arrangement, whether strategic or financial, it will ensure that its linguistic conduct is consistent with the five standards to which it is required to comply with.

When an organization joins a partnership or other arrangement which is led by another body, the organization's input to the partnership or arrangement will comply with the standards to which it is required to comply with, and it will encourage other parties to comply.

When an organization joins or forms a partnership or arrangement of any kind, it will ask the prospective partners for the standards to which it is required to comply with, and ensure that they operate in accordance with the highest requirements.

In commencing any collaboration arrangements, an organization must carry out an assessment in order to identify and agree the action to be taken in order to ensure that the collaboration itself does not lead to a reduction in the nature of the Welsh language service persons can expect to receive.

Activity: Personal meetings

There is evidence from the public expressing concern that the proposed standards are limited to the extent that they are concerned only with elements of administrative activity at the expense of qualitative aspects.

In relation to personal meetings, Welsh Ministers should set a standard that recognizes circumstances in which it is not possible to hold a personal meeting with an individual other than in the individual's language. The standard should note that it must be planned to meet the needs of the individual without delay. The meaning of circumstances will be where the use of a mediator or translation is neither appropriate nor moral as this would detrimentally effect the welfare of that individual.

Welsh Ministers should specify the following standard in regulations:

When planning service delivery for persons, the service must be provided entirely through the medium of Welsh, without the use of a mediator, in circumstances where not doing so would detrimentally effect the welfare of the person.

Activity: Meetings (personal, public and public events) – general matters

Welsh Ministers should specify the following standard in regulations:

The organization must greet and welcome those attending meetings verbally in Welsh.

Activity: Courses

Evidence was received from Welsh Ministers that raised doubts about the definition of the standard concerned. Evidence received from the public emphasised the importance of maintaining social activities and opportunities for young people to socialize in the Welsh language.

The Welsh Language Commissioner would like to know to what extent does the proposed standards relating to courses include social activities, specifically youth clubs, within the scope of the proposed standard. If the standard does not include social activities within the scope of the standard, then the Welsh Language Commissioner has reached the conclusion that Welsh Ministers should specify an additional standard in relation to social activities. A standard of this nature should ensure that there is a duty on the organization to assess the need for delivering social activities in Welsh and to meet that need as required.

³⁵ <http://wales.gov.uk/docs/dpsp/publications/psgd/140120-psgd-full-report-env2.pdf>

Activity: Publicity and advertising - response methods

Welsh Ministers should specify a standard in relation to response methods for publicity campaigns in regulations on the basis that not doing so would lead to a regression:

Response methods for publicity campaigns that ensure persons are able to use the language.

Activity: Publicity and advertising - public surveys

Welsh Ministers should specify a standard in relation to conducting public surveys in Wales in regulations on the basis that not doing so would cause a regression:

Conducting public surveys in Wales in Welsh.

Activity: Awarding contracts

In order to highlight the duty which is implicit in the Welsh language (Wales) Measure 2011, Welsh Ministers should specify the following standard in relation to awarding contracts:

So that an agent or contractors carry out and deliver services in Welsh to the public on its behalf and under its supervision, an organization must ensure that the requirements upon it to comply with relevant standards are noted to contractors when making contractual arrangements and that the operational requirements of the contract are the same as the requirements upon the organization to comply with relevant standards, to the degree that they are applicable to the contract in question.

Activity: Advisory Panels

The Welsh Language Commissioner has reached the conclusion that a particular standard should be specified for publications relating to agendas, minutes and other papers for meetings, conferences or seminars that are open to persons. In the case of Welsh Ministers, the standards should also refer to advisory panels.

Activity: Public Inquiries and hearings

Unless Welsh Ministers are of the opinion that standards 30-33 gives a citizen the opportunity to use Welsh in relation to public inquiries and hearings, a particular standard for doing so should be specified in regulations.

Activity: Courts and Tribunals

Although it is possible to argue that standards 26-29 addresses partly the activities of Tribunals in Wales, it is also appropriate for Welsh Ministers to consider the relevance of Part III, Welsh Language Act 1993 (the Act) and specify standards which offers a consistent experience to an individual who is participating in proceedings held in a Tribunal, in the same way as if those proceedings were undertaken under the terms of Part III of the Act (22-24).

Activity: Raising awareness of Welsh language services that are available

The following requirements should be attached to standards 74-76 as that would strengthen the concept of the active offer. The Welsh Language Commissioner has reached the conclusion that the standards in question be revised on the basis of the evidence received by the public. The evidence pressed for Welsh language services being offered proactively. Some of the points set out below are based on the content of Welsh language schemes or duty in section 12 of the Welsh Language Act 1993.

The organization must:

- declare the format in which it will give publicity to the Welsh language services supplied by the organization.
- state publicly what the arrangements are for overseeing, encouraging, enabling, ○ facilitating or supporting the use of the Welsh services provided
- give a public undertaking that it will deliver service of equal standard in the Welsh ○ language as in the English language
- highlight the complaints procedure in respect of Welsh language standards and provide the name of a contact
- describe the actions the organization will take to seek feedback regarding experiences of Welsh medium service
- make it clear to persons, in written form and verbally, that Welsh services are available and that the responsibility for offering language choice lies with the provider every time persons come into contact with the organization.

Policy Making Standards

Activity: Research

Welsh Ministers should specify a particular standard in regulations for their research functions. This standards should reflect current commitments in the Welsh language scheme.

Activity: Legislation

Welsh Ministers should specify a particular standard in regulations for their legislative functions and legislation made in Wales, whilst also considering any legislation made jointly or concurrently with the UK Government.

Operational Standards

In addition to what is contained in the proposed standards, Welsh Ministers should specify operational standards which encompass and reflect the linguistic context found within all offices of the organization in question, ensuring that there is no reduction in benefit to Welsh language users in moving from language schemes to standards. Welsh Ministers should address the following issues with a view to specifying standards. The issues below reflects the range of evidence collected when analysing the content of their Welsh language schemes.

- internal administration: an official language policy of the workplace - with a range of policy scales associated with that e.g. Welsh only, Welsh as the main language, both languages being official languages;
- language commitments when dealing with schools ;
a policy on the language medium when dealing with elected members, by delivering and administrating in accordance with the language choice of that member;
- Vocational training in accordance with the organization's official language policy; guidelines noting the practical, operational expectations as an organization carries out internal administration (in terms of language); a scheme and targets in order to promote more opportunities to use Welsh at work ;
- schemes to encourage and support staff to use the Welsh language and to foster a positive culture towards internal use of the Welsh language.

Welsh Ministers should specify the following standard in regulations:

The organization must provide a Welsh domain on the intranet which offers support materials to facilitate and support the use of the Welsh Language.

Promotion Standards

The Welsh Language Commissioner has reached the conclusion that promotion standard 124, which imposes a duty upon an organization to prepare and publish a strategy should also impose a duty to link that strategy with the organization's strategic and corporate schemes.

The Welsh Language Commissioner concludes that Welsh Ministers' promotion strategy must give attention to the following areas (without restriction) as these themes are included in a statutory national strategy³⁶ :

- language transfer within families;
- children and young people;
- education and skills;
- promoting the Welsh language within communities;
- working with other sectors or bodies;
- infrastructure and research.

Record keeping standards

In respect of standard 126, the Welsh Language Commissioner has reached the conclusion that the standard should be specified in a form that is consistent with the other record keeping standards. Considering that Welsh Ministers may specify standards in respect of additional activities, a list of this kind should be avoided. The standard, as presented in the Welsh Government document, has omitted public events from the list.

In accordance with section 44 of the Measure, a compliance notice is a notice given to an organization by the Commissioner making it a requirement for them to comply with the standard or standards. It does not necessarily follow that it will be a requirement for an organization to comply with every standard made specifically applicable to them in regulations. Considering that, Welsh Ministers should alter the wording of the record keeping standards in order to reflect the fact that a compliance notice is the tool that requires an organization to comply with a standard or standards.

Welsh Ministers should specify record keeping standards in respect of the following in regulations:

- A record indicating that the duties to comply with standards that are in force and the associated arrangements to be implemented are noted at the organization's highest level and that they carry the organization's full authority when implemented.
- A record of those who bear the responsibility for co-ordinating all operational aspects of the organization's compliance with standards.
- A record of the qualifications of translators carrying out the work on behalf of the organization.

8. Next steps

In preparing this standards report, the Welsh Language Commissioner has considered all the responses submitted to the standards investigation. This report will be submitted to the following in accordance with section 64(4) Welsh Language (Wales) Measure 2011:

- all relevant persons;
- Advisory Panel to the Welsh Language Commissioner;
- all persons who participated in the Commissioner's consultation in accordance with section 63;
- Welsh Ministers.

Alongside the standards investigations of the Welsh Language Commissioner, Welsh Ministers are expected to carry out regulatory impact assessments in respect of relevant secondary legislation they intend to create, using their own secondary legislation powers.

The Government of Wales Act 2006 notes that a Regulatory Impact Assessment is as follows:

‘A regulatory impact assessment is an assessment as to the likely costs and benefits of complying with relevant Welsh subordinate legislation’³⁷

In this respect, a Regulatory Impact Assessment may be considered:

- a process to help Welsh Ministers to consider the effect of the proposed regulation on the interests of individuals, groups, organizations etc.
- a means of enabling Welsh Ministers to weigh up the costs and benefits of all the options available to them before implementing a policy; and
- a means of submitting the relevant evidence on the positive and negative effects of such interventions for the purposes of scrutinizing that evidence.³⁸

Welsh Ministers will be expected to consider the evidence they collected for the purposes of the regulatory impact assessment, alongside the Welsh Language Commissioner's conclusions in a standards report in deciding whether or not to exercise the powers granted to them under Part 4 Welsh Language (Wales) Measure 2011.

The Rt Hon. Carwyn Jones AM, First Minister of Wales confirmed in a written statement on 21 October 2013 that it is currently foreseen that the regulations will come into force in November 2014 following a debate and vote on approving the regulations at a Plenary Meeting of the National Assembly.

³⁶ <http://wales.gov.uk/docs/dcells/publications/122902wls201217en.pdf>

Appendix A - List of the respondents to the standards investigation

Below is a list of the relevant person(s) in respect of which a standards investigation was carried out, the Advisory Panel, together with the members of the public who were willing for us to publish their comments.

Relevant persons

Welsh Ministers

Members of the Public

Enfys Jones
Amelia Davies
Delyth Hughes
Harri Bryn Jones
Elan Grug Muse
Huw Thomas
Rhodri Jones
T Roberts
William Lewis
Thomas Howard Thomas
Menna Jones
Bethan Jones
Wyn Hobson
Elwyn Vaughan
Nia Besley
Nic Daniels
Tryfan Williams
Jina Gwyrfai
Geraint Jones
Clive James
Sioned Williams
Allan Wynne Jones
Iago ap Steffan
Marc Jones
Liza Jones
Gareth Thomas
Michael Bacigalupo

Lloyd Evans
Glenn Wall
Shon Wyn Hughes
Gaynor Hughes
Mathew Rees
Ffion Hughes
Robert Williams
J Protic
Ellen Andrew
Ivoreen Williams
Gwyneth Owen
Dewi Rhys-Jones
Mr K Jones
Steve Evans
Yvonne Balakrishnan
Siwan Hywel
Ben Screen
Mared Ifan
Leighton Adams
Kathryn Tovey
Kelly Young
Michael Weedall
Beverley Lucas
Rhian Davies
Alun Pugh
Ffion Rhisiart
Lowri Jones
Ann Joyner
Ffion Rees
Bethan Shone
Carys Tudor
Huw Roberts
Frances Jones
Sarah Gwilym
Hari Powell
Linda James
Nia Wyn Jones
Einir Sion
Catrin Reynolds
Sioned Thomas

Nei Wyn Jones
Alun Thomas
Angela Marshall
Gwyn Morgan
Gwenda Roberts
Heledd Williams
Dewi Snelson
Mari Fflur
Rhidian Evans
Bethan Lewis
Iorwen Jones
Andrew Hawke
Gill Stephen
P Denning
Trefor Jones-Morris
Bryn Davies
William Schleising
Ifor Gruffydd
Julia Owens
Osian Rhys
Rhianon Hywel Jones
Ellen Roberts
Mererid Haf Roberts
Aaron
Manon Prysor Huws
Sian Howys
Sean Driscoll
Elwyn Hughes
Gwawr Davalan
Anthony Barry
Gareth Popkins
Edward Thomas
Mari Wynne Jones
Gareth Dobson
Paul Owen
Amanda Jaine Evans
Teresa Davies
Elin Wyn
Adam Jones
Powys Thomas

Angharad Rhys
Iago John
Mark A. Strong
Alan Baker
Reverend Emyr Wyn Thomas
Lydia Jones
Gregory Snelgrove
Dafydd Trystan
Hywel Wyn Jones
Alfred S Nathan
Eirian Conlon
Eryl Jones
Rhys Stephen

Organizations/Movements

The Association of Welsh Translators and Interpreters (Cymdeithas Cyfieithwyr Cymru)
National Union of Teachers Wales (UCAC)
Consumer Futures (Dyfodol Defnyddwyr)
The Welsh Language Society (Cymdeithas yr Iaith Gymraeg)
Dyfodol i'r Iaith
Menter Iaith Maelor
Menter Iaith Maldwyn
Menter Iaith Sir y Fflint
Mentrau Iaith Cymru
Merched y Wawr
Celebrating Our Language (Mudiadau Dathlu'r Gymraeg)
Plaid Cymru Assembly Group
Bangor University

Advisory Panel to the Welsh Language Commissioner

Dr Ian Rees
Gareth Jones
Professor Gwynedd Parry