
EXPLANATORY NOTE

(This note is not part of the Regulations)

The Welsh Language (Wales) Measure 2011 ([nawm 1](#)) (“the 2011 Measure”) makes provision for the specification of standards of conduct in relation to the Welsh language (“standards”). These replace the system of Welsh language schemes provided for by the Welsh Language Act 1993 ([c. 38](#)).

Section 26 of the 2011 Measure enables the Welsh Ministers to specify standards, and section 39 enables them to provide that a standard is specifically applicable to a person by authorising the Welsh Language Commissioner (“the Commissioner”) to give a notice to that person requiring compliance with the standard (a “compliance notice”).

These Regulations specify standards in relation to the conduct of Local Health Boards, National Health Service Trusts in Wales, Community Health Councils and the Board of Community Health Councils in Wales (which are referred to in the Regulations as “bodies”).

The Regulations also authorise (subject to certain exceptions set out in regulation 3(2)) the Commissioner to give a compliance notice to those bodies, in relation to standards specified by the Regulations. In relation to Social Care Wales the Regulations authorise the Commissioner to give that body a compliance notice in relation to standards specified in the Welsh Language Standards (No. 4) Regulations 2016 ([S.I. 2016/405 \(W. 125\)](#)).

In accordance with section 44 of the 2011 Measure, the Commissioner may (by way of a compliance notice) require a body to comply with one or more standards that are specifically applicable to it. To reflect that, the standards specified by the Regulations are expressed in the second person narrative, meaning that they are in “you must” form (where “you” means the relevant body in each case).

Using the flexibility provided by section 44 of the 2011 Measure the Commissioner may (if it is reasonable and proportionate, and the Commissioner wishes to do so) require a body to comply with one standard in some circumstances and another standard in other circumstances. For example, if a standard is specifically applicable to a body the Commissioner may require the body to comply with the standard in some circumstances but not others, or require it to comply with the standard only in some areas. Similarly if two or more standards relate to a specific conduct (for example, standards 8 to 10 in relation to answering telephone calls), the Commissioner may (by way of a compliance notice) require a body to comply with one of those standards only, or with different standards at different times, in different circumstances, or in different areas; as is appropriate for the body. The Commissioner is not, therefore, obliged to require every body to comply with every standard.

In accordance with section 46 of the 2011 Measure, the compliance notice given to a body must state the imposition day, or imposition days; meaning the day or days upon which the body becomes required to comply with a standard (or comply with a standard in a specific way). Using the flexibility provided for by section 46, the Commissioner may set an early imposition day for a body to comply with a standard (provided this is at least 6 months after the date on which the body was given the related compliance notice), or set an imposition day further in the future (for example in relation to more challenging standards).

The Regulations require a body to comply with the standards—

- (a) whether it is carrying out the activity or providing the service; or
- (b) whether it is carried out or it is provided on its behalf by a third party under arrangements made between them.

Status: This is the original version (as it was originally made).

However, in the case of an individual attending a clinical consultation or a case conference, or an individual who is an in-patient, it is the standards that apply to the third party carrying out the activity or providing the service on behalf of the body that apply. This means, for example, that if Cardiff and the Vale University Health Board carries out or provides a case conference on behalf of Betsi Cadwaladr University Health Board, then Cardiff and the Vale University Health Board's standards would apply, not Betsi Cadwaladr University Health Board's standards. It also means that if an individual is an in-patient at Cardiff and the Vale University Health Board's hospital on behalf of Betsi Cadwaladr University Health Board, then Cardiff and the Vale University Health Board's standards would apply, not Betsi Cadwaladr University Health Board's standards.

Where the third party is a primary care provider, or where the service provided or the activity carried out on the body's behalf is provided or carried out in a private hospital or private clinic in Wales, a private ward in a hospital in Wales or a hospital or clinic outside of Wales, then no standards apply. No standards apply when the service provided or the activity carried out on the body's behalf is a care home service.

Where a standard specified in these Regulations requires written material to be displayed or provided in Welsh, or for a service to be provided in Welsh, this does not mean that the material must be displayed or provided in Welsh only, or that the service must only be provided in Welsh (unless that is specifically stated).

Schedule 1 to the Regulations specifies **service delivery standards**. Section 28 of the 2011 Measure provides that a "service delivery standard" means a standard that relates to a service delivery activity, and is intended to promote or facilitate the use of the Welsh language, or to work towards ensuring that the Welsh language is treated no less favourably than the English language when that activity is carried out. A "service delivery activity" means a person delivering services to another person, or dealing with any other person in connection with delivering services to that other person, or to a third person.

Schedule 2 to the Regulations specifies **policy making standards**. Section 29 of the 2011 Measure provides that a "policy making standard" means a standard that relates to a policy decision, and is intended to secure, or to contribute to securing, that the person making the policy decision considers one or more of the following—

- (a) what effects, if any, (whether positive or adverse) the policy decision would have on opportunities for persons to use the Welsh language, or on treating the Welsh language no less favourably than the English language;
- (b) how the decision could be made so that the decision has positive effects, or increased positive effects, on opportunities for persons to use the Welsh language, or on treating the Welsh language no less favourably than the English language;
- (c) how the decision could be made so that the decision does not have adverse effects, or has decreased adverse effects, on opportunities for other persons to use the Welsh language, or on treating the Welsh language no less favourably than the English language.

Schedule 3 to the Regulations specifies **operational standards**. Section 30 of the 2011 Measure provides that an "operational standard" means a standard that relates to the functions, or a business or other undertaking ("relevant activities") of a person ("A"), that is intended to promote or facilitate the use of the Welsh language—

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

Schedule 4 to the Regulations specifies **record keeping standards**. Section 32 of the 2011 Measure provides that a "record keeping standard" is a standard relating to the keeping of

records about other specified standards, records about complaints concerning compliance with other specified standards, or records about other complaints concerning the Welsh language.

Schedule 5 to the Regulations specifies **standards that deal with supplementary matters**. These are supplementary to the matters dealt with in Schedules 1 to 4.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Language Unit, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.