

**Welsh Language Standards**

**Background**

Welsh Language Standards were established by the Welsh Language (Wales) Measure 2011, the legislation which established the official status of the Welsh language and created the office of the Welsh Language Commissioner.

 Welsh Language Standards provide the framework for ensuring that the rights to use Welsh are in place for different groups, and they were established with the following aims:

* Improve the services Welsh speakers can expect to receive from organisations in Wales
* Increase the usage of Welsh language services
* Outline to organisations what they need to do in terms of the Welsh language
* Ensure that there is consistency in the duties placed on bodies in the same sectors

**Categories of Standards**

There are four main categories of standards which relate to the services and operations of organisations:

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| **Service Delivery** | **Policy Making** |
| Making sure that Welsh is treated equally with English and to promote or facilitate the use of Welsh | Considering what effect policy decisions will have on the ability for people to use Welsh |
| **Operational Standards** | **Record Keeping** |
| Increasing the opportunities for staff to work through the medium of Welsh | Keeping records on the other categories of standards and of any language complaints to regulate compliance with standards |

There is also another group of various standards:

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| **Supplementary Standards** |
| Includes the production of an annual report, monitoring arrangements and providing information to the Commissioner |

 **Welsh Language Standards: The Process**

Welsh language standards are imposed via ‘compliance notices’ which are issued by the Welsh Language Commissioner under section 44 of the WLWM – but who drafts them, how are they drafted and why do they apply?

The chart below outlines the basic process, with each step explained in more detail throughout the briefing.

**Welsh Assembly**
Autumn/Winter 2016

The Welsh Assembly is likely to approve the Regulations in late 2016 and allow the Commissioner to impose standards.

**Welsh Language Commissioner**
Late 2016/Early 2017

The Welsh Language Commissioner will draft and issue compliance notices based on evidence.

**Consultation**
May – August 2015

The Welsh Language Commissioner will use the results of her consultation to decide the standards that will apply.

**Regulations**
Summer/Autumn 2016

The Welsh Language Unit will draft a menu from which the Commissioner can pick standards for the sector.

**Compliance Notices**
Late 2016/Early 2017

Each individual organisation will be issued its own compliance notice outlining standards. The Commissioner will also issue another consultation to provide an opportunity to contest standards imposed.

**Consultation**

Compliance notices cannot be issued on an organisation until that organisation has been consulted. Consultations and impact assessments have already been carried out by the sector; this period of consultation took place between 26 May 2015 and 18 August 2015 which resulted in the release of a report in response to those consultations (the report is available here: <http://ow.ly/CjjJ3023cfL>). Community Housing Cymru was also included in that process which resulted in a separate report (available here: <http://ow.ly/mCLE3023cqY>).

The consultations, impact assessments and the resulting reports will all be used by the Commissioner to choose the standards that will apply to individual organisations.

**Step 1: The Welsh Language Unit**

The process starts with the Welsh Language Unit, a department of the Welsh Government, which drafts a document known as Regulations. These Regulations consist of lists of potential standards under all of the categories mentioned above and, for each potential standard given, there will be a number of options. For example, in The Welsh Language Standards (No. 1) Regulations (for Local Authorities), there are 4 standards that relate to how an organisation should answer the phone. Not all of those standards will apply. It is the role of the Commissioner to decide which one of those standards relating to answering the phone is reasonable for an individual organisation to implement. So while Regulations may list up to 200 standards, bear in mind that a great deal of those standards will not apply to you.

In preparation of drafting the Regulations specifically for Social Housing Providers, the Welsh Language Unit is undertaking a series of meetings with housing associations in order to better understand the work that different organisations do. This is to ensure that the options they provide in the Regulations are flexible – one size won’t fit all in this sector.

**Step 2: The Welsh Assembly**

Once the Welsh Language Unit has completed its work, the Regulations are put before the National Assembly for Wales. At this stage, AMs will debate the Regulations’ strengths/weaknesses, appropriateness, intended purposes, etc. before voting in favour of them or against them.

In past cases Regulations have, in all but one case, progressed through the Assembly with ease and with unanimous support. All of the parties in the current Assembly committed to strong Welsh language policies and to ensuring that Welsh is treated equally with English. In his maiden speech as First Minister of the Fifth Assembly, Carwyn Jones has made strengthening the WLWM one of

the early commitments of his government, demonstrating the high level of support for Welsh language policies at Cardiff Bay.

Given the work of the Welsh Language Unit and the strengthening commitments to the language in the Welsh Assembly, it is very likely that the Regulations for Social Housing Providers will be approved by the Assembly. The passing of Regulations enables the Welsh Language Commissioner to begin her work in producing compliance notices.

**Step 3: The Welsh Language Commissioner**

Meri Huws was appointed as the first Welsh Language Commissioner in October 2011 whose chief objectives are to ensure that Welsh is treated no less favourably than English in Wales and to ensure that people in Wales are able to live their lives through the medium of Welsh. Her current work is to deliver on these objectives via Welsh Language Standards.

Regulations that pass through the Assembly are treated by the Commissioner like a menu. The Welsh Language Unit designed the menu and the Commissioner must use her evidence (from the consultation responses) to choose appropriate standards for each individual organisation from that menu. She cannot stray from that menu and her choices must be justifiable – i.e. the evidence that the Commissioner collected must support her choices.

**Compliance Notices**

Once the Commissioner has made her choices, she will make available a clear list of the applicable standards for individual organisations. These are known as compliance notices.

A compliance notice gives notice to an organisation to comply with the standards that they have been given. Organisations that are given compliance notices are also given a window of time in which to work to meet the new standards. This window is often around 12-18 months, though this may be extended where it can be proven that more time to meet the standards would be necessary.

Often, compliance notices will also require those who are subject to standards to produce strategies or plans setting out how they propose to comply with the standards.

Compliance notices will also come with a second consultation, providing organisations with the opportunity to express any concerns regarding their standards before those standards become statutory. This is the final opportunity for organisations to try to amend their standards before having to use the appeals process which may result in appeals being heard by the Welsh Language Tribunal.

**Welsh Language Tribunal**

Under section 54 of the WLWM, persons can challenge a compliance notice on the basis that the requirement contained in the notice for them to comply with a standard is unreasonable or disproportionate. The Commissioner’s decision following such a challenge may be appealed to the Welsh Language Tribunal, which was established in 2015 under section 120 of the Measure.

The Welsh Language Tribunal is an independent, statutory body that deals with the following issues:

* Challenging Standards imposed by the Welsh Language Commissioner
* Appealing against the outcome of an investigation by the Commissioner
* Reviewing a decision by the Commissioner not to investigate a complaint

 **Enforcement**

Part 5 of the WLWM sets out the processes to be followed by the Commissioner to investigate failure to comply with standards. Organisations failing to comply can be required, by the Commissioner, to:

* Prepare an action plan to prevent continued or repeated failure to comply;
* Take steps to prevent continued or repeated failure to comply;
* Publicise their failure to comply;
* Pay a civil penalty (currently to a maximum of £5,000).

In some cases, the Commissioner may decide to take no action, or to make recommendations or give advice, or enter into a ‘settlement agreement’ with the person involved. For the latter, the Commissioner has to agree not to take formal enforcement action in return for a commitment by the person involved to comply with the standard in future.

All of the enforcement actions (apart from publication by the Commissioner of an organisation’s failure to comply), and settlement agreements, can be enforced by the court.

The Commissioner’s decisions following investigations into non-compliance may be appealed to, or reviewed by, the Welsh Language Tribunal.

 **Preparing for Standards**

Community Housing Cymru is undertaking a large body of work that will centre on the introduction of Welsh Language Standards for both the sector and for CHC itself. In June 2016, CHC confirmed to the Minister for Lifelong Learning and the Welsh Language, Alun Davies, that it

will voluntarily accept to adopt statutory Welsh Language Standards in line with its members which will result in CHC receiving a compliance notice at the same time as housing associations.

The key priority for CHC in the move to standards is to ensure that they are reasonable and are proportional. To achieve this, CHC appointed a Research and Welsh Language Officer, Liam Townsend, whose work includes working with CHC’s members, the Welsh Language Unit and the Welsh Language Commissioner to ensure that strong and positive links and relationships can develop between those parties so that ample information and expressions of concern can be shared. CHC has already met with the Welsh Language Unit on several occasions to share the sector’s concerns which resulted in the Welsh Language Unit undertaking a large body of work to meet with housing associations to better understand their work before drafting Regulations. CHC will also meet with the Minister responsible for the Welsh Language, Alun Davies, and the Welsh Language Commissioner before the Regulations are put to the National Assembly for Wales.

In January 2016, staff at CHC participated in a week of training that focused on promoting bilingualism and Welsh language awareness as part of the *Dwy Iaith dan Un To* – Two Languages under One Roof project. The purpose of *Dwy Iaith dan Un To* (DIUT) is to learn more about internal attitudes and usage of Welsh, outlining the commitments and legal obligations concerning Welsh and promoting a bilingual workforce. This training has resulted in heightened awareness of CHC’s Welsh Language Scheme, an uptake in the number of staff attending CHC-provided Welsh lessons and a more bilingual workforce. The success of this training will be rolled out to the sector via training sessions that will meet the same objectives: to raise language awareness, outline obligations and promote bilingualism.

Information gathered from DIUT will also be used as part of a research project that seeks to promote the work of housing associations in supporting the Welsh language by focusing on the sustainability of Welsh language communities. The first part of this project will take place during the 2016 National Eisteddfod in Abergavenny where CHC will survey members of the public about housing and the Welsh language. The findings of this research will be included in a report that will highlight good practice in the sector and demonstrate the strong links between housing, communities and Welsh language.

We will continue to keep members informed of any changes and progression of Welsh Language Standards – please ensure that you have joined the Welsh Language Standards group on Yammer to get the latest developments. If you have any queries on the content of this briefing in the meantime, please contact Liam Townsend, Research and Welsh Language Officer on 029 2067 4822 or Liam-Townsend@chcymru.org.uk.

 **Community Housing Cymru
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