



Comisiynydd y  
Gymraeg  
Welsh Language  
Commissioner

National Assembly for Wales / Cynulliad Cenedlaethol Cymru  
[Health and Social Care Committee / Y Pwyllgor Iechyd a Gofal  
Cymdeithasol](#)

[Regulation and Inspection of Social Care \(Wales\) Bill / Bil  
Rheoleiddio ac Arolygu Gofal Cymdeithasol \(Cymru\)](#)

Evidence from Welsh Language Commissioner - RISC 24 /  
Tystiolaeth gan Gomisiynydd y Gymraeg - RISC 24

21/04/2015

Dear Members,

Thank you for the opportunity to present evidence to the Committee on the Regulation and Inspection of Social Care (Wales) Bill.

### Context

The principal aim of the Commissioner is to promote and facilitate the use of the Welsh language. This entails raising awareness of the official status of Welsh in Wales and imposing standards on organizations. This, in turn, will lead to the establishment of rights for Welsh speakers.

Two principles 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 the Welsh language if they choose to do so.

In due course, secondary legislation will introduce new powers allowing the setting and imposing of standards on organizations. Until then, the Commissioner will continue to inspect statutory Welsh language schemes through the powers inherited under the Welsh Language Act 1993.

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Croesewir gohebiaeth yn y Gymraeg a'r Saesneg

Correspondence welcomed in Welsh and English



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The role of the Commissioner was created by the Welsh Language (Wales) Measure 2011. The Commissioner may investigate failure to implement a language scheme, interference with the freedom to use Welsh in Wales and, in future, complaints regarding the failure of organizations to meet standards.

One of the Commissioner's priorities is to scrutinise policy developments with regard to the Welsh language. The Commissioner's main role is to provide comments in accordance with this remit, acting as an independent advocate on behalf of Welsh speakers in Wales. This approach is adopted to avoid any potential compromise of the Commissioner's regulatory functions and should the Commissioner wish to formally review the performance of individual bodies or the Welsh Government in accordance with the provisions of the Measure.

### **Regulation and Inspection of Social Care (Wales) Bill**

The Welsh Language Commissioner has stressed on several occasions the importance of considering the Welsh language as a cross-cutting issue within broader policy contexts or areas. This was the case with the School Standards and Organisation (Wales) Act 2013, which set clear and unambiguous references to the Welsh language within the Act. The new Planning Bill also imposes language duties on local authorities and the Future Generations Bill places duties on certain public bodies in relation to the Welsh language. Section 14 of the Social Services and Well-being Act (Wales) 2014 also makes provision for the Welsh language by imposing requirements on local authorities and health boards to assess the steps to be taken in order to be able to provide the required range and level of Welsh language care services. In the same way, therefore, we wish to highlight the importance of including clear and unambiguous references to the Welsh language within the Regulation and Inspection of Social Care (Wales) Bill.

In our response to the Welsh Government's consultation on 'The Future of Regulation and Inspection of Care and Support in Wales' in December 2013 we noted the following points:

- **Citizen well-being and offering services in Welsh** : *'...one of your objectives will be to make a positive difference to the well-being outcomes for citizens receiving care and support. In order to effectively prioritise the safety of all citizens, we suggest that it should be ensured that it is possible for individuals to use their chosen language, without having to request it.'*
- **Independent scrutiny of services and reporting on the experience of service users through outcomes**: *'...no inspection practices, especially scrutiny of users' experiences, should exclude the collection of information on the experiences of services in Welsh'.*
- **Reconstitute the Care Council for Wales**: *'...this work should not lead to the erosion of the language commitments included in the Care Council's existing Welsh Language Scheme and opportunities to strengthen it should be sought.'*



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I welcome the fact that the assessment of the Bill's impact on the Welsh language states that the Bill should *'emphasise the need for further promotion and encouragement of the 'Active Offer,' as outlined within the Welsh Government's 'More than Just Words...' strategic framework'*. The impact assessment document also states that the Bill will *'strengthen and focus the efforts that both of the regulators, the Care Council and Care and Social Services Inspectorate, are already undertaking to help deliver these goals [greater emphasis on service providers to deliver a more user focused service for the individual, including greater emphasis on their choice to speak Welsh should they wish to do so]... that therefore will require a new inspection regime to monitor and evaluate that the service providers are delivering services that meet the outcomes agreed for the user and are of a high quality.'*

The section 'Welsh Language Impacts' within the assessment document states that the Bill will *'help focus the drive forward to deliver further improvements or provide an example of best practice for others to aim to emulate and enhance or strengthen the delivery of care services through the medium of the Welsh language.'* The assessment document also suggests that the annual reports prepared by service providers will *'help illustrate the wider picture of services available across Wales, including the identification of any areas where greater assistance might be required to meet any deficiencies (i.e. the need for more Welsh speaking staff in South-east Wales).'* Furthermore, the impact assessment suggests that the Bill will mean that the service regulator and the workforce regulator will have the data to *'help develop a clearer nationwide Picture of Welsh language Service provision and workforce that would... help potential Service users to find these services if they want them.'*

Despite the findings of the Welsh language impact assessment, there are no clear and unambiguous references to the Welsh language within this Bill. The only reference to any matter relating to the Welsh language within the Bill is the following reference found in Section 40. This reference refers to the fact that service providers should include information in their annual reports on how 'standards' duties under the Welsh Language Measure (2011) have affected the exercise of their functions:

- 40 (2) The annual report must include details of—
- (a) how the Welsh Ministers have exercised those functions during the year,
  - (b) the extent to which they have, in the exercise of those functions—
    - (i) achieved the objectives referred to in section 4, and
    - (ii) had regard to the most recent statement of policy published under section 39, and
  - (c) how the duties mentioned in subsection (4) affected the exercise of those functions during the year.
- (3) The annual report may include any other information the Welsh Ministers think appropriate.
- (4) The duties referred to in subsection (2)(c) are the Welsh Ministers' duties under—
- (a) section 149 of the Equality Act 2010 (c.15) (public sector equality duty),
  - (b) section 1(1) of the Rights of Children and Young Persons (Wales) Measure 2011 (nawm 2) (duty to have due regard to the United Nations Convention on the Rights of the Child), and



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(c) Part 4 of the Welsh Language (Wales) Measure 2011 (nawm 1) (standards).

Without obvious or specific references to the Welsh language and services through the medium of Welsh within the Bill, it is very difficult to see how the desired outcomes listed in the Welsh language impact assessment document could be achieved. It is also surprising to see that the assessment document refers, yet again, to the need for potential service users to '*identify those [Welsh medium] services that could benefit them*', rather than the emphasis being on the need for the provider to offer those services in Welsh. The onus on the user to '*identify those services*' for him or herself is diametrically opposed to the concept of the 'Active Offer', which forms the basis for the Government's service delivery standards and is also one of the leading principles of 'More than Words...'

It is likely that the duties imposed under the Welsh Language Measure will be general standards, and that no bespoke standards will be placed on the social care sector in particular. If the Bill does not provide clear guidance to providers and regulators on the services that should be available in Welsh, there is a danger that this could significantly impact on the availability and quality of Welsh language services within the sector.

On behalf of social care service users in Wales, I ask that you consider my comments above.

Yours sincerely,

**Meri Huws**  
Welsh Language Commissioner