

Number: WG30016



Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation Document

Welsh Language Standards (Water and Sewerage Undertakers) Regulations

Date of issue: 25 November 2016
Action required: Responses by 17 February 2017

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Welsh Language Standards (Water and Sewerage Undertakers) Regulations

Overview

This consultation seeks views on the draft Regulations to specify Welsh Language Standards for water and sewerage undertakers for the whole or any part of Wales. These Regulations will enable the Welsh Language Commissioner to place duties on them in relation to the Welsh language.

We are holding this consultation to ensure that everyone with an interest has ample opportunity to have their say on this set of draft standards. The companies subject to this set of standards were included in the Welsh Language Commissioner's third standards investigation which was held between 26 May and 18 August 2015. The Commissioner's findings, which were presented to Welsh Ministers in the form of a Standards Report, were based on the comments the Commissioner received during that investigation. Having given due regard to the Commissioner's report we now want members of the public, the bodies that will be subject to the standards, and anyone else with an interest to have their say on the Regulations which will specify the standards in order to inform their development.

How to respond

Responses to this consultation should be e-mailed/posted to the address below to arrive by **17 February 2017** at the latest.

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

Welsh Language Commissioner's Standards Report – Section 64 Welsh Language (Wales) Measure 2011: Schedule 8: Qualifying persons who provide the public with post offices and water and sewerage undertakers (Welsh Language Commissioner, 2015)

Welsh Language (Wales) Measure 2011

The consultation documents can be accessed from the Welsh Government's website at gov.wales/consultations

Contact details

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Data protection**How the views and information you give us will be used**

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

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Ministerial foreword

The Welsh Government is committed to strengthening the provision of Welsh language services to the people of Wales. The next step in this process is bringing the companies that provide the public with water and sewerage services under the Welsh language standards system.

My intention is that these standards reflect the relationship between water and sewerage undertakers and their customers, and focus on ensuring that the services that customers use the most are available to them in Welsh. We want to see the standards contributing towards the Government's policy objective of increasing the use of Welsh, and therefore we want customers to be able to use the language when dealing with these companies. We are eager to see these companies focusing their efforts on situations where they deal directly with customers - continuing to invest in providing good Welsh language services to their customers, especially in the contexts of new technologies such as apps and online services.

I am aware that the Welsh Language Commissioner has recently completed a standards investigation into gas and electricity providers, and we await the Commissioner's report setting out her conclusions from that investigation. From the customer's point of view, the way their gas and electricity provider provides information to them is similar to what they receive from their water provider. I would therefore expect these draft Regulations to be of interest to the wider utilities sector and their customers, although we will consider each sector separately in light of the Commissioner's recommendations.

I am very eager to hear from both members of the public and the companies themselves, so that we can judge if these draft Regulations will improve the services customers receive from these companies in Welsh.



Alun Davies AM
Minister for Lifelong Learning and
Welsh Language

1. Introduction

The Welsh Government is preparing Welsh Language Standards ('standards') under the Welsh Language (Wales) Measure 2011 ("the Measure") which give Welsh speakers improved and enforceable rights to use the Welsh language.

Regulations that specify standards for bodies are being introduced gradually and are prepared with the aim of being reasonable, proportionate and relevant to the bodies named in each set of Regulations. We have already made four sets of Regulations which have specified standards for 80 bodies. These include Local Authorities, National Parks, Welsh Ministers, the emergency services, and bodies such as the BBC, National Museum for Wales and Natural Resources Wales. The Welsh Language Commissioner ('the Commissioner') has since required these bodies to comply with standards.

The standards specified in the draft Regulations subject to this consultation are specifically drafted for water and sewerage undertakers that provide water and/or sewerage services for the whole or any part of Wales ("companies").

Between 26 May and 18 August 2015, the Commissioner held a Standards Investigation with the following companies:

- Dŵr Cymru / Welsh Water
- Severn Trent Water
- Dee Valley Water
- SSE Water

These companies are members of one or more of the following groups of persons which are listed in Schedule 8 to the Measure:

- Qualifying persons who are water undertakers for the whole or any part of Wales.
- Qualifying persons who are sewerage undertakers for the whole or any part of Wales.

The draft Regulations make the standards specifically applicable to these groups of persons. As a result, the Commissioner could require any water or sewerage undertaker who is appointed for the whole or any part of Wales to comply with the standards specified in the draft Regulations.

The Welsh Ministers have decided to hold a consultation on the draft Regulations. This consultation is an opportunity for anyone with an interest in the draft Regulations to have their say about them.

1.1 Respective roles of the Welsh Government and the Commissioner

The standards have to be made by specifying them in Regulations. Guided by the Commissioner's standards investigation report and the Government's own stakeholder engagement, the role of the Welsh Government is to draft the standards and the Regulations which contain them. Once the Regulations are approved by the National Assembly for Wales, it will be for the Commissioner to choose which standards to impose on individual companies.

1.2 Who is subject to the draft Regulations?

Any qualifying person who is a water and/or sewerage undertaker for the whole or any part of Wales. “Qualifying person” in this context means a person that is not listed in Schedule 6 to the Measure.

1.3 Building on Welsh Language Schemes

The four companies named above (that were subject to the Commissioner’s standards investigation) currently deliver Welsh language services based on their Welsh Language Schemes prepared under the Welsh Language Act 1993.

The Schemes have been successful in raising the profile of services that should be available to the public in Welsh, as well as ensuring that many of those services are now provided in Welsh.

There is a stronger enforcement system attached to the standards, and bodies required to comply with the draft standards will be under a duty to provide certain Welsh language services. We are confident that the draft standards provide a solid foundation, which will enable the Commissioner to impose reasonable and proportionate standards that will offer effective Welsh language services for Welsh speakers.

The companies to which these standards relate fall within Schedule 8 to the Measure. This means that only service delivery standards and record keeping standards can be made specifically applicable to them. The effect of this is that some commitments from their current Welsh Language Schemes will be lost. For example, Dwr Cymru’s commitment to assess the linguistic consequences of new policies and initiatives, and all four companies’ commitments to maintain a list of employees able to speak Welsh, to identify jobs where Welsh language skills are required and to encourage and support staff to learn Welsh or improve their Welsh.

The Welsh Government believe that the benefits of having clear enforceable duties with respect to some services and activities outweigh the disadvantages of losing Welsh Language Scheme commitments which were not subject to such a strong enforcement system.

1.4 The process – how will the standards work?

Each set of Regulations specifying Standards are tailored to reflect the way that the sector they relate to delivers services and undertakes activities. These draft Regulations include standards and specific conditions to reflect the way services are delivered by the companies that provide water and sewerage services.

Before a body has to comply with a standard a number of conditions have to be met. The relevant conditions are:

- (i) The body falls within the a category in Schedules 7 and 8 to the Measure;
- (ii) The standard has been made specifically applicable to the body. This means that the Welsh Ministers have, in regulations, authorised the

Commissioner to give a compliance notice to the body requiring it to comply with the standard;

- (iii) The Commissioner has given a compliance notice to the body which requires it to comply with the standard, and that compliance notice is in force.

The draft Regulations set out the standards that we propose to make specifically applicable to the companies who fall into one of the groups listed in Schedule 4 to the draft Regulations.

The following categories of standards can be imposed on the water and sewerage companies:

Service delivery standards. These relate to the delivery of services to another person or when the company is dealing with a person in connection with delivering services. They are intended to promote or facilitate the use of the Welsh language, or to ensure that it is treated no less favourably than English. Because the water and sewerage companies fall within Schedule 8 to the Measure, a service delivery standard can only apply to the extent that it relates to the services the company provides to the public in the exercise of its functions as a water and/or sewerage undertaker.

Record keeping standards. These standards require the company to keep records about some of the other standards, and about any complaints received by the company. These records will assist the Commissioner in regulating the company's compliance with standards.

Supplementary standards. The draft Regulations also contain supplementary standards. These standards deal with various matters including the production of an annual report, monitoring arrangements and the provision of information to the Commissioner.

1.5 Compliance notices

The draft Regulations set out the range of standards which could be imposed on a company. There is no requirement on the Commissioner to require every company to comply with every standard.

The Commissioner has flexibility in choosing which standards, and the extent to which, a company has to comply as well as setting the date by which the company is required to comply with a standard. The Commissioner sets out that information in a compliance notice which is given to the company.

The Commissioner will therefore have several options when it comes to which standards to impose on a company. A company may have to comply with a standard only in some circumstances and not in others or in some areas and not in others – depending on what is appropriate for them. This approach provides for the gradual improvement of their provision in future.

Some standards are dependent on each other. The regulations therefore contain a table to accompany the service delivery standards, detailing which other standards will

also need to be imposed when a particular standard is included in a compliance notice.

Means of appeal

A company will be able to challenge the requirement upon it to comply with a particular standard on the grounds of whether it is reasonable and proportionate to require it to do so.

In the first place, a company will be able to present a challenge to the Commissioner, asking the Commissioner to determine whether the requirement upon it to comply with a particular standard in the compliance notice is reasonable and proportionate. If they are unable to resolve the dispute, there is a route of appeal available to the Welsh Language Tribunal, and thereafter to the High Court (on a question of law).

Sanctions

The Commissioner will have the responsibility for enforcing compliance with standards. In cases where the Commissioner determines that a company has failed to comply with a standard, the Commissioner may take enforcement action.

1.6 What outcomes do we anticipate?

The standards have been drafted with the aim of:

- improving the Welsh language services Welsh speakers can expect to receive from the companies that provide them with water and sewerage services
- increasing the use people make of Welsh language services
- making it clear to the companies what they need to do in terms of the Welsh language.

1.7 From whom do we want to hear about the Regulations and what do we want to know?

We are eager to hear from anyone with an interest in the draft standards, and in the use of Welsh by water and sewerage undertakers. This consultation will be open until 17 February 2017 to ensure that members of the public, the companies that will be subject to these standards, and other interested stakeholders have ample opportunity to have their say on the Regulations. Please feel free to make any comments you wish on any aspect of the draft Regulations. This is the opportunity for you to comment on the standards from which the Commissioner can choose to impose on the companies set out in Schedule 4. The Commissioner cannot vary the standards later, only choose whether to require the company to comply, or in which circumstances or areas the company has to comply.

The accompanying questionnaire asks for your views on specific aspects of the draft Regulations.

2. Standards for water and sewerage undertakers

2.1 Service delivery standards

Whilst these standards have been tailored specifically to address the relationship between water and sewerage companies and their customers, they have been based on previous sets of Regulations that have specified standards for other bodies. This consultation seeks your views on the appropriateness of the draft Regulations in their entirety. Specific questions are asked about some of the standards which we propose to specify for water and sewerage companies, but we would like your views on all of the proposed standards.

This document does not discuss each individual standard, but sections 2.2-2.8 below highlight some matters which would be of particular interest to these companies and their customers. Many of these services or activities are already provided in Welsh as result of the companies' Welsh Language Schemes.

The draft service delivery standards set out in Schedule 1 attempt to capture the activities water and sewerage companies undertake when providing services to their customers. The activities have been largely driven by Schedule 9 to the Measure which lists activities in relation to which service delivery standards must be specified. The draft Regulations includes standards which relate to the following activities:

- Correspondence
- Telephone calls
- Meetings not open to the general public
- Meetings that are open to the public
- Public events
- Publicity and advertising
- Displaying material
- Producing documents
- Forms
- Websites and on-line services (including apps and online chat facilities)
- Self service machines
- Social media
- Signs
- Receiving visitors
- Notices
- Awarding grants
- Raising awareness about Welsh language services
- Corporate identity
- Offering courses

Although listed as an activity in Schedule 9 of the Measure, we have not prepared standards relating to awarding contracts. We consider that making standards relating to that activity specifically applicable to the companies would be unreasonable. Contracts issued by companies are mostly large scale construction or engineering contracts. Issuing these in Welsh would result in significant translation costs for the companies. Our scoping of the industry has indicated that there isn't currently a demand to receive these types of documents in Welsh. We therefore believe that it would be unreasonable to require the companies to comply with standards relating to this activity.

In addition to this, we also regard that awarding contracts is not a customer facing activity. We do not believe that imposing standards relating to awarding contracts on

companies would contribute to increasing the customers' use of Welsh, which is the key policy aim of these standards.

2.2 Correspondence

Our intention is that these standards reflect the relationship between water and sewerage companies and their customers, and that the most common types of interactions between them are available to them in Welsh.

Many of the draft standards relating to correspondence are limited to “*system generated correspondence*”. This has been defined as bills, meter reading requests, new account correspondence and account closure correspondence. We regard these as the correspondence customers receive most often from their water and sewerage companies. Circular letters sent to several members of the public would still need to be produced in Welsh if a company is required to comply with standard 3.

Standard 1, if a company is required to comply with it, would require the company to respond to Welsh language correspondence in Welsh, provided the correspondence related to the services the company provides to the public as a water or sewerage undertaker.

2.3 Telephone calls

When contacting these companies by telephone, customers mostly use helplines which are widely advertised on publications, bills, and the companies' websites. These can be categorised as helplines that either deal with customers' account queries, or helplines that help to deal with operational issues such as problems with the water supply. Apart from exceptional circumstances, we would not expect a customer to contact their water company by phone using another number (for example, by phoning an individual member of staff directly).

For this reason, we believe that it is best to focus on ensuring that calls to these customer helplines are dealt with in Welsh. We have therefore focused the draft standards on telephone calls made to these helplines. We are keen to hear from respondents whether they think that this is the best approach.

2.4 Publications

These draft Regulations do not specify which categories of documents should be produced in Welsh. We want these standards to ensure that customers can read the publications they wish to read in Welsh. However, we are aware that water and sewerage companies are under statutory duties to produce a number of technical documents, some of which are substantial in their length. Although published on their websites, some of these documents are aimed at industry regulators and members of the public are not expected to want to read them. We therefore want to find a way of ensuring that the right documents are produced in Welsh and that valuable resources are not spent on producing documents in Welsh that will not be used by customers.

We have considered the best way to address this, and have decided to seek opinions on the proposed approach in standard 28. This standard requires a company to publish a document in Welsh where the subject matter and/or the anticipated audience suggests that it should be published in Welsh. We are confident that the companies

are experienced enough in delivering Welsh language services to be able to make this judgement in an objective and reasonable manner.

2.5 Websites

We have developed a range of standards relating to websites (standards 34-39) to give the Commissioner choice when imposing standards on these companies.

Standards 34 to 38 would impose duties relating to the companies' websites in their entirety. The duties vary from ensuring that every page on a website is available in Welsh, every new page is available in Welsh, to having a Welsh language homepage and/or interface. However, we recognise that for some of these companies, their customer base in Wales is a small proportion of their overall customer base, and that this may warrant a different approach. Standard 39, if imposed, will require a company to provide specified Welsh language information on their website about their work in Wales and their Welsh language services.

We want to hear from respondents whether you believe that this range of standards is a reasonable approach from the perspective of the company and the customer, and whether it gives the Commissioner an adequate choice of standards to impose.

2.6 Online chat facilities

Like many other companies, some water and sewerage companies promote their online chat facilities as a way for customers to contact them. This means of communication is often advertised on a company's website and customers can use this instead of traditional methods such as sending a letter or calling by telephone. It offers an immediate and interactive way for customers to communicate with the company.

We have responded to this by preparing draft standards (standards 41 & 41A) that specifically relate to this kind of facility. These standards are independent to the other standards relating to websites and apps. We would like to hear from companies and customers alike to see whether these standards are reasonable and practical, and whether they reflect the expectations customers have when using online chat facilities as a means of communication.

2.7 Other matters

- The standards relating to meetings allow the companies to decide whether to provide simultaneous or consecutive translation when a customer wishes to use Welsh at a meeting. This takes into account that these companies may meet with customers in a variety of environments, and arranging simultaneous translation is not always a practical solution.
- Due to the fact that some of the companies have offices in England, we have limited the standards relating to receiving visitors to apply only to reception areas in Wales.

2.8 Exemptions

The draft Regulations set out some circumstances when the standards imposed on the companies would not apply.

These include:

- when responding to an emergency that has occurred, is occurring or about to occur
- when they are distributing or publishing material that they have not produced
- when they are providing services or undertaking activities on behalf of another person.

3. Regulatory Impact Assessment

The bodies subject to these draft Regulations were asked to take part in a Welsh Government Regulatory Impact Assessment (RIA) as part of the Welsh Language Commissioner's third standards investigation. The RIA questionnaire was distributed with the Commissioner's Standards Investigation documentation, and bodies were asked to submit their RIA responses directly to the Welsh Government.

The RIA responses were based on the No1.Regulations prepared for the Welsh Ministers, local authorities and national park authorities which the Commissioner used as the basis for the Investigation.

There are significant differences between the draft Regulations subject to this Consultation and those used during the Commissioner's Investigation. We are therefore asking the companies to complete another RIA based on the draft Regulations now being consulted upon. The purpose of the RIA is to help the Welsh Ministers consider the impact of proposed regulation on the interests of individuals, groups, bodies etc. to weigh the costs and benefits of all options available to them before implementing a policy; and a means of presenting for scrutiny the relevant evidence on the positive and negative effects of such interventions.

4. How to respond

Specific questions are listed in the response form below; and you are invited to provide answers to these questions, or to comment in more general terms. This may be submitted electronically or in hard copy, using the contact details on page 2 of this document by Friday 17 February 2017.