

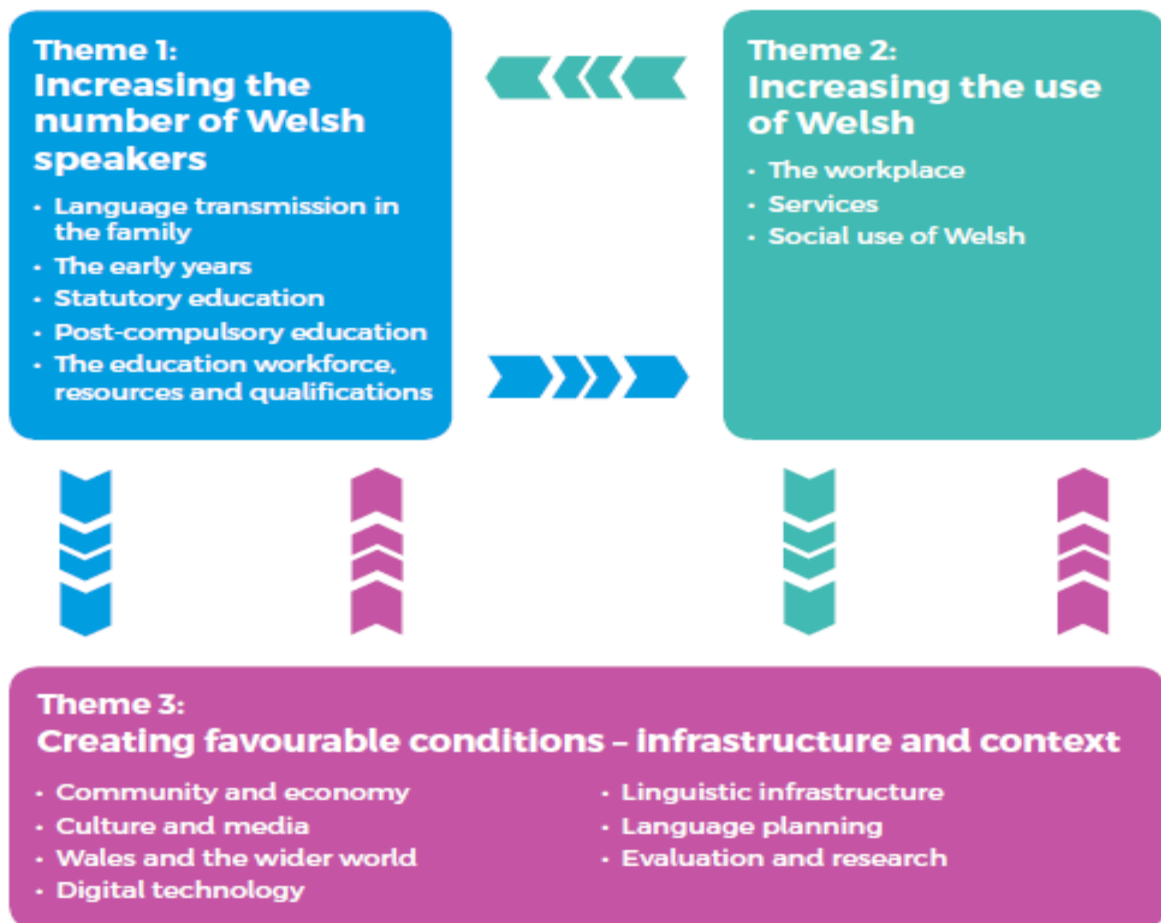
WELSH LANGUAGE IMPACT ASSESSMENT

Cymraeg 2050 is our national strategy for increasing the number of Welsh speakers to a million by 2050.

The Welsh Government is fully committed to the new strategy, with the target of a million speakers included in the Taking Wales Forward Programme for Government and Prosperity for All: the national strategy. A thriving Welsh language is also included in one of the 7 well-being goals in the Well-being of Future Generations (Wales) Act 2015.

We also have a statutory obligation to fully consider the effects of our work on the Welsh Language. This means that any Welsh Government policy should consider how our policies affect the language and those who speak it.

The Cymraeg 2050 strategy has three themes:



The headings under each theme outline the scope of activities that can affect the language.

As a general rule, if your policy has the potential to impact on people, it will impact in some way on Welsh speakers and therefore on the Welsh language.

Welsh Language Impact Assessment reference number (completed by the Welsh Language Standards Team, email: Safonau.Standards@gov.wales):

02/05/2021

[Does the proposal demonstrate a clear link with the Welsh Government's strategy for the Welsh language? – Cymraeg 2050 A million Welsh speakers and the related Work Programme for 2017-2021?](#)

[Liberty Protection Safeguards: Background](#)

The Liberty Protection Safeguards (the LPS) are a new system introduced by the UK Mental Capacity (Amendment) Act 2019 that will replace the Deprivation of Liberty Safeguards (DoLS).

The DoLS/LPS are part of the Mental Capacity Act 2005 which is the legal framework in Wales and England about how decisions are made when a person lacks the mental capacity to make that decision for themselves.

The need for urgent reform of the current law and DoLS is widely recognised across the system in Wales and England, including from people with lived experience and carers. There is strong Ministerial commitment to implementing the new safeguards in Wales. There is a specific commitment to reform in the Mental Health Delivery Plan for Wales 2019-2022.¹

The purpose of the LPS are to protect the Article 5 rights (right to liberty) under the European Convention on Human Rights of people who lack mental capacity to consent to their health and/or social care and treatment. Where those arrangements amount to a deprivation of a person's liberty due to the degree of restrictions or confinement they involve, the appropriate lawful authority to begin or continue those arrangements must be sought.

¹ [Welsh Government Mental Health Delivery Plan 2019 to 2022](#)

The LPS system provides safeguards for ALL people aged 16 and over who lack the mental capacity to consent to their care, support or treatment and those arrangements amount to a deprivation of their liberty i.e. they are not free to leave a place permanently and are under continuous supervision and control. The LPS will also apply in ALL settings (e.g. care homes, nursing homes, hospitals, supported living, day services, sheltered housing, shared lives accommodation, post-16 specialist education placements and people's own homes). By comparison, DoLS only applied to arrangements in care homes and hospitals and to people aged 18 and above.

Under the new LPS system, Responsible Bodies (health boards and local authorities in Wales) will be responsible for authorising the care, support or treatment arrangements that amount to a deprivation of liberty.

To support the implementation of the LPS in Wales, there will be four areas of legal safeguards underpinned by Welsh Regulations, which focus on:

- Enhancing the role of Independent Mental Capacity Advocates (IMCAs).
- Creating on a new role of Approved Mental Capacity Professionals (AMCPs) – and arrangements for their approval by local authorities, training requirements and a prescribed body for approval of that training (in Wales – this will be Social Care Wales).
- Prescribing public bodies (CIW / HIW / Estyn) to monitor and report on the LPS.
- Agreeing and setting out which professionals can undertake LPS related assessments, pre-authorisation reviews and make decisions.

The Regulations are required to implement the LPS in Wales. Without these Regulations, the legal frameworks needed to support the implementation of the LPS in Wales will not be in place.

Welsh Government plans to consult on draft LPS Regulations for Wales.

In line with Mwy na geiriau / More than just words: A Strategic Framework for Promoting the Welsh Language in Health, Social Services and Social Care, the 'active offer' principle will apply to work undertaken as part of the LPS. Where applicable, services such as assessments and advocacy support will be offered in Welsh. Workforce planning will look to ensure there are no barriers to receiving services in Welsh, and that these services are offered proactively.

As part of a baseline data exercise to better understand the current workforce in Wales, local authorities and local health boards were asked to provide information relating to the provision of services under DoLS in Welsh.

For advocacy services commissioned by local health boards, 3 of the 7 health boards reported there had been requests for IMCA services to be offered in Welsh, with approximately 10 requests across Wales each year.

5 of the 22 local authorities reported requests for best interest assessments to be undertaken in Welsh, amounting to approximately 50 assessments a year across Wales. 13 of the 22 local authorities reported employing Best Interests Assessors who would be able to undertake assessments in Welsh, if required.

1 health board undertook assessments in Welsh in the last year, with two health boards reporting capacity within existing staff.

Some organisations without Welsh speaking Best Interests Assessors reported that arrangements were in place to support translation should this be needed, and that training was being provided to support staff to be more confident undertaking assessments in Welsh.

Whilst these are limited numbers across Wales, it is highly important that the active offer is available to individuals whose first language is Welsh. This is particularly important for the LPS assessments, where individuals may be far more comfortable discussing their wishes and feelings in relation to care, support or treatment in Welsh.

There will also be significant numbers of individuals living with dementia who will be supported under the LPS framework, who are often reliant on speaking in their first language. As part of the development of local LPS workforce plans, Responsible Bodies will need to work towards ensuring that services are provided on a one-to-one basis in Welsh and are not just offering translation. Welsh Government officials will also engage with existing dementia policy structures to ensure appropriate implementation of Welsh language requirements.

In terms of monitoring and reporting on the LPS: In their role on monitoring and reporting, HIW, CIW and Estyn will continue to adhere to Welsh Language Standards, particularly in relation to meeting with the cared-for person and ensuring Welsh language requirements are being met. Since June 2019, there are new duties on health boards in Wales to offer Welsh language services to patients. These duties are The Welsh Language Standards (No. 7) Regulations 2018. The Welsh Language Commissioner regulates health board's compliance with The Welsh Language Standards (No. 7) Regulations 2018.

As set out in the HIW Welsh Language Statement issued in 2019, HIW checks that Welsh language services are provided by healthcare services as part of their current inspection programme. As part of the framework, HIW inspects and reports on whether Welsh speakers are able to use the Welsh language as a natural part of their care, and whether Welsh speakers are able to use the Welsh language to express themselves when receiving care in accordance with the Health and Care Standards. HIW report on inspection findings in respect of Welsh language provision, analysing specific themes and trends in their Annual Report. Similarly, as part of their inspections of regulated services, CIW already look at and report if an 'Active Offer' is made to people using services – as set out in 'Mwy na geiriau / More than just words: A

Strategic Framework for Promoting the Welsh Language in Health, Social Services and Social Care'. CIW also consider the performance of local authority social services in carrying mental capacity assessments and deprivation of liberty authorisations in Welsh as appropriate in line with Mwy na geiriau / More than just words. Likewise, Estyn inspections include a specific focus on Welsh Language Standards.

Describe and explain the impact of the proposal on the Welsh language and explain how you will address these impacts in order to improve outcomes for the Welsh language. How will the proposal affect Welsh speakers of all ages (both positive and/or adverse effects)? You should note your responses to the following in your answer to this question, along with any other relevant information:

- Overall – it is anticipated that the implementation of the LPS and the Regulations for Wales (on monitoring and reporting; the role of the AMCP; who can undertake assessments, determinations and pre-authorisation reviews; and the role of IMCAs) will have a positive impact on Welsh speakers.

How will the proposal affect the sustainability of Welsh speaking communities (both positive and/or adverse effects)?

- The proposal will positively affect the sustainability of Welsh speaking communities, as the workforce modelling to implement the LPS will take account of the demand for Welsh language services, and local capacity to deliver this. As local authorities and health boards are developing their workforce to implement the LPS, the ability to appropriately deliver services in Welsh will be a key consideration set out in the LPS Workforce Plan and Training Framework.
- As highlighted above: In terms of monitoring and reporting on the LPS – in their role on monitoring and reporting, HIW, CIW and Estyn will continue to adhere to Welsh Language Standards, particularly in relation to meeting with the cared-for person and ensuring Welsh language requirements are being met.
- Alongside the formal consultation on the draft Regulations and Impact Assessments, Welsh Government will also undertake focussed engagement on the Workforce Plan and Training Framework. These are documents aimed at professionals within Responsible Bodies which will provide planning advice to support the development of local plans for the implementation and maintenance of the LPS. The focussed engagement will therefore be undertaken with stakeholders within Responsible Bodies and other key organisations, to develop the workforce planning documents, and enable Responsible Bodies to begin to develop and implement their own workforce plans as early as possible. Following this engagement, updated versions of the Workforce Plan and Training Framework will be published.

- In addition, HIW, CIW and Estyn will also be engaging with stakeholders to develop an LPS Monitoring and Reporting Strategy. Following this engagement and the consultation on the draft LPS Regulations, a Monitoring and Report Strategy for Wales will be published.
- We will use the consultation period to gather further evidence of the impacts of the LPS on the Welsh language. The Welsh Language Impact Assessment will be published alongside the draft Regulations for Wales for consultation – and specific consultation questions on the Welsh language are asked to gather the views of stakeholders on our assessment of impact.

How will the proposal affect Welsh medium education and Welsh learners of all ages, including adults (both positive and/or adverse effects)?

- We anticipate there will be a positive impact on Welsh medium education. Organisations are already offering courses to increase the confidence of staff to deliver services in Welsh, and this will continue to be a priority in developing a workforce capable of delivering the active offer.

How will the proposal affect services available in Welsh (both positive and/or adverse effects)? (e.g. health and social services, transport, housing, digital, youth, infrastructure, environment, local government etc.)

- We anticipate there will be a positive impact on services available in Welsh as the workforce modelling to implement the LPS will take account of the demand for Welsh language services, and local capacity to deliver this. As local authorities and health boards are developing their workforce to implement the LPS, the ability to appropriately deliver services in Welsh will be a key consideration set out in the Workforce Plan.
- A number of services that have not had requests for services to be delivered in Welsh do already have capacity to deliver services in Welsh, but there will be a need to develop this capacity in other areas, both through training and recruitment. It will be equally important to ensure that information provided to individuals and their families is proactive in making the offer of services in Welsh.

How will you ensure that people know about services that are available in Welsh and are able to access and use them as easily as they can in English? What evidence / data have you used to inform your assessment, including evidence from Welsh speakers or Welsh language interest groups?

- Data has been sought from local authorities and local health boards as to the number of cases where services have been delivered in Welsh, and the capacity of the workforce to deliver services in Welsh. If there are low levels of cases where services have been delivered in Welsh, we will explore the reasons for this with health boards and local authorities.
- Information provided to individuals under the LPS and the Appropriate Person supporting them will set out the active offer of services delivered in Welsh.

What other evidence would help you to conduct a better assessment?

- The data provided by services has demonstrated considerable variance between areas in the number of cases where services are delivered in Welsh. It would be useful if further evidence was provided on whether this variance is predominantly due to differences in demand, or differences in how proactive local areas are in making the offer. Best practice could then be shared between localities.

How will you know if your policy is a success?

- Welsh Government is currently working with partners to develop a National Minimum Dataset on the LPS for Wales. Responsible Bodies (health boards and local authorities) will be expected to collect data relating to individuals under the LPS whose first language is Welsh. Consideration is being given as to how the dataset can then record the proportion of cases where services in Welsh are offered to these individuals.

Mental Health and Vulnerable Groups Team, Welsh Government, March 2022