

# Welsh Language Impact Assessment

January 2017

## Welsh Language Impact Assessment

<b>Title:</b> Policy to introduce statutory guidance and regulations relating to the area plans required by Part 2, Section 14A of the Social Services and Well-being (Wales) Act 2014 and integrated family support functions under Part 6 of the Social Services and Well-being (Wales) Act 2014.	<b>WLIA Reference No</b> (completed by WLU): <b>17/03/01</b>																
<b>Name of person completing form:</b>	Tom Cleaver																
<b>Date:</b>	January 2017																
<b>Policy lead:</b>	Chris Stevens																
<b>Contact details:</b>	<a href="mailto:Tom.cleaver@wales.gsi.gov.uk">Tom.cleaver@wales.gsi.gov.uk</a>																
<b>Programme/Project Type</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"><input checked="" type="checkbox"/> Policy</td> <td style="width: 50%; border: none;"><input type="checkbox"/> Project or programme</td> </tr> <tr> <td style="border: none;"><input checked="" type="checkbox"/> Legislation</td> <td style="border: none;"><input type="checkbox"/> Research, evaluation</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Grant</td> <td style="border: none;"><input type="checkbox"/> Services</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Business change</td> <td style="border: none;"><input type="checkbox"/> Contracts, tenders</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Infrastructure</td> <td style="border: none;"></td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Construction, Capital</td> <td style="border: none;"></td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> ICT</td> <td style="border: none;"></td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Other (Please specify below)</td> <td style="border: none;"></td> </tr> </table> <div style="border: 1px solid black; height: 40px; margin-top: 5px;"></div>		<input checked="" type="checkbox"/> Policy	<input type="checkbox"/> Project or programme	<input checked="" type="checkbox"/> Legislation	<input type="checkbox"/> Research, evaluation	<input type="checkbox"/> Grant	<input type="checkbox"/> Services	<input type="checkbox"/> Business change	<input type="checkbox"/> Contracts, tenders	<input type="checkbox"/> Infrastructure		<input type="checkbox"/> Construction, Capital		<input type="checkbox"/> ICT		<input type="checkbox"/> Other (Please specify below)	
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<b>Costs: How much is the projected whole life cost for the programme/project?</b> If below £25k, then a full WLIA is not always required (see guidance).																	
Under £25k	£25k - £49k	£50 - £249K	£250K - £1m	Over £1m													
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>													
<b>Of the above, please provide details if there are any identified costs directly associated with the Welsh language?</b>																	
<b>How long is the programme/project expected to run?</b>																	
Up to 1 yr	Up to 2yrs	Up to 5yrs	Up to 10yrs	More than 10 yrs	Unknown												
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**Key milestone dates for the programme/ project:**

To support Section 14A of the Social Services and Well-being (Wales) Act 2014, the following guidance and regulations have been developed:

- Statutory guidance in relation to area plans under section 14A (“the area planning guidance”)
- the Care and Support (Area Planning) (Wales) Regulations 2017 (“the area planning regulations”)
- the Partnership Arrangements (Amendment) (Wales) Regulations 2017 (“the 2017 partnership regulations”)

**Key milestone dates**

Area planning regulations and 2017 partnership regulations laid before the National Assembly - February 2017.

Debate on The Partnership Arrangements (Wales) (Amendment) Regulations 2017 – 28 March 2017.

Coming into Force date for regulations and statutory guidance in relation to area plans under Section 14A – 1 April 2017.

**STAGE 1: PLANNING****What are the aims and objectives of the policy?****What are the desired outcomes/ what constitutes ‘success’?**

This assessment is about the introduction of statutory guidance and supporting regulations on area plans required under the Social Services and Well-being (Wales) Act 2014 (“The 2014 Act”). This Welsh Language Impact Assessment (WLIA) stands as an addendum to the WLIA completed for Part 2 of the 2014 Act, available at: <http://gov.wales/topics/health/socialcare/act/assessments?lang=en>

**Social Services and Well-being (Wales) Act 2014**

The Social Services and Well-Being (Wales) Act 2014 (‘The Act’) aims to create a framework that brings together and modernises the law for social services in Wales. The Act aims to increase the emphasis on preventative action, bringing people closer to decisions about the services that affect them, and addressing the challenges of economic and demographic change.

The Act puts a duty on any persons exercising functions under the Act to seek to promote the well-being of people who need care and support and carers who need support. The Act sets out the definition of well-being and places a duty on Welsh Ministers to issue a statement of well-being outcomes to be achieved.

**Area plans- statutory guidance and regulations**

Section 14A of the 2014 Act requires local authorities and LHBs to each prepare and

publish a plan following the carrying out of an assessment (known as a “population assessment”) of needs under section 14 of the 2014 Act. This plan (known as an “area plan”) must set out, amongst other things, the range and level of services the body proposes to provide, or arranges to be provided, in response to the population assessment.

To support Section 14A, the following guidance and regulations have been developed:

- Statutory guidance in relation to area plans under section 14A (“the area planning guidance”)
- the Care and Support (Area Planning) (Wales) Regulations 2017 (“the area planning regulations”)
- the Partnership Arrangements (Amendment) (Wales) Regulations 2017 (“the 2017 partnership regulations”)

The aim of the policy is for area plans to clearly set out the range and level of services to be provided or arranged in response to the needs identified in the population assessment reports, with a focus on integrated services. Area plans will therefore contribute to enabling the delivery of effective care and support services and support services for carers across each region.

**What policy options have been considered?**

**and**

**What impacts will there be if the policy is *not* implemented?**

#### Social Services and Well-being (Wales) Act 2014

A Welsh Language Impact Assessment was conducted on the Social Services and Well-being (Wales) Bill to support the scrutiny process through the National Assembly for Wales. The impact assessment identified that the Bill was designed to create a fairer and more equitable system for all people eligible for care and support, and that there were opportunities to increase the use of the Welsh language in service provision.

The key principles of ‘More than just words: the Strategic Framework for Welsh Language Services in Health, Social Services and Social Care’ have been embedded into the Act, including that all people and organisations involved in the delivery of social services and social and social care must have regard to the right of people to communicate in Welsh.

Impact assessments conducted as the Bill was being scrutinised by the National Assembly for Wales considered the option of not implementing the Act. These assessments identified significant negative impacts if the Act was not implemented. These included the unsustainability of social services in Wales as a result of both demographic changes, that services were becoming increasingly focused and restricted to those at a critical level, and the lack of any early intervention and prevention in the system.

### Area plans- statutory guidance and regulations

Several options were considered in respect of the supporting legislation developed to support the 14A area plan requirements in the Act. These options are listed as part of the regulatory impact assessments completed for the area planning regulations and the 2017 partnership regulations. Copies can be obtained from the Department of Health and Social Services, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

To feed back on the content of the draft area plan guidance, representatives from each regional partnership board in Wales were invited to an event in Cardiff on 9 September 2016 to discuss the contents of the area plan consultation in detail and highlight any issues requiring clarification before the consultation closed. Comments from this event broadly reflected comments received in the consultation responses.

Responses to the consultation were broadly supportive with suggestions focussing on matters of detail, small additions and amendments to the text. The majority of these suggestions were accepted as they were judged to be in line with the broad policy position.

### **Does the programme demonstrate a clear link with the Welsh Government's strategy for the Welsh language - iaith fyw: iaith byw?**

The population assessment reports preceding area plans must identify the actions required to deliver the range and level of services identified as necessary through the medium of Welsh. In the same way, joint area plans should set out how the range and level of services identified as necessary through the medium of Welsh in the population assessment reports will be specifically delivered. This should support improvements in planning in respect of Welsh language provision in an area, a key component of iaith fyw: iaith byw.

More generally, The Act addresses many of the aims as set out in 'iaith fyw: iaith byw - Strategaeth y Gymraeg 2012-17' ('A living language: a language for living - Welsh Language Strategy 2012 -17'). For example, the regulation in relation to assessing the need of individuals under Part 3 of the Act, the Care and Support (Assessment)(Wales) Regulations, makes provision for 5 of those aims, specifically:

- To increase their awareness of the value of the language
- To strengthen the position of the Welsh language in the community
- To increase opportunities for people to use Welsh in the workplace
- To improve Welsh language services to citizens
- To strengthen the infrastructure for the language, including digital technology

The Act also contains an overarching duty at section 6(2)(c) that any person exercising a function under the Act must have regard to the characteristics, culture and beliefs of the individual which includes language.

The key principles of 'More than just words: the Strategic Framework for Welsh Language Services in Health, Social Services and Social Care' have been embedded into the Act, that all people and organisations involved in the delivery of social services and social care must have regard to the right of people to communicate in

Welsh.

The Welsh Government's Welsh Language Scheme required that an assessment of the impacts of the Act on the Welsh Language be carried out in an Explanatory Memorandum.

The assessment revealed no negative impact on the language is likely and that as the Act is designed to create a fairer and more equitable system for all people eligible for care and support, opportunities to increase the use of the Welsh language in service provision exist.

**What are the impacts/ effects (both positive and/or adverse) on the Welsh language you have identified at the initial planning stage**

i.e. Welsh speakers, Welsh language communities, Welsh medium education, Welsh learners, services available in Welsh?

There will be a positive impact on the Welsh language as a result of the introduction of joint area plans, in terms of the services available in Welsh.

As set out previously, the population assessment reports preceding area plans must identify the actions required to deliver the range and level of services identified as necessary through the medium of Welsh. In the same way, joint area plans should set out how the range and level of services identified as necessary through the medium of Welsh in the population assessment reports will be specifically delivered. This should have a positive impact by supporting improvements in planning in respect of Welsh language provision in an area.

More generally, the overall impact on the Welsh language as a result of the Act is positive as it contains an overarching duty at 6(2)(c) that any person exercising a function under the Act must have regard to the characteristics of culture and belief of the individual which includes language.

To this end we expect that people to be able to reasonably access care and support services in Welsh, should they so wish.

The Act also defines well-being, and this definition includes 'securing rights and entitlements'. For many Welsh speakers, securing rights and entitlements will mean being able to use their own language which will allow them to communicate and participate in their care as equal partners.

Under the terms of the Welsh Government's Welsh Language Scheme an assessment of the impacts of the Social Services and Well-being (Wales) Act 2014 was conducted during the Bill process. At the time the assessment identified that negative impacts on the Welsh language were considered unlikely. The Act is designed to create a fairer and more equitable system for all people eligible for care, and should support opportunities to increase the use of the Welsh language in service provision. The Welsh Language (Wales) Measure 2011 takes forward much of the content of the Welsh Language Act 1993 and it is this legislation which provides the overarching legal framework for the Welsh language in public services: all people and organisations involved in the delivery of social services and social care must have regard to the right of people to communicate in Welsh and will be required

to comply with any future Welsh Language Standards.

A Ministerial commitment has been given that the Welsh language will be included within the regulations and guidance which underpin the Act. As a result of this, Regulations, Codes of Practice and Statutory Guidance are all underpinned by the principles set out in the Act. These contain an overarching duty at 6(2)(c) that any person exercising a function under the Act must have regard to the characteristics of culture and belief of the individual which includes language.

Aside from the overarching positive impacts brought about by the Act, the area plans themselves should have a positive impact on the Welsh language. The area planning statutory guidance sets out that the population assessment reports must identify the actions required to deliver the range and level of services identified as necessary through the medium of Welsh. In the same way, the joint area plans should set out how the range and level of services identified as necessary through the medium of Welsh in the population assessment reports will be specifically delivered.

**Who are the stakeholders? Are the needs of Welsh speakers and learners addressed? To what extent are Welsh language interest groups likely to respond positively to the proposals?**

The Act applies to all people in Wales who need care and support, and carers who need support.

The duties of the Social Services and Well-being (Wales) Act 2014 will have implications for local authorities and partner bodies, including local health boards, the third and independent sectors, and for people who need care and support and their carers who may need care and support themselves.

The guidance is underpinned by the principles of the Act which states that any person exercising a function under the Act must have regard to the characteristics of culture and belief of the individual which includes language. To this end we expect people to be able to reasonably access all relevant services set out in area plans, should they so wish.

The draft area plan guidance and regulations have been developed in consultation with members of the population assessment network and regional partnership boards which comprised membership from a range of organisations across the statutory, Third and independent sectors.

**Where an assessment was not completed, or no impacts were identified, please provide a full account for record keeping purposes?**

(This could be used in the Welsh Language Tribunal in future)

Positive impacts were identified, as set out above.

**What actions/ further work has been identified at the initial planning stage?**

e.g. data requirements, need for peer review, external engagement with Welsh speaking groups, identify stakeholders or consultation list, need to contact Welsh Language Unit for

advice)?

As part of the follow on strategy to 'More Than Just Words' Welsh, officials identified a need to further consider whether additional references to Welsh language standards needed to be inserted into the draft guidance.

Both the consultation document and questions on the draft guidance were made available in Welsh on the external Welsh Government website. The final guidance will also be available in Welsh.

## **STAGE 2: IDENTIFYING AND ASSESSING IMPACTS**

### **Impact Assessment Summary**

**Summarise the detailed impact assessment carried out together with the scores assigned.**

#### **Positive effects/ impacts:**

The guidance and regulations are underpinned by the principles of the Social Services and Well-being (Wales) Act 2014 which state that any person exercising a function under the Act must have regard to the characteristics of culture and belief of the individual which includes language. Individuals preparing area plans which will inform the delivery of a local authority's social services functions will be expected to ensure that any one who falls within the scope of the Act in their area can reasonably access care and support services in Welsh, should they so wish.

As previously outlined, the guidance states that joint area plans should set out how the range and level of services identified as necessary through the medium of Welsh in the population assessment reports will be specifically delivered. This should ensure that services set out in the area plans should capture Welsh language needs in that area.

The guidance also requires joint area plans to include details of the preventative services that will be provided or arranged in response to the care and support needs identified by the population assessment as required by Part 2 of the Act. This should include considering how any preventative services will be delivered through the medium of Welsh.

#### **Adverse effects/ impacts:**

As set out previously, joint area plans should set out how the range and level of services identified as necessary through the medium of Welsh in the population assessment reports will be specifically delivered.

This process could identify challenges for partners in relation to addressing Welsh language issues identified in the area plans, for example, meeting potential demand to deliver integrated services through the medium of Welsh.

**Opportunities to promote the Welsh language e.g. status, use of Welsh language services, use of Welsh in everyday life, Welsh at work increased?**



The new Welsh language standards developed under the Welsh Language (Wales) Measure 2011 took effect from 30 March 2016.

As previously stated, the key principles of 'More than just words: the Strategic Framework for Welsh Language Services in Health, Social Services and Social Care' have been embedded into the Act, including that all people and organisations involved in the delivery of social services and social care must have regard to the right of people to communicate in Welsh.

Embedding these key principles within the Act, along with the requirement for any person exercising a function under the Act, including those completing area plans, to have regard to the characteristics of culture and belief of the individual (which includes language) will ensure that local authorities are encouraged to maximise opportunities to promote the Welsh language to all citizens using social care services within the local authority and Health Board.

**Evidence/ data used including demographic profile when considering the effects/ impacts:**

In 2011, the Welsh Language Board published a report '*The Welsh Language and Social Services*' that outlined the consequences for people who did not receive care in their preferred language. The report stated that "world-wide evidence shows the damaging effect of language barriers in care - lack of access to social services; user satisfaction; lack of a therapeutic relationship; difficulties in obtaining consent; problems with continuity of care as the user is referred from one agency to the next; a lack of quality care; user safety; health status of the user; care costs - personal costs to the user and financial costs to the service".

A report called '*Welsh Speakers' Experiences of Health and Social Care Services*' was published by IAITH in 2012. It was undertaken on behalf the Welsh Government and the Care Council for Wales. It focused on the experiences of service users and carers in the four priority groups identified (children; older people; mental health service users, including those with dementia, and people with learning disabilities), and the research affirmed the link between language and care.

It examined examples which imply that the quality of care to vulnerable users may be compromised by the failure to communicate in their preferred language. The crucial role of language as an assessment and diagnostic tool is also addressed and the reliance on translation, using family members to convey information between service user and professional, is seen to be fraught with problems which may affect the nature of the assessment undertaken. For users and carers, the ability to communicate in their preferred language is seen to have an effect on the formation of clinical and therapeutic relationships.

The research also found that respondents felt that Welsh medium service delivery in many areas is often haphazard and seldom planned. Individual members of staff at many levels lack the confidence to use their Welsh Language skills in a professional context; employing agencies may fail to acknowledge and place value on these skills, and individual language skills remain hidden and untapped as a result. The prevailing culture within the health and social care sector in Wales appears to be premised on the expectation that service users or carers will identify

the need and create the demand for Welsh-medium services, rather than on the basis that service providers have a duty to offer and provide. For many vulnerable and disempowered individuals in the priority groups covered by the research, the ability to articulate their need and create demand is beyond their grasp. They are often reliant on carers and family to do this for them. Many have no such support. The most vulnerable and isolated service users therefore need access to services and underlying systems which are robust and reliable enough to recognise their language needs and respond appropriately. Respect for the dignity of individuals requires this.

The Welsh Language Board's report also provides evidence from research carried out by Consumer Focus Wales in 2010, *Gwasaniaithau: Consumers and the Welsh Language*. It states:

"Finally, looking at research relating to users, Consumer Focus Wales carried out a survey from the perspective of Welsh speakers in 2010. By way of a sample, some 759 Welsh speakers were asked for their opinion on Welsh language services. In discussing the use of Welsh over a quarter said that Welsh language services were not available: "When asked how current services could be improved, the single biggest suggestion in both the public and private sector was to have more Welsh-speaking staff available. 28% of all respondents said this was the reason they didn't use Welsh more in their dealings with the public sector". From the qualitative work carried out as part of this research, it was also discovered that a Welsh-medium service was not offered."

'More than Just Words' recognises that it is the responsibility of social services to deliver appropriate services that meet users' language needs; defined as the "active offer". The legislation and national outcomes framework and performance measurement framework ensures the 'active offer' is an integral part of improving well-being outcomes for people who need care and support and carers who need support.

From March 2016 new Welsh Language Standards came into force for public service bodies, which coincided with the implementation period for the Social Services and Well-being (Wales) Act. These new standards enabled the Welsh Language Commissioner to place duties in relation to the Welsh language on Local Authorities, National Park Authorities and Welsh Ministers. This was a renewed impetus for public services bodies to embrace the Welsh Language and build it into every day services and will be reflected for all ages for children through to older people.

The current evidence base for social services describes the process but there is little evidence on the impact that social services make on people's lives and whether the service improves outcomes for people. The duties on the Social Services and Well-being (Wales) Act have implications for local authorities and partner bodies, including local health boards, the third and independent sectors and for people who need care and support and carers who need support in Wales.

Service providers will have to deliver a more focused service appropriate to each individual, including delivering services through the medium of Welsh in line with

the active offer. The outcomes and performance measurement frameworks under the Act will measure the impact of this.

<b>What is the overall anticipated likely impact on the Welsh language if this policy is taken forward based on the impact assessment/ risk assessment?</b>	Positive: <input checked="" type="checkbox"/> Adverse: <input type="checkbox"/> Neutral: <input type="checkbox"/> Unknown: <input type="checkbox"/>
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<b>Decision following IA</b>	1. No major change	<input checked="" type="checkbox"/>
	2. Adjust the policy to improve impacts	<input type="checkbox"/>
	3. Continue the policy with mitigation measures	<input type="checkbox"/>
	4. Stop and remove the policy	<input type="checkbox"/>

***If answered 2,3, or 4 above – then answer the following:***  
**How will you address these impacts in order to improve the outcomes for the Welsh language? Details of mitigation measures/ action points/ alternative options to reduce adverse impacts and increase positive outcomes:**

N/A

**If engaging or consulting, what are your plans? What questions do you wish to ask stakeholders about the Welsh Language Impact Assessment and Welsh language related issues?**

As part of the stakeholder engagement process, A 12 week consultation on both sets of draft Regulations and the draft area plan guidance, ran between 11 July 2016 and 3 October 2016. Alongside specific questions on the content of the draft guidance, a general question was included which allowed stakeholders to feed back any other issues they wished to highlight, for example the potential impacts of the draft Code on the Welsh language.

**STAGE 3: POST CONSULTATION AND PREPARING FOR PUBLICATION, MONITORING AND EVALUATION**

**Following consultation, what changes have you made to address any Welsh language issues that were raised?**

There were 27 substantive written responses received to the consultation from a wide range of statutory organisations, third sector groups and professional bodies. This included regional partnership boards, individual health boards, the Children's and Older People's Commissioners and the ADSS Cymru / Welsh Local Government Association (WLGA) who produced a joint response.

Responses to the consultation were broadly supportive with suggestions focussing on matters of detail, small additions and amendments to the text. The majority of these suggestions were accepted as they were judged to be in line with the broad policy position.

None of the 27 responses to the consultation raised any issues or concerns in respect of the Welsh language. Therefore no changes were made to the code in relation to language.

**How will you monitor the ongoing effects during the implementation of the policy?**

The first joint area plan must be produced by 1 April 2018 and submitted to Welsh Ministers at the time of publication. This will provide an opportunity for Welsh Government to scrutinise completed plans and monitor how effectively area plans have responded to any Welsh language issues identified in the population assessments.

**Please outline how you will continue to capture effects/ impacts in future monitoring and evaluation?**

The Partnership Arrangements (Wales) Regulations 2015 require that each regional partnership board must prepare an annual report, with the first due by 1 April 2017.

In future years we expect regional partnership board annual reports to be more substantial in setting out how partners have responded to their population assessment reports and are implementing joint area plans

**Any other comments – ongoing results of evaluations, emerging impacts**

N/A

**4. Declaration**

<b>Policy lead:</b>
<i>*Please delete as appropriate:</i>
<b>The policy <i>*does / does not</i> have an impact upon the Welsh language. Where there were identified adverse impacts or missed opportunities, the appropriate amendments and actions have been put in place.</b>
Name:
Tom Cleaver
Department:
Health and Social Services
Date (s):
January 2017
Signature:
<b><i>Tom Cleaver</i></b>
Planned Review Dates:
January 2019

<b>SRO ENDORSEMENT and REVIEW</b>	
I am satisfied that the WLIA is an accurate reflection of the programme/project at this stage of development. By signing, I am able to confirm that the Welsh Language Standards have been given the appropriate attention. I will re-assess the programme/project at key stages throughout the life of the programme/ project, including policy reviews.	
Signed	Date
<b>Chris Stevens</b> (Senior Responsible Owner)	January 2017