

Welsh Language Impact Assessment

February 2015

Welsh Language Impact Assessment

Title: Assessment under Part 3, and Eligibility & Care Planning under Part 4 of the Social Services and Wellbeing (Wales) Act 2014	WLIA Reference No <i>(completed by WLU):</i>				
Name of person completing form:	Lisa Griffiths				
Date:	April 2015				
Policy lead:	Lee Davis				
Contact details:	029 2082 1196				
Programme/Project Type <input type="checkbox"/> Policy <input checked="" type="checkbox"/> Legislation <input type="checkbox"/> Grant <input type="checkbox"/> Business change <input type="checkbox"/> Infrastructure <input type="checkbox"/> Construction, Capital <input type="checkbox"/> ICT <input type="checkbox"/> Other (Please specify below) <div style="border: 1px solid black; height: 40px; margin-top: 5px;"></div>					
Costs: How much is the projected whole life cost for the programme/project? 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Of the above, please provide details if there are any identified costs directly associated with the Welsh language?					
How long is the programme/project expected to run?					
Up to 1 yr	Up to 2yrs	Up to 5yrs	Up to 10yrs	More than 10 yrs	Unknown
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Key milestone dates for the programme/ project:					

The Social Services Improvement Agency (SSIA) commissioned a report “*Better Support at Lower Cost*” in 2011, which reviewed the current practice on the approaches used by local authorities in delivering efficient care and support services for older people. This report was used to inform the first stages of the legislation reform.

The new model for care and support, as set out under the Social Services and Well-being (Wales) Act 2014, will introduce changes to local authorities’ core processes and ensure the delivery of a holistic approach.

The former Deputy Minister for Social Services established a series of technical groups to provide technical advice in relation to the development of a suite of regulations and code of practice for the Social Services and Well-being (Wales) Act 2014. The regulations and codes of practice for Assessment (part 3), Eligibility and Care Planning (Part 4) are designed to ensure a nationally consistent approach to the delivery of care and support for adults, children and carers. The two technical groups in relation to assessment and eligibility were:

1- **Assessment and Care Planning Technical Group**

The Technical group advised Welsh Government on producing regulations and a code of practice on the determination of assessment, care planning and review under the Act. In relation to assessment, the final report from the Technical Group recommended a proportionate assessment process to identify whether an individual has needs for care and support and it should explore 5 key elements with the individual.

2- **Eligibility Technical Group**

The Technical Group advised Welsh Government on producing regulations and a code of practice on the determination of eligibility for care and support services under the Act. The Group identified three options for the national eligibility criteria. A report has been developed by the Technical Group, which provides an analysis of the three options and the factors to be considered.

A formal 12 week consultation was held on the proposals for regulations and codes of practice in relation to Parts 3 and 4 of the Act. The consultation period ran from 6 November 2014 to 2 February 2015.

The statutory framework will consist of three main elements:

- 1- the Act itself;
- 2- regulations made under the Act; and
- 3- codes of practice/statutory guidance.

These three elements work together to form the framework within which social services will operate from April 2016.

The codes of practice will be laid before the Assembly in the Autumn and the eligibility and assessment regulations were laid before the National Assembly for Wales on 8 May 2015 the care planning regulations will be laid in the week

commencing 1 June 2015.

STAGE 1: PLANNING

What are the aims and objectives of the policy?

What are the desired outcomes/ what constitutes 'success'?

The primary objective of the policy is to promote an individual's independence and ensure they have a stronger voice and control over their care and support. The changes are crucial to enable current and future generations to live their lives independently, providing the correct level of support to maintain their well-being.

The overall effect of the regulations in relation to assessment is to provide greater clarity, consistency and quality of care and support for individuals and carers. The aim is that the assessment process will be more proportionately applied so that it is appropriate to the needs of the individual and considers the person's circumstances in the round. The process will be simplified by introducing a uniform approach to assessment for all people and by simplifying the process itself.

The regulations in relation to eligibility set out the process which a local authority must apply to determine whether or not an individual with needs, identified in an assessment under section 19, 21 or 24 of the Act, is entitled to have those needs met by a local authority. The regulations set out the process to be applied in relation to adults, to children and to carers.

The regulations in relation to Care Planning will introduce a simplified (and where possible common) approach to care and support planning, and to simplify an individual's journey to receiving care and support that is better tailored to their needs, and more likely to achieve their identified outcomes.

The desired outcome will be a reduction in the overlapping arrangements and better integration of the planning and delivery of care.

What policy options have been considered?

and

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

The Social Services and Well-being (Wales) Act gained royal assent in May 2014 and the impact assessments conducted as the Bill was being scrutinised by the National Assembly for Wales, identified significant 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.

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.

While the current standards are based on the Welsh language Act 1993, new standards developed under the *Welsh Language (Wales) Measure 2011* will take effect from April 2016 at the same time that the Social Services and Well-being (Wales) Act 2014 is implemented.

The key principles of 'More than just words: the Strategic Framework for Welsh Language Services in Health, Social Services and Social Care'¹ 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.

Sustainable Social Services for Wales outlines the challenges facing social services in Wales, and the Welsh Government's approach to meeting those challenges, including developing a programme of policy and legislation.

The code of practices in relation to assessing and meeting the needs of individuals is underpinned by the principles set out in the Act. The codes set out that the assessment process must have regard to the characteristics, culture, language and beliefs of the individual. They also set out that the determinations of eligibility for care and support should be undertaken through the person's language of need.

The process should also recognise the concept of language need, and details that the assessments of need should be conducted through the medium of English or Welsh (as appropriate to the individual or family concerned).

This will ensure that individuals are able to receive services in their own language throughout the process of identifying and meeting care and support needs.

The code of practice also makes it clear that the requirement for an assessment to be in the medium of Welsh should not delay the process of assessing the needs of an individual.

During the process, an individual should be able to fully participate by being able to express themselves through their preferred language and means of communication.

The process of assessing and meeting the needs of individuals also requires local authorities to meet the National Minimum Core Data Set (NMCDS). A requirement of the NMCDS is that the recording of the assessment must be in the preferred Language / Communication as appropriate to the needs of the child or adult whose needs are being assessed.

The Act specifies the legislative framework for social services and social care in Wales and gives effect to the policy stated in the White Paper Sustainable Social Services for Wales: A Framework for Action.

The timetable ensures the full suite of subordinate legislation is in place by April

2016.

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

A Ministerial commitment was given that the regulations and guidance which underpin the Social Services and Well-being (Wales) Act would have due regard to the Welsh Language. As a result of this, regulations, and codes of practice are all underpinned by the principles set out in the Act, which 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'.

The key principles of 'More than just words: the Strategic Framework for Welsh Language Services in Health, Social Services and Social Care'² 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 Social Services and Well-being (Wales) Act addresses many of the aims as set out in "*laith fyw: iaith byw - Strategaeth y Gymraeg 2012-17*" ("A living language: a language for living - Welsh language strategy 2012 - 17"). The regulations, in relation to assessing the need of individuals, makes provision for 5 of the aims to:

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

1. To increase their awareness of the value of the language

Within the regulations for assessment under the Social Services and Well-being (Wales) Act the requirement has been made to ensure that the recording of the assessment of need must be in the preferred language / communication style of the individual whose needs are being assessed. Additionally, individuals and their families should be able to fully participate in the process by having all relevant information available in a format that is accessible to them including through their language of choice and preferred means of communication. Information must be accessible through the medium of Welsh and English reflecting the Welsh Government Strategy 'More than Just Words' and in due course be compliant with the new Welsh Language Standards.

2. To strengthen the position of the Welsh language in the community

The primary objective of the policy is to promote an individual's independence and

² <http://wales.gov.uk/docs/dhss/publications/121121narrativeen.pdf>

ensure they have a stronger voice and control over their care and support. 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. Additionally, the Social Services and Well-being (Wales) Act provides for a fairer and more equitable access to and provision of care and support, this will have a positive impact on Welsh speakers and predominantly Welsh speaking communities where more services are available in Welsh.

3. To increase opportunities for people to use Welsh in the workplace

The Social Services and Well-being (Wales) Act places a duty on any persons exercising its functions to seek to promote the well-being of individuals, including a duty to have regard to the characteristics, culture and beliefs of the individual (including language). This strengthens the promotion and use of the Welsh language to improve the well-being of people and the quality of care and support.

4. To improve Welsh language services to citizens

Local authorities should make sure Welsh language services are built into the process of care and support planning. The code of practice for assessment sets out that the assessment process must be conducted through the medium of English or Welsh (as appropriate to the individual or family concerned). This will ensure that the individual is able to receive services in their own language throughout the process of identifying and meeting care and support needs.

For many Welsh speakers, language is an integral element of their care, e.g. some people are vulnerable and giving them the responsibility of asking for services through the medium of Welsh can contribute to their anxiety. It is the responsibility of social services to deliver appropriate services that meet users' language needs; this is referred to in 'More than just words' as the "Active Offer".

5. To strengthen the infrastructure for the language, including digital technology.

The information, advice and assistance service will be available online, in addition to other methods, in an accessible format and will include information about how to access the care and support service.

From March 2016 new Welsh Language Standards will come into force for 26 public service bodies, which is the same implementation period for the Social Services and Well-being (Wales) Act.

The Welsh Language Standards (No 1) Regulations 2015, which were approved by the National Assembly for Wales in March 2015, set out the following standards:

- service delivery standards and compliance notices must require a body to comply with certain standards
- policy making standards
- operational standards and a compliance notice must require a body to comply with certain standards

- promotion standards and a compliance notice must require a body to comply with certain record keeping standards
- supplementary matters

These standards will enable the Welsh Language Commissioner to place duties in relation to the Welsh language on Local Authorities, National Park Authorities and Welsh Ministers.

Local authorities responsible for the implementation of the Social Services and Well-being (Wales) Act must also have regard to the standards and compliance notices which will be issued by the Welsh Language Commissioner in autumn 2015, and come into force in April 2016.

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?

The Social Services and Well-being (Wales) Act, and its associated legislation, provide for a fairer and more equitable access to the provision of care and support. This will have a positive impact on Welsh speakers, and predominantly Welsh speaking communities, as a result of there being more services available in Welsh in the future.

The Welsh Government's Strategic Framework for the Welsh Language in health and social care, 'More than Just Words' recognises the concept of language need. For many Welsh speakers, language is an integral element of their care e.g. some people are vulnerable and giving them the responsibility of asking for services through the medium of Welsh can contribute to their anxiety. It is the responsibility of social services to deliver appropriate services that meet users' language needs; this is referred to in 'More than just words' as the "Active Offer".

From March 2016 new Welsh Language Standards will come into force for 26 public service bodies, which is the same implementation period for the Social Services and Well-being (Wales) Act,

Local authorities responsible for the implementation of the Social Services and well-being (Wales) Act must also have regard to the standards and compliance notices which will be issued by the Welsh Language Commissioner in autumn 2015, and come into force in April 2016.

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 regulations are 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 Welsh

Government is expecting that any individuals who have their needs for care and support assessed by the local authority, can access care and support services in Welsh, should they so wish.

As noted above the Act addresses many of the aims as set out in *laith fyw: iaith byw*, which positively addresses the needs of Welsh language speakers and learners.

The wide ranging consultation process and engagement events captured many views, which included representation from *Estyn Llaw*, who attended the consultation engagement events to offer support and guidance in increasing the use of Welsh through the Act.

Local authorities responsible for the implementation of the Social Services and Well-being (Wales) Act must also have regard to the new Welsh Language standards and compliance notices which will be issued by the Welsh Language Commissioner in autumn 2015, and come into force in April 2016.

The way in which the subordinate legislation has been drafted means that the Welsh Language, and its place in supporting individuals to fully engage and participate in the care and support process, are fundamental to enhancing people's ability to have voice and control over their lives.

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)

N/A

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)?

All the public facing documents supporting the consultation exercise on the regulations and the codes of practice (Tranche 1) were provided bilingually.

The bilingual material included:

Consultation Documents
Consultation Questions
Executive Summary
Children and Young People executive summary
Easy Read executive summary.

Workshops conducted to support the consultation process included a Welsh speaker and provision was made for participants to be able to ask questions in - and to receive an answer - in Welsh.

STAGE 2: IDENTIFYING AND ASSESSING IMPACTS

Impact Assessment Summary

As no significant impacts, have been identified during the initial impact assessment an Impact Risk Assessment Tool has not been completed.

Positive effects/ impacts:

The programme of work will provide the following positive impacts:

- the rights of the individual are placed on the face of the Social Services and Well-being (Wales) Act;
- an increased awareness of the need to embed *More Than Just Words* Welsh Language Framework and increased use and availability of Welsh language care and support services (an increase of the active offer and uptake of the active offer where it is requested). This will give people greater voice and control, and input over the services that they need to enable them to achieve their well-being outcomes;
- it should increase the number of Welsh speaking staff working within the social care workforce, to support services to speak in the language of their choice;
- it also has the potential to help retain dedicated staff within Welsh speaking communities.

Adverse effects/ impacts:

The programme of work may provide the following adverse effects:

- there may not be enough Welsh speaking staff to meet demand for care and support through the medium of Welsh, which in turn would place extra demand on the current Welsh speaking workforce to deliver services through the medium of Welsh; and
- Welsh language skills of care and support staff may not be at a sufficient level to offer a full service through the medium of Welsh; this could lead to increased training needs for those Welsh speaking staff.

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 programme of work will provide opportunities to promote the Welsh language:

- pro-active offers and seamless professional services will encourage Welsh speakers to use the Welsh language effectively and place a duty on providers to do more to consider the user and their needs and provide services through the medium of Welsh rather than wait for them to be asked to;

- opportunities to use Welsh are promoted for children and young people and should ensure a positive attitude towards the Welsh language;
- Welsh speakers will be encouraged to remain or return to Welsh speaking communities;
- encourage people (including staff) to improve their Welsh language skills continuously and therefore improve confidence and use when receiving day to day care and support in Welsh;
- contribute towards the policy objectives in Iaith 'Fyw: iaith byw' and increase numbers or percentages of Welsh speakers and increasing the use of Welsh;
- increasing the visibility of Welsh speakers and the services available for them; and
- increasing the skills of current Welsh speakers and learners to use more Welsh at work/professionally.

The Code of Practice for Assessment states that language is an integral element of the care that people receive and it is the responsibility of the local authority to deliver appropriate services which includes meeting users' linguistic needs.

The code makes it explicit that the assessments of need should be conducted through the medium of English or Welsh as appropriate to the individual or family concerned, and that this choice should not delay the assessment process.

A requirement set out in the code of practice is that National Minimum Core Data Set must keep a record of the assessment in the preferred Language / Communication as appropriate to the needs of the child or adult whose needs are being assessed.

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 2012³. It was undertaken on behalf of the Department for Health, Social Services and Children, 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 draws on examples which imply that the quality of care to vulnerable users may be compromised by the failure to communicate in their first language. The crucial role of

³[Welsh Speakers' Experiences of Health and Social Care Services](#)

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. The new Welsh Language Standards will offer a renewed impetus for public services bodies to embrace the Welsh language and build it into every day services – this will be reflected for all ages from 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. Therefore there is a significant gap in

evidence which supports our approach to develop an outcomes framework that measures the effectiveness of services.

This approach will include measures that will monitor whether people are receiving care and support through the Welsh language and whether people are communicating in Welsh more widely with health or social care staff. This approach is set out under section 145 of the Act, the national outcomes framework for people who need care and support and carers who need support. There has been a separate CRIA completed for this the framework.

What is the overall anticipated likely impact on the Welsh language if this policy is taken forward based on the impact assessment/ risk assessment?	Positive: <input checked="" type="checkbox"/> Adverse: <input type="checkbox"/> Neutral: <input type="checkbox"/> Unknown: <input type="checkbox"/>
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Decision following IA	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:

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?

A formal 12 week consultation was held on the proposals for regulations and codes of practice in relation to Part 3 and 4 of the Act, on Assessing and Meeting the Needs of Individuals. The consultation period ran from 6 November 2014 to 2 February 2015.

Although there was not a specific question in relation to the Welsh language, one question asked if the proposals would have any positive impacts on groups with protected characteristics.

Workshops to support the public consultation exercise included a Welsh speaker on the panel and participants were able to ask and to receive an answer to their questions in Welsh.

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?

Consultation documents were made available, where appropriate, in Welsh including the consultation documents, supporting executive summary, children and young person friendly version of the summary and also easy read version of the summary. Additionally, following the consultation, the summary report will also be published in Welsh.

There was a positive response to the regulations promoting emphasis in line with 'Mwy na Geiriau' /'More than Just Words': The Strategic Framework for Welsh Language Services in Health, Social Services and Social Care.

No other direct issues in relation to Welsh Language were raised through responses to the consultation.

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

The Social Services and Well-being (Wales) Act 2014 contains provisions to allow for Ministers to monitor functions of the Act carried out by local authorities and other bodies. Ministers may require these bodies to report on their duties in implementing these regulations.

The Welsh Government intends to commission an evaluation to enable the impact of the new national model of assessment and eligibility to be considered.

Additionally, the Welsh Government will continue to monitor the impact of the regulations on areas such as the Welsh language.

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

Welsh Government will continue to monitor the impact of the regulations on the Welsh language, this will include taking account of the work completed under the national outcomes framework.

Any other comments – ongoing results of evaluations, emerging impacts

4. Declaration

Policy lead:
The policy does not 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.
Name:
Lisa Griffiths
Department:
Department of Health and Social Services
Date (s):
April 2015
Signature:
Planned Review Dates:

SRO ENDORSEMENT and REVIEW	
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 (Senior Responsible Owner)	Date
Signed (Senior Responsible Owner)	Review Date

Signed (Senior Responsible Owner)	Review Date
Signed (Senior Responsible Owner)	Review Date