

Welsh Language Impact Assessment

WLIA Reference No : 16/01/01

Welsh Language Impact Assessment

Title: Role of the Director of Social Services Code of Practice	WLIA Reference No <i>(completed by WLU):</i> 16/01/01				
Name of person completing form:	Tom Cleaver				
Date:	01/2016				
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Programme/Project Type <input checked="" type="checkbox"/> Policy <input type="checkbox"/> Project or programme <input 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)					
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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input 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 type="checkbox"/>	<input checked="" type="checkbox"/>
Key milestone dates for the programme/ project:					
<u>Statutory framework- structure and milestones</u>					

The statutory framework will consist of three main elements:

1. The Social Services and Well-being (Wales) Act 2014 (the Act);
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.

Role of the Director of Social Services Code of Practice- key milestones

23 October to 4 December 2015: Public consultation on Code of Practice on the Role of Directors of Social Services under Part 8 of the Act (short title: Code of Practice on the Role of Directors of Social Services).

2 February 2016: Code of Practice on the Role of Directors of Social Services laid before the National Assembly for Wales.

6 April 2016: Commencement of the Social Services and Well-being (Wales) Act 2014.

6 April 2016: Final Code of Practice on the Role of Directors of Social Services published.

STAGE 1: PLANNING

What are the aims and objectives of the policy?

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

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.

Role of the Director of Social Services Code of Practice

The aim of this policy is to replace the existing guidance for Local Authorities on the role of directors of social services by introducing a new code of practice which implements the requirements set out in sections 144 and 145 of the Act, outlined below:

Section 144 within Part 8 of the Act consolidates the requirement that a local authority must appoint an officer, known as the director of social services, for the purposes of

its social services functions as set out in Schedule 2 of the Act.

Section 144 also states that the Welsh Ministers must specify, through a code issued under section 145 of the Act, the competencies which a person must demonstrate in order for a local authority to appoint them as the director of social services.

In addition to reflecting these specific sections of the Act, the policy will result in a code which mirrors the wider aims of the Act. The Code will accomplish this by focusing on the role of the Director to achieve the social services functions set out in the Act. These include:

- Achieving well-being
- Assessing the care and support needs of the population
- Providing preventative services
- The information, advice and assistance service
- Assessment and eligibility
- Safeguarding for adults and children
- Looked after children
- Collaboration and partnership
- Promoting social enterprises, co-operatives and user led services
- Integration between health and social care.

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.

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 30 March 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*' 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.

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.

Role of the Director of Social Services Code of Practice

To consider the content of the Code, the Welsh Government established a reference group comprising key senior stakeholders in the summer of 2015. This group worked with officials to consider the existing '*Statutory Guidance on the Role and Accountabilities of the Director of Social Services*', published in 2009 and develop options for updating this guidance in line with the new requirements within the Act. The conclusions of the reference group have significantly informed the development of the draft code of practice.

The impact of not developing a code of practice under the Act has been considered. All parts of the Act, including section 145 are due to come into force in April 2016. Not introducing a code to specify the role, accountabilities and competencies of the directors of social services, as required by section 145 the Act would result in there being no up to date guidance for local authorities to draw on for the director of social services role once the Act is commenced. Therefore it is intended for a final code of practice on the role of the director of social services to be issued in April 2016.

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

The 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*'). 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?

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, no specific impacts on the Welsh language have been identified by officials in respect of the director of social services code of practice.

As part of the stakeholder engagement process, a six week consultation on the draft Code ran between 23 October and 4 December 2015. Alongside specific questions

on the content of the draft Code, 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 proposed Code on the Welsh language.

17 responses to the consultation were received, none of which raised any concerns in respect of the Welsh language.

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 Code 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 local authority social services which fall under the accountability of the director of social services in Welsh, should they so wish.

The draft Code has been developed with the directors of social services reference group 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)

No significant impacts on the Welsh language were identified during development of the draft Code by either policy officials or the reference group convened to help inform the development of the draft Code. Additionally, no concerns or impacts on the Welsh language were identified by stakeholders during the consultation stage.

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 Code.

Both the consultation document and questions on the draft Code were made available in Welsh on the external Welsh Government website. The final Code 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.

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 code is underpinned by the principles of the Social Services and Well-being (Wales) Act 2014 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. As the individual accountable for the delivery of a local authority's social services functions, the director of social services will be expected to ensure that any individuals who fall within the scope of the Act can reasonably access care and support services in Welsh, should they so wish.

The code requires the director of social services to prepare and publish an annual report about the exercise of the local authority's social services functions. As part of this report, directors of social services will be required to provide an update on Welsh language provision and their implementation of *More than just words* as part of the annual report. By requiring consideration of Welsh language issues as part of the report, the code will ensure that Welsh language issues are given a sufficiently high profile within local authority social services.

The code also requires the director of social services to ensure that preventative services are provided or arranged specifically to address 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:

The code states that directors of social services must ensure the delivery of preventative services. However, there may not be enough Welsh speakers to meet the demand to deliver preventative services through the medium of Welsh. This in turn could place extra demand on the current Welsh speaking workforce to deliver services through the medium of Welsh.

Additionally, the Welsh Language skills of care and support staff within the local authority 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 new Welsh language standards developed under the Welsh Language (Wales) Measure 2011 will take effect from 30 March 2016 shortly before the directors of social services code of practice, and the wider Act are implemented in April.

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 the director of social services, 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.

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 2012¹. 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

¹[Welsh Speakers' Experiences of Health and Social Care Services](#)

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 will come into force for public service bodies, which is the same implementation period for the Social Services and Well-being (Wales) Act. 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. This will offer 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 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 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.

<p>What is the overall anticipated likely impact on the Welsh language if this policy is taken forward based on the impact assessment/ risk assessment?</p>	<p>Positive: <input checked="" type="checkbox"/></p> <p>Adverse: <input type="checkbox"/></p> <p>Neutral: <input type="checkbox"/></p> <p>Unknown: <input type="checkbox"/></p>
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<p>Decision following IA</p>	<p>1. No major change <input checked="" type="checkbox"/></p>
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	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"/>
<p>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:</p>		
<p>N/A</p>		
<p>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?</p>		
<p>As part of the stakeholder engagement process, a six week consultation on the draft Code ran between 23 October and 4 December 2015. Alongside specific questions on the content of the draft Code, 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.</p>		
<p>STAGE 3: POST CONSULTATION AND PREPARING FOR PUBLICATION, MONITORING AND EVALUATION</p>		
<p>Following consultation, what changes have you made to address any Welsh language issues that were raised?</p>		
<p>The draft code was subject to a six week formal consultation between 23 October and 4 December 2015 including a presentation and Q&A session with Directors from across Wales. There were 17 substantive written responses received to the consultation from a wide range of statutory organisations, third sector groups and professional bodies including fourteen local authorities, SOLACE and ADSS Cymru/WLGA. Responses to the consultation were broadly supportive of all of the proposals with the suggestions made focussing on matters of detail, small additions and amendments to the text. The majority of these were accepted as they were judged to be in line with the broad policy position. The consultation summary report, which sets out the detail of the responses to each of the questions and how the Welsh Government has responded to them, is published at this location: http://gov.wales/consultations/healthsocialcare/code-of-practice/?status=closed&lang=en</p> <p>None of the 17 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.</p>		
<p>How will you monitor the ongoing effects during the implementation of the policy?</p>		
<p>The code includes a requirement for the production of an annual report by directors of social services about the exercise of the local authority's social services functions. It will be through analysis of these reports that the Welsh Government will be able to assess the extent to which the code is being applied.</p>		

The annual report also requires directors of social services to provide an update on Welsh language provision and their implementation of *More than just words*. This should allow specific monitoring of Welsh language provision within local authority social services.

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

The impacts of the code will continue to be analysed via the annual reporting process described in the previous response. This process will enable continued monitoring of the effect of the code on a yearly basis.

Any other comments – ongoing results of evaluations, emerging impacts

N/A

4. Declaration

Policy lead:

***Please delete as appropriate:**

The policy ~~does~~ / ~~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:

Chris Stevens

Department:

Social Services and Integration Directorate

Date (s):

January 2016

Signature:

Chris Stevens

Planned Review Dates:

April 2017

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

Margaret Provis
(Senior Responsible Owner)

Date January 2016