

# Welsh Language Impact Assessment

December 2017

## Welsh Language Impact Assessment

<b>Title:</b> <u>Regulation and Inspection of Social Care (Wales) Act 2016</u> <ul style="list-style-type: none"> <li>• The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017</li> <li>• The Regulated Services (Penalty Notices) (Wales) Regulations 2017</li> </ul>	<b>WLIA Reference No</b> <i>(completed by WLU):</i>																
<b>Name of person completing form:</b>	<b>Chris Pickett</b>																
<b>Date:</b>	<b>November 2017</b>																
<b>Policy lead:</b>	<b>Alison Machon</b>																
<b>Contact details:</b>	RISCAct2016@wales.gsi.gov.uk																
<b>Programme/Project Type</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"><input 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></td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Construction, Capital</td> <td></td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> ICT</td> <td></td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Other (Please specify below)</td> <td></td> </tr> </table> <div style="border: 1px solid black; height: 60px; margin-top: 5px;"></div>		<input 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>													
<b>Of the above, please provide details if there are any identified costs directly associated with the Welsh language?</b>  These costs relate to the implementation and delivery of the two sets of Regulations, and related statutory guidance, developed under phase 2 of implementation of the Regulation and Inspection of Social Care (Wales) Act 2016 ("The 2016 Act") These are: <ul style="list-style-type: none"> <li>• the Regulated Services (Service Providers and Responsible Individuals) (Wales)</li> </ul>																	

Regulations 2017 (“the service regulations”);

- the Regulated Services (Penalty Notices) (Wales) Regulations 2017; and
- Statutory guidance for service providers and responsible individuals on meeting service standard regulations

Some potential costs have been identified in relation to implementation of the Regulations and statutory guidance, set out below:

Service providers are required to support and care for individuals according to their particular needs. This includes delivering or working towards actively offering a service in the Welsh language to individuals whose first language is Welsh.

In addition, Regulation 12 of the service regulations requires a number of policies and procedures to be in place for the service. The associated guidance clarifies that these policies and procedures are in a format accessible to the individual. If an individual’s first language is Welsh then those policies and procedures may need to be provided in Welsh.

Related to this, the service regulations require a personal plan to be prepared for individuals which sets out how on a day to day basis the individual’s care and support needs will be met. This is expected to be provided to the individual receiving the service in a language appropriate to their needs, including Welsh.

The service regulations also require that providers produce a written guide to the service. Again, this must be in an appropriate language.

These requirements may result in additional costs for providers. However, the precise costs are difficult to estimate as they will vary greatly depending on the levels of Welsh language need identified within the service, the current abilities of staff employed within the service to meet that need and, if not, the subsequent level of interpretation required, or training needs.

An example of the cost of using an interpretation service in Wales, current as of October 2017 is from £28 per hour.<sup>1</sup> However this cost will likely vary depending on the company used and the volume of interpretation required.

**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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Key milestone dates for the programme/ project:**

Key milestones included:

- **December 2016** - Initial scoping of the policy direction with technical groups
- **January – April 2017** - Drafting of the Regulations

<sup>1</sup> Taken from <https://bostico.uk/interpreter/wales.htm>, 18 October 2017

- **May 2017** - Public consultation on the proposed regulations and statutory guidance opened
- **21 June 2017 and 13 July 2017** - Stakeholder events in North and South Wales to promote understand of the proposed regulations
- **July 2017** - Consultation closed
- **July – October 2017** - Draft regulations revised.
- **21 November 2017** - Final Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017 laid.
- **12 December 2017** - Regulated Services (Penalty Notices) (Wales) Regulations 2017 laid.
- **February 2018** Publication of final Statutory Guidance
- **April 2018** Coming into force date for the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017 and the Regulated Services (Penalty Notices) (Wales) Regulations 2017

## STAGE 1: PLANNING

**What are the aims and objectives of the policy?**

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

The 2016 Act received Royal Assent on 18 January 2016. It reforms the regulation and inspection regime for social care in Wales.

### 2016 Act – background, aims and desired outcomes

Social care has changed significantly since the Care Standards Act was implemented in 2000 and there is a need to ensure our regulatory regime reflects modern practice and does not become out of date and restrictive.

The 2016 Act aims to address these issues.

The key aims and objectives of the 2016 Act are as follows:

1. Responsiveness to the Social Services and Well-being (Wales) Act ("The 2014 Act")'s reforms;
2. Ensuring citizens are at the heart of care and support;
3. Developing a coherent and consistent Welsh approach;
4. Tackling provider failure; and
5. Responsiveness to new models of service and any emerging concerns over the quality of care and support services.

The 2016 Act provides the statutory framework for the regulation and inspection of social care services and the social care workforce in Wales. It enables the Welsh Ministers to put in place a number of items of subordinate legislation through the making of regulations, the publication of statutory guidance and the issuing of codes

of practice to support this framework and put it into practice.

The outcomes of the 2016 Act when fully implemented are to allow the Welsh Government to:

- reform the regulatory regime for care and support services, to ensure it is focussed on outcomes for service users;
- reform the inspection regime for local authority social services functions;
- re-name and give new powers to the Care Council for Wales; and
- reform the regulation of the social care workforce.

Copies of the Regulations and statutory guidance will be available the National Assembly for Wales website.

**What policy options have been considered?**

**and**

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

Explanatory Memoranda (EM) and Regulatory Impact Assessments (RIA) have been undertaken for these two sets of Regulations. These documents outline the costs, benefits and risks of various policy options in respect of implementing the provisions within these Regulations. The EMs and RIAs can be found on the National Assembly for Wales' website.

As the care sector is already subject to regulation under the Care Standards Act 2000, the creation of subordinate legislation, supported by statutory guidance, is the preferred method of fulfilling the policy intention. As such, no other options have been considered.

Failure to implement the regulations would mean that the policy intention of updating and streamlining the legislation which set the standards of care for regulated services in Wales would not be realised.

**Does the programme demonstrate a clear link with the Welsh Government's strategy for the Welsh language – [Cymraeg 2050 A million Welsh speakers](#)**

The Regulations and statutory guidance are intended to support More than just words... the Follow-on Strategic Framework for Welsh Language Services in Health, Social Services and Social Care 2016-2019. . The strategy provides a systematic approach to improve services for those who need or choose to receive their care in Welsh. It is built on the values that all individuals should be treated with dignity and respect and should receive accurate assessments and appropriate care. The strategy highlights the importance of receiving care in one's first language, stating "the use of the Welsh language is not just a matter of choice but also a matter of need. It is especially important for many vulnerable people and their families who need to access services in their first language, such as older people suffering from dementia or stroke who may lose their second language or very young children who may only speak Welsh".

We have incorporated these principles into the Regulations, mainly under the requirement for providers to take reasonable steps to meet the language needs of individuals. In relation to the Welsh language, this means that service providers deliver or work towards actively offering a service in the Welsh language to individuals whose first language is Welsh. In relation to information for individuals, there is a requirement for the guide to the service to be in an appropriate language, style, presentation and format, having regard to the statement of purpose for the service. The requirements in the Regulations also support one of the core principles in the 2014 Act to enable people to have a stronger voice in, and greater control over, their care and support.

Local authorities in Wales have a statutory duty to comply with Welsh Language Standards which explain how they as organisations should use the Welsh language. This will be a driver for enhancing Welsh language provision in services run by, or contracted by, local authorities. Where services are not provided by a local authority, the Regulations aim to take a proportionate approach to Welsh language requirements, placing the emphasis on what matters to the individual receiving care and support.

**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?

We expect the regulations and statutory guidance to have a small positive effect on the Welsh Language.

During the development of the regulations we sought input on the impact of the regulations on a number of groups. These views were sought primarily through the consultation on the draft proposals. Additionally, we held two consultation events that also sought views from stakeholders on a number of issues relating to the regulations. No significant issues relating to Welsh language were identified during these stages.

The regulations are primarily focused on service providers and the service regulator with regard to carrying out their functions and aim to impact on all service providers equally, irrespective of their language. Therefore, there will not be any specific negative impact or effect on the Welsh language. Where the regulations focus on the workforce, these focus on employers providing information and having discussions to offer a choice of contract to their staff. We do not anticipate that these will differ from those currently conducted between employer and employee.

None of the regulations make any specific provisions that adversely affect language choice or use.

During the consultation a number of stakeholders stated that Welsh language should not be treated any less favourably than any other language. This is an important issue that sits at the heart of Welsh Government's strategy on Welsh language provision on policy development.

Throughout the development of the regulations, the consultation materials and events were made available in Welsh. In addition, the final regulations and supporting statutory guidance will be published in Welsh.

**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 stakeholders were the same as those outlined in the Welsh Language Impact Assessment for the 2016 Act. This is available on the Welsh Government website.

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

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 Division for advice)?

The regulations and statutory guidance will be reviewed as part of the process of implementing legislation. This will include the ongoing engagement with key stakeholders in the sector and feedback from the service regulator about the extent to which providers are complying with the requirements.

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

### **Impact Assessment Summary**

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

**Positive effects/ impacts:**

As outlined in the planning stage above there is likely to be a small positive effect on the Welsh language as a direct result of these regulations and statutory guidance.

Compared with the current system of Regulations and National Minimum Standards (NMS), there is an enhanced requirement for providers brought about by these regulations and the statutory guidance in relation to meeting the language needs of individuals. This means that providers must identify an individual's communication needs as part of their determination as to whether the service is suitable for the individual. It also includes putting in place measures to ensure that individuals can communicate meaningfully. This relates to the individual's language of need and choice, which would include Welsh.

There are currently similar requirements in the NMS for Children's Homes and Domiciliary Care Agencies. For example:

1. NMS for Children's Homes

13.4 Appropriate support is provided for children in their preferred language, including sign language, to enable them to communicate their needs, wishes and concerns, and to communicate with staff and other children within the home.

## 2. NMS for Domiciliary Care Agencies

8.5 Care workers are sensitive and responsive to the race, culture, language, religion, age, disability, gender and sexuality of the people receiving care, their relatives and representatives.

9.6 Agencies work to provide service users with a service in their preferred language or form of communication

However under this option, these requirements will apply equally across all regulated services. Although ensuring individuals can communicate meaningfully is already considered good practice, ensuring consistency between services within regulations would result in a small positive effect in to the individual who receives the service, and in relation to the Welsh language more generally.

From an inspection perspective there would also be a small positive effect on CSSIW's inspection process in terms of ensuring people who are Welsh speaking have services provided in Welsh, when they need it, without them having to ask for it. CSSIW's updated inspection frameworks will reflect the regulations and statutory guidance requirements and ensure consistency of inspection (relating to the Welsh language) across all regulated services.

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

N/A

### **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 post implementation arrangements for regulations will be handled as part of a wider post implementation review of the overarching 2016 Act as a whole.

The 2016 Act makes provisions for a number of key reporting mechanisms which will offer a set of clear evidence to inform the post implementation review, and establish how successful the Act has been in achieving its aims of:

- securing the well-being of citizens; and
- improving the quality of social care.

In addition, a performance measurement framework has been developed that local authorities will be required to report against under the 2014 Act. It is anticipated that the information gathered from this additional reporting mechanisms will also



contribute to the overall post implementation review of the 2016 Act and its subordinate legislation.

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

N/A

<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 type="checkbox"/> Adverse: <input checked="" 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?**

A 12 week public consultation was held on the two sets of draft Regulations between 21 June and 13 July 2017.

The consultation included a question to help understand whether there will be an impact on groups with protected characteristics; it was intended that stakeholders with an interest in the Welsh Language would use this question to provide their feedback.

Consultation documents were available bilingually. Respondents were able to complete the consultation response form in Welsh if desired.

Workshops to support the public consultation exercise were also carried out with a Welsh speaker available should participants wish to ask questions and receive answers in Welsh if desired.

**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 no substantial issues raised in regards to the Welsh language. However, feedback was received from the Welsh Language Commissioner on how the regulations and statutory guidance could be strengthened in regards to the Welsh Language.

In response, the statutory guidance has been clarified and a standalone point added to set out that providers can meet the language and communication requirements within the regulations by delivering or working towards actively offering a service in the Welsh language to individuals whose first language is Welsh.

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

The post implementation arrangements for regulations will be handled as part of a wider post implementation review of the overarching 2016 Act.

The 2016 Act makes provisions for a number of key reporting mechanisms which will offer a set of clear evidence to inform the post implementation review, and establish how successful the Act has been in achieving its aims of:

- securing the well-being of citizens; and
- improving the quality of social care.

In addition, a performance measurement framework has been developed that local authorities will be required to report against under the 2014 Act. It is anticipated that the information gathered from this additional reporting mechanisms will also contribute to the overall post implementation review of the 2016 Act and its subordinate legislation.

**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.

Once service providers have re-registered with CSSIW under the 2016 Act, they will then be inspected against these service regulations and the statutory guidance (alongside CSSIW's own inspection framework). The overall outcomes from these inspections relating to the Welsh language will feed into the post implementation review and monitoring processes.

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

N/A

#### 4. Declaration

<b>Policy lead:</b>
<b>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.</b>
Name:
Chris Pickett
Department:
Social Services
Date (s):
December 2017
Signature:
<i>Chris Pickett</i>
Planned Review Dates:
April 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 Alistair Davey (Senior Responsible Owner)	Date 20 December 2017
Signed (Senior Responsible Owner)	Review Date
Signed (Senior Responsible Owner)	Review Date
Signed (Senior Responsible Owner)	Review Date

