

Explanatory Memorandum to The Welsh Language Standards (No. 1, No. 2, No. 4, No. 6 and No. 7) Regulations (Amendment) Regulations 2025

This Explanatory Memorandum has been prepared by the Welsh Government and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Welsh Language Standards (No. 1, No. 2, No. 4, No. 6 and No. 7) Regulations (Amendment) Regulations 2025. I am satisfied that the benefits justify the likely costs.

Mark Drakeford MS
Cabinet Secretary for Finance and Welsh Language
28 January 2025

1. Description

- 1.1 The Welsh Language Standards (No. 1, No. 2, No. 4, No. 6 and No. 7) Regulations (Amendment) Regulations 2025 ('Regulations') amend five sets of existing Welsh Language Standards Regulations so that an additional 6 bodies and 1 category of persons are liable to be required to comply with Welsh language standards ('standards'). This will enable the Welsh Language Commissioner ('the Commissioner') to give a compliance notice to those bodies. The Regulations make service delivery standards, policy making standards, operational standards, and record keeping standards (along with standards which deal with supplementary matters) specifically applicable to the 6 bodies and 1 category of persons by adding them to existing Welsh Language Standards Regulations as follows:

Body	Regulations
Welsh Revenue Authority	Welsh Language Standards (No.1) Regulations 2015
Boundary Commission for Wales	Welsh Language Standards (No.2) Regulations 2016
Future Generations Commissioner for Wales	Welsh Language Standards (No.2) Regulations 2016
Trustees of the National Heritage Memorial Fund	Welsh Language Standards (No.2) Regulations 2016
Qualifications Wales	Welsh Language Standards (No.2) Regulations 2016
Adjudication Panel for Wales	Welsh Language Standards (No.4) Regulations 2016
Health Education and Improvement Wales (also a Special Health Authority)	Welsh Language Standards (No.6) Regulations 2017 <i>*standards 90 and 90A only</i>
Special Health Authorities (Category of persons)	Welsh Language Standards (No.7) Regulations 2018

- 1.2 The following four bodies fall within the category of Special Health Authority that provide services in relation to Wales: Digital Health and Care Wales; Health Education and Improvement Wales; NHS Blood and Transplant and NHS Business Services Authority.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

- 2.1 Promotion standards are not specifically applicable
- 2.2 The No.1 Regulations, which apply to Welsh Ministers, local authorities, and National Parks, also specify promotion standards. Section 38 of, and Schedule 6 to, the Welsh Language (Wales) Measure 2011('the Measure') stipulates that promotion standards can only apply to Welsh Ministers, local authorities, and National Parks or those who consent. The

promotion standards within the No. 1 Regulations cannot be made potentially applicable to the Welsh Revenue Authority unless they have given consent. Such consent has not been sought as promotion standards are not relevant to the Welsh Revenue Authority's work. As a result, the Regulations do not make standards 145, 146, 173 and 174 (all of which relate to promotion standards) specifically applicable to the Welsh Revenue Authority. Promotion standards are not specified within the No.2, No.4, No.6 and No.7 Regulations.

2.3 Adjudication Panel for Wales ('APW')

- 2.4 The No.4 Regulations, which apply to Welsh tribunals do not authorise the Commissioner to require 4 of the 5 Tribunals already listed in Schedule 6 to the Regulations to comply with the operational standards, nor the record keeping standards relating to operational standards, and supplementary standards which relate to operational standards. This is due to the fact that the organisations are administered by Welsh Government staff and those staff are covered by the operational standards that the Welsh Ministers are required to comply with.
- 2.5 The Regulations therefore do not authorise the Commissioner to issue APW with operational standards, nor record keeping standards relating to operational standards, and supplementary standards which relate to operational standards. APW is also a tribunal administered by Welsh Government staff and so we've concluded that it should be treated in the same manner as the other four tribunals administered by Welsh Government.

2.6 Adding 'Special Health Authorities' as a category to the No.7 Regulations

- 2.7 The No. 7 Regulations make standards specifically applicable to categories of bodies, for example, 'Local Health Boards' and 'National Health Service Trusts'. Individual Health Boards are not named in the No.7 Regulations. The Regulations follow this precedent and make standards specifically applicable to 'Special Health Authorities' as opposed to naming Special Health Authorities individually. This approach will future proof and ensure that the Commissioner can impose appropriate standards on any new Special Health Authority that may be created in the future that provide those services in relation to Wales. The fact that standards are specifically applicable to a Special Health Authority does not mean that it will be required to comply with a particular standard. For example, if a Special Health Authority does not provide the service the standards relate to it is very likely that the standards will not be imposed on them or will not apply. As stated in paragraph 4.2 below, a person is not required to comply with a standard unless the Commissioner has given that person a compliance notice which requires the person to comply with that standard.
- 2.8 The definitions in regulation 1(4) of a "national health service clinic" ("clinig gwasanaeth iechyd gwladol") and a "national health service hospital"

("ysbyty gwasanaeth iechyd gwladol") within the No.7 Regulations have also been amended to include Special Health Authorities. This is to ensure that the Regulations are future proofed and enable the Commissioner to impose appropriate standards on any new Special Health Authority that may be created in the future that provide those services in relation to Wales.

2.9 Health Education and Improvement Wales

- 2.10 Health Education and Improvement Wales is a Special Health Authority. The Regulations set out that all standards within the No.7 Regulations will be specifically applicable to Special Health Authorities. The Regulations also specify that standards 90 and 90A from the No.6 Regulations (which relate to submitting written work in Welsh) are made applicable to Health Education and Improvement Wales. This is to reflect the body's unique role as an educator in the health sector. This will allow the Commissioner to issue Health Education and Improvement Wales with a compliance notice and imposing any of the standards from the No.7 Regulations and standards 90 and 90A from the No.6 Regulations. It will be a matter for the Commissioner to decide which of the specifically applicable standards she considers reasonable and proportionate to impose.

3. Legislative background

- 3.1 The Regulations are made in exercise of the powers conferred on the Welsh Ministers under sections 26, 27, 39 and 150(5) of the Welsh Language (Wales) Measure 2011 ('the Measure'). Section 26 of the Measure enables the Welsh Ministers to specify standards by regulations. Section 27 enables the Welsh Ministers to specify different standards in relation to different conduct. It also enables them, in relation to a particular conduct, to specify one standard or a number of standards.
- 3.2 Before the Commissioner can give a body (referred to as "person" in the Measure) a compliance notice requiring them to comply with a standard, that standard has to be specifically applicable to the person (section 25). Section 39 provides that a standard is specifically applicable to a person once the Welsh Ministers have authorised the Commissioner to give that person a compliance notice in respect of that standard. Section 105(5) provides that any power of the Welsh Ministers to make regulations includes a power to make such transitional, transitory, consequential, saving incidental and other provision as the Welsh Ministers think necessary or appropriate.
- 3.3 The Regulations, pursuant to section 150(2) of the Measure must be laid before and approved by resolution of Senedd Cymru (i.e. the draft affirmative procedure).

4. Purpose and intended effect of the legislation

- 4.1 The Measure confirmed the official status of the Welsh language in Wales and created a new legislative framework for the language. A key step in giving effect to the Measure is specifying standards and authorising the Commissioner to require persons to comply with those standards.
- 4.2 Section 25 of the Measure provides that a person is required to comply with a standard specified by the Welsh Ministers where certain conditions are met. Those conditions include:
- i. That a standard is specifically applicable to the person (i.e. the Welsh Ministers have authorised the Commissioner to give that person a compliance notice in respect of that standard);
 - ii. That the Commissioner has given a compliance notice to the person;
 - iii. The compliance notice requires the person to comply with the standard; and
 - iv. The compliance notice is in force.
- 4.3 These Regulations enable the Commissioner to impose in a compliance notice standards which fall into one or more of the following categories:
- **Service-delivery standards** relate to the delivery of services in order to promote or facilitate the use of the Welsh language, and to ensure that it is treated no less favourably than English.
 - **Policy-making standards** require consideration to what effect policy decisions have on the ability of people to use the language and on the principle of treating Welsh no less favourably than English.
 - **Operational standards** deal with the internal use of Welsh by bodies.
 - **Record-keeping standards** make it necessary to keep records about some of the other standards, and about any complaints received by a body.
 - **Supplementary standards** deal with various matters including the production of an annual report, monitoring arrangements and the provision of information to the Commissioner.
- 4.4 The standards have been prepared with the aim of:
- Increasing the use people make of Welsh-language services
 - Improving the services Welsh-speakers can expect to receive from bodies in Welsh
 - Making it clear to bodies what they need to do in terms of the Welsh language
- 4.5 The Regulations, when they come into force, will not have a direct effect on bodies and they will not, by themselves, create rights for members of the public. That will only happen when all the conditions in section 25 of the Measure have been met (see paragraph 4.2 above). However, the Regulations are a crucial step in the Measure's framework and will enable the Commissioner to require bodies to comply with standards.

- 4.6 It will be for the Commissioner to choose which standards to impose on bodies by way of issuing a compliance notice. These Regulations set out the range of standards within the No.1, No.2, No.4, No.6 and No.7 Regulations which could be imposed on a body. A body may have to comply with the standard only in some circumstances and not in others – depending on what is stated in their compliance notice. The compliance notice will also set the date by which the body is required to comply with a standard.
- 4.7 Before giving the body a compliance notice the Commissioner must consult with them in accordance with section 47 of the Measure (unless the Commissioner is satisfied that they have already been consulted or given the opportunity to be consulted on that matter in connection with a standards investigation).

Means of appeal

- 4.8 Bodies will be able to challenge the requirements to comply with a particular standard on the grounds of whether it is reasonable and proportionate to require them to do so. In the first place, a body will be able to present a challenge to the Commissioner. If they wish to challenge the Commissioner's decision, there is a route of appeal available to the Welsh Language Tribunal, and thereafter to the High Court.

Sanctions

- 4.9 The Commissioner will be responsible for monitoring compliance with the standards. In cases where the Commissioner determines that a body has failed to comply with a standard, the Commissioner may take enforcement action. Enforcement action under the Measure can vary from the making of recommendations or giving advice to a body, to the imposition of a civil penalty not exceeding £5,000.

5. Risks if Regulations are not made

- 5.1 If the proposed Regulations are not made, the following risks will be realised:
- A key component of the Measure will not be implemented. That is introducing the standards system and authorising the Commissioner to require a body to comply with standards.
 - A body that deals with the public may not be included in the new standards system.
 - There will be inconsistency in terms of the duties placed on bodies in the same sectors.
 - The public will be unsure about which services they can expect to receive in Welsh. This uncertainty will continue if the Regulations are not made allowing standards to be made specifically applicable to bodies that fall into one or more of the categories in Schedule 6 to the Measure.

- Bodies that have a Welsh Language Scheme introduced under the Welsh Language Act 1993 will not transition to the standards system. If Welsh language schemes remain in place there will be no enforcement mechanism if a body breaches their scheme.

5.2 More detailed information about the risks and benefits of implementing the standards can be found in the Regulatory Impact Assessment (RIA) below, with the risks of not introducing standards highlighted in the 'Option 1: do nothing' section of the benefits.

6. Consultation

- 6.1 The Welsh Ministers held a public consultation on the proposal to add six additional bodies and a category of persons to some existing standards regulations between 24 June 2024 and 7 October 2024.
- 6.2 The consultation included a call for bodies subject to the Regulations to submit data to allow the Welsh Ministers to prepare a Regulatory Impact Assessment (RIA). The RIA is included in Part 2, below.
- 6.3 The consultation did not specifically consult on making some standards within the No.6 Regulations specifically applicable to Health Education and Improvement Wales. The body itself made a request for this approach during the consultation process. As a result, we do not consider that we need to consult further with the body on this approach.

PART 2 – REGULATORY IMPACT ASSESSMENT

7. Options, costs and benefits

- 7.1 The 10 bodies (6 bodies and 4 Special Health Authorities) subject to these Regulations were asked to take part in a Regulatory Impact Assessment (RIA) data collection exercise, which was distributed with the consultation on adding these bodies to existing standards regulations. The consultation was held between 24 June 2024 and 7 October 2024. Following requests by some bodies, the deadline to submit responses to the RIA exercise was extended to 31 October 2024 to allow those bodies more time to respond. 6 of the 10 bodies subject to these Regulations submitted a response to the RIA data collection exercise.
- 7.2 The following analysis of the costs and benefits associated with the standards are based on the responses provided by those 6 bodies.

8. Summary of Responses

- 8.1 Bodies subject to the Regulations were asked to consider whether there were benefits to the body in complying with the proposed set of standards regulations. 4 bodies considered that there would be benefits; one body considered that there would be both benefits and no benefits; and one body did not identify any benefits.
- 8.2 Bodies subject to the Regulations were asked to consider the economic, social, environmental, and linguistic benefits of complying with standards. The responses are summarised as follows:

Type of benefit	Description of the benefit of complying with the proposed standards
Economic Benefit	3 of the 6 bodies provided a response and noted benefits, including: <ul style="list-style-type: none">• A belief that offering bilingual services helps people pay the correct tax the first time.• Developing bilingual public apps is cost-effective compared to separate Welsh and English versions.• Use of an internal translation team has reduced translation costs and improved efficiency in publishing reports, policies, and public communications.• Upskilling staff provides them with transferable skills for future roles.• Being a bilingual organisation can bring increased opportunities for collaboration, commissioned work, speeches, and conference appearances.
Social Benefit	4 of the 6 bodies provided a response and noted benefits, including:

	<ul style="list-style-type: none"> • Supporting Welsh language learning enhances social interactions and understanding of tax processes • Bilingual services support the Welsh language and culture, aligning with the Welsh Government's "Cymraeg 2050" ambition • Supporting staff with Welsh language training helps encourage them to use their skills with colleagues and stakeholders • Welsh Language Standards will strengthen the strong Welsh language culture developed under the Welsh Language Scheme • Welsh Language Standards will provide social benefits by allowing staff to access more internal correspondence and systems in Welsh • Improve relationships and communication with organisations that already use Welsh as their official or preferred language • Enable Welsh-speaking staff to converse in their chosen language, promoting community cohesion • Using Welsh promotes fairness, equality, and cultural awareness on a nation and international level • Improved health and social status, and being able to better connect and express feeling.
Environmental Benefit	<p>3 of the 6 bodies provided a response and noted benefits, including:</p> <ul style="list-style-type: none"> • Bilingual services ensure taxpayers can interact in their preferred language • Promoting job vacancies on Welsh language recruitment websites and in Welsh secondary schools supports local job creation and reduces emigration of skilled Welsh speakers, positively impacting Welsh communities. • Language, heritage, and place are strongly connected. Describing landscapes and natural resources in Welsh fosters a sense of belonging and stewardship towards the country and its natural assets.
Linguistic Benefit	<p>4 of the 6 bodies provided a response and noted benefits, including:</p> <ul style="list-style-type: none"> • Provide more opportunities for staff to learn and use Welsh at work and increase the number of staff with skills in Welsh speaking, writing, and reading.

	<ul style="list-style-type: none"> • Encourage staff to learn Welsh and use those skills with colleagues and stakeholders • Support the Welsh Government's "Cymraeg 2050" ambition, and fulfil national well-being goals, including promoting a vibrant culture and thriving Welsh language. • Allow customers and stakeholders to access public services in Welsh if they wish, especially as more staff become Welsh speakers
Other benefits	<p>4 of the 6 bodies provided a response and noted benefits, including:</p> <ul style="list-style-type: none"> • Potential positive impact on reputation and employee engagement, although compliance with standards may put a strain resources. • Providing a bilingual service is a significant asset to a body. • Compliance with standards will allow for a review and improvement of current practices. • Cultural benefits from contributing to the growth of the Welsh language.

9. Accuracy and Usefulness of Financial Data

- 9.1 Whilst bodies have attempted to assess the financial implications of complying with the standards, the uncertainty around which of the standards each body will be required to comply with means we have some concerns about the information provided and whether they provide a basis to produce robust and accurate RIAs. There have been similar concerns in relation to previous standards regulations.
- 9.2 One body has provided estimated costs which appear to be unexpectedly high. This is not a criticism of the efforts of bodies to estimate costs, or their rationale in doing so, but rather a recognition of the difficulties of accurately estimating costs under a system where they will not know which duties they are expected to comply with, and in which circumstances, until they receive a compliance notice from the Commissioner.
- 9.3 For example, one body has estimated system costs of £7,000,000 and staff costs of £5,700,000 to ensure compliance with service delivery standards. This estimate was significantly higher than costs provided by other bodies. The estimate included set up and operational costs for maintenance of systems, as well as system costs for provision of websites, correspondence and contact centre. Estimated staff costs included recruitment, corporate management and annual staffing costs. These estimates alone have not led us to believe that service delivery standards are unreasonable as other bodies have suggested that they would be able to comply at a far lower cost. This is an example of where

the Commissioner could seek further information and consider whether the standard is reasonable for a particular body, or whether a condition should be included in the compliance notice to ensure that the standard is imposed in a reasonable manner.

- 9.4 When duties have been imposed on bodies subject to previous standards regulations, the Commissioner has not imposed every standard within regulations on any single body. The likelihood of this occurring without any conditions is small. If these regulations are passed by the Senedd, further information will be collected from the bodies when the Commissioner consults on draft compliance notices. Upon receiving a draft compliance notice, a body will have a far greater understanding of the exact nature of the duties the Commissioner proposes to impose on them. It will therefore be in a better position to provide accurate costs. A fuller financial impact assessment will then be possible, and it would be considered by the Commissioner as part of the consideration of what duties are reasonable and proportionate to impose on the individual bodies.

10. Options: Costs and benefits

10.1 This Regulatory Impact Assessment considers two options:

- Option 1: Do nothing – the bodies would continue to operate their existing Welsh Language Schemes under the Welsh Language Act 1993, if they have one.
- Option 2: Introduce Welsh Language Standards for the bodies subject to the Regulations.

10.2 The following analysis considers the costs and benefits associated with each of these options in turn.

Costs

Option 1: Do Nothing

10.3 There are no additional costs under this option. The bodies would not be required to comply with Welsh Language Standards but they would be expected to continue to deliver their existing Welsh Language Schemes (if they have one). If a body does not have a Welsh Language Scheme then they will continue to operate without any commitments or duties with regards to their provision of Welsh language services.

10.4 Table 1 summarises the information received about the cost of complying with the existing Welsh Language Schemes, or how much a body spends on Welsh language services and / or activities annually.

Table 1 - Costs for delivering existing Welsh Language Schemes / Welsh language services (per annum)

	Costs of compliance	Staffing Costs
Qualifications Wales	£250,000	£700,000
Welsh Revenue Authority*	£10,420	£26,798
Special Health Authority	£60,000 (reduced to £25,000 since inclusion of internal translation team) £5,000 for interpretation of Board meetings	£150,000
Future Generations Commissioner for Wales*	£26,000*	£109,000
Special Health Authority*	£252,000	N/A

* These bodies do not have a Welsh Language Scheme

- 10.5 The main costs associated with Welsh Language Schemes or Welsh language services include translation, staff training, systems and software (including maintenance), overheads, campaigns, and printing.
- 10.6 Qualifications Wales have noted staffing costs of £700,000 per annum to deliver their existing Welsh Language Scheme. This calculation is based on 9 Welsh essential posts. It has also identified additional staff costs of £51,000 which relates to an estimate of time required from other staff. The fact that a post is Welsh essential does not necessarily mean that the cost can be isolated in its entirety as expenditure on the Welsh language. Members of staff who are able to provide services in Welsh are often also able to provide the same services to the public in English. For example, if a body provides a service such as answering a telephone call, a member of staff would usually be available to provide an English language telephone service if a Welsh language service is not required. We appreciate, however, that some posts (e.g. translator) or a proportion of a post can be isolated as expenditure on the Welsh language.
- 10.7 Not all of the bodies subject to these Regulations have a Welsh Language Scheme. Whilst some of the bodies already provide many of their services in Welsh regardless, we recognise that some Special Health Authorities may not currently have systems in place to offer Welsh language services to the same level as required by standards. Complying with standards to cover the full range of services they provide to the public in Wales could therefore result in greater system and staffing costs. It is a matter for the Commissioner to decide whether to impose standards on a body or not, and then to decide which standards to include in the body's compliance notice. The Commissioner must consult with the bodies before issuing

final Compliance Notices and factors such as reasonability and proportionality of complying with standards must be considered at this stage.

Option 2: Introduce Welsh Language Standards for the bodies listed in the Regulations.

Service Delivery Standards

- 10.8 2 bodies did not consider that service delivery standards would have an effect on their resources or how they use those resources. The other four bodies that responded anticipate at least some additional costs in order to be able to comply with service delivery standards – these mainly relate to translation, staff, training, and system costs. Overall, bodies estimated additional costs to be between £18k - £205k (staff and system costs). Some, but not all bodies, identified whether these additional are likely to be one-off costs (e.g legal or equipment costs) or recurring costs (e.g. staff costs, translation and training). 2 bodies specifically identified staffing costs as a recurring or annual cost, with one estimating recurring costs of £87k for translation and training, and the other body estimates an annual increase to staffing costs of £144k. One body (a SHA) has estimated additional costs of over £12 million (staff and system costs).
- 10.9 The £12million estimate includes set up and operational costs for maintenance of systems, which includes provision of websites, correspondence and contact centre service delivery standards. They anticipate that the majority of system costs will be incurred in year 1, which will be the investment required to make system enhancements to meet service delivery standards with an ongoing maintenance cost from year 2. The estimate for staffing costs includes recruitment effort, corporate management and annual staffing costs. These are expected to be incurred annually from year 1, with an anticipation that there will be a need to factor pay award in future years.
- 10.10 We recognise that every body's circumstance is different, and that there may be varied cost implications depending on the nature of the bodies. We also acknowledge that some bodies may have higher one-off costs initially if there are currently no Welsh language provisions in place. The information provided by the body does, however, appear significantly higher compared to estimated costs provided by other bodies. Again, we wish to emphasise that this is not a criticism of the efforts of bodies and that we acknowledge the difficulties of accurately estimating costs when a body does not know which duties they are expected to comply with, and in which circumstances. The Commissioner must consult with the bodies before issuing a final compliance notices and must consider whether it would be reasonable and proportionate to impose a standard.
- 10.11 These estimates alone have not led us to believe that it is unreasonable to make service delivery standards specifically applicable to SHAs as a

category of persons. Our approach to add SHA's as a category does not mean that bodies will be required to comply with every standard. The intention is to ensure that there is flexibility for the Commissioner to impose standards that she believes are reasonable and proportionate for a particular SHA, including any SHA created in the future. We expect that the Commissioner when consulting with bodies will seek further information to establish whether a standard is reasonable for a particular body, or whether a condition should be included in the compliance notice to ensure that the standard is imposed in a reasonable manner. By then, bodies will be clearer on what standards are likely to be imposed on them. This will enable bodies to provide a fuller and more detailed financial impact assessment as part of any consultation by the Commissioner.

- 10.12 Qualifications Wales anticipates one-off costs of £5k and recurring costs of £86k for system and non-direct staff, plus £1k for staff training. These estimated costs relate to translation, equipment, staff training and legal cost to support changes to contracts and tender documents.
- 10.13 The Welsh Revenue Authority expects to incur a cost of £18k for educational and engagement events and has identified a potential increase in translation cost to comply with standards relating to meetings and course as well as increased translation costs in response to the introduction of a new Visitor Levy service. It also noted that some digital services may not fully comply with standards, potentially incurring costs but that the full extent of costs would only become clear once it had received its compliance notice following discussion with the Commissioner. We note the anticipated increased translation costs. The body currently operates in the spirit and in accordance with the No.1 Regulations regardless of legal duties therefore we would not necessarily consider the translation costs associated with the new Visitor Levy service as an additional Welsh language cost. In line with its current approach to operate in accordance with the No.1 Regulations we expect that much of those costs would be incurred regardless of any duties imposed through these Regulations.
- 10.14 One Special Health Authority reports no additional costs due to having existing Welsh-speaking staff in roles associated with service delivery.
- 10.15 Trustees of the National Heritage Memorial Fund noted that its current Welsh Language Scheme aligns with the service delivery standards of the proposed regulations and indicated that it will assess any related resource and cost implications whilst preparing for standards.
- 10.16 The Future Generations Commissioner for Wales foresees £60k in system costs and £144k in annual staff costs, mainly for translation and awareness activities.

Policy making standards

- 10.17 Five of the six bodies that responded did not consider that the policy making standards within the proposed regulations would have an effect on their resources or how they use those resources. One other body noted that the policy standards would have an effect on their resources or how they use those resources.
- 10.18 One Special Health Authority stated that there were no additional / staff costs associated with the standards.
- 10.19 Trustees of the National Heritage Memorial Fund ('NHLF') recognise that they have a role in promoting and supporting the Welsh language to support the Welsh Government's Cymraeg 2050 strategy, as well as the aim and ambition of the Well-being of Future Generations (Wales) Act 2015, to create a Wales of vibrant culture and thriving Welsh language. NLHF indicated that it will review any associated resource and cost implications of these standards when reviewing practices in preparation for standards.
- 10.20 Future Generations Commissioner for Wales noted initial estimated costs of £6k for translating current policies and procedures, and a further £29.3k per annum of staff time and training to ensure policies positively impact the use of the Welsh language and treat it no less favourably than the English language. Complying with policy making standards should in their own right not result in a body having to translate policies into Welsh. The duties brought about by those standards relate to considering the effect of a policy on the Welsh language, rather than the language of the policy document itself.
- 10.21 Another Special Health Authority noted that it follows policies set by UK Government's Department for Health and Social Care and other commissioning bodies. The Special Health Authority considered that these bodies would need to be consulted directly to assess the impact, as it cannot estimate on their behalf. Policy making standards, if applied to a body, would require a body to consider the effect of the body's own policies on the Welsh language. This could include a policy relating to a service provided to a member of the public or a policy relating to staff. For example, a policy relating to contracts of services or staff training would be required to consider the effects on Welsh language.
- 10.22 The Commissioner has the flexibility to decide whether to impose standards on a body or not, and then to decide which standards to include in a body's compliance notice. The Commissioner can impose a standard in certain circumstances but not in others. The Commissioner must consult with the bodies before issuing final compliance notices and must consider whether it would be reasonable and proportionate to impose policy making standards.

Operational standards

- 10.23 Four of the six bodies that responded considered that the operational standards within the proposed regulations would have an effect on their resources or how they use those resources. One other body noted that it was not yet known whether there would be any effect, and one other body considered that there would not be any effect.
- 10.24 Qualifications Wales noted one-off costs of £40k and recurring costs of £30k for system changes and ongoing translation, plus one-off staff costs of £1k and £49k annually mainly for training.
- 10.25 Welsh Revenue Authority stated that it may incur additional IT costs to ensure its intranet was fully compliant, however was unable to provide exact figures without knowing the outcome of compliance discussions, and what the requirements imposed would be.
- 10.26 One Special Health Authority noted that it spends approximately £1,500 annually on Welsh language learning for staff, with staff costs hard to estimate as staff are given time off for learning during working hours.
- 10.27 Future Generations Commissioner for Wales estimates system costs of £18.1k and annual staff costs of £16.4k for translation and consultancy to be able to provide HR matter in Welsh, including translation of People HR system into Welsh. It has also estimated an annual cost of £400 to provide payslips in Welsh to staff that have requested this.
- 10.28 Another Special Health Authority anticipates £750,000 in system costs, mainly in the first year, to make system enhancements with ongoing maintenance costs from the second year onwards.

Record keeping standards and standards dealing with supplementary matters

- 10.29 Five of the six bodies that responded noted no additional cost implications due to having to comply with record keeping or standards dealing with supplementary matters. One other body noted that there would be cost implications.
- 10.30 Trustees of the National Heritage Memorial Fund believes that it will be able to comply with record keeping standards but will review any associated resource and cost implications upon further understanding on what standards they would have to comply with.
- 10.31 Future Generations Commissioner for Wales anticipates staff costs for complying with record-keeping standards and supplementary matters to be £4.6k per annum. This includes £1k annually for translating complaints handled by a non-Welsh speaking staff member. Additional costs have also been allocated to deal with additional complaints, creating compliance plans, and producing annual reports.

10.32 The table below summarises the additional costs identified by the 6 bodies in their responses to the data capture exercise per category of standards. Total costs for each category of standards are in bold:

Body	Service delivery standards	Policy making standards	Operational standards	Record keeping and supplementary standards
Qualifications Wales	£92k (£5k one-off costs) (£87k recurring costs)		£120k (£41k one-off costs) (£79k recurring costs)	
Welsh Revenue Authority	£18k			
Special Health Authority	No additional / staff costs associated	No additional / staff costs associated	£1.5k (annual cost)	No additional / staff costs associated
Trustees of the National Heritage and Memorial Fund				
Future Generations Commissioner for Wales*	£204k (£60k system costs) (£144k annual staff costs)	£35.3k (£6k one-off system costs) (£29.3k annual staffing costs and training)	£34.5k (£18.1k system costs) (£16.4k annual staff costs)	£4.6k (£4.6k annual staff costs)
Special Health Authority	£12.7million (£7m system costs and £5.7m staff costs)		£750k (system costs - most costs estimated in year 1 with ongoing costs from year 2)	

Benefits

Option 1: Do Nothing

- 10.33 This is the baseline option and there are no additional benefits associated with this option. This option would maintain the status quo where Welsh Language Schemes are complied with (where bodies have a scheme). The Commissioner would continue with the work of monitoring compliance with schemes. Where a body does not have a Welsh Language Scheme then they will continue to operate without any commitments or duties with regards to their provision of Welsh language services.

Option 2: Introduce Welsh Language Standards

- 10.34 The aims of the standards are outlined in paragraph 4.4, above. At this stage (and until the Welsh Language Commissioner issues a body with a compliance notice), it is only possible to outline the expected benefits of the standards in general terms as it is not known what standards each body would be expected to comply with.
- 10.35 Placing bodies subject to the Regulations under the standards system will either move them from the Welsh Language Scheme system, which came into force under the 1993 Welsh Language Act, to the standards system brought about by the Welsh Language (Wales) Measure 2011 or help formalise and build on arrangements already in place to ensure that Welsh language services are available. It will also ensure that these bodies are under the same regulatory system as similar bodies, already included in existing standards regulations.
- 10.36 The standards will make clear what the bodies need to do in terms of the Welsh language, so that members of the public will know what to expect with regards to Welsh language services. This clarity, both for the public and the bodies, will help ensure that the standards can be effectively enforced and should ensure that bodies are clear as to what level of service they need to provide in Welsh. The Commissioner can only impose standards that are reasonable and proportionate for each individual body.
- 10.37 The Commissioner has no enforcement powers under the Welsh Language Act 1993; only under the Welsh Language Measure. The enforcement regime provided for under the standards system allows for a more effective means of dealing with alleged non-compliance to ensure the best outcomes for service users. The Commissioner has recently introduced a more co-regulation approach that involves working more closely and proactively with bodies to ensure compliance with Welsh language standards.
- 10.38 The Commissioner has to date imposed Welsh language standards on 131 public bodies. The Commissioner also commissions an annual survey of Welsh speakers. The results of the latest annual survey as reported in her Annual Report 2023-24 showed that:

- 79% of respondents felt that they could usually deal with public bodies in Welsh if they wish to do so (this raised to 86% when the respondent was a fluent Welsh speaker).
- 74% of respondents were of the opinion that the Welsh language services provided by public bodies were improving.
- 75% of respondents considered that public bodies asked them in which language they would like to deal with them.
- 65% of respondents agreed that they were more likely to use Welsh language services if organisations make it clear that they are available.

11. Conclusion

11.1 The current uncertainty surrounding which of the standards bodies will need to comply with, and under what circumstances, means that it is not possible to produce a robust assessment of the costs and benefits associated with the Regulations at this stage.

11.2 The Commissioner must consult with the bodies before issuing final compliance notices and factors such as reasonability and proportionality of individual standards will be considered at this stage. As part of this process, bodies could present an assessment of the relative costs and benefits associated with the standards. This could be considered by the Commissioner as part of the process of coming to a decision on whether the standards are reasonable and proportionate.

12. Duties

Well-Being of Future Generations (Wales) Act 2015

12.1 The Regulations supports the Welsh Governments well-being goals and principles, especially a *Wales of Vibrant Culture and Thriving Welsh language - protects culture, heritage and the Welsh language*. The Welsh Government has a duty to promote and facilitate the use of Welsh and work towards the well-being goals. The Regulations will facilitate the use of Welsh when the public deals with the bodies named in the Regulations.

UN Convention on the Rights of the Child

12.2 The Welsh Government's Children's Rights Scheme has been considered, and it was concluded that these Regulations do not impact upon the rights of children and young people.

Welsh language

12.3 A Welsh language impact assessment has been undertaken and concluded that these Regulations would have a positive impact on people's opportunities to use the Welsh language, and will not result in the Welsh language being treated less favourably than English.

Equalities

- 12.4 An Equality Impact Assessment has been undertaken for the Regulations. They do not raise any issues with regard to equality and human rights. There are no negative impact on people in protected groups. The regulations will allow Welsh speakers to receive Welsh language services from these bodies, and those services will be available to all service users irrespective of whether they are in protected groups.

13. Competition Assessment

- 13.1 The making of the Regulations is not expected to impact on the competitiveness of businesses, charities or the voluntary sector.

14. Post-implementation review

- 14.1 The Measure provides opportunities for the Commissioner to bring the suitability of the standards specified in the Regulations to the Welsh Ministers' attention. The Commissioner may make recommendations or provide advice to the Welsh Ministers (Section 4 of the Measure) which could directly recommend amending the Regulations. Advice given by the Commissioner could also lead to the Welsh Ministers determining that it would be appropriate to review the standards. The Welsh Ministers must have due regard to any written recommendations or advice that the Commissioner makes or gives when exercising the function to which the recommendation or advice relates.
- 14.2 Section 18 of the Measure requires the Commissioner to produce an annual report which must include a review of issues relevant to the Welsh language (among other matters) and could also include any other matters the Commissioner think it is appropriate to include.
- 14.3 The Commissioner also has the power to undertake Standards Investigations (sections 61 and 62 of the Measure) which can consider which standards should be, or should continue to be, specifically applicable to a person, whether or not the standards are already specified by the Welsh Ministers. After a Standards Investigation the Commissioner must produce a Standards Report, a copy of which must be provided to the Welsh Ministers. The Welsh Ministers must have due regard to such report in accordance with section 66 of the Measure.
- 14.4 Subject to their compliance notices, bodies will publish Annual Reports, which deal with how they have complied with the standards imposed on them. These Annual Reports could also raise issues regarding the suitability of the standards specified.