

Welsh Language Standards (Health Sector) Regulations

Consultation response form

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Responses should be returned by **14 October 2016** to

Welsh Language Division
Education and Public Services
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: UnedIaithGymraegWelshLanguageUnit@wales.gsi.gov.uk

Introduction

Public Health Wales welcomes the opportunity to comment on the draft Welsh Language Standards (Health Sector) Regulations.

The importance of the Welsh language in health is acknowledged and understood within our organisation. We are determined to improve the 'active offer' to service users, and we are keen to do more with regard to the facilitating the use of the Welsh language by our staff and external colleagues. We are making progress in these areas.

We agree with the draft standards in principle and a substantial number reflect the commitments made in our Welsh Language Scheme. The draft standards introduce new requirements, some of which will prove challenging but we feel that they are achievable and will help us to improve further. With regard to some of the new requirements we have concerns in relation to our ability to comply. Some of our concerns are described in our response to the consultation questions below.

Part 1: Delivery of services by health boards and trusts

Question 1 – Do you agree that the definitions of clinical consultation and health provision are clear and comprehensive?

Yes	<input type="checkbox"/>	No	✓
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Supporting comments

We welcome the provision of definitions in the draft regulations. We feel that perhaps some of the activities of Public Health Wales, do not fit well with these definitions. Our internal discussions about the standards have highlighted that the definitions provide scope for differing interpretation. In order to ensure that the regulations are applied equitably we request that they be clarified to remove ambiguity.

Health Protection:

Our main function is to protect the wider public health and whilst we have contact with individuals as part of this function, we are rarely involved in the assessment, diagnosis or treatment **of that individual** but rather an assessment of the risk that individual poses to others. Practically, there are 3 types of contact:

- Investigation of individual cases, where people are interviewed to ask them about personal details and possible exposures (food, travel etc). This is not really for their clinical benefit and we are not of the view that this is a provision of a health service.

For example: if an individual presents to a GP with suspected food poisoning, it

is the GPs responsibility to make an assessment, determine the diagnosis, and decide on appropriate treatment - all of which would fit the definition of “health provision”. Having done so the GP would contact health protection to notify the case, at which point we may have further questions for the individual (e.g. who they have been in contact with, where they had eaten, etc.). This activity is not captured by the definition of “health provision” and so it isn’t captured under the “clinical consultation” definition. In our view, the definition should be expanded to include ‘investigation’ as a category of health provision.

On a related matter, local government environmental health officers conduct similar investigations to those described above, If it is deemed that such contact is included with the terms and definitions provided, we feel that it would be relevant to highlight the fact that Standard 25 in the draft regulations which relates to clinical consultations would also be relevant to local government .

- With regard to the scenario described above, we may also, during this conversation provide health-related information / advice to the individual. For example, we would speak to the individual about how they can prevent spread of the illness to others. We may also include some advice on the condition but we try to keep this to a minimum as individual clinical advice (e.g. when will I get better?) should be from elsewhere in the NHS. We may also speak to close contacts (e.g. family/household members) about how to avoid contracting an infection. This activity is not captured by the definition of “health provision” and so it isn’t captured under the “clinical consultation” definition.. It is unclear to us whether or not this would be a “health provision”. We would be pleased if the Regulations could provide clarity on this matter.
- Public health advice to groups of people at risk or cases: for example advice following an incident or outbreak. It is not clear whether this meets the definition of ‘clinical consultation’.

The vast majority of our contacts are “urgent” in the sense that there is an immediate need to provide information in order to control the risk to others, and our interpretation of the exemptions provided in the draft Regulations is that our health protection activities would be exempt under the clause provided for Proper Officers.

Screening

The definitions provided of ‘clinical consultation’ and ‘health provision’, and in particular the term ‘assessment’ do not reflect our screening activities. For example, in relation to our Newborn Hearing Screening Programme, a baby’s hearing is first screened and if necessary, the baby is referred to the health board for ‘assessment’ which is a different activity. In our view, the definition should be expanded to include ‘screening’ as a category of health provision.

Stop Smoking Wales

Public Health Wales runs smoking cessation support sessions in the community and over the telephone. Individuals may join a group, or enter one-to-one arrangements in their area (or over the telephone) and receive behavioural support

to help them quit smoking. We are unclear as to whether all individuals receiving service would be considered as doing so through 'clinical consultations'.

The term 'attends' used in Standard 25 suggests that an individual will physically visit specified premises for their clinical consultation. However, not all of what might be described as 'clinical consultations' are undertaken in such premises. For example, Stop Smoking Wales provide 'behavioural support' on the telephone when group support in the community is not suitable. It is unclear as to whether Standard 25 would apply in such scenarios as it could be argued that the individual is not 'attending'. We would be grateful if the regulations could provide clarity on these matters.

Additional Comment

We would ask Welsh Government to consider whether 'Health Consultation' would be an appropriate alternative term to 'Clinical Consultation' if it agrees that the definitions do not reflect some of Public Health Wales activities.

Question 2 – Is the proposed standard 25 (clinical consultation) practical in the various scenarios described in the consultation document?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
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Supporting comments

Health Protection

Due to the nature of our health protection activities the practicalities of undertaking our work in compliance with Standard 25 would be a challenge, and we believe that there would be a permanent risk of non compliance. The challenges are detailed below:

Much of our work is urgent and many of the conversations we have with individuals can be complex and sensitive. For example, we often have to ask questions about an individual's sex life, or explain to a parent that we are offering them antibiotics to eliminate carriage of bacteria and that it won't necessarily prevent illness. Such conversations are difficult at the best of times and made worse when parents are distressed because their child is severely unwell, or in some cases deceased. These conversations take some amount of skill and sensitivity so that the right members of staff need to be delivering these. We acknowledge the importance of affording opportunities for individuals to converse in their first language in such circumstances. The practical challenge we face are that our health protection teams are relatively small, they cover large geographical areas (North Wales, Mid and West, South Wales), and they provide a 24/7 service so there is an on call service in operation overnight between the hours of 17.00hrs and 09.00. Our North Wales regional team, for example, comprises 1 consultant, 3 nurses, 2 administrators, and 1 analyst (no larger than an average GP practice covering the whole of North Wales). We have one Welsh speaker in the team who is qualified and able to undertake the complex and sensitive conversations described above during normal working hours. During the on call service – which

is drawn from the all Wales team and operates on a rota system - only two members of staff are on duty at any one time and they provide the service for the whole of Wales. There is only one Welsh speaker in the small pool of staff which provides that on call service, so when they are not on duty, we cannot undertake those conversations in Welsh. We note that the use of a translator is one of the options for providing Welsh language support described in the consultation document, but our view is that these situations do not lend themselves well to translation services due to their often highly sensitive and personal nature, and in many cases they are undertaken on the telephone. We would have to rely on a telephone translation service such as Language Line for Welsh language support in such circumstances, but we are concerned about the capacity of such a service to meet any demand during 'on call' hours. We are also concerned about confidentiality.

Although the facility to identify and record language preference is available at the time of notification, more often than not it isn't recorded (because the notification comes directly from the laboratory or clinician where the preference is unknown). So the first opportunity to ask this will be when we "cold-call" the individual. Because of the urgency involved, any delay in carrying out the investigative conversation and subsequent tests could put lives in danger.

Stop Smoking Wales

Our biggest challenge to date in terms of offering an equitable service in Welsh and English is the provision of stop smoking groups through the medium of Welsh. To hold such a group there needs to be at least two Welsh speaking smokers wishing to quit smoking at the same time in the same area. This is rarely the case, so stop smoking groups delivered solely in Welsh are very rarely arranged. If group sessions are classified as 'clinical consultations' under the standards and a Welsh speaker wishes to attend a Welsh medium group, then we are at a permanent risk of failing to comply with his standard. In the absence of Welsh medium groups, to comply with this standard there would be a need to offer Welsh language support at an English medium group, for example by using a translator or bilingual Cessation Advisor. The practical resource implications of this, given that an individual may attend a group and request Welsh language support on arrival, i.e. without notifying the service in advance, then a translator would have to be present in every group meeting across Wales. This would be extremely costly and we do not believe that there are sufficient numbers of interpreters available in Wales to enable us to achieve that. We have considered whether it might be easier for us to provide Welsh language support at English medium groups if the individual were to inform SSW in advance that they wish to receive Welsh language support. Whilst this would help, it could be detrimental to the service user. For example, it could take some time – perhaps a few days – to find an available translator. This is a matter of concern because we know that even a small delay in providing quit support could lead to the individual changing their mind about quitting. However, we request that the standards be amended to require individuals to inform bodies in advance that they wish to receive Welsh language support, and that bodies would not be failing to comply if they do not provide WL support because they were not informed in advance.

Breast Screening

When a mammography is being undertaken, the radiographer stands behind an x-ray protective screen. There is insufficient room for the radiographer and translator behind this screen, but even if there were, because of Radiation Protection Regulations, it would not be possible for an interpreter to be present in the X-ray room where mammography is being carried out. So, in a situation where no Welsh speaking radiographer is available, only the booking in process would be carried out in Welsh. We request that Welsh language support in x-ray rooms be made exempt from the standards

Breast Test Wales has ten mobile vans, each screening around 50 women a day across Wales. Each van is staffed by two radiographers; one undertakes reception duties while the other undertakes the screening. Due to the shortage of Welsh speaking radiographers within the service, we cannot provide a Welsh speaking radiographer on every van, every day. We would therefore have to consider other means of providing Welsh language support, for example by using a translator. The practical resource implications of this, given that if an individual may attend an appointment and request Welsh language support on arrival, i.e. without notifying the service in advance, is that a translator would have to be present in every van, every day. This would be costly and we are concerned that there may not be sufficient numbers of interpreters available in Wales to enable us to achieve that. An alternative would be to use a telephone translation service such as Language Line which we could call when the demand arises, but if it proves difficult and time consuming to make the necessary arrangements this could have an adverse effect on the day's screening schedule and on the women attending for their screening appointments. Due to the limited space in the vans, we might also have to ask the individual to vacate the van temporarily whilst Welsh language support is being arranged, and this could have a negative impact on service user experience. It may also add to any anxiety they may be experiencing due to the nature of the appointment. We are concerned that in seeking to do good by providing Welsh language support, the potential impact on service user experience could be interpreted as treating the Welsh language less favourably than the English language.

Assessment investigations at static centres can involve interaction with up to 6 staff teams in one appointment (Radiographers and Assistant Practitioners, Receptionists, Radiographers [including Assistant Practitioners and Advanced Practitioner Radiographers], Clinical Imaging Support Workers, Breast Care Nurses [including Clinic Nurse], Radiologist [including Breast Clinicians and Consultant Radiographers] and Surgeons). We note that the Consultation Document states that each separate interaction would be a clinical consultation, and that Welsh language support could be provided in a different way and by a different person in each interaction. Whilst we welcome the flexibility this offers, organising potentially a different type of support for each of the six interactions could prove to be a chaotic experience for both the screening service and the service user, particularly if an individual requests Welsh language support on arrival, i.e. without notifying the service in advance.

A request for Welsh language support on attending the appointment would inevitably result in a delay in the woman being seen, and this could be interpreted as treating the Welsh language less favourably than the English language. It

might also be a challenge to meet the expectations of service users, when offering telephone translation services or inconsistent Welsh language support throughout the consultation.

We are also concerned that where there are no Welsh speaking staff available to provide Welsh language support, the cost of a translator could run into hundreds of pounds per appointment (depending on the length of the appointment plus waiting times in between each interaction).

The time allocated for screening appointments is 6 minutes. Welsh language support such as consecutive translation could extend the length of the appointment. The potential impact of this is a reduction in number of appointments that can be made per day, so fewer women screened.

We have concerns that pressure may be applied to Welsh speaking staff to provide Welsh language support, e.g. translation when they feel that they are not equipped with either the language skills or confidence to do so. There is also the issue of the quality and accuracy of the translation when professional translators are not used. There would be a challenge and sensitivity in relation to assessing the skills of our Welsh speaking staff before approving them to provide Welsh language support.

Newborn Hearing Screening

Newborn Hearing Screening tests need to be undertaken as early as possible for optimum testing conditions (i.e. whilst the baby is still sleeping a lot) and ideally the screening will be complete by the time the baby is 4 weeks old. This allows time for the baby to be referred to Audiology if necessary for further testing and potentially a hearing loss identified sufficiently early to give maximum benefit. Screeners have direct contact with mothers on post natal wards, special care and in community clinics. Due to the shortage of Welsh speaking screeners within the service we cannot ensure that a Welsh speaking screener is present in every clinic, ward and community clinic. We could seek to identify language preference in advance of a meeting and align with when the Welsh speaking screener is on duty. However, this could potentially delay screening to beyond the four week period, leading to a delay in diagnosis.

If, as the regulations suggest, an individual can request Welsh language support on arrival at an appointment, the only way in which we could meet this request is by using interpreter services such as a telephone translation service. This would be costly and we are also concerned that it would reduce the quality of the mother's experience of the service.

Screening in Prisons

Our screening services visit prisons to undertake 'clinical consultations'. We are unclear as to who would be responsible for the provision of 'Welsh language support' in such circumstances, the prison, the local health board, or Public Health Wales. We have no experience of arranging Welsh language support in circumstances where an individual in prison may request such support without prior notice. We think that this may present practical challenges in a secure prison environment, e.g. vetting and clearance of visiting translators. We feel that this

matter requires consideration by Welsh Government and provisions made in the regulations.

Other comments

Service user safety is paramount. We are concerned that staff and translators who are not specialists in health translation and interpretation may provide inaccurate information during the consent process and other parts of the clinical consultation if they are unfamiliar with the terms being used, or uncertain when some words may not have a Welsh translation. We are also concerned about supporting consultations over the phone.

In light of the shortage of Welsh speaking staff, the potential cost of providing Welsh language support, and quality and safety issues described above, our view is that it would be unreasonable to expect our organisation to provide Welsh language support without advance notice. We request that the standards be amended to require individuals to inform us in advance (minimum 3 days) that they wish to receive Welsh language support at their clinical consultations.

We also request that the regulations include an exemption that allows clinicians to progress management of an urgent case if there is no translator available in a suitable time frame.

Question 3 – Is keeping a record, and acting in accordance with the individual's language preference practical?

Public Health Wales does not have one IT system on which our service users' details are held. These details are held on numerous systems. In some cases the details are fed from external sources, e.g. Welsh Demographic System, which do not capture language preference, or if they do, the language preference field is not completed before it reaches us. Some of our systems pre-date our Welsh Language Scheme and do not include language preference fields.

Screening

Recording language preference: In screening, the business case for our replacement informatics system for Cervical Screening Wales has just been approved by Welsh Government and we included a language preference recording facility in the specification. We anticipate it will take 18 months-2 years to come into use. The system will then be developed to encompass all of the Screening Programmes offered by the division, and this will take several more years. In the meantime, all correspondence of this type is provided bilingually.

Acting on language preference: See responses to Q2.

Health Protection

Identifying language preference: We are currently reliant on referring healthcare professionals to ascertain and record the individual's language preference on a referral form. If the information is provided, it is recorded on our IBID system

(Information Bureau for Infectious Diseases). If the information is not provided (which is generally the case), the first opportunity to ask this will be when we “cold-call” the individual.

The IBID system – and the language preference information if recorded - is accessible by colleagues in the Local Authority also who are often the first point of contact when dealing with cases (e.g. cases are often reported to us but we pass on their details to the Environmental Health Officers in order for them to interview cases directly). If the information is not recorded (which is generally the case), the first opportunity to ask this will be when they “cold-call” the individual.

Recording language preference: This is practical and achievable for the health protection service at present using our IBID system which already has the capability to store language preference information.

Acting on language preference: See responses to Q2.

There is also a working group led by Welsh Government looking at the regulations surrounding notification of disease that were considering whether language preference should form part of the statutory notification process.

Stop Smoking Wales

Identifying language preference: There are systems in place to identify language preference.

Recording language preference: There are systems in place to record language preference.

Acting on language preference: We have procedures in place to act on language preference. However, Stop Smoking Advisors discuss stop smoking medications with a client and their preference is recorded on a letter that the client takes to a pharmacist who will then prescribe an appropriate medication. These letters are currently in English only. A potential challenge is if a Welsh speaker wanted a copy of the letter in Welsh only. We would also need to provide a copy in English as the pharmacist may not be a Welsh speaker. See also responses to Q2.

Question 4 – Do you agree with the concept of Welsh language support during clinical consultations?

Yes	✓	No	<input type="checkbox"/>
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Supporting comments

We support the principle of providing Welsh language support in clinical consultations.

With regard to the concept of Welsh language support as described in the Consultation Document we welcome the flexibility it allows in terms of the type of

support that can be provided. However, we have some concerns which are described in our responses to Q2.

Question 5 – Do you agree that the definitions of case conferences and health-related provision are clear and comprehensive?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
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Supporting comments

The definition of case conferences as provided in the Regulations is not entirely clear to us. The term ‘interaction’ is not clear – we request that the regulations provide clarity on the medium of the interaction, i.e. whether this applies to telephone or face to face interactions, or both.

We are given to understand that an individual must be involved / present for an interaction to constitute a ‘case conference’. We offer the following comments:

- For the avoidance of doubt we suggest that the definition on page 5 of the Regulations be amended to say ‘(i) A, and ‘ (the information provided in the Consultation Document includes the word ‘and’)
- Standard 26: replace ‘If’ with ‘When’ as ‘if’ suggest that there can be a case conference without the individual being present.

In the Regulations the third bullet point in the definition of ‘case conference’ says: ‘one or more person...’. However, in the Consultation Document it says ‘one or more bodies’.

With regard to the definition provided in the Regulations of ‘health-related provision’, for the avoidance of doubt we suggest that ‘as part of the national health service’ should replace ‘as part of the health service’.

Question 6 – Do you agree that case conferences should be treated differently to clinical consultations and other meetings?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
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We note that there are differences in the requirements with regard to translation in relation to Case Conferences (standards 26, 26a and 26b - translation from W to E and from E to W), Clinical Consultations (direction of translation not specified), and other meetings (standards 22 -31 translation from W to E only).

We do not understand why E to W translation would only be required to be provided in a Case Conference. Case Conferences would normally occur at some point after clinical consultations have taken place, and it might well be that translation from W to E and from E to W would have been needed and provided at the clinical consultations. For example, an individual attending a clinical consultation might have experienced a stroke, or have mental health issues, or learning disabilities, they may be an older person or a child who may only be able to communicate in Welsh (understanding and speaking). In such a scenario, if the healthcare worker / clinician cannot speak Welsh, translation of the healthcare worker's words from English to Welsh would be required for the benefit of the individual, and translation of the individual's words from Welsh to English would be required for the benefit of the healthcare worker / clinician. The same translation support would be required at any subsequent case conference, for the benefit of the individual and other non Welsh speaking persons.

For that reason our view is that Standard 25 should be amended to reflect the need for translation from Welsh to English and from English to Welsh, to be provided as appropriate depending on the needs of the individual and other persons at the clinical consultation.

We agree that there should only be Welsh to English translation in other meetings. (standards 22 -31)

Question 7 – Does the list of healthcare professionals at paragraph 38 capture everyone who may be involved in a case conference or meeting that involves only healthcare professionals?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
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Supporting comments

Our first observation is that given that the definition of a case conference is one where an 'individual' and a county council must be present, a meeting of health professionals only –the purpose of which is to discuss an individual's 'health related provision' – would not constitute a 'case conference'.

We welcome the concept that meetings - the purpose of which is to discuss an individual's 'health related provision' - involving only health professionals would not be subject to the standards. However, our view is that a list of 'health professional' should not be included in the regulations. Case conference attendees vary from one case to another, depending on the subject matter and the nature of the case, and could include clinical and non clinical staff. Whilst we welcome the invitation to add to the list, our view is that the existence of a list would introduce a level of bureaucracy, complexity and risk. Our view is that the list in paragraph 38 should be deleted and replaced with: 'Subject to sub-paragraph (2) standards 22 to 24D do not apply to a meeting involving only the body and other NHS staff'.

Question 8 – Do you agree with the approach that an individual can expect compliance with the Welsh language standards imposed (if any) on the body who is physically providing or carrying out the clinical consultation or case conference?

Yes	✓	No	<input type="checkbox"/>
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Supporting comments

Yes, but see response to Q9

Question 9 – Do you agree that health care provision in prisons should be treated in the same way as other health care?

Yes	✓	No	<input type="checkbox"/>
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Supporting comments

See response to Q2 - Screening in Prisons

Question 10 – Do you agree with the proposed exemptions and the reasons why, e.g. responding to Civil contingencies and emergencies, excluding private hospitals and hospitals outside Wales?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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Supporting comments

<p>Emergencies / Urgent Agree with the exemptions for incidences under the Civil Contingencies Act and the Public Health (Control of Diseases) Act. These are practical and sensible exclusions where the risk to human health should remain the primary consideration.</p> <p>For the definition under the Public Health (Control of Diseases) Act, it relies on the assessment of the proper officer determining that the case is “urgent”. It would be helpful to provide clarity on what the standards would consider an “urgent” case to be. For example some cases require immediate action, others within a few hours, and others within a few days, etc.</p>
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The exemptions regarding notifiable diseases and civil contingencies would cover a large proportion of Health Protection consultations, but possibly not all.

Private hospitals

We are concerned that the exemption for private hospitals could result in inequity for patients. Also, it might result in services being moved from the NHS to the private sector if Welsh language standards cannot be met by the NHS services.

We agree that hospitals outside Wales should be exempt from the standards.

Research

We support the view that research is exempt from the standards as justified on page 10 of the consultation document (bullet 2) and in Paragraph 27 page 37 (Service Delivery Standards) and Paragraph 4 page 53 (Policy Making standards). However research within Public Health Wales is not only medical research but also includes research at a population level (e.g. using surveillance data), research in non-clinical settings (e.g. schools), and can be carried out by clinical and non-clinical staff (e.g. trained epidemiologists). Therefore, we would like Welsh Government to consider removing the term “medical” from the description of research to better reflect the breadth of research carried out across Public Health Wales.

Part 2: Primary care

Question 13 – Do you have any other comments in relation to Welsh language provision in primary care services?

Yes	✓	No	<input type="checkbox"/>
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Supporting comments

Include a standard which requires primary care providers to identify and record language needs and preferences on local and national data systems.

Question 14 – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Subject	Comment
Definition of ‘individual’	The term ‘individual’ is used in the Service Delivery Standards and defined as a ‘member of the public ordinarily resident in Wales’. Some of our service users live in England but are registered with GPs in Wales. We should like to highlight the potential discriminatory effect of this

	<p>definition when applied to the Service Delivery Standards, i.e. that these particular standards would not apply to individuals resident outside Wales.</p> <p>Similarly, the term 'individual' is used in the Operational Standards Regulations - which relate to recruitment and selection procedures (Standard 109, 150 151 and 152). Many of our job applicants are resident beyond the Welsh borders and some of them submit applications in Welsh. We should like to highlight the potential discriminatory effect of this definition when applied to Welsh speaking job applicants resident outside Wales.</p> <p>We therefore recommend that 'ordinarily resident in Wales' be removed from the definition provided in the Regulations.</p> <p>We would welcome clarification in the regulations as to whether the term 'individual' includes any individual, e.g. carer or relative attending the clinical consultation with the individual?</p>
<p>Definition of 'person'</p>	<p>The term 'person' is used in 35 of the standards, but a definition is not provided in the Regulations. We have been given to understand by WG that the term means something different to 'individual', and it referred to the Interpretation Act 1978 which states that the term 'includes a body corporate and unincorporated'.</p> <p>Although this information is helpful in one respect, we are still unclear as to its full meaning. For example, does 'person' include:</p> <ul style="list-style-type: none"> • a member of Public Health Wales' staff • a member of the public acting in their capacity as an employee of a person • 'a member of the public working for a person' • someone acting in their capacity as employees of health boards, local authorities, Welsh Government, etc. • an 'individual' bearing in mind that we have been advised by WG that they are intended to mean different things • 'a member of the public' • GPs, and other primary care providers • Public Health Wales Board members <p>For reasons of consistency, clarity and the avoidance of doubt, we request that a definition be provided in the Regulations</p>

<p>Definition of 'the public' and 'general public'</p>	<p>The term 'the public' is used extensively in the Regulations but a definition is not provided.</p> <p>The term 'the general public' is also used, but a definition is not provided.</p> <p>We are unclear as to whether these terms have the same meaning.</p> <p>For reasons of consistency, clarity and the avoidance of doubt, we request that a definition be provided in the Regulations</p> <p>We would welcome clarification in the regulations as to whether GPs and other primary care providers, and Public Health Wales Board members come under the term 'public'?</p>
<p>'Member of Staff' and 'Employee'</p>	<p>In the Operational Standards Regulations the terms 'member of staff', and 'employee(s)' are used. A definition of 'member of staff' is provided in the Regulations, but a definition of the term 'employee' is not provided. We are assuming that these terms have the same meaning. If our assumption is correct, for reasons of consistency and the avoidance of doubt, we recommend that only 'member of staff' is used. If our assumption is incorrect, we request that the Regulations provide a definition for 'employee'.</p>
<p>Standard 2 and 3</p>	<p>We note that Standard 2 does not stipulate the language(s) to be used in the first correspondence with an individual. We recommend that in line with Standard 5, the correspondence should be bilingual.</p> <p>Our screening services deal with a substantial proportion of the population of Wales, e.g. all women aged 25-74 (breast and cervical screening), every single baby born in Wales (Newborn hearing screening and Newborn blood spot screening), all adults aged 50 – 74 (bowel screening). Screening standard letters / invitations are initiated bilingually, in very large volumes. We do not currently ask recipients whether they wish to receive future correspondence in Welsh. With regard to adding this question to correspondence, this would be extremely problematic for some areas of screening as the space available in the letter template is limited, and print runs are limited to one page. It is likely that the IT systems and software would need to be reconfigured in order to meet this requirement. In order to continue to limit the letter to one page, clinical decisions would have to be made with regard to editing existing content.</p>

	<p>Each screening programme is supported by a separate IT system which manages an individual's journey through each screening episode and ensures they are invited and recalled appropriately. In order for the system to automatically send out a letter in accordance with language preference, the IT system / software would need to be reconfigured. To do this manually would be difficult to manage administratively. It costs £50 per letter to pull a letter out of the print run and to change it into Welsh only. Forms are currently bilingual. If a request were made for Welsh only forms, separate versions would have to be printed. These would have to be manually inserted into envelopes. All processes would have to be reviewed and revised. All processes are currently set up to issue everything bilingually.</p> <p>Whilst we think it would be technically possible to make the changes to the IT systems to meet the standard, there would be substantial financial implications to doing so at a time when the NHS is experiencing financial pressures. We estimate that amending the IT systems to record individual preferences, maintain that information and act on it would cost around £274,000, (inclusive of analysis, design, development and testing) with additional annual maintenance costs of approximately £50,000. There would also be staff resource implications at a time when the development of National Informatics systems in the NHS is under considerable pressure.</p> <p>Another concern with this standard is that we could potentially see some service users requesting their correspondence in English only, and some would want bilingual correspondence. This means that we would have to reconfigure our systems to issue some letters in Welsh, some in English, and some bilingually. This would be difficult and costly to administer, and in our view unreasonable and disproportionate considering that every individual currently receives bilingual (Welsh and English) correspondence.</p> <p>We request that Standard 2 (b) be amended to read "correspond with A in Welsh or in Welsh and English..." and Standard 2(c) be amended to read '..send any forms that A is to complete from then onwards in Welsh or in Welsh and English'.</p>
Standard 5 – 'person'	<p>We work closely with a wide range of stakeholders in the public, private and third sectors across Wales to achieve our aims and objectives. Our principal partners are the Welsh Government, all health boards and trusts, all local authorities, Natural Resources Wales, Welsh Local Government Association, Foods Standards Agency.</p>

	<p>Corresponding by letter and email is a daily activity. We do not routinely correspond bilingually with our partners or individuals or groups of staff who work for them.</p> <p>When Public Health Wales responded to the Welsh Language Commissioner’s Standards Investigation in January 2015, the draft regulations provided a definition of ‘person’ which did not include corporate and non corporate bodies. We have since been planning for the standards on the basis that we would not be required to correspond bilingually with health boards, etc. However, we have recently been given to understand that the Interpretation Act 1978 states that ‘person’ ‘includes a body corporate and unincorporated’, and that Standard 5 – and every other standard in which ‘person’ is used – will apply to our dealings with health boards, local authorities, etc.. Whilst we agree with the standard in principle, we are concerned about the impact on our daily operations and resources. As fewer than a hundred of our staff speak Welsh, our ability to comply with this standard would be reliant on translators for which there would be an additional cost. . We are also concerned that translation would affect the timeliness and efficiency of our interactions with them.</p>
<p>Standard 7 – Correspondence</p>	<p>We agree with the principle that corresponding in Welsh should not lead to a delay. However, in practice the process and timescales for responding to Welsh and English letters are not the same. When we receive correspondence in English we issue a response in English as soon as it has been prepared. When we receive correspondence in Welsh, there are two additional steps in the process of responding to correspondence, which are (i) translation of Welsh letter into English and (ii) translation of English response into Welsh. These unavoidable additional steps mean that there will always be a delay with regard to responding to Welsh letters when compared with responding to English letters. We will rarely be able to meet this standard for the reasons described above. We therefore request that the standard be amended as follows:</p> <ul style="list-style-type: none"> • Delete ‘and that corresponding in Welsh will not lead to a delay’ • Extend the previous sentence ‘...that you will respond to correspondence in Welsh and English in line with the body’s standards relating to correspondence’. <p>There is a risk that inclusion of the additional information as specified in the standard could incur higher postage charges on the first invitations issued by the Screening Division (over 120,000 per annum). The current letter</p>

	<p>templates have no room for additional text, so any additional information would need to be put onto an additional sheet of paper. This means additional letter weight, and as the letters are close to the maximum weight in the postal category, they are likely to tip into the next weight category. Currently the division incurs postage costs of £242,470 per annum for first invitations. If the new letters do tip into the next weight category, the annual postage cost would be £382,140, i.e. additional costs of £139,670.</p>
<p>Standard 10</p>	<p>This standard suggests that as long as the caller is transferred to any Welsh speaker, regardless of their lack of subject knowledge or expertise, we would be compliant. We are concerned that this standard could raise a person's expectations of a full Welsh language service with an appropriate member of staff who has the relevant knowledge and expertise. We are also concerned that this could give rise to complaints if those expectations are not met.</p> <p>We would not be able to meet this standard at all times. Our ability to comply with this standard in the future would be dependent on our ability to recruit Welsh speakers if / when vacancies arise and finances allow these vacancies to be filled.</p> <p>We are also concerned that this standard would impact on the limited number of Welsh speakers currently employed by Public Health Wales, in that they might be required to deal with an increasing number of calls on matters/ subjects about which they know little or nothing. It could also result in Welsh speaking staff declining to use their Welsh language skills in the workplace, or 'hiding' their Welsh language skills in order to avoid increased workload, or embarrassment.</p> <p>We request that this standard be deleted.</p>
<p>Standards 22-24D – 'person'</p>	<p>We work closely and hold meetings with a wide range of stakeholders in the public, private and third sectors across Wales every day to achieve our aims and objectives. Our principal partners are the Welsh Government, all health boards and trusts, all local authorities, Natural Resources Wales, Welsh Local Government Association, Foods Standards Agency. When we invite them to meetings, we do not routinely ask our partners or individuals or groups of staff who work for them whether they wish to speak Welsh at the meeting. All meetings are held in English unless all those attending the meetings speak Welsh, which is rarely the case.</p>

	<p>As we have fewer than a hundred Welsh speaking staff in Public Health Wales we would not be able to comply with standards 22 and 24CH.</p> <p>Due to the volume of meetings held across Wales every day, we are concerned that there are insufficient numbers of interpreters available who could service such meetings. If there are a sufficient number of interpreters available, the cost could be as much as £200 plus VAT per meeting. This multiplied by several meetings a day across Wales could cost several thousand pounds per day.</p> <p>One of our services has calculated that it has approximately 120 hours of business meetings with partners /stakeholders per week in screening premises. If translation is required for 6 hrs per week (312 hours per year) the annual cost for interpretation would be £15-30,000 plus administrative costs. If every service has similar costs, the total cost would be substantial..</p> <p>We therefore do not consider it reasonable or proportionate to make the standards applicable to such dealings as we do not have the resources to ensure compliance.</p> <p>We request that such meetings be exempt from the standards.</p>
Standard 29	<p>We request clarity in the regulations in relation to the phrase ‘if you invite persons to speak at a meeting’ – does this refer to people asked to give a formal presentation/plenary, or does it include providing opportunities to speak Welsh in, for example, break-out sessions or workshops, or to ask questions from the floor?</p>
Standard 30	<p><i>– If you arrange a meeting open to the public, you must ensure that a simultaneous translation service from Welsh to English is available at the meeting, and you must orally inform those present in Welsh (a) that they are welcome to use the Welsh language, and (b) that a simultaneous translation service is available.</i></p> <p>Our understanding of this standard (informed by Welsh Government) is that it deals with meetings <i>open to the public</i> where people may attend without advance registration and without notifying us of their language preference. We do hold such meetings, and agree that translation should be provided in such circumstances.</p> <p>However, we also hold meetings which are <i>open to the public</i> but require all delegates to register for a place in advance of the meeting. For example, our 1000 Lives</p>

Improvement runs over 200 such meetings per year. In all cases the advance registration process is bilingual and delegates select the language which they wish use at the meeting. If a delegate wishes to use the Welsh language, simultaneous translation will be provided. If no delegates have indicated in advance that they wish to use Welsh, we do not arrange translation. The draft Regulations do not make provision for such meetings. We therefore recommend the following amendments to the Regulations:

- Below heading numbered 6 on page 20, add new sub-heading as follows

(i) Meetings that are open to the public, and persons are not required to register to attend in advance.

- After standard 30, add new sub-heading as follows:

(ii) Meetings that are open to the public, and persons are required to register to attend in advance of the meeting.

- Add new standards to this new category, as follows:

NEW Standard 31: If you arrange a meeting that is open to the public, and persons are required to register to attend in advance, you must ask each person invited whether he or she wishes to you use the Welsh language.

NEW Standard 31A: If you have invited persons to a meetings and at least 10% (but less than 100%) of the persons invited have informed you that they wish to use the Welsh language at the meeting, you must arrange for a simultaneous translation service from Welsh to English to be available at the meeting.

NEW Standard 31B: If you have invited persons to a meetings and at least 20% (but less than 100%) of the persons invited have informed you that they wish to use the Welsh language at the meeting, you must arrange for a simultaneous translation service from Welsh to English to be available at the meeting.

NEW Standard 31C: If you have invited persons to a meetings and at least 30% (but less than 100%) of the persons invited have informed you that they wish to use the Welsh language at the meeting, you must arrange for a simultaneous translation service from Welsh to English to be available at the meeting.

NEW Standard 31CH: If you have invited persons to a meetings and all of the persons invited have informed you that they wish to use the Welsh language at the meeting, you must arrange for a simultaneous translation service from Welsh to English to be available at the meeting (unless you can conduct the meeting in Welsh without the assistance of a translation service).

- After new standard 31CH, add a new subheading as follows:

Displaying written material at a meeting that you arrange which is open to the public

- After new subheading, place existing standard 31 and renumber it.

If this new category is not added to the Regulations, the impact on Public Health Wales would be considerable. For example, with regard to the 1000 Lives Improvement Service example provided above, we would be required to provide a translation service even when we know (by means of our clear process for collecting, recording and meeting language preference) that no-one wishes to use Welsh. It would be unreasonable and disproportionate to make this a requirement in such circumstances. We have considered the likely impact on the 1000 Lives service (other services have similar arrangements but we have not yet costed in these areas), and the estimated annual costs for providing simultaneous translation for every meeting per year (for the 1000 Lives service alone) are shown in the table below:

Average number of meetings per year	Number of delegates	Estimated cost
50	10-50	£15,000 (cost of headsets based on average of 30 delegates)
50	50-100	£19,000 (cost of headsets based on average of 70 delegates)
20	100+	£12,800 (cost of headsets based on average of 200 delegates)
2	500	£2,480

	Total	£49,280
Standards 31, 35 and 36 – displaying written material / material in public	<p>Standard 31 requires all written material to be displayed in Welsh at meetings open to the public.</p> <p>Standard 35 requires any material that is displayed in public must be displayed in Welsh.</p> <p>Standard 36 requires any material that is displayed in public exhibitions must be displayed in Welsh.</p> <p>We note the interpretation guidance provided in paragraph 31(1) and (2) on page 38 of the Regulations which state that a body is not required to translate into Welsh any text that it has not produced. We are unclear as to whether this means that we would be permitted to use / display information that is available in English only.</p> <p>We request that the interpretation guidance provided in paragraph 31(1) and (2) Regulations be amended to clarify this, for example:</p> <p><i>A body is not required to translate into Welsh any text (text A) or material (material A) that it has not produced. A body will not be treating the Welsh language less favourably if it uses or displays text A or material A.</i></p> <p>Public Health displays written material and other material in events beyond the boundaries of Wales. We request that an exemption be included in the interpretation guidance in the Regulations in such circumstances.</p>	
Standards 27 to 33	We request that the Regulations provide clarity in relation to the difference, if any, between ‘a meeting open to the public’ and ‘public event’. It is unclear whether some of our activities are meetings open to the public or public events.	
Standard 34	<p>We have received advice from the Welsh Language Commissioner that the production of videos would be covered under this standard.</p> <p>We produce a wide range of videos for different audiences, e.g. health professionals, the public, staff. The participants are often members of staff, service users, subject experts / specialists, etc. Some of our videos could be described as advertising and publicity material, whilst others would be better described as resources which share learning and knowledge. Naturally, where participants in the video speak Welsh, we produce separate Welsh and English videos. However, it is not always possible to find bilingual participants, and where this is the case, we employ other means of ensuring that the Welsh language is used, e.g. the use of subtitling, voice–overs, etc. We are concerned that in future, this could be interpreted as treating the Welsh</p>	

	<p>language less favourably than the English language. If this is the case, then it would mean that our ability to produce videos would be restricted which would result in few videos being produced.</p> <p>We request that a new standard and interpretation guidance relating to video production be created which offers flexibility with regard to the language of video participants and the use of Welsh voice-overs, subtitling, etc.</p>
Standard 42	<p>‘...guidelines and codes of practice for public use...’</p> <p>We are unclear as to whether this relates to codes of practice which must be followed by the public, or codes of practice which are available for the public to read, for example on our website, but they would not be expected to follow.</p> <p>We request that the Regulations provide clarity on this matter.</p>
Standard 45 – publication of documents	<p>You must produce [the document] in Welsh if the subject matter of the document suggests that it should be produced in Welsh</p> <p>We have given this matter a great deal of consideration and we conclude that it would be a challenge to categorise subjects as ones which should and should not be translated into Welsh because this suggests that Welsh speakers as a group are interested in some subjects and not in others. We are concerned that the discretionary element of this standard could lead to inconsistency both within our own organisation and between NHS organisations and, in turn, an increase in complaints. We request that a code of practice be produced by Welsh Government or the Welsh Language Commissioner to support bodies with regard to complying with this standard.</p> <p><i>‘Anticipated audience and their expectations’</i> Some documents are produced with a specific audience in mind, but they are available to the general public because they are placed on our websites. We are unclear as to whether the fact that they can be accessed by the general public means that the ‘anticipated audience’ is the general public. It would not be reasonably practicable to know or seek to identify the expectations of the general public.</p> <p>A substantial number of Public Health Wales documents have been produced in English only since 2009 in line with our internal guidance on translation. We are unclear as to whether documents produced before the imposition of the standards would need to be translated retrospectively.</p>

Retrospectively translating publications will incur considerable cost. The table below outlines the estimated costs for **one** service area only, i.e. 1000 Lives Improvement Service.

Number of publications	Estimated cost
Quality Improvement Guide – 5 editions	£3,500
Improvement Guide Series – 20 editions	£8,000
Tools for Improvement - 8 editions	£3,200
Communications Case Studies – 4 editions	£1,600
Patient and Person Driven Care Articles, Case Studies and Newsletters – 19 editions	£7,600
Total	£23,900

We request that the Regulations state that the standards apply only to new material produced after the imposition date.

Standards 49-53 - websites

Public Health Wales has over 30 websites, many of which are intended for health professionals rather than the general public. We also have websites which are divided into sections, one for the public and the other for health professional. In some cases the pages / websites intended for health professionals are not bilingual. We have calculated the cost of translating such material on our screening programme websites. There are over 3000 pages and on average there are 300 words per page, giving a total of 920,000 words. Taking an average translation cost of £70 per 1000 words, it would cost £64,400 to translate our screening pages alone. We have also calculated that it would take 418 working days to translate this material alone. This is one of four divisions in our Public Health Services Directorate. If each division has similar content, then the cost for **one directorate** could be in excess of £250,000 (1672 working days to translate). We have seven directorates.

Additional staff would need to be appointed to maintain these websites, at further cost to Public Health Wales.

We do not – and are unlikely to have the budget to meet these standards.

	<p>We request that pages / websites intended for health professional be made exempt in the regulations.</p>
<p>Standard 55</p>	<p><i>When you use social media you must not treat the Welsh language less favourably than the English language.</i></p> <p>We currently translate scheduled tweets but do not translate ad-hoc tweets posted at events as we have few or no fluent Welsh speakers, and no in-house translation. It would be an additional cost to provide ad hoc Welsh tweets by hiring a Welsh translator for each event of which there are hundreds every year. If we can't tweet on an ad hoc basis due to cost, this will adversely affect the effectiveness of our social media presence and our ability to share good practice and learning with all our partners and international colleagues.</p>
<p>Standards 71 – 75</p>	<p>The requirements in these standards are not current practice in Public Health Wales. The requirement to comply with these standards would have a substantial impact on our procurement activities and budgets. A 'tender invitation' is a suite of documents. Each document is of a substantial size, and is bespoke to the particular contract. A tender invitation would be extremely expensive to translate, and as we not currently translate tender invitations, this would be a new and significant cost for our organization. For example, a typical Public Health Services Directorate tender invitation comprises approximately 30,000 words, so £1,785- £2,666 depending on the translator. This directorate alone has over 50 such procurements per year which gives an annual cost of £89,250-£133,320 to translate the initial tender invitations.</p> <p>Translating tenders submitted in Welsh would be a further cost to the organization. We do not believe that translating all tender invitations would be a reasonable use of public finances at a time when the NHS is under such financial pressure.</p> <p>There is concern that non Welsh speaking staff would be unable to proof read the translations of the tender invitations, and that there might therefore be a potential for error and subsequent legal challenge from suppliers.</p> <p>The procurement process is already a long and protracted process and adding translation of tender invitations and tender submissions into Welsh will further extend the time it takes to undertake a tender exercise. There is concern that these standards could impact on our ability to meet procurement timescales, particularly for large procurements as they are legally binding.</p>

	<p>Our view is that including these standards in the regulations would be unreasonable and disproportionate.</p> <p>We suggest the following alternative to this standard:</p> <p>In advance of issuing an invitation to tender, a body must correspond with persons it will invite to tender in Welsh and English, asking them to confirm whether they wish to receive an invitation to tender in Welsh.</p> <p>If a person confirms that they wish to receive an invitation to tender in Welsh, a body must issue an invitation to tender in Welsh.</p>
Standard 79	<p><i>If you offer an education course that is open to the public, you must offer it in Welsh.</i></p> <p>Some training is delivered by members of staff or volunteers. We do not have sufficient Welsh speakers to deliver these courses in Welsh. To meet this standard our only option would be to provide simultaneous translation from English to Welsh as an alternative for those wishing to receive the course in Welsh. This would incur additional costs.</p> <p>The Education Programme for Patients delivers courses under licence from an international provider (Stanford University) and we do not own the content therefore we would not be able to provide these courses in Welsh.</p>
Standard 114	<p>Annual leave requests, etc are made via the Electronic Staff Record system, an NHS UK database which is only available in English. The Welsh Government has mandated that all NHS Wales bodies must use this system. Until this system is bilingual, we could not comply with these standards. Alternatively we would have to run a parallel manual process which would be costly.</p>
Standards 122 – 125 - complaints by a member of a body’s staff.	<p>Standards 123 – 125 use the term ‘receive a complaint’. This suggests to us that we would be receiving a written complaint. We request that standards 122 and 123 be amended so that they clarify that they relate to submitting complaints in writing. It would not be reasonable for a member of staff to initially make a verbal complaint to their line manager in Welsh when they know that their line manager does not speak Welsh.</p> <p>We assume that standards 123 – 125 relate to arranging a meeting in the future to discuss a complaint received in writing?</p>

	<p>We agree in principle that staff should be able to use Welsh in a meeting relating to a staff complaint. However, in order to comply with standard 123 every line manager in every organisation would need to be Welsh speaking. This is not a realistic goal and as we have few Welsh speaking managers in Public Health Wales, we would not be able to comply. We request that this standard be deleted.</p>
Standards 126 - 129	<p>We agree in principle that staff should be able to use Welsh in a meeting relating to a staff disciplinary matter. However, in order to comply with standard 127 every line manager in every organisation would need to be Welsh speaking. This is not a realistic goal and as we have few Welsh speaking managers in Public Health Wales, we would not be able to comply. We request that this standard be deleted.</p>
Standards 131 – 136	<p>These standards would involve a complete rebuild of our intranet site and translation of existing and new text. The financial impact of complying with these standards would be substantial, as there would be additional cost. There would also be a substantial impact on staff resources in that their workload would more than double, i.e. arranging translations of English text and uploading and checking the Welsh text and formatting. Additional staff would be required to meet these standards, at additional cost to the organisation.</p>
Standard 137	<p>We do not have the means or budget to assess the Welsh language skills of our staff. Staff currently self assess their skills and record this information on the ESR system. We would have to engage the services of external contractor to undertake this work which would be an additional cost for Public Health Wales. We are also concerned that requiring employees to have their Welsh language skills assessed will alienate some members of staff.</p>
Standards 138 – 140	<p>Some of the training provided to employees is delivered by Public Health Wales staff (subject matter experts). It would be possible to deliver courses in Welsh where the subject matter expert speaks Welsh. However, we have few internal subject matter experts who can provide the courses stated in these standards in Welsh. This means that in order to comply with these standards, we would have to contract external training providers who can deliver these courses in Welsh. This would be an additional cost for Public Health Wales.</p>
Standard 163	<p>We have issued hundreds of badges and lanyards to Welsh speaking staff over the years. We have not kept a record of who has received these materials. We cannot make it a requirement for staff to wear a badge, and staff may wear a badge one day, and forget or choose not to wear it on other days. It would not be reasonably practicable to record and monitor who is wearing a badge. If we were to include some data in our annual report, it is likely to be inaccurate and unreliable. Our view is that this standard should be deleted.</p>

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Conclusion

Whilst our responses to Q14 challenge a number of aspects in terms of our ability to implement the standards and express our concern at the potential costs incurred, we do remain positive and committed to making these standards work well for the population of Wales and to working jointly with our health care partners as well as Welsh Government.