

## Consultation Response Form

Your name: Welsh Language Commissioner

Organisation (if applicable): Welsh Language  
Commissioner

email / telephone number: post@cyg-wlc.cymru  
lowri.williams@cyg-wlc.cymru

Your address: Welsh Language Commissioner, Market  
Chambers, 5–7 St Mary Street, Cardiff CF10 1AT

**Question 1:** We would like to know your views on the proposed functions of the new Digital Special Health Authority

Please see our response to the other questions (4, 5 and 6).

**Question 2:** We would like to know your views on the proposed board structure for the new Digital Special Health Authority

Please see our response to the other questions (4, 5 and 6).

**Question 3:** If you believe that one or more of the proposed functions of the new Digital Special Health Authority overlaps with a function already being undertaken by a different organisation in Wales (that is not NWIS), we would like to know your reasons and any evidence to support your views on those issues.

Please see our response to the other questions (4, 5 and 6).

**Question 4:** We would like to know if you believe whether a further function or set of functions should be included within the responsibility of the new Digital Special Health Authority and for you to set out your reasons and any evidence and research to support your view.

Since 2016 local authorities are required to comply with Welsh language standards and since 2019 health boards and trusts are also expected to do so.<sup>1</sup> Since 2019 primary care organisations are expected to work in accordance with primary care duties.<sup>2</sup> The Welsh Government has also published *More than just words* which outlines the Government's commitment to strengthening and developing health, social and social care through the medium of Welsh.<sup>3</sup> Many of the standards that health boards and local authorities are required to comply with mean that it is imperative that full consideration is given to the Welsh language when developing digital systems in order to enable compliance with the standards, as well as the aims of *More than just words*. These include but are not limited to the following:

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<sup>1</sup> Please see the relevant compliance notices for each organisation on the Welsh Language Commissioner's website  
<http://www.comisiynyddygydraeg.cymru/English/Organisations/Pages/SearchStandards.aspx>

<sup>2</sup> <https://www.legislation.gov.uk/wsi/2019/917/regulation/3/made?view=plain>

<sup>3</sup> <https://gov.wales/sites/default/files/publications/2019-04/follow-on-strategic-framework-for-welsh-language-services-in-health-social-services-and-social-care-2016-2019.pdf>

**Operational standards**, e.g. in terms of recording the language skills of the workforce; Standards relating to a plan dealing with offering to carry out clinical consultations in Welsh (health bodies)

**Service delivery standards**, e.g. in terms of a body's websites and online services; inpatient standards (health bodies)

However, the inconsistency and inability of systems currently used by organisations to record and share language choice between systems pose a number of problems as organisations comply with the standards and provide care in Welsh, and also systems do not encourage the proactive use of Welsh. From our work to date we are already aware of obvious examples where the Welsh language has not been adequately considered in digital provision in the health and care sector, e.g. Betsi Cadwaladr University Health Board Welsh Patient Administration System (BCU WPAS), the GP record, Wales Community Care Information System (WCCIS) and the Electronic Staff Record (ESR) to name but a few.

With the situation varying between different organisations, not to mention sectors, the Commissioner convened a task and finish group in 2017-18 to investigate how the recording and sharing of language choice was undertaken by different organisations, and to look at the difficulties they encountered as well as possible solutions. The work of the group was published in a report in 2020<sup>4</sup> which sets out a series of practical recommendations for the Welsh Government and the Commissioner. One of the recommendations to the Welsh Government was to consider the role of national developments (such as the WCCIS system) to ensure that organisations can record and share language choice effectively. This would lead to proactively offering Welsh language services to individuals who have indicated that they wish to receive services in Welsh when engaging with different services. With this in mind the Welsh Language Commissioner recently published a good practice advice document on recording and sharing language choice.<sup>5</sup> Another recommendation made to the Government was to share guidance with other public bodies on the procurement of multilingual software. The Welsh Government, as part of the delivery of the 2050 Welsh Language Strategy will issue guidance to assist organisations to provide technological services through the medium of Welsh on the basis of relevant behavioural sciences research. This will be done in conjunction with the Government's Digital Service.<sup>6</sup>

In the consultation document reference is made to the need for the Digital special health authority for Wales to consider the Welsh language, namely that it will, at the request of Welsh Government, Health and Care Bodies or the NHS Wales Digital Governance Framework 'ensure digital Health and Care services are delivered to meet the needs of the whole of the Health and Care sector in Wales, including rural areas and Welsh language provision.' We welcome this intention and also that the values of the organisation include the Welsh language as part of providing a unique Welsh framework for digital Health and Care. With this in mind, and given the increasing importance of digital applications to health and care services; the statutory

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<sup>4</sup> <http://www.comisiynyddygyymraeg.cymru/English/ReportsGuides/Publications/Pages/PublicationDetails.aspx?PublicationId=956c2137-cb1e-40b8-8643-0b24b98e987c&PublicationSearchTerm=language%20choice&Year=2020>

<sup>5</sup> <http://www.comisiynyddygyymraeg.cymru/English/ReportsGuides/Publications/Pages/PublicationDetails.aspx?PublicationId=435b6e89-5adf-4aec-85ab-936d15eaf1fc&Category=Advice%20documents%20and%20recommendations&Year=2020>

<sup>6</sup> Please see Cymraeg 2050: A million Welsh speakers annual report 2019 to 2020 [https://gov.wales/sites/default/files/publications/2020-11/cymraeg-2050-a-million-welsh-speakers-annual-report-2019-to-2020\\_0.pdf](https://gov.wales/sites/default/files/publications/2020-11/cymraeg-2050-a-million-welsh-speakers-annual-report-2019-to-2020_0.pdf) (page 37)

requirement for health boards and local authorities to comply with Welsh language standards, as well as the general recognition that there are shortcomings in the consideration given to the Welsh language in national digital developments we believe that the Health Authority should be given specific functions in terms of developing and ensuring the adequacy of Welsh language digital resources in the health and care sector. It should also be given the responsibility of ensuring that its activities closely integrate with the work already being undertaken by the Welsh Government with regards to Welsh language digital developments as part of the Welsh Language Strategy 2050. We recommend that reporting on these expectations should also be one of the functions the authority is accountable for to its board of management.

In this regard we would like to refer you to the Welsh Government's consultation on the draft Tertiary Education and Research (Wales) Bill.<sup>7</sup> This draft Bill places specific duties on the Commission for Tertiary Education and Research established by the Bill in relation to Welsh-medium tertiary education including 'taking all reasonable steps to ensure that there is sufficient tertiary education provided through the medium of Welsh to meet reasonable demand.' We would therefore recommend that such specific duties are placed on the Digital Authority in relation to making digital resources available in Welsh; promoting Welsh language digital services; and enabling bodies providing health and care services in Wales to comply with the expectations made of them under Welsh language standards. Schedule 1, 16 (c) of the draft Tertiary Education and Research (Wales) Bill requires the Tertiary Education and Research Commission to report annually on Welsh-medium education and the extent to which tertiary education in Wales has been provided through the medium of Welsh. We would encourage you to place a similar expectation on the Digital Authority to report on its activities in relation to the Welsh language and the availability of digital services in Welsh. We detail in question 5 the type of requirement that could be placed on the authority.

This duty is placed on the Tertiary Education and Research Commission in addition to the requirement for the Commission to comply with Welsh language standards. We discuss our wish for the new Digital Authority to comply with the Welsh language standards in our answer to Questions 5 and 6 below.

**Question 5:** We would like to know your views on the effects that 'A Digital Special Health Authority for Wales' would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

In principle, as we note above we believe that the Digital special health authority for Wales has an important role in facilitating opportunities for people to use the Welsh language and in particular to facilitating the provision of health and care services through the medium of Welsh. We recommend above that the new body be given specific functions in relation to digital resources in Welsh including but not limited to:

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<sup>7</sup> <https://gov.wales/sites/default/files/consultations/2020-07/explanatory-memorandum-incorporating-the-regulatory-impact-assessment-and-explanatory-notes.pdf>

- providing national digital solutions to enable bodies providing health and care services in Wales to comply with the expectations made of them by Welsh language standards and other Welsh language duties
- ensuring national consistency between digital health and care resources in terms of the Welsh language and ensuring that the different systems are interoperable, e.g. by sharing data from one system to another
- ensuring that digital resources facilitate the recording and sharing of Welsh language data information
- developing digital standards and terminology for the development and use of Welsh language digital resources in the health and care sector
- promoting Welsh language digital services in the health and care sector
- reporting annually to the Authority's board on the achievement of these activities

Furthermore, we believe that specific requirements should be made of the Chief Digital Officer for Health and Care in terms of ensuring the adequacy of health and care digital resources in Welsh and that the Welsh language must also be fully mainstreamed into the New Digital Governance Framework.

**Question 6:** Please also explain how you believe the proposed policy 'A Digital Special Health Authority for Wales' could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favorably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favorably than the English language.

NWIS is currently a non-statutory organization maintained under the statutory framework of Velindre NHS Trust. It is therefore subject to Welsh language standards in accordance with Velindre NHS Trust's compliance notice.<sup>8</sup> The consultation document explains several times that the primary reason for establishing the Digital Special Health Authority for Wales is to strengthen accountability and governance arrangements. It is therefore surprising that the consultation document does not indicate the intention to ensure accountability with regards to the Welsh language by ensuring that the new organisation operates in accordance with Welsh language standards. As NWIS in its current form already complies with the standards we are concerned that the consultation document does not state that the new authority will comply with the standards. We believe it would be a very significant and worrying step if the Welsh Government were to create a new body that is not subject to standards in the footsteps of an organisation that already complies with the standards. The consultation document also states that the new Authority will be considered as 'a peer with other Health Boards, Trusts and Authorities.' As we have already noted, Health Boards, Health Trusts and the Welsh Government (as well as local authorities) are required to comply with Welsh language standards. In order for this body to be a genuine 'peer' we believe that from the moment it comes into force it should be required to conform with Welsh language standards. We therefore ask you to ensure that the Digital Special Health Authority for Wales will immediately

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<http://www.comisiynyddygyymraeg.cymru/english/reportsguides/publications/pages/publicationdetails.aspx?publicationid=a9d69d7a-d40a-4945-b98c-6b67e1ab8ec2&standardssearch=true&publicationsearchterm=felindre>

comply with Welsh language standards when it comes into statutory existence. We have already discussed this in meetings with Government officials and we very much hope that we will soon be assured that the Digital Special Health Authority for Wales will comply with Welsh language standards immediately.

We have of course already discussed such a requirement with you in relation to another special health authority created by the Welsh Government, namely Health Education and Improvement Wales. This body, two years since its creation does not have to comply with the Welsh language standards although it has expressed a wish to do so.<sup>9</sup> Instead, it has proceeded to develop a Welsh language scheme which is currently out for public consultation.<sup>10</sup> However, in the meantime the new Citizen's Voice Body which comes into being under the Health and Social Care (Quality and Engagement) (Wales) Act will be required to comply with the standards. In the spirit of your desire to strengthen stronger accountability and governance arrangements in the digital field we believe that it is a very reasonable requirement that you ensure consistency between the Digital Authority and its fellow health bodies by ensuring that it complies with the Welsh language standards from the outset.

**Question 7:** 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:

Please enter here: We do not have further comments.

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:

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<sup>9</sup> In its draft Welsh Language Scheme Health Education and Improvement Wales states: 'As yet, Welsh Ministers have not yet prescribed regulations in relation to the conduct of HEIW, which would enable us to comply with Welsh language standards. We will continue to pursue constructive dialogue with Welsh Ministers with a view to them enabling us to come under the standards regime in the near future.'

<sup>10</sup> <https://heiw.nhs.wales/files/key-documents/welsh-language-scheme-public-consultation-document-eng/>