



Comisiynydd y
Gymraeg
Welsh Language
Commissioner

POST-CONSULTATION REPORT: ENFORCEMENT POLICY

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1 Introduction

- 1.1 During December 2024 and January 2025, we carried out an consultation exercise on our draft revised Enforcement Policy.
- 1.2 The draft policy reflected the commitment we have made to co-regulation, with a strong focus on self-regulation and ensuring good [outcomes](#) for users of the Welsh language. We want to make sure that regulation does not just mean carrying out statutory investigations and imposing enforcement actions. We aim to increase the regulatory support available by providing advice, raising awareness and understanding, and helping organisations to comply with the standards.
- 1.3 This consultation report outlines the findings and next steps following our recent consultation exercise on our draft policy. The main objective of this exercise was to gather the views of members of the public and organisations that are subject to the Welsh Language Standards on the policy proposals. We would like to thank all the organisations and individuals who took the time to make representations and share their views on the policy.
- 1.4 The purpose of this report is to provide an overview of the responses received, summarising the issues and concerns raised in response to the questions we asked. We will not discuss each representation made individually; rather, we will identify common themes and include examples of those responses that reflect the representations received.

2 Overview of the responses

Theme 1: Co-regulation

2.1 The draft policy emphasises a co-regulatory approach with a strong focus on promoting self-regulation by organisations. It introduces regulatory principles that place greater emphasis on collaboration and partnership, making it clear that there are a variety of methods we can use to restore compliance, choosing the most appropriate method on a case-by-case basis.

2.2 All respondents made representations on this aspect of the policy.

Members of the public

2.3 One member of the public was concerned about the impact of the policy changes on the regulatory tone of the message to organisations, arguing that a more firmly worded policy could assist the Commissioner in ensuring compliance.

2.4 One respondent declared his general opposition to efforts to promote and facilitate the use of the Welsh language.

Organisations subject to the standards

2.5 All organisations that responded were supportive of the principle of co-regulation. Several organisations expressed support for the idea of working in partnership with us, enabling them to have more control over their compliance with the standards.

2.6 One health organisation expressed its support towards the principle in the draft policy which encourages organisations to contact us about compliance issues – whether that is a concern about compliance, a request for advice or clarification. The organisation stated that its officers appreciate the opportunity to maintain a relationship with us and welcome the method of trying to prevent failure before it happens. This was seen as a way of improving services for users, and of reducing the need for users to complain to us.

2.7 One Local Authority said that the policy would have a positive effect on the organisation internally. It explained that it would lead to individual departments being more willing to support the Welsh language unit, as compliance would not be seen as something arising from the threat of enforcement action. Instead, it would be a process that promotes collaboration and negotiation to find solutions to problems that need to be overcome, internally between departments and also with the Commissioner.

Policy stakeholders

- 2.8 One organisation fully supported the objectives of the policy, noting that this was an important step towards increasing the use of the Welsh language.
- 2.9 Another organisation stated its hope that the policy will encourage organisations to improve their services rather than just complying with the standards.

Campaign groups

- 2.10 One group believed that the opening section of the draft policy gives the impression that regulating is not the role of the Commissioner as that section says that the Commissioner will "regulate to ensure an increase in the opportunities available to use the Welsh language."
- 2.11 The group suggests that the availability of Welsh services should be ensured through enforcement procedures only. Unfortunately, according to the group, organisations still fail to comply with Standards and act contrary to the Welsh Language Measure, and strong regulation is needed to prevent that.
- 2.12 They note concern that a clause which proposes to 'encourage' organisations to notify the Commissioner in advance if there is a likelihood of failure to comply, is an attempt to create a process which is contrary to the provisions of the Welsh Language Measure. It is suggested that sufficient provision already exists in the Welsh Language Measure, through the process of preparing compliance notices for organisations, and then through the process of challenging current and future duties. The group believed that no provision should be made to enable an organisation to notify that there is a risk that they will not be able to comply, as that would lead the way to enabling them not to comply.
- 2.13 The group was concerned that the draft policy proposals introduced several procedural and substantial changes that would limit the Commissioner's regulatory work to cases that would be considered "in the public interest" and favour internal solutions over statutory, open investigations.
- 2.14 They believed that the proposed proposals give priority to making the best use of the Commissioner's resources, rather than the interests of users of the Welsh language. They believe that the proposals interfere with the rights of the public in Wales to be able to see, hear and use the Welsh language in Wales.

Theme 2: Submitting complaints to the Commissioner

- 2.15 The draft policy sets out our wish to give organisations the opportunity to implement their own complaints procedures, enabling them to respond and propose a timely solution. The policy states that we will consider conducting an investigation if the complainant is not satisfied with the outcome, or if it appears that it may be necessary to use our powers to enforce compliance with the standards.

Members of the public

- 2.16 One member of the public submitted representations opposing the proposals.
- 2.17 In general, the respondent argues that the policy does not appear to be tailored to meet the needs of complainants or to support them. The respondent calls for a review and states that the policy needs to be revised to ensure it is fairer, more transparent, and more supportive of individuals wishing to lodge a complaint.
- 2.18 In the respondent's opinion the draft policy does not deal with individual complaints with care and empathy; rather, it focuses only on strategic complaints. The respondent criticises the lack of a clear statement confirming the right to complain to the Commissioner under the Welsh Language Measure.
- 2.19 The respondent does not agree with the concept that it may be appropriate, in certain circumstances, for a complainant to refer a complaint to the organisation giving it an opportunity to respond, before turning to the Commissioner. The respondent argues that individuals should be able to submit valid complaints directly to the Commissioner.
- 2.20 The respondent calls for more objective and clear criteria for considering and investigating complaints, based on the facts of each case. It is suggested that the current thresholds and criteria may prevent individuals from complaining, and that they need to be balanced in order to better support complainants.

Organisations subject to the standards

- 2.21 One University said that giving organisations the opportunity to respond and resolve complaints in the first place places a clear expectation on them to ensure that appropriate processes are in place, and to take proactive steps to resolve weaknesses when trying to ensure compliance. The University notes that the policy will have a positive impact on organisations as it will encourage a culture of self-regulation and proactive action. Furthermore, the University recognises that the Commissioner will need to be prepared to offer support and, when necessary, to challenge, in order to ensure the best outcome.
- 2.22 In terms of the impact on users of the Welsh language, one Health Board noted that encouraging them to refer complaints directly to the organisation in the first place can lead to an early resolution of their specific complaint. From the organisations' point of view, it was noted that this approach can lead to better outcomes for the patient by being able to deal with the issue thoroughly and promptly without having to go through an investigation process. In addition, this approach could reduce the need for burdensome investigations that use a lot of resources – saving resources for the organisation and the Commissioner.

Policy stakeholders

- 2.23 One organisation agreed with the principle of encouraging organisations to be proactive when dealing with complaints about the Welsh language. However, they are concerned that organisations' complaints processes are often flawed, leading to complaints about the Welsh language being neglected. They believe that the Commissioner's overview of the process is essential to ensure that organisations deal with complaints about the Welsh language appropriately and sufficiently.

Campaign groups

- 2.24 The biggest change in the opinion of one campaign group is the expectation that users of the Welsh language would have to complain to the organisation about a failure to comply with the Welsh Language Standards before being able to turn to the Commissioner. This would be contrary to the current situation which enables users to complain directly to the Commissioner or the organisation itself, as they wish.
- 2.25 The group had concerns about the proposed changes to the Commissioner's complaints procedure. They believed that the changes would:
- Create additional barriers and reduce the accessibility of the complaints procedure for individuals seeking to submit complaints directly to the Commissioner
 - Reduce the number of complaints that would be submitted, and consequently the number of statutory investigations that are carried out
 - Undermine the efforts to live full lives through the medium of Welsh and weaken the Commissioner's role as an advocate for users.
- 2.26 The group said that an equality impact assessment should have been submitted to enable a meaningful consideration of the potential impact of these changes on groups of Welsh speakers who have protected characteristics or are currently underrepresented. They believed that this was essential in order to understand what the impact of the proposals would be on protected groups, and whether the changes were likely to exclude them from the complaints process.

Theme 3: Aims and objectives

Members of the public

- 2.27 A member of the public believed that more advice and information should be given to complainants on key issues, such as target times for acknowledging complaints, consultation periods on terms of reference and investigation reports etc. The respondent believed that this information should be available proactively – on the website or in the policy – rather than only during the investigation process.

Organisations subject to the standards

- 2.28 Most of the organisations believed that the policy and regulatory outcomes set a clear path for our work. Several representations were received in support of the statement regarding the regulatory outcomes as it places the work of dealing with complaints and carrying out investigations in the wider context of the aim of increasing the Welsh services available, and the opportunities to use the Welsh language.
- 2.29 One University said that the regulatory outcomes encourage organisations and members of the public to see the standards as a whole composition with clear aims, rather than a series of individual rules.
- 2.30 Another organisation, which is not under a duty to comply with the standards at present, but will soon be under a duty, said that the regulatory outcomes “place a clear emphasis on seeking redress for Welsh speakers rather than focusing on compliance alone.”
- 2.31 Many organisations stated that the policy will have a positive effect on users of the Welsh language as it will reinforce the complaints process, and enable understanding and confidence in our regulatory approach, and more specifically an understanding of the factors that will be considered when dealing with complaints.

Policy stakeholders

- 2.32 No specific representations were made regarding the aims and objectives of the policy.

Campaign groups

- 2.33 One group expressed concern about the lack of clarity in the proposals, asking whether complaints would still be recorded if an organisation gave advance notice of failure to comply. In their opinion, it is essential that cases of failure are recorded as this provides a clear picture of users’ expectations and identifies areas of weakness, thus facilitating the work of improving the provision.
- 2.34 The group also noted that referring complainants to organisations’ complaints procedures could lead to complainants being referred to the Public Services Ombudsman for Wales. In their view, this could create uncertainty and confusion, as the Ombudsman does not have the same specific expertise as the Commissioner, and the nature of their work is fundamentally different.
- 2.35 The group questioned the legality of the proposal in the policy, to consider whether a complaint has been referred to the organisation first, as one of several criteria, when deciding whether to investigate or not. According to their interpretation, implementing this approach without amending section 93 of the Welsh Language Measure would mean operating beyond the current statutory framework.

- 2.36 The group referred to a statement in the current policy which states that the Commissioner is not required to have received a complaint in order to carry out an investigation, and that she can do so on her own initiative if she becomes aware of a failure through another source. They ask that this should be stated clearly in the final policy.
- 2.37 The group recommended that the policy should state clearly that the Commissioner has a duty to consider conducting a statutory investigation if a valid complaint is submitted. In addition, the policy should confirm that the complainant will be informed of the reasons if a decision is made not to carry out an investigation.

Theme 4: Use of resources

Members of the public

- 2.38 A member of the public referred to the cost of living crisis, stating that it creates difficulties for individuals and the public sector alike. The respondent believed that tight budgets can have a negative effect on Welsh language services, as was seen during the COVID period and that this, in turn, could have a detrimental effect on the experiences of Welsh language users. The respondent also believed that the policy could limit Welsh language users' access to justice.

Organisations subject to the standards

- 2.39 Concern was expressed by several organisations regarding the budgetary challenges they face, now and in the future, noting the possible effect on their ability to comply, and on the experiences of users of the Welsh language.
- 2.40 Despite concerns about tight budgets, many organisations indicated their support for the draft policy. In their opinion, the new approach could lead to more efficient use of resources throughout the process – including for complainants, organisations and the Commissioner as the regulator. This proportionate approach was seen as a way of tackling compliance issues more promptly, reducing the need for long and burdensome statutory investigations, and offering opportunities to solve problems in a more practical way.

Policy stakeholders

- 2.41 One organisation drew attention to the budgetary cuts in the public sector, warning that care should be taken not to allow organisations to curtail their administrative procedures to deal with complaints. They believe that this could lead to a situation where complaints about the Welsh language are not dealt with appropriately or promptly.

Campaign groups

- 2.42 Similar concern was expressed by one group, arguing that there was too much emphasis on making the “best use” of the Commissioner’s resources, rather than citizens’ right to use the Welsh language.
- 2.43 The group also referred to the definition of “frivolous and vexatious” complaints, challenging the use of criteria such as “value” and “public interest” – which, in their opinion, are not part of the statutory definition of a valid complaint under section 93 of the Welsh Language Measure. It was argued that complainants are not required to consider costs and resources before lodging a complaint, and that this approach could limit access to linguistic justice.

Theme 5: Operational issues

Members of the public

- 2.44 One member of the public believed more clarity was needed in the policy to ensure that complainants fully understood the process. The respondent referred to the need for clear information about how we will act if a person is unable to submit a written complaint, how representations can be submitted orally, and arrangements to ensure the confidentiality of complainants. The respondent also believed that information about targets for responding to correspondence and dealing with complaints was needed.
- 2.45 One representation asked for further clarification on the meaning of ‘good outcomes’ for Welsh language users. The respondent believed that finding a solution to a complaint and good outcomes do not always mean the same thing.

Organisations subject to the standards

- 2.46 It became clear that several organisations would appreciate more operational details in the policy, in particular regarding the process of conducting an investigation. There were many requests for the policy to include a rough timetable for investigations, together with details of the steps that will be taken throughout the process of dealing with complaints.

Policy stakeholders

- 2.47 No specific representations were made regarding operational issues.

Campaign groups

- 2.48 One group expressed concern that the wording of the draft policy suggests a reduction in the opportunities available for the complainant to make representations in relation to the investigation, e.g. on the terms of reference of the investigation.
- 2.49 They said that it is not clear in the draft policy that a report on a decision – which includes reasons deciding whether or not to take further action – is shared with the complainant. Clarification on this was sought in the final policy.
- 2.50 Unlike the current policy, the group says that there are no details about the procedure for requiring an organisation to create an action plan. They ask that more detail is included in the final policy. They also ask that the complainant receives a copy of the action plan, and that the Commissioner should undertake to monitor its implementation until there is assurance that it has been carried out.
- 2.51 Finally, the group ask that the policy explain where any money collected through civil penalties is paid.

3 The Commissioner's response

Co-regulation, our aims and objectives

- 3.1 During the consultation period, responses were received from a variety of organisations, campaign groups and individuals, who had various views on the proposals in the draft policy. One particular group expressed strong opposition to the proposals.
- 3.2 We have developed a new strategic plan for the next five years, which is based on three strategic objectives. One of these is to “Increase and improve the quality of services available in Welsh, ensuring that more people are aware of those services and use them regularly.” In order to deliver these objectives and our wider vision, we have identified three specific themes – children and young people, health and care, and workplaces – which will be central to our work during this strategic period.
- 3.3 We have also set out a series of regulatory outcomes – clear statements of what we want to achieve through our regulatory work. These outcomes form the basis of our approach, and we want to ensure that we have the necessary resources to deliver the objectives of the strategic plan and achieve those outcomes.
- 3.4 Regulation is a multifaceted function that goes beyond dealing with complaints and statutory investigations only. It includes a range of activities aimed at supporting, guiding and encouraging compliance, while ensuring accountability when standards are not met. Through our draft policy, we aimed to adopt a balanced approach — one that maintains the importance of complaints from the public as a vital means of improving services, while also placing more emphasis on proactive support and collaboration with the regulated bodies. The aim was not to reduce the role of complaints, but rather to ensure that our regulatory efforts are proportionate, effective and sustainable.
- 3.5 We recognise that dealing with complaints and investigations can be resource-intensive and time-consuming, for us and for the organisations we regulate. It can also be frustrating for complainants, as they have to wait for statutory processes to be completed before a solution is offered, or enforcement action is taken.
- 3.6 We believe that the proposals presented in the draft policy are reasonable and reflect a co-regulatory approach with an increasing emphasis on self-regulation. However it became evident during the post-consultation period that some of the proposals, together with the response to them, create a risk that our resources could be diverted from the work of delivering the strategic objectives set out above.
- 3.7 As a result of the representations received, we have reviewed and modified the final policy in order to address the concerns expressed. Our final policy reflects a considered response to the feedback received during the consultation, and we believe it will support our overall aim of improving the availability and quality of Welsh language services to the public.

Submitting complaints

- 3.8 Our draft policy explained that we want to give organisations the opportunity to deal with complaints through their own complaints procedures, if the Commissioner considered that the organisation, in the first place, was in the best position to resolve them.
- 3.9 The standards require organisations to have a procedure to deal with complaints about the Welsh language, and we wanted to give organisations the opportunity to implement these procedures. This has several advantages, including offering quick and timely solutions, reducing the administrative burden, and flexibility in finding solutions that meet the complainant's requirements.
- 3.10 It was not our intention to refer every complaint routinely to the organisation, nor to create an expectation for complainants to do so every time. Rather, we would have considered the circumstances of each complaint individually before coming to a decision as to whether it would be appropriate for the Commissioner to intervene directly in the matter. The Commissioner would have continued to consider whether an investigation should be carried out into every valid complaint, in accordance with the duty placed on her under section 93 of the Welsh Language Measure.
- 3.11 There was a positive response to the proposal from organisations subject to the standards with many referring to the positive effect this would have on efforts to strengthen self-regulatory procedures, and on reducing the resources necessary in order to offer a satisfactory solution.
- 3.12 However, one campaign group was completely opposed to the proposal, arguing that the change would reduce the accessibility of the complaints procedure, and place an unreasonable burden on complainants.
- 3.13 One organisation agreed with the principle of encouraging organisations to be proactive when dealing with complaints about the Welsh language but was also concerned about insufficient processes and the negligence of organisations when dealing with complaints about the Welsh language.
- 3.14 We completely reject the claims regarding the legality of the proposal and have received legal advice which confirms this.
- 3.15 As stated above, although we believe that the proposals in the draft policy are reasonable and reflect a co-regulatory approach which places more emphasis on self-regulation, we have decided not to proceed with the proposal to consider the extent to which the complainant has submitted his complaint to the organisation, and has completed the organisation's complaints procedure, as one of the criteria when deciding whether or not to investigate the complaint.

3.16 Instead, we will continue with the current procedure of writing to the organisation in question when we have received a valid complaint, to invite it to respond to the complaint and to inform us of:

- any relevant circumstances that explain what has happened
- any steps that have been taken to correct the matter
- any action to be taken in the future to ensure that a similar situation does not arise again.

3.17 After receiving the organisation's response, we will proceed to decide whether or not an investigation needs to be carried out. This is the procedure we will follow with all valid complaints, and we have modified the final policy to make that completely clear.

3.18 To address some of the concerns regarding organisations' procedures to consider complaints about the Welsh language appropriately, we will carry out a key line of enquiry between now and the end of December this year to look in detail at organisations' procedures. We will act on the findings of the work and collaborate with organisations where improvement and reinforcement is needed, to ensure that they comply with the standards and follow the principles of good administration.

3.19 One campaign group said that the policy needed to state that the Commissioner can carry out an investigation by using her discretion, if a suspected failure to comply with the standards comes to her attention through other sources. There is already a clause stating that we can carry out an investigation at our own risk. We are satisfied that this clause is sufficient for the purposes of the final policy.

3.20 Concern was expressed in some of the responses regarding the effect of extending the interpretation of frivolous or vexatious complaints. We have responded to this by keeping only the criteria that enable us to form an objective opinion and removing the criteria relating to value and public interest.

Operational matters and use of resources

3.21 In response to requests from some respondents – including members of the public and organisations – we will publish information about practical arrangements for receiving complaints and conducting investigations on our website. Our aim is to ensure that the arrangements are transparent and accessible to everyone.

3.22 We have decided not to include the detailed information about practical and administrative arrangements in the Enforcement Policy itself. In addition to the practical consideration, this would mean that we would have to amend the policy and gain Welsh Government approval every time we wanted to amend these arrangements. We also believe that – as an independent body – such procedural details are not matters that require Ministerial approval.

- 3.23 By publishing the information on our website, we will have the flexibility to modify these arrangements in accordance with practical needs, and to respond promptly to any changes in the circumstances or the operational context. This ensures an effective administrative approach, while respecting the principle of transparency by ensuring that the information is available to the public.
- 3.24 Representations were received from one group expressing concern about a reduction in the opportunities for complainants to make representations on an investigation as it progresses. It referred specifically to the opportunity to make representations on draft terms of reference, evidence notices, and an investigation's final report and decision notice.
- 3.25 We have a statutory duty to consult on the draft terms of reference and the proposed final report and decision notice of an investigation, and complainants and organisations alike will still have an opportunity to make representations on those documents.
- 3.26 There is no provision in the Welsh Language Measure that enables complainants to make representations on the evidence notice or the final report and decision notice. However, we believe that complainants and organisations should be free to submit representations to us at any time while an investigation is open, and there is already a commitment to that in the draft policy.
- 3.27 A campaign group wished to see more information about how we will monitor compliance with enforcement action, and the procedure for receiving and approving action plans developed following failure to comply with the standards. Clauses already existed in the draft policy on these matters, and we do not consider that further modification is needed.
- 3.28 We have included a statement explaining that civil penalties will be paid into the Welsh Consolidated Fund.
- 3.29 We have added a clause to the final policy to explain that information regarding the way we use and keep complainants' personal details is available in our Privacy Notice.

Accessibility

- 3.30 We have committed to ensuring that our procedures for receiving complaints and conducting investigations are fair and accessible to everyone, and where appropriate, we will make reasonable modifications to our procedures and communication methods. A clause has been added to the policy to reflect this. Where there is a statutory requirement for complainants to submit a complaint in writing, we state clearly in the policy our willingness to discuss how we can facilitate this, if the complainant's personal circumstances prevent him from doing so.

- 3.31 Following the consultation period, we commissioned an Equality Impact Assessment on the proposals of the draft revised policy. This assessment is a core part of our effort to understand and consider the impact on people with protected characteristics as a result of revising the policy and the procedures.
- 3.32 The impact assessment carefully considers how the proposals could impact on individuals who share protected characteristics and has identified steps to reduce inequalities and to promote equal opportunity.
- 3.33 Furthermore, although we are not under a statutory duty to comply with the socio-economic duty which came to force in Wales in 2021, we have committed to act in accordance with the spirit of the duty and therefore the assessment considers those impacts.
- 3.34 In response to the findings of the assessment, we have included specific clauses in the policy relating to:
- making reasonable adjustments, including alternative procedures for submitting complaints in other ways
 - ensuring that accessible versions of the policy and related documents are available.
- 3.35 We will also promote the service as a free, accessible and easy to use service, through our website and other communication channels.
- 3.36 The assessment includes wider recommendations regarding our consultation methods, gathering evidence and monitoring the impact of our work on protected groups. We have referred the recommendations to our internal equality working group, which is responsible for implementing our Strategic Equality Plan. The working group will consider the appropriate actions to ensure that the recommendations are incorporated in our approaches on an ongoing basis.

4 Next steps

- 4.1 In line with the requirements of section 108(4) of the Welsh Language Measure, we will submit the revised Enforcement Policy to the Welsh Ministers for approval.
- 4.2 Before submitting the revised Enforcement Policy for the attention of Welsh Ministers, we will publish the post-consultation documents package on our website. This will include:
 - the post-consultation report
 - the policy that is submitted for approval
 - the related procedure
 - the Equality Impact Assessment.
- 4.3 Following approval by the Welsh Ministers, we will publish the final version of our policy on our website and ensure that copies are available in all our offices.