

Consultation response form

**Consultation
Response Form**

Your name: Lowri Williams

Organisation (if applicable): Welsh Language
Commissioner

e-mail / telephone number:

Your address: lowri.williams@cyg-wlc.wales

Question 1: Do you agree that complexity in the social care sector inhibits service improvement?				
Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Neither agree or disagree <input checked="" type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
Please explain your answer				
No comment.				

Question 2: Do you agree that commissioning practices are disproportionately focussed on procurement?				
Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Neither agree or disagree <input checked="" type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
Please explain your answer				
No comment. We do not procure social care.				

Question 3: Do you agree that the ability of RPBs to deliver on their responsibilities is limited by their design and structure?				
Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Neither agree or disagree <input checked="" type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
Please explain your answer				
We do not work closely with the Regional Partnership Boards to be able to judge whether their design and structure limits their ability to deliver on their responsibilities. However, we are concerned that not all RPBs are delivering as expected in terms of				

the Welsh language. We provide further details on this in our answer to question 7 below.

Question 4: Do you agree a national framework that includes fee methodologies and standardised commissioning practices will reduce complexity and enable a greater focus on service quality?

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Neither agree or disagree <input checked="" type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Question 4a- Which parts of the commissioning cycle should be reflected in the national framework?

We do not commission social services. However we would like to make the following comments in relation to the intention of establishing a national framework:

- Receiving health and care services for many is not a choice but rather a matter of need and necessity. We also believe that not providing services in Welsh to those who wish to receive them in Welsh means that there is a lack of quality of care that that individual receives. This could have an adverse effect on the individual. Currently not all individuals who need social services in Welsh receive them in Welsh. The consultation document recognises that there is a shortage of care and support through the medium of Welsh.
- The consultation document states that a national framework would be intended to ‘set the terms through which services for people who need care and support and carers who need support are commissioned – by developing a set of common commissioning practices and a range of fee methodologies that commissioners will be required in law to use, simplifying procurement and ensuring greater visibility of service standards’.¹ This is intended to improve the quality of services that people receive. In our view, the creation of such a national framework, if it included specific and national requirements in terms of providing services in Welsh, would be one way of ensuring that at least a baseline of expectations about the provision of services in Welsh exists nationally. This, in turn, could lead to an improvement in the quality of services that Welsh speakers receive. Of course, we would expect that regional and local procurement would add to that by reflecting the more specific and local needs of those areas including the specific needs of Welsh speakers. We would welcome further discussion on this as the framework is drawn up.
- Part 2, 16 of the Social Services and Well-being Act (2014) Wales place a duty on local authorities to promote social enterprises, co-operatives, third sector and user-led services. Whilst we understand the intention behind the creation of the national framework we believe that there is a risk that such a framework would work against smaller and local initiatives of this kind because of the economies of scale that larger providers would be able to achieve in order to meet the expectations of the framework. This is a concern for us because we are of the view that there are clear possibilities of developing social and co-operative

¹ Page 33

initiatives that are intended to fill the current gap in social services in Welsh. This would contribute to the Welsh Government's target of increasing the daily use of Welsh by creating Welsh-speaking working conditions and workplaces and filling a clear gap in social services in Welsh. We encourage you to consider how this potential impact can be mitigated.

Question 5: Do you agree that all commissioned services provided or arranged through a care and support plan, or a support plan for carers, should be based on the national framework?

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Neither agree or disagree <input checked="" type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Question 5a- Proposals include NHS provision of funded nursing care, but do not include continuing healthcare; do you agree with this?

Question 5b- Are there other services which should be included in the national framework?

No comment.

Question 6: Do you agree that the activities of some existing national groups should be consolidated through a national office?

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Neither agree or disagree <input checked="" type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Question 6a- If so, which ones?

We do not have a position on whether or not a national office should be established. However, we would like to note that:

- If a national office is established at arm's length from the Government, it will have to be ensured from the outset that it complies with Welsh language standards in accordance with the Welsh Language (Wales) Measure 2011. That would have to be a consideration in the process of drawing up the associated legislation. Should there be an intention to develop a function within Government we presume that it would act in accordance with the Welsh Government's compliance notice. We encourage you to discuss these issues with the Welsh Language Division within the Welsh Government.
- On pages 35-36 of the consultation document the proposed activities of the national office are outlined and it is explained that it will:
 - keep an overview of the stability of the social care market
 - as a basis for driving national policy initiatives
 - consolidates the activity of some national fora
 - it will be responsible for supporting social care research and improving services in Wales

- that national policy set by the national office is based on a full understanding of the challenges of delivery.

We encourage you to include social care and Welsh language services improvements as a central element of the national office's activities by mainstreaming that into the above objectives and by ensuring that it is a core responsibility of the national office advisory board.

Question 7: Do you agree that establishing RPBs as corporate legal entities capable of directly employing staff and holding budgets would strengthen their ability to fulfil their responsibilities?

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Neither agree or disagree <input checked="" type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Question 7a- Are there other functions that should be considered to further strengthen regional integration through RPBs?

We do not have a view on other functions that would strengthen regional integration through Regional Partnership Boards. However, we would like to note the following comments regarding the Boards and the intentions of the white paper in relation to them:

- We have noted in previous consultations that we are concerned that the Regional Partnership Boards are not delivering in line with the expectations set out in the Social Care and Well-being (Wales) Act 2014 and the associated codes of practice in relation to the Welsh language. In particular we have highlighted a general lack of consideration of the Welsh language in many of the population assessments, and the area plans arising from them. In turn, therefore, as we are not confident that thorough regional assessments of the needs of Welsh speakers are carried out, we are concerned that that is not reflected in the wider activities of the Regional Partnership Boards. We look forward to discussing with Government officers how further guidance can be given to the Regional Partnership Boards to consider the Welsh language in the population assessments to be undertaken in 2022.
- A related issue is our uncertainty regarding the accountability of the Regional Partnership Boards in relation to the Welsh language. They include members of a number of bodies that are expected to comply with Welsh language standards arising from the Welsh Language (Wales) Measure 2011. However, the Boards themselves do not have to comply with standards and it is not clear to us how, in practice, the expectations of the standards are being implemented by the Boards. It is of course possible that this lack of accountability contributes to the lack of consideration given to the Welsh language although it is not possible to prove this.
- If the Boards are established as statutory entities we would expect that they would be required to comply with Welsh language standards in accordance with the Welsh Language (Wales) Measure 2011. This means that they would have to comply with policy making standards, meaning that they would have to consider the impact of their policy decisions on opportunities to use the Welsh language. It

is possible that this would go some way to improving the consideration given to the Welsh language. However, given the current requirements of the Social Services and Well-being (Wales) Act 2014 in relation to the Welsh language it is disappointing how little consideration is currently given to the Welsh language by most Boards. We would encourage you to ensure that further legislation arising from this white paper underlines and facilitates the implementation of the principle of the importance of providing care through the medium of Welsh and the active offer.

- We are doubtful, due to the evidence² we have on dementia care in particular, that services for Welsh speakers are planned and delivered appropriately under the current system in all parts of Wales. We believe that achieving this to some extent depends on careful planning based on identification of the specific needs of the population locally. It is not clear to us from the consultation document how regional planning and commissioning, and local delivery, in practice would address this problem because local identification of needs is required to be able to make specific decisions about the type of care that individuals need locally. We have already expressed concern about the current consideration of the Welsh language by the Regional Partnership Boards. Therefore, unless there are much higher expectations placed on them in terms of the Welsh language, we are concerned that giving them more powers and making them statutory bodies would not improve this situation.

Question 8: Do you agree that real-time population, outcome measures and market information should be used more frequently to analyse needs and service provision?

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Neither agree or disagree <input checked="" type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Question 8a- Within the 5 year cycle, how can this best be achieved?

It would be reasonable to presume that using real-time data is advisable given that social changes that cannot be planned for can happen quite quickly, with the impact of Covid-19 being one obvious example of course. We have already highlighted in other consultations the need for better information and data on the linguistic needs of the population and the linguistic skills of the health and care workforce. A fresh look should be taken at what data is collected about Welsh language needs and skills. Consideration should also be given to what data (if any) is currently being used to plan social services in Welsh across Wales. On that basis there is a need to ensure that further guidance is given to all partners involved in the collection and use of population and workforce data. It would include guidance on the type of data that should be collected from now on; how it should be used to plan current and future workforce and services, as well as procuring services. We have contributed to work led by Social Care Wales to develop a data strategy for social care³ and we very

²² See [National review of care homes for people living with dementia](#) by Care Inspectorate Wales and our joint report with Alzheimer's Society Cymru on [Dementia Care Welsh Speakers](#).

³ [A strategic approach to data | Social Care Wales](#)

much hope that this strategy will address these obvious gaps in data about the Welsh language.

Question 9: Do you consider that further change is needed to address the challenges highlighted in the case for change?

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Neither agree or disagree <input checked="" type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Question 9a- what should these be?

The lack of care and support through the medium of Welsh is only referred once in the consultation document. We are of course pleased that there is reference to the Welsh language but it is disappointing that the case for change does not address further the problems underlying the shortcomings in services. We see that real change is needed to address this clear gap in provision. However, as the challenge has not been highlighted in terms of the Welsh language, we are concerned that the proposed plans are not based on a response to that challenge and it is difficult for us to judge whether these are the changes needed to address this problem. Please also see our response to question 11 below.

Question 10: What do you think are the costs and cost savings of the proposals to introduce a national office and establish RPBs as corporate entities?

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Neither agree or disagree <input checked="" type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Question 10a- Are there any particular or additional costs associated with the proposals you wish to raise?

No comment.

Welsh Language

Question 11: We would like to know your views on the effects that a national framework for commissioning social care with regionally organised services, delivered locally 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?

As we highlight in our answer to question 8 above the consultation document deals very little with the impact of the proposed changes on opportunities for people to use the Welsh language, and on not treating the Welsh language less favourably than the English language. There is only one reference to the Welsh language. As a result of

the Welsh language standards, and specifically the policy making standards⁴ that Welsh Ministers are required to comply with in accordance with the Welsh Language (Wales) Measure 2011, we would expect that this consultation document would weigh up the effects of the proposals on the Welsh language.

Below are some issues relevant to the consultation that we ask you to consider:

Receiving care services for many is not a choice but a matter of need and necessity. The Welsh Government underlines this in the *More than just words*⁵ framework and put steps in place to try to ensure that. The Welsh language standards also place a requirement on local authorities which means that they need to ascertain whether individuals wish to use the Welsh language at meetings relating to their well-being. They must provide a simultaneous translation service or hold the meetings in Welsh depending on the standards imposed on them in their compliance notices.⁶ The Code of Practice for Part 2 (General Functions) arising from the Social Services and Well-being (Wales) Act 2014 also confirms 'I receive care and support through the medium of Welsh if I need' as one of the national well-being outcome statements and includes guidance on the provision of services in Welsh. We believe that you need to consider further the impact of the proposed changes on Welsh language services and then determine whether they are suitable in terms of the Welsh language before you proceed with drawing up draft legislation.

We have highlighted in our answers to other questions in this consultation the potential impacts noting that:

Regional Partnership Boards

1. We are concerned that the needs of Welsh speakers are not, at present, adequately reflected by all Regional Partnership Boards.
2. We are also concerned about the accountability of the Regional Partnership Boards in relation to the Welsh language. It is possible that the general shortcomings seen in the population assessments in terms of the Welsh language is due to the lack of accountability.
3. If the Boards were established as statutory entities they should be required to comply with Welsh language standards in accordance with the Welsh Language (Wales) Measure 2011 and the Welsh Government would have to put in place a procedure for enabling that in legislation. We have recently seen a number of cases of new bodies being created or non-statutory bodies becoming statutory bodies without sufficient consideration at the outset of the process of how they will comply with the standards. We suggest that this matter be discussed with the Welsh Language Division.
4. We hope that bringing them under the standards would go some way to improving the consideration given to the Welsh language in the work of the Boards as a result of the policy making standards. The Welsh Language Commissioner can investigate breaches of standards either through the submission of a complaint from a complainant or initiating an investigation himself if he is concerned that there is a case of non-compliance with standards.

⁴ Please see standards 88-93 in [The Welsh Language Standards \(No. 1\) Regulations 2015 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

⁵ [More than just the words of the Action Plan 2019-2020 \(gov.wales\)](https://www.gov.wales)

⁶ See standards 24-26. <https://www.legislation.gov.uk/wsi/2015/996/schedule/1/made/welsh>

5. However, we believe that more expectations should be placed upon the Boards in terms of providing Welsh language services. We would like to see the legislation arising from this white paper facilitating the implementation of the principle of providing care through the medium of Welsh to people wherever they are in Wales. This would include giving the Boards further direction in terms of the expectations on them to reflect the linguistic requirements of the population of the regions they serve, whether in procuring or undertaking other related functions.

National Framework

6. If it included specific and national requirements in relation to the provision of services in Welsh it is possible that the creation of a national framework would be one way of ensuring that at least a baseline of expectations about the provision of services in Welsh exists nationally. That in turn could potentially lead to an improvement in the quality of services that Welsh speakers receive.
7. Whilst we understand the intention behind the creation of the national framework, we believe that there is a risk that such a framework would work against smaller and local initiatives because of the economies of scale that larger providers would be able to achieve in order to meet the expectations of the framework. This is a concern for us because we are of the view that there are clear possibilities of developing social and co-operative initiatives that are intended to fill the current gap in social services in Welsh.

National Office

8. If a national office is established at arm's length from the Government it will have to be ensured that it complies with Welsh language standards in accordance with the Welsh Language (Wales) Measure 2011 from the outset. It must be a consideration in the process of drawing up the legislation emerging from this white paper. Again, as we set out in 3 below consideration must be given to how this will be done during the process of drawing up the legislation. We suggest that this should be discussed with the Welsh Language Division.
9. We encourage you to include Welsh language social care and service improvement as a central element of the national office's activities by mainstreaming that into the organisation's objectives and by ensuring that it is a core responsibility of the national office advisory board. This should be reflected in legislation relating to the establishment of the Office.

Regional commissioning

10. It is not clear to us from the consultation document how regional planning and commissioning, and local delivery, in practice would address the problem of a lack of Welsh language services. We believe that the local identification of needs is needed to be able to make decisions about the type of care that individuals need locally. We would welcome greater clarity about how this regime would work in terms of ensuring that Welsh language services are available to those who need them.

Data

11. We are concerned that there is currently insufficient data on the workforce and the needs of the population to be able to plan Welsh language services and the workforce adequately. There is a need to identify what new data should be collected and to establish a method of using it throughout Wales in order to plan Welsh language services and the workforce. It is possible that this could be addressed in the legislation emerging from the white paper if it contains further guidance on the use of data.

Question 12: Please also explain how you believe the proposed policy to develop a national framework for commissioning social care with regionally organised services, delivered locally 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 favourably 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 favourably than the English language.

See our comments above in question 11 where we provide a number of points that we would like you to consider that would have a more positive impact on the Welsh language. We should emphasise however that our expectation is that the Welsh Government fully considers how the Social Services and Well-being (Wales) Act 2014 is implemented in relation to Welsh language services and that improving those services is a crucial consideration in shaping social services policies and legislation, including this white paper.

This box is provided for any other comment(s) you wish to make about the proposal to develop new legislation. Please enter here:

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: