

	The Welsh NHS Confederation response to the Culture, Welsh Language and Communications Committee inquiry into ‘Supporting and promoting the the Welsh Language: The legislative, policy and wider context’.
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**Introduction**

1. The Welsh NHS Confederation welcomes the opportunity to respond to the Culture, Welsh Language and Communications Committee inquiry into ‘Supporting and promoting the Welsh Language: The legislative, policy and wider context’.
2. The Welsh NHS Confederation represents the seven Local Health Boards and three NHS Trusts in Wales. We support our members to improve health and wellbeing by working with them to deliver high standards of care for patients and best value for taxpayers’ money. We act as a driving force for positive change through strong representation and our policy, influencing and engagement work.

**Overview**

3. The delivery of bilingual NHS services is crucial to the provision of person-centred care. Delivering care and treatment in a patient’s preferred language allows NHS bodies to establish a closer relationship with patients, means that they are better positioned to place the needs of the patient at the heart of the treatment process, and allows the patient to engage more positively with their care by increasing their understanding of the treatment they receive. Health Boards and NHS Trusts have made significant progress in providing bilingual services in recent years and are committed to delivering a truly bilingual NHS for the people of Wales.
4. Throughout Wales, the Welsh language is used across a range of communication platforms. Examples include face to face consultations and providing care across the whole system (acute, primary and community); online and social media platforms; and administrative support, including Executive Board papers and minutes. Our members are using the Welsh language in all parts of their respective organisations. The most recent draft of the Welsh Language Standards, which the Culture, Welsh Language and Communications Committee considered in March 2018 and the Welsh NHS Confederation responded to, will increase each organisations’ understanding of the patients who want Welsh language services, plan for services now and in future, and improve their capacity to provide services in Welsh.
5. We welcome the progress that has been achieved over the past 18 months and the greater degree of clarity afforded by the Welsh Language Standards (No.7) Regulations

2018 (the Standards), but significant challenges remain. The Standards, and the Welsh Language Measure, must be considered against the challenging backdrop that the NHS is working in, including rising demand, workforce recruitment challenges, finances and the fact that the NHS is a 24/7 service. Health Boards experience different challenges, and in more Welsh-speaking population areas it will be easier for those Health Boards to attract and train Welsh-speaking workers in lower banded posts than in areas where less people speak Welsh. This is true both in relation to attracting the workforce but also the need for Welsh speaking services in areas where the population of Welsh speakers is low. That said, recruitment problems and shortages are the same across all Health Boards when it comes to nurses and specialist areas.

6. While there are some challenges, we must emphasise that not all challenges are relevant to all Health Boards and Trusts. Across Wales, due to local demographics, some Health Boards have already implemented schemes that address some of the issues that will face other Health Boards going forward.

### **Achieving a bilingual healthcare system**

7. The Welsh NHS Confederation and our members recognise the importance of providing Welsh language services to patients. The Welsh NHS Confederation Policy Forum briefing, *'One Workforce: Ten actions to support the health and social care workforce in Wales'*,<sup>i</sup> highlights the importance of investing in Welsh language provision across the health and social care workforce to ensure that patients and their families receive individual, person-centred care in their chosen language.
8. Under the arrangements set out in the NHS Wales Planning Framework and the NHS Finance (Wales) Act 2014, Health Boards and NHS Trusts are under a duty to prepare Integrated Medium-Term Plans (IMTPs). Within current IMTPs, the NHS is required to demonstrate *"that services are planned and delivered in line with the strategic framework for health and social care in Wales 'More than just Words...' and the Welsh Government's response to the Welsh Language Commissioner's Primary Care Inquiry Report"*. In addition, Health Boards and Trusts' commitment to the Welsh language is further outlined by the responsibilities to the *'More than just Words...'* framework and the Well-being of Future Generations (Wales) Act 2015.
9. Our members welcome the growing recognition of the importance of meeting language needs and the impact this can have on the delivery of safe, high quality care and a positive patient experience. In particular, our members support the concept of the 'active offer' in relation to Welsh services and agree that the move from Welsh Language schemes to a workable set of Welsh Language Standards has the potential to bring about the positive change required. Moreover, our members believe that the introduction of the Welsh Language Standards should provide greater clarity for both organisations and members of the public on what provision they can expect to be provided in Welsh upon the Standards coming into force over time.

## Terms of Reference

### a. Post legislative scrutiny of the Welsh Language (Wales) Measure 2011 - to assess the perceived successes and limitations of the legislation, and the impact and effectiveness of Welsh Language Standards in improving and increasing access to Welsh language services;

10. Our members fully support the aim of enhancing the use of the Welsh Language across the NHS and wider public sector. NHS Wales organisations are currently preparing their responses to the Welsh Language Commissioner's consultation on the draft Welsh Language Standards Compliance Notice. This activity is helping to raise awareness of the new requirements that will apply to NHS Wales organisations and the new ways of working that the Standards will entail.
11. The introduction of the Welsh Language schemes did not ensure the level of consistency between sectors or organisations that had originally been anticipated. Our members feel that new legislation that goes further than what was set out by the schemes under the Welsh Language Act 1993 has been required for some time. The Committee's recent inquiry into the Welsh Language Standards (No. 7) Regulations therefore has been welcomed. This is especially true following the Welsh Government's Cymraeg 2050 Strategy, which aims to achieve one million Welsh speakers by the year 2050.
12. The Welsh Language (Wales) Measure 2011 has provided a stronger base for organisations to build on, something that may have been lacking in the 1993 legislation. The Standards have also raised greater awareness of the need to provide services in a patient's preferred language and emphasised the significance of designing and delivering services around the patient. Also, the Standards have provided service users with an opportunity to ensure that health services have a greater understanding of their language needs.
13. Moreover, the '*More than Just Words...*' strategy and its structure (i.e. the *More than Just Words* awards) has been an effective means of raising the profile of the Welsh language. In particular, it has supported organisations to gather, highlight and share good practice across Wales and has encouraged organisations to work collaboratively on specific areas, particularly building links and partnerships between health and social care which is key following the Social Services and Well-being Act 2014 and the recently published Welsh Government long-term plan for health and social care '*A Healthier Wales*'.<sup>ii</sup> Our members feel that this has been made possible thanks to the fact that the strategy was tailored specifically for health and social care organisations and considered the related challenges and opportunities.
14. However, one of the key aims of the Welsh Language (Wales) Measure 2011 was that it would provide greater clarity and assurance to members of the public in terms of what their rights would be around language choice across the public sector. However, owing to the fact that what may be required from one body in one part of Wales may be different to what is required from another body in another part of Wales, the 2011 Measure has fallen short of achieving the level of consistency that had been anticipated across all organisations. In other words, our members do not feel that the Measure has clarified this issue. Legislation should ensure that an individual is able to receive the same level and

quality of service regardless of whereabouts in Wales they live, especially due to the cross boundary nature of healthcare services with a number of patients receiving care from more than one Health Board or Trust (for example a person diagnosed with cancer in Hywel Dda University Health Board may receive treatment from the Health Board they are living in as well as Abertawe Bro Morgannwg UHB and Velindre University NHS Trust).

15. There is also a concern that the necessary restructuring of existing systems could lead to major changes in the ways that Health Boards and Trusts engage with their service users. It is felt that many of the objectives of new policy frameworks could be achieved organically in conjunction with supportive staff through improvements in framework and culture. This would lead to greater integration and mainstreaming of the Welsh language across the system rather than having inconsistent/patchy engagement.
16. A framework is also required to ensure plans and procedures are put in place to allow for robust governance and accountability which should, in turn, provide assurance to NHS organisations and enable them to achieve the wider Welsh language goals within Cymraeg 2050.
17. Our members do acknowledge however that such a level of investment would be difficult against an increasingly challenging financial backdrop. As highlighted in our response to the Committee's inquiry into the Welsh Language Standards (No. 7) Regulations, our members are concerned that the time given to comply with each Standard may be unachievable and impractical given the complex nature of services and the number of Welsh speakers or learners able to provide that service. The Welsh language capabilities of frontline staff currently employed by NHS Wales would need focused and continuous investment over a number of years – that is to say, a 'one-off' period of training and investment would not be sufficient to achieve full compliance across NHS organisations.

**b. To assess whether the legislative framework supports or limits Welsh language promotion and its use;**

12. NHS organisations have been implementing a Welsh Language Scheme since 2010, and the Welsh Government's Strategic Framework for Welsh Language Services in Health, Social Services and Social Care since 2012. Our members do not consider these frameworks to be a limit on the use or the promotion of the Welsh language. Evidence from our members indicates that access to Welsh language services has improved over the past eight years as a direct result of the legislative and policy requirements.
13. However, while promotion of the Welsh Language is crucial, there needs to be a reasonable level of enforcement to fully integrate services and achieve a stronger focus for this agenda. A reasonable level of enforcement gives the Welsh language a platform for discussion that is stronger than had previously been the case under the 1993 Act. It opens up discussions that would not necessarily take place should there not be a legal framework in place to support it. A reasonable level of enforcement, therefore, supports the use and promotion of the language and does not limit its use.

14. Our members recognise that more work needs to be done to provide improved access to Welsh language services. The existing Welsh language frameworks and enforcement measures have expanded organically in recent years, and it is felt that the existing frameworks are providing NHS organisations with the impetus to improve services further.
15. As we pointed out in our response to the Committee’s inquiry in March 2018, our members are broadly supportive of the introduction of the Standards as they mean that Health Boards and Trusts will be required to take a more proactive and strategic approach to mainstreaming the Welsh language and promoting the active offer. The Standards will also ensure a patient’s language choice is made clear to staff, thus increasing opportunities between patients and (Welsh-speaking) staff to interact in Welsh and for the active offer to be realised in practice. However, it must be borne in mind that not all patient administration systems within and across the NHS currently have the required facilities to record language choice and issues around engagement, cultural acceptance and limited resources will continue to be key challenges.
16. Similarly, while our members support the general principle that telephone conversations and correspondence be bilingual across NHS Wales, it would be difficult to implement and enforce such a policy adequately because some data systems within Health Boards and Trusts are not compatible with each other. Some departments/clinics also record their data exclusively via paper systems, which would make language choice difficult to transfer with the current systems.
17. In addition, the Data Protection Act 1998, and the new GDPR provisions, prohibits some individuals accessing some systems. This could be problematic for issues like complaints, which are recorded on a Datix system, because not all NHS Wales staff have access to this system. Despite the fact that a patient’s preferred language can be recorded on Datix it is unlikely that this choice will be communicated quickly within and across organisations without sufficient restructuring of existing systems.

**c. An international perspective - gathering evidence on legislation to protect and promote minority language planning in other countries;**

15. As part of the first ‘*More Than Just Words...*’ framework, the Welsh Government conducted an in-depth analysis of language planning and legislative support for language development within the context of health and social service provision.
16. This analysis was based on data and research conducted in French-speaking parts of Canada, where some communities were campaigning for services to be provided in French. It played an active role in providing information for the European Charter for Regional and Minority Languages (ECRML) - the origin of the ‘active offer’ concept - which is now embedded in the Welsh Language Standards.
17. Strategies were introduced in these parts of Canada, but key challenges around access were persistent due to a lack of effective enforcement measures<sup>iii</sup>. Some of the comments received by French-speaking patients across the region included “*We know*

*there is a law, but we don't take it seriously because all francophones speak English" and "Too often, we are not given choice. Service is provided spontaneously in English". It is encouraging that the Welsh Government, by noting this case study, has recognised the importance of effective enforcement measures to support the use and promotion of the language.*

18. Public Health Wales NHS Trust (PHW) has an International Health Division within its Policy, Research and International Development directorate. It focuses on maximising applied learning from international policy, practice and research to support public health innovation in Wales. PHW work closely with key international partners, developing synergies and promoting opportunities. The value and influence of international data and research informing language planning legislation, policy and practice in Wales is therefore well-recognised. The promotion and subsequent support for minority language provision can only be strengthened by ensuring it sits within legislation as this gives it the strength and platform it requires to grow.

### **Other comments**

- 20 Our members have highlighted the willingness and ability of the existing workforce and labour market to provide Welsh language services at the levels envisaged in the future. However, the NHS in Wales faces many recruitment and retention challenges, including the recruitment and retention of Welsh language professionals, clinicians and administrative staff (e.g. receptionists, HR, communication professionals such as media and digital etc). The solutions to these challenges often go beyond the remit of Health Boards and Trusts, with the importance of having a truly bilingual education system at the core of the issue.
19. Our members also point out that increasing the number of Welsh-speaking staff within their specific Health Board or Trust is not solely an organisational or recruitment challenge – making the ability to correspond in Welsh an essential job requirement, for example, will have little or no effect if there is not a sufficiently sizeable Welsh-speaking population within the relevant geographical area in the first place. Achieving this involves sustained, targeted and multi-disciplinary Welsh Government approaches that extend far beyond the remit of Health Boards and Trusts and have at their core a truly bilingual education system in Wales. This in itself represents an altogether new policy debate beyond the mandate of our members.

### **Conclusion**

- 21 On behalf of our members, the Welsh NHS Confederation welcomes the growing recognition of the importance of meeting language need in the Welsh NHS and the impact this can have on the provision of services and patient experience. We support the importance of meeting language need and the 'active offer'. We also agree that it is appropriate and timely to move away from the existing Welsh Language schemes and look to further promote the Welsh language through other policy initiatives.

22 Finally, we would encourage the Culture, Welsh Language and Communications Committee to note the significant progress that has been made in recent years by our members towards providing services in a patient's chosen language. In terms of access and the delivery of services, the picture is one of sustained, albeit steady, improvement across Wales. We will continue to work closely with our members to support these positive developments in the future.

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<sup>i</sup> Welsh NHS Confederation Policy Forum, September 2016. 'One workforce: Ten actions to support the health and social care workforce in Wales'.

<sup>ii</sup> Welsh Government, July 2018. 'A Healthier Wales: Our Plan for Health and Social Care'.

<sup>iii</sup> Health Canada and the Public Health Agency of Canada, March 2017. 'Evaluation of the Official Languages Health Contribution Program 2012-2103 to 2014-2015'.