



Comisiynydd y  
Gymraeg  
Welsh Language  
Commissioner

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# Welsh Language Commissioner's Regulatory Framework 2021

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# Background

The main aim of the Welsh Language Commissioner, an independent organisation created in accordance with the Welsh Language (Wales) Measure 2011, is to promote and facilitate the use of the Welsh language. This is done by drawing attention to the fact that the Welsh language has official status in Wales and by imposing standards on organisations. This, in turn, will lead to the establishment of rights for Welsh speakers.

The work is underpinned by two principles:

- The Welsh language should not be treated less favourably than the English language in Wales
- Persons in Wales should be able to live their lives through the medium of Welsh if they wish to do so

## Contact details

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# Cynnwys

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# 1 Introduction

- 1.1 The Welsh Language Commissioner has decided to publish this framework to explain how he will implement his work programme of regulating Welsh language standards and Welsh language schemes.
- 1.2 Through his regulatory work, the Commissioner operates a programme of activities to monitor and assess organisations' compliance and take further action if necessary.
- 1.3 The Commissioner's first Regulatory Framework was published in April 2016, as the first standards were introduced. A revised Framework is introduced in 2021 that takes greater account of the impact of standards than was done initially.
- 1.4 The purpose of the Framework is to explain how the Commissioner regulates compliance in general. It also explains how the Commissioner will proceed to promote and facilitate the implementation of the standards regime where appropriate.
- 1.5 Regulators are generally encouraged to develop risk-based regulatory practices. The Commissioner will use risk to manage the use of time and resources, focusing on work that will have the highest impact on compliance.
- 1.6 Part 5 of the Welsh Language (Wales) Measure 2011 (Welsh Language Measure)<sup>1</sup> confers enforcement powers on the Commissioner. This framework does not relate directly to the Commissioner's enforcement work. Information on this can be found in the Enforcement Policy<sup>2</sup> itself. The actions and powers within this framework do not in any way limit or impair the Commissioner's enforcement powers under the Enforcement Policy.

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<sup>1</sup> [Welsh Language \(Wales\) Measure 2011 \(legislation.gov.uk\)](https://legislation.gov.uk)

<sup>2</sup> [Enforcement policy \(welshlanguagecommissioner.wales\)](https://welshlanguagecommissioner.wales)

## 2 Welsh Language Standards

- 2.1 The Welsh Language Measure is the legislation that created the Welsh language standards.<sup>3</sup>
- 2.2 The Welsh language standards explain how organisations are expected to use Welsh in different situations. The duties arising from the standards mean that organisations should treat the Welsh language no less favourably than the English language, as well as promoting and facilitating the use of Welsh.
- 2.3 Organisations must comply with standards in the following areas:
  - Service delivery
  - Policy making
  - Operational
  - Promotion
  - Record keeping
- 2.4 The standards are intended to make it clearer what services people can expect to receive in Welsh, and that those services are consistent.
- 2.5 Compliance notices are the legal documents setting out what standards (i.e., duties) organisations must comply with, and by when. Compliance notices are issued by the Commissioner to organisations, and these can be found here on the Commissioner's [website](#).

## 3 Welsh Language Schemes

- 3.1 The Welsh Language Measure introduced the transfer of functions relating to Welsh language schemes to the Commissioner.<sup>4</sup>
- 3.2 Organisations are gradually moving from implementing language schemes to Welsh language standards. Public organisations that do not currently implement Welsh language standards will continue to operate language schemes under the 1993 Act.
- 3.3 The Welsh Language Act of 1993<sup>5</sup> established the principle that in the conduct of public business and the administration of justice in Wales, the English and Welsh languages should be treated on the basis of equality.

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<sup>3</sup> [Welsh language standards \(welshlanguagecommissioner.wales\)](#)

<sup>4</sup> [Welsh language schemes \(welshlanguagecommissioner.wales\)](#)

<sup>5</sup> [Welsh Language Act 1993 \(legislation.gov.uk\)](#)

- 3.4 Welsh language schemes explain what services will be provided in Welsh in accordance with this principle, and the Commissioner is responsible for regulating their operation.

## 4 Regulatory considerations

- 4.1 The Welsh Language Measure states that the Welsh language has official status in Wales, as well as making provision for:
- promoting and facilitating the use of Welsh and treating Welsh no less favourably than English;
  - Welsh language standards, including duties to comply with those standards and the rights that derive from the enforceability of standards;
  - investigate the interference with the freedom to use Welsh.
- 4.2 The impact of enforcing Welsh language standards on the rights of its users must also be addressed. This informs the Commissioner's regulatory work as he works towards increasing the opportunities to use Welsh language services.
- 4.3 To achieve this, it will be important to understand and report on users' language experiences and highlight barriers that prevent them from using Welsh. Compliance with standards will require analysis and judgement.
- 4.4 The Commissioner will act on findings using a range of methods, and powers to drive change, and target his resources where they are most needed.
- 4.5 The Commissioner's main objectives as he regulates organisational performance and compliance are:
- focusing on compliance:
  - closing information gaps and improving how the Commissioner discovers flaws
  - promoting self-regulation
  - acting on defects
- 4.6 The Commissioner will use a mix of regulatory tools to achieve these objectives, including:
- Direct verification
  - request written evidence
  - meet with organisations
  - user engagement

- carry out investigations into suspicions of failure
- collect and share effective practices
- conduct educational activities
- provide advice to organisations

## 5 Monitoring methods – what can organisations expect?

5.1 The methods available to the Commissioner to monitor organisations' compliance include:

**Direct verification:** Accessing services as a real customer, for example using a telephone or reception service, or checking web materials, e.g. web pages, social media, documents, online services.

**Checking compliance with the supplementary standards and record keeping:** Check whether the organisation has complied with the duties arising from the supplementary standards and record keeping, (and equivalent duties in the case of language schemes), and whether they include all the required information. These standards provide organisations with the opportunity to inform users of their Welsh language provision and provide assurance that they have adequate arrangements to monitor compliance, promote use of their provision, and deal robustly with any complaints.

**Request for written evidence:** Ask organisations to send written evidence of their compliance.<sup>6</sup>

**Evidence gathering meeting:** Ask questions to representatives of organisations, to seek assurance on compliance and understand compliance methods, and validate evidence collected by the Commissioner about the organisation's performance.

**Engagement:** Where officers feel that qualitative evidence is needed to better understand an organisation's performance, engagement can take place, for example holding a discussion group where structured questions are asked, or an online consumer survey.

### Further action

5.2 If the Commissioner concludes that the evidence gathered does not demonstrate high assurance of compliance, he will consider what action to take to ensure compliance. The Commissioner will follow the principle of using minimal intervention to achieve this goal.

5.3 The steps that may be taken include:

- Remind an organisation of the requirements of the standard, refer them to a code of practice or provide guidance or advice to organisations about the requirements of the standard or duty in question
- Hold a meeting with the organisation to find a solution to a particular problem

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<sup>6</sup> In each set of the Welsh Language Standards Regulations, there are standards that require organisations to provide any information requested by the Commissioner relating to their compliance with different groups of standards.



- Write to the organisation inviting comments for the Commissioner to consider when deciding whether to investigate
- Open a statutory inquiry into suspected failure
- Hold an educational event
- Share examples of effective practices
- Produce an advice document
- Carry out a piece of work to solve a systemic problem
- Conduct surveys and publish findings
- Publish a report (annually) on performance findings as a basis for organisations to strengthen their performance.

## 6 Publishing findings

- 6.1 The Commissioner provides an independent opinion on the implementation of the standards regime. It does this to give people confidence to be able to increase their use of the Welsh language and to highlight actions that organisations should take.
- 6.2 Each year the Commissioner publishes a report which provides an overview of how duty-bound organisations use Welsh. Sharing the information is the basis for facilitating better compliance as well as providing a means for the widespread sharing and dissemination of important findings and information.<sup>7</sup>

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<sup>7</sup> [What is an assurance report? \(welshlanguagecommissioner.wales\)](https://www.welshlanguagecommissioner.wales)

## 7 Codes of practice

- 7.1 In order to explain the requirements of the Welsh language standards in a practical way, the Commissioner gives codes of practice to organisations.<sup>8</sup>
- 7.2 The failure of an organisation to comply with a provision within a code of practice does not render that organisation liable to any enforcement action. A code of practice is not a complete or authoritative statement of the law. Only the Welsh Language Tribunal<sup>9</sup> and the courts can give an authoritative interpretation of the legislation and subsequent judicial decisions may affect the content of codes of practice.
- 7.3 However, if the Commissioner so wishes, it may rely on an organisation's failure to comply with guidelines within a code of practice as something that tends to confirm that the organisation has failed to comply with a standard.
- 7.4 Similarly, an organisation may rely on its compliance with guidelines within a code of practice as something that tends to confirm that it has complied with a standard.

## 8 Responsive work

- 8.1 The Commissioner will from time to time choose to undertake responsive work.
- 8.2 This occurs when significant issues arise and where the Commissioner's involvement in the matter can assist organisations to comply with their statutory duties, for example, when a new piece of legislation is introduced, or a national event is held such as an election.
- 8.3 Such matters may be foreseeable or brought to the attention of the Commissioner through other sources such as press and media reports, information from other regulators and matters notified to the Commissioner by organisations themselves.

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<sup>8</sup> [Codes of practice \(welshlanguagecommissioner.wales\)](https://www.welshlanguagecommissioner.wales)

<sup>9</sup> [The Welsh Language Tribunal \(welshlanguagecommissioner.wales\)](https://www.welshlanguagecommissioner.wales)

## 9 Promoting and facilitating the use of the Welsh language among organisations on duty

- 9.1 The Commissioner operates a Iaith Gwaith scheme.<sup>10</sup> Public organisations that offer services in Welsh can use the scheme to promote the use of their services.
- 9.2 Annually, the Commissioner holds a Diwrnod Hawliau (rights day), where public organisations are given a platform to promote a service available in Welsh.<sup>11</sup>
- 9.3 An important part of the promotion and facilitation work is to support compliance by seeking out effective practice and sharing success widely. This is done with cases where it becomes clear that other organisations can consider replicating or adapting the practices found.
- 9.4 Information sharing events will be held with organisations. They usually offer guidance on the requirements of the standards.
- 9.5 The Commissioner provides advice. It can be in the form of documents or video clips on its website or in the form of an event, either via a streaming medium or a seminar.
- 9.6 Please note that the Commissioner will only undertake work to facilitate compliance with standards in his general dealings with organisations. Normally, the Commissioner does not follow the practice of providing support (including financial assistance) to organisations individually.

### Effective practices<sup>12</sup>

- 9.7 To assist organisations to improve the effectiveness and efficiency of their Welsh language provision, the Commissioner will look for effective practices that have been established.
- 9.8 Once examples have been identified, the Commissioner will analyse those practices. If it can be shown that they work well and have been tested and validated over time, then the Commissioner will promote those practices among other organisations.

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<sup>10</sup> [Iaith Gwaith \(welshlanguagecommissioner.wales\)](http://welshlanguagecommissioner.wales)

<sup>11</sup> ['Mae gen i Hawl' campaign \(welshlanguagecommissioner.wales\)](http://welshlanguagecommissioner.wales)

<sup>12</sup> [Effective practices \(welshlanguagecommissioner.wales\)](http://welshlanguagecommissioner.wales)

## 10 Collaborate with other regulators

- 10.1 Sections 20 and 21 of the Welsh Language Measure allow the Commissioner to co-operate and conduct investigations jointly with ombudsmen and other commissioners where an investigation into the enforcement of standards is a matter which may be the subject of an investigation by one of those organisations.
- 10.2 The Commissioner also has a general responsibility to work collaboratively with other scrutiny bodies to add value and create better services and outcomes for the citizens of Wales. The Commissioner will engage and share information appropriately and will aim to ensure that there are no regulatory gaps or duplication. The Commissioner meets regularly with scrutiny partners to discuss strategic and operational issues of common interest.

# 11 Complaints procedure about the Commissioner's actions

- 11.1 The complaints procedure relating to the Commissioner's actions was established in accordance with section 14 of the Welsh Language Measure. Further details of this procedure are available on the Commissioner's website or by contacting the Commissioner directly.
- 11.2 Should any organisation wish to complain about acts or omissions relating to the exercise of the Commissioner's functions, the Commissioner may be contacted using the details below:

[post@cyg-wlc.cymru](mailto:post@cyg-wlc.cymru)  
0345 6033 221