



## **Compliance with the Welsh Language Standards: Policy Making and Consultation Guidance**

**This document is available in Welsh / Mae'r ddogfen hon ar gael yn Gymraeg**

This guidance is for any Council officer who makes or revises policy decisions.

The purpose of this guidance is to help officers comply with the requirements of the Welsh Language Standards when developing or revising policies.

### **What do you need to do?**

- Give conscientious consideration to the impact of policy decisions on the Welsh language, Welsh speakers, and opportunities to use the Welsh language in the Vale of Glamorgan by considering:
  - negative and positive direct and indirect impacts;
  - how negative impacts can be mitigated; and
  - how positive impacts can be promoted.
- Ensure all consultations for policy decisions ask people to consider the impact on the Welsh language.
- Complete a Welsh Language Impact Assessment for every policy decision to record these findings (as part of an equality impact assessment).

## How do you do this?

- Read and understand this guidance.
- Share this guidance and discuss the guidance with your team.
- Watch the Welsh Language Commissioner's guidance seminar.
- Read the Welsh Language Commissioner's guidance.
- Ensure impact assessments are completed prior to any public consultation.
- Use the assessments to identify positive, negative, and neutral effects.
- Present actions to mitigate negative effects and promote positive effects.
- Record the steps taken to ensure compliance such as copies of impact assessments, consultation documents, or minutes from meetings.
- Feed assessment results into policy documents and questions.

## What is this guidance?

This guidance details the legislative and statutory requirements for policy development and provides a framework for officers to ensure the Welsh language is treated no less favourably than English.

In this context, a “policy decision” means any decision made by a body about the exercise of its functions or about the conduct of its business or other undertaking, and it includes decisions about:

- the exercise of statutory powers;
- the content of policy statements;
- strategies or strategic plans;
- internal structures.

For ease of reference, we will use the term policy throughout this guidance, but it is important to remember that the term covers all the above.

### **Why do we need this guidance?**

The Welsh Language Tribunal has recently made a decision that has far-reaching consequences for the conduct of policy development by Local Authorities in Wales.

- [Tribunal Upholds Welsh Language Commissioner's Ruling](#)
- [Welsh Language Tribunal Ruling](#)

The Welsh Language Commissioner presented an advice seminar detailing the steps to be taken to ensure compliance with the Welsh Language Standards. All Council officers involved with policy development, the conduct of impact assessments, and public consultations should view the seminar.

- [Welsh Language Commissioner's Advice Seminar](#)
- Presentations are also on the Welsh Language Commissioner's website [here](#)

The Welsh Language Commissioner has also produced [guidance](#) on the policy making standards.

The Welsh Language Commissioner found that we had failed to comply with the relevant standards in investigation CS1234. One of the required actions was to provide comprehensive guidance on the policy making standards.

This guidance will cover the relevant standards, policy decisions, Welsh language impact assessments, assessing effects, conscientious effort, public consultation, and recommended actions for those involved in policy making decisions.

## **Compliance notice**

As a result of the Welsh Language (Wales) Measure 2011, the Welsh Language Commissioner issued a legal Compliance Notice to all Councils which includes the standards with which the Vale of Glamorgan Council must comply. Our compliance notice can be viewed [here](#).

## **Policy Making Standards**

Standards 88-93 and 95-97 are concerned with the policy making process. The standards explain how to ensure the Welsh language is treated no less favourably than English when developing new policies or revising existing policies. These standards consider each step of the policy development process including assessing the impact on the Welsh language, and commissioning research, and public consultation.

You can read all the relevant standards in [Appendix A](#)

## **Policy decisions**

A policy decision is any decision that has an impact on people, places, or services.

There are five core examples of policy decisions in the standards:

- Content of legislation (for example: Welsh Government introducing a Bill for further debate in the Senedd)
- Exercise of statutory power (for example: decision to close a leisure centre)
- Strategy/strategic plan (for example: Welsh in Education Strategic Plan (WESP) or Local Development Plan)
- Policy statement (for example: street naming policy or social media policy)
- Internal structure (for example: staffing or office location)

Policy decisions can have a significant impact on efforts to increase the number of Welsh speakers, and on creating opportunities for people to use the Welsh language in their everyday lives.

Without appropriate consideration for the Welsh language or Welsh speakers early in the process of developing policies, there is a risk that decisions could have a detrimental effect on the language and opportunities to positively affect its future.

### **Welsh Language Impact Assessment**

The effects of a policy decision can only be fully assessed through a thorough impact assessment. The Welsh Language Standards stipulate that organisations have an effective method of considering the impact of policy decisions on the Welsh language, and create a robust 'audit trail' that encompasses legal considerations, the needs of Welsh speakers, national and local strategies, and specific policy areas relating to the Welsh language.

Every policy decision must be supported by a Welsh language impact assessment. Our Welsh impact assessment is included in our Equality Impact Assessment which must also be completed for each policy decision. The Welsh Language Standards stipulate that findings must be recorded. The impact assessment is our way of complying with this.

Listing general statements about the Council's work or other strategies is not sufficient. This does not show that the effects of a particular policy decision have been adequately deliberated or that actions to minimise negative impacts and promote positive impacts have been properly considered.

Sometimes the impact assessment will conclude that there is no impact on the Welsh language and opportunities to use Welsh. The reasons and findings to support this outcome must be included.

## **Assessing the effects**

The impact assessment must:

- Consider the impact of the policy decision on the Welsh language, opportunities to use the Welsh language, and Welsh speakers, in the Vale of Glamorgan both now and in the future.
- Identify positive and negative impacts.
- Consider both direct and indirect impacts.
- Consider how to promote positive impacts and mitigate adverse impacts.

### **Positive and negative impacts:**

We recommend that three positive and three negative impacts are identified for each policy decision to support a Welsh language impact assessment. It may not be possible to identify as many as three, but using this as a basis for the assessment allows for a broader and more comprehensive consideration of the policy decision's effects. Likewise, the number of positive and negative impacts should not be limited to just three. There may also be numerous neutral impacts identified.

This also means that it is possible to identify ways to promote positive impacts and increase the positive effects, as well as how adverse effects can be mitigated.

### **Both direct and indirect impacts:**

To give full conscientious consideration, you must identify both direct and indirect impacts. Direct impacts are those which clearly affect Welsh speakers and the opportunities to use Welsh such as closing Welsh medium schools or removing Welsh language coffee mornings. Indirect impacts are those that impact a range of

people and groups, but indirectly have an impact on Welsh speakers and the opportunities to use Welsh.

### Examples

- Increased support for Welsh language services would result in a positive direct impact on the Welsh language and opportunities to use Welsh, whereas the decision to reduce support would have a negative direct impact.
- A change in school transport routes or school transport provision may mean Welsh speakers have longer or more expensive routes to attend Welsh medium schools. This policy decision could affect all learners, but it has an indirect negative impact on Welsh speakers as they already travel longer distances to attend Welsh medium schools.

<b>Positive effects</b>	<b>Adverse effects</b>
<b>Would the policy decision ...</b>	<b>Would the policy decision ...</b>
Increase the number of Welsh speakers moving from / to an area?	Decrease the number of Welsh speakers moving to / from an area?
Make the Welsh language more visible?	Discriminate against Welsh language users?
Lead to an increase in the number of positions requiring Welsh language skills?	Lead to a fall in the number of positions requiring Welsh language skills?
Lead to an increase in specific Welsh language services?	Lead to closing specific Welsh language services or risk those services?
Encourage or facilitate the recruitment of Welsh speakers?	Make it harder to recruit Welsh speakers?

Ensure the sustainability of areas where the Welsh language is part of the fabric of those communities?	Threaten the sustainability of areas where the Welsh language is part of the fabric of those communities?
Facilitate travel in order to access Welsh language services?	Make it harder to travel to access Welsh language services?
Lead to an increase in the number of Welsh learners?	Lead to a reduction in the number of Welsh learners?
Provide users with the active offer of a service in Welsh?	Limit the accessibility of and access to Welsh language services?
Take steps to promote and facilitate the Welsh language?	Reduce the promotion and facilitation of the Welsh language?
Contribute to national Welsh language strategies and specific policies such as Cymraeg 2050, Mwy na Geiriau, our Welsh in Education Strategic Plan, or our Welsh Language Promotion Strategy?	Make it difficult to meet targets and actions set in national strategies and specific policies such as Cymraeg 2050, Mwy na Geiriau, our Welsh in Education Strategic Plan, or our Welsh Language Promotion Strategy?

### **What is ‘Conscientious Effort’?**

The Welsh Language Commissioner has referred to conscientious effort. This is the term given to the full and comprehensive impact assessment described above.

It is a legal requirement to make an evidenced conscientious effort to identify the effects of a policy decision on the Welsh language and Welsh speakers. The Commissioner has communicated that any kind of tick-box exercise based on minimum effort, unevidenced impact assessments, and/or assessments only identifying negative effects will be insufficient. We anticipate the Commissioner will pay greater attention to complaints that relate to this area.



Conscientious effort depends on context. Policy decisions affecting Welsh language use, access, and promotion will be subject to a higher threshold than policy decisions with minimal impact.

## **Public Consultation**

Welsh language impact assessments must be completed before public consultation, as should Equality Impact Assessments. This makes sure the impact assessment is included in the policy's consultation document.

The public and any other stakeholders must be made aware of the effect on the Welsh language and opportunities to use the Welsh language.

As such, the consultation must include questions on the policy decision's possible impact on the Welsh language and opportunities to use Welsh. These questions must ask for the public's view on the impacts and actions identified in the Welsh language assessment and request their views on additional impacts and actions.

We have amended the Vale of Glamorgan Participation survey template for future consultations to include the following questions:

- We would like to know your views on the effects that these proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.
- What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?
- Please also explain how you believe the proposed policy approach could be formulated or changed so as to have:
  - positive effects or increased positive effects on opportunities for people to use the Welsh language;

- positive effects or increased positive effects on treating the Welsh language no less favourably than the English language;
- no adverse effects on opportunities for people to use the Welsh language; and
- no adverse effects on treating the Welsh language no less favourably than the English language.

The final draft of the policy decision should include the recommendations made in the Welsh impact assessment and the public responses. It should also include changes and additions made following the impact assessment and public consultation. This will demonstrate that we have given conscientious consideration to the impacts and efforts identified in the assessment and consultation.

## **Conclusion**

Compliance with the Welsh Language Standards requires conscientious consideration to identify all impacts deriving from a policy decision. This is demonstrated by conducting effective and evidenced Welsh language assessments which address positive and negative effects, and direct and indirect effects. Evidence and explain neutral conclusions.

Support every consultation with an evidenced Welsh language impact assessment. Provide the public with sufficient information to consider the consultation questions and to support their responses. Together, the Welsh impact assessment and consultation show that we have given conscientious consideration of the Welsh language for every policy decision.

## **Appendix A – Standards for formulating, reviewing, and revising policy:**

**Standard 88:** When you formulate a new policy, or review or revise an existing policy, you must consider what effects, if any (whether positive or adverse), the policy decision would have on

- (a) opportunities for persons to use the Welsh language, and
- (b) treating the Welsh language no less favourably than the English language.

**Standard 89:** When you formulate a new policy, or review or revise an existing policy, you must consider how the policy could be formulated (or how an existing policy could be changed) so that the policy decision would have positive effects, or increased positive effects, on –

- (a) opportunities for persons to use the Welsh language, and
- (b) treating the Welsh language no less favourably than the English language.

**Standard 90:** When you formulate a new policy, or review or revise an existing policy, you must consider how the policy could be formulated (or how an existing policy could be changed) so that the policy decision would not have adverse effects, or so that it would have decreased adverse effects, on –

- (a) opportunities for persons to use the Welsh language, and
- (b) treating the Welsh language no less favourably than the English language.

### **Consultation standards:**

**Standard 91:** When you publish a consultation document which relates to a policy decision, the document must consider, and seek views on, the effects (whether positive or adverse) that the policy decision under consideration would have on –

(a) opportunities for persons to use the Welsh language, and

(b) treating the Welsh language no less favourably than the English language.

**Standard 92:** When you publish a consultation document which relates to a policy decision, the document must consider, and seek views on, how the policy under consideration could be formulated or revised so that it would have positive effects, or increased positive effects, on –

(a) opportunities for persons to use the Welsh language, and

(b) treating the Welsh language no less favourably than the English language.

**Standard 93:** When you publish a consultation document which relates to a policy decision, the document must consider, and seek views on, how the policy under consideration could be formulated or revised so that it would not have adverse effects, or so that it would have decreased adverse effects, on –

(a) opportunities for persons to use the Welsh language, and

(b) treating the Welsh language no less favourably than the English language.

### **Research standards:**

**Standard 95:** When you commission or undertake research that is intended to assist you to make a policy decision, you must ensure that the research considers what effects, if any (and whether positive or adverse), the policy decision under consideration would have on –

(a) opportunities for persons to use the Welsh language, and

(b) treating the Welsh language no less favourably than the English language.

**Standard 96:** When you commission or undertake research that is intended to assist you to make a policy decision, you must ensure that the research considers how the policy decision under consideration could be made so that it would have a positive effect, or so that it would have increased positive effects, on –

(a) opportunities for persons to use the Welsh language, and

(b) treating the Welsh language no less favourably than the English language.

**Standard 97:** When you commission or undertake research that is intended to assist you to make a policy decision, you must ensure that the research considers how the policy decision under consideration could be made so that it would not have adverse effects, or so that it would have decreased adverse effects, on –

(a) opportunities for persons to use the Welsh language, and

(b) treating the Welsh language no less favourably than the English language.

**Schedule 2, Part 2** of the Welsh Language Standards (No.1) Regulations 2015:

(2) In Part 1 of this Schedule a “policy decision” means any decision made by a body about the exercise of its functions or about the conduct of its business or other undertaking, and it includes, amongst other things (and as appropriate to the body), decisions about – (a) the content of legislation; (b) the exercise of statutory powers; (c) the content of policy statements; (ch) strategies or strategic plans; (d) internal structures.

(3) In Part 1 of this Schedule a reference to positive or adverse effects is a reference to such effects whether direct or indirect.