



School Governance, Organisation and Admissions Branch

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Dear colleague,

Consultation on revisions to the School Organisation Code

Thank you for the opportunity to contribute to the consultation above.

We welcome the proposals to amend the School Organisation Code (the Code), and specifically the attempt to ensure that the Code reflects the requirements of the Welsh Language Standards (No. 1) Regulations 2015. As the Code was drawn up before the Welsh Language Standards (No. 1) Regulations 2015 came into force, the current Code does not cross-reference the relevance of the standards in the context of developing education reorganisation proposals.

There is also some inconsistency in the requirements of the current Code and the requirements of the policy making standards from the perspective of assessing impact on the Welsh language. This leads to considerable confusion for local authorities as they assess the impact of education reorganisation proposals on the Welsh language. There are clear benefits, therefore, to highlighting the relevance of the requirements of the Welsh language standards in the context of school organisation, and thereby trying to encourage organisations to consider their duties under the Code alongside their duties under the policy making standards.

The revised Code is a substantial improvement on the current Code, and addresses the vast majority of the difficulties that currently exist. Below we provide comments on some of the changes in the new draft, and suggest some issues that could be considered further.

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New section on the Welsh Language Standards (No. 1) Regulations 2015 – page 6

This new section clearly states the relevance of the policy making standards in the context of education reorganisation proposals and it is very useful that this section is included at the start of the Code. We have two suggestions as to how this section could be strengthened:

- Although there is an attempt here to reconcile the requirements of the Code and the requirements of the policy making standards, we accept that it is not the role of the Code to explain the extent of the requirements of the policy making standards. That is, those making proposals will still need to ensure that they comply with the requirements of the Welsh language standards. We believe that it would be beneficial, therefore, to include an additional sentence that encourages those presenting proposals to consider the requirements of the two statutory regimes side by side. To support this point, it would be useful to refer to the Commissioner's advice documents and resources which provide guidance to public bodies about how conscientious consideration should be given to the impact of decisions on the Welsh language. The Commissioner has a [specific web page](#) which includes several resources, including a Code of Practice, guidelines and seminars on consultation and impact assessment documents. This could be done in this section and/or in other sections of the Code.
- To ensure consistency, we believe that it would be useful for the last paragraph of this section (which summarizes the implications of the changes) to note also that there are two requirements within the policy making standards relating to a consultation document, namely to consider the impact on the Welsh language and to seek views on the impact on the Welsh language.

New section on Impact on the Welsh language – page 12, paragraphs 1.10 and 1.11

We welcome this new section on assessing impact on the Welsh language. As we note above, to ensure consistency, emphasis should be placed here on the need for the consultation document to consider the impact on the Welsh language as well as seeking views on the impact on the Welsh language. As well as including a footnote for Schedule 2 to the Welsh Language Standards (No. 1) Regulations 2015, referring to the Welsh Language Commissioner's advice and guidance on the policy making standards would possibly be more useful for those developing proposals.

Need for places and the impact on accessibility of schools – page 15, paragraph 1.20

We welcome the fact that this paragraph has been substantially strengthened from the perspective of the Welsh language. Despite this, we are not of the opinion that it is only in the case of Welsh-medium provision that consideration should be given to how the proposal will affect the targets of Welsh in Education Strategic Plans. We know of several examples where



opening new English-medium schools, or increasing the capacity of English-medium schools, has a direct and adverse effect on the growth and success of Welsh-medium education. Those making proposals should be encouraged to consider this. We therefore recommend changing the second sentence under the first bullet point to require proponents to consider how any proposal to open a new school, increase capacity or expand the age range, will improve the work of planning and providing education through the medium of Welsh.

Introducing this change will also strengthen the subsequent section on 'Resourcing of education and other financial implications'. It would reinforce the fact that local authorities should not be planning in a way that creates an excess of additional capacity. We are aware of several cases where local authorities have ambitious growth targets in terms of Welsh-medium education in a specific area, but are also planning to grow the capacity of the English-medium sector in the same area.

Presumption against the closure of rural schools – page 20, paragraphs 1.38 and 1.39

The policy making standards require consideration of the impact on the opportunities to use the Welsh language in general, and it is not limited to one situation or context. In practice, that means that it is necessary to consider the educational impact and the community impact.

Linked to our comments below in relation to Annex C, we would suggest that the Code needs to make a clearer link between the impact assessment on the community and the impact assessment on the Welsh language. That is, the impact assessment on the Welsh language should consider the wider community impact of the proposal on opportunities to use the Welsh language, and/or the impact assessment on the community should consider the Welsh language. Small rural Welsh-medium schools are often important community assets, and closing these schools would likely have a detrimental effect on opportunities to use the Welsh language more widely. In practice, adding a sentence in paragraph 1.38 encouraging proponents to consider the Welsh language would strengthen the Code, and this could be reinforced in Annex C (see comments below).

Specific factors to be taken into account for proposals to add or remove nursery classes – page 21, paragraph 1.44

It is not clear what the rationale is for completely removing the third bullet point in the current Code, that is '*the levels of demand for certain types of nursery education e.g. Welsh medium or provision with a religious character*'. We can understand the need to amend this sentence as the Welsh in Education Strategic Plans have now moved away from the concept of 'measuring demand' towards a concept of proactively expanding provision. Unless there is a clear reason for not doing so, we would encourage you to include a clause here which refers to the impact of the proposals on facilitating access to education through the medium of Welsh. This would be consistent with similar clauses that have been included when



discussing the factors that should be considered in the context of proposals to change the language of the provision, or to reorganize secondary schools or add or remove a sixth form.

Additional factors to be taken into account in making proposals for the reorganisation of Additional Learning provision – page 24, paragraph 1.52

We believe that an additional bullet point should be included here which asks proponents to consider how the proposals will match the requirements of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 from the perspective of the principle of creating a bilingual ALN system, and the duty to take all reasonable steps to introduce Additional Learning Provision through the medium of Welsh.

Annex C: Welsh language and community impact assessments – page 77

We welcome the fact that Annex C of the revised Code offers more guidance regarding the issues to be considered when conducting an impact assessment on the Welsh language.

The fact that other laws require impact assessments on the Welsh language does not mean that bodies are exempt from the duty to comply with the Welsh language standards in relation to policy making. Similarly, the fact that this Code requires an assessment of the impact of proposals on the Welsh language does not exclude the duty to comply with policy making standards within No. 1 Regulations.

To avoid duplication and to reduce the burden of complying with the requirements of the Code and the policy making standards side by side, it would be beneficial if Annex C drew attention to the need to consider and follow the Commissioner's guidelines when assessing the impact of proposals on the Welsh language in order to ensure compliance with the standards. As noted above, the Commissioner has a [specific web page](#) which includes several resources which provide advice and practical guidance when conducting an impact assessment. The resources include a Code of Practice, advice document, examples of good practice and seminars. We are also in the process of drawing up resources that will offer practical guidance on how to assess the impact of policy decisions, relating specifically to education, on the Welsh language. Including links to these pages and resources would facilitate the impact assessment process for the organisations.

In November 2024 the Commissioner published a report on organisations' arrangements for complying with the requirements of the policy making standards, [Policy Decisions and the Welsh Language: A Conscientious Effort?](#). Five recommendations were made in the report, the first of them noting:

Recommendation 1: More than superficial discussion and factual statements about the Welsh language is needed within impact assessments. Organisations should contain sufficient information to show that a conscientious effort has been made to consider the effects on the Welsh language.



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Annex C offers a list of the type of evidence that must be included as part of the impact assessment. We note that it is a comprehensive list, but there is some uncertainty about what is meant by “links” here. We welcome the fact that organisations are required to make the link between the proposals and related strategies and policies, but it needs to be emphasized that simply including a superficial factual statement or a link to listed documents is not sufficient.

Where a body refers to specific strategies or policies, they should also relate their proposals to the aims, objectives and targets of those strategies and policies, indicating what effect the proposal will have on their achievement. We are not of the opinion that the guidance in Annex C on undertaking impact assessments on the Welsh language is completely consistent with the Commissioner’s advice.

It would be beneficial if the Welsh Government considered the advice and guidance in the Commissioner’s advice document to ensure that the guidance provided in this Code is consistent and supports that advice. For convenience, we have provided a summary of the Commissioner’s advice in the form of an appendix to this response.

We note that the Annex distinguishes between an impact assessment on the Welsh language and an impact assessment on the community. Policy decisions relating to education provision can have complex effects on the use of the Welsh language in a community; on decisions made in relation to Welsh-medium education; and on attitudes towards the Welsh language locally. These can be a mixture of positive, adverse and neutral effects. It is important, therefore, to ensure that the impact assessments on the Welsh language and the community are considered side by side, recognizing that many aspects overlap.

I hope the comments above will be helpful to the consultation.

Yours faithfully,

Efa Gruffudd Jones
Welsh Language Commissioner



Appendix 1:

Undertaking an impact assessment on policy decisions relating to education and the Welsh language

When undertaking an impact assessment on policy decisions relating to education, the following should be considered:

- Have the critical factors, from a linguistic, educational and community perspective, been identified and considered fully?
- Were those factors sufficiently analysed and interpreted? Was the relevant data used when interpreting the likely effects?
- Is there a specific process to follow when concluding whether the development had a positive, neutral or negative effect on the Welsh language?
- What steps were adopted to ensure that the effects of the policy were positive?
- What steps or options were considered/adopted to mitigate any negative effects?
- Was there sufficient and suitable consultation with an appropriate range of stakeholders and how were the conclusions of the consultation dealt with?

Organisations must make a conscientious effort to consider the possible effects of the proposal on the Welsh language. The threshold for 'conscientious effort' depends on the circumstances and it is likely that the requirements will be higher in a sensitive or significant area in terms of the Welsh language, and as the number and size of the impact increases.

Every assessment should come to a conclusion regarding the following:

- What are the most important relevant factors in the linguistic context that are critical to the proposal?
- What are the most likely outcomes of this policy development and how will these be monitored and measured in the future?

The assessment should also note how the proposal will have an impact on:

- The number/percentage of Welsh speakers in the education system.
- The number/percentage of Welsh speakers beyond the education system.
- The availability and accessibility of Welsh-medium education in the area.
- Increasing the availability of Welsh-medium education or education in both languages equally.
- The use of the Welsh language and opportunities to use Welsh by pupils and the wider community.
- Ensuring that more pupils continue to study through the medium of Welsh throughout the statutory education period and after 16 years of age.
- The provision for latecomers to Welsh-medium education.
- The use of the Welsh language internally by the organisation.



Here are some examples of the issues that should be considered when assessing the impact of a proposal on the Welsh language. It is not a comprehensive list, and the factors can only be considered to the extent to which they are relevant to the proposal in question. The relevant factors will vary from case to case.

- The number of Welsh speakers:
 - in general
 - in one geographic area
 - in a specific cohort (e.g. children, young people, adults)
 - in a specific sector or group (e.g. members of clubs or societies)

- Welsh language transmission:
 - at home between a parent/carer and child
 - in education as a pupil moves from one education phase to another (e.g. when moving from primary school to secondary school)

- Welsh in the workplace:
 - informal and social opportunities
 - internal communication
 - team/department structures
 - technology and resources (e.g. proofreading software, device interfaces)
 - language awareness among staff

- Social use of the Welsh language:
 - among children, young people and adults
 - in the workplace
 - outside work
 - organised events and activities (e.g. a community event, recreation class, religious meeting)
 - digital media

- Opportunities to learn Welsh:
 - childcare
 - statutory education
 - pre- and post-statutory education
 - Welsh lessons for adults
 - access to software/online courses

- Opportunities to study through the medium of Welsh:
 - nursery education
 - statutory education
 - further and higher education
 - work-based learning
 - transport to education locations



- ease of access to Welsh-medium education
- Language planning:
 - sustainability in areas with a high density of Welsh speakers
 - promoting language acquisition and use
 - strength of the Welsh language as a family, community or workplace language
 - social fairness
- Efforts to protect and promote the Welsh language:
 - Mentrau Iaith activities
 - activities by community initiatives
 - campaigns to promote and facilitate the use of Welsh
 - statutory language requirements
 - grants

In the context of consultation requirements for the proposals, it should be highlighted that there are two requirements within the policy making standards relating to a consultation document, namely:

- a) considering the impact on the Welsh language
- b) seeking views on the impact on the Welsh language.

A consultation document needs to do more than just seek views. The onus should not be placed on the stakeholders to identify and consider the possible impacts. As a result, the consultation document must identify, outline and consider the possible impacts on the Welsh language for the proposal in question and seek views on those impacts through a series of specific questions that require a response.

It is important that organisations ensure that they have effective methods of including the views, experience or expertise of a range of relevant stakeholders. Here is a list of the type of stakeholders that organisations might consider consulting with:

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| ○ Governors of education institutions | ○ RhAG (Parents for Welsh Medium Education) |
| ○ County councillors and local councillors | ○ Language organisations |
| ○ Community and town councils | ○ Chapels/churches |
| ○ Schools and principals | ○ The voluntary sector in the relevant communities |
| ○ Pupils | ○ Shareholders |
| ○ Parents | ○ Other stakeholders |
| ○ Trade unions | |
| ○ Estyn | |



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A body is expected to pay due attention to any information gathered during the consultation process when reaching a conclusion regarding the impacts on the Welsh language and also when making the final decision.

For general guidance on assessing the impact of policy decisions on the Welsh language, reference should be made to the Commissioner's advice document, [*Policy Making Standards: Creating opportunities for persons to use the Welsh language and treating the Welsh language no less favourably than the English language.*](#)