



Comisiynydd y  
Gymraeg  
Welsh Language  
Commissioner

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# Welsh as a way of working

Assurance Report 2021-22

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# Foreword:

## Welsh as a way of working

This report is an opportunity to reflect on the way organisations think about the Welsh language when formulating policies, when planning and delivering services in the Welsh language, and gives attention to the extent to which they respond appropriately to the language duties imposed upon them. Within this context, I am pleased to note that the report includes positive examples of delivery and offers examples of best practice to organisations that have room for improvement. Despite this, and it is probably of no surprise given the recent challenging period, that I am concerned that the progress we saw prior to the pandemic period no longer exists.

Throughout that period the Commissioner demonstrated reasonable tolerance where real challenges arose due to the emergency periods everyone was forced to work through, however that is no longer sustainable. The main responsibility of the Commissioner in connection to the standards system is to maintain the expectations on organisations to deliver the Welsh Government's standards – standards that have been approved by the Senedd. Failure to regulate effectively would be letting down Welsh language users.

The changes seen to the working arrangements of organisations, such as working from home and movement to a more interactive digital workplace, have now been adopted in the longer term with more and more public sector organisations promoting a hybrid model of working. As a result, arrangements put in place to comply with language duties must change so that organisations can continue to operate as effectively or better than when their workforce was in an office or permanent site.

I noted in my report last year that there were excellent examples of organisations that continued to maintain use of the Welsh language despite the revolutionary changes. However, despite this, there are organisations that have not adapted, and there is a risk that this can have a negative impact on Welsh language users.

In the 2018-2019 assurance report 'Rights in Use' the Commissioner challenged organisations to improve their performance when recruiting a bilingual workforce. It is disappointing to note that this has not happened. The findings last year highlight significant failings when advertising jobs and following recruitment processes for new staff. I believe that a dramatic change is needed in order to attract a workforce that are able to use the Welsh language.

It is unarguable that the health sector has been under considerable pressure over the recent period, however the Welsh Language Commissioner must regulate effectively in order to drive change. There is a need for the sector to consider how to comply

with the standards. The findings show that the sector performs considerably worse than other sectors that are subject to the Welsh language standards. It is essential, if the situation is to improve, that compliance with standards is given prominent consideration in rebuilding strategies.

This report also looks at the performance of organisations that are subject to Welsh language schemes. Performance is mixed within this group of organisations, which is frustrating for Welsh language users, and the Commissioner cannot enforce change. There are more organisations that deliver under Welsh language schemes than under the standards system and therefore it is impossible to envision any increase in use of Welsh without better consistency of language duties in Wales.

We are living in an age of instability as a result of the COVID-19 pandemic, the cost-of-living crisis and the uncertainty with regards language as we await the results of the Census. In this report, my main purpose is to remind the leaders of organisations, and those in authority, that the Welsh language standards are positive promotional standards. The standards are there to demonstrate a respect towards language choice and to allow speakers everywhere to live their lives in Welsh. Now is the time to commit to rebuilding services through operational planning that respects the rights of Welsh language users so that they may be treated equally.

As the situations around us change continuously, the standards expect that organisations developed with the Welsh language. It should be a central part of the mindset of a country that is to have has over a million Welsh language speakers that use the language regularly. Public sector organisations in Wales have a leading role to play therefore to ensure the Welsh language thrives, and the manner in which they comply with language duties is key.

**Gwenith Price**

**Deputy Welsh Language Commissioner.**



## Key findings

This section summarises the Commissioner's findings from the evidence gathered during the financial year 2021–2022.

The report is based on direct verification carried out by the Commissioner's officers, meetings and engagement with organisations subject to Welsh language duties, the Commissioner's investigation and enforcement work and the findings of a Welsh speakers' poll from November 2021.

Due to pandemic restrictions, some services were not able to be verified or inspected as had been the case in previous years, such as reception services or inspecting those services where it was necessary to travel or visit organisations, such as signs displayed by bodies or using self-service machines.

Furthermore, there was no opportunity for the Commissioner to conduct focus groups or engage with members of the public, so attention has been paid to the results of the Welsh language speakers survey (November 2021) as well as including a number of examples of the investigative and enforcement work of the Commissioner – work based on complaints from members of the public.

The report gives public organisations the opportunity to learn from the findings and take action to strengthen provision and increase future use of Welsh – it is their responsibility to ensure compliance with their duties, and guidance is given on those places that most need attention in this report so that heads of organisations can understand where they must direct their attention to avoid facing enforcement action.

### There is a significant lack of compliance with standards associated with staff recruitment

- The findings of the surveys by the Commissioner's officials is that Welsh is treated less favourably than English when advertising jobs in 50% of the cases surveyed.
- There has been an increase in the number of job adverts published in Welsh (from 24% in 2019 to 66% in the year 2022). However, the picture across sectors is mixed. The surveys show that bodies subject to Welsh language standards regulations no. 7 (namely the National Health Service Health Boards and Trusts) publish only 23% of their job adverts in Welsh.
- Although there is an increase in jobs advertised by bodies in Welsh, it does not always follow that the supporting documentation for the posts is also available in Welsh or that use of Welsh is further promoted and facilitated during the advertising process.
- Only 7% of job adverts surveyed contained an application form where applicants were able to indicate a wish to use Welsh.

- Organisations' compliance with the standards that require them to assess the need for Welsh language skills before advertising vacancies is concerning with over half of adverts surveyed failing to mention what skill level is needed on the job, or the skills designation is not clear to a person who is applying for the job.

A survey of Welsh speakers highlighted that the public continue to believe things are improving. Data also suggests that more people would use Welsh if organisations did more to facilitate staff and customers' choices to use Welsh and were able to guarantee Welsh language services.

- 15% of people who responded to the Welsh speaker's poll indicated they preferred using Welsh with public bodies. A further 26% of Welsh speakers however reported that they vary their preferred language depending on the situation.
- Our verification surveys continue to show that Welsh language services or the internal operation of bodies in Welsh are not always consistent, which is likely to lead to a lack of public confidence in the services and a tendency to turn to English-language services that they consider more reliable.

### The Commissioner's verification surveys highlight that vulnerabilities remain in relation to some key services

- The Commissioner's monitoring work shows that the level of compliance of organisations with the requirements to deal with telephone calls in Welsh is generally low.  
On average, organisations subject to Welsh language standards deal with calls in Welsh during half of cases (53%). This gives consumers no assurance that a Welsh language telephone service will be available.
- The findings of the Commissioner's surveys found that when Welsh correspondence was answered by organisations, it was answered in Welsh 81% of the time. However, this does not reflect the actual experience considering that only in 73% of cases did the correspondence receive a response at all.
- So of all the Welsh language correspondence sent to the bodies, only 60% received a response in Welsh (considering the level of queries that received no reply at all).

Organisations' understanding of the policy-making standards' requirements is improving, but implementing and carrying out

## adequate assessments in policy decision-making remain inconsistent.

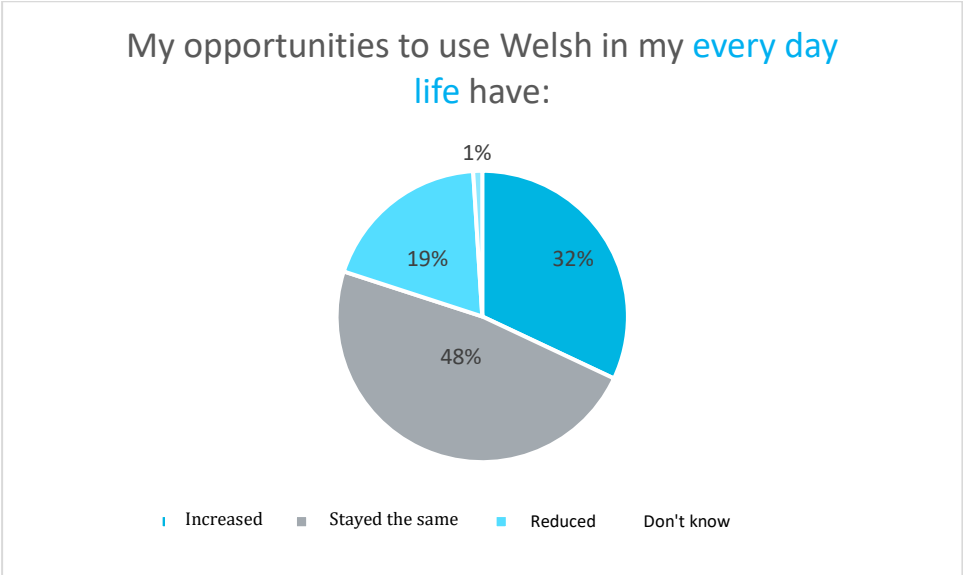
- Organisations' own assessments state that procedures and guidelines are in place to meet the requirements of the policy-making standards in most cases. However, the Commissioner's investigation and enforcement work and the number of complaints the Commissioner receives in this area indicate that policy decisions continue to take place without an adequate assessment of the impact of the decision on the Welsh language. Organisations therefore need to ensure that the procedures and guidelines that are in place do lead to meaningful and adequate assessments.

The performance of bodies subject to language schemes varies significantly and a lack of consistency means that there is no guarantee to consumers that quality Welsh language services are always available.

# Welsh Speaker Surveys

## Opportunities for people to use Welsh in their daily lives

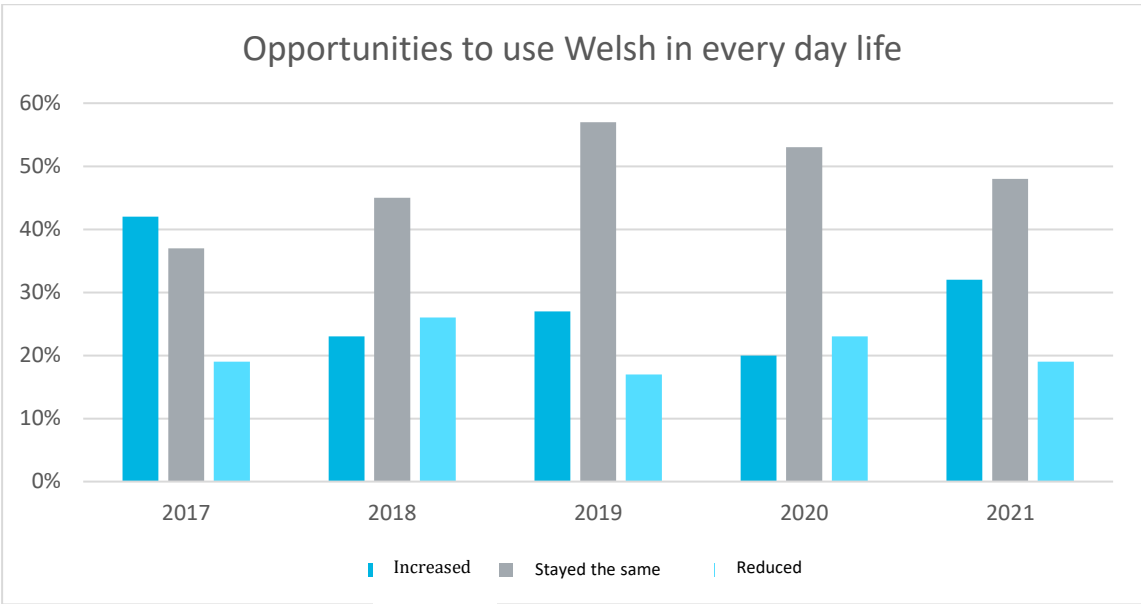
32% of respondents in 2021 have stated their view that their opportunities to use Welsh in their **everyday lives** have increased, with a further 45% indicating that their opportunities to use Welsh have remained the same. However, 19% of respondents say their opportunities to use Welsh have reduced:



We have asked this question in the survey of Welsh speakers since 2017, and it should be noted that the 2021 response included the highest percentage stating that there is an increase in opportunities to use Welsh in their daily lives since the standards came into force.

The response in 2021 also compares favourably with 2020, where 23% of survey respondents reported that opportunities to use Welsh in their daily lives had reduced and only 20% had seen an increase. It is difficult to know with certainty why previous years' trends changed in 2020 responses, but it may be possible to assume that the pandemic had an impact on a number of situations in which respondents used their Welsh, such as in social situations or when using services.

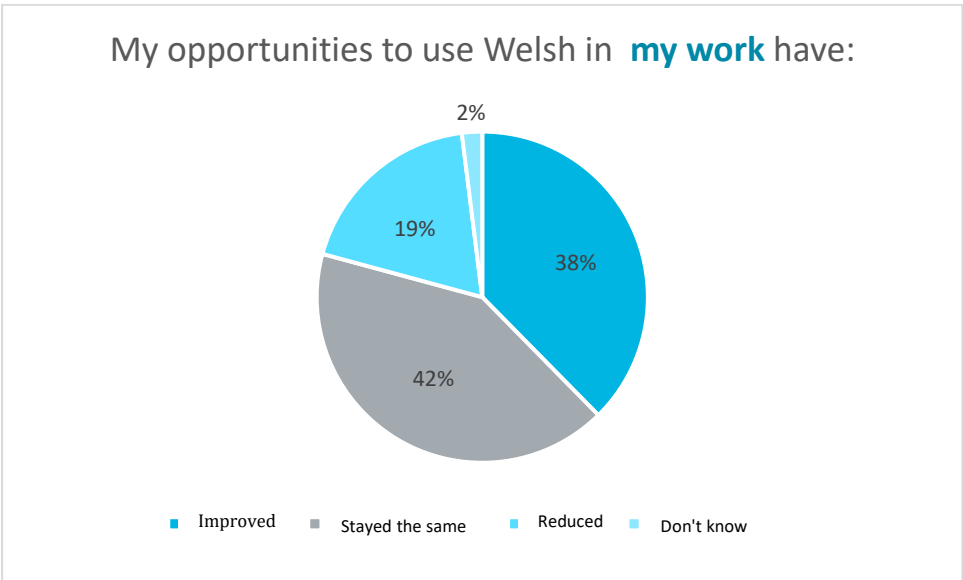




**The use of Welsh in the workplace:**

One element that strongly influences people's ability to use Welsh in their daily lives, and which the Commissioner believes is key to seeing growth in the use of Welsh, is the ability of people to use Welsh at work. For the first time this year, therefore, the Commissioner asked as part of the survey, whether respondents thought the opportunities to use Welsh in the workplace had changed.

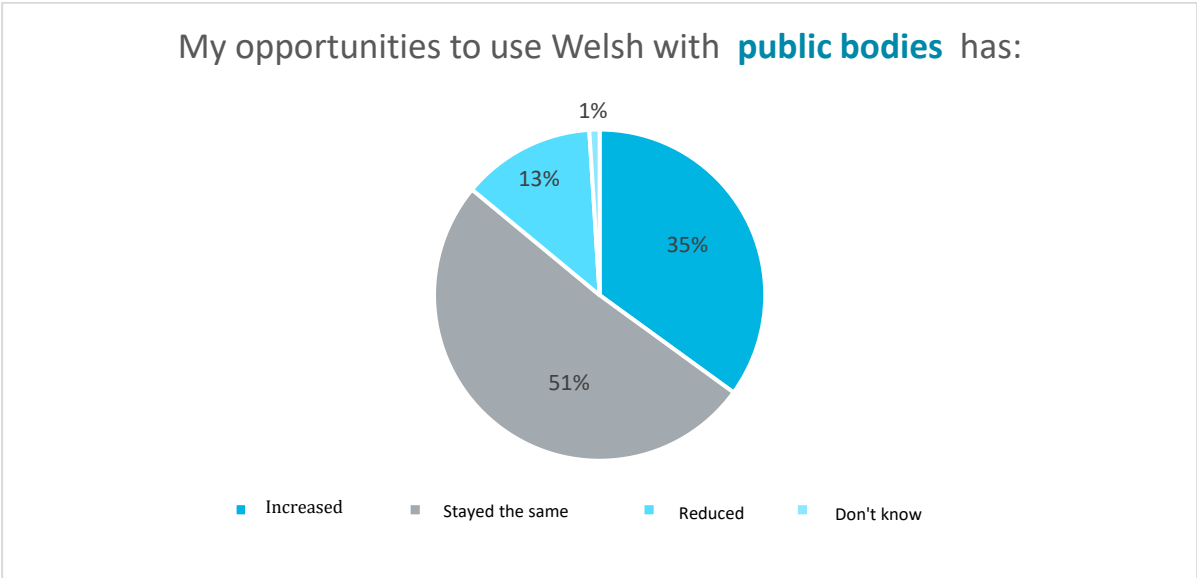
38% responded that their opportunities had increased, with a further 42% indicating that their opportunities had remained the same.



**Use of Welsh with public bodies**

When considering the Commissioner's regulatory work, it is important to seek the public's opinion on their ability to use the Welsh language with public bodies. It is therefore positive to note that there is no deterioration in the answers regarding respondents' views on their ability to use the Welsh language with public bodies.

With 35% of respondents stating that they believe opportunities to use Welsh are increasing, it is also encouraging to note that the response to this question (use with public bodies) saw the lowest number of respondents reporting that opportunities to use Welsh were decreasing (13%).



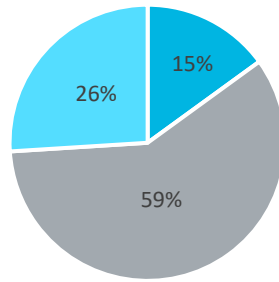
### Language choice

Respondents were asked what language they preferred to use with public bodies. 15% indicated a preference for the use of Welsh, and 26% indicated a preference depending on the situation.

41% of Welsh speakers surveyed therefore stated that they prefer to either always use Welsh or receive bilingual services.

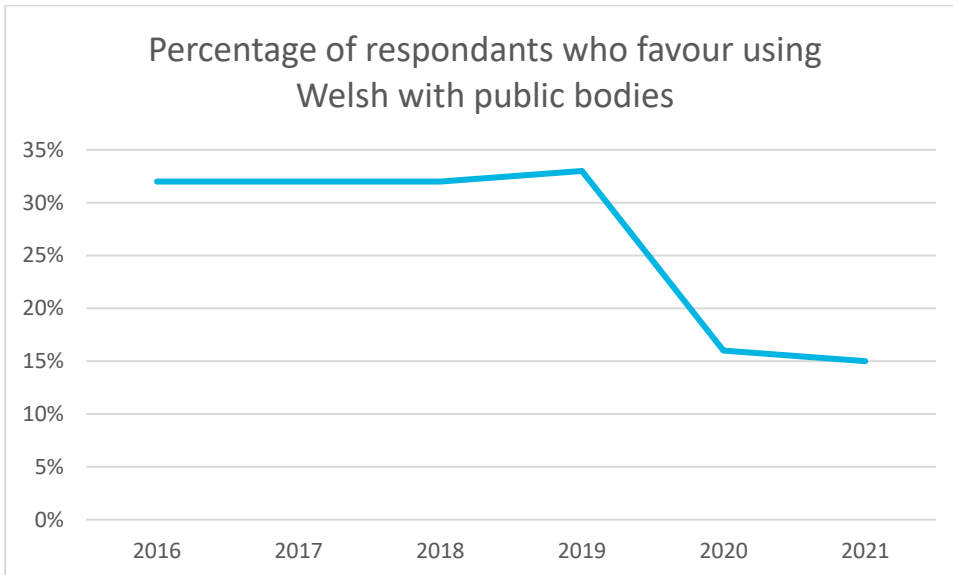
**There is a clear challenge for organisations here to increase levels of use with attention to the 59% of Welsh speakers who do not choose to use the language.**

### Which language did the respondents prefer to use with public bodies?



■ Welsh   ■ English   ■ Varies depending on the service

It is important to note that there has been a downward trend in the last two years in terms of the number of respondents indicating that they prefer to use Welsh with public bodies:



This negative trend has been the subject of discussion by the Commissioner's Advisory Panel, particularly as the significant decline between 2019 and 2020 is noted. It has been discussed that the reduction may be due to the changes in people's involvement with public bodies due to the COVID-19 pandemic or may reflect a change in the method in which the survey has been conducted during the pandemic.

Currently, there is not enough data or information to be able to analyse why there is a decline in the percentage of respondents who favour the use of Welsh with public bodies, nor to arrive at a view of whether it is a long-term trend or a 'one off' originating from the pandemic, the approach of a remote survey, or the decline in compliance levels by a range of organisations in a number of important areas.

However, this is a worrying statistic and public bodies must carefully consider whether or not their Welsh language services have been maintained over the course

of the pandemic, whether the way they are delivered has changed or declined, what rebuilding steps may be needed and what steps are going to be taken to promote and facilitate opportunities to use the Welsh language with public bodies, and to ensure that it is as easy and convenient to use Welsh as it is to use English.

Our verification results and secret shopper surveys as outlined above, continue to show that Welsh language services or the internal functioning of bodies in Welsh are not always consistent, which is likely to lead to a lack of public confidence in the services. For consumer behaviour to change, where Welsh speakers always want to use Welsh, there must be assurance that a quality service is available.

Respondents state within the survey what the main factors are that make them vary language choice, with 34% of respondents varying language use due to the subject matter.

10% choose not to use Welsh due to the lack of availability of the Welsh language service and 8% due to waiting times for Welsh language services. It is therefore within the capacity of the public bodies to promote increase in the use of Welsh by making sure that Welsh language services are available and promoted. It must also be ensured that a Welsh service is not inferior or that there is any presumption that it may be inferior. Bodies must make it clear through their behaviour that Welsh receives no less favourable treatment than English when it comes to the operation of services so that the public has confidence in using them.

19% of respondents who do not currently use Welsh believe they are not personally fluent enough or have an adequate grasp of the language, and 9% state that they lack confidence in their ability to speak Welsh and therefore choose not to use Welsh.

However, 12% of those who choose not to use Welsh indicate that they do not choose to use Welsh, because in their view, there is not adequate availability of Welsh language services or there is not always a Welsh language service available. 5% indicate that the body needs to initiate the conversations in Welsh in order for respondents to go on to use Welsh. This view highlights the elements that public bodies can change through investment in the marketing and promotion of Welsh language services and by improving their overall performance with Welsh language standards by incorporating the proactive offer.

Further research was undertaken along with work to consider better service planning by the Commissioner in its 2018 – 2019 assurance report. With the impact of changing some working arrangements and operating and maintaining service arrangements, public bodies should re-consider some of the factors outlined in section 5 of that report:

20190731 <https://www.welshlanguagecommissioner.wales/media/am0gyzmu/assurance-report-rights-in-use-2018-19.pdf>

The Commissioner also offers further practical guidance on promoting the use of Welsh in this context within the advice document:

[Promoting the use of Welsh language services \(welshlanguagecommissioner.wales\)](#)

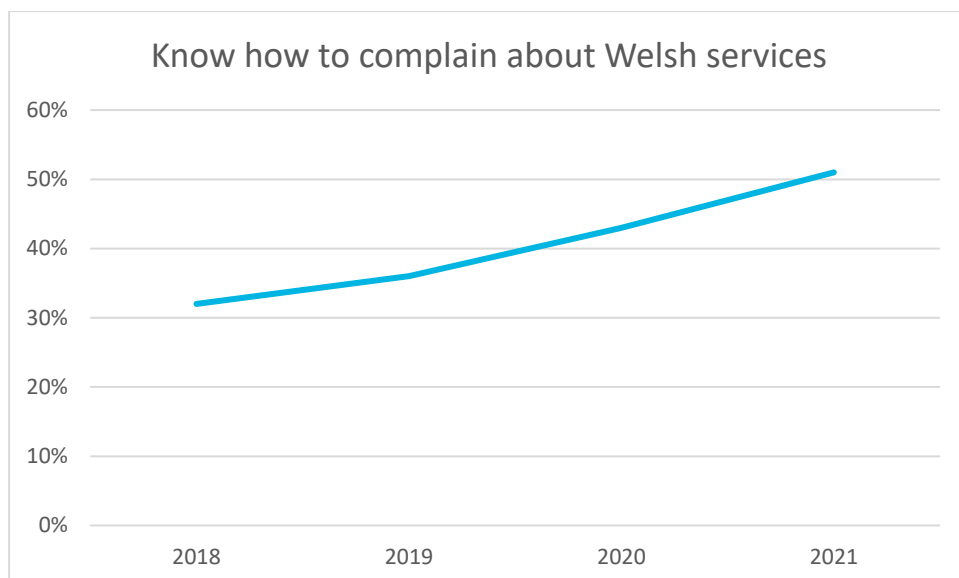
## Quality

82% of respondents agree that they can deal with public bodies in Welsh if they wish to do so. 79% of respondents believe that organisations' Welsh language services are improving and 74% of respondents agree that public organisations ask them in what language they would like to deal with them.

67% of respondents agree that Welsh language services are of the same quality and standard as the equivalent English language services provided by public bodies, with 66% agreeing that they are more likely to use Welsh language services if bodies make it clear that the service is available.

## Complain to organisations directly

Only 51% of respondents believe that public bodies make it clear to them how to complain about Welsh services. This is an increase over time in terms of respondents knowing how to make a complaint directly to bodies, however it is a low figure.



As has become clear when verifying the compliance of organisations, not all organisations subject to Welsh language standards publish a complaints and information procedure for the public, and therefore there is considered to be scope for a good percentage of public bodies to take swift action to comply with their duties in this area (see page 22).



# Bodies' compliance with Welsh language standards

On an annual basis, the Commissioner collects data and monitors the performance of organisations to carry out its regulatory work. The Commissioner's main objectives in regulating the performance and compliance of organisations are to focus on compliance, close knowledge gaps and improve how the Commissioner discovers defects, promotes self-regulation and acts on deficiencies.

If the Commissioner concludes that the evidence that has been gathered does not show a high assurance of compliance, the Commissioner will act to ensure compliance.

## Verification Surveys

The Commissioners' officers carry out direct surveys with some of the major services by behaving like 'secret shoppers'.

### Main results – checking services 2021-2022

<b>CORRESPONDENCE</b>	
Welsh correspondence – response received (any language)	73%
English correspondence – response received (any language)	62%
Welsh correspondence – received a response in Welsh (where a response was received at all)	81%
Promote the availability of the Welsh language through a statement on the correspondence <sup>1</sup>	36%
Treating the Welsh language less favourably than the English language?	17%
<b>TELEPHONE CALLS</b>	
Deal with the call and provide a complete answer in Welsh	56%
Treating the Welsh language no less favourably than the English language?	39%
Automated system provides complete service in Welsh	73%
<b>FORMS</b>	
Form available in Welsh	68%
Treating the Welsh language no less favourably than the English language?	33%
<b>DOCUMENTS</b>	

<sup>1</sup>Compliance with standard 7 “You must state--(a) in correspondence, and (b) in publications and notices that invite persons to respond to you or to correspond with you, that you welcome receiving correspondence in Welsh, that you will respond to correspondence in Welsh, and that corresponding in Welsh will not lead to delay.”

Form available in Welsh	81%
Treating the Welsh language no less favourably than the English language?	29%
<b>WEBSITES</b>	
Pages available in Welsh	84%
Treating the Welsh language no less favourably than the English language?	41%
<b>SOCIAL MEDIA</b>	
Post available in Welsh	83%
Treating the Welsh language no less favourably than the English language?	27%
<b>PUBLICITY AND ADVERTISING</b>	
Advertising material and videos available on social media or websites in Welsh	73%
Treating the Welsh language no less favourably than the English language?	35%
<b>CORPORATE IDENTITY</b>	
Use of body corporate identity – such as logo, name etc	81%
Treating the Welsh language no less favourably than the English language?	23%
<b>JOB ADVERTS</b>	
Advert available in Welsh	66%
Treating the Welsh language no less favourably than the English language?	50%

## Main Findings:

### Telephone services

The Commissioner's monitoring work shows that the level of compliance of organisations with the requirements to deal with telephone calls in Welsh is inconsistent and inadequate.

On average, organisations subject to Welsh language standards **deal with calls in Welsh during half of cases (56%)**. This gives consumers no assurance that a Welsh language telephone service will be available.

The table below shows the performance of bodies subject to regulations no. 1–7. (A list of the surveyed bodies within each set of regulations can be found in Appendix 2).

Telephone services	Average	No. 1	No. 2	No.4	No. 5	No. 6	No. 7

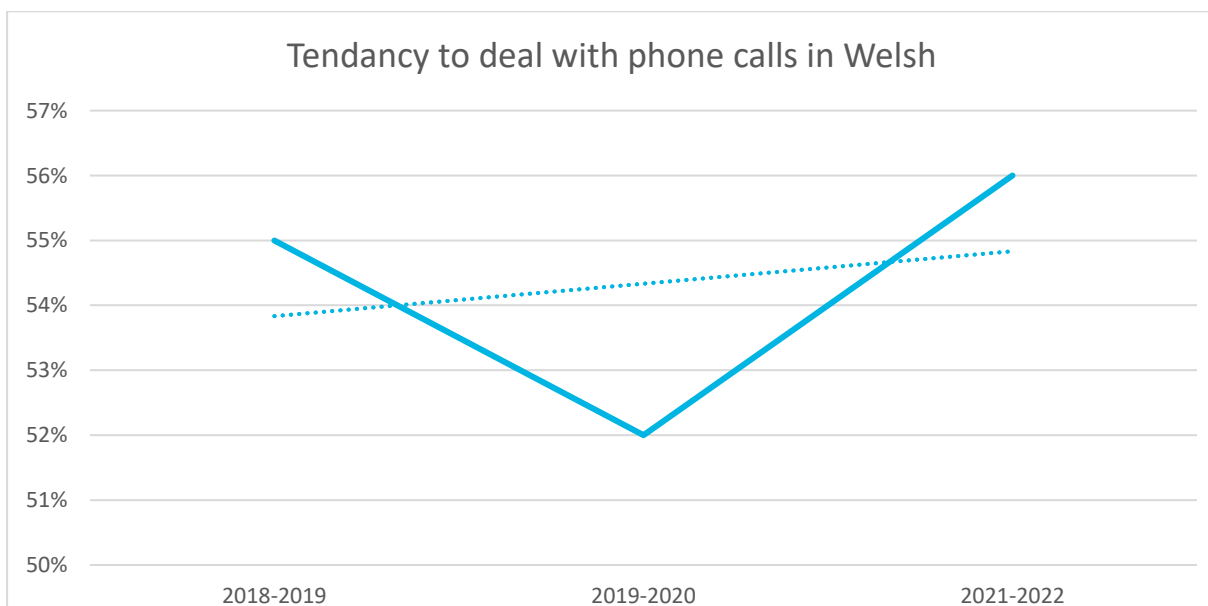
Was the enquiry fully dealt with in Welsh?	<b>56%</b>	60%	84%	90%	42%	29%	30%
Was the Welsh language treated less favourably than the English language?	<b>39%</b>	35%	25%	0%	67%	17%	73%
Compliance with standard 8 : "When a person contacts you on your main telephone number (or numbers), or on any helpline numbers or call centre numbers, you must greet the person in Welsh."	<b>74%</b>	79%	89%	100%	76%	50%	60%
Compliance with standard 22: "Any automated telephone system that you have must provide the complete automated service in Welsh."	<b>73%</b>	82%	62%	100%	57%	96%	41%

As the table shows, the performance of bodies subject to regulations no. 6 (which are further education colleges and Universities), and regulations no. 7 (which are health boards and health service trusts) is below average; **bodies subject to regulations no. 6 and 7 managed to deal with 30% of the calls in Welsh.**

**The table shows that Welsh was treated less favourably than English during almost 40% of the phone calls initiated by the Commissioner's staff.**

The performance of the bodies improves when arrangements can be established— with 73% of automated telephone systems complying with the requirements of standard 22.

Overall, the trend in terms of the level of compliance of the bodies, whose duties require them to deal with telephone calls in Welsh in their entirety, is pretty consistent around 50% – the graph below shows the trend (dotted line):



It is a matter of concern that there has been no progress with the level of telephone services in Welsh over the last period. The Commissioner believes that bodies need to act to see change – particularly in the further education and health sectors. Consideration must be given to fundamentally changing the arrangements to be able to comply, ensuring that Welsh-speaking staff are available to respond to queries over the phone. The Commissioner will open investigations and enforce compliance if necessary where suspicions of failures are encountered regarding telephone services.

It may be premature to consider whether the COVID-19 pandemic had an impact on the level of performance in telephone services. However, anecdotal feedback from organisations states that the move to hybrid and home working is making it harder for them to organise the workforce to ensure calls can always be responded to in Welsh.

#### **Investigation and enforcement: telephone services**

The Commissioner carried out an investigation after receiving a complaint from a member of the public about being unable to access a service in Welsh when calling a pensions fund operated by a County Council. He had phoned a number that was displayed in a letter that he received from them. The investigation was therefore concerned with the standard relating to direct telephone numbers which require bodies to deal with calls in Welsh in their entirety. The Commissioner determined that there was a failure to comply with the Welsh language standard on the grounds that the Council had not dealt with the call in Welsh with the complainant, as the only Welsh language element of the call was the greeting. This was an important investigation as it relates to direct telephone numbers, which are becoming more relevant as organisations work flexibly. Bodies need to consider how changes to workforce settings as a result of the pandemic are having a long-term impact on their ability to comply with duties; and to consider therefore whether a review is needed of the arrangements that may have been in place since pre-pandemic planning.

Welsh language standards impose supplementary duties on bodies to support their planning and report on their performance in relation to the service delivery standards. Organisations therefore have an opportunity to re-consider the arrangements they have announced to ensure they still enable compliance from workforce changes and to plan for hybrid working.

#### **Digital services**

The Commissioner's surveys found that across all organisations surveyed, 84% of web pages surveyed are available in Welsh. (This statistic represents an increase of 3% percentage points from 81%, which was the result at the end of 2020). In general, therefore, use of Welsh on bodies' websites provides high certainty and users are generally able to access the websites of organisations in Welsh with ease.

However, the performance is not consistent across all sectors, **with only 45% of further education colleges and universities web pages (regulations no. 6) fully available in Welsh.** The surveys show that web pages of further education colleges and universities are available in Welsh, but that regular use of machine translation or infrastructure problems means that there is less favourable treatment of Welsh than English. This means that the pages do not fully comply with the requirements of the standards.

The table below shows the performance of bodies subject to regulations no.6 in terms of the range of standards that apply to the organisation's websites. The table shows that less than 20% of organisations' web pages comply with high assurance.

A very high number of web pages treat Welsh less favourably than English, which leads to very low compliance with standard 55. These results have led to specific interventions by the Commissioner including carrying out investigations which will be reported on during the next financial year.

	Further Education Colleges	Universities
Was the Welsh language treated less favourably than the English language? Were there shortcomings in promoting and facilitating the use of Welsh?	74%	80%
Compliance with standard 55 (Regulations no. 6): "You must ensure that— (a) the text of each page of your website is available in Welsh, (b) every Welsh language page on your website is fully functional, and (c) the Welsh language is not treated less favourably than the English language on your website."	22%	23%



Compliance with standard 58 (Regulations no. 6): “If you have a Welsh language web page that corresponds to an English language web page, you must state clearly on the English language web page that the page is also available in Welsh, and you must provide a direct link to the Welsh page on the corresponding English page.”	67%	60%
Compliance with standard 55 (Regulations no. 6): “You must provide the interface and menus on every page of your website in Welsh.”	65%	72%
Based on the verification alone, an assessment of the high level of assurance of compliance	20%	19%

The Commissioner will tend to open investigations when there are suspicions of non-compliance by colleges and universities with a view to enforcing improvement where necessary.

It was found that 62% of health boards and health trusts’ web pages (regulations no. 7) were available in Welsh.

#### **Investigation and enforcement: health board website**

The Commissioner carried out an investigation after receiving a complaint from a member of the public that a health board had launched a new corporate website and that most of the pages were only available in English.

Following an investigation, the Commissioner determined that the health board had failed to comply with Welsh language standards requirements because it had not ensured that:

- the text of each page of its website was available in Welsh;

- that every Welsh language page on the website was fully functional
- the Welsh language was treated less favourably than the English language in relation to the homepage of the website.

For example, the health board had compiled and published content from scratch in English and migrated content from its old website without first translating it into Welsh. There were examples of content appearing on English pages that was completely absent from the Welsh pages, with some Welsh pages containing erroneous or incomprehensible Welsh. The health board had also published pages on the Welsh side of the website which contained links leading to English-only pages or content, even though some of them were available in Welsh. Some resources on the website such as the search engine were lacking. Links on some Welsh pages were also found to be broken or resulted in an error message, which in one case meant that users of the Welsh language website did not have access to important forms relating to the health board's COVID-19 service.

The Commissioner's intervention resulted in the health board acquiring the services of an external translation company to increase its translation capacity to make the website bilingually available. The health board also carried out a comprehensive review of the website to identify and correct any content on the website that failed to comply with the standards, with the health board allocating a budget to carry out a quality assurance exercise over an ongoing period to ensure the website complies as it developed.

The impact of imposing enforcement action on the organisation was significant, as it prompted a positive change in the health board's conduct, following an extended period of inaction to ensure it published its corporate website in Welsh in accordance with the requirements of the standards (and the commitments of its former Welsh language scheme).

The Commissioner's inspection work has also encountered problems and shortcomings when third parties conduct services online on behalf of bodies. Many bodies rely on external software or infrastructure developers to maintain services online, and in many cases, this results in less favourable treatment of Welsh than English, or full services not being available in Welsh.

### **Investigation and enforcement: digital services**

An investigation was carried out by the Commissioner following receipt of a complaint about an online pre-order system for vehicle parking in the car park of a national park. It

was determined that there had been a lack of compliance with Welsh language standards as the pages for online pre-booking were in English only, and the Commissioner acted by asking the park to prepare an action plan to ensure compliance. It was a requirement to include a Welsh pre-order form, interface and menus to the pre-booking pages and make all pages of the website relating to the parking pre-booking process available in Welsh.

The park initiated discussions with such service providers and although the companies said that what was set out as part of the action plan on the Commissioner's action was not possible, a private company changed its initial position and confirmed that a bilingual service could be provided to pre-book the car park in Welsh. Without the statutory investigation and enforcement action imposed by the Commissioner, it is unlikely that a private company would have changed its approach.

## Social media

**Welsh language bodies' use on social accounts is improving, with 86% of content surveyed on organisations' Facebook and Twitter accounts complying with the requirements of the standards.**

Survey year	Percentage of social media content surveyed available in Welsh
2021–2022	86%
2020–2021	No data <sup>2</sup>
2019–2020	74%
2018–2019	63%

The use of organisations' publicity and advertising on websites and social media is also increasing, so for the first time this year, the Commissioner surveyed the visibility of Welsh language use by organisations with their advertising material and videos on social media or websites.

The surveys found that 73% of this publicity was available in Welsh, and with 65% of the material, there was no less favourable treatment of Welsh or English.

However, again, the picture is mixed across sectors, with organisations subject to number 7 regulations performing lower than the others, with only 55% of online

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<sup>2</sup> No data for 2021–2022 due to a cyber attack on the Welsh Language Commissioner's technology systems.

publicity material available in Welsh and less favourable treatment of Welsh than English was seen in 70% of the cases surveyed.

<b>PUBLICITY AND ADVERTISING (e.g. videos and advertising materials on social media and websites)</b>	<b>Average</b>	No. 1	No. 2	No.4	No. 5	No. 6	No. 7
Was the example available in Welsh?	<b>73%</b>	96%	57%	100%	79%	53%	55%
Was the Welsh language treated less favourably than the English language? Were there shortcomings in promoting and facilitating the use of Welsh?	<b>35%</b>	13%	44%	0%	28%	44%	70%
Compliance with standard 37 (Regulations 1/6): “Any publicity or advertising material that you produce must be produced in Welsh, and if you produce the material in Welsh and in English, you must not treat the Welsh language version less favourably than you treat the English language version.”	<b>64%</b>	90%	55%	100%	74%	47%	30%

**Digital innovation**

As the Commissioner reported last year, looking at the impact of the pandemic on compliance arrangements, it was noted that a number of bodies had innovated and looked for opportunities to work virtually in a different way.

This case study of virtual conference development by Ofcom is an example of this innovation and each organisation has the opportunity to consider how it wants to adapt arrangements in the hybrid world of work: [20211224-dg-c-incident-case-study-ofcom.pdf \(welshlanguagecommissioner.wales\)](https://www.welshlanguagecommissioner.wales/20211224-dg-c-incident-case-study-ofcom.pdf)

**Correspondence**

The findings of the Commissioner's surveys found that when Welsh correspondence was answered by organisations, it was answered in Welsh 81% of the time. (This is a reduction from 2019-2020 where 92% of responses were in Welsh when a response was received).

However, this does not reflect the actual experience considering that only in 73% of cases did the correspondence receive a response at all.

Of all the Welsh language correspondence sent to the bodies, only 60% received a response in Welsh (considering the level of queries that received no reply at all).

This figure is consistent with the number of responses to English-only correspondence received by organisations (62%), and therefore general customer

service problems can be found in both languages as organisations respond to correspondence.

### Additional factors

In 17% of cases, the Commissioner found that Welsh language correspondence from organisations treated Welsh less favourably than English. This level was much higher by organisations subject to the number 7 regulations (health boards and health services trusts), with half of Welsh correspondence treating Welsh less favourably than English.

To promote and facilitate the use of Welsh, the Welsh language standards include a requirement in the standards for organisations to:

*“state—(a) in correspondence, and (b) in publications and notices that invite persons to respond to you or to correspond with you, that you welcome receiving correspondence in Welsh, that you will respond to correspondence in Welsh, and that corresponding in Welsh will not lead to delay.”*

The surveys found that only 38% of Welsh-language correspondence received as part of the verification work included such a statement, and only 34% of response correspondence in English contained this statement.

### Complaints procedures

In recent years, the Commissioner has called on organisations to develop their self-regulatory arrangements – that is, improve their ability to inspect and maintain ongoing improvement processes at their level of compliance with the standards without the need for intervention from the Commissioner's office.

Being responsive to consumers by preparing and implementing a direct complaints procedure that is open and welcoming to feedback is one important factor to maintaining an effective self-regulation procedure.

The relevant duty by means of the standards is as follows:

*You must—(a)ensure that you have a complaints procedure that deals with the following issues—(i)how you intend to deal with complaints regarding your compliance with the service delivery standards that you are under a duty to comply with, and (ii)how you will provide training to your staff about dealing with those complaints, (b)publish a document documenting that procedure on your website, and (c)make a copy of that document available in each of your offices that is open to the public.*

The Commissioner's surveys show that, for the most part, organisations do not fully fulfil this requirement. A number of organisations meet some of the requirements, such as publishing a complaints procedure, but are not fully compliant – mostly because the procedure does not discuss how the body will provide training to its staff on dealing with complaints about service delivery standards in Welsh (these are identified as 'partial compliance' in the table below:)



## COMPLIANCE WITH THE REQUIREMENTS TO PUBLISH A COMPLAINTS PROCEDURE



The above table shows that a high percentage of the bodies named in each set of Welsh language standards regulations have not had a complaints procedure published at all in accordance with the requirements of the standards.

The Commissioner considers that the low level of compliance is not acceptable. The duty has been in operation for a number of years and there has been no significant progress in the field. The Commissioner has collected data on organisations' compliance with this requirement in recent years and shared the findings with bodies and some organisations have responded by developing better procedures. It's hard for organisations to justify not taking the required steps – which are so elementary and about informing the public how to complain directly to the body. The Commissioner believes that not welcoming feedback on Welsh language services is a lost opportunity. Organisations must be open and accountable to their users and without good procedures in a place an organisation does not learn and develop. This is particularly true in the context of the fact that it is unclear how organisations train staff on how to respond to complaints.

The Commissioner's Enforcement Policy encourages individuals initially to complain to organisations if they are not satisfied with Welsh language services, but to be able to do so requires assurances from individuals and from the Commissioner that a bespoke complaints procedure is in place by the organisation to deal with responding to complaints appropriately. The monitoring work as presented above shows that there is currently no assurance that all organisations have procedures in place that can adequately respond to complaints which may require no intervention by the Commissioner through investigation and enforcement work in order to resolve complaints and change behaviour.

The Commissioner will correspond with the head of each non-compliant organisation referring them to this report and giving them a short period of time to comply.

### The effect of service shortcomings on Welsh language users

The Commissioners regulatory work is there to protect the rights that are created by the Welsh language standards. When measuring the performance of organisations, it is also important to remember the impact on the lives of people that can happen when things go wrong with regards the standards. The examples below reflect on situations where Welsh language speakers were in a vulnerable position were negatively affected when public sector organisations did not treat their language choice with respect and dignity.

A complaint was received by a member of the public that related to an allegation that a local council did not provide social care to their mother in Welsh. The complainant was a full-time carer for their mother who is living with dementia.

The complainant said that the Council had refused their application for a Welsh speaking social worker. They alleged that two members of staff had advised them that there were no Welsh speaking social workers available despite repeated requests for the service. Once the Council did begin to provide care in Welsh in time, the complainant advised that the Welsh speaking staff worked part time and that the service was therefore slow.

It is not possible to ignore the experience of the complainant in this case. The fact is that the complainant felt that they and their mother had such difficulties in receiving Welsh language care from the Council, and that the service was less effective when it was received. The complainant felt that they had been ignored when trying to convey their mother's language choice at a time when they were already in a difficult and worrying situation. One should also consider the impact of not receiving Welsh language services on the vulnerable person living with dementia and all the research that supports that receiving care in the language of choice has a significant impact on their outcomes and quality of life.

A member of the public visited a cancer treatment centre within a general hospital. At the end of the preparation session for receiving their treatment in hospital, they were given a multiple part bilingual consent form in order to agree to treatment.

They decided to lodge a complaint with the Commissioner alleging that the member of staff told them before signing the form that they should do so on the English side of the form (rather than the Welsh side). They felt that the member of staff was giving clear encouragement to use the English version against their wishes. Rather than encourage or indicate that it was possible to use the Welsh side of the form, the member of staff encouraged them to complete the English side of the form, saying "Sign on the English side, since we all understand English".

This happened in a period that was difficult for the complainant, when they were vulnerable and facing treatment, and being treated with respect with regards language choice would have made a difference at a time when they were under significant strain and pressure and considering factors and making important decisions regards their health. When completing the form they were dealing with a personal and emotional matter, and therefore to ensure dignity and respect of the complainant, the Health Board should have facilitated and respected their desire to complete the agreement process fully through the medium of Welsh.

## Promoting and facilitating the use of Welsh

There are a number of standards imposed on bodies to promote and facilitate the use of Welsh or to highlight to Welsh users that Welsh language services are available. These include a set of standards which require bodies to include a statement that an equivalent Welsh language service is available. For example, stating on forms and documents that an equivalent Welsh version is available, or to proactively offer job applicants that it is possible to request an interview in Welsh or that there is an opportunity to submit a job application in Welsh.

Generally, as set out in specific areas above, bodies' compliance with the promotion and facilitation standards here is low.

To increase the level of use of Welsh and to highlight the availability of Welsh language services, bodies must address these standards and improve their compliance with these standards.

The table below provides some examples of the standards involved and the level of compliance across the various regulatory bodies.

What is clear is that bodies have developed good arrangements in terms of complying with the standard of promotion on websites, but that practice has not transferred to other services. It shows that it is possible to comply to a very high level with such a standard, but bodies do not do this consistently across all services.

	No. 1	No. 2	No. 4	No. 5	No. 6	No. 7
You must state—(a) in correspondence, and (b) in publications and notices that invite persons to respond to you or to correspond with you, that you welcome receiving correspondence in Welsh, that you will respond to correspondence in Welsh, and that corresponding in Welsh will not lead to delay.	69%	45%	50%	78%	35%	15%
If you produce a Welsh language version and a separate English language version of a form, you must ensure that the English language version clearly states that the form is also available in Welsh.	22%	45%	28%	63%	25%	28%
If you have a Welsh language web page that corresponds to an English language web page, you must state clearly on the English language web page that the page is also available in Welsh, and you must provide a direct link to the Welsh page on the corresponding English page.	95%	95%	96%	90%	91%	96%
You must ensure that your application forms for posts provide a space for individuals to indicate that they wish an interview or other method of assessment in Welsh and if an individual so wishes,	14%	0%	50%	0%	0%	0%

you must conduct any interview or other method of assessment in Welsh (without the assistance of a simultaneous or consecutive translation service).						
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## Comparing results

There is no data available for the year 2020 to 2021. However, the current situation is comparable with the results from the previous year.

The table below shows that overall performance in a number of service areas is semi-stable – as discussed above this is true mainly in telephone services.

There are some service areas where compliance level is higher as discussed above – websites and on social media. There is a higher level of job advertising in Welsh, and this is fully discussed in this report.

There is a more negative trend with response to Welsh correspondence in Welsh and in terms of forms available in Welsh.

	Total		
	2021-2022	2019-2020	Chane
<b>Telephone services</b>	53%	55%	
Dealing with the call in Welsh			
<b>Correspondence</b>	81%	92%	
Receive a Welsh response to Welsh language correspondence (if a reply was received)			
<b>Social Media</b>	86%	74%	
Post on Twitter or Facebook available in Welsh			
<b>Websites</b>	84%	81%	
Pages available in Welsh			
<b>Job Adverts</b>	66%	47%	
Advert available in Welsh			
<b>Forms</b>	69%	78%	
Form available in Welsh			
<b>Corporate Identity</b>	83%	88%	
Use of corporate identity such as logos online or on documents etc.			

# Focus on compliance with the policy making standards

In September 2020 the Commissioner published an advice document offering guidance on the implementation of the policy-making standards imposed on bodies subject to Welsh language standards:

[Policy Making Standards: Creating opportunities for persons to use the Welsh language and treating the Welsh language no less favourably than the English language \(welshlanguagecommissioner.wales\)](#)

The advice document responded to weaknesses identified with the arrangements of a number of bodies in implementing these standards.

Following the publication of the document, the Commissioner held a number of events to improve organisations' understanding of the requirements of these standards. There was an emphasis on the effective implementation of the policy making standards and the importance of establishing robust internal arrangements that enable all those responsible within bodies for making policy decisions to comply with the requirements of these key standards in order to move this agenda forward.

## **Self-assessment of compliance level**

Over the past year, organisations have been reporting on their self-assessment of their performance with the policy-making standards.

Organisations generally report in their self-assessments that they meet the requirements of the standards group - '*standards about considering the effects of policy decisions made by a body on the Welsh language*'. These standards require organisations to ensure that they consider opportunities for persons to use Welsh and not treat Welsh less favourably than English when formulating policy. The standards also require that bodies consider opportunities to make their policy decisions less adverse in terms of the Welsh language and more positive in the context of opportunities to use the Welsh language.

75% of the bodies that reported (namely 71 bodies) on their compliance with these standards stated that they complied with 'high' certainty and only 1.5% were of the opinion that they did not comply sufficiently.

The same level of 'high' compliance was reported in terms of the standards that set consultation document requirements.

However, despite the high figure of certainty reported in the self-assessment, the Commissioner's experience does not support that position. The Commissioner's intervention in the wake of complaints or requests for evidence, usually finds that body arrangements are not always followed and there remains uncertainty about when the standards apply – that is, when a decision undertaken by an organisation is subject to the standards as it is a 'policy decision'.



It is also true to note that an increase in the level of compliance of bodies with the policy-making standards comes as a result of the Commissioner's interventions following investigations and improving organisations' arrangements and guidance with the policy-making standards has been subject to enforcement by the Commissioner.

It is important that all organisations subject to Welsh language standards understand their responsibilities and ensure that they develop decision-making processes that ensure compliance with the policy-making standards as there are implications for non-compliance with the requirements.

### **The Welsh Language Tribunal**

Guidance has been given by the Welsh Language Tribunal (Tribunal) in the context of interpreting what is meant by a recent 'policy decision' in the case of *Swansea Council v Welsh Language Commissioner (TyG/WLT/21/01)*.

The decision is significant because it provides clarity on the interpretation of the term "*policy decision*" as that term is used in the Welsh Language Measure and the Welsh Language Standards Regulations.

#### **Background to the case**

Following a complaint from a member of the public, the Commissioner conducted an investigation into how Swansea Council made its decision that the Ysgol Gynradd Gymraeg Felindre building was not required as a public resource following its closure as a school, and that the impact of the resulting decision, namely, to transfer a community asset to the private sector, on the Welsh language, was not assessed.

This investigation resulted in a determination that the Council had failed to comply with standards 88, 89 and 90 of the Welsh Language Standards Regulations (no. 1) as it failed to consider the impact of this new policy decision on the Welsh language.

The Council appealed the Commissioner's determination to the Welsh Language Tribunal arguing that a new policy decision had not been made but rather, that an operational decision had been made in accordance with the Community Asset Transfer Scheme.

#### **Decision and interpretation of the Tribunal**

The Tribunal dismissed the Council's appeal, and the Commissioner's determination confirmed that the Council had failed to comply with standards 88, 89 and 90. The main grounds of the decision were:

- That the term "policy decision" means more than a written policy document, and may include decisions made regarding the exercise of an organisation's functions;
- That the definition in the Welsh Language Measure and the Welsh Language Standards Regulations is therefore to be interpreted more widely than the common use of the word "policy" often used in common discussion to mean a written document;

- This means that it is not only a decision about how to make a decision but that it may include the decision itself engaged in the conduct of the business of a body. It could also refer to the conduct of its business e.g., closing a school, siting a community building, moving or restructuring a service, disposing of a community asset.
- The level at which decisions are made, strategic or operational, is relevant. This decision involved a decision by high-level officers and members of the Council. It was not a normal decision that Council officers could make alone, and therefore it was not an operational decision.
- The Welsh language standards regulations “define a “*policy decision*” as any decision made by a body about the exercise of its functions or about the conduct of its business or other undertaking.....” The decision to transfer the school from being a public asset owned by the Council to being owned by the private sector, was a decision about the conduct of the Council's business and therefore there was a requirement to comply with standards 88, 89 and 90.

The tribunal's full determination can be found on the Welsh Tribunal website:

[TYG/WLT/21/01: Swansea City and County Council | Welsh Language Tribunal \(gov.wales\)](https://www.gov.wales/tyg/wlt/21/01)

### **Award of grants and financial support**

The compliance of bodies with the policy-making standard which imposes a requirement to formulate and publish a policy on the award of grants or the provision of financial support, with a requirement for that policy to consider matters of effects on the Welsh language when making decisions on grants; is low.

For example, only 50% of bodies subject to this standard within the set of bodies named in Regulations no. 6 (namely further education colleges and universities) comply with the requirement to formulate and publish a policy on the award of grants and financial support in accordance with the requirement of the relevant standard.

In addition, only 25% of the bodies subject to this standard within Regulations no. 2 (national bodies for Wales) comply with the requirement to formulate and publish a policy on the award of grants consider impacts on the Welsh language in accordance with the requirement of the relevant standard.

It is also worrying that 32% of bodies subject to this standard under Regulations no. 1 (namely local authorities, Welsh Ministers and national parks) continue not to comply with the standard's requirement to formulate and publish a policy on awarding grants despite being subject to the standard since 2017.

### **Research and enforcement of policy making standards:**

The Commissioner receives complaints from members of the public about policy decisions made by bodies, where it is suspected that the real impact of the decision

on opportunities to use Welsh or considerations about not treating Welsh less favourably than English has been adequately considered.

Many of the complaints and investigations considered by the Commissioner relate to local authority decisions in dealing with schools, and some precedent has now been set by the Commissioner in this area (see enforcement actions register on the Commissioner's website: [Register Enforcement Action \(welshlanguagecommissioner.wales\)](https://www.welshlanguagecommissioner.wales)).

The cases in education reflect on difficulties some authorities recognise in considering the need to carry out impact assessments on the Welsh language under different regimes, which meet the requirements of different regulations. The Commissioner is clear, however, that the statutory duties of a body as manifested under Welsh language standards are clear and need to be met, even if there is a requirement under different regulations for Welsh language impact assessments for different reasons. The requirement to comply with policy-making standards is statutory, separate, and important to meet in the context of each policy decision.

#### **Investigation and enforcement: Policy making standards**

An investigation was carried out relating to a consultation on the reorganisation of English language education; although this was a Council consultation on the expansion of English language education provision, a complaint was lodged with the Commissioner that the potential impact on the Welsh language was not considered by the Council when consulting on its plans. The Council confirmed that the consultation was flawed as the Welsh language and the impact on the Welsh language were not considered within the original consultation. It was determined that there had been no compliance with a policy making standard and enforcement action was imposed to ensure compliance with these standards within three months. The Council fully accepted the Commissioner's comments and submitted new consultation documents on all policy decisions considering the Welsh language and the impact on the Welsh language as required. In addition, the inquiry offered the Council the opportunity to change its procedure on policy making standards within the county and a new procedure was adopted by the Council along with new documents in consultation on any matter of policy and matters relating to the Welsh language.

#### **Strategic work with the policy making standards**

The Commissioner believes that the impact of the policy-making standards is wide-ranging and is likely to have a significant impact on people's ability to use Welsh in

the future; and therefore, it is key that the requirements of the standard are fully implemented and met.

When the impact of a policy decision on the Welsh language is not meaningfully assessed, the impact on users of the Welsh language can be striking and long term. The decisions made by public bodies can have a significant impact on individuals' ability to live their life in Welsh, not only within statutory areas such as at school or with services, but also socially. The policy-making standards are there to support organisations to think carefully about this potential impact and support bodies to plan for increasing the use of Welsh in practice and to promote and facilitate a society where the Welsh language is not treated less favourably.

Organisations need to further consider the level of training given to staff on how to carry out assessments and consider potential impacts on the Welsh language from policy decisions. The Commissioner's feedback from bodies and investigative and enforcement work leads to a perception that more investment is needed and upskilling people responsible for considering the potential impact of Welsh language decisions at all levels. The impact assessments that organisations complete are often superficial, and do not adequately take into account the potential range of impacts that can be on the Welsh language as a result of a decision. Significant investment in the skills of officers and senior body officers is needed to enable them to design strategic responses that enable progress in this area.

Supporting compliance with these standards therefore remains an important strategic objective for the Commissioner. To this end the Commissioner therefore intends to hold workshops with individual organisations to raise levels of understanding of the requirements of the policy making standards together with holding workshops on specific policy areas.

# Focus on compliance in job advertising and recruitment processes

## Background

Assurance Report 2018 to 2019: "Claiming Opportunities" the Commissioner declared:

*"User experience is dependent on organisations having enough Welsh-speaking staff, and those staff being in the right roles".*

A number of recommendations were given to organisations to try to improve on their job recruitment and advertising arrangements in that assurance report, as well as advice on providing training, so that the efficiency of the workplace as a whole can be improved in complying with all Welsh language standards. It was recommended that organisations carry out work in the following areas in order to see progress following poor compliance outcomes in that year:

- **identifying the skills of the current workforce**
- **improving the Welsh language skills of the existing workforce**
- **conduct a meaningful assessment of the language needs of each vacancy**
- **attracting Welsh speakers to work for the organisation**
- **innovation to manage demand for staff**
- **effective training and allocation of staff**

## The Current Situation

The Commissioner continues to believe that no fundamental change has occurred in planning and implementation in recruitment, assessment of Welsh language skills and development of workplace skills in order to improve organisations' compliance levels with the range of Welsh language standards as a whole.

Organisations' compliance with standards that are dependent on staff members' ability to respond in Welsh – such as when dealing with phone calls, is lower than it is with standards where translation or preparation can be relied upon in advance.

Without Welsh-speaking staff available to provide services accountably, compliance with these standards is not going to improve.

Organisations must therefore consider from the start of the recruitment process what skills are necessary for jobs and then follow meaningful assessment, develop adverts and recruitment packs that clearly promote the need for Welsh language skills and attract speakers to these roles by promoting the Welsh language throughout the recruitment process.

There is also a need to improve the commitment to developing the skills that the current workforce has, by identifying staff who have language skills but are not being used to their full potential or where individuals' confidence to use their Welsh with others needs to be developed.

### **Strategic focus**

To this end, over the course of the Commissioner's next strategic plan, there will be a further focus on improving performance in skills assessment and improving the quality of recruitment processes to see progress in obtaining Welsh language skills within the workplace of bodies subject to Welsh language standards.

Welsh language standards place a duty on public bodies to assess the need for skills in Welsh for vacancies and new posts and to keep a copy of those assessments. The Commissioner will commission an independent evaluation of how organisations assess the need for skills in Welsh and how that contributes to their success in recruiting Welsh-speaking staff. It is hoped that the findings of this research will provide an opportunity to establish a baseline and overview of the current situation to inform further work in the future.

The Commissioner will also open investigations and force change in this area where deficiencies persist.

The Commissioner also sees the relationship between using Welsh internally within bodies with improving skills and confidence to use Welsh at work. It will therefore also focus on considering how organisations develop internal Welsh language use policies to encourage and promote the use of Welsh at work.

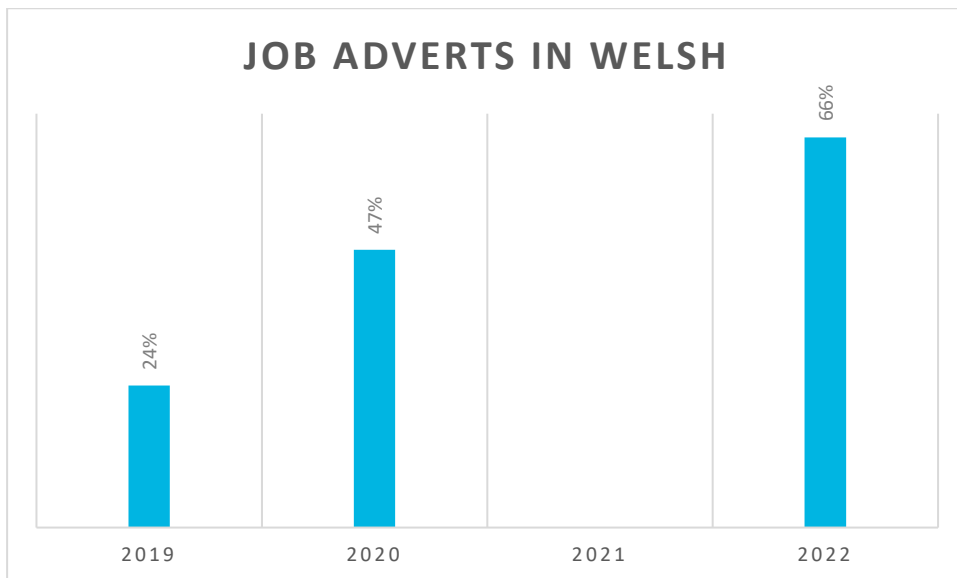
A successful practice has emerged in this area during the year and this can be built on over the next few years. The practice demonstrates easy and simple methods adoption bodies can to increase the use of Welsh within a workplace.

[encourage-welsh-in-the-workplace.pdf \(welshlanguagecommissioner.wales\)](#)

### **Advertising jobs in Welsh**

The Commissioner checks job adverts made by organisations annually to ensure they comply with the requirements of Welsh language standards.

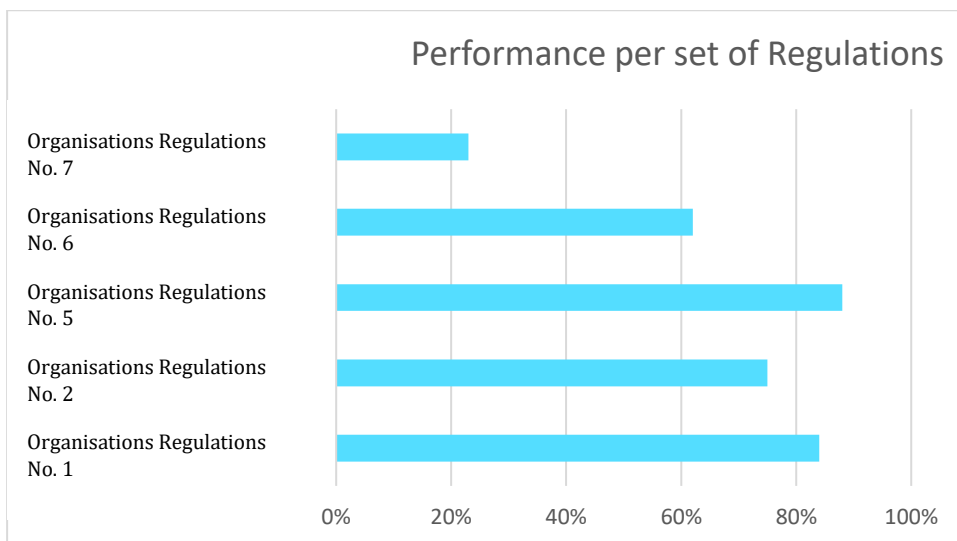
In 2021-22 it was noted that 66% of surveyed job adverts were published in Welsh, this shows an increase since the above assurance report was published in 2019. However, this is not sufficient progress considering the requirements that all relevant advertisements be published in Welsh.



\*no data for 2021

## Sectoral situation

However, the picture is mixed across sectors, with assurances that organisations will publish adverts in Welsh varying:



While it is difficult to make direct links between the performance seen here in job advertising and the compliance of bodies more generally with the service delivery and operating standards, it is clear that there is a correlation between the poor performing bodies across these categories of standards and the bodies that do not have adequate advertising and recruitment arrangements to meet the requirements of the standards.

The surveys show that bodies subject to Welsh language standards regulation number 7 (namely National Health Service Health Boards and Trusts) **publish only 24% of their job adverts in Welsh.**

Problems with systems and software have caused failures to comply for some bodies



subject to Welsh language standards regulation number 6 – namely further education colleges and universities. The findings of the Commissioner's surveys within this sector led to interventions to see improvement and progress as a result of noting that use of online systems did not support compliance.

#### **Enforcement in the area of skills and recruitment:**

The Commissioner conducted an investigation under section 71 of the Measure following the identification after standard monitoring and surveys that there was non-compliance with Welsh language standards regarding recruitment requirements by two further education bodies through the use of software and an online recruitment package. The software only enabled job application with the bodies through the medium of English while submitting initial information and creating an account on the job application website. Job adverts also included English-only phrases to the Welsh adverts.

The organisations recognised that they were not complying with the specific operating duties requiring application forms in jobs to be available in Welsh as well as duties regarding job information to be available in Welsh. It was explained that this was a result of data and text being extracted directly through a system provided by a third party.

The Commissioner determined that there was a failure to comply with Welsh language standards in relation to the application form, and that Welsh was treated less favourably than English, as the initial page to apply for jobs was only available in English.

It was also determined that there was a failure to comply in terms of job advertising as not all elements were available in Welsh language and English-only vocabulary was included in job notices in Welsh.

The above investigations demonstrate the need for organisations to ensure that adequate Welsh language arrangements are in place for various systems they use, including services provided through a third party, or through a procurement process.

The principle established in the Welsh Language Measure that Welsh should not be treated less favourably than the English language applies equally to services provided directly by public bodies as to those provided by contract.

Those systems may have been in place for a long time by the organisation, and indeed before the advent of the standards. But the requirements remain in terms of the standards. It is essential that discussions regarding the Welsh language take place as soon as possible when installing new systems.

Useful information can be found in the Commissioner's advice document [Contracting out Public Service Contracts: Welsh Language Considerations](#) on how the requirements of the standards can be taken into account when procuring services. The document also discusses the need to review arrangements with Welsh

language providers for example where there is a long-term agreement to provide for the organisation.

The council is considering the approach that should be used to effectively include, implement and monitor those obligations throughout the tender process and through the life of the contract that follows from that process.

## Requirements in recruitment

Although there has been an increase in jobs advertised by organisations in Welsh, it does not always follow that the supporting documents for the jobs are also available in Welsh (only 9/10 Welsh advertisements include correct supplementary documents in Welsh) or that the Welsh language is promoted and facilitated during the recruitment process.

The findings of the surveys by the Commissioner's officials are that Welsh is treated less favourably than English when advertising jobs in 50% of the cases surveyed.

Only 36% of job adverts surveyed contained a statement that it was possible to apply for a job in Welsh.

The surveys also show that there is insufficient compliance with the standard that sets the requirement:

*“When you advertise a post, you must state that applications may be submitted in Welsh, and that an application submitted in Welsh will not be treated less favourably than an application submitted in English.”*

This standard is an important one to promote people's understanding that applications can be submitted in Welsh and to reassure them that submitting applications in Welsh will not affect the recruitment process.

Promoting and facilitating the use of Welsh during the recruitment process is vital to establishing that the organisation welcomes the use of Welsh and is a workplace where there is a natural use of Welsh. In order to attract Welsh speakers, organisations must ensure that they make it clear that Welsh is used in the organisation's operation.

Only 7% of job adverts surveyed contained an application form where applicants were able to indicate a desire to use Welsh.

It is also a requirement for bodies to facilitate the use of Welsh in interviews, by proactively asking applicants if they wish to use Welsh:

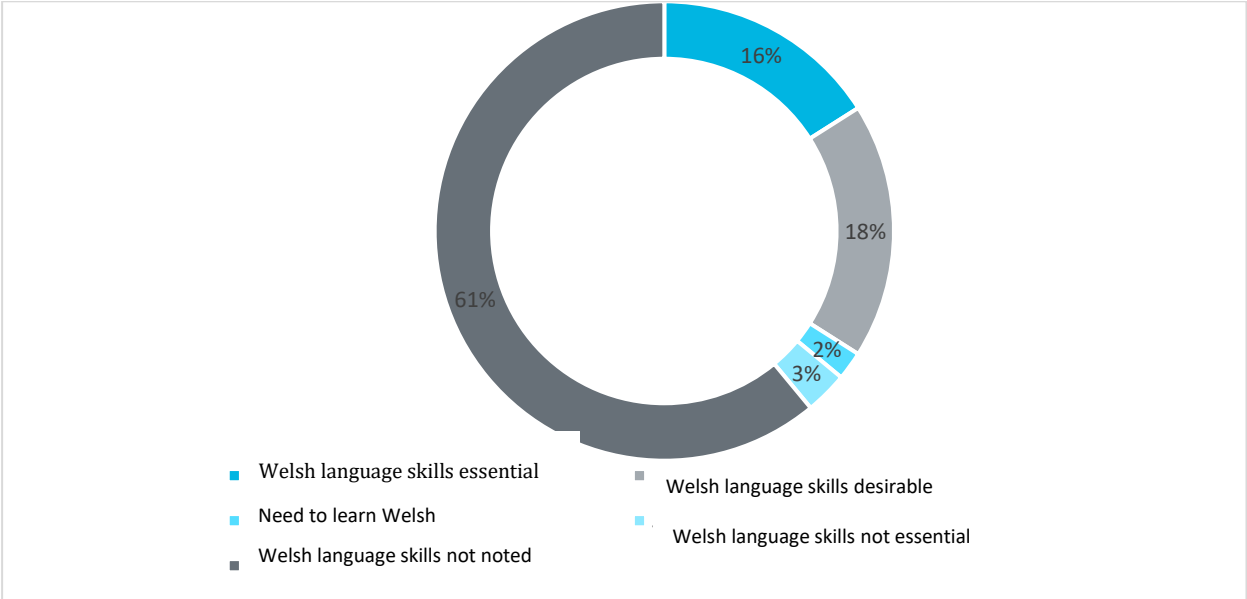
*You must ensure that your application forms for posts provide a space for individuals to indicate that they wish an interview or other method of assessment in Welsh and if an individual so wishes, you must conduct any interview or other method of assessment in Welsh (without the assistance of a simultaneous or consecutive translation service).*

In general, the inspection work carried out by the Commissioner's officers with the requirements of the standards associated with recruitment finds that only **10% of advertising and recruitment processes provide high assurance of compliance.**

### Assessing the need for Welsh language skills

Welsh language standards impose clear operational duties on organisations as they recruit new or vacant posts, that they must assess the need for skills in Welsh and then go on to categorise those jobs as being where skills in Welsh are essential, that skills in Welsh need to be learnt when someone is appointed to the post, that skills in Welsh are desirable or that skills in Welsh are not necessary.

Of the job adverts analysed this year, here's how the category of need for skills in Welsh was identified in advertising:



As can be seen from the table above, 61% of surveyed adverts failed to mention what skill level the job required, or that was not properly identified.

The fact that half of the public organisations in Wales fail to comply with the requirements to clearly state the Welsh skills needed to conduct a job is a concern as failing to take the opportunity to analyse language needs for a job leads to a risk of being unable to meet the requirements of the service delivery standards. A lack of assessment and planning for the future is likely to have a long-term impact on a body's ability to do to meet language duties and meet users' wishes.

This is an element of recruitment that urgently needs attention from organisations so that they can improve on their ability to design the workplace and distribute staff with Welsh language skills to the positions that can make an impact.

Having a workforce with adequate Welsh language skills that are strategically distributed across the organisation's functions is essential for success in meeting the requirements of Welsh language standards.

The Commissioner has developed a comprehensive advice document [Recruitment \(welshlanguagecommissioner.wales\)](https://welshlanguagecommissioner.wales) and organisations need to take note of its content as a matter of urgency.

### **Research and enforcement around assessing the need for Welsh language skills**

An investigation was carried out by the Commissioner into the alleged failure of a body to carry out a meaningful assessment of the Welsh language requirements for a management team level post. Although the body carried out an assessment, the Commissioner concluded that that assessment had not been sufficient to ensure that full consideration had been given to all the key factors, such as the job's responsibilities, involvement with both the public and public bodies in Wales as well as linguistic capacity within the management team. In addition, the body was ruled to have failed to comply with Welsh language standards because it failed to categorise the post according to the categories listed in the wording of the standard. In light of the determination of failure, the Commissioner required the body to undertake a full review of its process for carrying out a job linguistic needs assessment and to amend its template for carrying out that assessment.

# Compliance of bodies with language scheme duties

## Background

Despite the fact that 124 public bodies now implement Welsh language standards, a large number continue to implement Welsh language schemes. The Commissioner is responsible for regulating compliance with both regimes.

A language scheme sets out how an organisation will give effect, as far as is appropriate in the circumstances, and reasonably practicable, to the principle established by the Welsh Language Act, namely - when conducting public business and administering justice in Wales, that Welsh and English should be treated on an equal basis.

As a result of the services they provide, a number of the organisations that implement language schemes have a significant impact on people in Wales' opportunities to use Welsh on a daily basis, and therefore the performance and compliance of these bodies with their language duties remains critically important, and central to the Commissioner's work.

## Performance analysis

Overall, the performance of bodies implementing language schemes is disappointing, and it is a matter of concern that a number of bodies are failing to provide core services such as answering Welsh correspondence in Welsh, answering the phone in Welsh or making page contents on websites available in Welsh at all. This is despite the fact that a large number of the organisations involved have been implementing language schemes for many years.

The poor performance of some organisations means that, on average, the level of compliance with language scheme commitments is low and offers no assurance to the Welsh public that quality and reliable services will be available from these organisations.

It must be acknowledged, however, that the picture is mixed, and that some of the bodies surveyed maintain high quality services and a good level of compliance.

The Commissioner's finding is that organisations that invest resources and ensure clear guidance, with responsibilities for compliance with duties given to individuals or a team within the organisation, perform much better than organisations where the responsibility is included within general job specifications. It is increasingly clear that if there is no responsibility at a high level within a body for ensuring compliance with Welsh language duties, it is unlikely that the body will perform well in maintaining quality Welsh language services or planning and organising a sustained improvement in provisions.

**Key findings from service verification surveys of bodies implementing language schemes:**

Dealing with a phone call in Welsh	47%
Response to Welsh-language correspondence	62%
Posts in Welsh on social media	30%
Pages available in Welsh	52%
Advertise jobs in Welsh.	5%
Documents available in Welsh	44%
Forms available in Welsh	58%
Use of corporate identity in Welsh	59%

**Digital services:**

As discussed in the Commissioner's assurances report last year (Stepping forward, 2020-21), the bodies' decisions regarding the response and adaptation of their services in light of the pandemic, and their ability to move services online, significantly affected the way in which the public was able to continue to use services in Welsh.

Nevertheless, and particularly over the most recent period, there has been an increase in the ability of organisations to deliver Welsh language services online – a key increase in terms of the long-term developments to digitise the core services of many organisations, and the emphasis on ensuring online accessibility to customers.

**Increase in bilingual online services**

A number of UK Government departments and agencies have successfully created new bilingual online services in the past year.

The Department for Work and Pensions (DWP) has made all their online services available and accessible to customers through the medium of Welsh. DWP's Welsh Language Unit continues to be involved with and to support the various teams responsible for all these services, to ensure that updates to all online services are

made to the Welsh language service, at the same time as they are made in English.

There has been a permanent increase in the number of bilingual services from the Driver and Vehicle Licensing Agency (DVLA). There are 10 links to pages for vehicle services and 12 direct links to driver transactions. Two other direct links for purchasing a vehicle registration number and vehicle tax exempt vehicle information page are also bilingual. There has been an increase in recent years in the use of Welsh language services on the DVLA line, partly because it is now easier to access the Welsh language services.

HM Land Registry, as part of their transformation programme through the gov.uk website, has also made a number of their online services available bilingually. These services include 'Search for land and property information', 'UK House Price Index', 'Local Land Charges Programme' and 'Search for Local Land Charges.'

### Prominence of the Welsh language

With a view to moving increasingly to digital and online provision, this year we surveyed how much Welsh is used by the organisations that implement language schemes on their social media. The prominence of the Welsh language was measured when bodies discussed issues in or related to Wales. The surveys found that only **30% of content surveyed on Twitter and Facebook was bilingual.**

In addition, when using their corporate identity, organisations used/published their corporate identity bilingually or in Welsh during 56% of the examples surveyed.

This often meant that the Welsh language was not promoted by the organisations online or on social media. It is likely that this leads to less involvement with organisations in Welsh as it is not actively promoted.

### Advertising Jobs

The surveys carried out found that the level of compliance of organisations in advertising jobs in Welsh, was very low. **Only in 5% of ads surveyed** was the advert available in Welsh, and there was little promotion and facilitation of Welsh within the organisations' recruitment process.

As discussed in the section on job advertising and recruitment in this report, the level of compliance under the standards regime is concerning, but it must be noted that the level of use of Welsh that the language scheme organisations surveyed here is very low. The advice on the need for improving reach and duties in advertising is therefore equally relevant and requires a significant change in the prominence of the Welsh language in job advertising in Wales by the bodies concerned.

### Researching the duties of language schemes

The complaints, under the Welsh Language Act, submitted to the Commissioner's attention during the period 2021-2022 are very varied. 15 complaints were received from members of the public against bodies implementing language schemes, of which 13 were valid complaints.



A complaint was received about the failure to receive telephone service in Welsh and a face-to-face service in Welsh.

The main concern that tends to lead to complaints seems to be the lack of Welsh language resources and forms, along with links on websites leading to English language materials, perhaps a reflection of the length that many of the bodies implementing language schemes are moving more to promoting online services and as a result, weaknesses will emerge.

There are also a number of complaints relating to delays in responding to correspondence sent in Welsh, which again reflects the fact that many of the bodies subject to a language scheme do not have adequate arrangements in place to secure services in Welsh.

### **DVSA investigation**

The investigation was carried out in the wake of suspicion of alleged failures on the part of the Driver and Vehicle Standards Agency (DVSA) to fully implement its Welsh language scheme. The investigation was linked to doubts about the implementation of three clauses within the DVSA's Welsh language scheme in providing Welsh medium driving tests. The investigation found that this failure was widespread and ongoing. The failure prevents people from using Welsh and has the effect of encouraging the use of English. This is because users whose tests have been delayed must make the choice between waiting long periods for a test in Welsh or choosing to do a driving test in English without delay. There is undisputed evidence of this in the report itself.

Following the investigation, 5 recommendations were presented to the organisation: i) the DVSA make changes to how they offer language choice when practical driving tests are ordered online to ensure that Welsh practical driving tests are offered proactively and on a par with English; ii) it reports on statistics in relation to test cancellations, and what happens to requests for Welsh tests that are not carried out in Welsh; iii) it prepares a strategy for recruiting examiners who can provide practical driving tests in Welsh; iv) it is preparing a strategy to ensure that existing Welsh-speaking examiners can move between centres to meet demand, and should prioritise driving tests in Welsh; v) it creates a procedure to report on the achievement of the language scheme and on Welsh medium tests specifically to an internal scrutiny committee.

The Commissioner also receives complaints and enquiries from members of the public about organisations not implementing a Welsh language scheme. A number of complaints/ enquiries have been received over the last 2 years about different elements of the process relating to COVID-19.

The need to consider the Welsh language at a United Kingdom level – and secure its status – was highlighted very clearly in the context of the COVID-19 pandemic when the decision was made to procure and organise a number of key responses to the pandemic centrally by Westminster's Department of Health and Social Care. The end result of the centralization of these efforts by a department unfamiliar with operating under the requirements of the standards was that not all of the services provided were planned with the Welsh language as a central consideration. Lessons must be learned from this and ensure that the Welsh language has sufficient constitutional and political standing at United Kingdom level to ensure the provision of necessary services to Welsh citizens, particularly in times of crisis.

## Appendix 1

### Evidence that forms the basis of the report

The report is based on solid and diverse evidence, including:

- monitoring – conducting user experience surveys (checking services such as correspondence, phone, forms, documents, corporate identity, websites, etc.);
- checking annual reports, supplementary documents and job advertisements
- liaison with organisations – impressions of officers who deal with organisations in providing support for compliance, setting standards, and conducting investigations.
- Evidence gathering meetings with organisations.

In terms of user experience surveys, it should be noted the results are based on checking services of each institution in regulations number 1 and 7, and a sample of bodies in regulations numbers 2, 4, 5 and 6 as well as a selection of organisations implementing language schemes. A list of the bodies subjected to surveys is in appendix 2.

The services were checked three times during the year in most cases and with a clear methodology based on the requirements of the standards in terms of what is marked as compliance or not.

User experience is the main aim of the verification work; however, the verification fully considered the requirements of the standards, and these are referred to in the report where relevant to identify the need for better planning etc.

Due to decisions made as a result of the pandemic, outsourced surveys have not taken place in the last two years, this meant that no data on performance with services such as signs displayed by bodies, receptions and self-service machines has been included as it was not possible to check.

#### Welsh Speaker Surveys:

400 interviews were conducted with Welsh speakers in November 2021, due to the pandemic, the interviews were conducted online. About half of respondents reported fluency in Welsh. The sample was representative of Welsh speakers aged 16 and over in Wales (by looking at a proportion who can speak Welsh within the 22 Local Authorities in Wales).

Due to the pandemic and the loss of data following a cyber-attack on the Commissioner's systems the Commissioner was unable to engage with the public in other ways during this year.

## Appendix 2:

### List of organisations surveyed for verification survey findings

No. 1 Regulations	<p>Pembrokeshire Coast National Park Authority  Brecon Beacons National Park Authority  Snowdonia National Park Authority  Blaenau Gwent County Borough Council  Caerphilly County Borough Council  Neath Port Talbot County Borough Council  Conwy County Borough Council  Merthyr Tydfil County Borough Council  Bridgend County Borough Council  Rhondda Cynon Taf County Borough Council  Torfaen County Borough Council  Wrexham County Borough Council  Vale of Glamorgan Council  Cardiff Council  Newport City Council  Gwynedd Council  Ceredigion County Council  Denbighshire County Council  Monmouthshire County Council  Carmarthenshire County Council  Pembrokeshire County Council Powys County Council  Flintshire County Council  Isle of Anglesey County Council  Welsh Ministers</p>
No. 2 Regulations	<p>Colleges Wales Ltd  The Royal Commission on the Ancient and Historical Monuments of Wales.  The Children's Commissioner for Wales  The Commissioner for Older People in Wales  National Lottery Community Fund  The Arts Council of Wales  Wales Council for Voluntary Action  Estyn  Welsh National Opera  The Learning and Work Institute  The Local Government Data Unit Wales  The Electoral Commission  BBC  The Office of Communications</p>
No. 4 Regulations	Education Workforce Council

	<p>Social Care Wales  Special Educational Needs Tribunal for Wales  Special Educational Needs Tribunal for Wales  Valuation Property Tribunal for Wales</p>
No. 5 Regulations	<p>Powys Police and Crime Commissioner  Gwent Police and Crime Commissioner  South Wales Fire and Rescue Service  North Wales Police  Gwent Police  British Transport Police  Independent Office for Police Conduct</p>
No. 6 Regulations	<p>Cardiff and Vale College  Gower College Swansea  Bridgend College  Higher Education Funding Council Wales  Swansea University  Bangor University  University of Wales Trinity St David  University of South Wales  The Open University  Coleg y Cymoedd  NPTC Group  Merthyr Tydfil College Limited</p>
No. 7 Regulations	<p>Powys University Health Board  Aneurin Bevan University Health Board  Swansea Bay University Health Board  Betsi Cadwaladr University Health Board  Cardiff and Vale University Health Board  Cwm Taf University Health Board  Hywel Dda University Health Board  Velindre NHS Trust  Welsh Ambulance Services NHS Trust  Public Health Wales NHS Trust</p>
Bodies implementing language schemes	<p>Department for Work and Pensions  Driver and Vehicle Standards Agency  Rural Payments Agency  Driver and Vehicle Licensing Authority  Health and Safety Executive  Financial Conduct Authority  National Heritage Memorial Fund  HM Revenue &amp; Customs  Dŵr Cymru Welsh Water  Severn Dee Water  Royal Mail Group plc  HM Prison and Probation Service  Hybu Cig Cymru</p>





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