

Number: WG32353



Llywodraeth Cymru
Welsh Government

Welsh Government
White Paper Consultation Document

Striking the right balance: proposals for a Welsh Language Bill

Overview

Date of issue: 9 August 2017
Action required: Responses by 31 October 2017

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Striking the right balance: proposals for a Welsh Language Bill

Overview

A White Paper is one of the ways the Welsh Government consults on proposals to make new laws. This Overview gives a summary of the key proposals in our White Paper for a Welsh Language Bill.

The headings in this Overview follow those in our White Paper. If you wish would like to understand more fully how we reached our conclusions and consider the consultation questions we ask, you should read the corresponding section in our White Paper.

How to respond

Responses to this consultation should be e-mailed/posted to the address below to arrive by **31 October 2017** at the latest.

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

The full White Paper *Striking the right balance: proposals for a Welsh Language Bill* (2017) can be accessed from the Welsh Government's website at www.gov.wales/consultations

Preparing for a Welsh Language Bill – Call for evidence: summary of responses (2017)
gov.wales/docs/dcells/publications/170718-wl-bill-sor-en.pdf

Cymraeg 2050: A million Welsh speakers (2017)
gov.wales/docs/dcells/publications/170711-welsh-language-strategy-eng.pdf

Contact details

For further information:

Welsh Language Bill Team
Welsh Language Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

e-mail:
UnedaithGymraegWelshLanguageUnit@gov.wales
Tel: 0300 0604400

Data protection

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Contents

| | |
|--|-----------|
| Our vision for the Welsh language | 2 |
| Summary of the proposals of this White Paper | 5 |
| Part 1: Promoting the Welsh language | 6 |
| Part 2: Governance and accountability | 9 |
| Part 3: The Welsh Language Standards | 12 |
| Part 4: The scope of bodies covered by Welsh language legislation | 18 |
| Part 5: Assessing the impact of our proposals | 19 |
| Next steps | 20 |

Our vision for the Welsh language

1. The Welsh language is part of the unique heritage which defines us as a people and as a nation. Our ambition is that a million people in Wales will speak Welsh by 2050.
2. We want the Welsh language to be part of the fabric of everyday life in Wales, in common use at home, in the community, and at work. We want the Welsh language to be appreciated by everyone for its contribution to culture and society in Wales, and valued for its role in the economy. We have set out the steps we need to take to achieve this ambition in a document called *Cymraeg 2050*.¹

Why we need to change the law

3. In our Programme for Government, Taking Wales Forward² we made a commitment to review Welsh language legislation. We need to do this to make sure the law is up to date and supports our ambition to reach a million Welsh speakers by 2050.
4. In making proposals to change the law, we have set the following objectives:
 - to strike the right balance between promoting the language and regulating Welsh language duties;
 - to reduce bureaucracy and ensure value for money.

Striking the right balance between promotion and regulation

5. Everybody in Wales has certain rights to receive public services in Welsh. The Welsh Language Standards are legal duties on bodies which provide public services (the Welsh Government, local authorities and so on) which require them to provide certain services in Welsh. In this paper, what we mean by regulation is imposing Standards on public service providers and making sure they comply with them. The Welsh Language Commissioner ('the Commissioner') is currently responsible for making sure bodies comply with the Standards.
6. In this Overview, we use the word 'promotion' to mean promoting and facilitating the use of the Welsh language. Promotion, put simply, means work to increase the number of people who speak and use Welsh. The Welsh Government, the Commissioner and many other bodies are involved in promotion in different ways.
7. At present, we believe there is too much emphasis on regulation, and not enough on promotion.

Use of Welsh language services

8. There is a lot of work to do to change people's behaviour and encourage them to use services in Welsh. The little data we have suggests the number of people who use Welsh language services is low.

¹ <http://llyw.cymru/topics/welshlanguage/welsh-language-strategy-and-policies/cymraeg-2050-welsh-language-strategy/?lang=en>

² <http://gov.wales/about/programme-for-government/?ts=%253Flang%253Den&status=closed&lang=en>

9. One reason is because it is only in the past 25 years or so that services have become available in Welsh and not enough has been done to promote them.

Promotion

10. Many different bodies of different sizes promote the Welsh language. We think this work is an important part of delivering Cymraeg 2050. We need to make sure it is coordinated so that it has the maximum possible impact.

Funding support

11. The Welsh Government provides grants to fund bodies who deliver work to develop the use of the Welsh language in Wales. These bodies include the Mentrau Iaith, Young Farmers Clubs in Wales, local eisteddfodau, community newspapers, the Urdd, National Eisteddfod of Wales and Mudiad Meithrin.

Marketing and media campaigns

12. The Welsh Government arranges marketing and media campaigns across Wales, such as the Cymraeg for Kids campaign to encourage people to choose Welsh-medium education.
13. The Commissioner and some other bodies also carry out marketing and media work to promote Welsh. It's important the messages are consistent so that the campaigns are as effective as possible.

Supporting businesses

14. Supporting businesses to use Welsh is a priority in terms of promoting Welsh. A number of bodies – the Welsh Government, the Commissioner and the Mentrau Iaith, for example – work with small and medium sized businesses and well as large companies.

Knowing where to turn for help

15. We need to make it easy for anyone who wants information on using the Welsh language to get help and advice. At the moment, it's not clear where people should go to get help.

Language planning

16. Language planning is integral to our work to promote the Welsh language. In this context, language planning means understanding the most effective steps a body can take to encourage people to learn and use the language. For example, this could mean taking deliberate steps to maintain Welsh speaking communities, or to increase the use of Welsh in workplaces, amongst young people outside education settings, or by local businesses.
17. Good language planning means we can make smarter and more effective decisions about how to use our resources. In order to achieve our ambition of a million Welsh speakers, all public bodies will need to develop better language planning skills.

Practitioner networks and sharing good practice

18. To help deliver our challenging vision for the Welsh language, we need strong networks which bring people who promote Welsh together to build their knowledge and share good practice.

Changing behaviour

19. In order to ensure more people choose to use services in Welsh, we need to understand better what will change their choice of language. The universities are doing important work in this field and we can do more to share good practice.

Future challenges

20. The world is changing rapidly and we need to make sure the way we promote the Welsh language can adapt to new opportunities and challenges. We believe there is a need to:
- set clear priorities and objectives for a programme of work to promote the Welsh language;
 - co-ordinate and integrate local and national work to promote the language;
 - provide practical support for bodies in the public, private and third sectors;
 - advocate for the language;
 - provide a 'one stop shop' for the public;
 - lead change across many organisations; and
 - reduce duplication and ensure value for money.

Reducing bureaucracy

21. The Standards have been a big step forward in creating rights for people to receive services in Welsh. However, the Standards are numerous and complicated, and the way they are made and enforced is bureaucratic and time-consuming.
22. There is a risk this situation may undermine goodwill towards the language and divert resources and staff away from the main task of improving Welsh language services. We need to think about simplifying the way the system works.

Evidence from bodies subject to Welsh Language Standards

23. Earlier in 2017, the Welsh Government asked bodies under the Standards for their experience of the system. This evidence has helped us make proposals in our White Paper. You can read a summary of the responses in a report on our website.³

³ <http://gov.wales/topics/welshlanguage/legislation-for-the-welsh-language/preparing-for-a-welsh-language-bill/?lang=en&jgdf>

Summary of the proposals of this White Paper

24. In order to help readers understand the full picture, we set out here a summary of the main proposals. The rationale behind those proposals, the key issues and options we have considered, are set out in the main body of the White Paper.
- i. A single body should be established to be the main body with responsibility for promoting the Welsh language and monitoring and enforcing compliance with Standards.
 - ii. That single body should be a Welsh Language Commission and therefore the Welsh Language Commissioner should be abolished.
 - iii. The Welsh Government should be responsible for national Welsh language strategy, national policy, for managing and funding some bodies of national significance, and for some specified areas of work. The Welsh Government should transfer the budget and resources for other specified promotion work it currently undertakes to the Welsh Language Commission.
 - iv. The concept of Welsh Language Standards should be retained.
 - v. Standards should only apply to services. Other corporate duties currently in the Standards system which do not create enforceable rights for individuals, should be termed 'language planning duties' and should be statutory duties on bodies on the face of the legislation.
 - vi. The Standards bodies are required to comply with should be reviewed from time to time and, where appropriate, additional Standards placed on bodies or current exceptions granted to the bodies removed.
 - vii. The Welsh Government should be responsible for making and imposing Standards on bodies, and for issuing guidance and codes of practice. The Commission should be responsible for monitoring and enforcing compliance with the Standards.
 - viii. Bodies should be required to deal with complaints about the Standards in the first instance. The Commission should only investigate complaints in serious cases.
 - ix. The Welsh Language Tribunal should be retained. Bodies should be able to appeal against the imposition of a Standard on them by the Welsh Government to the Tribunal.
 - x. The Standards should be capable of being applied to any body, so long as the requirements are reasonable and proportionate and within the powers of the National Assembly for Wales ('the Assembly') (which includes the European Convention on Human Rights).

Part 1: Promoting the Welsh language

What should the Welsh Government's role be?

25. There are certain matters which the Welsh Government should be responsible for. These are to:
- prepare a national strategy under s.78 of the Government of Wales Act 2006 (currently Cymraeg 2050) and a plan to implement the strategy;
 - put in place practical arrangements to deliver the national strategy;
 - set national policies for the Welsh language;
 - propose and make legislation, with the consent of the Assembly;
 - provide resources to support the Welsh language;
 - monitor the performance of bodies involved in delivering the strategy and review the strategy from time to time;
 - maintain relationships with Governments in other countries and regions with minority language concerns.
26. There are other areas of Welsh Government policy making which are critical to the Welsh language. These include our national policies for education, early years, health, social services and social care, planning and local government.
27. The status and resources of the Welsh Government are beneficial for promoting Welsh in some specific areas and the Welsh Government should continue to lead in these areas. These areas may change over time and it might be more appropriate for different bodies to lead in some of these fields in future. At present, we think they include:
- **Developing the role of the Welsh language in digital technology**, such as automatic translation and speech recognition.
 - **Oversight of the Welsh corpus**, such as records of how the Welsh language is used, dictionaries and grammar, and standardisation.
 - **Funding and managing relationships with key national organisations**, such as the National Eisteddfod, the Urdd, Mudiad Meithrin, the National Centre for Learning Welsh and the Coleg Cymraeg Cenedlaethol.
 - **Research**, such as understanding whether our policies for the Welsh language are effective.
28. In this paper, we refer to the promotional functions set out above as 'Government promotion functions'.

Other Welsh Government resources

29. The Welsh Government also funds and manages a range of other promotion activity. This year we have also allocated an additional £2 million to enhance promotion of the Welsh language. We think we should consider whether the Welsh Government continues to be the best body to undertake this work.

30. Table 1 sets out the budgets and activities which we are calling ‘general promotion functions’ in the White Paper. Table 1 also shows the funding allocated to the Commissioner, who was established to promote and facilitate the use of the Welsh language. The budgets and activities in Table 1 are indicative only. They are subject to change and to important qualifications which are set out in full in the White Paper.

Table 1: General promotion functions

| Organisation | Budget 2017-18 | Examples of work |
|-----------------------------|---|---|
| Welsh Government | £2.7m plus £2m additional funding for 2017-18 | <ul style="list-style-type: none"> • Grants to organisations to promote Welsh: <ul style="list-style-type: none"> — Mentrau Iaith Cymru — 20 Mentrau Iaith — Merched y Wawr — Wales Young Farmers Clubs — Cymdeithas Eisteddfodau Cymru — Welsh language community newspapers — Cymdeithas Cyfieithwyr Cymru (the Association of Welsh translators and interpreters) • Promoting the use of Welsh by businesses • Media and marketing campaigns • Establishing a helpline service to ensure access to information on using the Welsh language |
| Welsh Language Commissioner | £3.051m | <ul style="list-style-type: none"> • Imposing Standards on bodies and monitoring and enforcing compliance with those Standards • Monitoring existing Welsh Language Schemes • Working with medium and large businesses to create voluntary Welsh language policies • Preparing guidelines for using Welsh in particular cases (such as a Welsh language technology guide) • Conducting research to build an evidence base to support decision-making in promoting Welsh. |
| Total | £7.751m | |

Options

31. In paragraph 19 we set out the challenges we face. We have considered four different options for strengthening arrangements to promote the Welsh language in order to meet these challenges. The options are based on the expectation that the Welsh Government will impose Standards and undertake the Government promotion functions set out in paragraphs 24-27 above.

Option 1: no change

Option 2: establish a Welsh Government Executive Agency to promote the Welsh language

This would involve establishing an Agency within the Welsh Government to undertake the general promotion functions, rather as Visit Wales promotes tourism. The Commissioner would be responsible for making sure bodies comply with the Standards.

Option 3: Establish a new body separate from the Welsh Government to promote the Welsh language

Option 3 would involve creating a new, independent body to undertake the general promotion functions. The Commissioner would be responsible for making sure bodies comply with the Standards.

Option 4: a single body responsible for promoting Welsh as well as ensuring bodies comply with Standards

Under Option 4, a single body would be responsible for undertaking the general promotion functions and ensuring bodies comply with the Standards.

Weighing up the options

32. We compared the benefits of the different options in terms of how clear each option is, the scope for promotion work to help public service providers to meet the Standards, and value for money. We believe Option 4 is the best option to enable us to face the challenges of the future.

Conclusions

33. Option 4 would create a single body with a wide range of powers, significant resources and a focal point for language development in Wales. It would make it easier for the public, businesses and other organisations to know where to go for advice, information and support. A single body would be able to help public service providers overcome the challenges of developing a bilingual workforce and providing services in Welsh. We also believe it would provide the best value for money.

Part 2: Governance and accountability

Governance

34. The single body we have proposed would play a crucial role in delivering Cymraeg 2050. It must be well run and accountable. It would need to win the trust and confidence of the public, be open and transparent, and involve people in its decision making.
35. We believe this can best be achieved if the body is led by a group of people with a mix of knowledge, experience and skills, rather than a single person.

Accountability

36. The body would be responsible for significant amounts of public money. To make sure the body spends public money wisely and performs well, we think there should be a separation of duties between the group of people who set the body's goals (strategic functions), and a chief executive who is accountable for how the body's staff and resources are used to deliver those goals (operational functions).
37. The body should have rules for how it makes decisions (called a corporate governance framework), and an audit committee to make sure it spends money prudently and that its internal controls are working properly.

General requirements

38. Whichever option we choose, the following requirements should apply to the body.
 - i. The body should have a strategic plan approved by the Welsh Government. The plan would set out the body's goals and show how it will contribute to delivering *Cymraeg 2050*.
 - ii. It should produce a report every year setting out what it has achieved.
 - iii. It should set out its policy for how it will ensure bodies comply with Standards.
 - iv. It should set out each year how much money it needs to achieve its goals. The Welsh Government should tell the Assembly how much funding it will allocate to the body.
 - v. It should be responsible for ensuring people's freedom to use Welsh is protected.
 - vi. The Welsh Government should be able to give the body directions except in relation to how it ensures bodies comply with Standards or how it protects people's freedom to use Welsh.
 - vii. The body should consult with people on its key decisions and policies. When it has conducted an investigation or taken enforcement action, it should publish the reasons for its decisions.

Options

39. We have considered different arrangements for the body. We think there are three options to consider.

Option 1: Transfer additional resources for promotion to the Commissioner within the Commissioner's existing governance arrangements

Option 2: Welsh Language Commissioner with a Governing Board

Under Option 2, there would still be one person who would be the Welsh Language Commissioner. There would also be a Governing Board whose role would be to approve the Commissioner's strategic plan, enforcement policy and the corporate governance framework.

Option 3: Welsh Language Commission

Under Option 3, we would establish a Welsh Language Commission ('the Commission'). The Welsh Government would appoint a chair and a number of members with a mix of experience and skills through a public appointments procedure. Together, the members and chair of the Commission would be responsible for setting the body's strategic plan, enforcement policy and corporate governance framework.

The Commission would appoint a chief executive who would be responsible for delivering the Commission's strategic plan and making sure the body was well run.

Weighing up the options

40. We have considered each option against the governance and accountability considerations we set out at the beginning of this part. Option 1 does not meet the requirements that there should be a group of people involved in leading the body and a separation between the strategic and operational functions of the body. Option 2 partially meets both requirements and Option 3 meets both requirements fully.

Conclusions

41. The Welsh Government's preferred option is Option 3, to establish a Welsh Language Commission to be responsible for promoting the Welsh language (the general promotion functions) and ensuring bodies comply with the Standards.

Transfer of staff, property and liabilities

42. If we proceed with establishing a Commission, we will need to consider carefully how any staff of the Commissioner or the Welsh Government might be affected and whether there will be transfers of staff. We will also consider how their employment and pensions can be protected, as well as matters such as transferring property and liabilities. We do not consider there should be any redundancies as a result of our proposals.
43. We will consult fully with employees and the Trades Unions on these matters.

Welsh Government duties under s.78 of the Government of Wales Act 2006

44. We believe there should be a direct connection between the Welsh Government's duty to prepare and implement a strategy for the Welsh language and the work of the proposed Commission. The Welsh Government's duties are set out in section 78 of the Government of Wales Act 2006. We think it would make sense to bring these duties into the proposed Welsh Language Bill so the connection is set out clearly.
45. The Welsh Government's strategy, Cymraeg 2050, is ambitious and long term. It takes time for language policy to have an impact and we usually only collect reliable data about the numbers of people who speak Welsh every 10 years, in the Census. We therefore think the duties on the Welsh Government to make a plan and to report on the strategy should be changed from annually to once every Assembly term, that is, every 5 years. This would not prevent the Assembly from holding Ministers to account at any time through its Committees or in the Senedd.

The Welsh Language Partnership Council

46. The proposed Commission should contain significant expertise in all aspects of the Welsh language. We think the Welsh Government should be able to benefit from this expertise by asking the Commission for advice on matters related to the Welsh language.
47. As this is what the Welsh Language Partnership Council currently does, we propose to abolish the Council.

Part 3: The Welsh Language Standards

Introduction

48. The Standards are still new. However, evidence suggests that the Standards are making a difference to the quality and consistency of services in the Welsh language.
49. At the same time, bodies working under the Standards say they are difficult to understand, implement and monitor.

What are we trying to achieve with legislation?

50. We are committed to a system of Standards which ensures:
 - a. consistency and quality in the provision of Welsh language services,
 - b. accountability of bodies providing those services, and
 - c. enforcement if the Standards are not met.
51. However, the current overemphasis on 'enforcement' has led to lengthy and costly investigations of very minor matters. We believe the emphasis should be on putting things right if they go wrong, and making sure bodies improve.
52. The challenge is that the number of people who speak Welsh is limited, and the proportion of Welsh speakers varies a lot in different parts of the country. This means there are limits on the number of people in the public service workforce with skills in Welsh (not just in areas covered by the Standards), such as in customer services, or in professions such as teaching, social services, medicine, nursing, the law and so on.
53. Actions can be taken to address these challenges, such as making sure more children are educated in Welsh and more students take degrees or professional training in Welsh – our strategy, Cymraeg 2050, sets out how we intend to achieve this – but these actions take time to take effect.
54. Any duties we impose on bodies in different parts of Wales and providing different kinds of services must be reasonable and proportionate, taking account of the practical challenges bodies face. As a result, we think any legislation we make is bound to be complex. At the very least, we should try to make sure any duties we impose on bodies become more uniform over time as bodies become more able to deliver services in Welsh.

Current situation

55. The purpose of the Standards is to ensure providers of public services meet a specified level of quality, consistency and accessibility when providing Welsh language services to the public and to their employees.
56. However, the result is a large number of Standards which can be difficult for public service providers and the public to understand. Typically, the regulations specifying the Standards include around 170-180 Standards.

Responses to the call for evidence

57. We asked bodies working under the Standards for their views. They told us that they generally welcome the Standards and the way the system has raised the profile of the Welsh language within their organisations. They also told us:

- There are overlaps between the Standards and bodies find it difficult to monitor whether they are complying with all the Standards. Some suggested that similar Standards could be merged together.
- The large number of Standards makes it difficult for the public to understand what their rights are.
- Although the Standards are detailed, there are some situations where it is uncertain how they should be applied, for example, when two bodies are working together.
- The current system does not make sure that bodies get better at providing Welsh language services over time.

Options

58. We have considered 5 different options to ensure services are available in Welsh.

59. The current system requires those duties to be reasonable and proportionate for the body. We think this is a sound principle which we should retain.

Option 1: no change

Option 1 would see the current system continue. We do not think this is viable.

Option 2: reform the current system

Under Option 2, we would keep the current system but make improvements:

- a. Remove or amend Standards which do not contribute directly to improving services.
- b. Remove or amend Standards that are costly to implement but produce little public benefit.
- c. Give bodies more opportunity to exercise reasonable judgement without undermining the principle of enforceable Standards. Some Standards already permit this, for example, by requiring a body to make an assessment.
- d. Publish guidance to help bodies comply with Standards.

From time to time, we would also review the Standards which bodies must comply with to see if they could deliver more in Welsh.

Option 3: a small set of more general Standards on the face of primary legislation

Option 3 would be different to the current Standards system. In this system, a few general Standards would be set out in the Welsh Language Bill. To make the system work, the law would need to allow exceptions to the Standards so that they are reasonable and proportionate for different bodies.

Option 4: regulated exceptions schemes based on a small set of more general Standards

Under Option 4, the Standards would be set out in the Welsh Language Bill. Each body would be required to prepare a scheme of exceptions which should apply to it. Each scheme of exceptions would need the approval of the Welsh Government.

Option 5: rights for individuals to use Welsh set out in primary legislation

Option 5 would give people rights in law to use Welsh with bodies in Wales. In this case, because of the constraints on Welsh language skills in the workforce, we know we would need to make exceptions to the rights to make the system work. These exceptions would need to be tailored to each individual body.

Weighing up the options

- 60. We have considered the different options on the basis of whether they provide greater clarity (to the public and the bodies), whether they lead to improvement in Welsh language services, and the costs of change.

Conclusions

- 61. The Welsh Government’s preferred option is Option 2, reform of the current system of Standards. The Welsh Government believes Option 2 offers an effective system which makes bodies improve gradually over time. We also believe this option builds on the work the Welsh Government, the Commissioner and bodies have already done, and ensures we do not waste the resources we have already invested in the Standards system.

The classes of Welsh Language Standards

- 62. There are currently different classes of Standards. The law restricts which Standards can be imposed on different bodies. Table 2 sets out the different classes and how they apply to different types of bodies:

Table 2: Classes of Standards

| Class | Welsh Government & Local Government | Most devolved & non-devolved bodies | Most utilities and private sector service providers |
|------------------|--|--|--|
| Service delivery | ✓ | ✓ | ✓ |
| Policy making | ✓ | ✓ | x |
| Operational | ✓ | ✓ | x |
| Promotion | ✓ | x | x |
| Record keeping | ✓ | ✓ | ✓ |

- 63. Only some of the Standards are about services which organisations deliver directly to the public and to their staff. Many of them are corporate duties on organisations, such as having a strategy to promote Welsh and assessing the impacts of their decisions on the Welsh language.
- 64. These corporate duties are important and we wish to keep them. However, we don’t think these corporate duties should be Standards set out in regulations, but instead should be language planning duties set out in the Bill itself. We could consider including other duties as language planning duties, such as those relating to Welsh in

Education Strategic Plans. We think the Standards should only relate to services which people receive.

65. The Commission's role would be to monitor how bodies are complying with their language planning duties and provide practical support to help them improve.

Procedures for making, imposing, implementing and enforcing Standards

Making and imposing Standards on bodies

66. The process of making and imposing Standards is too bureaucratic. This is partly because both the Commissioner and the Welsh Government are involved – the Welsh Government makes the Standards regulations and the Commissioner imposes them on bodies.
67. We propose to simplify the process so that the Welsh Government is responsible for making and imposing Standards, and the Commission is responsible for monitoring and enforcing compliance.
68. The Welsh Government should be required to hold a public consultation on proposed Standards and, as under current arrangements, the Assembly would need to approve them. We also propose the Welsh Government should be responsible for issuing codes of practice to help bodies comply with the Standards.

Making and imposing Standards on sectors

69. Some sectors which can currently be required to comply with Standards comprise a large number of small bodies. For example, there are over 730 community councils in Wales.
70. Preparing compliance notices for each individual body within that sector would be a significant task. Therefore, we propose that Standards could be imposed directly by regulations rather than by individual compliance notices. This raises some important questions which we ask in the White Paper.
71. We should emphasise that we have no intention of bringing community councils under the Standards in the immediate future.

Standards to be imposed on the Welsh Government

72. The Welsh Government is currently required to comply with Standards. Our proposal in paragraph 67 means that the Welsh Government would be responsible for imposing Standards on itself. That needs to happen in an open and transparent fashion.
73. One option is that the Assembly should have a role in approving which Standards the Welsh Government should comply with.

Standards in the context of joint working between bodies and local government reform

74. A number of bodies have told us they are unsure how the Standards apply practically in situations where bodies are working together, and how they should apply in light of the proposed local government reforms. We commit to working with local government as our proposals develop.

Complaints

Complaints to bodies

75. At present, if somebody wishes to complain that a body is not meeting the Standards in some way, they can complain directly to the Commissioner. This is different from the situation where somebody wants to complain about any other service. In those cases, the Public Services Ombudsman for Wales insists the complaint must go through the body first, so that the body has the opportunity to take responsibility and fix the problem itself.
76. The same principle should apply to the Standards and bodies should be required to have a complaints procedure which meets certain conditions.
77. We propose people should be required to complain directly to the body in the first place. If they are still unhappy at the end of that process, they should be able to take their complaint to the Commission.

Complaints to the Commission

78. When it receives complaints, the Commission should look at the body's decision and how they made it. The Commission should only take action where the body's decision about a complaint is unreasonable or where they have not followed the complaints process properly.
79. If the body has done something wrong but the Commission doesn't think it is serious, then the Commission should be able to give advice or make the body look at its decision again. The Commission could also choose to do nothing.
80. In cases where the Commission thinks something serious has gone wrong, then the Commission should start an investigation. The Commission should also be able to decide to start an investigation in other circumstances where it becomes apparent something serious has gone wrong.

Enforcement action following an investigation

81. Under our proposals, the focus of the Standards system would be putting things right and making sure the same problem does not happen again.
82. Sometimes, stronger action is needed, for example, if a body refuses to put things right. So in addition to its enforcement powers set out in paragraph 78, the Commission should also be able to direct the body to take certain action, impose a fine (currently up to £5,000) or ask a court to make the body take action.
83. In our view, these stronger powers should be kept for the most serious cases.

Appeal to the Welsh Language Tribunal

84. At present, the Welsh Language Tribunal ('the Tribunal') hears appeals about decisions of the Commissioner. This makes it easier and cheaper for the public and public service providers to get access to justice without going through judicial review at the High Court.

85. We think we should keep the Tribunal to hear appeals relating to the Commission's enforcement decisions and appeals relating to the Welsh Government's decisions to impose Standards on bodies. We think the Tribunal should only hear appeals where there is a reasonable chance of the appeal being successful or where there is some other compelling reason why the Tribunal thinks they should hear the appeal.

Part 4: The scope of bodies covered by Welsh language legislation

86. At present, the Welsh Language (Wales) Measure 2011 ('the Measure') restricts the type of bodies that can be required to comply with Standards.
87. These restrictions apply because the UK Government placed limits on the Assembly's powers to make laws when the Measure was passed. The Assembly's powers have been extended since that time and we believe, as a result, that the current restrictions should be removed.
88. The impact of lifting the restrictions in the Measure would be that Standards could be placed on any body as long as it was within the Assembly's power to do so (which includes being compatible with the European Convention on Human Rights). This means Standards could potentially be placed on more private businesses than the Measure currently permits.
89. Given the uncertainty surrounding implementation of the decision to leave the EU, any extension of the Standards system to more private sector businesses and the associated costs of doing so would need to be considered very carefully.
90. If more businesses are included within the Standards system, we propose the Standards for private businesses should be restricted to services provided to customers and only as part of a wider programme of working with the sector to ensure they are prepared for the advent of Standards.

Part 5: Assessing the impact of our proposals

Impact assessments

91. The Welsh Government is required to assess the impacts of our proposals. We have conducted a Welsh Language Impact Assessment, a Children's Rights Impact Assessment and an Equality Impact Assessment.
92. Copies of the impact assessments are available on the Welsh Government's website.
93. We will publish a Regulatory Impact Assessment to identify and assess the costs and benefits of our final proposals alongside our proposed Welsh Language Bill.

Next steps

94. The White Paper contains a number of questions about our proposals. Responses to the consultation will be used to inform our next steps.
95. The closing date for responses to the consultation is 31 October 2017.