

The Nursing and Midwifery Council's response to the Welsh Government's consultation on the Welsh Language Standards (Healthcare Regulators) Regulations

About us

- 1 Our vision is safe, effective and kind nursing and midwifery that improves everyone's health and wellbeing. As the professional regulator of more than 700,000 nursing and midwifery professionals, we have an important role to play in making this a reality.
- 2 Our core role is to **regulate**. First, this means setting the standards that professionals must meet to practise. Those standards apply no matter where people work – in a hospital, in social care, in the community, in public health, or in education. It's a priority for us to innovate in the way we shape these standards, so that our professions keep pace with a rapidly evolving health and care sector.
- 3 Second, we maintain the register of professionals eligible to practise. Our revalidation process helps make sure they keep developing their knowledge and expertise, to maintain excellent standards of practice throughout their careers. This principle of lifelong learning is an important part of our approach to regulation.
- 4 Third, we investigate concerns about nurses, midwives or nursing associates – something that affects less than one percent of the professionals on our register each year. We determine whether their skills, knowledge, education or behaviour fall below the standards needed to deliver safe, effective and kind care. We believe in giving professionals the chance to address concerns, but we'll always take action when needed. This can include removing people from our register in the most serious cases.
- 5 To regulate well, we **support** our professions and the public. We create resources and guidance that are useful throughout people's careers, helping them to deliver our standards in practice and address new challenges. We also support people involved in our investigations, and we're increasing our visibility so people feel engaged and empowered to shape our work.
- 6 Regulating and supporting our professions allows us to **influence** health and social care. We share intelligence from our regulatory activities and work with our partners to support workforce planning and sector-wide decision making. We use our voice to speak up for a healthy and inclusive working environment for our professions.
- 7 As of March 2020 there were 36,763 nurses and midwives on the NMC register with an address in Wales. This represents an increase of 762 nurses and midwives over the last year. Registrants with an address in Wales comprise approximately 5% of the total number of people on our register.

- 8 We do not currently have any premises in Wales. However we do carry out hearings in Wales.

Summary

- 9 We welcome this consultation from the Welsh Government. In our [response](#) to the 2016 Welsh language proposals we affirmed our support for the Welsh Government's ambition to nurture and grow the use of the Welsh language within Wales. We also said that we were happy to work to achieve this goal, and that we wanted all relevant NMC services to be accessible to all parts of the community, including Welsh speakers. This remains our position and affirms our fundamental organisational values – that we are fair, kind and collaborative.
- 10 In our [response](#) to the 'A Healthier Wales: A Workforce Strategy for Health and Social Care' consultation last year, we also reiterated our commitment to the principle that English and Welsh be treated on the basis of equality, and that people using services and their families should be able to access services, or raise any concerns relating to their care, in their preferred language.
- 11 Having engaged with relevant parts of the NMC in addition to our partner regulators, our view of the proposed standards is that they are probably manageable. However, as we originally stated in our 2016 response, we still believe that there needs to be clarity around the scope, extent and application of these standards. Without this clarity it will be difficult for us to accurately assess the impact of the standards and plan for compliance. We have set out some of the key areas where we believe more clarity is needed on page three of this response.
- 12 As our regulatory remit is UK-wide we would encourage the Welsh Government to consider what these standards mean in terms of their practical application for organisations based outside Wales who operate the same functions across the four countries of the UK. We would welcome the opportunity to work with the Welsh Government more directly in obtaining this clarity going forward.
- 13 We are funded entirely by the fees paid to us by those on our register and because of that the implementation of disproportionate standards could place an increased cost on them. We are especially mindful of this at the current time where the professionals on our register are on the frontline in tackling the coronavirus pandemic.
- 14 Our own financial strategy commits us to maintaining the registration fee at £120 for as long as possible and any cost implications of complying with the new standards will have to be accommodated within our existing budget. The UK Government has previously indicated that it does not support any increase in the fees burden on regulated health professionals.

Our response to the consultation questions (annex one of the consultation document)

Question 1: Do you have any comments on the service delivery standards proposed in the regulations?

- 15 Our summary position, based on our impact assessment, is that the proposed service delivery standards could have a significant impact on our processes and systems. We have outlined this further in response to question four under annexe B.
- 16 We would appreciate clarification on standard two. As currently written, our interpretation is that this would apply when we communicate specifically with individuals in Wales, and not to our UK-wide communications. It may also mean that the publication of any communications is delayed while the documents are being translated. We would welcome clarification from the Welsh Government on these points.
- 17 In addition to this we would appreciate clarification as to whether the public meeting standards (standards 8 to 9C) apply only for meetings held with individuals in Wales, or if they are intended to cover our UK-wide engagement. As these standards reference both 'individuals' and 'persons' it is not clear in which circumstances they would apply. Our preference would be that the standards apply to meetings held in Wales, however we will endeavour to accommodate the communication and language preferences anyway as far as we can outside of Wales.
- 18 Standard 23A applies where nurses and midwives wish to use the Welsh language at legal proceedings in England. We would like to highlight that legal proceedings can also take place in Scotland and Northern Ireland. We feel that this standard should be reworded so that it only applies to proceedings occurring in Wales.

Question 2: Part 3 of Schedule 1 to the Regulations includes interpretations for some of the Service Delivery Standards. Paragraphs 16-37 explains how some of the standards work and in what circumstances they apply. Do you have any comments on the interpretation of standards as set out in Part 3?

- 19 As a four-country regulator we currently do not have newsletters or other forms of communications specifically designed for members of the public or nurses and midwives in Wales. We would like to engage with the Welsh Government on this schedule going forward so that we have clarity on who the service delivery standards would apply to, and under which scenarios.
- 20 To take one example, in Part 3, as referenced above, the schedule states that "*The standards only apply to the extent that a body— (a) delivers services to a person, or (b) deals with any other person in connection with delivering services— (i) to that other person, or (ii) to a third person*" (paragraph 17).
- 21 'Persons' is used in consultation document, however it is not defined in the draft regulations, while an 'individual' is defined as "*a natural person ordinarily resident in Wales acting in their personal capacity but, does not include a registrant acting in their capacity as a registrant*" (paragraph 1).
- 22 We would like to seek further clarification on what the difference and intention is and in which scenarios these definitions apply.

Question 3: Do you have any comments on the policy making standards proposed in the regulations?

- 23 We fully support the principle that people using services and the public in Wales are able to use the Welsh language and communicate in their preferred language. We currently consider the impact on Welsh language speakers as part of our policy development process via Equality Impact Assessments (EqIA), which have a section which focuses on Welsh language.
- 24 However, we have concerns around the policy making requirements for UK regulators to assess and support how more people can use the Welsh language, and the practical implication of such requirements.
- 25 In our view, introducing new standards with the ambition to have a positive effect on opportunities for people to use the Welsh language is substantially different from ensuring that the Welsh language is treated no less favourably than English. This would likely pose significant challenges as we do not have policies or a policy development process that is specifically applicable to Wales. In addition, as our statutory functions are UK-wide, we do not believe that it would be proportionate for us to develop such a process. Doing so would represent a significant departure from how we currently consider reducing barriers relating to the protected characteristics under the Equality Act 2010.
- 26 In light of this we would welcome the opportunity to engage with Welsh Government to clarify these issues, specifically around the 'promotion' point.

Question 4: Do you have any comments on the operational standards proposed in the regulations?

- 27 We support the ambition of increasing the awareness of the Welsh language and how it impacts on the role of a professional regulator among our own colleagues at the NMC. For example, we currently have a Welsh language e-learning module available to NMC colleagues.

Question 5: Do you have any comments on the record keeping standards and standards dealing with supplementary matters proposed in the regulations?

- 28 We have identified two areas where we would appreciate further clarification from the Welsh Government. Firstly, it would be beneficial to have a better understanding if these standards are intended to introduce a requirement on professional regulators to develop a complaints process specific to the Welsh language standards. As a regulator we already have an established corporate complaints process and we would encourage the Welsh Government to consider how the Standards can align with these existing structures (standard 49).
- 29 In addition to this we would welcome the opportunity to continue to work with the Welsh Government on defining in which scenarios, and what the processes would look like, for the Welsh Language Commissioner to request further information from professional regulators in regards to compliance (standard 51).

Question 6: We would like to know your views on the effects that these regulations would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

- 30 We fully support people using services and the public being able to access information and raise concerns about their care in their preferred language and to treat the Welsh language no less favourably than English. We also believe that these standards are more proportionate than the standards proposed in 2016, and more suitable for regulators with a UK-wide remit.
- 31 Through our current Welsh language scheme, we feel that we already meet most of the ambitions set out in the new Welsh language standards. However, we recognise that there could be positive effects associated with having a joint set of standards that apply to all professional regulators, such as improving public awareness of what Welsh language services are available for example.
- 32 However, as described above we have questions around the policy making standards and service delivery standards. To maximise their effectiveness, we would welcome the opportunity to continue to work with the Welsh Government to ensure that these standards serve the Welsh speaking community, while being proportionate and considerate of our role as a four-country regulator. We have outlined this in more detail in our Regulatory Impact Assessment.

Question 7: Please also explain how you believe the regulations could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

- 33 We would welcome further discussion with the Welsh Government on how we can best balance our UK-wide remit while providing positive opportunities for people to use the Welsh language. In our view, certain activities such as developing more learning modules and improving awareness of what language services we offer - are entirely reasonable proposals. However, some of our core activities - such as our policy and standards-development work - are heavily influenced by our legislation, and we need to ensure that we are not stepping outside of our statutory function.
- 34 However, we remain fully committed that people using services and the public remain able to receive information, and raise concerns, in Welsh. This includes ensuring that the Welsh language is treated no less favourably than the English language.
- 35 It is worthwhile highlighting that our experience of our current Welsh language scheme suggests that awareness and uptake of existing Welsh language policies is very low. In light of this it could prove more beneficial for the Welsh Government to consider how it can improve overall awareness of existing services rather than focusing on developing additional standards.

Question 8: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

- 36 We do not have any additional issues we would like to address.

Our response to the specific consultation questions applicable to the Nursing and Midwifery Council (annex B of the consultation document)

1. Are there benefits to the body in complying with the draft Welsh language standards proposed in this document?

Yes	x
No	

Is yes, what are these benefits?

Type of benefit	Description of the benefit of complying with the proposed standards
Economic Benefit	No economic benefit identified.
Social Benefit	Potential benefits in promoting and enabling the use of the Welsh language. We are a UK-wide regulator and it is important for us to ensure that we can meet the needs of people from Wales.
Environmental Benefit	No environmental benefit identified.
Linguistic Benefit	Yes, including Welsh speakers continuing being able to communicate and receive information in Welsh.
Other – please be as specific as possible	No other benefits identified.

2. What is the annual cost of complying with the current Welsh Language Scheme?

Cost	
Costs of complying with the Welsh language scheme (staff costs should not be included)	In 2019/20 we spent £15,000 on translation services in order to translate our documents into Welsh. This includes consultation documents and our annual report and accounts.

Further details on how the cost has been calculated:

These only cover specific costs of translator services and translation of documents into Welsh. As highlighted in our main response, demand for Welsh language services are low. If demand were to increase, the cost for us would also increase.

3. Staffing Costs

Please note the staffing costs associated with delivering the commitments in your current Welsh Language Scheme, and any additional staffing costs that will be incurred by having to comply with the standards specified in the Regulations being consulted upon:

Welsh translation is currently managed by a member of staff as part of their responsibilities. This is estimated at five percent of their time, equivalent to approximately £5,000 in salary and on-costs. This staff member works with external agencies to translate text. Often, agencies will require us to schedule work days or even weeks ahead. This is not usually a problem when scheduling the translation of planned corporate documents. However it does mean that it is difficult to correspond with somebody in Welsh without delay, compared to the time it would take to correspond with them in English. According to the proposed standard 4, there are circumstances in which we must state that corresponding with somebody in Welsh will not lead to delay. We would welcome further clarification from the Welsh Government on what this would entail in practice.

This is because a literal reading of this standard could mean we would need to employ at least one and possibly two in-house translators full-time, to guarantee that corresponding with somebody in Welsh will not lead to delay. The reason that two in-house translators may be needed is to avoid any delay due to annual leave or other absences. We do not know what the market rate is for employing a Welsh translator full-time. Assuming that these two roles were appointed at officer level however, we estimate the cost to be up to about £160,000 per year in salaries and overheads.

Depending on scope of the standards, as highlighted above, we do not think it is proportionate for us to employ Welsh language translators on a full-time contract. We believe it should be considerate proportionate to have a contract in place with a translation company. However, we are fully committed to ensure that individuals can access information in their preferred language, and we think it is reasonable that we have process and systems in place to ensure that information and communications can be translated.

4. Service delivery standards

The service delivery standards can be seen at Schedule 1 in the draft regulations.

Are the duties in the draft service delivery standards likely to have an effect on your resources or how you use those resources?

Yes	x
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No	
	Cost (to the nearest £'000)
Complying with draft service delivery standards	Set up costs are broadly estimated to be in the range of £200,000 to £500,000 with on-going annual costs estimated to be of a similar level. This means that the total costs to be paid for by the people on our register over the initial five years might be between £1 million and £3 million.

Further details (for examples, are there specific delivery standards which are likely to generate an additional cost to your organisation, how have you estimated the additional cost and in which year(s) do you expect the cost will be incurred?)

Our calculated costs relate predominantly to our registration and fitness to practise functions, as well as our communications and stakeholder engagement functions.

Impact on our registration and fitness to practise functions

Standards relating to correspondence sent by a body

Under the draft standards, we would be required to respond to individuals in Welsh when written to in Welsh. We use a Welsh language provider whose rate starts from 8 pence per word but we would also need to get quote for each request and therefore the cost may vary. 500 words would cost approximately £50. We have assumed a low volume of such requests but with changing standards they might increase so we have assumed a range of £1,000 to £10,000 a year.

Standards relating to telephone calls made and received by a body

Under the draft standards, we would be required to respond in Welsh over the phone if someone requests to speak in Welsh (providing there is a colleague able and available to do so).

We would also be required to ensure that our automated telephone systems provide a Welsh language option. Our call centre uses an interactive voice response system and we have estimated that it would cost approximately from £30,000 to change the system with additional costs to cover maintenance each year.

There are two independent support lines available to witnesses and individuals who raise concerns, and for nurses and midwives involved in fitness to practise. Both services are provided independently to us. We are unclear about whether the Welsh language standards apply to other independent charities and so we would welcome clarification on this point. We have not included any costs in this respect.

Standards relating to a body holding meetings and legal proceedings

We believe that many of the standards relating to holding meetings and legal proceedings are, in practice, closely linked given that the fitness to practise process (which is a legal proceeding) involves private and public meetings and hearings. To avoid duplication we have addressed them collectively here.

We would be required to ask individuals and groups about whether they would like to use Welsh language and to provide consecutive or simultaneous translation services if requested. We would also be required to state that registrants can submit forms and make written submissions in Welsh.

We estimate that we would have to update approximately 100 templates relating to the standards affecting holding meetings and legal proceedings at a minimum initial cost of about £5,000.

We can provide consecutive or simultaneous translation services on request and this costs approximately £900 per day. Many hearings run over several days and so this would represent a significant increase on the cost of running a hearing. Based on a small proportion of hearing days previously held in Wales this might cost between £10,000 and £40,000 a year.

Under the draft standards, we would be required to produce documents in Welsh if the subject matter of the document or anticipated audience suggests that the document should be produced in Welsh. We are unclear on whether this might also include fitness to practise decisions as we currently produce these in English only. Based on the number of cases arising from Wales last year, we have estimated that this would cost at least £55,000 a year in translation fees (calculation based on an estimated 550 decisions and 1,000 words per decision). We would welcome further clarification from the Welsh Government on this point.

We would also welcome further clarification as to whether a meeting open to the public in Wales would include hearings and whether therefore we would be required to send notices in Welsh to all – even if not requested. This is because it would have a significant impact on our costs which we have identified below.

Standards relating to a body producing and publishing documents and forms

Under the draft standards, we would be required to produce forms and documents in Welsh. We have estimated that there are approximately 1,000 templates and forms as part of our registration and fitness to practise functions. We have estimated that this would cost approximately £50,000 if each document contained 500 words on average.

Templates and forms are reviewed and updated frequently and we would incur further maintenance costs as a result.

Standards relating to online services

NMC Online is an online platform that's available to nurses, midwives, and nursing associates who need to manage their registration. We have estimated that it would cost at least £100,000 to set this up in order to provide a full Welsh language version. Again,

this would incur additional maintenance costs. We would like to seek further clarification from the Welsh Government if the ambition is for this to be covered by the proposed standards, in particular Standard 19 and 21.

We understand that the new proposed standards will not require us to translate our website in its entirety. Therefore we have not included any costs associated with this. However, if this were to change in the future then this would have a significant resource implications for us. As part of our previous response to the consultation in 2016, we explained that it would cost at least £500,000 to translate and reconfigure the whole of our website (containing over 600 pages and 2000 PDF documents). We are continually changing and adding new content to our website so this would incur further maintenance costs.

Impact on our communication and stakeholder engagement functions

The requirement outlined in standard 4 that 'corresponding in Welsh will not lead to delay' might require that we employ perhaps up to two in-house translators at a total cost of up to £160,000 to guarantee as far as reasonably possible, that we will always have somebody available to translate text without delay. We have set this out in greater detail in response to question three. We also believe that these employees would be required for us to comply with the provisions set out in standard 5.

We would also seek further clarity on standard 2. As worded, it seems to suggest that all written material sent to multiple people must be sent in Welsh, regardless of who the recipients are, or what the subject matter is. This could theoretically mean translating hundreds of thousands more words per year. We have not included an estimate It may also mean that the publication of any urgent documents or notices is delayed while the documents are being translated.

5. Policy making standards

The policy making standards can be seen at Schedule 2 in the draft regulations.

Are the duties in the draft policy making standards likely to have an effect on your resources or how you use those resources?

Yes	Potentially
No	

	Cost (to the nearest £'000)
Complying with draft policy making standards	We are seeking further clarification on the policy making standards, as outlined in our response to question three in annex A. Pending further clarification, we are not able to estimate what the cost would be to comply with draft policy making standards.

Further details

As highlighted in response to question three in annex A, introducing new standards with the ambition to have a positive effect on opportunities for people to use the Welsh language is substantially different from ensuring that the Welsh language is treated no less favourably than English. This would likely pose significant challenges as we do not have policies or a policy development process that is specifically applicable to Wales. In addition, as our statutory functions are UK-wide we do not believe that it would be proportionate for us to develop such a process. Doing so would represent a significant departure from how we currently consider reducing barriers relating to the protected characteristics under the Equality Act 2010.

6. Operational standards

The operational standards can be seen at Schedule 3 in the draft regulations.

Are the duties in the draft operational standards likely to have an effect on your resources or how you use those resources?

Yes	x
No	

	Cost (to the nearest £'000)
Complying with draft operational standards	£3,000

Further details

We are confident that our in-house online training modules can be adjusted to take into account standard 43. A 30-minute module would cost approximately £1,500 to develop, plus any future costs if this would need to be updated. In addition to this we would have to employ a graphics consultancy to develop the model at a cost of £650 a day. If we estimate it would take a day to develop the cost for developing the model the total cost will be £2,150.

Regarding standard 45A, this would involve translating relevant vacancies into Welsh. We estimate that we may need two additional members of staff with specialist Welsh-language skills to support translation of correspondence (see section 3: Staffing Costs). We estimate that translating the advertisements for these two adverts would be in the region of £600.

7. Record keeping standards and standards dealing with supplementary matters

The record keeping standards can be seen at Schedule 4 in the draft regulations and standards dealing with supplementary matters can be seen at Schedule 5.

Are the duties in the draft record keeping standards and standards dealing with supplementary matters likely to have an effect on your resources or how you use those resources?

Yes	x
No	

	Cost (to the nearest £'000)
Complying with draft record keeping standards and standards dealing with supplementary matters	We think these requirements can largely be met within existing structures and budget. There would be a small cost in terms of translating documents relating to the complaints procedure and we estimate this to be approximately £200.

Further details

We would welcome further clarity from the Welsh Government as to whether professional regulators are expected to have a complaints process with regards to the Welsh language standards which is separate from their main corporate complaints system. We would encourage the Welsh Government to consider whether these could be aligned. We would also welcome clarification as what conditions may lead the Welsh Language Commissioner to seek additional information regarding compliance, as this could also impact on costs of complying with the Standards.