

Welsh Language Standards (Health Sector) Regulations

Consultation response form

Your name: **Lisa Turnbull (this name is for queries only. Authorship should be ascribed to the organisation).**

Organisation (if applicable): **Royal College of Nursing
Wales**

e-mail/telephone number: **02920 680769**
lisa.turnbull@rcn.org.uk

Your address: **Royal College of Nursing Wales
Ty Maeth, King George V Drive East, Cardiff, CF14
4XZ**

Responses should be returned by **14 October 2016** to

Welsh Language Division
Education and Public Services
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: UnedlaithGymraegWelshLanguageUnit@wales.gsi.gov.uk

The RCN is the world's largest professional union of nurses, representing over 430,000 nurses, midwives, health visitors and nursing students, including over 25,000 members in Wales. The majority of RCN members work in the NHS with around a quarter working in the independent sector. The RCN works locally, nationally and internationally to promote standards of care and the interests of patients and nurses, and of nursing as a profession. The RCN is a UK-wide organisation, with its own National Boards for Wales, Scotland and Northern Ireland. The RCN is a major contributor to nursing practice, standards of care, and public policy as it affects health and nursing.

The RCN represents nurses and nursing, promotes excellence in practice and shapes health policies.

Part 1: Delivery of services by health boards and trusts

Question 1 – Do you agree that the definitions of clinical consultation and health provision are clear and comprehensive?

Yes	<input type="checkbox"/>	No	X
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Supporting comments

The Royal College of Nursing is supportive of the aim to ensure that 'clinical consultations' or health care more generally can be provided in the Welsh Language.

We support the concept of the Active Offer as described in *More than Just Words* and therefore welcome making this offer an explicit legal duty part of the standards.

We also support the recording of the choice of the individual. Reflecting on this data should allow for the Health Board to develop further and better targeted Welsh language services.

We would support an additional duty on the Health Board to include this information in its published annual report on service delivery described under Standard 169.

However the Royal College of Nursing strongly believes duty c) under Standard 25 which requires the Health Board to provide 'Welsh language support' in clinical consultations needs to be expressed differently and with far greater clarity.

Clinical consultations are undertaken by regulated healthcare professionals who have years of education and experience for good reasons. Introducing an extra undefined role into this situation is fraught with the possibility of increased clinical risk for the

patient, increased professional risk for the registered nurse and increased organisational risk.

Who precisely is assuring whom of good understanding? For example the regulations specify checking the patient has understood the clinician but not whether the clinician has understood the patient. What check is being made of the understanding of the person providing “Welsh speaking support”? The regulatory requirement remains with the regulated professional.

There is also the significant question of who exactly will be asked to provide this support. A large number of extra staff would be required to provide this service. Translation is a specific professional skillset. This duty appears to confuse the very different situations of providing Welsh language care as clinically appropriate and ‘translation to ensure consent’. Good communication is about more than language (indeed about more than just words).

The large amount of evidence on the experience of Welsh speakers in healthcare gathered by the More Than Just Words process and the Ministerial Taskforce on the Welsh Language in Health and Social Care was about needing to improve the holistic experience of care, from assessment and diagnosis to care at the bedside (e.g. request for pain relief, water). Focusing legal attention only on the specific translation of patient compliance/consent is too narrow.

The Royal College of Nursing suggests that instead of simply imposing a duty on the Health Board to provide “Welsh Language support” which is defined as a “simple” check of understanding a duty is imposed on the Health Board to respond to the patient who has made the request (and this response is documented as part of the patient record) listing **what means of Welsh Language support the Health Board will provide**. This could cover (and these options should be specified) partial or total support from health care professionals in the Welsh language (these could even be named e.g. specialist nurse or medical consultant), caring support from a healthcare support worker as part of a team, written information or support from non-clinical staff.

In an ideal world exactly the same high quality health care would be provided in the Welsh language as in English. A Welsh speaker would be able to receive an appointment with a Welsh speaking specialist nurse, medical consultant or therapist as clinically appropriate.

However the NHS is currently unlikely to be able to meet the demand for direct Welsh Language clinical consultations. This environment has arisen as a result of the following factors: Welsh speaking healthcare professionals (particularly those who were not clinically educated through the medium of Welsh) may not be confident to practise in Welsh, workforce plans and education commissioning processes do not currently consider sufficiently the need for Welsh speaking healthcare professionals and Welsh speaking language skills are not always considered when managers are allocating staff to services.

The Royal College of Nursing would therefore suggest a further duties be placed on Health Boards which will have the effect of improving standards.

Our suggestion is that policy standard is placed on bodies requiring them to demonstrate that they have taken steps to increase the number of healthcare professionals (i.e. doctors, nurses and therapists) who can practise in the Welsh language year on year.

This duty could also require bodies to have regard to the areas of most need as shown by the number of patient requests or other evidence base (e.g. services for people with dementia or talking therapies) or to increase other Welsh speaking support staff numbers too.

The Royal College of Nursing believes this additional policy duty to increase the number of healthcare professionals practicing in Welsh is far more likely to improve the standard of care for Welsh speakers. It also puts the onus of improvement back where it belongs, with the organisation. The duty as currently stands risks enshrining a sub-standard service for Welsh speakers in legislation.

Standard 140 which requires health bodies to provide training in Welsh on using Welsh effectively in clinical consultations could be significantly improved. Firstly we question whether the use of ‘training’ rather than education. Secondly who could provide such training/education? Only the healthcare professional (the specialist nurse, medical consultant etc) themselves and only in direct relevance to their own field. A learning disability nurse for example will use Welsh effectively in an entirely different way to a surgeon.

Instead we would suggest that this standard is reworded to encompass the annual planned provision of continuous professional development to healthcare professionals in the Health Board which should include

- a) opportunities to learn in the Welsh language
- b) provision of supportive resources in the Welsh language e.g. videos, online education and hand-outs on using Welsh effectively in clinical practise

A similar standard or duty could apply for annual training provided to non-clinical staff or clinical training for healthcare support workers.

Question 2 – Is the proposed standard 25 (clinical consultation) practical in the various scenarios described in the consultation document?

Yes	<input type="checkbox"/>	No	X
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Supporting comments

The comments below are repeated from question 1 and cover this point:

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We support the concept of the Active Offer as described in *More than Just Words* and therefore welcome making this offer an explicit legal duty part of the standards.

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Question 3 – Is keeping a record, and acting in accordance with the individual's language preference practical?

Yes	X	No	X
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Supporting comments

Keeping a record of an individual language preference is practical and desirable. It provides information helpful for the care of that individual and information which should aid the development Health Boards strategic workforce plans (e.g. is patient demand rising in maternity services?)

The Active Offer was at the heart of *More than Just Words*. It is rightly the responsibility of the caring organisation and not the patient to make the offer. The Royal College of Nursing supports this duty.

It is worth pointing out that the term '*language preference*' can be misleading. This can unfortunately be misinterpreted as 'merely' a preference when often we are actually discussing a more serious language *need*. Equally however we also recognise that exclusively using the term *need* can be problematic, particularly if people uneducated in language sensitivity feel that it is their definition of *need* which should take precedence.

'Acting in accordance' with this preference is a far more difficult duty. We repeat below our comments on question 1. We have concerns with the current proposals and suggest an alternative.

The Royal College of Nursing is supportive of the aim to ensure that 'clinical consultations' or health care more generally can be provided in the Welsh Language.

We support the concept of the Active Offer as described in *More than Just Words* and therefore welcome making this offer an explicit legal duty part of the standards.

We also support the recording of the choice of the individual. Reflecting on this data should allow for the Health Board to develop further and better targeted Welsh language services.

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clinician has understood the patient. What check is being made of the understanding of the person providing “Welsh speaking support”? The regulatory requirement remains with the regulated professional.

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Question 4 – Do you agree with the concept of Welsh language support during clinical consultations?

Yes	<input type="checkbox"/>	No	X
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Supporting comments

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A similar standard or duty could apply for annual training provided to non-clinical staff or clinical training for healthcare support workers.

Question 5 – Do you agree that the definitions of case conferences and health-related provision are clear and comprehensive?

Yes	<input type="checkbox"/>	No	X
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Supporting comments

It would have been helpful to have had more clarity and understanding of the underlying rationale. We suggest discussions with professional bodies would be helpful before the regulations are issued.

Question 6 – Do you agree that case conferences should be treated differently to clinical consultations and other meetings?

Yes	X	No	<input type="checkbox"/>
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Supporting comments

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Question 7 – Does the list of healthcare professionals at paragraph 38 capture everyone who may be involved in a case conference or meeting that involves only healthcare professionals?

Yes	X	No	<input type="checkbox"/>
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Supporting comments

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Question 8 – Do you agree with the approach that an individual can expect compliance with the Welsh language standards imposed (if any) on the body who is physically providing or carrying out the clinical consultation or case conference?

Yes	X	No	<input type="checkbox"/>
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Supporting comments

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Question 9 – Do you agree that health care provision in prisons should be treated in the same way as other health care?

Yes	X	No	<input type="checkbox"/>
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Supporting comments

Question 10 – Do you agree with the proposed exemptions and the reasons why, e.g. responding to Civil contingencies and emergencies, excluding private hospitals and hospitals outside Wales?

Yes	<input type="checkbox"/>	No	X
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Supporting comments

We support the exemption for private hospitals (at this stage) and for civil contingencies.

The Royal College of Nursing is opposed to the exemption of “emergencies”.

It is very difficult to understand the rationale for why ‘emergency care’ is exempt.

‘Emergency’ appears here to be very poorly defined concept. The phrase “urgent action to control mitigate a disease” is used for example. What is an urgent action? Urgent but planned surgery for example? Medication can be ‘urgent’.

Is ‘emergency care’ here ‘unscheduled care’ or ‘out of hours care’? It is extremely unclear.

Moreover there is no reason why emergency services such as A&E departments, out of hours services generally or ambulances should not be subject to the same workforce planning requirements as the rest of the NHS.

Emergency or Unscheduled hospital and community services are planned and provided in the same way as scheduled care. A broken leg may be unexpected to the recipient but it is the purpose of emergency care to have the right skillsets (numbers of differently skilled nurses, doctors, technicians etc) available to deal with these issues.

There is no reason to assume that it is any easier to roster the few Welsh speaking nurses the organisation has onto every single shift in a medical ward than to try to make the exactly same juggling arrangements for paramedics.

It would be a far stronger and more sensible approach to place the same set of standards or duties duty on ‘emergency care’ as on the rest of the NHS – that is to

a) Ask for preference and record

- b) Attempt to meet and record attempt
- c) Publish annually the Welsh language service availability and number of Welsh speaking healthcare professionals
- d) Publish actions taken to annually increase the number of Welsh speaking health care professionals and service availability.

Part 2: Primary care

Question 11 – Do you agree that contracted primary care services and services of a similar type provided directly by the local health board should be treated in the same way?

Yes		No	<input type="checkbox"/>
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Supporting comments

This question and section of the consultation document is extremely confusing.

The consultation appears to be proposing that primary care is exempt from nearly all of the service standards. The Royal College of Nursing does not agree with this exemption, we believe the same standards placed on Health Boards should extend to primary care.

- a) Ask for preference and record
- b) Attempt to meet and record attempt
- c) Publish annually the Welsh language service availability and number of Welsh speaking healthcare professionals
- d) Publish actions taken to annually increase the number of Welsh speaking health care professionals and service availability.

Question 12 – Do you agree with the proposed new standards that place duties on local health boards in relation to primary care services, both contracted and those provided directly?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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Supporting comments

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The Royal College of Nursing believes the same standards placed on Health Boards should extend to primary care particularly in the provision of primary care.

- a) Ask for preference and record
- b) Attempt to meet and record attempt
- c) Publish annually the Welsh language service availability and number of Welsh speaking healthcare professionals
- d) Publish actions taken to annually increase the number of Welsh speaking health care professionals and service availability.

Question 13 – Do you have any other comments in relation to Welsh language provision in primary care services?

Yes	X	No	<input type="checkbox"/>
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Supporting comments

Standard 97 refers to training courses provided by the Health Board and aimed at improving primary care provider's awareness of the Welsh language or how it can be used. This is laudable but insufficient.

What is actually needed is Continuous Professional Development for healthcare professionals (including practice nurses) in the Welsh language itself. Healthcare professionals will not feel able to practice professionally unless they are used to learning, reflecting and deploying professional language.

The Royal College of Nursing is strongly in favour of Standard 107 and 107 A. It is critical that the Health Board works to develop the clinical service available in Welsh in each GP cluster.

Standard 83 in which the Health Board publishes the primary care providers who provide service in Welsh is helpful but there also needs to be a clear policy that allows patients to transfer between GP practices on the grounds of a Welsh language service (at the moment patient are restricted by their postcode).

Question 14 – 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.

Specific Points on the Regulations

It is unfortunate that the consultation itself does not take the reader through the regulations in a logical manner. As a result we have a number of specific queries and concerns on the regulations which are not explained by the consultation.

p.6 here, under definitions the regulations appear to exclude from the definition of the public people acting as employees for others – how does this impact on paid carers and advocates?

p.15 Standard 11, p.16 Standard 18 This appears to be saying that if no Welsh speaking member of staff is available to field the telephone call then it is acceptable to continue in English. This will not improve the service for Welsh speakers. Surely there should be a clear link here to a subsequent policy standard that at least requires the body to publish annually the number of telephone requests and what actions they have taken to meet them? e.g. employment of Welsh speaking staff

p.43 Standard 42 exempts announcements over a PA system in an emergency. Surely this exemption should more simply be where emergency announcements *are not pre-recorded*.

p.54 Schedule 3 Operational Standards. Many of these Standards refer to information or documents from the employer to the employee (forms, policies etc.) and the employees' right to receive these in Welsh. The RCN supports this right. It would be helpful to know however if these standards include, encourage or exclude and discourage the provision of *bilingual* material. Many of our Welsh speaking members have expressed a marked preference for this type of information as they may be Welsh Learners or may not have particular phrases readily to hand in their vocabulary. Bilingual material can encourage working in the Welsh language.

It would also be helpful to state clearly in the standards that the Welsh language document *can* be the primary document whilst also providing best practice guidance alongside these regulations for allocating a primary policy document in the case of interpretive dispute. The Royal College of Nursing assumes this guidance would be approved by the NHS Partnership Forum.

p.60 Standards 140, 141 and 142. This Standard obliges the NHS to provide opportunities for a) basic Welsh language lessons b) training on management through Welsh and “further training” to those that basic skills already.

The most desirable goal of these standards should surely be to increase the availability of healthcare in the Welsh language. Yet access to clinical or education and continuous professional development in the medium of Welsh is entirely missing as a standard! The Royal College of Nursing would be strongly supportive of adding this.

Standard 143 The Royal College of Nursing strongly supports this Standard which we believe will be very helpful in improving standards of care and policy.

Standard 148 The Royal College of Nursing strongly supports this Standard. Welsh language skills (as with multi-lingual skills in general) should be recognised in the workplace as highly desirable.

Standard 137, 161 and 165 The Royal College of Nursing strongly supports these Standards which we believe will drive the ability of the NHs to develop the skills of the current workforce and to recognise and deploy them in such a manner as will increase the availability of Welsh language care.

Concluding and General Remarks

The Royal College of Nursing Wales is strongly supportive of the aim of improving access to health care in the Welsh language. We welcome many of these Standards as drafted and have highlighted throughout this response the potential for additional duties where we can see these opportunities.

However, the Royal College of Nursing Wales also has serious concerns regarding the current wording of the duty to provide 'Welsh language support' provided following 'clinical consultation'.

We have suggested above an alternative approach to this which we hope is constructive and useful.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: