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This guide has been prepared for those working under contract or receiving grants. This is an opportunity to understand more about the requirements that may be passed on to them regarding using the Welsh language.

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The Welsh Language (Wales) Measure 2011 gave the Welsh language official status in Wales and established a new framework for introducing duties for organisations to use the Welsh language, in the form of Welsh language standards.

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This guide has been prepared for those working under contract or receiving grants. This is an opportunity to understand more about the requirements that may be passed on to them regarding using the Welsh language. It includes an explanation of how to find out more about standards, what to check for in contracts and a few practical pointers on how to be ready for these

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Standards explain how organisations are expected to use the Welsh language in different situations, and establish rights for people to use the language.

Standards aim to:

- make it clear to organisations what their duties are in relation to the Welsh language
- make it clearer to Welsh speakers about the services they can expect to receive in Welsh
- make Welsh language services more consistent and improve their quality.

The Measure lists some of the organisations and sectors which may be required to comply with standards. They include most public organisations delivering services to people in Wales. Some private sector and third sector organisations may also be required to comply with standards (see section 9 for more details). The types of standards they will have to comply with vary according to the organisation or group of organisations.

Each organisation has its own 'compliance notice' which sets out which standards it has to comply with. The standards are based on the principle that the Welsh language should be treated no less favourably than the English language. This means that the Welsh service should be at least as good as the English service.

Standards are split into 5 categories

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Welsh language spoken in the workplace, but not written down.

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Written Welsh in the workplace, but not spoken.

3

Written Welsh in the workplace.

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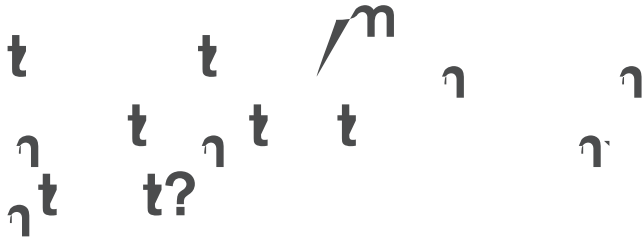
Spoken Welsh in the workplace, but not written down.

5

Written Welsh in the workplace.

- Organisations are required to publish their compliance notices on their website so that they can be easily found. All compliance notices are also published on the Welsh Language Commissioner's website.
- welshlanguagecommissioner.wales/compliancencotices

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A list of Welsh language schemes in force can be found here:



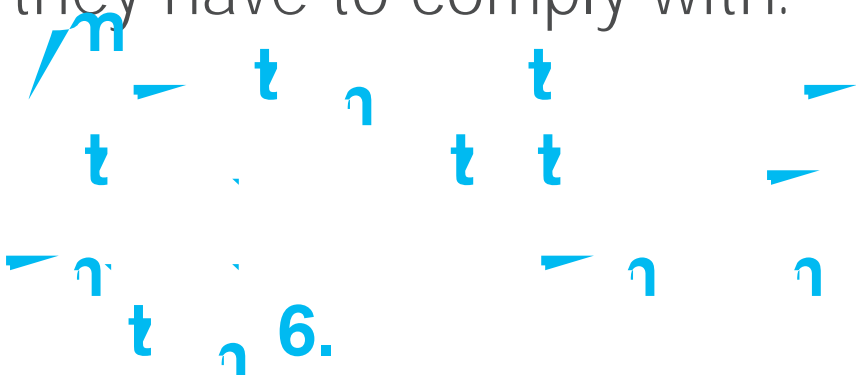
Where an organisation requires services to be delivered to the public on its behalf, certain service delivery standards may be relevant to the delivery of those services. In some cases, other groups of standards may be relevant to a contract, for example, when a contract is for the delivery of internal training on behalf of the organisation.

It is important to note that public bodies differ from third sector and private sector organisations in terms of the European tendering rules that they have to comply with. The implications of these rules with regards to the Welsh language is explained in section 6.

If you deliver services for an organisation which is not yet listed as having a compliance notice, then it may not yet be subject to Welsh language standards. Some organisations may be implementing Welsh language schemes, under the Welsh Language Act 1993, explaining which services they will provide in Welsh, how they will do so and when.



It is important to note that public bodies differ from third sector and private sector organisations in terms of the European tendering rules that they have to comply with.



Here is an example of what contractors may see in invitations to tender, taken from the Welsh Language Commissioner's advice note on Contracting out Public Service Contracts:

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Tenderers are reminded that the services must be delivered in a manner which is compliant with the Welsh Language (Wales) Measure 2011 [the Welsh Language Act 1993] and with the Welsh language standards [scheme] that the authority is liable to comply with for the Services, as if the tenderer was itself the authority. Tenderers must ensure that they are familiar with the authority's [current Welsh language scheme which is available at [insert here a link to the authority's Welsh language scheme]] OR [the standards with which the authority is liable to comply which are available at [insert here a link to the authority's Welsh language standards]].

Tenderers are required to provide a method statement describing how they would deliver the service under this contract to ensure that service users are treated equally whether they require the service in Welsh or English. [The method statement should briefly address each key aspect of the service and should address the anticipated level of Welsh language requirement for this contract].

Tenderers are required to explain the marketing plan or campaign they would employ for this contract to monitor and promote the ability of service users to receive an equal Welsh or English service. The response should include [a staged plan over the life of the contract] [examples of bilingual

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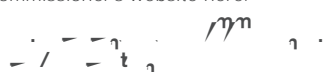
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The advice document Contracting out Public Service Contracts is available on the Welsh Language Commissioner's website here:



Where contracts for services are tendered, some organisations had concerns about including requirements to deliver services through the medium of Welsh as well as English within tender documents and contracts. This was particularly for contracts with values over certain financial thresholds, to which European procurement legislation applies. One of their main concerns was whether including Welsh language requirements favoured Welsh speaking organisations over organisations from other European member states, and whether this could be contrary to the requirements of European procurement rules.

The advice document refers to a European case¹ which confirms that national legislation which protects and promotes official languages is compatible with European procurement rules providing it does 'not go beyond what is necessary to achieve that objective'.

It explains that protecting official languages is also an objective of European law and that procurement processes may include such obligations to ensure these objectives are met. The judge went on to say that the fact that this may advantage organisations which are already working in that language (e.g. Welsh speaking organisations), it does not mean that the requirement is disproportionate or unreasonable. Public bodies must ensure they comply with Welsh language legislation when contracting out their services, but must also conduct tender processes appropriately and fairly when doing so.

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To address these concerns and to clarify legal obligations when tendering a public service contract in Wales, the Welsh Language Commissioner published an advice document titled 'Contracting Out Public Service Contracts: Welsh Language Considerations'. The document offers advice and assistance on how to consider the needs of Welsh speakers when contracting public services and goods. It includes practical examples of how to include these requirements in tender documents and contracts. Contractors may also find this document useful if they would like a more detailed understanding of Welsh language requirements in public tender processes.

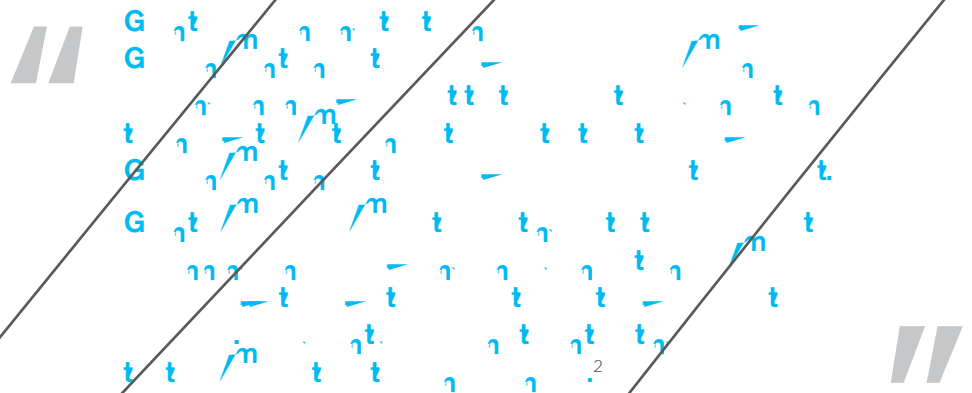
¹ Case C-222/07 UTECA v Administration General del Estado (ECJ 5 March 2009)

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Yes. A contract for services is an agreement to deliver services on behalf of an organisation. The organisation must ensure that those services are delivered in accordance with all the legal obligations that it would be subject to if it delivered the services itself. This includes all Welsh language service delivery standards that are relevant to that service or, if they do not yet have to comply with standards, the service delivery elements of their Welsh language scheme. In some cases, other groups of standards may be relevant to a contract. Organisations are legally obliged to ensure that their contractors meet the service delivery standards and/or other standards in delivering services on their behalf under a contract for services.

Grants, on the other hand, are financial support for the grant recipient's own activities, not to deliver services on behalf of the organisation that is awarding the grant. The Welsh Government describes grants as follows:



Service delivery standards therefore do not apply to grant conditions.

However, most organisations are subject to a policy making standard or a similar commitment in their Welsh language scheme to have a policy on awarding grants. Such standards require them to consider, when making decisions to award a grant, how the grant will affect opportunities for persons to use the Welsh language and how to treat the Welsh language no less favourably than the English language. The organisation must also consider imposing conditions of grant so that use of the grant would have positive effects on opportunities for persons to use the Welsh language, and on treating the Welsh language no less favourably than the English language.

² Welsh Government Code of Practice for Funding the Third Sector, January 2014

In order to ensure you address the Welsh language appropriately in a grant application or as part of your grant agreement, here are some practical steps you could take to prepare:

- Check if the organisation you receive or wish to receive grant from has a policy on Welsh language when awarding grants. The policy should include details of the specific grant conditions that the public body would impose.
- If your activity involves activities where Welsh language skills are essential, you may want to prepare a staff policy which explains Welsh language grant commitments to staff that deliver such activities and demonstrates organisational awareness.
- Think how you or the activity that will be grant funded uses the Welsh language and what opportunities are/will be provided for people to use the Welsh language. Prepare a statement which captures this and how you will demonstrate that you are treating the Welsh language no less favourably than the English language. See section (11) on developing a Welsh language promotion plan. You should highlight any positive impact the activity will have on the Welsh language or how you will minimise any negative impact.
- Ensure that you have considered any additional costs of delivering the activity bilingually as part of costing your grant application – for example if you would need to take on extra staff to offer opportunities for persons to use the Welsh language then these costs should be included and the benefits highlighted.
- Think about how you could monitor how the grant will affect opportunities for persons to use the Welsh language and will treat the Welsh language no less favourably than the English language. For example, recording the number of activities offered in Welsh (compared to previously if it is a repeat grant), or customer satisfaction surveys if a Welsh language member of staff is appointed.

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Bilingual Design Guide

Using Welsh on social media

Technology, websites and software:
Welsh language considerations

Contracting out Public Service
Contracts: Welsh Language
Considerations

Recruitment: Welsh Language
Considerations

If you have any queries on Welsh language requirements in an existing contract or for a contract that you wish to tender for you can contact:



Market Chambers
5-7 St Mary Street
Cardiff CF10 1AT

0345 6033 221

post@welshlanguagecommissioner.wales

Welsh Language Commissioner
