

The General Medical Council's response to Welsh Government's consultation on Welsh Language Standards (Healthcare Regulators) Regulations

Thank you for providing us the opportunity to respond to the Consultation on Welsh Language Standards for healthcare regulators.

The GMC helps protect patients and improve medical education and practice across the UK:

- We decide which doctors are qualified to work here and we oversee UK medical education and training.
- We set the standards that doctors need to follow, and make sure that they continue to meet these standards throughout their careers.
- We take action to prevent a doctor from putting the safety of patients, or the public's confidence in doctors, at risk.

While regulation of the medical profession is reserved to Westminster, the GMC operates within the legal and legislative structures of the different jurisdictions within the UK. We have over 300,000 licensed registrants, with approximately 12,000 based in Wales and we are funded by annual retention fees (ARF) paid by our registrant doctors.

We are the only UK-wide healthcare professional regulator which has a dedicated team working from an office based in Wales, which recognises our commitment to providing a tailored and country specific service to patients and the public. We are strongly committed to meeting the needs of Welsh speakers in Wales who require our services. We operate a Welsh Language Scheme (the Scheme) and report on this annually to the Welsh Language Commissioner. We welcome that the standards provide greater clarity in some areas, and agree that the introduction of further standards could help us improve on the services that we currently offer.

However, as drafted, there are certain areas in the regulations that causes some concern and require further clarification, particularly where there could potentially be significant resource implications.

Without this clarity it is extremely difficult to calculate the impact the standards could have on us and our ability to be compliant. And as a patient safety organisation, we would want to seek to avoid incurring unnecessary costs that will inevitably mean that we would have to divert our resources away from other activities designed to protect patients and promote patient safety in Wales – which forms part of our core statutory duty.

We would therefore very much welcome the opportunity to discuss this response and in particular those areas where we are seeking further clarification to enable us to better understand the potential implications and to assist us in fully meeting the objectives of the Standards.

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

Service delivery standards make-up the majority (33 of the 51) of the standards proposed and we would expect these to have the biggest impact on the work that we undertake, both in terms of potential volume and resource. We have assessed that we would be compliant with a large number of the proposed standards as these mirror what we provide under our Welsh Language Scheme. However, it is worth stressing that since the introduction of our Welsh Language Scheme, uptake of services has been extremely low.

We would welcome the opportunity to discuss in detail the level of our compliance with the Welsh Government but wish to draw attention to five key areas of the proposed service delivery standards which we feel require further clarification and consideration:

1. Online Applications

Standard 19 specifies that if we “*produce an application form ... available for a registrant to be included on the register maintained by you, you must produce it in Welsh.*” This also includes “*publicity or advertising material, documents, forms or correspondence whether or not it is also produced for, available to, to be completed by or sent to persons outside Wales*”.

We estimate that there are approximately 1,100 documents related to applying for entry onto the main, specialist and GP registers or returning to these registers after voluntary erasure. This would include forms, flyers, factsheets, emails, leaflets and letters, as well as the webpages. (This does not include anything relating to Fees, Revalidation, Professional and Linguistic Assessment Board (PLAB) and International Applications.)

It is a requirement of the Medical Act 1983 for doctors to demonstrate a high standard of English to join

our register. While the UK is highly dependent on doctors where English is not their first language, we do not currently translate any of our application forms or supporting documentation into other languages. To date we have received no requests from anyone wishing to receive such materials in Welsh and would question the appropriateness and proportionality of providing all application forms and associated documentation in a language other than English. However, to ensure compliance with the proposed standard, we would consider it proportionate to provide Welsh versions of the two main UK applications forms (UK1 and UK2 GMC application forms) for UK medical graduates upon request.

Standard 21 specifies that when we publish documents and forms in both English and Welsh, we do so as not to treat the Welsh less favourably. The GMC provide the facility for doctors to interact with us digitally through the use of a password protected online portal called GMC Online, this system is used exclusively by doctors and amongst other things provides the functionality for a doctor to apply for registration online. Should this online application process be required to comply with this standard, this would require significant development and ongoing maintenance costs.

It is unclear from the standard as drafted whether it is the Welsh Government's intention to include online registration systems within the remit of the standard and therefore would welcome further clarification. If such systems were to be included in the standard, we would question whether to do so would be proportionate given the significant development and ongoing maintenance costs involved for a very small cohort of registrants.

2. 'Individual' and 'Registrant'

The Consultation document states the focus in most standards is on ensuring that members of the public can use Welsh when dealing with bodies. Each of the standards clarify who can access a Welsh language service, be it an 'individual', 'person' or 'registrant'. Though we welcome the clarity that these new standards provide, we see a divergence between these definitions and how we have defined our audience in our own Scheme. The definition of 'individual' is our main area of concern and in particular the inclusion of medical students within this definition.

We view medical students as future members of the profession, quite distinctive from members of the public. Our Welsh language services cover "patients and the public", therefore services for our registrants, those applying to register, and medical students are not currently translated or held in Welsh. However, we do translate some documents that are only for registrants where there is a clear public interest. For example, our key guidance documents for doctors, such as Good Medical Practice, are translated into Welsh.

To include medical students within the definition of 'individuals' would impact meetings we hold with

medical students (Standards 8 – 15), the sending of bulk emails to students (Standard 2) and all guidance and documents that would or could be of relevance to them (Standard 20). We therefore believe the inclusion of medical students under the definition of 'individual' would not only be disproportionate in terms of cost, but would also be inconsistent with how they are viewed in the medical profession and how we interact with them.

As we consider most of our contact with medical students to be in their capacity as future members of the profession and not necessarily in relation to their personal affairs, we would welcome the Welsh Government to consider further the appropriateness of the inclusion of medical students in the current definition of 'individuals' .

3. Virtual Communications

In light of the Coronavirus pandemic and a transition to more virtual ways of working, we would welcome clarification around the expectations for the provision of Welsh language in virtual meetings. Although these meetings may not be held in Wales, they could include participants joining from Wales. We do not currently consider providing simultaneous translation for virtual meetings facilitated in England to be proportionate.

We would also welcome further clarification regarding Standard 28 and social media. It is currently unclear what the expectation would be around the use of social media and therefore we are unable to fully consider the implications of this standard.

4. Patient Safety

Our primary role, as set out in the Medical Act 1983, is to protect the public and promote and maintain public confidence in the medical profession. We seek to mitigate any risks that may compromise this statutory responsibility.

We've identified that some standards, such as Standard 4, may unintentionally risk patient safety. We would like reassurance that, where we've identified this risk, provisions will be included for a non-compliance over-ride. For example, in the case of an Interim Orders Tribunal, which decides whether a doctor's practice needs to be restricted, if issuing the invitation in Welsh would delay this process, then we believe that to protect patients the letter should be issued in English only. While this does not comply with the standard as drafted, mitigating the risk to patient safety has to be our priority.

5. Legal Proceedings

In relation to Standard 23A and live translation of our hearings, we believe this to be disproportionate in relation to the potential costs and delays involved. Translation of entire proceedings would make hearings significantly longer, and consequently impact on both when they could be listed, and the resources required.

As our hearings are all conducted in England, there is a concern that the ability of Welsh registrants to have MPT hearings conducted in Welsh will create an appearance of unfairness to registrants who have other first languages. We have refused requests by practitioners to translate hearings into their first language so that they can follow the proceedings more easily on the basis that they are expected to be proficient in the English language.¹ Whilst we appreciate that the proposed standards aim to create parity between the English and Welsh languages (rather than address any difficulty with using English), it may appear that we are treating Welsh registrants more favourably in this regard and being inconsistent in our insistence on the use of English during MPT hearings.

In relation to Standards 24, 24A and 25 regarding the translation of documents and forms, if these standards applied to all documents produced by the GMC in terms of being presented to the tribunal and relied upon by the GMC, this is likely to incur significant cost and lead to significant delay due to the fact that GMC bundles for hearing can run in some cases to thousands of pages.

The translation of only the documents that we physically produce ourselves (e.g. Rule 15 charges, witness statements, bundle indexes) would be less costly, but the delay to the preparation of a case could still be significant depending on the volume of witness evidence. Furthermore, it is difficult to see how documents received in Welsh could not be treated less favourably in terms of timescales given that we would be reliant on external translation services.

We would welcome further discussion with the Welsh Government around the intentions of these standards and therefore the proportionality of these proposed standards.

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 if what circumstances they apply. Do you have any comments on the interpretation of standards as set out in Part 3?

We welcome Part 3 of Schedule 1 and find that it provides helpful clarification as well as practical

¹ The Medical Act 1983 provides that a registrant's fitness to practise shall be regarded as impaired if they do not have the necessary knowledge of English.

information we will need to be aware of in our compliance with particular standards.

We would like to seek clarification from the Welsh Government at this stage on what is classed as an 'official notice'. Without this clarification we are unable to easily identify what we produce that could fall into this category and therefore assess its impact.

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

Our current Scheme has a provision to consider Welsh language needs when developing and implementing future policies. It states that we will ensure that no new policy or initiative will undermine the Welsh Language Scheme and that we take every opportunity to implement the principles of full equality whenever the opportunity presents itself.

We have continued to improve upon our existing practice to ensure that our processes accurately capture the Welsh language needs of those people who may be impacted by our policy decisions. We've developed a GMC-wide policy framework which sets out a good practice approach to policy development across the GMC. This includes a step on 'making sure you understand the requirements of our Welsh language scheme' which includes a link to our Welsh language guidance. All GMC policy managers are expected to consider this at the relevant point during policy development and state whether they have or have not needed to make provision.

We would welcome further consultation with the Welsh Government regarding how the policy standards seek to define our role in the promotion of the Welsh language. This would be a departure from our current Scheme, which treats the English and Welsh languages on the basis of equality. The nature of many of our policies and consultations relate to pan- UK issues as we have UK-wide statutory responsibilities. Some of these standards therefore may not be appropriate.

We would also like to have clarity around which policies are intended to be covered under the standards, such as privacy, cookies policies, and social media policies. Without this clarification we are unable to accurately assess the potential impact of the standards.

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

The operational standards as proposed in the regulations provide for the use of Welsh language by the organisation internally. The consultation document recognises that there are very few staff working within the healthcare regulatory bodies that speak Welsh.

When we advertise for posts in Wales we do so bilingually and specify that the knowledge of Welsh is desirable. Unless necessary for the job, we would not consider extending this to all posts across the GMC and therefore would not be fully compliant with Standard 45. We are currently compliant with Standard 45A, and believe this to be a proportionate response as all posts in our office in Wales will specify the level of Welsh language needed and the job descriptions and advertisements are also translated into Welsh.

We include Welsh language awareness in our Corporate induction and more recently in the new training module, *Treating People Fairly*, so we are in part compliant with Standard 43 and fully compliant with Standard 44. We arranged Welsh language awareness training for the Wales team and those who had direct workings with the Scheme and the consultation (this was postponed due to the pandemic) and plan to deliver regular refreshers and make available to other UK-wide teams on request.

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

We welcome that the Welsh Government has removed several of the standards in this category proposed in 2016 in order to reduce the bureaucracy placed on us. We feel that the proposed standards on record keeping and supplementary matters are all proportionate. We currently record all general complaints that we receive, but to date haven't received any complaints about our Welsh Language Scheme. We plan to work with our corporate complaints team to improve our handling of potential future complaints related to Welsh Language Standards, to enable us to better meet the requirements of Standard 46.

We will be able to comply with Standard 48, which states that we must ensure that a document which records the standards with which we are under a duty to comply, and the extent to which we are under a duty to comply with those standards, is available on our website. We will publish the Compliance Notice from the Welsh Language Commissioner in both English and Welsh.

We will be able to comply with Standards 50 and 51 regarding producing an annual report on our compliance with the standards and providing information to the Welsh Language Commissioner. which relates to our compliance with the service delivery standards, the policy making standards or the operational standards with which we are under a duty to comply.

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?

It is difficult to quantify the effects that these regulations will have on the Welsh language and opportunities for people to use Welsh. Even with the existing Welsh Language Scheme in place, we receive very little correspondence or requests from individuals, registrants or persons for our Welsh language services. For example, we produce all of our consultation documents in Welsh and yet have received only one response in Welsh in the past two years.

Where appropriate we would need to ensure that the GMC is able to support any growing Welsh Language needs, and that we are able to fully assess the impact that this will have on the wider organisation, particularly in terms of cost, resources, time and proportionality. We would be committed to monitor our progress and identify opportunities as well as mitigate any risks. We are keen to develop a good relationship with the Welsh Language Commissioner to ensure that we are compliant and can call on his office's support when needed.

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.

No response.

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:

No response

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: