

AGENDA ITEM 6

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CABINET

17th MARCH, 2016

WELSH LANGUAGE CABINET STEERING GROUP:- APPEAL SUBMISSION UNDER S54 OF THE WELSH LANGUAGE (WALES) MEASURE 2011

**JOINT REPORT OF THE SECRETARY TO THE CABINET AND DIRECTOR,
EDUCATION & LIFELONG LEARNING IN DISCUSSIONS WITH
COUNCILLOR G. HOPKINS.**

AUTHOR(s): Mrs Emma Wilkins- Cabinet Business Officer.

1. PURPOSE OF THE REPORT

- 1.1 The purpose of the report is to advise Members of the outcome of the recent special meeting of the Welsh Language Cabinet Steering Group, in respect of an appeal submission to the Welsh Language Commissioner in relation to the Welsh Language Statutory Standards.

2. RECOMMENDATIONS

It is recommended that the Cabinet:

- 2.1 Note the contents of the report
- 2.2 Note the recommendation of the Welsh Language Cabinet Steering Group in respect of the appeal submission outlined in Appendix 1 of the report and submit to Council for approval.

3 REASONS FOR RECOMMENDATIONS

- 3.1 The need to submit the Council's appeal to the Welsh Language Commissioner in respect of the Welsh Language Statutory Standards before the 30th March, 2016.

4. BACKGROUND

- 4.1 On 30th September 2015 Rhondda Cynon Taf County Borough Council received its Final Compliance Notice from the Welsh Language Commissioner which indicated 171 standards it is required to comply with and the timescales for compliance. 144 must be complied with by 30th March 2016, 25 by 30th September 2016 and 2 by 30th March 2017.
- 4.2 Chapter 7, Part 4 Welsh Language (Wales) Measure 2011 provides a mechanism to enable relevant persons to challenge the duties noted in the Compliance Notice, either before or after the imposition date has come into force. This enables the relevant person to apply to the Welsh Language Commissioner to request a determination whether or not the requirement to comply with one or more standards, or to comply with one or more standards in a specific way, is unreasonable or disproportionate.
- 4.3 There is a right of appeal to the Welsh Language Tribunal under section 58 of the Measure if the Commissioner has determined that the requirement for the relevant person to comply with one or more standards, or to comply with one or more standards in a specific way is not unreasonable or disproportionate.
- 4.4 The burden of proof is on the relevant person to prove that the requirement for the relevant person to comply with one or more standards or to comply with one or more standards in a specific way is unreasonable or disproportionate (according to the definition applied in administrative law).
- 4.5 Rhondda Cynon Taf County Borough Council is committed to treating the Welsh language no less favourably than the English language and to promoting and facilitating the use of the Welsh language. Accordingly plans are currently being implemented corporately to ensure that the Council complies with the majority of the standards included in the Final Compliance Notice.
- 4.6 However, analysis of the potential impact of the standards across service areas has indicated that 14 of the standards are unachievable and furthermore the cumulative effect of trying to address these 14 standards would be to undermine the Council's ability to meet other standards included in the Final Compliance Notice.

5 WELSH LANGUAGE CABINET STEERING GROUP.

- 5.1 A special meeting of the Welsh Language Steering Group met on the 7th March, 2016 to consider a submission for appeal in respect of the standards.

- 5.2 Members considered the proposal to appeal against 14 of the standards which the Council identifies as placing it at most risk of non-compliance. The application for appeal against these standards is included at Appendix 1. It outlines the basis for the Council's appeal and includes supporting evidence.
- 5.3 At the Meeting, Members of the Group supported the appeal submission and the supporting evidence submitted by officers and recommended that Cabinet approve the submission document before endorsement by Council.
- 5.4 Members were keen to emphasis within the appeal submission the Council's positive commitment to the Welsh Language Standards and ensuring its duty to promote and facilitate the language across the County Borough.

6 EQUALITY AND DIVERSITY IMPLICATIONS

- 6.1 The Standards are being introduced as part of the Welsh Language Measure 2011, designed to put the Welsh language on an equal footing with English. An Equality Impact Assessment (EQIA) screening form has been prepared for the purpose of the report. It has been found that a full report is not required at this time.

7 CONSULTATION

- 7.1 Discussions in respect of the Welsh Language Standards and the appeal submission have been taken forward with the Welsh Language Cabinet Steering Group on the 7th March, 2016. Prior to this, consultation on the standards has been taken forward with officers across the authority, the Cabinet Member for Welsh Language, the Leader of the Council and the Senior Leadership Team to consider the implications of the Standards on each of the service areas and to build supporting evidence to illustrate the unreasonableness or disproportionality of the standards identified in Appendix 1.

8 FINANCIAL IMPLICATION(S)

- 8.1 Although there are no financial implications aligned to this report, Members are reminded that there are potentially significant cost and resources implications in delivering the Standards which are still to be ascertained. Non compliance with the standards could potentially incur penalties to the Council including a fine of up to £5,000 per upheld breach.

9 LEGAL IMPLICATIONS OR LEGISLATION CONSIDERED

- 9.1 Welsh Language Statutory Standards: Appeal under s54 of the Welsh Language (Wales) Measure 2011

10 LINKS TO THE COUNCILS CORPORATE PLAN / OTHER CORPORATE PRIORITIES/ SIP.

- 10.1 Links to the Council / SIP Themes:

- Welsh Language - Accessing services in the language of your choice.
- Valuing difference - Making sure that everybody has an equal opportunity to get the most out of their life. This means that everybody is able to access the services they need, in the language of their choice and make their voice heard.

11 CONCLUSION

- 11.1 The Council has a good track record of implementing its Welsh Language Scheme and providing opportunities for residents to access services through the medium of Welsh. Nevertheless implementation of the Final Compliance Notice as it stands will pose a significant challenge.
- 11.2 It is important that the Standards that have been identified as being unreasonable and/or disproportionate are challenged appropriately while those that can be implemented are adopted and relevant plans prepared to ensure they comply with the legislation.
- 11.3 The recommendation of the Welsh Language Cabinet Steering Group is to appeal against the 14 standards outlined at Appendix 1 so that a request can be made for the Welsh Language Commissioner to determine whether the standards are reasonable and proportionate bearing in mind the specific context and circumstances of the Council.
- 11.4 It is proposed that the item be taken forward to Cabinet at its meeting on the 17th March and to Council for formal endorsement on the 23rd March, 2016.

Other Information:-

Relevant Scrutiny Committee

Public Service Delivery, Communities and Prosperity Scrutiny Committee

Contact Officer

Wendy Edwards, Head of Community Learning

Steffan Gealy, Head of Welsh Language Services Unit

LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

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MEASURE 2011**

Background Papers

- Welsh Language Standards / Welsh Language (Wales) Measure 2011.
- Cabinet – 23rd July, 2015 (Agenda Item 7) & 24TH November, 2015 (Agenda item 11)

Officer to contact:

Wendy Edwards, Head of Community Learning
Steffan Gealy, Head of Welsh Language Services Unit

Appendix 1: Appeal to the Welsh Language Commissioner

Details of the standard(s) regarding which a determination is requested, including details of the imposition date(s)

Rhondda Cynon Taf County Borough Council requests that the Welsh Language Commissioner provides a determination on the following service delivery standards which have been imposed on the Council:

Standards 24 (Imposition date: 30th March 2016)

Standard 24A (Imposition date: 30th March 2016)

Standards 27 (Imposition date: 30th March 2016)

Standard 27A (Imposition date: 30th March 2016)

Standard 27D (Imposition date: 30th March 2016)

Standard 30 (Imposition date: 30th March 2016)

Standard 32 (Imposition date: 30th March 2016)

Standard 41 (Imposition date: 30th March 2016)

Standard 33 (Imposition date: 30th March 2016)

Standard 52 (Imposition date: 30th March 2016)

Standard 58 (Imposition date: 30th March 2016)

Standard 64 (Imposition date: 30th March 2016 & 30th September 2016)

Standard 69: (Imposition date: 30th March 2016)

Standard 86 (Imposition date: 30th March 2016)

The reasons why the relevant person considers that the requirement to comply with the standard(s), or comply with the standards(s) in a specific way, is unreasonable or disproportionate. Please note your reasons separately for each standard.

Please note your reasons separately for each standard:

S63(1) of the Welsh Language (Wales) Measure 2011 stipulates that the Welsh Language Commissioner ‘*must have regard to the need to secure that requirements for persons to comply with standards by virtue of s25(1) are not unreasonable or disproportionate*’ while s63 (2)(a) states that the Welsh Language Commissioner must consider ‘*whether, in respect of each of the activities specified in Schedule 9 which P carries out, it is reasonable and proportionate for service delivery standards to be specifically applicable to P...*’

Rhondda Cynon Taf County Borough Council maintains that the Welsh Language Commissioner:

- had insufficient information on which to base her judgment as to whether it was reasonable or proportionate to require Rhondda Cynon Taf County Borough Council to comply with the standards outlined above, and
- failed to take account of all the relevant considerations when the decision was made to include these standards in the Final Compliance Notice in September.

It is hoped that the information supplied in this application will be sufficient to highlight the specific context and circumstances that apply to the Council as well as external factors, beyond the Council's control, that must be considered when determining whether a standard is reasonable or proportionate

Whereas this application form requires reasons for the appeal to be submitted separately for each standard being challenged, it is argued that determining the applicability of these standards in isolation is not reasonable as it prevents the Welsh Language Commissioner from giving due regard to the specific circumstances of the Council, the context within which it operates and also the cumulative effect of the standards that must be complied with. In particular it is maintained that requiring the Council to comply with the 14 standards being challenged in this application form will increase the likelihood of the Council failing to comply consistently with the other 157 standards included in the Compliance Notice issued by the Welsh Language Commissioner on 30th September 2015. This in turn will increase the risk to the Council of a complaint by a member of the public that would result in enforcement action by the Welsh Language Commissioner. Accordingly the Council maintains that it would be unreasonable for the Welsh Language Commissioner to disregard the cumulative impact of the Final Compliance Notice when coming to a determination on the Council's ability to comply with the standards outlined below.

Standards 24 & 24A

Standard 24: If you invite one person only ("P") to a meeting you must ask P whether P wishes to use the Welsh language at the meeting, and inform P that you will, if necessary, provide a translation service from Welsh to English for that purpose.

Standard 24A: If you have invited one person only ("P") to a meeting and P has informed you that P wishes to use the Welsh language at the meeting, you must arrange for a simultaneous translation service from Welsh to English to be available at the meeting (unless you conduct the meeting in Welsh without the assistance of a translation service).

The Council is committed to facilitating the use of Welsh whenever possible, particularly in meetings that involve issues of well-being relating to individuals and families. However there are currently a number of insurmountable difficulties, beyond the Council's control, that make the requirement to comply with these standards for all such meetings unreasonable and disproportionate.

Local authorities in Wales are encouraged by Welsh Government to sub-contract to simultaneous translators that are listed on the Welsh Government's Welsh Translation and Interpretation Framework Agreement. This Agreement covers the provision of interpretation services at meetings or events including but not limited to public meetings, conferences, workshops, tribunals, appeals, council meetings and job interviews from Welsh into English.

The numbers of approved simultaneous translators in Wales are limited with only 15 suppliers of simultaneous translation services listed on the Framework for Bridgend, Rhondda Cynon Taf, Merthyr Tydfil, Blaenau Gwent, Torfaen, Caerphilly, Monmouthshire, Newport, Cardiff and the Vale of Glamorgan.

These suppliers need to hold an Interpreting Membership of Cymdeithas y Cyfieithwyr Cymru (Association of Welsh Translators and Interpreters) or be an Interpreting Qualified Member of the Institute of Translation and Interpreting. Only 59 individuals currently hold this membership for Cymdeithas y Cyfieithwyr for the whole of Wales, only 20 of who (as at 25th February 2016) have declared their availability to provide services in South East Wales. (Source: Cymdeithas y Cyfieithwyr)

Bearing in mind that all Local Authorities in South East Wales are required to comply with a range of standards that are dependent on the provision of simultaneous translation services, and that currently providers of this service require, from experience, advanced warning of at least 2 weeks to ensure they are available, compliance with this standard is unachievable in the present circumstances.

Other factors that require consideration include the fact that there is currently no simultaneous translation courses offered by Cymdeithas y Cyfieithwyr available to up-skill qualified text translators. For Rhondda Cynon Taf this means that although we have 3 members of staff who are prepared to undertake the training, there is no appropriate training available. These courses, when available, take approximately 10 weeks to complete and staff will then need to have some period of in-service training before it is reasonable to expect them to deal with large-scale meetings or meetings involving sensitive issues. Ideally they would then need to gain the Interpreting membership of Cymdeithas y Cyfieithwyr. Interpreting Membership corresponds to that of a wholly professional membership and indicates that the member can interpret fluently and accurately from Welsh into English in situations ranging from the highly formal to the most informal. He or she is expected to have a clear understanding of the cultural background of both languages.

Cymdeithas y Cyfieithwyr suggest interpreters have at least 200 hours worth experience of interpreting before applying to take the Interpreting Membership test. An interpreter working continuously may gain this much experience within a six month period. It will take longer for an interpreter who interprets twice a week.

Accordingly, an imposition date of 30th March is not realistic or reasonable as it ignores the current context and circumstances in Wales as a whole as well as in Rhondda Cynon Taf.

The Council therefore asks the Commissioner to reconsider the imposition of these standards until she has had time to support and develop the translation industry in Wales, as she has been tasked by Welsh Government to do, so that there is sufficient capacity within the system in future to ensure that Local Authorities are able to comply with the standard.

The Council has previously indicated its concern in respect of these standards in its response to the Welsh Language Commissioner's Draft Compliance Notice in July 2015. We will continue to endeavour to meet these standards but as previously outlined, the barriers to securing a consistent service are beyond the Council's control.

Standards 27, 27A & 27D

Standard 27: If you invite more than one person to a meeting (which does not relate to the well-being of one or more of the individuals invited), you must ask each person whether they wish to use the Welsh language at the meeting.

Standard 27A: If you have invited more than one person to a meeting (which does not relate to the well-being of one or more of the individuals invited), and at least 10% (but less than 100%) of the persons invited have informed you that they wish to use the Welsh language at the meeting, you must arrange for a simultaneous translation service from Welsh to English to be available at the meeting

Standard 27D: If you have invited more than one person to a meeting (which does not relate to the well-being of one or more of the individuals invited), and all of the persons invited have informed you that they wish to use the Welsh language at the meeting, you must arrange for a simultaneous translation service from Welsh to English to be available at the meeting (unless you conduct the meeting in Welsh without the assistance of a translation service).

In addition to the issues outlined under standards 24 and 24A above, it should be noted that Council Officers and Cabinet Members invite many people to group meetings on a wide variety of issues, often at short notice.

It should be noted that the Council fully intends to meet the needs of any Welsh speakers who prefer to use Welsh in a meeting relating to their well-being (standard 26 and 26A) as long as simultaneous translation services are available. It is concerned that placing an additional burden in the form of standards 27, 27A and 27D on this Council and other Local Authorities will undermine our ability to meet the needs of the most vulnerable Welsh speakers.

Whereas the difficulties with accessing simultaneous translation services have been highlighted above, there is another consideration that cannot be ignored in the current financial climate – cost. The cost of hiring simultaneous translators with equipment is approximately £88 per hour at present. The Council is concerned that with so few suppliers available that market forces may see the average cost increasing significantly once the imposition date of standards are reached. (Source: Framework- Interpretation from Welsh into English in South East Wales). Due to the size of the Council and the large number of partnerships it is involved in, it is not possible to provide an accurate assessment of the number of meetings that take place on a weekly basis that would be covered by these standards. It is also difficult to assess the demand for use of the Welsh language at these meetings.

However the impact on Council finances (should the required amount of simultaneous translators be available) could be excessive in relation to the benefit provided to Welsh speakers even if just a small percentage of these meetings were conducted using external services that are costly.

Standard 30

Standard 30: If you arrange a meeting that is open to the public you must state on any material advertising it, and on any invitation to it, that anyone attending is welcome to use the Welsh language at the meeting

The reasons for appealing against this standard are outlined in detail under Standards 24 and 24A above.

Ensuring that people can identify whether they wish to use the Welsh language at a meeting only for the Council to be unable to provide a simultaneous translation service on the day as there are no simultaneous translators available, would raise expectations that could not be met and lead to widespread dissatisfaction and resentment.

Standard 32

Standard 32: If you invite persons to speak at a meeting that you arrange which is open to the public you must - (a) ask each person invited to speak whether he or she wishes to use the Welsh language, and (b) if that person (or at least one of those persons) has informed you that he or she wishes to use the Welsh language at the meeting, provide a simultaneous translation service from Welsh to English for that purpose (unless you conduct the meeting in Welsh without a translation service).

The issues highlighted under standard 30 above are also relevant to the Council's appeal against this standard.

Standard 33

Standard 33: If you arrange a meeting that is open to the public, you must ensure that a simultaneous translation service from Welsh to English is available at the meeting, and you must orally inform those present in Welsh - (a) that they are welcome to use the Welsh language, and (b) that a simultaneous translation service is available.

You must comply with standard 33 in every circumstance, except:

- *where an invitation or material advertising the meeting has asked persons to inform you whether they wish to use the Welsh language, and that no person has informed you that he or she wishes to use the Welsh language at the meeting.*

The Council has always ensured that Welsh-speaking Officers are available during Consultation meetings so that the needs of Welsh speakers are met. However, the range and extent of meetings held across all Council services are vast and there are an insufficient number of Welsh speaking employees to facilitate these meetings. Only 412 out of 8,020 Council employees have self-identified as fluent Welsh speakers so there would be heavy reliance on the use of simultaneous translating services to ensure compliance with this standard. The problems associated with reliance on these services have been outlined in detail at Standard 24 and 24A above.

In addition it should be noted that simultaneous translation services are in such demand that it is not possible to pre-book a translator (see above), only to amend the date of the meeting or to cancel the order without a financial penalty being levied by the business when it becomes clear that no Welsh speakers will be attending.

The Council recognises its duty to promote and facilitate the use of the Welsh language and makes every effort to do this by holding meetings that have a specific impact on Welsh speakers and the services offered to them in Welsh (for example, the Welsh in Education Strategic Plan). It is suggested that this targeted approach is more proportionate and more positive in its overall outcomes for Welsh speakers than trying, and failing (due to the challenges in accessing sufficient simultaneous translators outlined above) to meet this standard.

Furthermore imposition of these standards will undermine the Council's ability to comply with what it considers to be the most important standards requiring the use of simultaneous translation services -Standards 26 and 26A that relate to well-being meetings. The Council currently struggles to access external simultaneous translation services as and when required. The anticipated increase in demand for these services after 30th March 2016 will make it impossible to meet the standards outlined above as Local Authorities in South East Wales compete for the limited provision available.

For the reasons identified above the Council considers the cumulative effect of Standards 24,24A, 27, 27A, 27D, 30, 32 and 33 standards to be unreasonable at the present time.

Standard 41

Standard 41: If you produce the following documents you must produce them in Welsh –
(a) agendas, minutes and other papers that are available to the public, which relate to management board or cabinet meetings;
(b) agendas, minutes and other papers for meetings, conferences or seminars that are open to the public.

You must comply with standard 41(a) in every circumstance, except:

- *other papers that are available to the public, which relate to management board or cabinet meetings.*

You must comply with standard 41(b) in every circumstance, except:

- *other papers for meetings that are open to the public.*

There are 30 Council and Cabinet committees that are open to the public. Between January 2014 and February 2016 these committees met 420 times. The approximate word count for translation of the agendas and minutes alone was 800,000 words (agendas -160,000 and minutes – 640,000). Bearing in mind that basic members of Cymdeithas y Cyfieithwyr are required to translate around 1,750 words per day the equivalent of 457 days of a translator's time would be required to comply with this standard alone.

It should also be noted that there are specific challenges in respect of statutory timescales for distribution of documentation that adds to the barriers that have to be overcome and the pressures placed on the Translation Unit in these circumstances.

Actual public attendance at these meetings is minimal depending on the subject matter under discussion with many meetings having no members of the general public in attendance and some with just one or two attending.

Just over 1 in 8 residents in Rhondda Cynon Taf are Welsh speakers, according to the 2011 Census. Bearing in mind the very low attendance rate at the Council meetings highlighted above it is likely that only a handful of these attendees would have benefitted from accessing agendas and minutes in Welsh.

In R v Ministry of Agriculture, Fisheries and Food, ex parte Federation Europeene de la Sante Animale (FEDESA) (C-331/88) [1990] E.C.r. I-4023 para.13 it was stated that 'when there is a choice between several appropriate measures recourse must be had to the least onerous and the disadvantages caused must not be disproportionate to the aims pursued.'

It is maintained that in the circumstances, this standard is disproportionate and that, as the Council already translates the agendas of Council and Cabinet meetings, and also documents that specifically relate to the Welsh language, this standard should be removed.

Standard 52

Standard 52: You must ensure that - (a) the text of each page of your website is available in Welsh, (b) every Welsh language page on your website is fully functional, and (c) the Welsh language is not treated less favourably than the English language on your website.

The ground for challenge against this standard is the unreasonableness of applying the standard to every website managed or maintained by the Council and the disproportionate effect this would have on other services provided by the Council to Welsh speaking residents.

Rhondda Cynon Taf County Borough Council has one main corporate website that includes among other things:

- agendas, minutes and reports of cabinet and council meetings

- information on all service areas
- council publications and strategic documents
- brochures
- press releases
- online forms
- facility to use online payments for a wide variety of council services

Every effort has been made to ensure that information uploaded onto the corporate website is bilingual and uploaded simultaneously so that the Welsh language and by extension Welsh-speaking residents/customers are treated no less favourably than the English language and English-speaking residents/customers. However it is recognised that additional work is required to be fully compliant and there is a plan of action in place to address this.

There is one further website managed by the corporate web team - the RCT Pensions website.

In addition to the corporately managed websites the Council has a number of websites that are managed by individual service areas including Leisure Services, Wicid (Youth website) and Gartholwg Lifelong Learning Centre's website. It is submitted that it is impossible for the Council to comply with standard 52 if it is to be applied to all Service websites (as indicated in the Welsh Language Standards {No.1} Regulations 2015) for the following reasons:

- Currently the Council have only 412 individuals who have self-identified as being fluent Welsh speakers (excluding school staff) out of 8,020 posts.
- Service areas that have no Welsh speakers depend on the Council's Translation Unit for translating all aspects of their work. Despite an additional investment of £149,000 by the Council in the Translation Unit in anticipation of the need for additional capacity to meet the Welsh Language Standards, this will in no way address the projected increase in the Unit's workload if the Council is required to translate all material for each of the websites and social media, as well as translating the wide range of additional documentation identified in the Compliance Notice which has not formed part of the Council's Welsh Language Scheme.
- The recent financial challenges facing Local Authorities across Wales has resulted in large numbers of council staff being offered (and taking) voluntary redundancy and voluntary early retirement. These posts will not be replaced and consequently the Council is unable to increase its capacity to meet the required standards through recruitment of staff with the required linguistic skills. The number of staff in the Council who self-identify as fluent or fairly fluent Welsh speakers fell from 11% in 2011 to around 7% in 2016.
- Developing capacity in individual service areas and up-skilling staff's Welsh language skills is recognised as being an eventual solution to this issue. However, this is not achievable in the short term and requires a longer timescale for achievement. Research undertaken by the University of Calgary in 2007 indicated that to achieve an excellent level of fluency individuals will need to learn a language for anything up to 10,000 hours (depending, among other things, on the individual's abilities, age when learning started and whether a language is a minority or majority language). Accordingly there is no quick-fix to addressing this lack of

current capacity as a high degree of fluency will be required by individuals who are required to produce written materials for publication on websites and other social media. (The Council is particularly sensitive to the need for Welsh language materials to be of a high linguistic quality since the Commissioner's Office has previously criticised the quality of the Welsh language used in some publications that were not processed through our Translation Unit.) We will continue to encourage staff to use Welsh and support them to develop their Welsh language skills over the longer term

The Council is happy to identify a way forward in collaboration with the Welsh Language Commissioner's Office and include a series of incremental targets for addressing this issue which could be included in the Council's Five Year Welsh Language Strategy which will be developed in partnership with our Welsh speaking communities between April and September 2016. It is submitted that this approach is more proportionate in that it achieves the Welsh Government's objectives for the promotion and facilitation of the Welsh language among young people and the community, and addresses the issues considered by the local community as priorities without imposing a standard that cannot be met even with the Council's best endeavours.

For the reasons identified above it is submitted that the requirement to meet Standard 52 by 30th March 2016 is unreasonable taking into consideration the context and circumstances.

Standard 58

Standard 58: When you use social media you must not treat the Welsh language less favourably than the English language.

The ground for challenge is the unreasonableness and disproportion of applying the standard to every social media account managed or maintained by the Council.

As with websites, there are a variety of social media accounts managed by different services in the Council. They include 23 Facebook pages and 8 Twitter accounts. Ensuring that the Welsh language is not treated less favourably than the English language on each social media account is unachievable, at the present time, due to the reasons highlighted above in respect of Standard 52 (lack of Welsh speaking staff, insufficient capacity within the Translation team, and the length of time required to build sufficient language skills in the current workforce). In addition, the instantaneous nature of social media poses particular challenges.

Work has been undertaken to ensure that Twitter messages on the corporate Twitter account that update followers on decisions made at Cabinet and Council meetings will be translated instantaneously by 30th March 2016 as required under the Compliance Notice. In addition, the Council recognises the importance of focussing some of its scarce resources on social media that is specifically targeted on young people as we share the Welsh Government's vision for Welsh as 'A living language; a language for living.' A more proportionate approach is requested whereby the Council maintains its current approach with incremental targets for further expansion included in

the Five Year Strategy to be produced by September 2016 after consultation with its Welsh speaking residents.

In the meantime, it is submitted that imposition of this standard to all social media accounts by 30th March 2016 is unreasonable and disproportionate.

Standard 64

Standard 64: Any reception service you make available in English must also be available in Welsh, and any person who requires a Welsh language reception service must not be treated less favourably than a person who requires an English language reception service.

You must comply with standard 64 in relation to the following by 30 March 2016:

- *The body's main reception service*

You must comply with standard 64 in relation to the following by 30 September 2016:

- *Every other reception service.*

The current standard as applied to Rhondda Cynon Taf County Borough Council was varied as a result of the Council's appeal against the Draft Compliance Notice in July 2015 to refer to main reception areas only by 30th March 2016 and to other locations identified as 'reception' areas in Part 3 40(c) of the Welsh Language Standards (No.1) Regulations 2015 by 30th September 2016.

The Council has ensured that all staff at the eight main offices that receive visitors/customers have been trained and prepared for meeting the standard, as required, by 30th March 2016 (bearing in mind the complexities of language acquisition previously noted).

However, there are two grounds for challenge in respect of the second part of the Final Compliance Notice that relates to Standard 64:

- The contradiction evident in the definition supplied in Part 3 40 (a), (b) and (c) that highlights a lack of understanding of the role of some of the service locations identified
- The timescale within which the standard must be complied with in respect of all other service locations identified

It is submitted that some of the 'service locations' identified in Part 3 40(c) are not consistent with the definition of 'reception' in clause 40(a) and 40 (b) that is '*an area in a body's offices and service locations where staff are made available for the purpose of welcoming persons*' and '*a service for welcoming persons to the body's offices or service locations by staff who are made available for that purpose.*'

Libraries do not offer a reception service as defined above –library staff are not receptionists and are not '*made available*' for the purpose of delivering a meeting and greeting service or to check or make appointments etc. Many libraries no longer have a focal point or desk where customers

gravitate to, as services increasingly offer self-service options. Indeed customers can use the full range of library resources without engaging with a librarian at all. Accordingly the Council would challenge whether libraries should be included as a 'reception service' under the regulations.

The second ground for challenge relates to the timescale of 30th September 2016 as the time by which all other service locations should be compliant with the standard. The following context and circumstances should be considered:

- Under the definition supplied in Part 3 40 (a) (b) and (c) there are a minimum of 41 service locations that would be required to become compliant under standard 64. (Depending on how widely 'drop-in centres' are defined, it could be many more).
- As identified under standard 52 above, the number of Welsh speakers in the Council amounts to only approximately 7% of staff (excluding teaching staff) and many of these are not based in the service locations identified as falling within standard 64.
- Recruitment of Welsh speaking staff is not a realistic option as it is envisaged that there will be few recruitment opportunities in the future due to the financial context within which the Council operates. In addition agreements with the three main Trade Unions (Unison, Unite and GMB) and Merthyr Tydfil County Borough Council are in place so that any vacancies must be offered in the first instance to staff who are under threat of redundancy in Rhondda Cynon Taf Council, and if there is no one suitable, the post will be offered to staff under threat of redundancy in Merthyr Tydfil County Borough Council. External recruitment opportunities will be minimal with internal staff required to undertake any training required (including Welsh language training as appropriate) in order to fulfil the duties of the vacant post.
- It is estimated that approximately 150 staff (including staff that provide cover on a casual basis) will need to receive appropriate training if the Council is to meet this standard. As the Council has reduced its staffing by 16% due to the recent challenging financial settlements received from Welsh Government, it will not be possible to release large numbers of staff over a short period of time due to lack of capacity to cover offices and continue to deliver frontline services for residents without any closures.
- The only feasible option in relation to training staff is to provide training for small numbers of staff over an extended period of time. It should be noted that the ability to learn even basic sentences in another language can be challenging for some staff, especially those who have had little formal education, and that a one-off training session will not be sufficient if we are to meet the spirit of the Regulations and build staff confidence.
- In the circumstances a minimum period of 2 years is required to provide all staff with suitable training and support.

It is requested that the Welsh Language Commissioner reconsiders the application of the standard to libraries and extends the time period to other service locations to March 2018 as the current timescale is unreasonable within the context and circumstances of this particular case.

Standard 69

Standard 69: Any official notice that you publish or display must be published or displayed in Welsh, and you must not treat any Welsh language version of a notice less favourably than an English language version.

There will be a significant financial cost to the Council if it is required to publish official notices in Welsh as well as English as some legislation (for example, relating to Highways) prescribes that publication in newspapers is essential. 186 official notices were advertised in newspapers in 2015/16 financial years relating to traffic orders and public rights of way alone. The publication costs annually will double if this standard is imposed.

The Council has previously lobbied Welsh Government to remove the requirement to publish official notices in newspapers as they are no longer the best means of communicating with the public in the age of social media where more cost effective methods that reach a wider audience are available. Unfortunately the government has refused as yet to reconsider this requirement but it is suggested that imposing this standard will achieve little in respect of the underlying aim of promoting and facilitating the use of Welsh and will have an adverse impact on the Council's ability to meet other standards that will be more advantageous for Welsh speaking residents and have a positive impact on their ability to live their lives in Welsh.

Standard 86

Standard 86: If you develop an education course that is to be offered to the public, you must assess the need for that course to be offered in Welsh; and you must ensure that the assessment is published on your website.

The Council is happy to ensure that Welsh speaking residents are aware that they can ask for courses through the medium of Welsh and to ensure that this is made clear in every brochure that is produced to promote our provision and every medium used for advertising as required under standard 84.

The Council currently works with a range of partners including Menter Iaith, the Welsh for Adults Centre and the WEA to facilitate Welsh-medium courses for adults as part of the county's Adult Community Learning Partnership provision. This is well-received and indeed the 2 courses with the highest number of enrolments for community learning in the county are both Welsh-medium courses. This area has seen an exponential rise in enrolments since 2011 and is testament to the Council's commitment to meeting the needs of its Welsh speakers and learners.

A wide range of Council services deliver courses for the public annually as follows and it is estimated that up around 800 courses for people over the age of 18 are delivered annually. This includes:

- 293 Adult Education courses
- 18 courses for young people up to the age of 25
- 91 Children's Services courses
- 130 Governor Support courses
- 200+ Communities First courses

Ensuring that every assessment made is published on the corporate website is regarded as unreasonable, disproportionate and of little benefit to Welsh speaking residents.

Conclusion

Rhondda Cynon Taf County Borough Council is committed to treating the Welsh no less favourably than the English language and takes its duty to promote and facilitate the use of Welsh seriously. It has invested over £275 million in Welsh-medium education since 2008/9 and approximately 33% of its young people now speak Welsh. The Council recognises these young people are the Council's future customers and employees and that it has a duty to ensure that they can access Council services in the language of their choice. It will be working diligently to meet the 157 standards not being challenged. Its commitment to this is highlighted by the fact that, among other things, a significant amount of additional funding has been allocated to increase the capacity of the Translation Unit (at a time when most services are experiencing reductions in funding); a Welsh Language Cabinet Working Group and a Chief Officer Welsh Language Standards Group have been established to drive the necessary changes across the organisation.

Serious consideration was given at every level of the Council prior to a decision being made to challenge the standards identified above. The Council is of the opinion that:

- Standards 24, 24A, 27, 27A, 27D, 30, 32, 33, are unreasonable and disproportionate as they are currently unachievable due to issues beyond the Council's control to address;
- Standard 41 is unreasonable and disproportionate as there are barriers both in respect of staffing requirements, and the requirement of meeting statutory timescales placed on local authorities;
- Standards 52, 58 and 64 (other service locations) have unreasonable timescales
- Standard 64 is also challenged on the basis of the definition applied to service locations identified in Part 3 of the Regulations
- Standards 69 and 86 are unreasonable and disproportionate as they place additional burdens on the Council while providing little benefit to Welsh speakers

Finally it is argued that the cumulative effect of imposing these 14 standards will be to reduce the likelihood of the Council being able to comply with the other 157 standards included in the Final Compliance Notice.

Please note any evidence upon which you depend to support your application. Please provide a copy of all such evidence:

Rhondda Cynon Taf Language Profile 2011 census

Annual Monitoring Report and additional response 2015

Response to the Draft Compliance Notice July 2015