



## CABINET - 15TH JULY 2015

**SUBJECT: WELSH LANGUAGE STANDARDS - FINAL CONSULTATION**

**REPORT BY: ACTING DIRECTOR OF CORPORATE SERVICES & S151 OFFICER**

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### 1. PURPOSE OF REPORT

- 1.1 To allow Members to object or agree to the Standards within the draft Compliance Notice received from the Welsh Language Commissioner on June 22<sup>nd</sup> 2015.
- 1.2 Also to delegate to the Acting Director of Corporate Services in consultation with the Cabinet Member for Corporate Services to agree the full response from Caerphilly County Borough Council to be submitted by the consultation deadline of 20<sup>th</sup> July 2015. The response will focus upon the Standards which are not reasonable or proportionate and those which require longer timescales.

### 2. SUMMARY

- 2.1 Members will be aware because of earlier reports, that the Welsh Language (Wales) Measure 2011 set out to modernise the legal framework regarding the use of the Welsh language in the delivery of public services and makes provision for the specification of standards of conduct in relation to the Welsh language. This replaces the system of Welsh Language Schemes under the previous Welsh Language Act 1993.
- 2.2 The Council previously responded to consultation on the proposed standards in 2014 and has now received the Compliance Notice in accordance with Section 47 of the Welsh Language (Wales) Measure 2011.
- 2.3 The standards cover the following general areas:
  - **Service-delivery standards** in relation to the delivery of services in order to promote or facilitate the use of the Welsh language, or to ensure that it is treated no less favourably than English.
  - **Policy-making standards** that require organisations to consider what effect their policy decisions will have on the ability of persons to use the language and on the principle of treating Welsh no less favourably than English.
  - **Operational standards** that deal with the internal use of Welsh by organisations.
  - **Promotion standards** that require organisations to adopt a strategy setting out how it proposes to promote and facilitate the use of Welsh.
  - **Record-keeping standards** that make it necessary to keep records about some of the other standards, and about any complaints received by an organisation. These records will assist the Commissioner in regulating the organisation's compliance with standards.

- 2.4 Within each of these areas are specific standards, which total 176 in number, some of which have different levels of compliance, together with an overarching requirement around procurement and commissioning. There are substantial financial implications for meeting some of the Standards, such as Standard 41, which requires that all agendas, minutes and other papers made available to the public are produced in Welsh, this would have significant financial implications and could delay the democratic process.
- 2.5 The Compliance Notice shows that standards that will apply to the Council and gives timescales for implementation. The Council is likely to receive the final Compliance Notice in September. If the Council fails to comply with any of the Standards, the Welsh Language Commissioner has enforcement powers, which include a civil penalty of up to £5,000 or seeking a court order to require compliance.

### **3. LINKS TO STRATEGY**

- 3.1 Welsh Language issues, along with the wider Equalities work are a cross-cutting theme of 'Caerphilly Delivers', the LSB single integrated plan and are specifically detailed in the Strategic Equalities and Welsh Language Objectives and Action Plan 2012-2016.
- 3.2 It is also part of Caerphilly CBC's Education work in terms of Welsh-medium education issues (via the Welsh in Education Strategic Plan for example) and the Youth Service Strategy; also regional work for the Gwent EAS and the SEW Safeguarding Children Board; also Health, Social Care and Social Services under the national "More Than Just Words" Strategy.
- 3.3 Welsh Language is also one goal under the upcoming implementation of the Future Generations Act 2015.

### **4. THE REPORT**

#### ***Current Position***

- 4.1 The Welsh Government's Welsh Language Standards (No. 1) Regulations 2015 came into force on 31 March 2015, following wide ranging consultation and a Standards Investigation carried out by the Welsh Language Commissioner in 2014.
- 4.2 The final set differs from the set that the Council provided feedback on in April 2014 in that a number of draft standards have been split to make them easier to deal with, a number have been re-worded and a few standards added.
- 4.3 Appendix A details the Standards that have been currently applied to this Council and which the Council has until the 20<sup>th</sup> July to accept or reject.
- 4.4 A number of the standards that the Council formally objected to in April 2014 have not been applied to us in this Compliance notice. These standards are highlighted in blue and marked "N/A".
- 4.5 In the appendix, each of the standards are listed, along with the Compliance Notice's implementation timescale and a column denoting who may be responsible for ensuring that the implementation work is done on a day-to-day basis. That column is one that the Equalities and Welsh Language team have added to help with this consultation period.

- 4.6 A small number of standards that the Council formally objected to in April 2014 have been applied to this Council. These have been highlighted with a red background and marked "N". Some other standards are also highlighted in red and marked "N" as in practice, an initial analysis implies they would be difficult if not impossible to achieve whatever the timescale.
- 4.7 Below is a comparison timetable of the 5 Gwent area local authorities. The type of Standard is listed on the left, with each Council then having two columns of either 6 or 12 month compliance, and how many of each standards fall into either timescale.

	Caerphilly		Torfaen		Blaenau Gwent		Newport		Monmouthshire	
	(6)	(12)	(6)	(12)	(6)	(12)	(6)	(12)	(6)	(12)
<b>Service Delivery</b>	77	2	75	4	75	5	74	5	74	5
<b>Policy Making</b>	10	0	10	0	10	0	10	0	10	0
<b>Operational</b>	47	0	42	5	32	15	32	16	32	15
<b>Promotional</b>	0	2	0	2	0	2	0	2	0	2
<b>Record Keeping</b>	8	0	7	1	7	1	7	1	7	1
<b>Supplementary</b>	20	2	20	2	20	2	20	2	20	2
<b>Totals</b>	<b>162</b>	<b>6</b>	<b>154</b>	<b>14</b>	<b>144</b>	<b>25</b>	<b>143</b>	<b>26</b>	<b>143</b>	<b>25</b>

- 4.8 One possible reason that Caerphilly CBC has more 6 month compliance dates than neighbouring authorities is that the Annual Monitoring and Improvement reports (submitted in their current format, since 2007) have demonstrated that this Council is making progress in virtually every area expected.
- 4.9 The majority of the standards are ones that exist in current policy and practice, as the Council's Strategic Equalities and Welsh Language Objectives and Action Plan (2012-2016) was developed taking into consideration what was being suggested in 2011 as a foundation for the Standards. However, some require substantial additional work.
- 4.10 As is noted in Appendix A however, implementation has not been consistent across the service areas to date.

### ***Current Consultation***

- 4.11 In order to give as full a response as possible to the Welsh Language Commissioner in the very short timescale we have, this report and the Appendix have been circulated for comments from Corporate Management Team, Heads of Service and a number of key officers.
- 4.12 The Council has to decide whether it accepts or rejects the standards as reasonable or proportionate for this authority and reply to the consultation accordingly.

- 4.13 In order to object to those standards highlighted in red or any other that the Council may wish to object to, factual evidence must be provided as to why that standard is unreasonable or disproportionate for them or this authority.
- 4.14 Standard 41 will have substantial financial implications for the Council. The Council regularly publishes reports, agendas and minutes from all of its Committee meetings on the Council's website and stores all previous reports, agendas and minutes for the past 14 years. The word count for last year for all of these documents translated into Welsh would lead to a translation cost of £491 k per annum. Additionally, reports are prepared and circulated according to a strict timetable to enable elected Members to consider them appropriately when making decisions. This can often be a lengthy process if a report goes before a scrutiny committee, then with recommendations to Cabinet and on to full Council potentially with more recommendations. Requiring all reports to be produced in Welsh may add delay into the process so that members have less time to consider reports. It is suggested that a more proportionate Standard would be the current process whereby agendas are in Welsh, but minutes and reports are only produced in Welsh for specific topics such as Welsh Medium Education and the Welsh Language Policy or upon request rather than requiring all reports to be produced in Welsh.
- 4.15 Standards 52 to 58 require that all content on the website, for apps and for social media is translated into Welsh. The Council has currently only been able to translate 50% of its website into Welsh. There would be substantial financial implication if all content was required to be translated into Welsh. An initial cost of £25 k (excluding links and the content of apps) with an estimated recurring cost to maintain the website of £25k per annum. Additionally, the requirement that new content, and content of apps or social media be produced in Welsh is disproportionate because it may interfere in the Council's ability to engage with these quicker forms of communication. Other legislation such as the Local Government (Wales) Measure 2011 requires that the Council engage with the public, the Council is trying to use social media and other digital technology to do so, but these are fast paced and translation would cause a delay. It is suggested that a more reasonable standard would be for the main items on the website to be published in Welsh but not all social media content is required to be in Welsh.
- 4.16 Standard 76 requires that tenders are published in Welsh, this is disproportionate and would have a substantial financial implication. Some tenders contain lengthy technical specifications and there would be substantial financial implication in translating them. It is estimated that one off costs of approximately £54 k would be required to translate standard documents and an estimated £462 k per annum for individual contract documentation. It is submitted that a more reasonable standard would be to require translation on request or for specific tenders such as those for Welsh courses.
- 4.17 Standards 108 to 111 relate to publishing all HR policies in Welsh; this would have a significant financial implication and is disproportionate, when consideration is given to the fact that a substantial part of Local Government terms and conditions are agreed at a national UK level in collective agreements and are not produced in Welsh centrally. An estimated one off cost to translate these policies would be £37 k with ongoing maintenance when the policies are updated. An alternative would be for the policies or queries about the policies to be responded to in Welsh or provided in Welsh upon request.
- 4.18 Standard 137A requires that all application forms and job descriptions are produced in Welsh. The Council has over 2000 job descriptions for different posts so to translate these would have a significant financial implication estimated at a minimum of £146 k as a one off cost and hence would be disproportionate. An alternative standard would be only job descriptions for posts where Welsh is essential to be produced in Welsh.

- 4.19 Standards 25 and 28 require that meetings to discuss someone's well-being are conducted in Welsh without simultaneous translation. This is unreasonable and disproportionate as it could apply to a number of the Council's service users and the Council does not have the resources to enable compliance with these standards. Even with simultaneous translation, this would have a substantial financial implication and may cause delay in receipt of services provided to vulnerable service users. A more reasonable standard would be for the Council to be required to use its best endeavours to provide service in Welsh to discuss someone's well-being. This requirement would also be an issue in other standards requiring the same level of compliance.
- 4.20 Across all standards, whether current policy or those objected to previously, the Council can also object to the timescale and request a different compliance timescale for that standard.
- 4.21 Therefore the Council, or specific service areas, may also chose to accept a standard but reject the timescale and request a longer period in which to comply. Again this would need evidence to back up the request for extension.

## **5. EQUALITIES IMPLICATIONS**

- 5.1 This report and appendix form an Impact Assessment on how the Welsh Language Standards affect different Council Services. The substantial financial implications for the standards highlighted in red and marked "N" may have a disproportionate effect on other groups with protected characteristics because their implementation would require other Council services to be reduced or removed in order to make savings and provide a budget.

## **6. FINANCIAL IMPLICATIONS**

- 6.1 There are financial implications to the implementation of the Welsh Language Standards but it is impossible to detail the full extent of all of these at this time. Those standards with the most significant financial resource have been costed at £262 k one off expenditure and £978 k per annum recurring spend. This is currently the minimum requirement.
- 6.2 These cost implications would need to be factored into Medium Term Financial Planning work being undertaken and would require substantial additional savings to be found which will undoubtedly result in reductions in Council services.
- 6.3 Members should note that non-compliance with any Standard in future brings organisational risk to the Council, in that any complaint that may be upheld, and reaches the final stage of the process, potentially brings with it a civil penalty of up to £5,000 or a court order requiring compliance. These are the ultimate sanction after other stages have been exhausted, however the greater the ability of the Council to meet its duties now mitigates against financial penalties in future.
- 6.4 Currently the Equalities and Welsh Language staff in the Corporate Policy Unit have a corporate budget with which to support Equalities and Welsh Language work across the Council. Any MTFP changes would need to be impact assessed taking the implementation of the standards into consideration. There would need to be careful consideration of the impact and Equalities implications that any further savings would have upon other groups with protected characteristics.

## **7. PERSONNEL IMPLICATIONS**

- 7.1 There are personnel implications to the implementation of the Welsh Language Standards in three ways.

- 7.2 Currently the Equalities and Welsh Language staff in the Corporate Policy Unit support Equalities and Welsh Language work across the council. The standards, as drafted would require additional staff or external translators for the Council to be able to comply.
- 7.3 Across all service areas, the standards as drafted would require additional staff resources to plan, implement and maintain compliance. As stated above, this could have substantial financial implications and could cause delays to services.
- 7.4 Funding the additional resource to comply with the Welsh Language Standards included in the current Draft Compliance Notice could lead to a reduction in staff numbers in service areas outside of the Equalities and Welsh Language Team. It is unlikely that these displaced staff will be able to be redeployed into posts requiring the ability to be able to translate from English to Welsh. Hence, there are likely to be redundancy costs associated with the implementation of a number of the standards included in the Draft Compliance Notice.

## **8. CONSULTATION**

- 8.1 This draft covering report and Appendix were circulated to Cabinet Members, Corporate Management Team, Heads of Service and other relevant officers for comments and evidence gathering in order to help with Cabinet's decision of agreeing to, or rejecting, any of the Standards covered by the draft Compliance Notice.
- 8.2 Any additional evidence not included in the report in respect of those areas highlighted in amber or with a "?" will be presented at Cabinet on 15 July.

## **9. RECOMMENDATIONS**

- 9.1 That Cabinet approve the submission of the response to the Welsh Language Commissioner including agreement to Standards highlighted in green with a "Y" and objection to Standards highlighted in red with a "N" on the grounds that they are disproportionate.
- 9.2 It is recommended that the Acting Director of Corporate Services in consultation with the Cabinet Member for Corporate Services is delegated the power to agree the final response using the template provided by the Welsh Language Commissioner along with supporting evidence by 20 July 2015.

## **10. REASONS FOR RECOMMENDATIONS**

- 10.1 To ensure that the Council's evidence is used to determine the final Compliance Notice that will be placed upon Caerphilly County Borough Council in September 2015.

## **11. STATUTORY POWER**

- 11.1 Welsh Language (Wales) Measure 2011, Local Government Act 2000, Local Government (Wales) Measure 2010.

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Howard Rees, Programme Manager - Partnership Development and Collaborative Improvement  
Jackie Dix, Policy and Research Manager  
Ros Roberts, Performance Manager  
Steve Pugh, Corporate Communications Manager  
Liz Sharma, Consultation and Engagement Officer  
Paul Lewis, IT Development Manager

Background Papers:

Welsh Language Scheme 2012

Strategic Equality Plan 2012

Strategic Equalities and Welsh Language Objectives and Action Plan (2012-2016)

*(These are available electronically for information if requested)*

Appendices:

Appendix A - Excel Spreadsheet of the Welsh Language Standards contained in the CCBC Compliance Notice