

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

POLICY AND RESOURCES CABINET BOARD

14 JULY 2016

REPORT OF THE HEAD OF CORPORATE STRATEGY AND DEMOCRATIC SERVICES – K.JONES

SECTION A- MATTER FOR DECISION

WARDS AFFECTED-ALL

WELSH LANGUAGE STANDARDS

Purpose of Report

1. To update Members on the status of the Council's Challenge to the Welsh Language Commissioner regarding a number of standards that the Council is unable to comply with and to seek Members authorisation to submit additional evidence and proposals to the Welsh Language Commissioner prior to the Commissioner coming to a final determination on the Council's Challenge.

Background

2. The Council received correspondence from the Welsh Language Commissioner on 6th June 2016 which details the Commissioner's initial consideration of the Challenge to 54 standards that were included in the Council's Compliance Notice. The Commissioner is presently considering make one minor modification to one of the standards but has offered the Council an opportunity to make further representations to her in relation to the other standards that we have challenged.
3. It is important that the Council takes the opportunity to make further representations as the Council is unable to fully comply with most of the 54 standards subject of the Challenge however, if the Commissioner is minded to agree, the Council could partially comply with 22 of the standards subject of the Challenge.

4. Attached at Appendix 1 is a proposed response for Members to consider. The document identifies the standards subject of the Challenge, re-produces for Members information the Commissioner's initial considerations, and then sets out further evidence and arguments to support the Council's Challenge. At the end of each section of the report, a proposal is made as to whether the Council now accepts the Challenge, asks the Commissioner to modify the standard to enable the Council to partially comply, or in the remainder of cases the Council maintains that the standard should not be applied at this time.
5. A proposed covering letter to accompany the evidence document referred to above is also included for Members' consideration, Appendix 2. There are a number of key issues set out in the letter which Members are asked to endorse. In particular, the continued reliance on communication by correspondence, rather than meeting to ensure there is shared understanding of what is possible and what is not; and the degree of "evidence" being required which has consumed significant officer time.
6. We hope that the further evidence and proposals provided will enable the Commissioner to reach an agreement with the Council that will bring this phase of work to a conclusion. Should the Challenge not be successful, it is open to the Council to make further representations to the Welsh Language Tribunal but we would very much hope that this can be avoided.

Recommendations

7. That Members note the update provided on the status of the Council's Challenge to the Welsh Language Commissioner.
8. That the Chief Executive is given delegated authority to make any further minor presentational changes in addition to any change suggested at Scrutiny Committee and agreed by the Cabinet Board prior to submission of the final response to the Welsh Language Commissioner.

Reason for Proposed Decision

9. To authorise additional information to be provided to the Welsh Language Commissioner, together with the Council's proposals for

the Final Compliance Notice to be modified in order that the Welsh Language Standards to be applied to the Council in the first instance are reasonable and proportionate.

Implementation of Decision

10. The decision is an urgent one for immediate implementation, subject to the consent of the relevant Scrutiny Chair (and is therefore not subject to the call in procedure).

Financial Impact

11. There are a number of standards that the Council is challenging on the basis that there is a cost to achieving the standards that cannot be met within the existing budgets of the Council. No additional financial resources have been made available by the Welsh Government to implement the Welsh Language Standards however, the Welsh Language Commissioner has been provided with discretion to identify which standards should be applied in the Council's local circumstance.

Equality Impact Assessment

12. The introduction of the Welsh Language Standards is intended to ensure that Welsh is dealt with on an equal basis as the English language.
13. People affected by the standards may also share other protected characteristics but there is presently no data to provide further analysis.

Workforce Impacts

14. There are a number of standards that are subject of Challenge because the Council does not have the linguistic capability to deliver a bilingual service as required by the standards in the way that the standards require. The Council's ability to impact on the linguistic profile is limited in the short term as there is a moratorium on external recruitment unless essential in order protect existing staff members from compulsory redundancy.
15. There are also standards that relate to the use of Welsh in the workplace that are subject of Challenge. These standards are

challenged because there is a cost associated with compliance which cannot be met within existing budgets, or whether it is considered the consequences of meeting the standards would disproportionately affect other staff members.

Legal Impacts

16. The Welsh Language Standards have been introduced by the Welsh Government by virtue of the Welsh Language (Wales) Measure 2011.

Risk Management

17. If the Council's Challenge is unsuccessful there is a risk of non-compliance with standards which could attract complaints from members of the public with a consequential adverse impact on the Council's reputation and the potential for fines of £5,000 per standard not complied with.

Consultation

18. There is no requirement under the Constitution for external consultation on this item.

Appendices

Appendix 1 - Response to Welsh Language Commissioner's initial considerations

Appendix 2 – Letter to Welsh Language Commissioner July 2016

List of Background Papers

19. Policy and Resources Cabinet Board 23rd July 2015 – Welsh Language Standards draft Compliance Notice Consultation Response
20. Letter dated 24th July 2015 to Welsh Language Commissioner responding to the consultation on the draft Compliance Notice
21. Welsh Language Commissioner – Challenge and Appeals Procedure: Compliance Notices

22. Welsh Government – Explanatory Memorandum to Welsh Language Standards (no. 1) Regulations 2015
23. Welsh Government Consultation Document – Welsh Language Standards: Regulations and response from NPT Council dated 3rd December 2015
24. Welsh Government – Welsh Ministers’ response to the Welsh Language Commissioner’s standards reports and advice note
25. Letter from Deputy Leader to First Minister – Welsh Language Commissioner’s Response to Standards Investigation
26. Letter to WLGA Chief Executive from Chief Executive of NPT Council regarding Welsh Language Commissioner’s Response to Standards Investigation
27. Welsh Language Commissioner – Standards relating to the Welsh Language
28. Welsh Language Commissioner – Standards Report: County councils and county borough councils in Wales
29. Letter from Leader of Council to Welsh Language Commissioner – Standards Investigation
30. Welsh Government – Regulatory Impact Assessment of the proposed standards relating to the Welsh Language
31. NPT Council response to the Welsh Language Commissioner’s Standards Investigation
32. Policy and Resources Cabinet Board, October 2015, Welsh Language Standards Compliance Notice

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