



Steven Phillips
Chief Executive
Civic Centre
Port Talbot
SA13 1PJ

Dear Chief Executive,

04/04/2017

Dear Chief Executive,

Neath Port Talbot County Borough Council Compliance Notice: Challenging future duties [section 54 of the Welsh Language (Wales) Measure 2011] Agree a variation to a compliance notice [section 57(7)(b)]

Thank you for your further letter dated 15 February 2017 and 6 March 2017 in relation to Neath Port Talbot County Borough Council's application challenging future duties under section 54 of the Welsh Language (Wales) Measure 2011. This letter is one which continues to seek to reach agreement on a number of standards.

The Council notes that it accepts that the imposition of the following standards is reasonable and proportionate subject to the inclusion of circumstances:

22, 42, 61,62, 64, 65, 65A, 84, 86, 100, 122, 139.

Although there is agreement in principle, further information is required from the Council in some cases before agreement can be reached on the precise wording of a proposed circumstance. Further discussion of the specific issues in question may be seen below and the Council is asked to respond to requests for information at the first possible opportunity. Otherwise please consider the amendments made in appendix 1 and confirm whether or not you're happy to accept the standards as amended.

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- In the case of **standard 22**, the Council has noted difficulties in relation to Social Services Contact Centres and mobile phones. The standard relates to automated telephone service and creates a requirement to ensure that the entire service is automated in Welsh. This may mean that the system used by the Social Services Contact Centres uses the same automated service. In relation to the mobile phones, it is not clear whether the messages are those which give instructions at the beginning or end of a call. With this in view, I would be grateful if you could answer the following questions:

- (1) How many automated telephone systems does the Social Services Contact Centres use?
- (2) Can the Council please confirm the type of messages available on the mobile phones it refers to? If they lead to a message at the end of a call, directing a person to leave a message, the requirement of standard 16 may apply.

- In the case of **standard 42** the Commissioner has proposed a circumstance [see appendix 1]. However, the Commissioner cannot agree to establish a practice of providing a Welsh service on request. Will the Council confirm that it will always *offer* to provide a licence or a certificate in Welsh as a matter of course? Please also confirm the Council is satisfied with the circumstance proposed.

- Thank you for the additional information received (7/3/17) in relation to **standards 61 and 62**. Due regard was given to issues of road safety by Welsh Ministers during the drafting of Standards regulations and as such the Commissioner has confidence in the subordinate legislation approved by the National Assembly for Wales. A circumstance is not needed in order to allay the Councils' concerns in relation to the appropriate use of standardized place names. It should be noted that paragraph 25, Part 3 of The Welsh Language Standards (No1) Regulation 2016 notes the following:

A body is not required to produce to display or to send material in Welsh to the extent that another enactment has specified the wording of a document, a sign or a form which would run contrary to that requirement.

- In the case of **standard 64, (65 and 65A where relevant)** the Council has stated that a correction is required to the names of the central receptions that are to be included in the compliance notice. The Commissioner will make the amendment. Beyond this, it is not clear to the Commissioner why the Council refers to the provision of services via Skype under the provision of standard 64. The Commissioner is of the opinion that the provision of services via Skype would probably be captured under the requirement of standard 66 and not standard 64 as this standard enables a body to provide a reception service over the phone if a face to face service is not available.



The Council has referred to the provision of services "*via Skype, other technological provision, third party service etc*". This quotation from the Council does not give the Commissioner sufficient information to be able to provide a clear circumstance. I would be grateful if you could respond to the following requests:

- (1) Please list all receptions you wish to be exempt from standard 64 by using the interpretation of reception as contained in the Regulations.
 - (2) Of the receptions listed in response to question 1 (above) please note where a Welsh medium service would be offered via Skype.
 - (3) Please explain what other technological provision you propose to use as a means of offering a Welsh language service and list all relevant receptions.
- In the case of **standards 84 and 86** the Commissioner is of the view that it is possible to comply with the requirements of the standard by offering a course in Welsh by way of a translation services if it's not possible to do so without translation services and where appropriate. Consequently the Commissioner does not see a need to provide a circumstance.
 - In the case of **standard 100** the Council was offered more time to comply. The Council has not explained why the requirement to comply with the standard continues to be unreasonable and disproportionate. You are requested to respond to the following enquiries:
 - (1) Why is it unreasonable or disproportionate to provide contractual documents in Welsh?
 - (2) What documents and how many are produced from English only databases and how many Welsh speaking staff does this affect?
 - (3) Why is it not possible to produce the documents in Welsh or arrange for correspondence to be translated?
 - The Council requests a circumstance for **standard 122** in order to be able to continue to provide a dynamic home page in English whilst only providing static information in Welsh. In this context attention must be paid to the interpretation of the standard. The standard notes that a person must ensure that any Welsh language text on its intranet's homepage is fully functional and that the Welsh language should not be treated no less favourably than the English language in connection to this. Imposing a circumstance as sought changes the meaning and requirement of the standard and is contrary to the fundamental principle of the Welsh Language Measure. The Commissioner is unable to permit this. It should also be noted that the following does not currently apply to the standard:



- (a) documents to which a link is provided, advertising material, video and audio clips
 - (b) information presented by persons on the interactive page (for example, a section for comments or on a discussion forum).
- In the case of **standard 139** the Commissioner would like to better understand why the Council proposes to limit opportunities to use Welsh at interview.
 - In the case of **standards 145 and 146** it is evident that the Council has concerns regarding setting a target to maintain or increase the number of Welsh speakers in its catchment area. Whilst the Commissioner agrees with the Council that all standards set relate to the organisations functions, duties and powers, she remains of the view that it is reasonable to impose the standards in question because the authority does exercise functions which are relevant to the activity in question e.g. the Council is responsible for education and could therefore implement a strategy and set targets to maintain and/or increase the number of Welsh language speakers in its locality. The example demonstrates that the Council as a matter of fact could set a target as required by standard 146.

The Council has not changed its view in relation to the following standards: 41, 99, 101, 102, 103, 112, 114, 115, 116, 116A, 118, 119. The Commissioner remains unpersuaded by the Council's arguments that the requirement to comply with these standards or to comply with the standards in a particular way is unreasonable or disproportionate at this point. Further information is requested from you as detailed below:

- The Council continues to oppose being subject to **standard 41** and is reluctant to accept the circumstance proposed, referring to arguments previously presented. It also asserts it has evidence of non compliance among other local authorities. The Council has not explained why it is not possible to use an external translation service in order to meet standard 41. The Commissioner is unwilling to discount the the official status of the Council's Welsh language record as it would be contrary to a fundamental principle contained in the Welsh language Measure.
- The Council continues to argue that **standard 99** is not reasonable and proportionate. The Council has been offered more time to comply. The Council needs to provide an analysis of the anticipated take up. It would also be helpful to know how much time and cost would be required to satisfy that take up. To what extent would the time and the cost be unreasonable or disproportionate?
- In the case of **standards 101, 102 and 103**, the Council was offered more time to comply. The Council has stated that a proportion of the organisation's managers would be unable to prepare tailored text as part of staff training needs documents due to lack of confidence or skills in Welsh to do so. The Council has not explained



to what extent this would effect its ability to comply nor has it explained how the standard might be complied with by another means. The Council does not give a quantitative account of the likely demand.

- Although the Council states its intention to respect staff's language choice, it notes that it will not always be possible to comply with the following standards: **112A, 114, 115, 116, 116A, 118, 119**. The Council was offered more time to comply with these. The Council states that a quarter of all the current bilingual workforce have said they would like to use Welsh as outlined by the standards in question. The Council says this is not a large number but goes on to explain the budgetary context and states that the requirement is one that has not been budgeted for and is therefore unreasonable. The requirement would have a disproportionate effect on the remainder of the human resources services. The Council has not been able to demonstrate how this is a burden. Reference is made to linguistic ability within trade unions and the risk of not being able to hold meetings promptly. Again the information given is of a general nature. The Council needs to show that the requirement is a burden, without so doing, the Commissioner is unable to change her initial considerations.

In relation to standards 26, 26A, 29, 29A, some issues arise which are the subject of further attention in relation to statements made in the appendix to the Council's letter (6/3/17). In relation to these standards I would be pleased to receive confirmation and a response to the points raised below.

- In relation to standards **26, 26A, 29 and 29A**, officers did not agree at a meeting that it would be possible to provide a circumstance for the standards in relation to urgent cases. The only issue on which there was agreement was that simultaneous translation did not need to be provided unless an individual wished it. The standard itself makes this plain. Please confirm you accept these standards.
- In the case of standards **141, 142, 143** the Council has already agreed to accept the standards on the basis of the understanding that 'signs' refers to 'fixed' signs rather than notices. The Commissioner can confirm that these standards are relevant to fixed and temporary signs (as noted in the standard). The standards do not apply to notices. In the case of standards 141 and 142 they apply to new signs or renewed ones only.



Comisiynydd y
Gymraeg
Welsh Language
Commissioner

I look forward to hearing from you soon ac you are welcome to discuss any matter which is unclear at this point with me directly.

Yours faithfully,

Gwenith Price

On behalf of the Welsh Language Commissioner

CC: Beverly Austin, Secretary/ Personal Assistant to the Chief executive
Rhian Headon, Equalities and Engagement Officer



Appendix 1

Final Compliance Notice –Section 44	Proposed variation to the Compliance Notice
<p>Standard 42 – Any licence or certificate that you produce must be produced in Welsh. Imposition Day – 30/03/2016</p>	<p>Standard 42 – Any licence or certificate that you produce must be produced in Welsh.</p> <p>You must comply in relation to a licence or certificate that is published in every circumstance.</p> <p>You must comply in relation to a licence or certificate that is issued to a person, and that is not published in the following circumstances:</p> <ul style="list-style-type: none"> a) When you have offered to produce a licence of certificate in Welsh for a person, and b) When that person has informed you that they wish to receive a licence or certificate in Welsh. <p>Imposition day – 6 months from the date of the determination.</p>
<p>Standard 139 You must ensure that your application forms for posts –</p> <ul style="list-style-type: none"> (a) provide a space for individuals to indicate that they wish to to use the Welsh language in an interview or at any other method of assessment, and (b) explain that you will provide a translation service from Welsh to English for that purpose if required; <p>and, if the individual wishes to use the Welsh language at the interview or assessment, you must provide a simultaneous translation service at the interview or assessment (unless you</p>	<p>Standard 139 You must ensure that your application forms for posts –</p> <ul style="list-style-type: none"> (a) provide a space for individuals to indicate that they wish to to use the Welsh language in an interview or at any other method of assessment, and (b) explain that you will provide a translation service from Welsh to English for that purpose if required; <p>and, if the individual wishes to use the Welsh language at the interview or assessment, you must provide a simultaneous translation service at the interview or assessment (unless you</p>



<p>conduct the interview or assessment in Welsh without that transation service).</p> <p>Imposition Day – 30/03/2016</p>	<p>conduct the interview or assessment in Welsh without that transation service).</p> <p>Imposition Day – 6 months from the date of the determination.</p>
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