



Steven Phillips
Prif Weithredwr
Cyngor Bwrdeistref Sirol Castell-nedd Port Talbot
Y Ganolfan Ddinesig
Port Talbot
SA13 1PJ

14 Mawrth 2018

Annwyl Brif Weithredwr

Hysbysiad Cydymffurfio Cyngor Bwrdeistref Sirol Castell-nedd Port Talbot: Herio dyletswyddau dyfodol

Diolch i'ch swyddogion am gyfarfod defnyddiol ar 13 Chwefror 2018 i drafod a cheisio cytundeb ar y 9 safon a heriwyd sydd yn weddill. Isod mae dadansoddiad y Comisiynydd o bob safon fel y trafodwyd. Buaswn yn gwerthfawrogi pe byddai'r Cyngor yn medru cadarnhau ei safbwynt mewn perthynas â phob un fel bod modd symud ymlaen i'r cam olaf o ddyfarnu.

Safon 22

Cytunodd y Cyngor mewn egwyddor i'r Comisiynydd amrywio'r safon presennol fel a ganlyn:

Rhaid cydymffurfio â safon 22 ymhob amgylchiad ac eithrio:

- **mewn perthynas â negeseuon a ddarperir gan gyflenwr allanol ar systemau ffôn symudol.**

Safon 41

Cytunodd y Cyngor mewn egwyddor i resymoldeb a chymesuredd y safon fel y'i gosodwyd. Fe nododd y Comisiynydd y posibilrwydd i'r Cyngor gynnwys datganiad ar y cofnodion at y pwrpas o hysbysu ym mha iaith y cawsant eu drafftio'n wreiddiol.

Safonau 61 a 62

Cytunodd y Cyngor mewn egwyddor i resymoldeb a chymesuredd y safonau fel y'u gosodwyd. Cadarnhaodd y Comisiynydd bod gofynion y safonau ddim yn ei gwneud yn ofynnol i'r Cyngor gyfieithu enwau strydoedd i'r Gymraeg lle nad oes enw Cymraeg eisoes yn bodoli.

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Safon 64

Eglurodd y Cyngor ei sefyllfa gyfredol o ran ei ddarpariaeth derbynfa yng ngoleuni newidiadau diweddar i'w wasanaethau. Cadarnhaodd y Cyngor hefyd ei fod bellach yn cydymffurfio gyda'r safonau yn ei dderbynfeydd yn y Canolfannau Dinesig yng Nghastell-nedd a Phort Talbot. Roedd hefyd trafodaeth ynghylch y posibilrwydd o osod safon 66 ar bob gwasanaeth derbynfa arall fyddai'n caniatáu ar gyfer gwasanaeth derbynfa Cymraeg dros y ffôn.

Mae'r Comisiynydd felly yn cynnig amrywio gofynion y safon presennol a hefyd gosod safon 66 fel a ganlyn:

Rhaid cydymffurfio â safon 64 mewn perthynas â'r isod:

- Y Ganolfan Ddinesig, Castell-nedd
- Y Ganolfan Ddinesig, Port Talbot.

Rhaid cydymffurfio â safon 66 mewn perthynas â'r isod:

- Pob gwasanaeth derbynfa arall.

Safonau 84 a 86

Nododd y Cyngor bryderon ynghylch ei allu i ddarparu hyfforddiant gyrru ymarferol drwy gyfrwng y Gymraeg yn sgil y ffaith nad oes ganddo unrhyw hyfforddwyr sy'n siarad Cymraeg ac oherwydd y cyfyngiadau ar allu defnyddio gwasanaethau cyfieithu mewn amgylchiadau o'r fath. Nododd y Cyngor hefyd bryderon ynghylch deunyddiau a ddefnyddir ganddynt a gynhyrchir gan Asiantaeth Safonau Gyrrwyr a Cherbydau (DVSA).

Ar 12 Mawrth 2018, derbyniwyd gwybodaeth bellach trwy e-bost gan y Cyngor oedd yn cadarnhau rôl y DVSA wrth i'r Cyngor ddarparu dau fath penodol o hyfforddiant sef y 'Dragon Rider' a 'Pass Plus Cymru'.

Yn achos hyfforddiant 'Dragon Rider', nodwyd bod y cwrs yn un sy'n dilyn maes llafur y Cynllun Gyrru Gwell ('Enhanced Rider Scheme') a osodwyd gan y DVSA. Nodwyd bod rhaid i'r holl hyfforddwyr fod wedi'u hachredu gan y DVSA ac wedi'u cofrestru ar y gofrestr o hyfforddwyr beiciau modur yn dilyn prawf ('Register of Post Test Motorcycle Trainers'). Nodwyd na ellir cynnal yr hyfforddiant heb gymeradwyaeth y DVSA. Pwysleisiwyd nad yw'r DVSA yn cynhyrchu'r dogfennau sy'n hanfodol ar gyfer y cwrs yn ddwyieithog. Hefyd, nodwyd nad oes yr un o'r hyfforddwyr a ddefnyddir yn medru'r Gymraeg.

O ran hyfforddiant 'Pass Plus Cymru', eglurwyd mai menter Cymru gyfan ydyw ar gyfer gyrrwyr newydd rhwng 17 a 25 mlwydd oed. Mae'r hyfforddiant wedi'i rannu yn ddau gyda sesiwn 3 awr yn y dosbarth a sesiwn ymarferol 6 awr gyda hyfforddwyr cymwysedig sydd â chytundeb lefel gwasanaeth gyda'r Cyngor. Nodwyd bod y sesiwn dosbarth eisoes yn cael ei ddarparu yn Gymraeg ar gais ond pwysleisiwyd eto nad oes unrhyw rai o'r hyfforddwyr hyn yn siarad Cymraeg ar hyn o bryd er mwyn medru darparu'r elfen ymarferol.



Wedi ystyriaeth pellach, yn y sefyllfa penodol hwn, mae'r Comisiynydd o'r farn bod y dogfennau y mae'n ofynnol i'r Cyngor eu defnyddio gan y DVSA fel rhan o'r cyrsiau yn gyfrifoldeb i'r DVSA yn hytrach na'r Cyngor. Dylech fod yn ymwybodol fod gan y DVSA gynllun iaith¹ a gymeradwywyd yn ddiweddar sy'n cynnwys ymrwymadau ar gyfer gohebiaeth a dogfennau i'r cyhoedd. Byddai disgwyl bod unrhyw ddogfennau a gynhyrchir gan y Cyngor yn uniongyrchol neu gan y DVSA ar ran y Cyngor yn cael eu darparu yn Gymraeg yn unol â'r safonau.

Mae'r Comisiynydd yn cydnabod pryderon y Cyngor ynghylch ei allu i fod yn darparu holl elfennau'r cyrsiau hyn yn Gymraeg. Yn benodol, nodir y pryderon ynghylch y gallu i ddarparu'r elfennau ymarferol yn Gymraeg, yn absenoldeb hyfforddwyr Cymraeg ar hyn o bryd a'r ffaith y gall fod yn anymarferol darparu gwasanaeth cyfieithu o dan yr amgylchiadau.

Mae'r Comisiynydd felly yn cynnig amrywio gofynion safon 84 fel a ganlyn er mwyn eithrio elfennau ymarferol y cyrsiau:

Rhaid cydymffurfio â safon 84 ymhob amgylchiad, ac eithrio:

- pan fo asesiad a gynhaliwyd yn unol â safon 86 yn dod i'r casgliad nad oes angen i'r cwrs hwnnw gael ei gynnig yn Gymraeg; ac
- elfen ymarferol o'r cyrsiau 'Pass Plus Cymru' a'r 'Dragon Rider'.

Mae'r Comisiynydd yn parhau o'r farn bod safon 86 yn rhesymol a chymesur fel ag y mae gan nad yw'n ymwneud yn uniongyrchol â'r angen i fod yn cynnig cwrs yn Gymraeg.

Safonau 99 a 100

Er i'r Cyngor gytuno mewn egwyddor i resymoldeb darparu contractau cyflogaeth Cymraeg ar sail angen, roedd ganddo bryderon ynghylch ei allu i wirio cywirdeb y cyfieithiad Cymraeg oherwydd ei allu ieithyddol cyfyngedig ar hyn o bryd. Fe nododd y Comisiynydd eisoes y posibilrwydd i'r Cyngor gynnwys hysbysiad ar y contractau at y pwrpas o hysbysu ym mha iaith y cawsant eu drafftio'n wreiddiol.

Nododd y Cyngor ei fod yn defnyddio nifer o gronfeydd data Saesneg i gynhyrchu gohebiaeth i'w staff. Awgrymodd y Comisiynydd bod y Cyngor yn adnabod y cyflogeion hynny sy'n dymuno derbyn yr ohebiaeth berthnasol yn Gymraeg ac ymateb i'r galw hwnnw

¹ <https://www.gov.uk/government/organisations/driver-and-vehicle-standards-agency/about/welsh-language-scheme.cy#cynllunio-a-chyflenwi-gwasanaeth>



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drwy gyfieithu gohebiaeth a gynhrychir drwy'r cronfeydd data fel bo angen. Cytunodd y Cyngor mewn egwyddor i hynny.

Yn achos yr holl safonau a amrywir, mae'r Comisiynydd yn cynnig addasu'r dyddiadau gosod i'r diwrnod dyfarnu er eglurder.

Mae crynodeb o holl ddyfarniadau arfaethedig y Comisiynydd ar gael yn atodiad 1. Byddwn yn ddiolchgar pe byddai modd i chi gadarnhau safbwynt y Cyngor ar bob un ar y cyfle cyntaf.

Yr eiddoch yn gywir,

Dyfan Sion
Ar ran Comisiynydd y Gymraeg



ATODIAD 1

Gellir crynhoi dyfarniadau arfaethedig y Comisiynydd fel a ganlyn:

Rhif safon	Rhif cyfeirnod	Dyfarniad arfaethedig	Camau nesaf arfaethedig
22	54-20160115-CBSCNP-22	Bod y gofyniad i gydymffurfio â'r safon fel y'i gosodwyd yn afresymol ac anghymesur	Amrywio gofyniad y safon gan osod yr amgylchiad canlynol: Rhaid cydymffurfio â safon 22 ymhob amgylchiad ac eithrio: <ul style="list-style-type: none">○ mewn perthynas â negeseuon a ddarperir gan gyflenwr allanol ar systemau ffôn symudol. Diwrnod gosod: diwrnod y dyfarnu
41	61-20160115-CBSCNP-41	Bod y gofyniad yn rhesymol a chymesur	Dim camau pellach
61 a 62	65-20160115-CBSCNP-61 66-20160115-CBSCNP-62	Bod y gofynion yn rhesymol a chymesur	Dim camau pellach
64	67-20160115-CBSCNP-64	Bod y gofyniad i gydymffurfio â'r safon fel y'i gosodwyd yn afresymol ac anghymesur	Amrywio gofyniad y safon gan osod yr amgylchiad canlynol: Rhaid cydymffurfio â safon 64 mewn perthynas â'r isod: <ul style="list-style-type: none">○ Y Ganolfan Ddinesig, Castell-nedd○ Y Ganolfan Ddinesig, Port Talbot.

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			<p>Diwrnod gosod: diwrnod y dyfarnu</p> <p>Hefyd, gosod safon 66 gyda'r amgylchiad canlynol:</p> <p>Rhaid cydymffurfio â safon 66 mewn perthynas â'r isod:</p> <ul style="list-style-type: none"> ○ Pob gwasanaeth derbynfa arall. <p>Diwrnod gosod: diwrnod y dyfarnu</p>
84	73-20160115-CBSCNP-84	Bod y gofyniad i gydymffurfio â'r safon fel y'i gosodwyd yn afresymol ac anghymesur	<p>Amrywio gofynion y safon gan osod yr amgylchiad canlynol:</p> <p>Rhaid cydymffurfio â safon 84 ymhob amgylchiad, ac eithrio:</p> <ul style="list-style-type: none"> ○ pan fo asesiad a gynhaliwyd yn unol â safon 86 yn dod i'r casgliad nad oes angen i'r cwrs hwnnw gael ei gynnig yn Gymraeg; ac ○ elfen ymarferol o'r cyrsiau 'Pass Plus Cymru' a'r 'Dragon Rider'. <p>Diwrnod gosod: diwrnod y dyfarnu</p>
86	74-20160115-CBSCNP-86	Bod y gofyniad yn rhesymol a chymesur	Dim camau pellach
99 a 100	75-20160115-CBSCNP-99 76-20160115-CBSCNP-100	Bod y gofynion yn rhesymol a chymesur	Dim camau pellach



Steven Phillips
Chief Executive
Neath Port Talbot County Borough Council
Civic Centre
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14 March 2018

Dear Chief Executive

Neath Port Talbot County Borough Council Compliance Notice: Challenging future duties

Thank you to your officers for an useful meeting on 13 February 2018 to discuss and try and seek agreement on the remaining 9 standards challenged. Below is the Commissioner's breakdown of each standard as discussed. We would appreciate if the Council were able to confirm its position in relation to each one so that we can move on to the final stage of determination.

Standard 22

The Council agreed in principle for the Commissioner to vary the current standard as follows:

You must comply with standard 22 in every circumstance except:

- in relation to messages provided by an external provider on mobile phone systems.

Standard 41

The Council agreed in principle to the reasonableness and proportionality of the standard as imposed. The Commissioner noted the possibility for the Council to include a statement on the minutes for the purpose of notifying in which language they were originally drafted.

Standards 61 and 62

The Council agreed in principle to the reasonableness and proportionality of the standards as imposed. The Commissioner confirmed that the requirements of the standards do not require the Council to translate street names where no Welsh name is already available.

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Standard 64

The Council explained its current position in terms of its reception provision in light of recent changes in services. The Council also confirmed that it was now compliant with the standards in its receptions at the Civic Centres at Neath and Port Talbot. There was also a discussion regarding the possibility of imposing standard 66 on every other reception service which would allow for a Welsh reception service over a phone.

The Commissioner therefore proposes to vary the current standard and impose standard 66 as follows:

You must comply with standard 64 in relation to the following:

- Civic Centre, Neath
- Civic Centre, Port Talbot.

You must comply with standard 66 in relation to the following:

- Every other reception service.

Standards 84 and 86

The Council noted concerns regarding its ability to provide practical driving training through the medium of Welsh due to having no Welsh language instructors and the constraints on using translation services in such a setting. The Council also noted concerns regarding publications utilised by them that are produced by the Driving and Vehicle Standards Agency (DVSA).

On 12 March 2018, further information was received by e-mail from the Council which confirmed the DVSA's role as the Council provides two specific types of training namely the 'Dragon Rider' and 'Pass Plus Cymru'.

In the case of the 'Dragon Rider' training, it was noted that the course adheres to the 'Enhanced Rider Scheme' syllabus as laid out by the DVSA. It was noted that all trainers must be accredited and on the DVSA Register of Post Test Motorcycle Trainers. It was noted that the Council is unable to deliver this training without the approval of the DVSA. It was emphasised that the DVSA does not produce any of the paperwork essential for this course bilingually. Also, it was noted that none of the trainers used are Welsh-speaking.

In terms of the 'Pass Plus Cymru' training, it was explained that it is an all-Wales initiative aimed at new drivers between 17 and 25 years old. The training has been divided in two with a 3 hour classroom based session and a 6 hour practical session with an advanced driving instructor who has a service level agreement with the Council. It was noted that the classroom based session is already provided in Welsh on request but it was emphasised that none of these instructors are Welsh-speaking at the moment in order to be able to provide the practical element.

After further consideration, in this specific situation, the Commissioner is of the opinion that the documents that the Council are required to use by the DVSA as part of these courses are the responsibility of the DVSA rather than the Council. You should be aware that the



DVSA has a Welsh language scheme² which was recently approved which includes commitments for correspondence and documents for the public. It would be expected that any documents produced by the Council directly or by the DVSA on its behalf are provided in Welsh in accordance with the standards.

The Commissioner recognises the Council's concerns regarding its ability to provide the whole elements of these courses in Welsh. Specifically, the concerns regarding its ability to provide the practical elements of the courses in Welsh is noted, in the absence of Welsh-speaking trainers at current and the fact that it can be impracticable to provide a translation service under the circumstances.

The Commissioner therefore proposes to vary the requirements of standard 84 as follows in order to exempt the practical elements of these courses:

You must comply with standard 84 in every circumstance, except:

- when an assessment carried out in accordance with standard 86 comes to the conclusion that there is no need for that course to be offered in Welsh; and
- the practical elements of the 'Pass Plus Cymru' and the 'Dragon Rider' courses.

The Commissioner remains of the view that standard 86 is reasonable and proportionate as imposed as it does not directly relate to the requirement to offer courses in Welsh.

Standards 99 and 100

Although the Council agreed in principle to the reasonableness of providing Welsh language contracts of employment on a need basis, it had concerns regarding its ability to verify the accuracy of a Welsh translation due to its limited linguistic capability at current. The Commissioner again noted the possibility for the Council to include a statement on the contracts for the purpose of notifying in which language they were originally drafted.

The Council noted that it uses a number of English based databases to generate correspondence for its staff. The Commissioner suggested that the Council identified those employees that wished to receive the relevant correspondence in Welsh and responds to that need by translating the correspondence generated from the databases as needed. The Council agreed in principle to this.

² <https://www.gov.uk/government/organisations/driver-and-vehicle-standards-agency/about/welsh-language-scheme>



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In the case of all standards that are varied, the Commissioner proposes to amend the imposition days to the date of determination for ease of clarity.

A summary of all the Commissioner's proposed determinations can be found in attachment 1. I would be grateful if you could please confirm the Council's position on each one at your earliest convenience.

Yours sincerely,

Dyfan Sion

On behalf of the Welsh Language Commissioner



ATTACHMENT 1

The Commissioner's proposed determinations can be summarised as follows:

Standard number	Reference number	Proposed determination	Proposed next steps
22	54-20160115-CBSCNP-22	That the requirements to comply with the standard as imposed is unreasonable and disproportionate	Vary the requirement of the standard by imposing the following circumstance: You must comply with standard 22 in every circumstance except: <ul style="list-style-type: none">○ in relation to messages provided by an external provider on mobile phone systems. Imposition date: Date of determination
41	61-20160115-CBSCNP-41	That the requirement is reasonable and proportionate	No further steps
61 a 62	65-20160115-CBSCNP-61 66-20160115-CBSCNP-62	That the requirements are reasonable and proportionate	No further steps
64	67-20160115-CBSCNP-64	That the requirements to comply with the standard as imposed is unreasonable and disproportionate	Vary the requirement of the standard by imposing the following circumstance: You must comply with standard 64 in relation to the following: <ul style="list-style-type: none">○ Civic Centre, Neath○ Civic Centre, Port

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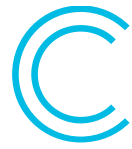
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			<p>Talbot.</p> <p>Imposition date: Date of determination</p> <p>Also, impose standard 66 with the following circumstance:</p> <p>You must comply with standard 66 in relation to the following:</p> <ul style="list-style-type: none"> ○ Every other reception service. <p>Imposition date: Date of determination</p>
84	73-20160115-CBSCNP-84	That the requirements to comply with the standard as imposed is unreasonable and disproportionate	<p>Vary the requirement of the standard by imposing the following circumstance:</p> <p>You must comply with standard 84 in every circumstance, except:</p> <ul style="list-style-type: none"> ○ when an assessment carried out in accordance with standard 86 comes to the conclusion that there is no need for that course to be offered in Welsh; and ○ the practical elements of the 'Pass Plus Cymru' and the 'Dragon Rider' courses. <p>Imposition date: Date of determination</p>
86	74-20160115-CBSCNP-86	That the requirement is reasonable and proportionate	No further steps
99 a 100	75-20160115-CBSCNP-99 76-20160115-CBSCNP-100	That the requirements are reasonable and proportionate	No further steps