

## RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

### WELSH LANGUAGE CABINET STEERING GROUP

28 NOVEMBER 2017

#### STRIKING THE RIGHT BALANCE: THE WELSH GOVERNMENT'S PROPOSALS FOR WELSH LANGUAGE BILL - WHITE PAPER

#### REPORT OF THE DIRECTOR OF EDUCATION AND LIFELONG LEARNING IN DISCUSSION WITH THE RELEVANT PORTFOLIO HOLDER COUNCILLOR G. HOPKINS

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#### 1. PURPOSE OF THE REPORT

- 1.1 The purpose of the report is to provide the Welsh Language Steering Group with an outline of the contents of *Striking the right balance: The Welsh Government's proposals for a new Welsh Language Bill*

#### 2. RECOMMENDATIONS

It is recommended that the Welsh Language Cabinet Steering Group:

- 2.1 Note the content of the report;
- 2.2 Consider and comment on the information provided

#### 3. BACKGROUND

- 3.1 Everyone in Wales has certain rights to receive public services in Welsh. The Welsh Language Standards are legal duties imposed on public bodies that require them to provide certain services in Welsh. The Welsh Language Commissioner is currently responsible for making sure bodies comply with the Standards.
- 3.2 Rhondda Cynon Taf received a final Compliance Notice from the Welsh Language Commissioner on 30th September 2015 which outlined the Council's duty to meet 171 of the Statutory Welsh Language Standards under the Welsh Language (Wales) Measure 2011.

- 3.3. At present, the Welsh Government and many of the bodies subject to the Welsh Language Standards believe there is too much emphasis on regulation, and not enough on promotion. The Standards have been a big step forward in creating rights for people to receive services in Welsh. However, the Standards are numerous and complicated, and the way they are made and enforced is bureaucratic and time-consuming.
- 3.4. The WG believes there is a risk this situation may undermine goodwill towards the language and divert resources and staff away from the main task of improving Welsh language services.
- 3.5. As well as simplifying the way the system works, the Welsh Government proposes to enhance the arrangements for promoting and facilitating the use of the Welsh language, and make improvements to the Welsh Language Standards system.

#### **4. CURRENT POSITION**

- 4.1. Although the Standards are still new, evidence (Rights Taking Root: The Welsh Language Commissioner's Assurance Report 2016-17 Appendix 1) suggests that they are making a difference to the quality and consistency of services in the Welsh language.
- 4.2. Nevertheless, bodies working under the Standards, which include Rhondda Cynon Taf County Borough Council, say they are sometimes difficult to understand, implement and monitor.
- 4.3. Consequently, the WG launched a consultation on 9<sup>th</sup> August 2017 on proposals for a new Welsh Language Bill which would in the main:
  - establish a Welsh Language Commission responsible for promoting the Welsh language and monitoring and enforcing compliance with Welsh Language Standards;
  - abolish the role of the Welsh Language Commissioner;
  - retain the current Welsh Language Standards but simplify the processes involved in making and imposing the Standards;
  - transfer the budget and resources for other specified promotion work it currently undertakes to the Welsh Language Commission;
  - remove the restrictions in the current legislation so Standards could be placed on any body as long as it is within the Assembly's power to do so;
  - where appropriate, place additional Standards on bodies or remove current exceptions granted.
- 4.4. To this end, the Welsh Government aims to ensure:
  - a. consistency and quality in the provision of Welsh language services;

- b. accountability of bodies providing those services;
- c. enforcement if the Standards are not met, and
- d. reduce bureaucracy and ensure value for money

## **5. NEXT STEPS AND WG PREFERRED OPTION**

- 5.1. The most significant section of the Bill to affect Rhondda Cynon Taf Council is the section on the Welsh Language Standards. The Welsh Government has consulted on five options.

### **Option 1: no change**

Option 1 would see the current system continue. Welsh Government does not think this is viable.

### **Option 2: reform the current system**

Option 2 would retain keep the current system but make improvements as follows:

- a. Remove or amend Standards which do not contribute directly to improving services;
- b. Remove or amend Standards that are costly to implement but produce little public benefit;
- c. Give bodies more opportunity to exercise reasonable judgement without undermining the principle of enforceable Standards. Some Standards already permit this, for example, by requiring a body to make an assessment.
- d. Publish guidance to help bodies comply with Standards.

From time to time, the WG would also review the Standards which bodies must comply with to see if they could deliver more in Welsh.

### **Option 3: a small set of more general Standards on the face of primary legislation**

Option 3 would be different to the current Standards system. In this system, a few general Standards would be set out in the Welsh Language Bill. To make the system work, the law would need to allow exceptions to the Standards so that they are reasonable and proportionate for different bodies.

### **Option 4: regulated exceptions schemes based on a small set of more general Standards**

Under Option 4, the Standards would be set out in the Welsh Language Bill. Each body would be required to prepare a scheme of exceptions which should apply to it. Each scheme of exceptions would need the approval of the Welsh Government.

### **Option 5: rights for individuals to use Welsh set out in primary legislation**

Option 5 would give people rights in law to use Welsh with bodies in Wales. In this case, because of the constraints on Welsh language skills in the workforce, the Welsh Government knows they would need to make exceptions to the rights to make the system work. These exceptions would need to be tailored to each individual body.

- 5.2 The Welsh Government's preferred option is Option 2 - reform of the current system of Standards. The Welsh Government believes Option 2 offers an effective system which makes bodies improve gradually over time. The Welsh Government believes this option builds on the work the Welsh Government, the Commissioner and other bodies have already done, and ensures that the resources already invested in the Standards system do not go to waste.

## **6. LOCAL AUTHORITY CONSENSUS**

- 6.1 During a consultation period held over the summer (2017), Local Authorities contributed to a 'call for evidence' (Appendix 2) by the Welsh Government, which collated the experience and views of some of the bodies already operating under the Welsh language Standards, bodies which are preparing to come under the Standards, and some other stakeholders.
- 6.4 On the whole, stakeholders welcomed the principle of the Standards but almost every response commented on the complaints process, and there were strong views in general about the length and complexity of the process.
- 6.5 Therefore, in general, council officers and Welsh language officers welcome the review on the legislative complaints process surrounding the current Welsh Language Standards and also welcome the proposal to establish a new single body responsible for promoting the Welsh language as well as ensuring bodies comply with Standards.
- 6.6 The proposed single body would also play a crucial role in delivering Cymraeg 2050 and assist Local Authorities with their statutory duty to contribute to this national strategy.
- 6.7 However, there is some concern that disestablishing the role of the Commissioner risks losing the current general apolitical consensus surrounding the language.

## **7. EQUALITY AND DIVERSITY IMPLICATIONS**

There are currently no direct Equality and Diversity implications for RCT due to the early stages of the legislative process. Welsh Government has published a detailed Equality Impact Assessment to accompany the consultation.

## **8. CONSULTATION**

A consultation process was not required for this report.

## **9. FINANCIAL IMPLICATION(S)**

There are currently no direct Financial Implications for RCT due to the early stages of the legislative process, yet if Option 2 as stated above is adopted, current resources for implementation of the Standards may need to be re-visited. Whatever option is adopted, the new proposed Welsh Language Commission will continue to have the power to levy a fine (currently up to £5,000) in addition to asking a court to take action in cases of non-compliance.

## **10. LEGAL IMPLICATIONS OR LEGISLATION CONSIDERED**

Welsh Language (Wales) Measure 2011 and The Welsh Language Standards (No. 1) Regulations 2015 currently regulate this area of work.

## **11. LINKS TO THE COUNCIL'S CORPORATE PLAN / OTHER CORPORATE PRIORITIES**

The Welsh language is a cross-cutting theme in the Corporate Plan and underpins all corporate priorities as the Council is required to comply with the amended Compliance Notice issued by the Welsh Language Commissioner in September 2016.

## **12. CONCLUSION**

12.1 Rhondda Cynon Taf County Borough Council welcomes some of the proposed changes with regards to simplifying the process of implementing the Standards. It also welcomes the proposal that people should be required to complain directly to the non-complying body in the first place before taking their complaint to the Commission.

12.2 Rhondda Cynon Taf County Borough Council will continue to support and implement the Standards in their current legislative form and in line with any new legislation.

12.2 Further papers will be presented as and when the legislative process matures.

Appendix 1: Rights Taking Root: The Welsh Language Commissioner's Assurance Report 2016-17

Appendix 2: Preparing for a Welsh Language Bill - Call for evidence: summary of responses