



Comisiynydd y  
Gymraeg  
Welsh Language  
Commissioner

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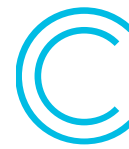
# Report on an investigation into a failure to comply with Welsh Language Standards

This report was produced in accordance with sections 73 and 74 of the Welsh Language (Wales) Measure 2011

The investigation of a failure to comply with standards specified by the Welsh Ministers was carried out in accordance with section 71 and Schedule 10 of the Welsh Language (Wales) Measure 2011

City and County of Swansea Council

Case number: CSG470



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## Background

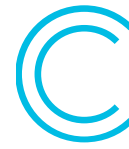
The principal aim of the Welsh Language Commissioner, an independent body established by the Welsh Language (Wales) Measure 2011, is to promote and facilitate the use of Welsh. This is done by raising awareness of the official status of the Welsh language in Wales, by imposing standards on organisations, and by regulating compliance with the Welsh Language Measure. This, in turn, will lead to the establishment of rights for Welsh speakers.

Two principles will underpin the Commissioner's work:

- in Wales, the Welsh language should be treated no less favourably than the English language;
- persons in Wales should be able to live their lives through the medium of Welsh if they choose to do so.

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# Legislative context

## Part 4 of the Welsh Language Measure

- i. Part 4 of the Welsh Language Measure sets out a legal framework for imposing a duty on some organisations to comply with one or more standards in relation to the Welsh language. Organisations subject to standards are known as 'relevant persons'. There are standards applicable to the following areas:
    - service delivery;
    - policy making;
    - operational;
    - promotion;
    - record keeping.
  - ii. The duties resulting from the standards require that relevant persons should not treat the Welsh language less favourably than the English language, and should promote and facilitate the use of the Welsh language.
  - iii. Compliance notices given to relevant persons by the Commissioner under Part 4 of the Welsh Language Measure specify the standards requiring compliance, together with the days from which it is required to comply with each standard or to comply with each standard in a particular respect ('imposition days'). Copies of the compliance notices that are in force will be on the Commissioner's website.
  - iv. Whilst a compliance notice specific to a relevant person is in force, that person will be required to comply with the standards specified within it.
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## Part 5 of the Welsh Language Measure

- v. Part 5 of the Welsh Language Measure gives the Commissioner statutory regulatory functions to ensure that relevant persons comply with their duties. Duties may include compliance with Welsh language standards (as stated above), and also requirements imposed on persons by the Commissioner in accordance with section 77 of the Welsh Language Measure as a result of a failure to comply with a relevant requirement. The Commissioner's Enforcement Policy provides advice and information regarding how the Commissioner will exercise those regulatory functions.
- vi. The regulatory functions resulting from Part 5 of the Welsh Language Measure are:
- to consider whether or not to investigate if the conduct of relevant persons is complained about;
  - to investigate suspected failures by relevant persons to comply with duties, to determine investigations and to produce investigation reports;
  - to consider whether or not to take further action (by giving recommendations or advice) if an investigation finds that there was no failure to comply;
  - to take one of the three steps below if an investigation finds that there was a failure to comply:
    - take no further action;
    - do one or more of the following:
      - require the relevant person to prepare an action plan for the purpose of preventing the continuation or repetition of the failure;
      - require the relevant person to take steps for the purpose of preventing the continuation or repetition of the failure;
      - publicise the relevant person's failure to comply with the relevant requirement;
      - require the relevant person to publicise the failure to comply with the relevant requirement;
      - impose a civil penalty on the relevant person.
    - do one or more of the following:
      - give the relevant person or any other person recommendations;
      - give the relevant person or any other person advice;
      - seek to enter into a settlement agreement with the relevant person.
  - to make applications to a county court for orders to enforce compliance;
  - to comply with the duties resulting from appeals and applications for reviews made to the Welsh Language Tribunal;
  - to produce an enforcement policy document;
  - to create and maintain a register of enforcement action.
- vii. The Commissioner will follow the required statutory processes in exercising the Commissioner's regulatory functions.
- viii. The Commissioner's Enforcement Policy contains full information regarding the way in which the Commissioner will exercise the Commissioner's regulatory functions under Part 5 of the Welsh Language Measure.
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# Contents

1	The complaint	1
2	Assessment, Findings and Determination	3
3	Decision Notice	
	Appendices: A: Terms of reference	
	B: Evidence Notice	

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# 1 The complaint

## Suspected failure to comply with Welsh language standards

- 1.1 Two complaints were received from a member of the public regarding matters relating to the proposal of the City and Council of Swansea Council (the Council) to close Ysgol Gynradd Gymraeg Felindre (YGG Felindre). The first complaint was received on 6 December 2018. It relates to the way in which the Council conducted its consultation on the proposal to close the school. The second complaint was received on 7 January 2019. It relates to alleged failures in the way in which an assessment was conducted of the effect of the decision on opportunities to use the Welsh language, and on treating the Welsh language no less favourably than the English language.
- 1.2 The complainant alleges that:
  - the Council did not undertake an appropriate consultation due to the fact that the consultation documents did not consider or seek views on how the decision consulted upon could impact opportunities to use Welsh and to not treat Welsh less favourably than English.
  - the Council failed to respond appropriately to representations submitted regarding how the consultation was carried out.
  - the Welsh language was treated less favourably than the English language within the consultation documents as the spaces for including a response to some questions were smaller in the Welsh versions when compared to the English versions.
  - the assessment on Welsh education was not published on the Welsh pages of the Council's website during the consultation process.
  - the Council did not carry out an appropriate assessment of the impact of the decision to close the school on opportunities to use Welsh in the school community, and that the impact assessment on Welsh medium education did not meet the requirements of the Welsh language standards which have been imposed on the Council as they formulate, review or revise any policy.
- 1.3 On 21 June 2018 the Council's cabinet approved a recommendation to consult on the proposed closure of YGG Felindre.
- 1.4 A consultation on the proposal was conducted between September and October 2018.
- 1.5 The consultation related to the proposed closure of YGG Felindre (with effect from 31 August 2019). It is proposed that the existing school catchment area is transferred to the Ysgol Gynradd Gymraeg Tirdeunaw as the next closest school, unless a separate proposal to relocate Welsh Ysgol Gynradd Gymraeg Tan-y-Llan to a new location is approved, in which case the school would be the nearest school to receive pupils from the YGG Felindre catchment.
- 1.6 On 20 December 2018 the Council's Cabinet approved a recommendation to publish a statutory notice on the proposed closure of YGG Felindre.

- 1.7 Having considered the above and the relevant standards (Appendix A), I was of the view that the proposal outlined in the consultation document was likely to have an impact on the Welsh language. There was also a suspicion that an appropriate assessment of the potential impact of the proposals on the Welsh language had not been undertaken. Therefore, I decided to carry out an investigation under section 71 of the Welsh Language Measure to determine whether there was a failure by the Council to comply with Welsh language standards.
- 1.8 The Council has a duty to ensure and to satisfy itself that the policy decisions it makes (together with their formulation and consultation) comply with the relevant regulations and legislation.
- 1.9 The purpose of my investigation in this case is to determine whether the Council has failed to comply with the Welsh Language Standard in reaching its decision. Where a policy decision has already been made, it is not open to me to require the Council to remake that decision. Therefore, the steps I ask the Council to take are relevant only to future decision, in relation to considering the effects of policy decisions on the Welsh language, and considering and seeking views on the effects on the Welsh language when consulting on those decisions.
- 1.10 I notified the Council and the complainant of the decision to investigate, and of the proposed terms of reference, on 21 January 2019.
- 1.11 I gave notice to the Council of the final terms of reference for the investigation on 6 February 2019. The final terms of reference can be seen as an appendix to this report.

### **The evidence received**

- 1.12 On 6 February 2019, I gave the Council an evidence notice which required it to respond to a series of questions.
- 1.13 In response, I received evidence from the Council on 27 February 2019 via an email attachment. A link to the consultation page on the Council's website was also provided which contained all the consultation documents.
- 1.14 I considered all the information presented by the Council and the complainant. The Evidence Notice together with the Council's response can be found at Appendices B and C.

## 2 Assessment, findings and determination

### Considering compliance with standard 48

- 2.1 The consultation documents were published as part of a consultation package on the Council's website. It was possible to respond to the consultation by completing an interactive form on-line, or by completing a hard copy form. The hard copy form was also available during consultation sessions held by the Council.
- 2.2 The complainant claimed that the hard copy form treated the Welsh language less favourably than the English language as the space for providing a response to some questions was smaller in the Welsh versions when compared to the English versions.
- 2.3 In order to check that the complainant's allegations were correct, I looked at the Welsh and English versions of the hard copy form. When comparing the two versions I noticed the following differences:

	Welsh	English
Question 1:	No box for notes following the option 'Other (please specify)'	A box is included for notes following the 'Other (Please specify)' option.
Question 4	Two and a half narrow lines to provide a response	Response box
Question 6	Two and a half narrow lines to provide a response	Response box
Question 7	Two and a half narrow lines to provide a response	Response box
Question 8	Two and a half narrow lines to provide a response	Response box
Question 10	Two and a half narrow lines to provide a response	Response box
End of Questionnaire	No information on what will happen to the responses. No Data Protection Act statement.	A paragraph explaining what will happen to the evidence when the consultation closes and a statement on the Data Protection Act.



2.4 In its response, the Council stated that it had become aware of the problem with the size of the boxes in the response form and had resolved them immediately. The Council states that the same problem had been found with the English boxes. From looking at the forms on the consultation page on the Council's website, my officials found that the differences between the English and Welsh versions still existed.

2.5 The wording of standard 48 is as follows:

If you produce a document in Welsh and in English (whether separate versions or not), you must not treat any Welsh language version less favourably than you treat the English language version.

2.6 Schedule 1, Part 3, Paragraph 29 of the regulations states:

*Where a standard refers to material that is to be produced in Welsh (with the exception of standards 52 to 57 (websites and apps), 58 and 59 (social media) and 76 (invitations to tender)), references to treating the Welsh language no less favourably than the English language, or to treating a Welsh language version no less favourably than an English language version, include, amongst other matters (and in addition to specific matters referred to in any individual standard), treating the Welsh language no less favourably as regards—*

*(a) the visual presentation of material (for example in relation to the colour or font of any text);*

*(b) the size of the material;*

*(c) the position and prominence of the material in any public area;*

*(ch) when and how material is published, provided or exhibited;*

*(d) the publication format of material.*

'Other matters' may include treating the Welsh language no less favourably as regards:

- the material's language order;
- the standard and quality of the material;
- the clarity and accuracy of the material (for example in terms of the meaning and expression of any text);
- the content of the material (for example in terms of the detail or quality of the information it contains).

## Findings

2.7 Following consideration and comparison of the response forms, I conclude that the spaces for providing a written response on the hard copy form was smaller in the Welsh version than the English version.

2.8 I note that the difference at first glance does not seem to be a significant one. However, I must conclude that should an individual choose to complete the hard copy form (rather than electronically) then the lines provided on the Welsh version offer little or no space to write more than one sentence. It would certainly be easier to write a response in the box on the English version which offers more room to provide a response.

- 2.9 I believe that the fact that the spaces for providing a response in the Welsh version was smaller than the corresponding spaces in the English version means that an individual wishing to respond to the consultation using the Welsh version of the hard copy form would be at a disadvantage.

### **Determination of whether or not there has been a failure to comply with standard 48**

- 2.10 My determination is that the City and County of Swansea Council has failed to comply with standard 48. The basis for my determination is that the Council treated the Welsh version of the hard copy of the consultation response form on the closure of YGG Felindre less favourably than the English version of the form.

### **Further action**

- 2.11 Section 77 of the Welsh Language Measure allows me to take further action where there has been a failure.
- 2.12 In the case of my determination that the Council failed to comply with standard 48, I shall be taking further action in order to prevent the continuation or repetition of the failure to comply.
- 2.13 Details of the further action are set out below.

#### **Standard 48 – Requirement to take steps in accordance with section 77(3)(b) of the Welsh Language Measure**

1. The Council must review its arrangements for producing documents that invite a response to a consultation, acting on its findings, where necessary, to ensure that the Welsh language is treated no less favourably than English language.

*Timetable: Within 8 weeks of the date of publication of the Commissioner's final determination.*

## Considering compliance with standard 52

2.14 In submitting the complaint to me, the complainant alleges that the Welsh language impact assessment was not included among the consultation papers included on the Welsh language version of the consultation page on the Council's website. The complainant states that she understands that it was an error, however she also states that, as a result, members of the public who wished to contribute to the consultation through the medium of Welsh, were not given the same, full information.

2.15 Before submitting the complaint to me, the complainant had corresponded with the Council in responding to the consultation. As part of that response the complainant pointed out that the Welsh language impact assessment was missing from the Welsh language version of the website. The complainant received a response from the Council. The complainant has quoted the Council's response as part of her complaint to me. In the response the Council states the following:

*“Following an investigation into this matter we can confirm that a Welsh copy of the Welsh Language Impact Assessment has been available on the website throughout the consultation.”*

In response to this, the complainant explains that this did not correspond to her experience.

2.16 In response to the evidence notice the Council reiterates what it stated in response to the complainant. The Council states:

*“The Welsh Language Impact Assessment was included with the consultation documents on the Council's website. The document was available in both English and Welsh throughout the consultation.”*

2.17 The Council provided a link to the consultation page on its website. The list of documents included on the consultation page was checked by my officers on 15 January 2019 and again on 7 March 2019. All documents on the Welsh version corresponded with the English version and there did not appear to be any missing document on the Welsh version.

2.18 In its response, the Council has sought to provide an explanation as to why the complainant had been unable to see the Welsh Language Impact Assessment on the Welsh page. The Council states:

*“The only explanation for the complainant not being able to access the document would be if they had accessed the web pages prior to the consultation starting whilst documents were being uploaded on to the site. This would have been a very short period and outside the formal consultation period.*

*If this had happened it is possible an individual's PC would have cached the web page and would require a refresh to see new additions to that page.*

*Please note that we are not claiming that this is what happened but it is the only explanation we can think of for the complainant not being able to access all documents.*

*It is also worth noting that this issue hasn't been raised by anyone else."*

2.19 In submitting the complaint to me, the complainant did not state exactly when she had tried to find the impact assessment, but it may be presumed that this happened before the complainant responded to the consultation on 17 October 2018.

2.20 The wording of standard 52 is as follows:

You must ensure that-

- (a) the text of each page of your website is available in Welsh,
- (b) every Welsh language page on your website is fully functional, and
- (c) the Welsh language is not treated less favourably than the English language on your website.

2.21 Schedule 1, Part 3, Paragraph 36 of the regulations states:

For the purpose of standards 52 to 57 (websites and apps) and standards 58 and 59 (social media), references to treating the Welsh language no less favourably than the English language include, amongst other matters (and in addition to specific matters referred to in any individual standard), treating the Welsh language no less favourably as regards—

- (a) the visual presentation of the material (for example in relation to the colour, size, font and format of any text), or
- (b) when material is published on the website, app or social media;

but it does not mean that Welsh language material must appear on the same page as English language material, or on a page that a person is likely to find before the English language page when searching.

2.22 I therefore interpret the standard to mean that a body must ensure that the pages of its websites and online services are available and are fully functional in Welsh and that the Welsh language is treated no less favourably than English on those pages and services.

2.23 Having consulted on the proposed investigation report, I received further comments and information from the complainant. The information included an email that the complainant had sent to a Council officer setting out the issues that the complainant's husband had raised by telephone with the officer, a day before the consultation closed. One part of the email said:

"The Welsh-medium education assessment was not (and is not) included in the papers that were available to be accessed from the Welsh version of the consultation website. We understand that this is a mistake, but it is more than unfortunate as not all the information has been provided to those (like us) who wished to use Welsh in order to respond to the Consultation."

The complainant considered the e-mail to be significant because it showed that a Council officer had told her husband that omitting the language assessment from the Welsh version of the consultation website was a mistake.

- 2.24 I asked the Council to provide a response to this, and to provide me with any record they had of this telephone conversation, or any internal correspondence relating to it. I also asked the Council to provide any existing meta data regarding the publication of the Welsh language version of the language impact assessment on the Council's website during the consultation period.
- 2.25 In response, the Council confirmed that a Council officer had received a telephone call from the complainant's husband and an e-mail from the complainant which stated, in the complainant's opinion, what had been discussed in the conversation with her husband. The Council notes that it "strongly disagrees with the complainant's claims that what was said to her husband was different from the evidence presented by the Council to the investigation".
- 2.26 The Council also said that it has no record of the telephone conversation and that discussions on the matter were internal verbal discussions. The Council also stated that the website management system does not hold meta data for every change made to the website pages, and that only data on the most recent changes are kept.

## **Findings**

- 2.27 Having considered all the evidence at hand, it is clear that the complainant's allegation is at odds with the evidence presented by the Council.
- 2.28 However, I must reach a decision on whether or not the Council complied with the standard. In the absence of irrefutable evidence that a Welsh language version of the Welsh Language Impact Assessment was not on the website through the consultation, the only conclusion I can come to is that the Council has not failed to comply with the standard.

## **Determination of whether or not there has been a failure to comply with standard 52**

- 2.29 My finding is that the City and Council of Swansea has not failed to comply with standard 52 in this case.

## **Considering compliance with standards 88, 89 and 90**

- 2.30 The policy making standards deal with the way in which an organisation considers the effect of its policies on the Welsh language.
- 2.31 I have already stated that it's not my intention to provide an opinion on the decision made by the Council to close YGG Felindre. I acknowledge that there is a duty on local authorities to review their educational provision in line with the requirements of the Welsh Government's School Organisation Code. However, it's my duty to consider and make a determination regarding the Council's compliance with standards 88, 89 and 90 as they made the decision to close YGG Felindre.
- 2.32 Standards 88, 89 and 90 require the Council to consider what effects, if any, the policy decisions would have on opportunities to use the Welsh language and on not treating the Welsh language less favourably than English.

- 2.33 This means that the Council should consider and identify all the relevant effects a policy decision may have on opportunities for persons to use the Welsh language, or on treating the Welsh language no less favourably than the English language.
- 2.34 The list below offers some factors that I believe the Council could have taken into account in assessing the impact of the proposal to close YGG Felindre to ensure that the assessment was appropriate and meaningful.
- Will the proposal impact the number or percentage of people able to speak Welsh (or any other skill)?
  - Will the proposal impact the number or percentage of people who use Welsh?
  - Will it protect, promote and enrich heritage and culture within the area in question in relation to the Welsh language?
- 2.35 A linguistic impact assessment could also include the following in order to give due consideration to the requirements of the standard:
- Identifying any positive effects on the Welsh language;
  - Identifying any adverse effects on the Welsh language;
  - Consider how the policy or practise could promote opportunities for persons to use the Welsh language more widely; and
  - Consider whether the policy will mean treating the Welsh language less favourably than the English language.
- 2.36 Having considered all of the effects, due consideration must then be given to the outcomes of those effects. Standard 89 requires a body to consider how a policy can be formulated (or how an existing policy can be revised) so that the policy decision has positive effects, or increased positive effects, on opportunities for persons to use the Welsh language, and treating the Welsh language no less favourably than the English language. Standard 90 requires the Council to consider how a policy can be formulated (or how an existing policy can be revised) so that the policy decision has no adverse effects, or decreased adverse effects, on opportunities for persons to use the Welsh language, and treating the Welsh language no less favourably than the English language.
- 2.37 This means that the Council must consider any options to mitigate or prevent adverse effects which a policy decision may have on the Welsh language. Consideration must also be given to the options in terms of ensuring positive effects, or increased positive effects, on opportunities for persons to use the Welsh language, and treating the Welsh language no less favourably than the English language.
- 2.38 In it's evidence to this investigation, the Council refers to five relevant documents:
- (i) *Report of the Cabinet member for Improving Education, Learning and Skills*
  - (ii) *Welsh language impact assessment*
  - (iii) *Consultation on the Proposal to Close YSgol Gynradd Gymraeg Felindre on 31 August 2019*
  - (iv) *Consultation Report: Proposal to close YGG Felindre*
  - (v) *Community Impact Assessment*
  - (vi) *Equality Impact Assessment*



## Report of the Cabinet member for Improving Education, Learning and Skills

- 2.39 The Council explained that the recommendation to consult on the proposal to close YGG Felindre was presented to the Council's cabinet in this report on 21 June 2018. The report stated that the proposal was aspect of implementing the Council's Welsh in Education Strategic Plan.
- 2.40 The report discusses the growth in the number of children that receive their education through the medium of Welsh in the county, and the suitability of the schools in light of that growth.

*There has been considerable growth in Welsh-medium provision and most schools are broadly appropriate in size to accommodate the nearest pupils (at present). However, there are pressures at a number of schools with constrained sites. The wider strategy for additional Welsh-medium places and a catchment review (subject to agreement and statutory consultation) will improve the balance of demand for and availability of places.*

*As at January 2018 there were 2,764 full-time primary-age pupils in Welsh-medium provision by comparison with total Welsh-medium primary places of 3,179 (an increase of 50 places since the Band B submission). Latest projections indicate that, even on the basis of current known pupil intakes, the total number of Welsh-medium full time pupils would be approaching 3,000 by September 2024. Allowing for a continuing general trend towards Welsh-medium provision and the inevitable uncertainty in relation to any projections based on current intakes it would be appropriate to plan for full-time pupil numbers of around 3,300. This would be consistent with the overall capacity required to meet the current level of reception numbers working through each primary year group and would allow the availability of places to get 'upstream' of trends in demand. This analysis has informed the projections within Swansea's WESP of 3,288, representing an increase of more than 3% each year.*

- 2.41 The report also considers issues relating to equality and the financial and legal implications of the proposal.
- 2.42 I note however, that while the report discusses the positive effects of the proposal on the provision of Welsh-medium education within the county, there is no evidence that the Council considered and assessed the impact of the proposal on the Welsh language beyond education.
- 2.43 Following the receipt of Cabinet approval, I understand that the Council consulted on the proposal between 5 September 2018 and 18 October 2018.

### Consultation on the proposal to close Ysgol Gynradd Gymraeg Felindre on 31 August 2019

- 2.44 The main consultation document sets out the background and context of the proposal, as well as providing an explanation of the proposed change and the arguments in favour. The document discussed the Welsh-medium education provision and the potential positive impact of the proposal. The document provided a link to the Welsh Language Impact Assessment and Equality Impact Assessment.

## Consultation report: Proposal to close YGG Felindre

- 2.45 The report included a summary of the responses received, and the Council's response to the matters raised. Points 40 to 49 list issues raised that related specifically to the Welsh language. In response to concerns about the impact of the closure on the language and culture of the village, the Council reports that there are few pupils at the school and that the majority of the village's children do not attend the school. The Council states that there is no reason why the new school cannot take part in community activities. One comment refers to the linguistic demography of Mawr ward. The Council has not responded to this comment.

### Welsh language Impact Assessment

- 2.46 Two documents were published under this title. The first document is a pre-consultation assessment, while the second document is a more recent version containing a section that discusses the representations received and the Council's response to them.
- 2.47 Paragraph 1 to 16 of the pre-consultation document sets out the background and rationale for the proposal. The benefits of the proposal are discussed including improvements to education provision and the need to plan provision to meet future demand for Welsh-medium education. It also discusses the fact that the Welsh Government and Audit Commission Guidance requires the Council to ensure that funding is distributed cost-effectively and that local authorities need to consider closing small primary schools. The results of the Estyn inspection and the difficulties experienced in trying to appoint a headteacher to the school are also discussed.
- 2.48 It also discusses the fact that school numbers are low and have been declining steadily over recent years without an indication that there will be a significant increase in numbers in future.
- 2.49 Therefore it is only the last two paragraphs that consider the impact on the Welsh language specifically.

*17. Against this background and combined with the advantages listed above we believe that the proposal should result in a positive impact on Welsh language development in Swansea.*

*18. As such, the Council is satisfied that provision for the Welsh language will be improved in Swansea.*

- 2.50 It is apparent from the second version that the Council received representations regarding the consultation process, including an allegation that the Council had failed to comply with standards 91-93. The Council responded to those comments by referring to its Welsh in Education Strategic Plan. It states that the Council, in reaching its the WESP's targets, would increase opportunities for more people to use the Welsh language and ensure that the Welsh language is treated no less favourably than English. It also states:

*"In the Mawr area of Swansea, if this proposal were to go ahead we believe that as part of a new catchment area the ward would become part of the wider*



*family of the designated school and therefore be able to access further opportunities for persons to use the Welsh language.”*

- 2.51 The document did not consider whether or not there were any negative elements to the proposal, nor did it attempt to identify what effect the decision the decision might be on non-education related matters in the area, such as the effect moving the school out of the community might have on local culture, local residents' contact with the Welsh language as a result etc. It made no effort to identify whether the stated benefits to Welsh-medium education in the area is such that it outweighs other possible negative effects.

#### Community Impact Assessment

- 2.52 In this document the Council sets out the school's statistics together with other primary school statistics in the area. It can be seen from the statistics that 35% of YGG Felindre pupils live within the school's catchment area. It is also apparent that 4.8% of children in the YGG Felindre catchment attend the school. It can be seen from the document that the Council has assessed the impact of the proposal on the community, acknowledging that the closure of the school would be likely to have an impact on the Welsh speaking baby and toddler group which meets at the school on a weekly basis.
- 2.53 The document suggests that no further assessment has been carried out which looked further at the impact of the proposal on the Welsh language within the community.

#### Equality Impact Assessment

- 2.54 The proposal to close the school was initially screened for relevance in terms of equality and diversity on 15 May 2018 and updated following the consultation on 29 November 2018.
- 2.55 The document had identified that the proposal was relevant to the Welsh language. Sub-section 3: *Impact on Protected Characteristics* designated the impact on the Welsh language as 'Neutral'. Looking at the document, this equates to no positive or negative impact. It goes on to state:

*YGG Felindre is a Welsh-medium primary school and although the proposal is to close a Welsh-medium primary school the proposal is part of the wider Welsh in Education Strategic Plan that is looking to increase the number of places available in Swansea's Welsh-medium schools.*

*The Council's wider Welsh in Education Strategic Plan seeks to increase the number of Welsh-medium places in Swansea significantly. As a result of proposals to reach our targets we believe that this would increase opportunities for more people to use the Welsh language and ensure that the Welsh language is treated no less favourably than the English language.*

- 2.56 There is a summary in the EIA of the feedback gathered as part of the engagement activities undertaken during the consultation. This states that there is concern about the impact on the Welsh language. In response the Council reasons that "only a very small number of existing pupils are from the village itself, with most being

locations of choice from other parts of Swansea." It also states that the Council received responses which highlighted the pressures on Welsh-medium places in other schools. In response to this the Council states that the proposal, alongside the Welsh in Education Strategic Plan, addresses the continuing growth in demand for Welsh medium provision.

- 2.57 The EIA sets out the question '*How does the initiative support Welsh speakers and encourage the use of Welsh?*'. The Council's response discusses the education provision and the fact that the educational opportunities offered by YGG Felindre would be provided in neighbouring Welsh-medium primary schools. Once again, it underlines the rationale for the aim of the Welsh in Education Strategic Plan. It is apparent from the document that no action has been identified to address any identified gaps. The Council states:

*Following the consultation officials continue to believe that this is the right decision.*

#### The Council's response to the investigation

- 2.58 In its response to the evidence notice the Council, the Council reiterated what was said in the documents referred to above. It included its opinion that the proposal would not have an effect on opportunities to use Welsh. The Council reasoned that very limited use is made of the building outside school hours. It appears that a Welsh infant and toddler group meets at the school on a weekly basis, but the Council proposes that if the decision is made to close the school, the Welfare Hall in the village could be used instead.
- 2.59 The Council summarises its rationale for the proposal in its response to question 12, noting:

*Given that the school is very rarely used by the community, the low number of pupils and the number of those pupils that come from outside the Mawr ward, we do not believe that a decision to close the school would have a negative impact on opportunities to use Welsh.*

## **Findings**

- 2.60 Following consideration of all the evidence submitted to me by the complainant and the Council, it appears to me that the Council has considered the effect of the proposal to close YGG Felindre on Welsh-medium education. The Council has made reference on a number of occasions and in several documents that the proposal is part of the Welsh in Education Strategic Plan which plans to increase the number of pupils studying through the medium of Welsh in the county.
- 2.61 However, the evidence has not persuaded me that the same attention and consideration has been given to the impact of the decision on the Welsh language in a wider context. It is clear that the Council carried out a Welsh Language Impact Assessment prior to the consultation process, and that they revised the document following the findings of the consultation. However, I must consider the extent to which those assessments, when considered together, were meaningful and sufficient to ensure that the Council has implemented the requirements and objectives of the policy making standards.

- 2.62 The complainant claims that the school has a key role in maintaining the Welsh language in the area and in offering opportunities for people to use the Welsh language. In looking at the requirements of the standards, the Council has a duty to consider the extent to which the proposal protects, promotes and enriches the area's heritage and culture in relation to the Welsh language.
- 2.63 I have already discussed the contents of the Welsh Language Impact Assessment document at paragraphs 2.33 to 2.37. I drew attention to the fact that only 2 paragraphs out of the 19 discussed the impact on the Welsh language. I conclude that paragraphs 1 to 16 discuss the reasons which led to the decision to propose the closure of YGG Felindre, rather than offering a thorough assessment of the impact of the decision. The closing paragraphs conclude that the Council believes that the proposal would result in a positive impact on the development of the Welsh language in the Swansea area, although no robust evidence is presented to support this.
- 2.64 The assessment does not take into account the potential impact on the Welsh language within the community or consider any effects beyond the education provision. The assessment does not take into account the use of the Welsh language in the community and the school's contribution towards it. I would have expected to see data or information to evidence that the Council had considered the linguistic demographics of the area and that they had scrutinised and weighed up the impact of the closure on people's language use. It is not sufficient that the Council concludes that the effect is "neutral" without also putting forward arguments or evidence in support.
- 2.65 Nor is there any evidence from the Welsh language Impact Assessment, or the other documents and assessments undertaken, that the Council has considered how the policy or proposal can be formulated so that it has a positive or less adverse impact on the Welsh language. Although the Council has noted that the proposal has a "neutral" effect on the Welsh language, the requirements of 89 and 90 remain relevant and in effect.
- 2.66 In presenting her complaint to me, the complainant referred to the ways in which the school contributes to wider community factors relating to the Welsh language. She explained that the school contributes to maintaining the Welsh language in the village by giving village residents, pupils and their parents the opportunity to come together to organize and participate in activities through the medium of Welsh.
- 2.67 Those examples include the Parent Teacher Association, the village eisteddfod, the St David's Day Cawl and Twmpath event, the harvest service in the chapel, and the Christmas drama held in the village.
- 2.68 The complainant also explains that members of the community have been active in volunteering to raise money for the school for resources such as a minibus, building wet and dry areas for the pupils and developing a nature garden. Projects were also organized by members of the community to enable village children to compete in the Urdd eisteddfodau and to take part in a project funded by the Arts Council relating to local and national history and traditions.
- 2.69 Had an appropriate assessment of the impact of the decision to close the school on the Welsh language in the community been undertaken, the Council would likely have been aware of events such as these, and been able to undertake an

assessment of the relationship between the school and the activities, and analyze the likely impact of closing the school on the community's ability to continue to sustain them following closure, or to conduct similar activities that would enable them to continue to use the Welsh language.

- 2.70 Then, on the basis of the assessment, the Council would have been in a position to consider what action it could take as a result of making such an assessment. The standards make it open to the Council to continue with the decision regardless, or it may conclude that the adverse effects are so significant that it cannot proceed with the decision. The Council can also continue to make the decision in a way that would have a positive or more positive effect on the Welsh language than originally intended, or make the decision by introducing mitigation measures aimed at preventing or minimising the adverse impact of the decision.
- 2.71 Proposals on how to do so should be made by the Council. Without appropriate assessment, research and findings it is not possible to predict what such proposals might be, but the examples below could be the kinds of proposals that could have been considered in a community where the Welsh language remains a part of the fabric of society:
- Fund initiatives or activities led by the Menter Iaith
  - Ensure that school facilities and resources continue to be available to the community in order, for example, to be a meeting place or a base for accessing local services such as a library service, access to information technology etc
  - Council guidance or support for the community to enable them to set up social enterprises for the benefit of the community
- 2.72 Given paragraph 2.66 it is not possible for the Welsh Language Commissioner to know what the Council's decision might have been had it acted in accordance with the standards. The only conclusion that can be drawn is that the decision could have been different to the one made.
- 2.73 In light of the above, I am of the view that the Welsh language Impact Assessment was not sufficient to meet the requirements of standards 88, 89 and 90. I therefore conclude that the Council has not implemented the requirements of standards 88, 89 and 90 in making its policy decision to close YGG Felindre. The Council has not considered and identified what effects its decision may have on opportunities for persons to use the Welsh language or not to treat the Welsh language less favourably than the English language. Nor has the Council considered how it can make the decision so that it has more positive, or less adverse, effects on opportunities for persons to use the Welsh language, or not to treat the Welsh language less favourably than the English language.

### **Determination of whether or not there has been a failure to comply with standards 88, 89 and 90**

- 2.74 My determination is that the City and County of Swansea Council has failed to comply with standards 88, 89 and 90 in this case on the grounds that it has not fully considered the effects the decision to close YGG Felindre would have on

opportunities for persons to use the Welsh language, and to treat the Welsh language no less favourably than the English language.

### **Further action**

- 2.75 Section 77 of the Welsh Language Measure allows me to take further action where there has been a failure.
- 2.76 In the case of my determination that the Council has failed to comply with standards 88, 89 and 90, I shall be taking further action in order to prevent the continuation or repetition of the failure to comply in considering the effects of policy decisions made by the Council on the Welsh language in the future.
- 2.77 Details of the further action are set out below.

### **Standards 88, 89 and 90 – Requirement to take steps in accordance with section 77(3)(b) of the Welsh Language Measure**

2. The Council must take steps to ensure that the findings of this investigation, in relation to the extent to which the effects of the policy decision on the Welsh language have been adequately considered, are brought to the attention of Cabinet.
3. The Council must adopt a robust process for conducting and recording considerations on any effects that a policy decision would have on opportunities for persons to use the Welsh language, and treating the Welsh language no less favourably than the English language. The process must include clear guidance for officers and councillors on how the relevant considerations should be carried out and recorded.
4. The Council must adopt a robust process for conducting and recording considerations on how a policy decision could be made so that it has more positive effects on opportunities for persons to use the Welsh language or to treat the Welsh language no less favourably than the English language. The process must include clear guidance for officers and councillors on how the relevant considerations should be carried out and recorded.
5. The Council must adopt a robust process for conducting and recording considerations on how a policy decision could be made so as not to have adverse effects on opportunities for persons to use the Welsh language or to treat the Welsh language no less favourably than the English language. The process must include clear guidance for officers and councillors on how the relevant considerations should be carried out and recorded.
6. The Council must produce guidance (or revise its existing guidance) for staff responsible for carrying out impact assessments of policy decisions to ensure that the Council takes all relevant factors into account in the context of the potential impact on the Welsh language.

*Timetable: Within 12 weeks of the date of publication of the Commissioner's final determination.*

**Standards 88, 89 and 90 – Requirement for the Council to publicise the failure to comply with the standards under section 77(3)(d) of the Welsh Language Measure**

7. The Council must publicise its failure to comply with standards 88, 89 and 90 by publishing this report in a prominent place on its website, and include an item on the investigation on the website's news section.

*Timetable: Within 6 weeks of the date of publication of the Commissioner's final determination.*

**Standards 88, 89 and 90 – The Welsh Language Commissioner to publicise the failure to comply with the standards under section 77(3)(c) of the Welsh Language Measure**

8. I will publicise the Council's failure to comply with the standards by taking the following steps:
  - publish a statement stating that the Council has failed to comply with the standards
  - publish the investigation report on my website

*Timetable: Within 6 weeks of the date of publication of the Commissioner's final determination.*



## Considering compliance with standards 91, 92 and 93

- 2.78 The complainant alleges that the Council did not undertake proper consultation on the proposal to close YGG Felindre as the consultation documents did not consider or seek views on how the decision would affect opportunities to use the Welsh language, and not treating the Welsh language less favourably than English.
- 2.79 In responding to the evidence notice, the Council submitted a link to the consultation page on its website which contained all the consultation documents. I have already discussed the content of the consultation documents in the section above in relation to any reference in those documents to the Welsh language and the possible effects of the proposal on the Welsh language.
- 2.80 The list of documents also showed two response forms: one general response form and one for responses from pupils.
- 2.81 The general form contained eleven questions specifically relating to the proposal that had been consulted upon. The questions sought the views of the public on the proposals set out in the consultation document and also asked whether there were any issues or concerns that were not recognised in the consultation document. The response form did not ask specific questions seeking views on the linguistic impact of the proposal.
- 2.82 The pupil response form contained two general questions seeking views on the proposal. The form did not contain a question seeking views on the potential impact of the proposal on the Welsh language.
- 2.83 I asked the Council to inform me as to how views were sought on the effects the changes would have on the Welsh language. In its response, the Council states that it has not specifically sought views on this. The Council explained that it held engagement sessions with stakeholders. It also refers to the fact that it has consulted fully on the Welsh in Education Strategic Plan. I have not considered that consultation as part of my investigation as the standards require the Council to carry out an assessment and to seek views on all policy decisions. As the Council has published two versions of the Welsh language Impact Assessment as part of the consultation documents on this proposal in particular, it is reasonable to conclude that these are the relevant assessments for my investigation.
- 2.84 The Council acknowledges that it has received representations on an alleged failure to implement standards 91, 92 and 93 as part of the consultation. It states that it responded to comments in the consultation report. Looking at the consultation report, there is no reference to concerns about failure to comply with these standards, but a response can be found in the second version of the Welsh language Impact Assessment document. In that response, the Council again reiterates the fact that the decision is part of the Council's wider Strategic Plan. The Council states that the intention is to increase opportunities for more people to use the Welsh language with reference to the Welsh Government's target of ensuring a million Welsh speakers. It also states:

*In the Mawr area of Swansea, if this proposal were to go ahead we believe that as part of a new catchment area the ward would become part of the*

*wider family of the designated school and therefore be able to access further opportunities for persons to use the Welsh language.*

- 2.85 I do not consider this to be an adequate response to the individual's concerns, however, as it does not address the requirements of the standards.
- 2.86 The purpose of standards 91, 92 and 93 is to ensure that, where bodies are consulting on policy decisions, the consultation documents consider and seek views from persons regarding the potential effects of the decision on the Welsh language and on the opportunities to use the language.
- 2.87 The standards require the Council to include specific questions in the consultation document which require a response. The Council would be expected to give due regard to any information gathered during this process when making the policy decision, acting on any outcomes from the consultation. In addition, the Council would be expected to use the information gathered in accordance with these standards as part of the impact assessment (conducted in accordance with standards 88, 89 and 90).

## **Findings**

- 2.88 The requirements of these standards are clear. When publishing consultation documents, opinion must be sought on the potential effects of the policy decision in question on opportunities for persons to use the Welsh language.
- 2.89 In order to comply with the standards, I would have expected the consultation documents to contain specific sections that encourage persons to consider the effect of the proposals on the Welsh language and to have a say in how the policy can be formulated so that it has a more positive effect or less adverse effect on the Welsh language. To achieve this, specific questions should be included that seek the views of persons on this. Indeed, I would expect organisations subject to standards to develop a set of standardised questions to be included in templates or consultation documents. This has not been done in this case. I conclude that none of the documents that were part of the consultation asked questions about any further considerations on what effect a decision to open a school would have on opportunities to use the Welsh language. It also did not seek views on how to make the decision one where it would have more positive effects on the opportunities or less adverse ones.
- 2.90 I believe that the Council should have been more proactive in seeking views on the effect of the proposal on the Welsh language beyond the education provision. Although the Council had received representations about the potential impact on the Welsh language, this was not as a result of any particular effort on the part of the Council. I am of the view that it is inappropriate to place the onus of considering the potential effect of policy decisions on the Welsh language on the target audience. The Council has a duty to encourage and to ensure that consultees consider the Welsh language and the usual way of doing this, and the most effective in my opinion, is to ask specific questions within the consultation documents or response forms.
- 2.91 In its response to the evidence notice, the Council confirmed that the consultation document did not include any specific questions about the potential effects of the



proposal on the Welsh language. As a result, I conclude that the Council failed to ensure that the consultation document sought views on the potential effects on the Welsh language in accordance with the requirements of the standards.

### **Determination of whether or not there has been a failure to comply with standards 91, 92 and 93**

2.92 My determination is that the City and County of Swansea has failed to comply with standards 91, 92 and 93 in this instance. The basis for my determination is that the Council did not ensure that the consultation documents on the decision to close YGG Felindre considered and sought views on the effects of the decision on opportunities for persons to use the Welsh language, and to not treat the Welsh language less favourably than the English language.

### **Further action**

2.93 Section 77 of the Welsh Language Measure allows me to take further action where there has been a failure.

2.94 In the case of my determination that the Council failed to comply with standards 91, 92 and 93, I shall be taking further action in order to prevent the continuation or repetition of the failure to comply when publishing a consultation document in the future which relates to a policy decision.

2.95 Details of the further action are set out below.

### **Standards 91, 92 and 93 – Requirement to take steps in accordance with section 77(3)(b) of the Welsh Language Measure**

9. The Council must take steps to ensure that the findings of this investigation, in relation to the extent to which opinion was sought in an appropriate and sufficient manner in relation to the Welsh language, as part of its decision to close YGG Felindre, are brought to the attention of Cabinet.
10. The Council must develop a set of standard questions for use in consultation documents relating to policy decisions so that it seeks views in accordance with the requirements of standards 91, 92 and 93.
11. The Council must review and revise its processes for issuing consultation documents relating to policy decisions, to ensure that future consultation documents comply with standards 91, 92 and 93.

*Timetable: Within 12 weeks of the date of publication of the Commissioner's final determination.*

### **Standards 91, 92 and 93 – Requirement for the Council to publicise the failure to comply with the standards under section 77(3)(d) of the Welsh Language Measure**

12. The Council must publicise its failure to comply with standards 91, 92 and 93 by publishing this report in a prominent place on its website, and include an item on the investigation on the website's news section.

*Timetable: Within 6 weeks of the date of publication of the Commissioner's final determination.*

13. The Council must provide sufficient written evidence that satisfies the Welsh Language Commissioner that enforcement steps 1 to 12 have been completed.

*Timetable: Within 16 weeks of the date of publication of the Commissioner's final determination.*

**Standards 91, 92 and 93 – The Welsh Language Commissioner to publicise the failure to comply with the standards under section 77(3)(c) of the Welsh Language Measure**

14. I will publicise the Council's failure to comply with the standards by taking the following steps:
  - publish a statement stating that the Council has failed to comply with the standards
  - publish the investigation report on my website

*Timetable: Within 6 weeks of the date of publication of the Commissioner's final determination.*





Comisiynydd y  
Gymraeg  
Welsh Language  
Commissioner

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## Decision notice

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To: City and County of Swansea Council  
Case number: CSG470  
Date: 16 January 2020

### Determination

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As a result of a complaint received from a member of the public, I carried out an investigation under section 71 of the Welsh Language (Wales) Measure 2011 in order to determine whether the City and County of Swansea Council has failed to comply with a number of Welsh language standards with which it has a duty to comply.

The standards relevant to the investigation are as follows:

#### **Standard 48**

If you produce a document in Welsh and in English (whether separate versions or not), you must not treat any Welsh language version less favourably than you treat the English language version.

**Imposition day: 30 March 2016**

**My determination is that the City and County of Swansea Council has failed to comply with standard 48.**

The basis for my determination is that the Council has treated the Welsh version of the consultation response form on the closure of YGG Felindre less favourably than the English version of the form.

**Standard 52**

You must ensure that—

- (a) the text of each page of your website is available in Welsh,
- (b) every Welsh language page on your website is fully functional, and
- (c) the Welsh language is not treated less favourably than the English language on your website.

**Imposition day: 30 March 2016**

**My finding is that the City and Council of Swansea has not failed to comply with standard 52 in this case.**

The basis for my determination is the absence of irrefutable evidence that a Welsh language version of the Welsh Language Impact Assessment was not on the Website throughout the consultation.

**Standard 88**

When you formulate a new policy, or review or revise an existing policy, you must consider what effects, if any (whether positive or adverse), the policy decision would have on—

- (a) opportunities for persons to use the Welsh language, and
- (b) treating the Welsh language no less favourably than the English language.

**Imposition day: 30 March 2016**

**Standard 89**

When you formulate a new policy, or review or revise an existing policy, you must consider how the policy could be formulated (or how an existing policy could be changed) so that the policy decision would have positive effects, or increased positive effects, on—

- (a) opportunities for persons to use the Welsh language, and
- (b) treating the Welsh language no less favourably than the English language.

**Imposition day: 30 March 2016**

**Standard 90**

When you formulate a new policy, or review or revise an existing policy, you must consider how the policy could be formulated (or how an existing policy could be changed) so that the policy decision would not have adverse effects, or so that it would have decreased adverse effects, on—

- (a) opportunities for persons to use the Welsh language, and
- (b) treating the Welsh language no less favourably than the English language.

**Imposition day: 30 March 2016**

**My determination is that the City and County of Swansea Council has failed to comply with standards 88, 89 and 90 in this case.**

The basis for my proposed determination is that it has not fully considered the effects the decision to close YGG Felindre would have on opportunities for persons to use the Welsh language, and to treat the Welsh language no less favourably than the English language.

**Standard 91**

When you publish a consultation document which relates to a policy decision, the document must consider, and seek views on, the effects (whether positive or adverse) that the policy decision under consideration would have on—

- (a) opportunities for persons to use the Welsh language, and
- (b) treating the Welsh language no less favourably than the English language.

**Imposition day: 30 March 2016**

**Standard 92**

When you publish a consultation document which relates to a policy decision the document must consider, and seek views on, how the policy under consideration could be formulated or revised so that it would have positive effects, or increased positive effects, on—

- (a) opportunities for persons to use the Welsh language, and
- (b) treating the Welsh language no less favourably than the English language.

**Imposition day: 30 March 2016**

**Standard 93**

When you publish a consultation document which relates to a policy decision, the document must consider, and seek views on, how the policy under consideration could be formulated or revised so that it would not have adverse effects, or so that it would have decreased adverse effects, on—

- (a) opportunities for persons to use the Welsh language, and
- (b) treating the Welsh language no less favourably than the English language.

**Imposition day: 30 March 2016**

**My determination is that the City and County of Swansea Council has failed to comply with standards 91, 92 and 93 in this instance.**

The basis for my determination is that the Council did not ensure that the consultation documents on the decision to close YGG Felindre considered and sought views on the effects of the decision on opportunities for persons to use the Welsh language, and to not treat the Welsh language less favourably than the English language.

## Further action

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In accordance with section 77 of the Welsh Language (Wales) Measure 2011, I have decided on further action for the purpose of preventing the continuation or repetition of the failure.

Details of the further action are set out below.

### **Standard 48 – Requirement to take steps in accordance with section 77(3)(b) of the Welsh Language Measure**

1. The Council must review its arrangements for producing documents that invite a response to a consultation, acting on its findings, where necessary, to ensure that the Welsh language is treated no less favourably than English language.

*Timetable: Within 8 weeks of the date of publication of the Commissioner's final determination.*

### **Standards 88, 89 and 90 – Requirement to take steps in accordance with section 77(3) (b) of the Welsh Language Measure**

2. The Council must take steps to ensure that the findings of this investigation, in relation to the extent to which the effects of the policy decision on the Welsh language have been adequately considered, are brought to the attention of Cabinet.
3. The Council must adopt a robust process for conducting and recording considerations on any effects that a policy decision would have on opportunities for persons to use the Welsh language, and treating the Welsh language no less favourably than the English language. The process must include clear guidance for officers and councillors on how the relevant considerations should be carried out and recorded.
4. The Council must adopt a robust process for conducting and recording considerations on how a policy decision could be made so that it has more positive effects on opportunities for persons to use the Welsh language or to treat the Welsh language no less favourably than the English language. The process must include clear guidance for officers and councillors on how the relevant considerations should be carried out and recorded.
5. The Council must adopt a robust process for conducting and recording considerations on how a policy decision could be made so as not to have adverse effects on opportunities for persons to use the Welsh language or to treat the Welsh language no less favourably than the English language. The process must include clear guidance for officers and councillors on how the relevant considerations should be carried out and recorded.
6. The Council must produce guidance (or revise its existing guidance) for staff responsible for carrying out impact assessments of policy decisions to ensure that the Council takes all relevant factors into account in the context of the potential impact on the Welsh language.

*Timetable: Within 12 weeks of the date of publication of the Commissioner's final determination.*

**Standards 88, 89 and 90 – Requirement for the Council to publicise the failure to comply with the standards under section 77(3)(d) of the Welsh Language Measure**

7. The Council must publicise its failure to comply with standards 88, 89 and 90 by publishing this report in a prominent place on its website, and include an item on the investigation on the website's news section.

*Timetable: Within 6 weeks of the date of publication of the Commissioner's final determination.*

**Standards 88, 89 and 90 – The Welsh Language Commissioner to publicise the failure to comply with the standards under section 77(3)(c) of the Welsh Language Measure**

8. I will publicise the Council's failure to comply with the standards by taking the following steps:
  - publish a statement stating that the Council has failed to comply with the standards
  - publish the investigation report on my website

*Timetable: Within 6 weeks of the date of publication of the Commissioner's final determination.*

**Standards 91, 92 and 93 – Requirement to take steps in accordance with section 77(3)(b) of the Welsh Language Measure**

9. The Council must take steps to ensure that the findings of this investigation, in relation to the extent to which opinion was sought in an appropriate and sufficient manner in relation to the Welsh language, as part of its decision to close YGG Felindre, are brought to the attention of Cabinet.
10. The Council must develop a set of standard questions for use in consultation documents relating to policy decisions so that it seeks views in accordance with the requirements of standards 91, 92 and 93.
11. The Council must review and revise its processes for issuing consultation documents relating to policy decisions, to ensure that future consultation documents comply with standards 91, 92 and 93.

*Timetable: Within 12 weeks of the date of publication of the Commissioner's final determination.*

**Standards 91, 92 and 93 – Requirement for the Council to publicise the failure to comply with the standards under section 77(3)(d) of the Welsh Language Measure**

12. The Council must publicise its failure to comply with standards 91, 92 and 93 by publishing this report in a prominent place on its website, and include an item on the investigation on the website's news section.



*Timetable: Within 6 weeks of the date of publication of the Commissioner's final determination.*

13. The Council must provide sufficient written evidence that satisfies the Welsh Language Commissioner that enforcement steps 1 to 12 have been completed.

*Timetable: Within 16 weeks of the date of publication of the Commissioner's final determination.*

**Standards 91, 92 and 93 – The Welsh Language Commissioner to publicise the failure to comply with the standards under section 77(3)(d) of the Welsh Language Measure**

14. I will publicise the Council's failure to comply with the standards by taking the following steps:
- publish a statement stating that the Council has failed to comply with the standards
  - publish the investigation report on my website

*Timetable: Within 6 weeks of the date of publication of the Commissioner's final determination.*

## **Right of appeal to the Welsh Language Tribunal**

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When the Commissioner has determined that there has not been a failure to comply with a standard, the complainant may appeal to the Welsh Language Tribunal. When the Commissioner has determined that a person has failed to comply with a standard, that person can appeal to the Welsh Language Tribunal. Additionally, when the Commissioner has decided to take enforcement action in relation to a failure in accordance with section 79 of the Welsh Language Measure, City and County of Swansea Council may appeal to the Welsh Language Tribunal on the grounds that the enforcement action is unreasonable or disproportionate. There is more information about the process in the enclosed leaflet, and on the Welsh Language Tribunal's website.

## **Consequences of not complying with a requirement included in the decision notice**

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If City and County of Swansea Council fails to comply with any requirement included in this decision notice to take further action, the Commissioner may apply to a county court for an order requiring City and County of Swansea Council to comply.