

Terms of reference of an investigation of a possible failure to comply with Welsh language standards

1. Case number

CSG470

2. Name of person being investigated

Swansea Council

3. Date of giving notice of the terms of reference

06/02/2019

4. Description of the complaint received

Two complaints were submitted to the Welsh Language Commissioner from a member of the public regarding matters relating to the Council's proposal to close Ysgol Gynradd Gymraeg Felindre. The first complaint was received on 6 December 2018 relating to the way in which the Council held its consultation on the proposal to close the school. The second complaint was received on 7 January 2019 regarding alleged shortcomings in the way the impact of the decision on opportunities to use the Welsh language and not to treat Welsh less favourably than English has been assessed.

The complainant alleges that:

- i) 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.
- ii) the Council failed to respond appropriately to representations submitted regarding how the consultation was carried out.
- iii) 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.

- iv) the assessment on Welsh education was not published on the Welsh pages of the website during the consultation process.
- v) 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.

5. Failure to comply with relevant requirements

a) A DUTY TO COMPLY WITH WELSH LANGUAGE STANDARDS

The complaint has raised a suspicion that Swansea Council has failed to comply with Welsh Language Standards. The investigation will determine whether or not Swansea Council has failed to comply with the following standards:

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: 30/03/2016

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: 30/03/2016

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: 30/03/2016

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: 30/03/2016

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: 30/03/2016

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: 30/03/2016

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: 30/03/2016

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: 30/03/2016

6. Investigation timetable

Step in the investigation	Period allowed
Give notice to Swansea Council and the complainant of the proposed terms of reference	
Receive representations about the terms of reference from Swansea Council and the complainant	10 working days after giving notice to Swansea Council and the complainant of the proposed terms of reference
Give notice to Swansea Council and the complainant of the final terms of reference, and give the evidence notice to Swansea Council	5 working days after receiving the representations about the proposed terms of reference
Receive Swansea Council's response to the evidence notice	15 working days after giving the evidence notice
Give notice to Swansea Council and the complainant of the proposed determination and the proposed investigation report	20 working days after receiving the response to the evidence notice
Receive Swansea Council and the complainant's representations about the proposed determination and the proposed investigation report	20 working days after giving notice to Swansea Council and the complainant of the proposed determination and the proposed investigation report
Determine whether or not there was a failure to comply with standards; give Swansea Council and the complainant the final decision notice and the final investigation report; give notice to Swansea Council and the complainant of any intention by the Commissioner to take further action (in accordance with sections 76 and 77 of the Welsh Language Measure)	10 working days after receiving representations about the proposed determination and the proposed investigation report

The timetable is a guide only, showing the Commissioner's aim, and it should be noted that the actual dates may vary since they are dependent on a number of different factors.