Welsh Language Board

INVESTIGATION UNDER SECTION 17 OF THE WELSH LANGUAGE ACT 1993
The Welsh Language Board’s Report to Merthyr Tydfil County Borough Council published under Section 19 of the Welsh Language Act 1993
Part II Section 17 of the Welsh Language Act 1993

Investigations - Compliance with Schemes

An investigation is held into the possible failure of a public body to implement its Language Scheme, under section 17 of the Welsh Language Act 1993 (the Act).

‘17. (1) Where it appears to the Board, whether on a complaint made to it under section 18 below or otherwise, that a public body may have failed to carry out a scheme approved by the Board, the Board may conduct an investigation in order to ascertain whether there has been a failure.
(2) The procedure for conducting an investigation under this section shall be such as the Board considers appropriate in the circumstances of the case, and in particular an investigation may be conducted in private.....’

Reports

A report is produced under section 19 of the Welsh Language Act based on the findings of the investigation.

19. (1) Where the Board undertakes an investigation under section 17 above, it shall send a report of the results of the investigation to the public body concerned, to the Secretary of State and, where the investigation is conducted on a complaint made under section 18 above, to the complainant....’
(2) Where the Board considers that it would be appropriate for a report of the results of an investigation to be published, either in the form of the report made under subsection (1) above or in some other form, the Board may arrange for publication in such manner as it thinks fit.
(3) Where on completing an investigation the Board is satisfied that the public body concerned has failed to carry out the scheme, the Board may include in its report recommendations as to action to be taken by the public body in order to remedy the failure or to avoid future failures’.

On the basis of the evidence collected, this report reaches a conclusion with regard to cases of compliance by Merthyr Tydfil County Borough Council (the Council) with several aspects of its statutory Welsh Language Scheme. On receipt of this report, the Board will also submit recommendations to the Council under Section 19(3) of the Welsh Language Act 1993.

The Board would like to thank the Council for its willing co-operation throughout this investigation.
1. **Background and Context**

1.1 Merthyr Tydfil County Borough Council (the Council) is a local government body that provides a wide range of services to the residents of the town and county of Merthyr Tydfil.

1.2 As a public body named under section 6 (1) (a) of the Welsh Language Act 1993 the Council is a body that has a duty to prepare a Welsh Language Scheme. The Council's first Welsh Language Scheme was approved by the Welsh Language Board (the Board) in April 1998. The Council's second Welsh Language Scheme, namely its current Welsh Language Scheme, was approved by the Board on 17 November 2008.

1.3 This is a report on an investigation into alleged failures by the Council to implement its Welsh Language Scheme. This is the first investigation held by the Board into the implementation of the Council's Welsh Language Scheme.

1.4 The Board does not include the personal details of individuals in investigation reports.
2. **The Investigation**

2.1 In November and December 2011 the Board received a series of allegations by Cymdeithas yr Iaith Gymraeg, as well as some evidence that commitments in the Council's Welsh Language Scheme had been broken.

2.2 In October 2011 the Council launched a revised website. We understand that the Council had planned to provide a bilingual website, with the Welsh version provided via the use of machine translation. This was done despite previous comments made by the Board regarding the use of such systems, and despite the findings of a verification exercise that considered the corporate websites of local authorities in 2010, and improvement actions noted by the Board as a result of that inspection work. Because of doubts concerning the accuracy of the translation the Council decide not to continue with the use of machine translation thereby leaving the website in English only. The Council has now decided to make a further investment in order to provide a bilingual website.

2.3 The case regarding the website received public attention. As a result, a series of complaints and allegations were received about other matters regarding the implementation of the Council's Welsh Language Scheme.

2.4 Here is a chronology of the complaints received:

I. **22 November 2011**: Cymdeithas yr Iaith Gymraeg submitted an electronic folder containing the Council's promotional material in English only. (Complaint 1)

II. **6 December 2011**: Cymdeithas yr Iaith Gymraeg submitted a table of various complaints sent to the Council between 2007 and 2011. The complaints pertain to letters, signs, publications and forms, and the Council's main reception point. One case pertained to unfavourable treatment received when trying to conduct a meeting in Welsh and obtaining Welsh forms to register the birth of a child. In the same correspondence, attention was drawn to messages left on the Council's Facebook page, which are in English only. (Complaint 2)

III. **8 December 2011**: Before holding a meeting with Council officers and the elected member who undertakes the role of Equality Champion, Cymdeithas yr Iaith Gymraeg contacted the Board to express its dissatisfaction with the Council's decision not to provide a simultaneous translation service in the meeting, as one of the Council's officers did not speak Welsh. (Complaint 3)

IV. **23 December 2011**: The Board received a copy of an e-mail sent by the Cymdeithas yr Iaith Gymraeg to the Council expressing its dissatisfaction with the lack of a Welsh information sheet on Civil Parking Enforcement. (Complaint 4)

2.5 On 12 December 2011 the Board received a copy of a letter sent by the Cymdeithas yr Iaith Gymraeg to the Public Services Ombudsman. The letter
made a number of allegations against the Council, including its failure to provide a bilingual website; its failure to provide bilingual publicity material; and that it had tried to mislead the Board by providing incorrect figures regarding the number of complaints it had received regarding its Welsh language services.

2.6 In addition to the allegations made by Cymdeithas yr Iaith Gymraeg, the Board received two separate complaints regarding the lack of Welsh forms during November and another similar case a little earlier in the year.

2.7 On the basis of the information noted above, the Board had doubts that the Council had failed to implement its Welsh Language Scheme in accordance with the sections noted below:

- **New Policies and Initiatives** (Complaints 1 and 2 and the Council's website)
  ...The likely linguistic impact of any new proposals presented for approval will need to be assessed...

- **Written Communication** (Complaints 1, 2, and 4)
  ...In normal circumstances, circular or standard letters to customers will be bilingual...

- **Other Meetings with Customers** (Complaints 2 and 3)
  The Council make every effort to have at least one Welsh speaking employee on duty in reception areas and at service counters...
  ...Meetings on Council Premises
  If the preferred language of a customer is known to be Welsh the Council seeks to ensure the presence of a bilingual officer...

- **Publishing and Printing Material** (Complaints 1, 2, and 4)
  Publishing and other printed materials aimed at customers in Wales should be bilingual with both language versions forming one document...

- **Forms and explanatory material** (Complaints 1, 2 and 4)
  All forms and explanatory material published by the Council for use by customers will be bilingual, produced on a rolling programme, mainly on renewal or when new material is commissioned.
  Both languages in one document should be the norm for bilingual documents...

2.8 On 6 January 2012 the Board’s Chief Executive and Chair granted permission to conduct an investigation into the implementation of the Council's Welsh Language Scheme.
3. **The Investigation Procedure**

3.1 Section 17(2) of the Act gives the Board discretion with regard to the way in which an investigation is conducted.

3.2 The Board wrote to the Chief Executive of the Council on 9 January 2012 to inform him of the Board's intention to conduct a statutory investigation to ascertain whether the Council had failed to implement the Welsh Language Scheme. It was explained that the Board would appoint an independent consultant to carry out the work on its behalf.

3.3 The Council replied on 10 January 2012, noting its willingness to co-operate and assist the Board, and the consultant, during the course of the investigation. However, the Board was asked to reconsider its decision, mainly due to the work which was underway to prepare a revised Welsh Language Scheme.

3.4 The Board wrote to the Council on 23 January 2012, noting its intention to continue with the investigation and its willingness to hold a meeting before the start of the investigation. The Board's officers visited the Council's Chief Executive and officers on 25 January 2012 to explain the aim, objectives and scope of the investigation.

3.5 Sbectrwm Consultancy was appointed to carry out the work of collecting further evidence and information from the Council, and submitting it to the Board in the form of a report. That report, and the evidence collected to prepare it, forms the basis of the investigation report.

3.6 Implementing those aspects of the Council's Welsh Language Scheme highlighted by the complaints received pertained to relatively basic aspects of the Welsh Language Scheme. The consultant was asked to consider specific cases, and in investigating, to consider whether the cases in question were exceptional cases or symptoms of deeper problems.

3.7 In consideration of the above, the consultant was expected to consider internal processes and procedures for ensuring staff are aware of their duties under the Council's Welsh Language Scheme, and for checking compliance with the commitments of the Scheme.

3.8 In undertaking the work of collecting information and considering the specific cases in question, the consultant used the following methods:

- An interview with Cymdeithas yr Iaith Gymraeg;

- An interview with Council officers with specific responsibility for the Council's Welsh Language Scheme;
• Collecting examples of the Council's material during visits to the Council's main centres;

• Testing the Council's services: both frontline and on-line;

• Conducting focus groups of the Council's senior officers and middle managers in order to give further consideration to whether the cases brought to light through the complaints were exceptional cases or examples of systemic failure. The intention was to ascertain their level of awareness of the Council's Welsh Language Scheme and their perception of how the Council complies with the Scheme. A total of 10 officers attended both focus groups, out of the 20 who were invited;

• Distributing a questionnaire to senior and middle managers to assess their level of understanding and awareness of the requirements of the Council's Welsh Language Scheme. Twenty three questionnaires were distributed to Directors and Heads of Department in the Chief Executive's Directorate, the Customer Services Directorate and the Community Services Directorate. Fourteen questionnaires were returned, namely 61% of the total distributed.

3.9 A detailed chronology of the investigation can be found in Appendix 1 of this report.
4. Findings

4.1 New Policies and Initiatives

4.1.1 The Council has a procedure for assessing the effect of policies, and the equality impact assessment pays particular attention to the Welsh language. Each report that goes before the Council or Cabinet must be prepared in accordance with the equality assessment.

4.1.2 The vast majority of managers questioned via the questionnaire distributed by the Board's consultant believed that the Council considers the Welsh language when developing new policies and initiatives.

4.1.3 The Council has made a commitment to provide the corporate website bilingually and arrangements are being put in place to achieve that. This is a positive development, although the Board has not yet seen a detailed plan for the work.

Conclusion

- It appears that the Council is compliant with the New Policies and Initiatives clause as an impact assessment procedure is in place.

4.2 Written communication

4.2.1 The Council's responses to historical complaints - submitted to the Board as part of complaint 2 - reveal that the Council's usual practice was to begin correspondence in English only. Those individuals identified as wanting to receive Welsh correspondence may have received information in Welsh. Otherwise, it was necessary to reply to Council correspondence and make a specific request to receive a Welsh copy of any correspondence.

4.2.2 In response to complaints made to the Council about letters in English only in 2011, the following explanation was given:

“If Mr B / Mr C received a letter in English only then I can only assume from the information provided to me that it was not included in a ‘blanket drop’ and therefore did not require to be in Welsh unless requested.”

This practice is not consistent with the Council's Welsh Language Scheme, which notes:

In normal circumstances, circular or standard letters to customers will be bilingual...

4.2.3 The results of the questionnaire distributed show a high level of awareness among staff who were questioned of the need for the material published and printed to be bilingual (86% said that they were...
aware of this). However, only 5% believed that this was being fully implemented by the Council (43% said that it was not being implemented, and 21% didn’t know).

4.2.4 Therefore the evidence strongly suggests that the Council provides a limited number of bilingual written correspondence, and that it does so in a reactive way.

Conclusion
- Based on the evidence above and having considered the relevant section of the Council’s Welsh Language Scheme, the Board believes that the Council has failed to comply with the commitment regarding written communication.

4.3. Other Meetings with Customers

4.3.1 The case referred to in complaint 3 was a meeting between an elected member of the Council, Council officers, and members of Cymdeithas yr Iaith Gymraeg in Merthyr Tydfil civic centre. Cymdeithas yr Iaith Gymraeg’s request to have a simultaneous translation service in the meeting because a Councillor was present was refused. The Council’s point of view was that a translation service was only offered for public meetings.

4.3.2 The Council’s Welsh Language Scheme notes, with regard to meetings on Council premises, that arrangements will be made to ensure the presence of a Welsh speaking officer at meetings. A Welsh speaking officer was present at the meeting, as well as the elected member who spoke Welsh, and it was agreed to accept bilingual contributions in the meeting.

4.3.3 However, a view was expressed, via the focus groups, that it was not Council practice to provide simultaneous translation in meetings with a limited number of people for cost reasons. This view was corroborated by the conclusions drawn from the questionnaire, namely that the reason for the restriction was cost.

4.3.4 During the investigation it became apparent that there was no-one available to greet customers in Welsh in many of the Council’s main reception areas, including the town’s library, the leisure centre, Merthyr Tydfil Visitors Centre, and the Council’s main offices, with the exception of one member of staff at the reception area of the Civic Centre who spoke a little Welsh.

4.3.5 In terms of the service offered by the Council’s Civic Centre, the consultant had great difficulty in eliciting a bilingual response reply from the Council’s receptionists. Seventy five per cent of 20 telephone calls were answered in English only. Almost all calls were transferred to a Welsh speaking receptionist, although they only spoke a basic level of
Welsh. The Council acknowledged that it is not possible to offer a bilingual telephone service if this officer is not available.

Conclusion
- *With regard to the specific case in question (complaint 3), it appears that there was no failure to implement the Council's Welsh Language Scheme.*

- *However, in considering the Council's wider commitments in this section, and the evidence gathered in relation to complaint 2, the Board believes that the Council has failed to comply with the Welsh Language Scheme.*

4.4 **Publishing and printing material**

4.4.1 The Council officers who attended the focus groups acknowledged that there was a great deal of inconsistency across the Council with regard to publishing bilingual material. Some departments adhered to the commitments of the Welsh Language Scheme and published bilingual material, but it appeared that they were in the minority.

4.4.2 It appears that reactive arrangements have taken root in the normal operations of Council departments. A great deal of material was published in English only, with a short note at the bottom of the publication stating that it was available in Welsh on request. Responding to such a request would be the only reason to translate the work.

4.4.3 It was noted that issues such as cost and time were used as reasons for not producing bilingual publications. Apathy towards the requirements of the Welsh Language Scheme, or even opposition towards those requirements, amongst some in managerial positions was also noted.

4.4.4 Reference was also made to the Council's magazine, *Contact.* This is currently a bilingual publication, but one officer warned that the published version could become English only in future, with a bilingual version only available on-line.

Conclusion
- *Based on the findings above, the Board considers that the Council has failed to conform with the commitments made in the publications section of the Welsh Language Scheme.*

4.5 **Forms and explanatory material**

4.5.1 The same situation and difficulties were apparent with regard to forms and explanatory material. The consultant collected examples of leaflets and information booklets from the Council's main sites; the Council's
offices, the town's library, the leisure centre and the Visitors Centre. The consultant's research showed that approximately 10% of the examples collected were bilingual.

4.5.2 The consultant was led to understand, by county language organisations that English only correspondence and forms were sent to them regularly.

4.5.3 This corroborates the information received within complaints 1, 2 and 4. Other complaints regarding this aspect of the provision were received during the year, and reference is made to them under 2.5 above.

**Conclusion**

- *The evidence collected by the Board's consultant shows that the Council does not provide bilingual versions of a number of forms. On that basis the Board believes that the Council is not complying with the commitments made in the Welsh Language Scheme with regard to forms.***

4.6 **Other matters arising**

4.6.1 During the investigation, other related issues which had not been considered initially became apparent.

4.6.2 With regard to publications for example, consideration was given to notices; including official notices, public notices and job recruitment advertisements. Again, inconsistent practices were found across Council departments. There was an example of one department that adhered to the requirements of the Welsh Language Scheme consistently, whilst other managers admitted that they were not aware of the requirements of the Welsh Language Scheme in this context.

4.6.3 The focus groups discussed advertising and recruitment practices. The Council does not have clear guidelines with regard to considering the Welsh language, and the appropriateness of noting 'essential' or 'desirable' requirements when recruiting. One officer believed that it was not possible for the Council to make the Welsh language an 'essential' requirement for a post, as it would be contrary to the Equal Opportunities Act. This point of view is totally incorrect, and further detailed guidance on the subject can be found in the Board's advice document, "Recruitment and the Welsh Language".

4.6.4 During the investigation period the Chief Executive, senior managers and members of the Council's Executive Board attended language awareness sessions. It was also confirmed that the Council provides Welsh language lessons for staff via an arrangement with Coleg
Gwent, and language awareness courses are provided by Menter Iaith Merthyr.

4.6.5 It also became apparent that signage is an area where the Council succeeds in maintaining a high level of compliance with the requirements of the Welsh Language Scheme.

4.6.6 It was noted in section 2.4 that doubts had been raised about the number of complaints received by the Council, and reported to the Board as part of the annual monitoring procedure. It seems that the inconsistency between the figures arises from the definition of "complaint". A complaint must be submitted in writing to the Council on a specific form in order for it to be recorded as an official complaint. The Council was aware of complaints regarding Welsh language services, but they had not been reported to the Board because they had not been formally recorded.

4.6.7 Another issue that became apparent during the investigation was the lack of robust internal processes for monitoring the Council's compliance with its Welsh Language Scheme. It was stated that there was no regular responsibility nor expectation for managers to report on the performance of departments with regard to implementing the Welsh Language Scheme.

Conclusion

- There have been some promising developments recently with regard to the Welsh Language Scheme, and the Chief Executive has been part of this.
- However, the investigation has revealed a lack of awareness of the Language Scheme amongst the workforce and managers, and also indifference in some cases. The Board believes that there is a need to strengthen ownership of the Scheme across the Council and establish arrangements to assist the Chief Executive and the Equalities and Welsh Language Officer in doing so.
- The Council has invested in language awareness training for senior managers and members of the Executive Board. The Board welcomes this, and believes that there is a need to continue with the language awareness sessions, and also hold specific sessions to raise awareness of the requirements of the language scheme.
5. Conclusions

5.1 In terms of compliance with the Language Scheme and the specific issues considered during the investigation, the following conclusions can be drawn:

New Policies and Initiatives - it appears that the Council is compliant with the New Policies and Initiatives clause as there is an impact assessment procedure in place.

Written communication - the Board believes that the Council has failed to comply with this section of the Scheme.

Other meetings with customers - the Board believes that the Council acted in accordance with the Language Scheme with regard to complaint 3. However, in considering the Council's wider commitments under this section during the investigation, the Board believes that the Council has failed to comply with the Scheme.

Publishing and printing material - the Board believes that the Council has failed to comply with this section of the Scheme.

Forms and explanatory material - the Board believes that the Council has failed to comply with this section of the Scheme.

In accordance with section 19(3) of the Welsh Language Act 1993, section 6 of this report offers recommendations on actions to be taken by the Council in order to rectify the failures above, or to avoid failures in future.
6. Recommendations

Recommendation 1 (Management and implementation of the Welsh Language Scheme):

Ownership of the Welsh language agenda and decisive leadership is required at the highest levels of the Council, and the Scheme needs to be implemented holistically across the Council's departments. The Council should do the following:

a) appoint a senior officer to be responsible for the Welsh language, and for that officer to set a clear and robust direction with regard to the Council's duties;

b) establish or appoint a committee, chaired by the senior officer above and with a broad membership of officers, to be responsible for the implementation of the Scheme and Welsh language issues;

c) establish a procedure so that departments, via the committee, take responsibility for the implementation of the Scheme and provide regular progress reports to the Council's management team, via the committee noted above.

Target date: arrangements to be established by October 2012

Recommendation 2 (Publications, and public material):

The Council must have effective processes and systems for ensuring its compliance with the clauses in the Welsh Language Scheme which relate to written material. The Council should do the following:

a) ensure appropriate procedures for accessing translation services;

b) prepare clear and comprehensive guidelines for preparing public documents and promotional material;

c) establish a clear and efficient procedure for producing bilingual public documents and promotional material;

d) ensure that staff are aware of these procedures.

Target date: by September 2012

Recommendation 3 (The workforce's language skills):

The Board's investigation revealed that the Council lacks linguistic capacity to provide Welsh services in some areas. The Council needs to obtain detailed information about its current ability to provide bilingual services, by identifying the Welsh language skill levels of its staff. The Council should do the following:

a) prioritise and fast track the work of preparing a Linguistic Skills Strategy - which will provide for language training, amongst other matters;

b) arrange a directory of bilingual staff in order to ensure that they can deal with requests for Welsh services.
c) give specific attention to increasing the Council’s ability to provide a Welsh service through the contact centre and the main reception areas

**Target date:** (a) by December 2012; (b) (c) by April 2013

**Recommendation 4 (Training):**

The Council needs to build on work previously undertaken with regard to training, and ensure consistency by:

a) developing and providing language awareness training for managers;

b) providing information sessions on the Language Scheme to staff in general;

c) providing suitable training – e.g. language refresher sessions - for those staff identified by the skills audit as already having some Welsh language skills.

**Target date:** by December 2012

**Recommendation 5 (Electronic provision):**

In order to complement recent positive commitments regarding the provision of a bilingual website, the Council needs to do the following:

a) prepare a robust plan, with a detailed and clear timetable, for developing and maintaining a bilingual website;

b) ensure that it has a clear policy on the use of Welsh on social networks, such as facebook, twitter and so on.

**Target date:** (a) by July 2012; (b) by December 2012
Appendix 1: Chronology

Here is a chronology of some of the main incidents during the period before conducting the investigation:

**October 2011:** The Board corresponds with the Council's Chief Executive regarding the launch of the corporate website.

**November 2011:** The Board received and dealt with two complaints made against the Council due to a lack of Welsh forms. Both cases pertained to different forms.

**22 November 2011:** The Board received Complaint I from Cymdeithas yr Iaith Gymraeg.

**6 December 2011:** The Board received Complaint II from Cymdeithas yr Iaith Gymraeg.

**8 December 2011:** The Board received Complaint III from Cymdeithas yr Iaith Gymraeg.

**12 December 2011:** The Board received a copy of Cymdeithas yr Iaith Gymraeg's letter to the Public Services Ombudsman.

**23 December 2011:** The Board received Complaint IV from Cymdeithas yr Iaith Gymraeg.

**6 January 2012:** The Chair and Chief Executive of the Board gave their consent to conduct an investigation.

**9 January 2012:** The Board wrote to the Chief Executive of the Council to inform him of the Board's intention to conduct a statutory investigation to ascertain whether the Council had failed to comply with the Welsh Language Scheme.

**24 January 2012:** Sbectrwm Consultancy was appointed to carry out the work of collecting further evidence and information from the Council.

Here is a chronology of the work of the independent consultant during the time spent collecting information as part of the investigation:

**24 January 2012:** A meeting was held with the Development Officer of the Welsh Language Board's Government in Wales Unit to receive information about the complaints and to agree on the conditions of the investigation.

**7 February 2012:** A telephone meeting was held with a representative of Cymdeithas yr Iaith Gymraeg.

**7 February 2012:** A meeting was held with the Council's Head of Human Resources.
who is responsible for equalities and the Welsh language.

7 February 2012: A meeting was held with the Council's Equalities and Welsh Language Officer.

27 February 2012: A meeting was held with the Councillor who is Merthyr Tydfil County Borough Council's Equalities and Welsh Language Champion.

28 February 2012: Two focus groups were held with the Council's senior officers and middle managers.

28 February 2012: A meeting was held with the Council's Equalities and Welsh Language Officer.

28 February 2012: A meeting was held with the Urdd's Director of Youth Services and the Chairman of the Governing Body of Ysgol Gymraeg Santes Tudful.

28 February 2012: A meeting was held with the Chief Officer of Menter Iaith Merthyr Tudful.

28 February 2012: A meeting was held with a representative of Cymdeithas yr Iaith Gymraeg.

29 February 2012: Closing date for receiving questionnaire from the Council's senior and middle managers.

7 February – 1 March 2012: Monitoring of the telephone service provided by the Council's main switchboard.

6 March 2012: The Board received a draft copy of the investigation report by Sbectrwm Consultancy.