



TRIBIWNLYS Y GYMRAEG
Achos TyG/2023/01

JEFF REES
(Ceisydd)

v.

COMISIYNYDD Y GYMRAEG
(Atebydd)

PENDERFYNIAD

Ar ôl ystyried:

- (a) Hysbysiad Cais y Ceisydd, dyddiedig 12 Ebrill 2023, yn gofyn am adolygiad gan y Tribiwnlys, dan adran 103 o Fesur y Gymraeg (Cymru) 2011 (“y Mesur”), o benderfyniad Comisiynydd y Gymraeg;
- (b) Penderfyniad y Tribiwnlys dyddiedig 24 Ebrill 2023 bod y Hysbysiad Cais yn dangos disgwyliad rhesymol y byddai'r Cais yn llwyddo ac yn rhoi caniatâd o dan adran 103 Mesur y Gymraeg;
- (c) Datganiad Achos y Ceisydd dyddiedig 22 Mai 2023;
- (d) Llythyr oddi wrth Coimisiynydd y Gymraeg (“yr Atebydd”) dyddiedig 24 Mai 2023, gan gynnwys Cais yr Atebydd i ddileu cais yr Ceisydd o dan Reol 28(2)(b) Rheolau Tribiwnlys y Gymraeg 2015 (“y Rheolau”) ar y sail bod y cais heb fod bellach o fewn awdurdodaeth y Tribiwnlys;

Mae'r Tribiwnlys o'r farn:

1. Y dylai benderfynu'r achos, gan gynnwys cais yr Atebydd, heb wrandawriad ar sail yr Hysbysiad Cais a'r dogfennau eraill a ddaeth i law'r Tribiwnlys;
2. Nad oes gan y Tribiwnlys awdurdodaeth bellach, dan adrannau 103 a 104 o'r Mesur, i ystyried y Cais am adolygiad;
3. Y dylai'r Tribiwnlys felly ddileu Cais y Ceisydd dan reol 28(2)(b) o'r Rheolau.

Rhodri Williams CB

Aelod Cyfreithiol Tribiwnlys y Gymraeg

15 Mehefin 2023



WELSH LANGUAGE TRIBUNAL
Case WLT/2023/01

JEFF REES
(Applicant)

v.

WELSH LANGUAGE COMMISSIONER
(Respondent)

DECISION

Having considered:

- (a) the Applicant's Notice of Application, dated 12 April 2023, requesting a review by the Tribunal, under section 103 of the Welsh Language (Wales) Measure 2011 ('the Measure'), of the Welsh Language Commissioner's decision;
- (b) The decision of the Tribunal dated 24 April 2023 that the Notice of Application showed a reasonable prospect of success and giving permission under section 103 of the Measure;
- (c) The Applicant's Case Statement dated 22 May 2023;
- (d) Letter from the Commissioner ("the Respondent"), dated 24th May 2023, including the Respondent's Application to strike out the Applicant's application under Rule 28(2)(b) of the Welsh Language Tribunal Rules 2015 ("the Rules") on the ground that the application is no longer within the jurisdiction of the Tribunal;

The Tribunal is of the opinion:

1. That it should determine the case, including the Respondent's application, without a hearing and on the basis of the Application Notice and the other documents before the Tribunal;
2. That the Tribunal no longer has any jurisdiction, under sections 103 a 104 of the Measure, to consider the Application for review;
3. That it should consequently strike out the Applicant's Application under rule 28(2)(b) of the Rules.

Rhodri Williams KC

Legally Qualified Member of the Welsh Language

Tribunal 15 June 2023

Rhesymau

Yn ei llythyr dyddiedig 24 Mai 2023, y mae'r Atebydd wedi datgan ei bod hi wedi edrych eto ei ei phenderfyniad gwreiddiol ac yn derbyn bod sail y penderfyniad i beidio ag ymchwilio yn ddiffygiol. Mae'r Atebydd wedi cyhoeddi felly ei bod hi wedi diddymu'r penderfyniad ac wedi penderfynu agor ymchwiliad i'r gŵyn dan adran 71 Mesur y Gymraeg.

Mae'r Atebydd yn datgan y bydd hi, yn unol â pharagraff 13 penderfyniad y Tribiwnlys, yn ymchwilio er mwyn dyfarnu a yw Cyngor Bwrdeistref Sirol Torfaen wedi methu cydymffurfio â safonau 61, 62 a 63 o Reoliadau Safonau'r Gymraeg (Rhif 1) 2015 ac y bydd hi'n ystyried a yw Deddf Iechyd Cyhoeddus 1925 yn pennu enw Saesneg yn unig ar gyfer pob stryd sydd dan sylw, a'r defnydd o enwau priod uniaith Saesneg ar yr arwyddion hynny.

Ymhellach, gan fod y Ceisydd, yn ei Hysbysiad Cais, wedi cyfeirio at benderfyniad y Cyngor i ddiwygio ei bolisi enwau strydoedd, a'r posibilrwydd na roddwyd ystyriaeth briodol i'r Gymraeg wrth wneud hynny, bydd yr Atebydd yn ymchwilio er mwyn dyfarnu a yw'r Cyngor wedi methu cydymffurfio â safonau 88, 89 a 90 o Reoliadau Safonau'r Gymraeg.

O dan yr amgylchiadau hynny, y mae'r Tribiwnlys yn cytuno gyda'r Atebydd. Gan fod yr Atebydd wedi diddymu ei phenderfyniad gwreiddiol, nid oes angen i'r Tribiwnlys wneud penderfyniad ar Gais yr Hawlydd ac mae swyddogaeth y Tribiwnlys wedi dod i ben.

Yn unol â penderfyniad y Tribiwnlys yn achos *Powell-v-Comisiynydd y Gymraeg* (TyG/2018/02 §25), ym marn y Tribiwnlys: “y mae'n ymhlyg yn adran 104 o'r Mesur mai'r unig “benderfyniad” neu “ddyfarniad” y caiff y Tribiwnlys ymdrin ag ef yw un sy'n dal yn weithredol. Unwaith y bydd y Comisiynydd yn gwrthdroi penderfyniad i beidio ag ymchwilio i gŵyn daw swyddogaeth y Tribiwnlys i ben.” (Gweler hefyd achos *Davies-v-Comisiynydd y Gymraeg* (TyG/2019/01 §§14 &15).

Reasons

In her letter dated 24 May 2023, the Respondent states that she has looked again at her original decision and accepts that the basis of the decision not to investigate was flawed. The Respondent has therefore announced that she has quashed the decision and has decided to open an investigation into the complaint under section 71 of the Welsh Language Measure.

The Respondent states that she will, in accordance with paragraph 13 of the Tribunal's decision, investigate in order to determine whether Torfaen County Borough Council has failed to comply with standards 61, 62 and 63 of the Welsh Language Standards (No. 1) Regulations 2015 and that she will consider whether the Public Health Act 1925 determines an English language only name for each street at issue, and the use of English only proper nouns on those signs.

Furthermore, since the Applicant, in his Application Notice, referred to the decision of the Council to repeal its policy on street names, and the possibility that no appropriate consideration was given to the Welsh Language in doing so, the Respondent will investigate in order to determine whether the Council has failed to comply with standards 88, 89 and 90 of the Welsh Language Standards Regulations.

In those circumstances, the Tribunal agrees with the Respondent. Since the Respondent has quashed her original decision, there is no need for the Tribunal to make a determination on the Applicant's Application and the Tribunal's jurisdiction has consequently come to an end.

In accordance with the Tribunal's decision in case *Powell-v-the Welsh Language Commissioner* (WLT/2018/02 § 25), the Tribunal considers that: “it is implicit in section 104 of the Measure that the only “decision” or “determination” the Tribunal may deal with is one that is still effective. Once the Commissioner has reversed his decision not to investigate a complaint the Tribunal's function ceases”. (See also case *Davies-v-the Welsh Language Commissioner* (WLT/2019/01 §§ 14 & 15).