



TRIBIWNLYS Y GYMRAEG

Achos Rhif: TyG/2024/02

Steffan Bryn
(Ceisydd)

v.

COMISIYNYDD Y GYMRAEG
(Atebydd)

PENDERFYNIAD

AELODAU'R PANEL

Betsan Criddle CB (Llywydd y Tribiwnlys)

H Eifion Jones

Sara Peacock

GWRANDAWIAD

21 Mawrth 2025

Gwrandawriad rhithiol ar MS Teams

CYNRYCHIOLAETH

Cynrychiolodd yr Ymgeisydd ei hun.

DEUNYDD A YSTYRIWYD GAN YR TRIBIWNLYS

Gweler Atodiad i'r dyfarniad hwn.

NATUR Y CAIS

Cais o dan adran 103 o Fesur y Gymraeg (Cymru) 2011 am adolygiad o benderfyniad gan y Comisiynydd i beidio â chynnal ymchwiliad i gŵyn gan yr Ymgeisydd am fethiant awdurdod lleol i gydymffurfio â Safon Iaith Gymraeg.



WELSH LANGUAGE TRIBUNAL

Case No: WLT/2024/02

Steffan Bryn
(Applicant)

v.

WELSH LANGUAGE COMMISSIONER
(Respondent)

DECISION

MEMBERS OF THE PANEL

Betsan Criddle KC (President of the Tribunal)

H Eifion Jones

Sara Peacock

HEARING

21 March 2025

Remote hearing by MS Teams

REPRESENTATION

The Applicant represented himself.

MATERIAL CONSIDERED BY THE TRIBUNAL

See Appendix to this judgment.

NATURE OF THE APPLICATION

An application under section 103 of the Welsh Language (Wales) Measure 2011 for a review of a decision by the Commissioner not to carry out an investigation into a complaint by the Applicant of

PENDERFYNIAD Y TRIBIWNLYS

Mae'r Tribiwnlys yn rhoi caniatâd i'r cais fynd ymlaen ar sail:

- a) Byddai gan y cais obaith rhesymol o lwyddiant, ac
- b) Mae yna ryw reswm cymhellol arall pam y dylid clywed y cais.

RHESYMAU

1. Ar y 4ydd o Orffennaf 2024, cyflwynodd yr Ymgeisydd, Mr Bryn, gŵyn i Gomisiynydd y Gymraeg ('y Comisiynydd') yn honni bod Cyngor Caerdydd ('y Cyngor') wedi methu â chydymffurfio â Safonau'r Gymraeg mewn perthynas â'i weithrediad a wasanaeth Rhentu Doeth Cymru ('RhDC'), y mae'n 'gyfrifol' amdano yn ôl y Comisiynydd. Yn berthnasol at ddibenion y cais hwn, roedd seiliau'r gwyn (naill ai'n wreiddiol neu drwy ddiwygiad diweddarach) yn cynnwys cwyn am (i) fethiant y Cyngor i ddarparu hyfforddiant wyneb yn wyneb a rhithiol cyfrwng Cymraeg i unigolion sy'n ceisio trwydded landlord ('y gŵyn hyfforddiant'); a (ii) gwasanaeth ffôn y Cyngor mewn perthynas â gwasanaeth RhDC ("y gŵyn ffôn").
2. Trwy benderfyniad dyddiedig 12fed o Dachwedd 2024, penderfynodd y Comisiynydd agor ymchwiliad i'r gŵyn ffôn. Mewn perthynas â'r gŵyn hyfforddiant, penderfynodd beidio ag agor ymchwiliad ac yn hytrach rhoddodd gyngor i'r Cyngor. Yr ail benderfyniad yw testun y cais hwn.

a failure by a local authority to comply with a Welsh Language Standard.

THE TRIBUNAL'S DECISION

The Tribunal grants permission for the application to proceed on the basis that:

- a) The application would have a reasonable prospect of success, and
- b) There is some other compelling reason why the application should be heard.

REASONS

1. On 4 July 2024, the Applicant, Mr Bryn, presented a complaint to the Welsh Language Commissioner ('the Commissioner') claiming that Cardiff Council ('the Council') had failed to comply with the Welsh Language Standards in relation to its operation of the Rent Smart Wales ('RSW') service, for which it is described by the Commissioner as being 'responsible'. Relevantly for the purposes of this application, the grounds (either originally or by later amendment) included a complaint about (i) the Council's failure to provide Welsh medium face to face and virtual training for individuals seeking a landlord licence ('the training complaint'); and (ii) the Council's telephone service in respect of the RSW service ('the telephone complaint').
2. By a decision dated 12 November 2024, the Commissioner decided to open an investigation into the telephone complaint. In respect of the training complaint, she decided

3. Mae penderfyniad y Comisiynydd yn cofnodi bod ymateb y Cyngor i'r gŵyn hyfforddi fel a ganlyn¹:

O ganlyniad i'ch cwyn eu bod bellach wedi hysbysebu cwrs rhithiol ystafell ddosbarth i landlordiaid newydd yn y Gymraeg ym mis Hydref eleni ac mae cwrs yn cael ei gynnal ym mis Ebrill 2025. Mae ganddynt nawr aelod o staff sydd yn gallu cynnal cyrsiau yn y Gymraeg, ac y bydden nhw'n cynnal cyrsiau pellach yn y Gymraeg yn ôl y galw.

4. Rhoddir ei rhesymau dros beidio ag agor ymchwiliad i'r gŵyn hyfforddi fel a ganlyn:

Rydym wedi penderfynu na fyddwn yn cynnal ymchwiliad i elfennau eraill y gŵyn.

Diben cynnal ymchwiliad yw dod i farn ar y cwestiwn a fu methiant i gydymffurfio â safon a'n galluogi i orfodi sefydliad i newid ei ymddygiad os oes angen. Yn yr achos yma, mae'r Cyngor wedi cydnabod nad oedden nhw wedi bod yn darparu hyfforddiant ystafell ddosbarth yn y Gymraeg ac wedi cymryd camau i hysbysebu cyrsiau ystafell ddosbarth rhithiol ers derbyn eich cwyn. Rydym yn

not to open an investigation and instead gave advice to the Council. The latter decision is the subject of this application.

3. The Commissioner's decision records that the Council's response to the training complaint was as follows²:

In consequence of your complaint, they have since advertised a virtual classroom course for new landlords in Welsh in October this year, and the course will be held in April 2025. They now have a member of staff who can hold Welsh language courses, and they will hold further courses in Welsh according to demand.

4. Her reasons for not opening an investigation into the training complaint are given as follows:

We have decided that we will not conduct an investigation into the other elements of the complaint.

The purpose of holding an investigation is to come to a view on the issue of whether there has been a failure to comply with a standard and to enable us to require an organisation to change its behaviour if required. In this case, the Council has acknowledged that it had not provided

¹ Dylid nodi mai dim ond fersiwn Gymraeg o'r llythyr canlyniad a ddarparwyd i'r Tribiwnlys. Mae'r Tribiwnlys wedi cyfieithu'r llythyr Cymraeg gwreiddiol i'r Saesneg at ddibenion fersiwn Saesneg y penderfyniad hwn. Os oes fersiwn Saesneg o'r llythyr, mae hynny, wrth gwrs, yn awdurdodol o ran y penderfyniad a gyfathrebwyd i'r Ymgeisydd. Nid oedd y Tribiwnlys o'r farn bod y penderfyniad yn ddibynol ar weld unrhyw fersiwn Saesneg o'r llythyr.

² It should be noted that the Tribunal was only provided with a Welsh language version of the outcome letter. The Tribunal has translated the original Welsh letter into English for the purposes of the English language version of this decision. If there is an English language version of the letter, that is, of course, authoritative as to the decision communicated to the Applicant. The Tribunal did not consider that anything turned on not having seen any English language version of the letter at this stage.

fodlon, yn yr achos yma, fod cynnig cyrsiau ystafell ddosbarth rhithiol yn galluogi'r Cyngor i gydymffurfio â'i ddyletswydd yn unol â gofynion y safonu (sic)...

Nid oes angen cymryd camau felly i orfodi i'r sefydliad i newid ei ymddygiad gan ei fod eisoes wedi cydnabod ei fethiant ac wedi neu yn mynd i gymryd camau o'r wirfodd i ddatrys y sefyllfa. Nid ydym o'r farn y byddai cynnal ymchwiliad yn dod â budd i ddefnyddwyr yr iaith yn ychwanegol i'r hyn mae'r Cyngor yn barod wedi ei ymrwymo i'w gyflawni. Byddai cynnal ymchwiliad yn yr amgylchiadau felly yn ddefnydd anghymesur o'n hadnoddau.

5. Hysbysodd y Comisiynydd yr Ymgeisydd y byddai'r Cyngor yn cael cyngor yn unol â'i phwerau o dan adran 4(j) o Fesur y Gymraeg (Cymru) 2011 ('y Mesur') y dylai, yn berthnasol, gael trefniant parhaol y dylid cynnig cyrsiau hyfforddi rhithiol ar gyfer landlordiaid newydd o bryd i'w gilydd fel mater o drefn. Mae'r Ymgeisydd yn nodi nad oedd y Comisiynydd, mewn perthynas â'r cyngor hwn, yn ei gwneud yn ofynnol i'r Cyngor roi gwybodaeth iddi ar ei gynnydd, a hynny'n wahanol i'r hyn a ofynodd amdano mewn cysylltiad ag agweddau eraill ar y gŵyn.

Y CAIS I'R TRIBIWNLYS

6. Ar yr 17eg o Dachwedd 2024, cyflwynodd yr Ymgeisydd ei gais i'r Tribiwnlys hwn o dan adran 103 o'r Mesur, gan gwyno am fethiant y Comisiynydd i gynnal ymchwiliad i'r gŵyn hyfforddi. Rhoddwyd y seiliau fel a ganlyn:

classroom training in Welsh, and it has taken steps to advertise virtual classroom courses since receiving your complaint. We are satisfied in this case that offering virtual classroom courses enables the Council to comply with its duty in accordance with the standards...

There is no need to take steps therefore to require the organisation to change its behaviour as it has already acknowledged its failure and has taken, or will take, voluntary steps to resolve the situation. We do not consider that conducting an investigation would bring additional benefit to users of the language over and above that which the Council has already committed to undertake. To conduct an investigation in these circumstances would be a disproportionate use of our resources.

5. The Commissioner informed the Applicant that the Council would be given advice in accordance with her powers under section 4(j) of the Welsh Language (Wales) Measure 2011 ('the Measure') that it should, relevantly, have a permanent arrangement that virtual training courses for new landlords be offered periodically as a matter of course. The Applicant points out that the Commissioner did not, in respect of this advice, require the Council to provide her with any update on its progress, unlike in respect of other advice she gave in connection with other aspects of the complaint.

THE APPLICATION TO THE TRIBUNAL

- a. Nid oedd addewid y Cyngor i gynnal cwrs rhithiol ym mis Ebrill 2025 yn ddigonol yng nghyd-destun cwyn a wnaed ym mis Gorffennaf 2024 ac o ystyried y cyfnod o 8 wythnos i landlord gwblhau'r hyfforddiant a phasio'r arholiad perthnasol.
 - b. Nid oedd yn rhesymol i'r Comisiynydd ddod i'r casgliad bod triniaeth gyfatebol rhwng y Gymraeg a'r Saesneg pan y cynigir cyrsiau Saesneg wyneb yn wyneb ac yn rhithiol ac roedd y cwrs Cymraeg arfaethedig yn rhithiol yn unig.
 - c. Roedd y Comisiynydd wedi methu â delio âg ystod llawn ei gŵyn am y Cyngor. Roedd hi wedi ystyried y gŵyn am hyfforddiant sylfaenol i landlordiaid yn unig ac nid oedd wedi ystyried y ddarpariaeth a wnaed mewn perthynas â chysiau arbenigol a chysiau pellach. Roedd y Comisiynydd hefyd wedi methu â delio â'i gŵyn am y wefan a'r ffaith ei bod yn angenrheidiol mewn rhai achosion ffonio neu e-bostio i archebu cwrs Cymraeg pan oedd modd archebu cwrs Saesneg ar-lein ac nad oedd yn glir, yn achos cyrsiau a gynigir yn y ddwy iaith, beth oedd iaith y cwrs oedd yn cael ei archebu.
 - d. Nid oedd ymateb y Comisiynydd yn awgrymu bod ystyriaeth wedi cael ei roi i ystyriaeth a oedd y Cyngor wedi cydymffurfio â Safonau 84 ac 86 i
6. On 17 November 2024, the Applicant presented his application to this Tribunal under section 103 of the Measure, complaining of the Commissioner's failure to conduct an investigation into the training complaint. The grounds were given as follows:
 - a. The Council's promise to hold a virtual course in April 2025 was insufficient in the context of a complaint made in July 2024 and having regard to the 8-week period for a landlord to complete the training and pass the relevant exam.
 - b. It was not reasonable for the Commissioner to conclude that there was equivalence of treatment between Welsh and English when English courses are offered face to face and virtually and the proposed Welsh course was virtual only.
 - c. The Commissioner had failed to deal with the full scope of his complaint about the Council. She had only considered the complaint about basic training for landlords and had not considered the provision made in respect of specialist and further courses. The Commissioner had also failed to deal with his complaint about the website and the fact that it was necessary in some cases to phone or e-mail to book a Welsh language course when an English language course could be booked online and that it was not clear, in the case of courses offered

asesu'r angen am gwrs addysgol i'w ddarparu yn y Gymraeg.

7. Ar y 10fed o Ragfyr 2024, daeth y cais gerbron y Tribiwnlys pan wrthodwyd caniatâd ar bapur ar y sail bod penderfyniad y Comisiynydd i roi cyngor yn argymhell bod y Cyngor yn cael trefniant parhaus bod cyrsiau hyfforddiant ystafell ddosbarth rhithiol ar gyfer landlordiaid newydd yn cael eu hysbysebu yn gofnodol o fewn ei disgresiwn yn y mater hwn. Gwrthododd y Tribiwnlys y ddadl bod y penderfyniad yn anghywir ac yn ddiffygiol oherwydd ei fod yn rhy gyfyngedig am y rhesymau a roddwyd gan y Comisiynydd yn ei llythyr dyddiedig yr 12eg o Dachwedd 2024.
8. Trwy lythyr heb ddyddiad, ond a dderbyniwyd gan y Tribiwnlys ar y 24ain o Ragfyr 2024, arferodd yr Ymgeisydd ei hawl o dan reol 16(8) o Reolau Tribiwnlys y Gymraeg ('y Rheolau') 2015 i fynnu bod y penderfyniad yn cael ei ailystyried gan banel tribiwnlys mewn gwrandawriad.
9. Ar yr 17eg o Fawrth 2025, cyflwynodd yr Ymgeisydd ddadl ysgrifenedig i'r Tribiwnlys i'w hystyried yn y gwrandawriad o'i gais ailystyried. Yn y ddadl honno, crynhowyd seiliau'r gŵyn fel a ganlyn:

- a. Roedd yn gamgymeriad cyfreithiol i'r Comisiynydd (i) seilio ei phenderfyniad i beidio ag agor ymchwiliad ar addewid y Cyngor i gynnal cyrsiau hyfforddi Cymraeg yn unol â'r galw; a (ii) i awgrymu i'r Cyngor, trwy ei chyngor, fod ganddo

in both languages, which was the language of the course being booked.

- d. The Commissioner's response did not suggest that consideration had been given to whether the Council had complied with standards 84 and 86 to assess the need for an educational course to be provided in Welsh.
7. On 10 December 2024, the application came before the Tribunal on the papers when permission was refused on the basis that the Commissioner's decision to give advice recommending that the Council put in place a permanent process that virtual classroom training for new landlords should be advertised periodically as a matter of course was within her discretion in this matter. The Tribunal rejected the argument that the decision was incorrect and defective because it was too limited for the reasons given by the Commissioner in her letter of 12 November 2024.
8. By undated letter, but received by the Tribunal on 24 December 2024, the Applicant exercised his right under rule 16(8) of the Welsh Language Tribunal Rules ('the Rules') 2015 to require that the decision be reconsidered by a tribunal panel at a hearing.
9. On 17 March 2025, the Applicant presented written submissions to the Tribunal for consideration at the hearing of his reconsideration application. In those submissions, the grounds of complaint were summarised as follows:

ddisgresiwn i beidio â chynnig cyrsiau Cymraeg yn yr amgylchiadau.

- b. Roedd y Comisiynydd wedi camddehongli Safon 84 wrth ddod i'r casgliad bod y ddarpariaeth rhithiol yn unig o gyrsiau hyfforddiant Cymraeg yn galluogi'r Cyngor i gydymffurfio â'i rwymedigaethau, pan fo cyrsiau Saesneg yn cael eu cynnig wyneb yn wyneb ac yn rhithiol, ac i ddibynnu ar y camddehongliad hwnnw fel rhan o'i chyfiawnhad dros beidio ag agor ymchwiliad.
- c. Ymhellach ac fel arall, bod penderfyniad y Comisiynydd i beidio ag agor ymchwiliad yn cynnwys dehongliad afresymol o Safon 84 a heb ystyried yr egwyddorion cyffredinol a'r darpariaethau penodol a wnaed gan Gôd Ymarfer i Reoliadau Safonau'r Gymraeg (Rhif 1) 2015 ('y Côd').
- d. Roedd y Comisiynydd wedi methu â dod i gasgliad rhesymol, yn gyson â pholisi ac amcanion y Mesur ynghylch gwir effaith a chanlyniadau ei phenderfyniad i roi cyngor, yn hytrach na chynnal ymchwiliad, ar ddefnyddwyr y Gymraeg.

CYFRAITH BERTHNASOL

AWDURDODAETH A GWEITHDREFN

- 10. Cwmpas awdurdodaeth y Tribiwnlys a dan adran 103(5) y Mesur yw adolygu

- a. It was an error of law for the Commissioner to (i) base her decision not to open an investigation on the Council's promise to hold Welsh training courses in accordance with demand; and (ii) suggest to the Council, by her advice, that it had discretion not to offer Welsh courses in the circumstances.
- b. The Commissioner had misinterpreted standard 84 in concluding that the virtual only provision of Welsh language training courses enabled the Council to comply with its obligations, when English language courses were offered face to face and virtually and to rely on that misinterpretation as part of her justification for not opening an investigation.
- c. Further and alternatively, that the Commissioner's decision not to open an investigation involved an unreasonable interpretation of standard 84 and without considering the general principles and specific provisions made by the Code of Practice for the Welsh Language Standards (No 1) Regulations 2015 ('the Code').
- d. The Commissioner had failed to come to a reasonable conclusion, consistent with the policy and objectives of the Measure as to the true effect and outcomes of her decision to give

penderfyniad y Comisiynydd i beidio â chynnal ymchwiliad pan fo'r ddyletswydd o dan adran 93 i ystyried a ddylid cynnal ymchwiliad i'r ymddygiad honedig yn berthnasol.

11. Mae'r ddyletswydd yn adran 93 y Mesur yn ei gwneud yn ofynnol i'r Comisiynydd ystyried a ddylid cynnal ymchwiliad a yw ymddygiad person yn gyfystyr â methiant i gydymffurfio â safon os yw person yn gwneud cwyn i'r Comisiynydd am yr ymddygiad hwnnw ac fod y gŵyn yn ddilys.
12. Pan fydd y Tribiwnlys yn derbyn hysbysiad o gais sy'n cynnwys cais am adolygiad o dan adran 103 y Mesur, nid yw hynny'n cael ei drin fel pe bai'n cael ei dderbyn nes bod y Tribiwnlys wedi penderfynu y byddai ganddo obaith rhesymol o lwyddo, neu fod rhyw reswm cymhellol arall pam y dylid clywed y cais (rheol 16(1) o'r Rheolau).
13. Os nad yw'r Tribiwnlys o'r farn bod paragraff 1(a) neu 1(b) yn berthnasol, rhaid iddo wrthod caniatâd ar gyfer y cais, ac ni fydd yn cael ei ystyried ymhellach (rheol 16(3) o'r Rheolau).
14. Os gwrthodwyd caniatâd i wneud cais o dan baragraff (3), caiff yr ymgeisydd ei gwneud yn ofynnol i'r penderfyniad gael ei ailystyried gan banel tribiwnlys mewn gwrandawriad (rheol 16(8) o'r Rheolau).
15. Mae Rheol 26 o'r Rheolau yn rhoi pŵer i'r Tribiwnlys wneud cyfarwyddiadau rheoli i achosion.

advice, rather than conduct an investigation, on users of the Welsh language.

RELEVANT LAW

JURISDICTION AND PROCEDURE

10. The scope of the Tribunal's jurisdiction by section 103(5) of the Measure is to review a decision of the Commissioner not to carry out an investigation where the duty under section 93 to consider whether to carry out an investigation of the alleged conduct applies.
11. The duty in section 93 of the Measure requires the Commissioner to consider whether to carry out an investigation of whether the conduct of a person amounts to a failure to comply with a standard if a person makes a complaint to the Commissioner about that conduct and the complaint is valid.
12. When the Tribunal receives notice of an application which includes an application for a review under section 103 of the Measure, that is not to be treated as having been received until the Tribunal has decided that it would have a reasonable prospect of success, or there is some other compelling reason why the application should be heard (rule 16(1) of the Rules).
13. If the Tribunal does not consider that either paragraph 1(a) or 1(b) applies, it must refuse permission for the application, and it will not be considered further (rule 16(3) of the Rules).

16. Rhaid i'r Tribiwnlys, drwy reol 3 o'r Rheolau, roi effaith i'w amcan pennaf i ymdrin ag achosion yn deg ac yn gyfiawn wrth arfer unrhyw swyddogaeth o dan y Rheolau. Mae delio ag achosion yn deg ac yn gyfiawn yn cynnwys delio â'r achos mewn ffyrdd sy'n gymesur â phwysigrwydd yr achos a chymhlethdod y materion, ac osgoi ffurfioldeb diangen cyn belled ag y mae'r Tribiwnlys yn ei ystyried yn briodol.

SAFONAU

17. Mae'n ofynnol i'r Cyngor gydymffurfio â'r safonau darparu gwasanaethau a ragnodir gan baragraff 1 o Reoliadau Safonau'r Gymraeg (Rhif 1) ('y Rheoliadau') 2015. Mae Safonau 84 ac 86 yn darparu:

84. *Os byddwch yn cynnig cwrs addysg sy'n agored i'r cyhoedd, rhaid i chi ei gynnig yn Gymraeg.*

86. *Os byddwch yn datblygu cwrs addysg sydd i'w gynnig i'r cyhoedd, rhaid ichi asesu'r angen i'r cwrs hwnnw gael ei gynnig yn Gymraeg; a rhaid i chi sicrhau bod yr asesiad wedi ei gyhoeddi ar eich gwefan.*

18. Ym mis Chwefror 2020, crewyd y Côd gan y Comisiynydd, sy'n rhoi canllawiau ymarferol ynghylch gofynion safonau'r Gymraeg ar gyfer

14. If permission to make an application has been refused under paragraph (3), the applicant may require that the decision be reconsidered by a tribunal panel at a hearing (rule 16(8) of the Rules).

15. Rule 26 of the Rules confers a power on the Tribunal to make case management directions.

16. The Tribunal must, by rule 3 of the Rules, give effect to its overriding objective to deal with cases fairly and justly when exercising any function under the Rules. Dealing with cases fairly and justly includes dealing with the case in ways which are proportionate to the importance of the case and the complexity of the issues, and avoiding unnecessary formality as far as the Tribunal considers appropriate.

STANDARDS

17. The Council is required to comply with the service delivery standards prescribed by paragraph 1 of the Welsh Language Standards (No 1) Regulations ('the Regulations') 2015. Standards 84 and 86 provide that:

84. *If you offer an education course that is open to the public, you must offer it in Welsh.*

86. *If you develop an education course that is to be offered to the public, you must assess the needs for that course to be offered in Welsh; and you must ensure that the assessment is published on your website.*

sefydliadau sy'n gorfod cydymffurfio â'r Rheoliadau. Mae'r Còd yn darparu:

1.16 *Nid yw methiant corff i gydymffurfio â darpariaeth yn y cod hwn yn peri i'r corff hwnnw fod yn agored i unrhyw gamau gorfodi. Ni ddylid ystyried y cod hwn yn ddatganiad cyflawn neu awdurdodol o'r gyfraith. Dim ond Tribiwnlys y Gymraeg a'r llysoedd sy'n gallu rhoi datganiad awdurdodol o'r ddeddfwriaeth a gall penderfyniadau barnwrol dilynol effeithio ar gynnwys y cod.*

1.17 *Fodd bynnag, os yw'r Comisiynydd yn dymuno hynny, fe all ddibynnu ar fethiant corff i gydymffurfio â chanllawiau o fewn y cod hwn fel rhywbeth sy'n tueddu i gadarnhau bod y corff wedi methu â chydymffurfio â safon.*

19. Mae'r Còd yn darparu canllawiau ynghylch yr hyn y mae'r Comisiynydd yn ei ystyried yn gydymffurfieath â Safonau 84-86 ym mharagraffau 4.20.1-4.20.21. O berthnasedd arbennig i'r cais presennol yw'r darpariaethau canlynol:

4.20.8 *Mae 'cynnig' cwrs addysg yn cynnwys corff yn hysbysu (er enghraifft, mewn prospectws neu ar wefan) bod cwrs addysg ar gael, y bydd yn cael ei*

18. In February 2020, the Commissioner created the Code, which gives practical guidance as to the requirements of the Welsh language standards for organisations required to comply with the Regulations. The Code provides that:

1.16 *A body's failure to comply with a provision within this code does not render that body liable to any enforcement action. This code should not be considered a complete nor authoritative declaration of the law. Only the Welsh Language Tribunal and courts are able to provide an authoritative declaration of legislation and subsequent judicial decisions may affect the content of this code.*

1.17 *However, should the Commissioner wish so, it may rely upon a failure by a body to comply with guidelines within this code as something which tends to establish that the body has failed to comply with a standard.*

19. The Code provides guidance as to what the Commissioner considers to be compliance with standards 84-86 at paragraphs 4.20.1-4.20.21. Of particular relevance to the present application are the following provisions:

4.20.8 *To 'offer' and education course includes making it known (for example, in a prospectus or on a*

ddarparu yn Gymraeg, a bod modd i bersonau fynychu neu ymgeisio am le neu gofrestru ar y cwrs addysg hwnnw os ydynt yn dymuno.

website) that an education course is available and will be delivered in Welsh, and that persons can attend or apply for a place or enrol on the education course if they so wish.

4.20.11 *Nid oes rhaid i gorff ddarparu cwrs yn Gymraeg yn yr un lleoliad â chwrs a ddarperir drwy gyfrwng t Saesneg. Fodd bynnag, nid yw'r Comisiynydd yn ystyried y dylai person orfod teithio pellter ychwangeol er mwyn mynd ar gwrs a ddarperir yn Gymraeg o'i gymharu â chwrs cyfatebol Saesneg...*

4.20.11 *A body does not have to deliver a course in Welsh in the same setting as a course delivered in English. However, the Commissioner does not consider that a person should have to travel further in order to attend a course in Welsh compared with the distance travelled for the course in English...*

4.20.14 *... disgwylir i gorff sicrhau bod nifer ddigonol o gyrsiau Cymraeg ar gael a fyddai'n sicrhau na fydd unrhyw berson o dan anfantais os yw'n penderfynu mynychu cwrs Cymraeg yn hytrach na chwrs Saesneg.*

4.20.14 *...a body is expected to ensure that there are a sufficient number of Welsh language courses available which would ensure that nobody is at a disadvantage if they choose to attend a course in Welsh rather than a course in English.*

4.20.15 *... Rhaid i gorff gynnig cwrs ar bob lefel lle gwneir hynny yn Saesneg. Mae gofynion y safon yn golygu bod rhaid i unrhyw gwrs a gynigir gan gorff*

4.20.15 *...A body must deliver a course at all levels if that is done in English. The requirements of the standard mean that any*

*gael ei gynnig yn
Gymraeg.*

*course offered by a body
must be offered in Welsh.*

20. Cyfeiriodd yr Ymgeisydd at ddiben rôl y Comisiynydd. Mae adran 3 o'r Mesur yn nodi prif nodau'r Comisiynydd, sy'n cynnwys (yn adran 3(3)(c)) bod yn rhaid iddi roi sylw i'r egwyddor na ddylai'r iaith Gymraeg gael ei thrin yn llai ffafriol na'r iaith Saesneg yng Nghymru.

21. Cyfeiriodd yr Ymgeisydd hefyd at benderfyniadau blaenorol y Tribiwnlys yn:

21.1 Powell v Comisiynydd y Gymraeg (Achos Rhif TyG/WLT/16/8) sy'n nodi'r egwyddorion sy'n berthnasol i gais o dan adran 103 o'r Mesur ym mharagraff 14.

21.2 Powell v Comisiynydd y Gymraeg (Achos Rhif TyG/WLT/17/2), lle dyfarnodd y Tribiwnlys (ym mharagraffau 13-15), gan ddibynnu ar y penderfyniad yn R (Fleet Maritime Services (Bermuda) Ltd) v The Pensions Regulator [2015] EWHC 3744 (Admin), nad yw dehongli'r safonau yn fater o ddisgresiwn y Comisiynydd. Wrth gymhwyso safonau unigol, fodd bynnag, ni all y Tribiwnlys ymyrryd â dyfarniad gwerthuso gan y Comisiynydd, megis a fu triniaeth llai ffafriol o'r iaith Gymraeg o'i gymharu â'r iaith Saesneg, ar yr amod ei fod yn cael ei arfer o fewn y paramedrau cyfreithiol a sefydlwyd gan y Mesur a'r Rheoliadau.

20. The Applicant made reference to the purpose of the Commissioner's role. Section 3 of the Measure sets out the Commissioner's principal aims, which include (at section 3(3)(c)) that she must have regard to the principle that, in Wales, the Welsh language should be treated no less favourably than the English language.

21. The Applicant also made reference to the Tribunal's previous decisions in:

21.1 Powell v Welsh Language Commissioner (Case No. TyG/WLT/16/8) which sets out the principles relevant to an application under section 103 of the Measure at paragraph 14.

21.2 Powell v Welsh Language Commissioner (Case No. TyG/WLT/17/2), in which the Tribunal held (at paragraphs 13-15), relying on the decision in R (Fleet Maritime Services (Bermuda) Ltd) v The Pensions Regulator [2015] EWHC 3744 (Admin), that the interpretation of the standards is not a matter for the Commissioner's discretion. In the application of individual standards, however, an evaluative judgement by the Commissioner, such as whether there has been less favourable treatment of the Welsh language compared to the English language, cannot be interfered with by the Tribunal, provided that it is exercised within the legal parameters established by the Measure and the Regulations.

21.3 Powell v Comisiynydd y Gymraeg
(Achos Rhif WLT/23/02) sy'n ystyried y
gydberthynas rhwng safonau 84 ac 86.

CYFANSODDIAD Y PANEL

22. Ar ddechrau'r gwrandawriad, tynnodd y panel sylw'r Ymgeisydd bod un o'i aelodau, Ms Peacock, yn credu ei bod wedi delio ag ef tua saith mlynedd yn ôl mewn perthynas â digwyddiad panel yn yr Eisteddfod. Roedd yr Ymgeisydd wedi bod yn gyfrifol am drefnu'r digwyddiad panel ar ran ei gyflogwr, ac roedd Ms Peacock wedi cysylltu ag ef yn hynny o beth gan ei bod hefyd wedi bod yn aelod o'r panel yn siarad yn y digwyddiad. Gofynnodd ni i'r Ymgeisydd a oedd yn fodlon i Ms Peacock barhau i glywed ei gais a chadarnhaodd ei fod yn fodlon iddi wneud hynny.

Y DDADL GERBRON Y TRIBIWNLYS

23. Gofynnodd y panel i'r Ymgeisydd a oedd yn dwyn ei gais ar sail y seiliau yn ei gais, y rhai a nodwyd yn ei gais ailystyried, neu'r rhai a nodwyd yn ei ddadl ysgrifenedig i'r Tribiwnlys, gan fod pob set o seiliau wedi'i fynegi mewn termau gwahanol. Dywedodd mai'r sail dros ei gais oedd y rhai a nodwyd yn ei ddadl ysgrifenedig ar dudalen 73 o fwndel y Tribiwnlys.

24. Eglurodd y Tribiwnlys i'r Ymgeisydd y byddai angen ystyried a ddylid rhoi caniatâd iddo ddiwygio seiliau ei gais a gofynnodd i'r Ymgeisydd esbonio'r sail yr oedd yn gwneud y cais hwnnw. Dywedodd fod ei ddadl ysgrifenedig yn gynnwys myfyrion ar ei gais, a

21.3 Powell v Welsh Language Commissioner (Case No. WLT/23/02)
which considers the interrelationship
between standards 84 and 86.

PANEL COMPOSITION

22. At the outset of the hearing, the panel drew to the Applicant's attention that one of its members, Ms Peacock, believed that she had had dealings with him approximately seven years ago in relation to a panel event at the Eisteddfod. The Applicant had been responsible for organising the panel event on behalf of his employer, and Ms Peacock had liaised with him in that regard as she had also been a member of the panel speaking at the event. We asked the Applicant whether he was content for Ms Peacock to continue to hear his application and he confirmed that he was content for her to do so.

THE ARGUMENT BEFORE THE TRIBUNAL

23. The panel asked the Applicant whether he was pursuing his application on the basis of the grounds set out in his application, those set out in his reconsideration application, or those set out in his written submissions to the Tribunal, as each set of grounds was expressed in different terms. He said that the grounds for his application were those set out in his written submissions at page 73 of the Tribunal's bundle.

24. The Tribunal explained to the Applicant that it would need to consider whether he should be

chynnal ymchwil bellach, gan gynnwys mewn perthynas â'r Côd nad oedd wedi bod yn ymwybodol ohono pan wnaeth ei gais gwreiddiol. Dywedodd ei fod yn credu bod y Tribiwnlys yn gofyn am ddadl ysgrifenedig wedi ei wahodd i ganolbwyntio ar ei gais a gweld a ellid ei fireinio. Yn olaf, dywedodd nad oedd yn credu bod ei gyflwyniadau ysgrifenedig mor wahanol a hynny i'r seiliau yn ei gais.

25. Eglurodd yr Ymgeisydd i'r Tribiwnlys fod yn ofynnol iddo, fel landlord yng Nghymru, gael ei gofrestru a'i drwyddedu gyda RhDC. Er mwyn cael trwydded, rhaid i landlord gael ei hyfforddi'n briodol yn ei hawliau a'u rhwymedigaethau. Y cyngor a roddir i landlordiaid yw y dylent ymgymryd â'r hyfforddiant cyn sefyll arholiad y drwydded, a disgwylir i'r hyfforddiant gymryd wyth wythnos. Gellir cynnal hyfforddiant gyda RhDC neu ddarparwr hyfforddiant cymeradwyo arall. Mae RhDC yn darparu hyfforddiant trwy (i) hunan-astudio (darllen testun ar-lein yn amser yr ymgeisydd ei hun; (ii) hyfforddiant dosbarth rhithiol ar-lein; a (iii) hyfforddiant ystafell ddosbarth wyneb yn wyneb.
26. Datblygodd yr Ymgeisydd ei ddadl lafar drwy gyfeirio at y pedwar sail a nodir yn ei gyflwyniadau ysgrifenedig fel a ganlyn:

26.1 Sail 1: Dadleuodd yr Ymgeisydd mai'r rhwymedigaeth o dan Safon 84 yw cynnig cwrs oni bai bod asesiad o dan Safon 86 wedi bod nad oes angen darparu'r cwrs yn Gymraeg. Roedd y Comisiynydd

given permission to amend the grounds of his application and asked the Applicant to explain the basis on which he was making that application. He said that his written submissions were the product of reflecting on his application, and carrying out further research, including in relation to the Code, of which he had been unaware when he made his original application. He said that he thought that being asked by the Tribunal to make written submissions had invited him to focus on his application and see whether it could be refined. Finally, he said that he did not think that his written submissions were that different to the grounds in his application.

25. The Applicant explained to the Tribunal that, as a landlord in Wales, he is required to be registered and licenced with RSW. To obtain a licence, a landlord must be appropriately trained in their rights and obligations. The advice given to landlords is that they should undertake the training before sitting the licence exam, and the training is expected to take eight weeks. Training can be undertaken with RSW or another approved training provider. RSW provides training via (i) self-study (reading text on-line in the applicant's own time); (ii) virtual on-line classroom training; and (iii) in-person classroom training.
26. The Applicant developed his oral argument by reference to the four grounds set out in his written submissions as follows:

26.1 Ground 1: The Applicant argued that the obligation under Standard 84 is to offer a course unless there has been an

wedi camgymeriad wrth beidio ag agor ymchwiliad yn seiliedig ar addewid y Cyngor i gynnal cyrsiau Cymraeg yn ôl yr angen mewn amgylchiadau lle nad oedd unrhyw asesiad wedi bod nad oedd angen i'r cwrs gael ei ddarparu yn Gymraeg. Dadl yr Ymgeisydd oedd, lle roedd Safon 84 yn berthnasol, bod cydymffurfiaeth gan y Cyngor yn ei gwneud yn ofynnol i'r cwrs gael ei gynnig o bryd i'w gilydd. Cadarnhaodd yr Ymgeisydd ei fod yn dadlau bod cydymffurfiaeth yn golygu trefnu cyrsiau Cymraeg yn rhagweithiol, a pheidio â chynnig cwrs Cymraeg yn adweithiol dim ond pan ofynnwyd am un.

26.2 Sail 2: Tynnodd yr Ymgeisydd sylw at y ffaith bod RhDC yn darparu hyfforddiant drwy dri dull gwahanol, a thynnodd sylw at y tabl ar dudalen 83 o fwndel y tribiwnlys sy'n dangos bod RhDC, rhwng Ionawr a Mai 2025, wedi cynnig 12 cwrs hyfforddi wyneb yn wyneb ac 1 cwrs hyfforddi cyfrwng Saesneg rhithiol, ac 1 cwrs hyfforddi cyfrwng Cymraeg rhithiol. Dadleuodd yr Ymgeisydd mai pwrpas Safon 84 a'r Mesur oedd sicrhau darpariaeth gyfartal rhwng y Gymraeg a'r Saesneg ond yma, roedd y ddarpariaeth Gymraeg yn fwy cyfyngol oherwydd nad oedd cyrsiau Cymraeg wyneb yn wyneb yn cael eu cynnig.

26.3 Sail 3: Dadleuodd yr Ymgeisydd fod y Comisiynydd wedi cymhwyso ei dehongliad o Safon 84 mewn ffordd afresymol a oedd yn anghyson â nod y Mesur, sef na ddylai fod unrhyw anfantais

assessment under Standard 86 that there is no need for the course to be provided in Welsh. The Commissioner had erred in not opening an investigation based on the Council's promise to hold Welsh language courses according to need in circumstances where there that had been no assessment that there was no need for the course to be provided in Welsh. The Applicant's argument was that, where Standard 84 applied, compliance by the Council required that the course be offered periodically. The Applicant confirmed that he was arguing that compliance meant proactively arranging Welsh language courses, not reactively offering a Welsh language course only when one was requested.

26.2 Ground 2: The Applicant pointed to the fact that RSW provided training by three different methods, and he drew attention to the table at page 83 of the tribunal's bundle which shows that, between January and May 2025, RSW had offered 12 face to face and 1 virtual English medium training courses, and 1 virtual Welsh medium training course. The Applicant argued that the purpose of Standard 84 and the Measure was to ensure equal provision as between Welsh and English but here, the Welsh language provision was more restrictive because no face-to-face Welsh courses were being offered.

26.3 Ground 3: The Applicant argued that the Commissioner had applied her

i'r rhai sy'n dymuno cael hyfforddiant drwy gyfrwng y Gymraeg. Tynnodd yr Ymgeisydd sylw at ddarpariaethau yn y Côd ym mharagraffau 4.20.8-4.20.21 a nododd nad oedd yn glir o'r penderfyniad fel y'i cyfathrebwyd iddo a oedd y darpariaethau hyn wedi cael eu hystyried gan y Comisiynydd.

26.4 Sail 4: Dadleuodd yr Ymgeisydd nad oedd y ffeithiau gerbron y Comisiynydd yn cyfiawnhau ei chasgliad i beidio ag agor ymchwiliad. Roedd tri lllyn i'r ddadl hon. Yn gyntaf, dadleuodd yr Ymgeisydd fod casgliad y Comisiynydd yn afresymol o ran amseru, gan nad oedd cynnig cwrs rhithiol ym mis Ebrill 2025 yn ddigonol yng nghyd-destun cwyn a wnaed ym mis Gorffennaf 2024 ac o ystyried yr amserlen 8 wythnos dangosol ar gyfer cwblhau hyfforddiant a chael trwydded. Dadleuodd yr Ymgeisydd hefyd y byddai derbyn addewid y Cyngor o wneud darpariaeth 'yn ôl angen' yn golygu cyfnodau hir pan na fyddai cyrsiau Cymraeg yn cael eu darparu. Yn ail, dadleuodd yr Ymgeisydd fod y Comisiynydd wedi methu ag edrych yn ehangach ar gwmpas cyfan y ddarpariaeth a wnaed gan RhDC mewn perthynas â hyfforddiant, a oedd yn cynnwys hyfforddiant ar gyfer asiantau, a hyfforddiant pellach ac arbenigol i landlordiaid ac asiantau. Yn hyn o beth, derbyniodd yr Ymgeisydd nad oedd wedi cwyno'n benodol i'r Comisiynydd am unrhyw hyfforddiant heblaw'r hyfforddiant gorfodol cychwynnol i landlordiaid.

interpretation of Standard 84 in an unreasonable way which was inconsistent with the aim of the Measure, namely that there should be no disadvantage to those wishing to obtain training through the medium of Welsh. The Applicant drew attention to provisions in the Code at paragraphs 4.20.8-4.20.21 and noted that it was not clear from the decision as communicated to him whether these provisions had been taken into account by the Commissioner.

26.4 Ground 4: The Applicant argued that the facts before the Commissioner did not justify her conclusion not to open an investigation. There were three strands to this argument. First, the Applicant argued that the Commissioner's conclusion was unreasonable in terms of timing, in that offering a virtual course in April 2025 was insufficient in the context of a complaint made in July 2024 and having regard to the indicative 8-week timetable for completing training and obtaining a licence. The Applicant also argued that accepting the Council's promise of making provision 'according to need' would mean long periods when no Welsh language courses would be provided. Secondly, the Applicant argued that the Commissioner had failed to look more broadly at the whole scope of the provision made by RSW in respect of training, which included training for agents, and further and specialist training for landlords and agents. In this regard, the Applicant accepted that he had not complained

Tynnodd sylw at gyfeiriadau yn ei ohebiaeth â'r Comisiynydd yr oedd wedi crynhoi ar dudalennau 77-78 o'r bwndel lle roedd wedi sôn am gyrsiau eraill. Dadleuodd fod y Comisiynydd wedi bod yn gorfod ystyried y mater hwnnw pan grybwyllwyd ganddo oherwydd mai natur ei rôl oedd sicrhau cydymffurfiaeth â safonau'r Gymraeg. Yn drydydd, dadleuodd yr Ymgeisydd fod y cyngor a roddwyd i'r Cyngor yn annigonol oherwydd nad oedd yn gosod unrhyw ofyniad i adrodd yn ôl i'r Comisiynydd, ac roedd wedi'i gyfyngu i'r hyfforddiant gorfodol cychwynnol i landlordiaid yn unig.

RHESYMAU'R TRIBIWNLYS

CAIS I DDIWYGIO

27. Ystyriodd y Tribiwnlys yn gyntaf a ddylid rhoi caniatâd i'r Ymgeisydd ddiwygio seiliau ei gais yn y ffurf a nodir yn ei gyflwyniadau ysgrifenedig. Daethom i'r casgliad y dylem wneud hynny. Cytunwyd â'r Ymgeisydd nad oeddent yn wahanol iawn i'r seiliau fel y nodir yn y cais a sylwedd y gŵyn ynghylch (i) amseru; (ii) cyfatebolrwydd; a (iii) a oedd y Comisiynydd wedi delio â chwmpas llawn y gŵyn i'w weld yn y seiliau a nodir yn y cais. Roedd y seiliau fel y'u nodir yn y dadl ysgrifenedig yn glir ac yn gryno, ac fe wnaethom dderbyn eu bod yn debygol o fod yn gynnyrch myfyrio ac ymchwil pellach gan yr Ymgeisydd. O ystyried nad oedd hanfod y gŵyn wedi newid, ac o ystyried yr amcan pennaf o ddelio ag achosion heb ffurfioldeb

specifically to the Commissioner about any training other than the initial mandatory training for landlords. He pointed to references in his correspondence with the Commissioner which he had summarised at pages 77-78 of the bundle where he had mentioned other courses. He argued that the Commissioner had been obliged to consider that matter when it was mentioned by him because the nature of her role was to secure conformity with Welsh language standards. Thirdly, the Applicant argued that the advice given to the Council was inadequate because it imposed no requirement to report back to the Commissioner, and it was restricted to the initial mandatory training to landlords only.

TRIBUNAL'S REASONS

APPLICATION TO AMEND

27. The Tribunal considered first whether the Applicant should be given permission to amend the grounds of his application in the form set out in his written submissions. We concluded that we should do so. We agreed with the Applicant that they did not differ significantly from the grounds as set out in the application and the substance of the complaint about (i) timing; (ii) equivalence; and (iii) whether the Commissioner had dealt with the full scope of the complaint was to be found in the grounds set out in the application. The grounds as set out in the written submissions were clear and succinct, and we accepted that

gormodol, penderfynom y dylem roi caniatâd i ddiwygio. Fe wnaethom ystyried y cais am ailystyriaeth felly ar sail seiliau'r gŵyn fel y'u diwygiwyd yn y ddadl ysgrifenedig.

CAIS AM GANIATÂD

28. Ymdriniodd y Tribiwnlys â phob un o'r seiliau yn ei dro, er ei fod yn nodi bod yna, mewn sylwedd, lawer o orgyffwrdd rhyngddynt.

29. O ran y Sail Cyntaf:

29.1 Y gŵyn hanfodol yn rhan gyntaf y Sail Cyntaf yw bod y Comisiynydd wedi gwneud camgymeriad wrth beidio ag agor ymchwiliad, oherwydd dylai fod wedi dod i'r casgliad nad oedd yr addewid i gynnig cyrsiau hyfforddi gorfodol cychwynnol i landlordiaid yn ôl yr angen yn gyfystyr â chydymffurfiaeth â Safon 84. Mae'r Tribiwnlys o'r farn bod y rhan hon o'r Sail Cyntaf yn codi mater gyda rhagolygon rhesymol o lwyddiant ynghylch a yw 'cynnig cwrs' at ddibenion Safon 84 yn golygu gwneud darpariaeth rhagweithiol h.y. trefnu cyrsiau cyfnodol, yn hytrach na gwneud darpariaeth adweithiol h.y. trefnu cwrs ddim ond os bydd rhywun yn gofyn amdano. Nodom y gellid dweud bod y Côd ym mharagraff 4.20 yn rhagweld darparu cyrsiau rhagweithiol. Gallem hefyd weld y gellid dadlau bod darpariaeth adweithiol hefyd yn cynnwys trin y Gymraeg yn llai ffaithiol na'r Saesneg, gan y gallai rwystro'r rhai a fyddai fel arall eisiau cael hyfforddiant drwy gyfrwng y Gymraeg rhag gwneud hynny.

they were likely to be the product of further reflection and research by the Applicant. Given that the essence of the complaint had not changed, and having regard to the overriding objective to deal with cases without undue formality, we decided that we should grant permission to amend. We therefore considered the application for reconsideration on the basis of the grounds of complaint as amended in the written submissions.

APPLICATION FOR PERMISSION

28. The Tribunal dealt with each of the grounds in turn, although noting that there is, in substance, a great deal of overlap as between them.

29. As to Ground 1:

29.1 The essential complaint in the first part of Ground 1 is that the Commissioner erred in not opening an investigation because she should have concluded that the promise to offer initial mandatory training courses for landlords according to need did not amount to compliance with Standard 84. The Tribunal considers that this part of Ground 1 raises an issue with reasonable prospects of success as to whether 'offering a course' for the purposes of Standard 84 means making proactive provision i.e. organising periodic courses rather than making reactive provision i.e. organising a course only if someone asks for it. We noted that the Code at paragraph 4.20 might be said to envisage the proactive provision of courses. We could also see that it might be argued that reactive provision also

29.2 Gellid dweud bod rhywfaint o densiwn rhwng casgliad y Comisiynydd nad oedd angen ymchwiliad oherwydd bod addewid i wneud darpariaeth adweithiol yn cydymffurfio â Safon 84, a'i chynghor, a awgrymodd fod y Cynghor wedi gwneud darpariaeth rhagweithiol ar gyfer hyfforddiant dosbarth rhithiol cyfnodol. O ystyried casgliad y Comisiynydd bod y Cynghor wedi cydymffurfio â Safon 84 gan yr addewid a wnaeth, fodd bynnag, rydym o'r farn y dylid dadlau'r sail hon yn llawn. Fe ddaethom i'r casgliad hefyd bod y budd i'r Comisiynydd ac yn ehangach o ddehongliad barnwrol o gwmpas Safon 84 ar y pwynt hwn yn gyfystyr â rhyw reswm cymhellol arall pam y dylid clywed y cais.

29.3 Mae'r Tribiwnlys felly yn rhoi caniatâd mewn perthynas â rhan gyntaf y Sail Cyntaf.

29.4 Nid oedd y Tribiwnlys yn ystyried fodd bynnag y dylai roi caniatâd mewn perthynas âg ail ran y Sail Cyntaf oherwydd nad yw hynny'n dod o fewn ei awdurdodaeth. Nid yw'n rhan o rôl y Tribiwnlys i ddyfarnu ar delerau'r cynghor a roddodd y Comisiynydd i'r Cynghor. Y mae cwyn o dan adran 103 y Mesur yn medru ymwneud â phenderfyniad y Comisiynydd i beidio â chynnal ymchwiliad yn unig.

30. Mae'r pwynt byr ond pwysig a godwyd gan yr Ail Sail yn ymwneud â chyfwerthedd: a allai'r Comisiynydd ddod i'r casgliad (yn gyfreithlon) bod y ddarpariaeth gan y Cynghor o

involved treating Welsh less favourably than English, in that it might inhibit those who would otherwise want to obtain training through the medium of Welsh from doing so.

29.2 There might be said to be something of a contradiction between the Commissioner's conclusion that an investigation was not necessary because a promise to make reactive provision complied with Standard 84, and her advice, which suggested that the Council made proactive provision for periodic virtual classroom training. In view of the Commissioner's conclusion that the Council had complied with Standard 84 by the promise it had made, however, we consider that this ground should be argued fully. We concluded additionally that the benefit to the Commissioner and more widely of a judicial interpretation of the scope of standard 84 on this point amounted to some other compelling reason why the application should be heard.

29.3 The Tribunal therefore grants permission in respect of Ground 1(i).

29.4 The Tribunal did not consider however that it should grant permission in respect of Ground 1(ii) because that does not fall within its jurisdiction. It is no part of the Tribunal's role to adjudicate on the terms of the advice that the Commissioner gave the Council. A complaint under

hyfforddiant wyneb yn wyneb ac ystafell ddsbarth rhithiol yn Saesneg, yn cydymffurfio â Safon 84, wedi'i gymwysu yn erbyn y nôd o sicrhau triniaeth ddim llai ffafriol l i'r Gymraeg o'i gymharu â'r Saesneg?

31. Roeddem o'r farn y gallai'r canllawiau ym mharagraff 4.20.11 o'r Còd fod â rhywfaint o berthnasedd yma. Er ei fod wedi'i ddrafftio cyn pandemig Covid-19 a'r newid cymdeithasol dilynol i lawer mwy o ddibyniaeth ar ddarpariaeth ar-lein mewn amrywiaeth o gyddestunau, gan gynnwys hyfforddiant, mae'n ymddangos bod yr egwyddor sylfaenol yn awgrymu y dylai cyflwyno cyrsiau fod yr un fath yn y bôn rhwng y ddwy iaith. Pan nad yw un dull o gyflwyno, ac, yn ôl y data a ddarperwyd gan yr Ymgeisydd (er o gyfnod hwyrach na dyddiad y gŵyn) y dull mwyaf cyffredin o gyflwyno, ar gael i'r rhai sydd eisiau hyfforddiant dosbarth yn Gymraeg, fe wnaethom ddod i'r casgliad bod hyn yn codi mater arall ynghylch y dehongliad cywir o Safon 84.
32. Am y rhesymau hyn, rydym o'r farn y dylid rhoi caniatâd mewn perthynas â'r Ail Sail am fod hon yn ddadl gyda rhagolygon rhesymol o lwyddiant ac oherwydd bod y budd i'r Comisiynydd ac yn ehangach o ddehongliad barnwrol o gwmpas Safon 84 ar y pwynt hwn yn gyfystyr â rhyw reswm cymhellol arall pam y dylid clywed y cais.
33. Nid oeddem o'r farn bod y Trydydd Sail yn ychwanegu dim o sylwedd at yr Ail Sail. Y cwestiwn sylfaenol yw a seiliodd y Comisiynydd ei phenderfyniad i beidio ag agor

section 103 of the Measure can only relate to the Commissioner's decision not to conduct an investigation.

30. The short but important point raised by Ground 2 relates to equivalence: could the Commissioner conclude (lawfully) that the provision by the Council of virtual only classroom training in Welsh, when both face to face and virtual classroom training were provided in English complies with standard 84, read against the aim of ensuring no less favourable treatment for Welsh compared to English?
31. We considered that the guidance at paragraph 4.20.11 of the Code may have some relevance here. Whilst drafted prior to the Covid-19 pandemic and the consequent societal shift to a far greater reliance on online provision in a variety of contexts, including training, the underlying principle appears to suggest that course delivery should essentially be the same as between the two languages. Where one mode of delivery, and, according to the data provided by the Applicant (albeit from a period later than the date of the complaint) the most common mode of delivery, is not available to those wanting classroom training in Welsh, we concluded that this gives rise to a further issue as to the correct interpretation of Standard 84.
32. For these reasons, we consider that permission should be given in respect of Ground 2 both because this is an argument with reasonable prospects of success and because the benefit to the Commissioner and more widely of a

ymchwiliad i'r gŵyn hyfforddi ar ddehongliad anghywir o ofynion Safon 84. Os oedd ei dehongliad yn anghywir, mae rhesymolrwydd ei chymhwyso o'r dehongliad hwnnw yn amherthnasol; i'r gwrthwyneb, os oedd ei dehongliad yn gywir, ni ellir dweud ei bod yn afresymol dibynnu arno wrth wneud ei phenderfyniad. Nid ydym felly yn rhoi caniatâd ychwanegol mewn perthynas â'r Trydydd Sail.

34. Mae'r Pedwerydd Sail, yn rhannol, wedi'i gwmpasu gan y Sail Cyntaf h.y. a yw gwneud darpariaeth 'yn ôl y galw' yn cydymffurfio â Safon 84. Nid ydym yn rhoi caniatâd eto mewn perthynas â'r mater hwnnw o dan y Pedwerydd Sail gan ei bod yn ddiangen gwneud hynny. O ran gweddill y Pedwerydd Sail:

34.1 Ar y cyd, ac yng nghyd-destun y gŵyn ynghylch a yw gwneud darpariaeth 'yn ôl y galw' yn gyfystyr â chydymffurfio â Safon 84 (gweler y Sail Cyntaf), daethom i'r casgliad y dylem roi caniatâd i'r Ymgeisydd ddadlau ei bod yn afresymol i'r Comisiynydd beidio ag agor ymchwiliad pan nad oedd camau cywiro'r Cyngor i fod i ddigwydd tan Ebrill 2025 fan gyntaf h.y. naw mis ar ôl y gŵyn. Nid oes unrhyw arwydd ar wyneb y penderfyniad bod y Comisiynydd wedi ystyried ystyriaethau perthnasol, yn benodol yr amserlen ddangosol 8 wythnos i landlordiaid gwblhau'r cwrs hyfforddi cyn cael trwydded, wrth farnu digonolrwydd y camau cywiro, ac os oedd fod budd ychwanegol i siaradwyr Cymraeg o

judicial interpretation of the scope of Standard 84 on this point amounted to some other compelling reason why the application should be heard.

33. We did not consider that Ground 3 added anything of substance to Ground 2. The real issue is whether the Commissioner based her decision not to open an investigation into the training complaint on an erroneous interpretation of the requirements of Standard 84. If her interpretation was wrong, the reasonableness of her application of that interpretation is immaterial; conversely, if her interpretation was correct, it cannot be said that it was unreasonable to rely upon it in making her decision. We therefore do not give permission additionally in respect of Ground 3.

34. Ground 4 is, in part, covered by Ground 1 i.e. the issue of whether making provision 'according to demand' complies with Standard 84. We do not give permission again in respect of that matter under Ground 4 as it is unnecessary to do so. As to the balance of Ground 4:

34.1 On balance, and in the context of the complaint about whether making provision 'according to demand' amounts to compliance with Standard 84 (see Ground 1), we concluded that we should give permission to the Applicant to pursue the argument that it was unreasonable for the Commissioner not to open an investigation when the Council's corrective action was not due to take place

ymchwiliad yn cael ei agor a ganlyniad. Roeddem o'r farn bod posibilrwydd rhesymol y bydd y gŵyn hon yn llwyddo ac, yn gyffredin â'r rhesymau mewn perthynas â'r Sail Cyntaf, bod rhyw reswm cymhellol arall pam y dylid clywed y cais.

34.2 Nid oeddem o'r farn ei bod yn rhesymol ddadleuol bod y Comisiynydd wedi gwneud camgymeriad wrth beidio ag edrych ar y gŵyn yn ehangach na'r mater o'r hyfforddiant gorfodol cychwynnol i landlordiaid. Roedd cwyn yr Ymgeisydd, fel y nodir ym mharagraff 3 o dudalen 74 o fwndel y Tribiwnlys, yn ymwneud â'r math hwnnw o hyfforddiant yn unig. Ychwanegodd yr Ymgeisydd mewn gohebiaeth ddilynol yn benodol at gwmpas ei gŵyn mewn gwahanol agweddau, a derbyniodd y Comisiynydd y cwynion ychwanegol hynny, ond ni wnaeth hynny mewn perthynas â'r mater o fathau eraill o hyfforddiant. Nid oeddem o'r farn bod cyfeirio mewn gohebiaeth at fathau eraill o hyfforddiant yn gosod dyletswydd ar y Comisiynydd i ymestyn ei hystyriaeth iddynt. Ymhellach, o ran awdurdodaeth y Tribiwnlys, yr unig fath o gwyn y gallwn ei hystyried yw fod y Comisiynydd wedi penderfynu peidio â chynnal ymchwiliad lle mae'r ddyletswydd o dan adran 93 y Mesur yn berthnasol. Mae adran 93 yn ei gwneud yn ofynnol bod cwyn yn cael ei gwneud i'r Comisiynydd am yr ymddygiad hwnnw. Ni allwn ystyried cwyn felly nad yw'r Comisiynydd wedi cynnal ymchwiliad i ymddygiad nad oedd yn destun cwyn iddi.

until April 2025 at the earliest i.e. nine months after the complaint. There is no indication on the face of the decision that the Commissioner took into account relevant considerations, specifically the 8-week indicative timetable for landlords to complete the training course prior to obtaining a licence, in judging the sufficiency of the corrective action and whether accordingly there might be additional benefit to Welsh speakers of an investigation being opened. We considered that there was a reasonable prospect of this complaint succeeding and, in common with the reasons in respect of Ground 1, that there was some other compelling reason why the application should be heard.

34.2 We did not consider that it was reasonably arguable that the Commissioner had erred in not looking at the complaint more broadly than the issue of the initial mandatory training for landlords. The Applicant's complaint, as set out at paragraph 3 of page 74 of the Tribunal's bundle was about that form of training alone. The Applicant in subsequent correspondence expressly added to the scope of his complaint in various respects, and the Commissioner accepted those additional complaints, but he did not do so in relation to the issue of other forms of training. We did not consider that passing references in correspondence to other types of training imposed a duty on the Commissioner to

34.3 Daethom i'r casgliad nad oeddem yn gallu ystyried cwyn bod y Comisiynydd wedi gwneud camgymeriad yng nghwmpas y cyngor a roddodd i'r Cyngor drwy beidio a gofyn i'r Cyngor adrodd yn ôl iddi. Mae awdurdodaeth y Tribiwnlys wedi'i gyfyngu i gwyn am benderfyniad y Comisiynydd i beidio ag agor ymchwiliad.

35. Rhoddom ganiatâd i'r Ymgeisydd felly mewn perthynas â'r Pedwerydd Sail wedi'i gyfyngu i'r gwyn amseru a nodwyd ym mharagraff 34.1 uchod am y rhesymau a roddir yn y paragraff hwnnw.

36. Rydym yn rhoi caniatâd i'r Ymgeisydd felly mewn perthynas â'r seiliau a nodir yn ei ddadl ysgrifenedig, ar y sail y byddai ganddynt ragolygon rhesymol o lwyddiant ac oherwydd bod rheswm cymhellol arall pam y dylid eu clywed fel a ganlyn:

36.1 Rhan gyntaf y Sail Cyntaf.

36.3 Yr Ail Sail.

36.3 Y Pedwerydd Sail, wedi'i gyfyngu i'r gwyn amseru a nodwyd ym mharagraff 34.1.

37. O ganlyniad i'n penderfyniad, bydd y cais nawr yn cael ei drin fel un a dderbyniwyd at ddibenion rheol 13 o'r Rheolau a'i brosesu yn unol â hynny. Wedi hynny, bydd y Tribiwnlys yn gwneud cyfarwyddiadau i baratoi ar gyfer gwrandawriad o'r cais.

Betsan Criddle CB

Cadeirydd Panel y Tribiwnlys

30ain o Fawrth 2025

extend her consideration to them. Further, in terms of the Tribunal's jurisdiction, we can only consider a complaint that the Commissioner has decided not to carry out an investigation where the duty under section 93 of the Measure applies. Section 93 requires that a complaint is made to the Commissioner about that conduct. We therefore cannot consider a complaint that the Commissioner did not carry out an investigation into conduct that was not the subject of a complaint to her.

34.3 We concluded that we could not consider a complaint that the Commissioner had erred in the scope of the advice that she gave to the Council in that she had not required the Council to report back to her. The Tribunal's jurisdiction is limited to a complaint about the Commissioner's decision not to open an investigation.

35. We therefore gave permission to the Applicant in respect of Ground 4 limited to the timing complaint identified at paragraph 34.1 above for the reasons given in that paragraph.

36. We therefore give permission to the Applicant in respect of the grounds set out in his written submissions, on the basis that they would have reasonable prospects of success and because there is another compelling reason why they should be heard as follows:

36.1 Ground 1(i).

ATODIAD

(DEUNYDD A YSTYRIWYD GAN Y TRIBIWNLYS)

- a) Hysbysiad Cais yr Ymgeisydd dyddiedig yr 17eg o Dachwedd 2024.
- b) Penderfyniad y Comisiynydd dyddiedig y 12fed o Dachwedd 2024.
- c) Penderfyniad y Tribiwnlys yn gwrthod caniatâd dyddiedig y 10fed o Ragfyr 2024.
- d) Cais heb ddyddiad yr ymgeisydd am ailystyriaeth a dderbyniwyd gan y Tribiwnlys ar y 24ain o Ragfyr 2024.
- e) Cyfarwyddiadau'r Tribiwnlys dyddiedig yr 22ain o Ionawr 2025.
- f) Cyfarwyddiadau'r Tribiwnlys dyddiedig yr 1leg o Chwefror 2025.
- g) Dadl ysgrifenedig yr ymgeisydd dyddiedig yr 17eg o Fawrth 2025.
- h) Adran 93 a 103 o Fesur y Gymraeg (Cymru) 2011.
- i) Safonau 84 ac 86.
- j) Côd Ymarfer ar gyfer Rheoliadau Safonau'r Gymraeg (Rhif 1) 2015.
- k) Powell v Comisiynydd y Gymraeg (Achos Rhif TyG / WLT/16/8).
- l) Powell v Comisiynydd y Gymraeg (Achos Rhif TyG/WLT/17/2).
- m) Powell v Comisiynydd y Gymraeg (Achos Rhif WLT/23/02).

36.2 Ground 2.

36.3 Ground 4, limited to the timing complaint identified at paragraph 34.1.

37. In consequence of our decision, the application will now be treated as received for the purposes of rule 13 of the Rules and processed accordingly. Thereafter, the Tribunal will make directions in preparation for a hearing of the application.

Betsan Criddle KC

Chair of the Tribunal Panel

30 March 2025

APPENDIX

(MATERIAL CONSIDERED BY THE TRIBUNAL)

- a) Applicant's Notice of Application dated 17 November 2024.
- b) Commissioner's decision dated 12 November 2024.
- c) Tribunal's decision refusing permission dated 10 December 2024.
- d) Applicant's undated application for reconsideration received by the Tribunal on 24 December 2024.
- e) Tribunal's directions dated 22 January 2025.

n) Rheolau Tribiwnlys y Gymraeg 2015.

f) Tribunal's directions dated 11 February 2025.

g) Applicant's written submissions dated 17 March 2025.

h) Section 93 and 103 of the Welsh Language (Wales) Measure 2011.

i) Standards 84 and 86.

j) Code of Practice for the Welsh Language Standards (No 1) Regulations 2015.

k) Powell v Welsh Language Commissioner (Case No. TyG/WLT/16/8).

l) Powell v Welsh Language Commissioner (Case No. TyG/WLT/17/2).

m) Powell v Welsh Language Commissioner (Case No. WLT/23/02).

n) The Welsh Language Tribunal Rules 2015.