TRIBIWNLYS Y GYMRAEG

Achos Rhif: TyG/2024/02

SB
(Ceisydd)
v.
COMISIYNYDD Y GYMRAEG
(Atebydd)

PENDERFYNIAD

Ar ôl ystyried:

a) Hysbysiad Cais y Ceisydd dyddiedig 17eg Tachwedd 2024;
b) Ateb i gŵyn gwreiddiol y Ceisydd oddi wrth y Comisiynydd, dyddiedig 12fed Tachwedd 2024;
c) Cais y Ceisydd mewn ebost dyddiedig 17eg Tachwedd 2024 am gyfeiriad bod ei achos yn aros yn ddienw;

Mae'r Tribiwnlys o'r farn:

1. Y dylid achos y Ceisydd aros yn ddienw ar Gofrestr y Tribiwnlys, ac yn gwneud cyfeiriad i'r perwyl hwnnw o dan rheol 26(1) Rheolau'r Tribiwnlys 2015;

2. Nad oes disgwyliad rhesymol y byddai cais y Ceisydd am adolygiad o benderfyniad y Comisiynydd yn llwyddo; ac

3. Nad oes unrhyw reswm cryf arall pam y dylai'r cais gael ei glywed.

WELSH LANGUAGE TRIBUNAL

Case No: WLT/2024/02

SB
(Applicant)
v.
WELSH LANGUAGE COMMISSIONER
(Respondent)

DECISION

Having considered:

a) The Applicant's Notice of Application dated 17th November 2024;
b) The Commissioner's response to Applicant's original complaint dated 12th November 2024;
c) The Applicant's application in an email dated 17th November 2024 for a direction that his case should remain anonymous;

The Tribunal is of the opinion:

1. That the Applicant's case should remain anonymous on the Tribunal's Register, and makes a direction to that effect under rule 26(1) of the Tribunal Rules 2015;

2. That the application for a review of the decision of the Commissioner would have no reasonable prospect of success, and

3. That there is no other compelling reason why the application should be heard.

4. Ar ôl ystyried cais y Ceisydd, felly, nid yw'r Tribiwnlys yn rhoi caniatâd i'r cais gael ei wneud dan adran 103 Mesur y Gynmraeg 2011.

Rhoddir isod rhesymau'r Tribiwnlys dros ddod i'w benderfyniad.

Rhodri Williams CB

Aelod Cyfreithiol Tribiwnlys y Gymraeg

10 Rhagfyr 2024

RHESYMAU

1. Y Mae'r Tribiwnlys wedi ystyried cais y Ceisydd am ganiatâd i adolygu, o dan adran 103 Mesur y Gymraeg, penderfyniad y Comisiynydd a wnaethpwyd ar 12fed Tachwedd 2024 i beidio cynnal ymchwiliad i sawl elfen o'i gŵyn, o dan adran 71 Mesur y Gymraeg.

2. Yn ei gŵyn gwreiddiol i'r Comisiynydd, dyddiedig 4ydd Gorffennaf 2024 (CS1278), honnodd y Ceisydd fod Cyngor Caerdydd wedi methu cydymffurfio â Safonau'r Gymraeg ynglŷn a gwasanaeth Rhentu Doeth, yr oedd y Cyngor yn gyfrifol amdano.

3. Roedd sawl elfen i'w gŵyn, sef a ganlyn: (i) diffyg hyfforddiant wyneb yn wyneb a rhithiol ystafell dosbarth i gael trwydded landlordiaid drwy gyfrwng y Gymraeg; (ii) enwau rhai lleoliadau ar ochr Gymraeg gwefan archebu hyfforddiant ystafell ddosbarth yn ymddangos yn Saesneg; (iii) testun Saesneg yn y llawlyfr oedd wedi'i gyflwyno fel rhan o'r hyfforddiant ar-lein Cymraeg i gofrestru landlordiaid

4. After a consideration of the application, therefore, the Tribunal does not grant permission, under section 103 of the Welsh Language Measure 2011.

The reasons for the Tribunals decision are noted below.

Rhodri Williams KC

Legal Member of the Welsh Language Tribunal

10 December 2024

REASONS

1. The Tribunal has considered the Applicant's application for permission to review, pursuant to section 103 of the Welsh Language Measure, the decision of the Commissioner made on 12th November 2024 not to hold an investigation into his complaint, pursuant to section 71 of the Welsh Language Measure.

2. In his original complaint to the Commissioner, dated 4th July 2024 (CS1278), the Applicant claimed that Cardiff Council had failed to comply with the Welsh Language Standards in relation to Smart Rent, for which the Council was responsible.

3. There were several elements to his complain, as follows: (i) a lack of face to face and virtual classroom training to obtain a landlord's licence through the medium of Welsh; (ii) the names of some places on the Welsh section of the website for ordering classroom training appeared in English; (iii) English language text in the handbook which was presented as part of the

newydd; (iv) y llawlyfr Cymraeg hefyd yn ymddangos yn wahanol i'r fersiwn Saesneg cyfatebol; a (v) gwasanaeth ffôn eilradd yn y Gymraeg.

4. Yn ei llythyr dyddiedig 12fed Tachwedd 2024, eglurodd y Comisiynydd ei bod wedi penderfynu agor ymchwiliad i elfen (v) (gwasanaeth ffôn Rhentu Doeth) ond ei bod wedi penderfynu peidio cynnal ymchwiliad i elfennau eraill y gŵyn (sef elfennau (i) – (iv)).

5. Yn ei Hysbysiad Cais, mae'r Ceisydd yn gofyn am ganiatâd i adolygu'r penderfyniad i beidio cynnal ymchwiliad i elfen (i), sef diffyg hyfforddiant wyneb yn wyneb a rhithiol ystafell dosbarth drwy gyfrwng y Gymraeg. Nid yw'n apelio yn erbyn y penderfyniad ynglŷn ag elfennau (ii), (iii) neu (iv).

6. Yn ôl ymateb y Comisiynydd, yn ei llythyr dyddiedig 12fed Tachwedd 2024 (CS1278), fe benderfynodd i beidio cynnal ymchwiliad yn dilyn derbyn gwybodaeth pellach gan y Cyngor, ynglŷn a chŵyn (i), sef bod y Cyngor, o ganlyniad i'r gŵyn wedi hysbysebu cwrs rhithiol ystafell ddosbarth i landlordiaid newydd yn y Gymraeg ym mis Hydref 2024 ac bod cwrs yn cael ei gynnal ym mis Ebrill 2025. Esboniodd y Cyngor bod ganddo fe nawr aelod o staff sydd yn gallu cynnal cyrsiau yn y Gymraeg ac y byddai'n cynnal cyrsiau pellach yn y Gymraeg yn ôl y galw.

7. Yn ôl y Comisiynydd, diben cynnal ymchwiliad yw dod i farn a fu methiant i gydymffurfio â safon, a galluogi i orfodi sefydliad i newid ei ymddygiad pe bai angen.

Welsh on-line training to register new landlords; (iv) the Welsh language handbook appeared different to the corresponding English language version; and (v) a second rate phone service in Welsh.

4. In her letter dated 12th November 2024, the Commissioner explained that she had decided to open an investigation into element (v) (the Smart Rent phone service) but that she had decided not to hold an investigation into the other elements of the complaint (namely elements (i) – (iv)).

5. In his Application Notice, the Applicant asks for permission to review the decision not to hold an investigation into element (i), namely the lack of face to face and virtual class room training through the medium of Welsh. He does not appeal against the decision in relation to elements (ii), (iii) or (iv).

6. According to the Commissioner's response, in her letter dated 12th November 2024 (CS1278), she decided not to hold an investigation following receipt of further information from the Council, in relation to complaint (i), namely that the Council, as a result of the complaint had advertised a virtual classroom course for new landlords in Welsh in October 2024 and that a course was to be held in April 2025. The Council explained that it now had a member of staff who could hold courses in Welsh and that they would be holding further courses in Welsh according to need.

7. According to the Commissioner, the aim of holding an investigation is to form an opinion as to whether there was a failure to comply with a standard and to enable an institution to be

8. Yn yr achos presennol, roedd y Cyngor wedi cydnabod nad oedden wedi bod yn darparu hyfforddiant ystafell ddosbarth yn y Gymraeg ac wedi cymryd camau i hysbysebu cyrsiau rhithiol ers derbyn y gŵyn. Roedd y Comisiynydd yn fodlon felly bod cynnig cyrsiau ystafell ddosbarth rhithiol yn galluogi'r Cyngor i gydymffurfio â'i ddyletswydd yn unol â gofynion y safonau.

9. Ym marn y Comisiynydd, nid oedd angen felly cymryd camau pellach i orfodi'r Cyngor i newid ei ymddygiad gan ei fod eisoes wedi cydnabod ei fethiant ac wedi cymryd, neu'n mynd i gymryd, camau o'i wirfodd i ddatrys y sefyllfa. Ni fyddai cynnal ymchwiliad yn dod â budd i ddefnyddwyr yr iaith yn ychwanegol i'r hyn roedd y Cyngor yn barod wedi ei ymrwymo i'w gyflawni ac byddai cynnal ymchwiliad mwy cynhwysfawr yn ddefnydd anghymesur o adnoddau'r Comisiynydd. Serch hynny, roedd y Comisiynydd yn bwriadu rhoi argymelliadau i'r Cyngor yn unol â'i phwerau o dan adran 4(j) Mesur y Gymraeg 2011.

10. Yn ei Hysbysiad Cais, mae'r Ceisydd yn dadlau, yn gyntaf, nad yw'r addewid mae'r Comisiynydd wedi'i gael y byddai un cwrs hyfforddi ar-lein ym mis Ebrill 2025 yn ddigonol, gan fod angen i landlord fel rheol gwblhau'r hyfforddiant a'r arholiad o fewn oddeutu wyth wythnos i ddod yn landlord.

compelled to change its behaviour, if that were needed.

8. In the present case, the Council had acknowledged that it had not provided classroom training in Welsh and had taken steps to advertise virtual courses since it had received the complaint. The Commissioner was therefore satisfied that holding virtual classroom courses enabled the Council to comply with its duties in accordance with the requirements of the standards.

9. In the Commission's view, there was no need therefore to take further steps to compel the Council to change its behaviour, since it had already acknowledged its failure and had taken, or was going to take, steps voluntarily to resolve the situation. Holding an investigation would not bring any further benefit to language users in addition to what the Council had already undertaken to carry out and holding a more comprehensive investigation would be a disproportionate use of the Commissioner's resources. Despite that, the Commissioner intended to make recommendations to the Council, in accordance with her powers under section 4(j) of the Welsh Language Measure.

10. In his Notice of Application, the Applicant argues, first of all, that the promise the Commissioner had received that there would be one on-line training course in Aril 2025 was not sufficient, since a landlord as a rule needed to complete the training and the examination within about eight weeks of becoming a landlord.

11. Yn ogystal, nid yw'r Ceisydd yn ystyried, yn ail, ei fod yn rhesymol i'r Comisiynydd ddod i'r casgliad fod cynnig darpariaeth Gymraeg yn rhithiol yn unig, pan fo'r ddarpariaeth Saesneg gyfatebol ar gael yn rhithiol yn ogystal â wyneb yn wyneb mewn lleoliadau ar draws Cymru, yn cydymffurfio gyda'r safonau.

12. Mae'r Ceisydd yn dadlau, yn drydydd, bod ymdriniaeth y Comisiynydd o'i gŵyn a sail ei phenderfyniad i beidio cynnal ymchwiliad ffurfiol yn rhy gyfyngedig ac yn methu ymdrin yn gyflawn â'i gŵyn am y diffyg darpariaeth hyfforddi Cymraeg yn ei chyfanrwydd.

13. Dywed y Ceisydd, yn olaf, fod sicrhad gan y Cyngor y bydd yn cynnal yr un math penodol o hyfforddiant, yn rhithiol, ac "*yn ôl y galw*", yn annigonol ac bod dim yn ymateb y Comisiynydd i awgrymu bod y Cyngor yn cydymffurfio gyda'r gofynion o ran cyrsiau hyfforddiant, sef safonnau 84 a 86, sy'n creu rheidrwydd arno i asesu'r angen i gwrs addysg gael ei gynnig yn Gymraeg a'i gynnig yn Gymraeg, oni bai fod asesiad wedi dod i'r casgliad nad oes galw.

14. Ym marn y Tribiwnlys, does dim rheswm i gwestiynu bod penderfyniad y Comisiynydd yn un rhesymol a chyfreithlon o dan amgylchiadau'r achos. Roedd ei phenderfyniad i roi cyngor yn unig, gan argymell bod y Cyngor yn cael trefniant parhaus bod cyrsiau hyfforddiant ystafell ddosbarth rhithiol i landlordiaid newydd yn cael eu hysbysebu a'u cynnal yn y Gymraeg yn gyfnodol fel mater o drefn, yn hytrach na chynnal ymchwiliad swyddogol, o fewn ei disgresiwn yn y mater.

11. In addition, the Applicant did not consider, secondly, that it was reasonable for the Commissioner to come to the conclusion that offering Welsh language provision merely virtually, whilst corresponding provision in English was available both virtually and face to face in locations across Wales, was in conformity with the standards.

12. The Applicant argues, thirdly, that the Commissioner's treatment of his complaint and the basis of her decision not to hold a formal investigation was too limited and failed to deal fully with his complaint about the lack of provision of Welsh language training in its entirety.

13. The Applicant lastly says that the assurance from the Council that it will be holding the particular type of training, virtually and "*in accordance with need*" is insufficient and that there is nothing in the Commissioner's response to suggest that the Council is complying with the requirements as regards training courses, namely standards 84 and 86, which create a requirement for it to assess the need for an educational course to be held in Welsh and to hold it in Welsh, unless the assessment concludes that there is no such need.

14. In the Tribunal's view, there is no reason to question that the Commissioner's decision is a reasonable and lawful one in all the circumstances of the case. Her decision merely 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, rather than holding an official investigation, was within her discretion in the matter.

15. Felly mae'r Tribiwnlys yn gwrthod dadleuon y Ceisydd bod penderfyniad y Comisiynydd yn anghywir ac yn ddiffygiol am ei fod yn rhy gyfyngedig. Seilir y penderfyniad hwn ar y rhesymau a roddwyd gan y Comisiynydd yn ei llythyr dyddiedig 12fed Tachwedd 2024.

15. Therefore, the Tribunal rejects the Applicant's arguments that the Commissioner's decision was incorrect and defective because it was too limited. This decision is based on the reasons put forward by the Commissioner in her letter dated 12th November 2024.