



Welsh Language Tribunal Annual Report 2015 – 2016

February 2017

See the Foreword for an explanation of the status of the Report



Tribiwnlys y Gymraeg
Welsh Language Tribunal

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Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Foreword



This is the Welsh Language Tribunal's second annual report, and the first to be published under the statutory requirements set out in section 132 of the Welsh Language (Wales) Measure 2011. Its statutory status derives from the fact that the provisions in the Measure relating to the Tribunal came into force on 1 April 2015, the beginning of the financial year relating to this report.

The 2014/15 report discussed the preparatory work undertaken that year – appointing the Tribunal's President and Members and ensuring that we had procedural Rules that would enable us to deal effectively with any case that came before us. This preparatory work continued during 2015/16.

On 5 October 2015, a very important milestone was reached in the history of the arrangements established by the Measure. On that date, the Welsh Language Commissioner issued compliance notices, under section 45 of the Measure, to the Welsh Ministers, to the 22 county or county borough councils and to the 3 national park authorities in Wales. These notices imposed a legal duty on those authorities to comply, from 30 March 2016, with prescribed Standards.

From then on, authorities in receipt of notices could challenge the reasonableness and proportionality of specific Standards imposed upon them, initially by requesting the Commissioner to reconsider her decision and, if unsatisfied with her response, by appealing to the Tribunal against that decision.

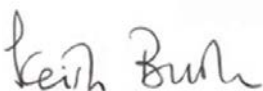
Although several authorities decided to ask the Commissioner, under section 54 of the Measure, to determine whether some of the requirements were unreasonable or disproportionate, the process had not resulted, by the end of 2014/15, in any appeals to the Tribunal.

Work continued to ensure the Tribunal could deal fairly and effectively with any appeals against the Standards imposed (or any other appeals that may be made to the Tribunal under the Measure):

- a consultation was held on the contents of Practice Directions that will provide practical advice to parties on how to commence a case and on the use of the Tribunal's two languages, Welsh and English, in dealing with cases. The Practice Directions came into force in February 2016;
- training activities were held to strengthen Members' judicial skills;
- the Tribunal's website went live on St David's Day 2016.

By the end of the year, the Welsh Language Tribunal was ready, therefore, to play its crucial role under the Welsh Language (Wales) Measure 2011.

I welcome any comments, or suggestions, concerning this report or any other matter relating to the Tribunal's arrangements. The Tribunal's contact details are on page 7.

A handwritten signature in black ink that reads "Keith Bush".

Keith Bush QC
President, Welsh Language Tribunal

Section 1: About Us

In this section:

- Background
- The Tribunal's Functions
- The Tribunal's Rules
- Practice Directions
- The Tribunal's Members
- Training
- Contacting the Tribunal
- The Tribunal's Accessibility

Background

The Welsh Language Tribunal is a statutory tribunal established under section 120 of the Welsh Language (Wales) Measure 2011 ('the Measure'). The Tribunal's function is to decide on appeals against the Welsh Language Commissioner's ('the Commissioner') decisions in relation to Welsh Language Standards.

The Tribunal's Functions

The Measure enables the Tribunal to hear the following:

1. Appeals against the Commissioner's decisions in terms of imposing Standards on bodies and officers exercising functions or providing public services in Wales.
2. Appeals against judgements by the Commissioner regarding failure to comply with the requirement of a Standard.
3. Appeals against enforcement actions taken by the Commissioner.
4. Appeals by a complainant against judgements by the Commissioner that a person had not failed to comply with a standard.
5. Reviews of decisions by the Commissioner not to investigate a complaint (or to terminate an investigation).

The Tribunal's Rules

The Tribunal operates according to its procedural rules – **The Welsh Language Tribunal Rules 2015**. The purpose of these Rules is to ensure that all cases heard by the Tribunal are treated fairly, consistently and promptly. They ensure that everyone who comes before the Tribunal understands precisely the steps they must take so that the facts of the dispute and relevant arguments can be presented effectively to the Tribunal. They also ensure that every party in the case understands the arguments of the other parties and can respond to them.

According to section 123 of the Measure, there is a duty on the President to produce Tribunal Rules on the practices and procedures to be followed in the Tribunal. The President submitted the Rules formally to the First Minister on 25 February 2015 (in accordance with the requirement in section 123(6) of the Measure). They were approved by the First Minister and laid before the National Assembly for Wales, as a Statutory Instrument, on 9 April 2015. The Rules came into force on 30 April 2015.

The Tribunal's Rules set out the following:

- common rules – which deal with some basic common principles and define the specialist terms used in the selecting the Tribunal members who will hear individual cases;
- how to commence an application to the Tribunal;
- the practical actions that must be taken to prepare a case for hearing;
- the powers which the Tribunal has to manage cases, including the directions the Tribunal may give to parties on the actions which they must take before a hearing;
- the process followed for hearings and formal decisions made by the Tribunal;
- what happens after a decision has been reached, including arrangements for reviewing the Tribunal's decisions or appealing to the High Court;
- various other provisions, including: administrative rules regarding the recording of decisions, submission of documents and measuring deadlines.

Practice Directions

The President is authorised, under section 124 of the Measure and Rule 4 of the Rules, to issue Practice Directions to provide practical advice on how to interpret and implement the Rules.

Under section 124(2) of the Measure, the Welsh Minister's approval is required before the President can issue Practice Directions. A comprehensive consultation was held on the contents of Practice Directions 1 and 2 (on how to commence an application and the use of the Tribunal's languages in its proceedings) and drafts were revised in response to many important and constructive comments received.

The President submitted the final drafts of Practice Directions 1 and 2 to the First Minister on 6 January 2016. The First Minister, on behalf of the Welsh Ministers, approved those Practice Directions on 19 January 2016 and they were then made by the President on 21 January 2016.

Practice Direction 1 – Commencing a case

Rule 10 of the Rules provides that an application to the Tribunal must be commenced by submitting to the Tribunal a written document (notice of application). Rule 12 prescribes the information which must be included in, and with, a notice of application.

The purpose of this Practice Direction is to publish a form which, when used by an applicant, will assist the applicant (or the applicant's representative) to conform with the requirements of Rule 12. That form should be used to submit a notice of application.

Nevertheless, it is not a legal requirement to use this form. An applicant may supply the information prescribed under Rule 12 by some other means. However, the use of this form will:

- ensure that all the required information is given
- assist the Tribunal to consider that information in the most consistent and effective way possible.

Practice Direction 2 – The use of the Tribunal’s languages

Rule 6 of the Rules provides:

- that the English and Welsh languages shall be the languages of the Tribunal
- that each party or witness shall have the right to use either language in the proceedings of the Tribunal.

The purpose of this Practice Direction is to provide practical advice on how the Rules should be interpreted and applied in accordance with Rule 6.

In accordance with Rule 4(4), the contents of this Direction are subject to any instructions given to the Tribunal in relation to a specific case.

This Practice Direction deals only with communications which form part of the Tribunal transactions, in relation to a specific case, and which are governed by the provisions of the Rules.

The Tribunal’s Members

The Welsh Ministers are responsible for appointing and reappointing the Tribunal’s President, legally-qualified Members and lay Members. The Members were appointed after the vacancies were advertised and following a competitive interview before a panel convened by the Welsh Government. The President and the Tribunal’s other Members were appointed for a 5-year term.

President The President has judicial responsibility over the Tribunal and its Members.

Legally-qualified Members The legally-qualified members are Lawyers (Barristers or Solicitors) and they are responsible for presiding over hearings and for exercising functions in relation to preliminary steps – e.g. issuing directions in relation to the evidence presented by parties.

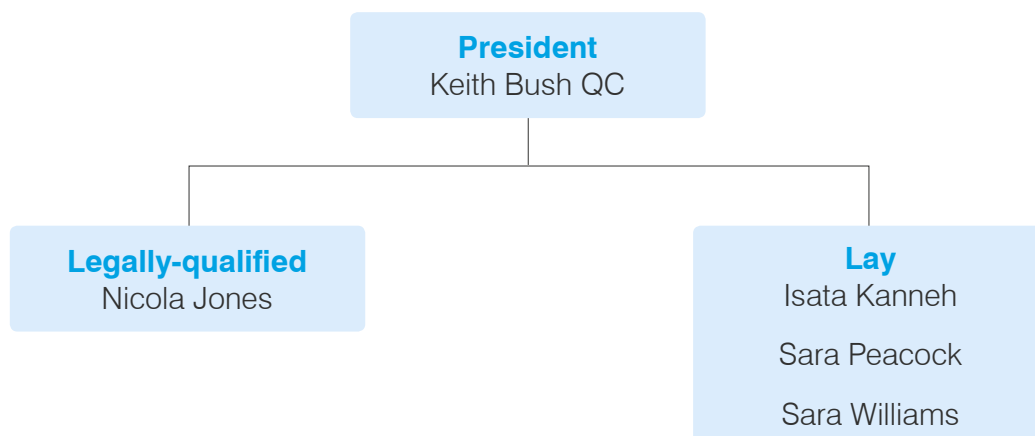
Lay Members Lay members have a wide range of knowledge and experience relevant to the Tribunal’s work. They play a full part, with an equal voice to that of the other Members (including Legally-qualified Members) in the decision-making of the Tribunal.

Secretariat The day-to-day administration of the Tribunal is delegated to the Tribunal’s secretariat, which deals with the preliminary work and the work of processing applications to the Tribunal. Prior to a hearing, the secretariat will consult with the President and/or the Legally-qualified Member who will be chairing a particular hearing on any legal matters which may arise in the preliminary stages of cases, and will send any written rulings or directions to the parties in question. The secretariat is a contact point for the Tribunal’s members and customers. The administration is provided, under section 127 of the Measure, by the Welsh Government.

Appointments

During 2015-16 the First Minister has appointed the following as Members of the Tribunal:

- Nicola Jones – Legally-qualified Member
- Isata Kanneh – Lay Member
- Sara Peacock – Lay Member
- Sara Williams – Lay Member (appointment started on 1 April 2015)



Training

An induction day was held for Members in June 2015. This session was an opportunity for Members to meet each other, and to learn more about the legislation that underpins the Tribunal.

A second induction day was held in November 2015. This session was built around a mock case, giving Members an opportunity to discuss the type of questions that might arise in a case before the Tribunal. The event was also an opportunity to test the practicalities of the arrangements the Tribunal intends to make for hearings.

Contacting the Tribunal

Here are the Welsh Language Tribunal's contact details:

Address:	Welsh Language Tribunal First Floor, West Wing Southgate House Wood Street Cardiff CF10 1EW
Tribunal Helpline:	03000 625610
Tribunal E-mail:	tyg@cymru.gsi.gov.uk
Tribunal Website:	welshlanguagetribunal.gov.wales

The Tribunal's Accessibility

You are welcome to communicate with the Tribunal in Welsh or English. Rule 6 of the Rules provides:

- that the English and Welsh languages shall be the languages of the Tribunal
- that each party or witness shall have the right to use either language in the proceedings of the Tribunal.

Practice Direction 2 provides practical advice on how to interpret and apply the Rules in accordance with Rule 6.

Please make sure that you give details of any additional needs you, or your representative, have when you send your application notice to us. For instance, if you need a signer or interpreter during the hearing, or if you require any additional arrangements to be made for the hearing, we will take the necessary steps.

Section 2 – Performance and Development

Effectiveness of our service

In order to monitor the effectiveness of our services, we will aim to have key performance indicators in place to measure two key aspects of our work; the efficiency and quality of our service, based on customer satisfaction. Reference will be made to key performance indicators in next year's annual report (2016-17).

Target: to respond to 95% of all correspondence within 5 working days of receipt.

Target: to register 95% of applications* within 5 working days of receipt.

Target: to give or to refuse permission for an application under section 103(2) of the Measure, in 95% of such cases, within 10 working days of receipt.

Target: For cases to be decided upon without the need for a hearing, to decide on 95% of such applications within 8 weeks of receipt.

Target: To arrange, in 95% of cases, a date for hearing a case that is within 3 months of receiving the application.

Target: To make a decision, in 95% of cases where a hearing is held, within 2 months after the hearing ends.

* with the exception of those requiring permission under section 103(2) of the Measure and where further information is required from the applicant before the application can be registered.

Section 3 – Our Customers

In this section:

- The Tribunal's customer satisfaction survey.

The Tribunal's customer satisfaction survey

The Tribunal's secretariat is working to ensure that our customers will be at the heart of everything we do.

The secretariat has created a satisfaction survey for the Tribunal's customers. The survey's results will help us to better understand the needs of our customers, show us what the Tribunal's secretariat does well, as well as those areas where things need to be improved.

A summary of the feedback received will be published in future reports.

Section 4 – Business Priorities

In this section:

- Business Priorities 2016-2017.

It is important that the Tribunal develops in order to provide our customers with the best possible service. This section deals with how the Tribunal will build on its achievements by focusing on business priorities and our commitment to our users.

Business Priorities 2016-2017:

- To plan and provide training for all members.
- To continue to monitor and update the Welsh Language Tribunal's website.
- To provide a high-quality service ensuring that key performance indicators are met.
- To fine-tune how the Tribunal works, based on the experiences of dealing with cases, in order to ensure work of the highest quality when considering and deciding on cases.
- To publish Practice Direction 3. This proposed Practice Direction will allocate the Tribunal's functions, in relation to specific cases, to Tribunal panels and the President (or another legally-qualified Member).

Section 5 – Expenditure

In this section, our:

- Expenditure in 2015-2016.

Expenditure in 2015-2016

Content	Expenditure*
Members' fees and expenses	£18,400
Costs of training sessions	£1,100
Total	£19,500

*rounded to the nearest £100