



## **WELSH LANGUAGE TRIBUNAL**

### **Case TyG/WLT/18/5**

Information Commissioner's Office v Welsh Language Commissioner

#### **SUMMARY OF THE TRIBUNAL'S DECISION** (for public information purposes only)

A member of the public ("the Complainant") had complained to the Welsh Language Commissioner (WLC) that when he had telephoned the Information Commissioner's Office in Wales (ICO) and had spoken in Welsh to the person who answered the telephone, that person was unable to deal with his enquiry in Welsh. It was arranged, instead, for a Welsh-speaking officer, able to deal with the enquiry, to telephone the Complainant back later that day. The WLC carried out an investigation into whether the ICO had failed to comply with its duty, under the applicable Welsh language standard (standard 11). That standard required the ICO to deal with a call by someone who wished to speak Welsh in that language until such point as it was necessary to transfer the call to a member of staff who did not speak Welsh in order to provide a service on a specific subject matter (there being no Welsh speaking staff member available to do so). The WLC determined that the ICO had failed to comply with the standard in question and required the ICO to prepare an action plan showing the steps it would take in order to comply with standard 11. The ICO appealed to the Tribunal, under section 95(2) of the Welsh Language (Wales) Measure 2011, against the WLC's determination.

The Tribunal confirmed that it had full jurisdiction, under section 95, to form its own view on all relevant questions of law and fact. In this case, however, there was no dispute between the parties on the primary facts. The ICO's standard procedure for dealing with calls in Welsh was that members of staff must greet callers bilingually but that if the caller wished to speak Welsh, and the member of staff could not speak Welsh, the caller should be given the choice of either continuing the call in English or of receiving a call back from a Welsh speaker. This clearly failed to comply with the ICO's duty to "deal with the call in Welsh" until it became necessary to transfer it to someone who could not speak Welsh in order to deal with a specific subject matter. The ICO's argument that it was unreasonable to "force" staff to give advice on complex technical and legal matters in a second language was irrelevant. All that the Complainant had wanted was for the general nature of his enquiry to be ascertained in Welsh and transferred to someone who could deal with it - in Welsh, if possible, or in English if no Welsh speaker was available to deal with the specific subject. The Tribunal noted that the ICO had not appealed to the Tribunal against the imposition

of the standard in question, on grounds of unreasonableness or lack of proportionality, and now that the standard had come into force the ICO were required to comply with it. The Tribunal dismissed the appeal and upheld the determination of the WLC.

**29 March 2019**