



TRIBIWNLYS Y GYMRAEG
Rhif yr Achos: TyG/WLT/19/1

CURON WYN DAVIES
(Ceisydd)

v.

COMISIYNYDD Y GYMRAEG
(Atebydd)

CRYNODEB O BENDERFYNIAD Y
TRIBIWNLYS

(i ddibenion gwybodaeth gyhoeddus)

Cwynodd y Ceisydd i Gomisiynydd y Gymraeg fod ei gyngor lleol wedi methu â chydymffurfio â safonau'r iaith Gymraeg yng nghyswllt defnyddio fersiwn Saesneg ei gyfeiriad ar ohebiaeth pan oedd wedi gofyn yn benodol i'w gyfeiriad fod yn yr iaith Gymraeg. Penderfynodd y Comisiynydd beidio â chynnal ymchwiliad i'r cwynion, ar y sail ei bod eisoes wedi cynnal ymchwiliad i gydymffurfiaeth y cyngor ac y cytunwyd ar gynllun gweithredu. Gofynnodd y Ceisydd i'r Tribiwnlys adolygu penderfyniad y Comisiynydd i beidio ag ymchwilio i'w gwynion, gan ddadlau fod ymchwiliad cyffredinol y Comisiynydd yn ddiffygiol mewn sawl cyswllt a bod defnyddio'r ffaith fod y cynllun gweithredu yn parhau i fodoli fel cyfiawnhad dros beidio ag ymchwilio i'w gwynion ef yn afresymol.



WELSH LANGUAGE TRIBUNAL
Case No: TyG/WLT/19/1

CURON WYN DAVIES
(Applicant)

v.

WELSH LANGUAGE COMMISSIONER
(Respondent)

A SUMMARY OF THE TRIBUNAL'S
DECISION

(for public information purposes)

The Applicant complained to the Welsh Language Commissioner that his local council had failed to comply with the Welsh language standards in that it had used the English version of his address on correspondence when he had asked specifically for his address to be in Welsh. The Commissioner decided not to hold an investigation into the complaints, on the basis that she had already conducted an investigation into the council's compliance and that its action plan had been agreed. The Applicant asked the Tribunal to review the Commissioner's decision not to investigate his complaints, arguing that the Commissioner's general investigation was deficient in a number of ways and that it was unreasonable to use the fact that the action plan was still in existence as justification for not investigating his complaints.

Pan hysbyswyd y Comisiynydd fod y Ceisydd yn ceisio herio, gerbron y Tribiwnlys, y penderfyniad i beidio ag ymchwilio i'w gŵyn, newidiodd y Comisiynydd y penderfyniad gwreiddiol a hysbysodd y Ceisydd fod y Comisiynydd yn mynd i agor ymchwiliad i'w gwynion wedi'r cyfan. Ers i'r penderfyniad gwreiddiol gael ei wrthdroi, gwnaeth y Comisiynydd gais i'r Tribiwnlys ddileu cais y Ceisydd am adolygiad, gan ddadlau nad oedd gan y Tribiwnlys awdurdodaeth i ystyried y penderfyniad gwreiddiol mwyach neu, fel arall, y byddai parhau i ystyried penderfyniad a oedd eisoes wedi cael ei wrthdroi yn gamddefnydd o bwerau'r Tribiwnlys.

Derbyniodd y Tribiwnlys ddadl y Comisiynydd nad oedd gan y Tribiwnlys bŵer, dan adrannau 103 a 104 Mesur yr iaith Gymraeg (Cymru) 2011 i adolygu penderfyniad a oedd eisoes wedi cael ei wrthdroi gan y Comisiynydd. Yr oedd geiriad adran 104 yn benodol yn awgrymu mai'r unig fath o benderfyniad y gallai'r Tribiwnlys ei ystyried oedd penderfyniad a oedd yn parhau mewn grym, ac nid un, er enghraifft, nad oedd mewn grym bellach oherwydd bod y Comisiynydd eisoes wedi ei wrthdroi yn wirfoddol.

O ganlyniad, nid oedd gan y Tribiwnlys ddewis arall ond dileu'r Cais.

Iwan Jenkins

Llywydd y Tribiwnlys
6 Rhagfyr 2019

When the Commissioner was informed that the Applicant was seeking to challenge, in front of the Tribunal, the decision not to investigate his complaint, the Commissioner changed her original decision and informed the Applicant that the Commissioner was going to open an investigation into his complaints after all. Since the original decision was reversed, the Commissioner applied to the Tribunal for the Applicant's application for a review to be struck-out, arguing that the Tribunal no longer had jurisdiction to consider the original decision or that, otherwise, it would be a misuse of the Tribunal's powers to continue to investigate a decision that had already been reversed.

The Tribunal accepted the Commissioner's argument that the Tribunal did not have the power, under sections 103 and 104 of the Welsh Language Measure (Wales) 2011, to review a decision that had already been reversed by the Commissioner. The wording of section 104 specifically suggests that the only kind of decision the Tribunal could consider is a decision that remains in force, and not one, for example, that was no longer in force because the Commissioner had already reversed it voluntarily.

Consequently, the Tribunal had no choice other than to strike-out the Application.

Iwan Jenkins

President of the Tribunal
6 December 2019