



TRIBIWNLYS Y GYMRAEG

Achos Rhif: TyG/2019/07

CURON WYN DAVIES

(Ceisydd)

v.

COMISIYNYDD Y GYMRAEG

(Atebydd)

PENDERFYNIAD

Ar ôl ystyried:

Datganiad Achos Comisiynydd y Gymraeg, dyddiedig 17 Chwefror 2020, yn hysbysu'r Tribiwnlys (a) bod y Comisiynydd wedi penderfynu diddymu ei benderfyniad gwreiddiol i beidio ag ymchwilio dan adran 71 Mesur y Gymraeg (Cymru) 2011, ac y bydd yn ystyried y mater o'r newydd - a hynny heb orfod rhannu manylion y Cesiyydd gyda'r Cyngor - er mwyn penderfynu ai ymchwilio ai peidio; a (b) na fyddai'r Comisiynydd yn gwrthwynebu penderfyniad i ddiddymu ei benderfyniad gwreiddiol ac i anfon yr achos yn ôl at y Comisiynydd gyda chyfarwyddiad ar gyfer ailystyried



WELSH LANGUAGE TRIBUNAL

Case No: WLT/2019/07

CURON WYN DAVIES

(Applicant)

v.

WELSH LANGUAGE COMMISSIONER

(Respondent)

DECISION

Having considered:

The Commissioner's Case Statement, dated 17 February 2020, informing the Tribunal (a) that the Commissioner has decided to annul his original decision not to carry out an investigation pursuant to section 71 of the Welsh Language (Wales) Measure 2011, and that he will consider the matter afresh – without obliging the Applicant to disclose his personal details with the Council – in order to decide whether or not to carry out an investigation; and (b) that the Commissioner would not oppose a decision to annul his original decision and to remit the case to the Commissioner with a direction that he reconsider it

Mae'r Tribiwnlys yn dyfarnu:

- (a) Y dylai'r Tribiwnlys benderfynu'r cais, heb wrandawriad, o dan reol 23(1)(b) Rheolau Tribiwnlys y Gymraeg 2015, gan fod y Comisiynydd wedi datgan mewn ysgrifen nad yw am wrthwynebu'r cais;
- (b) Bod y Tribiwnlys, o dan adran 104(1)(b) Mesur y Gymraeg (Cymru) 2011, yn diddymu dyfarniad y Comisiynydd i beidio â chynnal ymchwiliad;
- (c) Bod y Tribiwnlys, o dan adran 104(2) y Mesur, yn anfon yr achos yn ôl at y Comisiynydd gyda chyfarwyddyd ar gyfer ailystyried.

Rhoddir rhesymau'r Tribiwnlys dros ddod i'r casgliadau hynny isod.

Rhodri Williams CF
Aelod o Dribiwnlys y Gymraeg sydd wedi ymgymhwyso yn y gyfraith

23 Mawrth 2020

The Tribunal is of the opinion:

- (a) That the Tribunal should decide the case without a hearing, pursuant to rule 23(1)(b) of the Welsh Language Tribunal Rules 2015, as the Commissioner has stated in writing that he does not intend to resist the application;
- (b) That the Tribunal, pursuant to section 104(1)(b) of the Welsh Language (Wales) Measure 2011, annuls the Commissioner's decision not to carry out an investigation;
- (c) That the Tribunal, pursuant to section 104(2) of the Measure, remits the case to the Commissioner with a direction that he should reconsider it.

Reasons for the Tribunal's conclusions are given below.

Rhodri Williams QC
Legally Qualified Member of the Welsh Language Tribunal

23 March 2020

RHESYMAU

1. Yn ei Ddatganiad Achos, dyddiedig 17 Chwefror 2020, y mae Comisiynydd y Gymraeg wedi hysbysu'r Tribiwnlys ei fod ef, yn dilyn derbyn cais y Ceisydd am adolygiad o benderfyniad y Comisiynydd i beidio cynnal ymchwiliad, wedi edrych eto ar ei benderfyniad ac, yn dilyn derbyn cyngor cyfreithiol, yn derbyn bod sail ei benderfyniad gwreiddiol i beidio ag ymchwilio yn ddiffygiol. Mae e'n esbonio ei fod ef wedi cam-ddehongli sail cwyn y Ceisydd a bod hyn wedi arwain iddo fe ystyried ei fod yn angenrheidiol rhannu rhif trwydded cerbyd y Ceisydd gyda'r Cyngor er mwyn gallu penderfynu ai ymchwilio ai peidio.
2. Mae'r Comisiynydd yn awr yn deall mai sail cwyn y Ceisydd oedd bod elfennau o wefan y Cyngor ar gyfer adnewyddu trwydded parcio ddim yn gweithio'n llawn yn Gymraeg ac mae'n bellach yn glir i'r Comisiynydd nad oedd felly angen rhannu rhif cofrestr cerbyd y Ceisydd gyda'r Cyngor er mwyn penderfynu'r ai ymchwilio ai peidio.
3. Am y rheswm yma, y mae'r Comisiynydd yn datgan ei fod yn cytuno i ddiddymu ei benderfyniad

REASONS

1. In his Case Statement, dated 17 February 2020, the Welsh Language Commissioner has informed the Tribunal that, following receipt of the Applicant's application for a review of the Commissioner's decision not to carry out an investigation, he has looked again at his decision and, having taken legal advice, has accepted that the basis for his original decision was defective. He explains that he had misinterpreted the basis of the Applicant's complaint and that this had led to him considering that it was necessary to disclose the Applicant's vehicle registration number to the Council in order to be able to decide whether or not to carry out an investigation.
2. The Commissioner now understands that the basis of the Applicant's complaint was that elements of the Council's website for the renewal of parking permits did not work completely in Welsh and it is moreover clear to the Commissioner that there was no need to disclose the Applicant's vehicle registration to the Council in order to decide whether or not to carry out an investigation.
3. For this reason, the Commissioner states that he agrees to annul his original decision not to carry out an

gwreiddiol i beidio ag ymchwilio ac i ystyried y mater o'r newydd, heb orfod rhannu manylion trwydded cerbyd y Ceisydd gyda'r Cyngor.

4. Nid yw'r Comisiynydd felly yn gwrthwynebu penderfyniad i ddiddymu ei benderfyniad gwreiddiol ac i anfon yr achos yn ôl at y Comisiynydd gyda chyfarwyddyd ar gyfer ei ailystyried.
5. Yn bellach, o dan yr amgylchiadau, nid yw'r Comisiynydd am wrthwynebu'r pŵer, o dan reol 23 Rheolau Tribiwnlys y Gymraeg 2015, i benderfynu'r achos heb wrandawriad, ac y mae'r Comisiynydd yn gwahodd y Tribiwnlys i wneud hyn gan nodi penderfyniad y Comisiynydd i ddiddymu'r penderfyniad gwreiddiol a'r bwriad i ystyried cwyn y Ceisydd o'r newydd.

investigation and that he will consider the matter afresh, without any obligation to disclose the Applicant's vehicle licence details to the Council.

4. The Commission does not therefore oppose a decision to annul his original decision and to remit the case to the Commissioner with a direction that it should be reconsidered.
5. Moreover, in the circumstances, the Commissioner does not intend to resist the power, pursuant to rule 23 of the Welsh Language Tribunal Rules 2015, to decide the case without a hearing and the Commissioner invites the Tribunal to do this, noting the Commissioner's decision to annul the original decision and the intention to reconsider the Applicant's complaint.