



TRIBIWNLYS Y GYMRAEG

Achos Rhif: TyG/2024/01

MAIR STUART
(Ceisydd)

v.

COMISIYNYDD Y GYMRAEG
(Atebydd)

PENDERFYNIAD

Ar ôl ystyried:

- a) Hysbysiad Cais y Ceisydd, dyddiedig 12fed Awst 2024; ac
- b) Ateb i gŵyn gwreiddiol y Ceisydd oddi wrth y Comisiynydd, dyddiedig 2ail Awst 2024;

Mae'r Tribiwnlys o'r farn:

1. Nad oes disgwyliad rhesymol y byddai cais y Ceisydd am adolygiad o benderfyniad y Comisiynydd yn llwyddo; ac
2. Nad oes unrhyw reswm cryf arall pam y dylai'r cais gael ei glywed.

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 Gymraeg 2011.

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

Rhodri Williams CB

Aelod Cyfreithiol Tribiwnlys y Gymraeg

29 Awst 2024



WELSH LANGUAGE TRIBUNAL

Case No: WLT/2024/01

MAIR STUART
(Applicant)

v.

WELSH LANGUAGE COMMISSIONER
(Respondent)

DECISION

Having considered:

- a) The Applicant's Notice of Application dated 12th August 2024; and
- b) The Commissioner's response to Applicant's original complaint dated 2nd August 2024;

The Tribunal is of the opinion:

1. That the application for a review of the decision of the Commissioner would have no reasonable prospect of success, and
2. That there is no other compelling reason why the application should be heard.

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 Tribunal's decision are noted below.

Rhodri Williams KC

Legal Member of the Welsh Language Tribunal

29 August 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 2ail Awst 2024 i beidio cynnal ymchwiliad i'w chwyn, o dan adran 71 Mesur y Gymraeg.
2. Yn ei chwyn gwreiddiol i'r Comisiynydd, honnodd y Ceisydd fod Cyngor Bwrdeistref Sirol Blaenau Gwent ("y Cyngor") wedi methu cydymffurfio â Safonau'r Gymraeg, gan nad oedd yn darparu gwasanaeth Cymraeg yn Llyfrgell Tredegar.
3. Yn ôl ymateb y Comisiynydd, yn ei llythyr dyddiedig 2ail Awst 2024 (CS1271), fe benderfynodd i beidio cynnal ymchwiliad yn dilyn derbyn gwybodaeth pellach gan y Cyngor.
4. Yn ôl y Comisiynydd, roedd y Cyngor wedi esbonio ei fod yn gyfrifol am y gwasanaeth llyfrgell dan sylw, drwy Ymddiriedolaeth Hamdden Aneurin, ond na chafodd wybod am y gwyn na chael cyfle i fynd i'r afael â'r mater a'i ddatrys gan ddefnyddio ei broses gwynion fewnol.
5. Yr oedd y Cyngor wedi cyflwyno bod gan y llyfrgell yn Nhredegar aelod staff Cymraeg i ddarparu gwasanaeth Cymraeg fel arfer, a'i fod yn bosibl bod yr aelod staff hwnnw yn brysur gyda chwsmeriaid eraill ar amser ymweliad y Ceisydd.

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 2nd August 2024 not to hold an investigation into her complaint, pursuant to section 71 of the Welsh Language Measure.
2. In her original complaint to the Commissioner, the Applicant claimed that Blaenau Gwent County Borough Council ("the Council") had failed to comply with the Welsh Language Standards, since it was not providing a Welsh Language Service at Tredegar Library.
3. According to the response of the Commissioner, in her letter dated 2nd August 2024 (CS1271), she decided not to hold an investigation following the receipt of further information from the Council.
4. According to the Commissioner, the Council had explained that it was responsible for the Library Service in question, through the Aneurin Leisure Trust, but that it had not been informed about the complaint nor had the opportunity to address and solve the issue through the use of its internal complaints process.
5. The Council had submitted that Tredegar Library had a Welsh-speaking member of staff to provide a Welsh language Service and that it was possible that that member of staff was busy with other customers at the time of the Applicant's visit.

6. Yr oedd y Cyngor wedi cadarnhau hefyd ei fod wedi cyflwyno Safonau Llyfrgelloedd Cyhoeddus Cymraeg i'r Llywodraeth ac o fewn hynny bod y Cyngor wedi bodloni safonau llyfrgelloedd Cymraeg ar gyfer darpariaeth Gymraeg.
7. Yn ôl y Comisiynydd, doedd dim angen cynnal ymchwiliad i gŵyn y Ceisydd am sawl reswm. Yn gyntaf, diben cynnal ymchwiliad oedd dod i farn ar y cwestiwn a fu methiant i gydymffurfio neu beidio, gan ei galluogi i orfodi sefydliad i newid ei ymddygiad os oedd angen. Yn yr achos presennol, roedd y Cyngor wedi derbyn y posibilrwydd nad oedd aelod staff Cymraeg ar gael ar amser ymweliad y Ceisydd. Serch hynny, roedd y Cyngor wedi cadarnhau bod aelod o staff Cymraeg ar gael fel arfer.
8. O dan yr amgylchiadau, casglodd y Comisiynydd nad oedd angen cymryd camau i orfodi'r sefydliad i newid ei ymddygiad oherwydd ei fod wedi dangos dealltwriaeth o ofynion y safon ac mai eithriad oedd y digwyddiad hwn. Ym marn y Comisiynydd, nid oedd amheuaeth bod problem systemig yn bodoli o ran cydymffurfiaeth â'r safon hon.
9. Roedd y Comisiynydd yn ystyried ei fod yn bwysig nad oedd y Cyngor yn ymwybodol o'r gŵyn yn wreiddiol ac y byddai wedi gwerthfawrogi'r cyfle i fynd i'r afael â'r mater drwy ei broses gwynion fewnol, oedd yn dangos, yn ôl y Comisiynydd, parodrwydd y Cyngor i gywiro'r sefyllfa.
6. The Council had confirmed too that it had submitted its Welsh Public Libraries Standards to the Government and that in these the Council had satisfied the Welsh Libraries Standards for the Welsh Language provision.
7. According to the Commissioner, there was no need to hold an investigation into the Applicant's complaint for several reasons. First of all, the aim of an inspection was to judge whether or not there was a failure to comply with the standards and to enable her to take steps to enforce change in the behaviour of the institution responsible, if needs be. In the present case, the Council had accepted the possibility that a Welsh speaking member of staff was not available at the time of the Applicant's visit. Nevertheless, the Council had confirmed that a member of staff was usually available.
8. In the circumstances, the Commissioner concluded that there was no need to take steps to oblige the institution to change its behaviour because it had shown an understanding of the requirements of the Standard and that this occurrence was an exception. In the Commissioner's opinion, there was no suspicion that a systemic problem existed as regards compliance with this Standard.
9. The Commissioner considered it important that the Council had not been made aware of the complaint originally and that it would have appreciated the opportunity to address the matter through its internal complaints process, which demonstrated, according to the Commissioner, the Council's preparedness to correct the situation.

10. O ganlyniad felly i ymateb cadarnhaol y Cyngor, penderfynodd y Comisiynydd na fyddai unrhyw fudd ychwanegol o agor ymchwiliad gan fod camau addas wedi'u cymryd gan y Cyngor i ddelio â'r sefyllfa.
 11. Serch hynny, roedd y Comisiynydd wedi penderfynu rhoi cyngor dan adran 4 Mesur y Gymraeg i'r Cyngor wirio ei amserlen staffio i sicrhau bod aelod staff Cymraeg ar gael bob amser i ddarparu gwasanaeth Cymraeg i gwsmeriaid y llyfrgell.
 12. Yn ôl y Ceisydd, roedd y Comisiynydd yn anghywir i dderbyn yn ddi-gwestiwn ymateb y Cyngor, gan ei bod hi'n mynd i'r llyfrgell yn Nhredegar yn rheolaidd a doedd neb oedd yn siarad Cymraeg ar gael o gwbl. Mae hi'n honni hefyd ei bod hi wedi cwyno i Ymddiriedolaeth Hamdden Aneurin am y ffordd mae'r llyfrgell yn cael ei rhedeg ond bod yr Ymddiriedolaeth, fel y Cyngor, wedi anwybyddu ei he-byst yn Gymraeg.
 13. Ym marn y Tribiwnlys, does dim rheswm i gwestiynu bod penderfyniad y Comisiynydd yn un rhesymol a chyfreithlon o dan amgylchiadau'r achos. Nid oes unrhyw reswm, chwaith, i amau casgliad y Comisiynydd mai eithriad oedd y sefyllfa roedd y Ceisydd wedi cwyno amdani ac nad oedd problem systemig yn bodoli o ran cydymffurfiaeth â'r safonau.
10. As a result of the positive response from the Council, the Commissioner decided that there would be no additional benefit in opening an investigation, since appropriate steps had been taken by the Council to deal with the situation.
 11. Nevertheless, the Commissioner had decided to give advice, under section 4 of the Welsh Language Measure, that the Council should check its staffing timetable to ensure that a Welsh-speaking member of staff was available at all times to provide a service in Welsh to customers of the Library.
 12. According to the Applicant, the Commissioner was wrong to accept without question the Council's response, since she went to the library in Tredegar regularly and there was no-one who spoke Welsh available at all. She also claims that she had complained to the Aneurin Leisure Trust about the way in which the library was run but that the Trust, just like the Council, had ignored her emails in Welsh.
 13. In the Tribunal's view, there is no reason to call into question that the Commissioner's decision was a reasonable and lawful one in all the circumstances of the case. There is no reason either to doubt the Commissioner's conclusion that the situation the Applicant had complained about was an exception and that there existed no systemic problem as regards compliance with the standards.

14. Felly mae'r Tribiwnlys yn gwrthod dadleuon y Ceisydd bod y Comisiynydd yn anghywir yn ei phenderfyniad i beidio â chynnal ymchwiliad. Seilir y penderfyniad hwn ar y rhesymau a roddwyd gan y Comisiynydd yn ei llythyr dyddiedig 2ail Awst 2024. Ym marn y Tribiwnlys, roedd penderfyniad y Comisiynydd hefyd o fewn y disgrisiwn oedd ganddi ynglŷn â chynnal ymchwiliad o dan adran 71 y Mesur.

15. Cŵyn ar wahân yn gyfan gwbl oedd y honiad bod yr Ymddiriedolaeth, yn ogystal â'r Cyngor, yn anwybyddu gohebiaeth, am y ffordd mae'r llyfrgell yn cael ei rhedeg, mewn e-byst ddanfonwyd gan y Ceisydd yn y Gymraeg. Os bydd y Ceisydd eisiau parhau â'r gŵyn honno, dylai hi gysylltu unwaith eto â'r Comisiynydd.

14. Therefore the Tribunal rejects the Applicant's arguments that the Commissioner was incorrect in her decision not to hold an investigation. This decision is based on the reasons given by the Commissioner in her letter dated 2nd August 2024. In the view of the Tribunal, the Commissioner's decision was also within the discretion she enjoys in respect of holding an investigation under section 71 of the Measure.

15. It was an entirely separate complaint that the Trust, as well as the Council, was ignoring correspondence, about the way in which the library was run, in emails sent in Welsh by the Applicant. If the Applicant wishes to pursue that complaint, she should contact the Commissioner once again.