



Comisiynydd y  
Gymraeg  
Welsh Language  
Commissioner

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# Report on an investigation into alleged interference with the freedom to use the Welsh language

This report was produced in accordance with section 118 of the Welsh Language (Wales) Measure 2011

The investigation into the alleged interference was carried out in accordance with sections 115-117 of the Welsh Language (Wales) Measure 2011

**Leggett & Platt Automotive, Ammanford**

Investigation Reference Number: 61

Date: 17 November, 2019

# Background

The principal aim of the Welsh Language Commissioner, an independent body established by the Welsh Language (Wales) Measure 2011, is to promote and facilitate use of the Welsh language. This entails raising awareness of the official status of the Welsh language in Wales by imposing standards on organisations and reviewing and investigating compliance with the Measure. This, in turn, will lead to the establishment of rights for Welsh speakers.

Two principles will underpin the work:

- In Wales, the Welsh language should be treated no less favourably than the English language
- Persons in Wales should be able to live their lives through the medium of the Welsh language if they choose to do so

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# Foreword

Part 6 of the Welsh Language (Wales) Measure 2011 establishes the principle that an individual has the freedom to undertake a Welsh communication with another individual in Wales. This foreword is a summary of the main rights and duties under Part 6 of the Welsh Language Measure to provide the general context only. It is not a comprehensive statement of the law nor does it include all aspects of the details and steps of that Part.

## Application to the Commissioner

Under section 111 of the Measure:

An individual (P) may apply to the Commissioner for the Commissioner to investigate whether a person (D) has interfered with P's freedom to undertake a Welsh communication with another individual (R) (the "alleged interference").

## Deciding whether or not to investigate

It is a matter for the Commissioner to decide whether or not to investigate an alleged case interference. In deciding, the Commissioner must take into account the context in which the interference is alleged to have taken place. The Commissioner may ask P, D, or any other person, for information or views relating to the alleged interference. If the Commissioner decides to do so, P and D must be provided with the relevant information regarding investigations.

## Investigations

An investigation into an alleged case of interference shall be conducted under sections 115-117 of the Measure:

115(2) The Commissioner may ask P, D, or any other person, for information or views relating to the alleged interference.

In conducting an investigation, the Commissioner must give D a reasonable opportunity to respond to the allegations made by P.

## Discontinuing investigations

In accordance with section 116 of the Measure the Commissioner may, at any time, discontinue the investigation.

## Concluding investigations

If the Commissioner decides to investigate an application, and does not discontinue that investigation, the Commissioner must determine whether or not D has interfered with P's freedom to undertake the Welsh communication. If the Commissioner determines that D has interfered with P's freedom to undertake the Welsh communication, the Commissioner must also give his views on the interference (including, but not limited to, his views on whether the interference was justified).

The Commissioner must notify D of the determination which he intends to make and give him or her a reasonable opportunity to respond to that determination, before making the determination.

The Commissioner must notify P and D of the determination and, of his views on the interference.

The Commissioner may give P, D, or any other person advice about the interference or any matter relating to the alleged interference.

### Reports

A report is produced under section 118 of the Measure based on the findings of the investigation.

118(2) The Commissioner may produce, and give the Welsh Ministers, a report on—

- (a) the application, and
- (b) the action taken by the Commissioner in response to the application.

The Commissioner must give copies of any such report to P and D.

With the agreement of P and D the Commissioner may publish a report or version of that report or other document relating to the subject matter of that report. The Commissioner may also issue a public document without agreement if he considers that to do so would be in the public interest.

Before issuing a public document the Commissioner must notify P and D of the intention to do so as far as it is practicable. This will give P, D or any other person the Commissioner considers appropriate, an opportunity to provide the Commissioner with views about publication of a public document.

In relation to any application in which the Commissioner determines that D has not interfered with P's freedom to undertake a Welsh communication, a public document must not identify D.

# 1. Application and decision to investigate

## Application to investigate

- 1.1 On December 18, 2018 my predecessor received an application from two individuals. The application met the conditions of sections 111-112 of the Welsh Language Measure and was therefore valid.
- 1.2 The applicants explained that they were employees of Leggett & Platt Automotive at the company's Ammanford site. Their application alleged that managers at the site had instructed them, and other members of staff, to use only English during working hours.
- 1.3 They explained that they were Welsh speakers and that a proportion of the site's staff also spoke Welsh. Although they asked the company for an apology and a retraction, at the date of filing the application, the company had not done either of those things.

## Deciding whether or not to investigate

- 1.4 On 11 January, 2019 the Commissioner wrote to the company to convey the details of the application. The letter also invited the company to provide information or views on the alleged interference to be considered when deciding whether or not to investigate.
- 1.5 The company responded to the letter on 21 January, 2019. Its response confirmed that employees has been instructed to use English as a 'reinforcement of good practice' which had already been established by the company. The instruction was given following two incidents during December 2018.
- 1.6 According to the response, site managers became aware of these incidents during formal meetings with staff members. During the meetings members expressed that they felt excluded by the incidents. In the case of the second incident, members mentioned that the use of another language, as part of the incident, might potentially mean that complaints about the incident could not be investigated fairly. This was because the use of another language might mean that evidence of the incident could not be used to support an investigation.
- 1.7 The company noted that the site's workforce is multicultural with 35% coming from a variety of EU countries. The response explained that employees are free to use the languages of their choice during personal time at work.
- 1.8 It stated that the instruction to use English as the preferred language of business was aimed at ensuring that all members of the workforce understood on-site communications. It noted that health and safety was the company's highest priority and that it aimed to have an inclusive one team culture, and to remove all barriers to such a environment.
- 1.9 The company's leadership team considered the instruction to be a reasonable one as all members of the site's workforce understood English. It was not of the view that the instruction meant that the Welsh language, or any other language, was treated less favourably than English.
- 1.10 On the basis of the application and the company's response, and having considered the specific matters under section 114 of the Welsh Language Measure, the Commissioner decided to investigate the alleged interference during a meeting of the Investigation and

Enforcement Panel on 7 February, 2019. A copy of the procedure for conducting the investigation was provided to to the applicants and to the company on 8 February, 2019.

## 2. Evidence taken during the investigation

### Call for information and views

2.1 On 1 March, 2019 the Commissioner sent a letter to the applicants and the company asking a series of questions for the purposes of the investigation. The letter also asked them to provide any additional information they considered relevant to the investigation.

2.2 The claimants were asked the the following:

1. Is the information in the application for investigation factually correct?
2. Do you have any further information or evidence that you would like to be considered as part of the investigation?

2.3 The company was asked the following:

1. Do you accept the applicants' allegation that instructions were issued by management in Pullmaflex, Ammanford requiring employees to speak English only in working hours?
2. If the applicants' allegation is correct, please provide a copy of the relevant instruction.
3. When and to whom was the instruction issued?
4. What were your reasons for the instruction?
5. Is the Instruction still in force?
6. What is your general policy on using the Welsh language at work, including personal time at work?

2.4 In response, information was received from the applicants on 10 March, 2019 and information from the company on 21 March, 2019.

2.5 On 17 May, 2019 my officers wrote to the company seeking clarification of certain matters in its information. I received a reply from the company on 20 May, 2019.

2.6 In accordance with the procedure for conducting the investigation, I shared with the applicants the information I had received from the company. I received the applicants' final comments in relation to the alleged interference on 14 June, 2019.

2.7 I considered all the information I received as part of the investigation.



## **Applicant information**

- 2.8 In response to both questions, the applicants confirmed that the information in their original application was still correct. On 5 December, 2018 site managers instructed the workforce that English was the language of business and that it was the only language that should be used during working time.
- 2.9 According to the information, the instruction caused upset and anger for staff members. It reduced some Welsh speakers to tears as the Welsh language has been spoken at the site for over thirty years. Some Polish speakers, who had used the language in their work for over three years, were equally upset.
- 2.10 The applicants stated that they were aware that the company had cited some vague health and safety concerns as a reason for the instruction. However, the applicants were unaware that such concerns had been raised or recorded in the minutes of the plant safety meeting which is held every month.
- 2.11 During meetings with the applicants the company cited two separate grievances which were unable to be investigated or resolved owing to the use of a language other than English by some of the individuals involved. The applicants explained to the company that the site's Union branch had taken steps to ensure that the languages of their members were represented by the branch. Branch officials are able to speak Welsh and English, and the branch equalities officer is a Polish speaker. The applicants asked, if the Union is able to function without recourse to an English only rule, then why not the company?
- 2.12 The applicants stated that branch members had drawn attention to notices around the site, in which statements regarding quality were made in several different languages, reflecting the company's global reach. They stated that the Welsh language was absent from these notices.
- 2.13 The applicants considered the instruction to be un-enforceable, not least because it was opposed by members of middle-line management, several of whom are Welsh speakers. However, some Welsh speakers felt nervous when conversing in the language. For these reasons the applicants were of the view that the original instruction should be retracted.
- 2.14 In closing, the applicants said that agency workers from eastern Europe had recently been inducted, and that several are unable to converse in English. The applicants, and others on the site, were surprised that the company had not addressed this as part of the recruitment process.

## **Company information**

- 2.15 In response to question one, the company said that the instruction to use English as the preferred business language was a reminder to ensure all employees receive and understand all site communication. It stated that health and safety was its highest priority and that it wished to ensure it continued to drive an inclusive one team culture, removing all barriers of exclusion.
- 2.16 Employees are provided with the opportunity to use any language of their choice during personal time at work.
- 2.17 The instruction was given as a result of employees speaking eastern European languages.
- 2.18 The company provided a copy of the brief in response to question two. Under the heading 'Culture', the following was noted:

Leggett and Platt are proud to have such a diverse cultural work force, we are convinced that different points of view are important to a highly functioning organisation. I would remind you that the business language is English and that during working time this is the only language that should be used.

- 2.19 In response to question three, the company confirmed that, in line with its usual communication strategy, a brief covering a variety of topics was issued to the morning shift on 4 December, 2018.
- 2.20 The company stated that the leadership team had re-introduced the brief during a quarterly on-site meeting on 20 December, 2018 and reiterated the reason for issuing the instruction.
- 2.21 The company explained that it had discussed the issue in focus groups in the period since the instruction was originally issued. It received no further questions or feedback on this topic from staff members.
- 2.22 In response to question four, the company said that the instruction was a reinforcement of its best practice. It was given following two incidents in December 2018 because staff members had expressed to managers that they felt excluded by the incidents. In the case of the second incident, members mentioned that the use of another language, as part of the incident, might potentially mean that complaints about the incident could not be investigated fairly. This was because the use of another language might mean that evidence of the incident could not be used to support an investigation.
- 2.23 The company noted that the site's workforce is multicultural with 35% of employees coming from a variety of EU countries.
- 2.24 In response to question five, the company explained that all employees are requested to use English as the preferred business language during working time. The company accepted that individuals who are Welsh speaking would prefer to use that language at work. However, it asks those individuals to consider, when working with non-Welsh speakers, not to use the language to avoid excluding their co-workers.
- 2.25 According to the company, all employees have the opportunity to use any language during personal time at work.
- 2.26 In response to question six, the company stated that it embraces all cultures and languages represented within its global sites. Employees are free to use any language during personal time, including Welsh.

### **Additional information from the company**

- 2.27 Following a request from my officers, the company confirmed that comments were made during the December 2018 incidents in languages that were not universally understood. As a result it was not possible to use those comments as evidence as part of a grievance investigation by the company.
- 2.28 One case related to comments made in Welsh, the other to comments made in the Polish language.

## **Applicants' final comments**

- 2.29 The applicants stated that the instruction was still in effect on 14 June, 2019. As the company noted in its evidence to me, the team brief is its main preferred means of communication; no brief, or any other information, had been shared by the company retracting the instruction.
- 2.30 The applicants were not surprised that the company had not received any feedback from members of staff on the matter as the company was aware that the matter had been referred to my office.
- 2.31 The applicants stated that the site's human resources managers had explained to shop stewards in two different meetings that the instruction to use English was given in response to grievances about the use of the Polish language. (Details of the meetings were provided.) They noted that the information provided by the company for the purposes of the investigation contradicted this and suggested that the instruction was given as a result of using Welsh, as well as Polish.
- 2.32 The applicants hoped that the matter could be resolved. According to their information, the Welsh language had been spoken openly on site for decades and until December 2018 no manager was of the opinion that there was any reason to interfere with this.

# 3. Assessment, findings and proposed determination

## Consideration of the alleged interference

- 3.1 It is clear from the evidence that site staff members have been instructed to only use English during working time. This instruction is consistent with the first example of interference with the freedom to use Welsh outlined in section 113 of the Welsh Language Measure:
- (2) Case 1 is where D indicates that P or R should not undertake—
    - (a) a particular communication in Welsh that is a Welsh communication, or
    - (b) a category of communications in Welsh consisting (wholly or partly) of one or more Welsh communications.<sup>1</sup>
- 3.2 The instruction was given by the company leadership and communicated to site staff members by middle-line management in a briefing on 4 December, 2018.
- 3.3 The company decided to give the instruction following two incidents in December 2018 which had led to formal grievance investigations. During those incidents comments were made in languages that were not universally understood. As a result, they could not be used as evidence as part of the investigations.
- 3.4 The company explained that health and safety was a priority and that it wanted to ensure that everyone received and understood any communications relating to work. As all members of the workforce understood English, the company considered that it was reasonable to ask its employees to only use English during working time. Staff members were free to use their preferred languages during personal time.
- 3.5 The company stated that the use of lesser used languages is contrary to its inclusive culture and asked Welsh speakers to avoid using the Welsh language in the company of co-workers who do not speak the language in order to avoid excluding those individuals.
- 3.6 The instruction to use English only remains in place on the site.

## Determination on the alleged interference

- 3.7 I determine that Leggett & Platt Automotive interfered with the applicants' freedom to use the Welsh language. It instructed them, and other members of its staff, to only use English during work time on the Pullmaflex site in Ammanford. In doing so the company indicated that Welsh speakers should not undertake Welsh communications with each other.

## Views on the interference

- 3.8 The evidence confirms that members of the site's workforce are Welsh speakers. It is natural that these individuals may wish to use the language when communicating with each other at work. The instruction to use English was given by the company's leadership and communicated to staff members by management. Although the company described English as the 'preferred business language' the instruction reads as a ban on the use of

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<sup>1</sup> A 'Welsh communication' means a communication in Welsh between two individuals in Wales who wish to use the Welsh language with one another.

any other language. It is therefore understandable that members of staff feel angry and nervous about using Welsh with their co-workers.

- 3.9 While the company claimed that the instruction was intended to reinforce 'best practice' already in place, it appears from the evidence that staff members were unaware of any expectation on them to only use English at work until the brief was issued on 4 December, 2018.
- 3.10 I did not receive evidence from the company that persuaded me that the instruction was justified on the basis that using the Welsh language on the site creates a risk to the health and safety of employees when carrying out their work.
- 3.11 It appears that the real reason for issuing the instruction was to facilitate formal grievance investigations. The company wanted to avoid another situation where evidence of comments in another language could not be used as part of a formal investigation. This appears to be the company's true objective rather than any concern about health and safety and the exclusion of staff members from conversations about work that they didn't understand.
- 3.12 I am not of the view that concern about failing to use evidence as part of a formal investigation justifies the imposition of a blanket ban on the use of Welsh. The applicants confirmed that steps had been taken to ensure that the Welsh language, and all languages spoken by members of the workforce, were represented by the site's Union branch.
- 3.13 Despite the company's assertions, I am not of the view that imposing a ban on using Welsh is compatible an inclusive culture. On the contrary, the investigation has shown that the company's instruction created the opposite effect of alienating Welsh speakers.
- 3.14 On more than one occasion in its evidence the company referred to the Welsh language in negative terms. It claimed that using the language excluded individuals and was a barrier to the inclusive culture that it was eager to create. Tellingly, it described English as the 'preferred language' of the business and that using that language alone was 'good practice'.
- 3.15 It is disappointing that an international company in the twenty-first century cannot see the merits of a linguistically diverse workforce that uses the Welsh language completely naturally. To create a truly inclusive culture it is essential, in my view, for a company to have a vision that embraces, and actually celebrates, the diversity of languages spoken by its employees.
- 3.16 Conversely, this company has demanded uniformity from its employees which is not only unlawful under the Welsh Language Measure, but also shows a primitive and narrow view of the Welsh language.
- 3.17 The Welsh Language Measure was passed by the National Assembly for Wales in 2011. One of the most important objectives of this piece of legislation was to give the Welsh language official status in Wales. That status was given legal effect by establishing that individuals in Wales have the freedom to use the language with one another, and allowing me to conduct investigations of this nature.
- 3.18 The Measure also led to the creation of standards of conduct for public bodies in Wales. These standards relate to they way in which public bodies use the Welsh language in the conduct of their business. Those standards involve, among other things, dealing with complaints about the Welsh language in an appropriate and fair way, and promoting and facilitating opportunities to use the language in the workplace.

3.19 It is therefore clear that, in passing the Welsh Language Measure, the National Assembly for Wales wants to see a society where individuals can use the Welsh language without restriction in their personal and working lives. As a company that conducts its business in Wales, Legget & Platt Automotive should be mindful of that vision for this country.

## 4. Further action

- 4.1 Section 117(7) of the Welsh Language Measure allows me to give advice to any person in relation to the interference.
- 4.2 In the case of my determination that Leggett & Platt Automotive interfered with the freedom of its employees to use the Welsh language I issue following advice.

### **Advice 1**

Leggett & Platt Automotive should retract the instruction to use English only and apologise to the employees affected.

### **Advice 2**

The company, as one that conducts its business in Wales, should fully recognise the official status of the Welsh language.

### **Advice 3**

The company should state in a policy document that it will not interfere with individuals' freedom to use the Welsh language.