
SPECIAL MEETING OF THE STANDARDS COMMITTEE, 30.09.11

Present:-

Elected Members:- Councillors Keith Greenly-Jones, Margaret Griffith and Eryl Jones-Williams.

Independent Members:- Mr John Pollard (Chairman), Mr Gwilym Ellis Evans and Mr Sam Soysa.

Community Committee Member:- Councillor David Clay.

Also Present:

Mr Eirwyn Pritchard (Investigating Officer on behalf of the Public Services Ombudsman for Wales).

Gwynedd Council Officers - Iwan Evans (Deputy Monitoring Officer / Legal Service Manager), Siôn Huws (Propriety Officer) and Eirian Roberts (Committee Officer).

Apologies:- Mr Malcolm Jones (independent member), Mr Geraint Jones (Ombudsman's office).

It was also noted that Mr Gwyn Williams (independent member) would not be in attendance as he had a personal interest in the case before the Committee.

1. DECLARATION OF PERSONAL INTEREST

Councillors Keith Greenly-Jones, Margaret Griffith and Eryl Jones-Williams stated that they had a connection with the case before the Committee solely as fellow members of Councillor Aeron Maldwyn Jones on Gwynedd Council, but it was confirmed that this was not an interest under the Code of Conduct.

2. ALLEGATION AGAINST COUNCILLOR AERON MALDWYN JONES, GWYNEDD COUNCIL

The Chairman welcomed everyone to the hearing and asked all present to introduce themselves.

The Chairman then explained the nature / format of the hearing.

The Propriety Officer stated that he would be advising the Committee on procedural aspects only as he lived near Councillor Aeron Maldwyn Jones and knew him in the locality.

The Committee considered a report by the Public Services Ombudsman for Wales regarding alleged breaches of the Code of Conduct for Members of Gwynedd Council ("The Code of Conduct") by Councillor Aeron Maldwyn Jones, which was referred to the

Committee by the Ombudsman under Section 71(2) of the Local Government Act 2000 for determination.

The Ombudsman had received complaints that Councillor Aeron Maldwyn Jones had failed to observe the Code of Conduct in that he had:-

- (a) in a blog posting headed "cyng aeron maldwyn jones" dated 9th October 2009 erroneously stated that Councillor Dyfed Edwards, the Chief Executive, and others were flying to Cardiff for a meeting with Alun Ffred Jones to obtain further funding for Gwynedd Council, and queried why this meeting couldn't have taken place in Caernarfon. By saying that the meeting was between Councillor Dyfed Edwards, the Chief Executive and others with Alun Ffred Jones AM, and that it could have taken place locally he had given the impression that the trip was therefore a wasteful expense from the public purse and the Councillor had, therefore, in his official capacity, improperly attempted to secure a disadvantage for Councillor Dyfed Edwards, contrary to paragraph 7(a) of the Code of Conduct.
- (b) in the blog posting of 9th October, 2009 also alleged that the cost of the return flight to each participant was £120 and the ratepayers would have to pay for this "jolly" in Cardiff. At the time the post had been placed on the blog Councillor Aeron Maldwyn Jones was not aware of the actual costs. Further, that the use of the term "jolly" could not be justified. This was inaccurate criticism of the authority in the public arena and could reasonably be regarded as bringing the Authority into disrepute contrary to paragraph 6(1)(a) of the Code of Conduct.
- (c) in a blog dated 24th February, 2010, stated "Dyfed will of course fly down as (sic) he generally does at Gwynedd taxpayers expense" and the reference "DYFED AIR-PROVE IT". Despite Councillor Aeron Maldwyn Jones' claim that Councillor Dyfed Edwards is a frequent flyer, these remarks are derogatory. Councillor Aeron Maldwyn Jones in his official capacity by making these remarks has attempted to improperly secure a disadvantage for Councillor Dyfed Edwards, contrary to paragraph 7(a) of the Code of Conduct.

(i) Preliminary Procedural Issues

The Committee considered a submission by Councillor Aeron Maldwyn Jones that Councillor Margaret Griffith should not sit as a member of the Committee. The basis for this submission was that the complainant, Councillor Dyfed Edwards, was the Leader of the Plaid Cymru group on Gwynedd Council. Councillor Griffith, as a member of the Plaid Cymru group, therefore had too close an association with the issues to be determined by the Committee and should not participate in the Committee's determination of the complaints. The Committee was advised that the association did not amount to a personal interest for the purposes of the Code of Conduct. The Committee were also advised that the Regulations governing the membership of Standards Committees allowed for Council members to hear matters relating to other members and that group associations were an inevitable consequence of such a structure. On that basis the presence of Councillor Margaret Griffith on the Committee did not amount to apparent bias. The Committee were reminded of the need to objectively consider the matter before them on the basis of the evidence and without reference to any pre-disposition or other extraneous associations or issues. The Committee resolved it could proceed to consider the complaints and include Councillor Margaret Griffith.

Councillor Aeron Maldwyn Jones also asked the Committee to consider the issue of the length of time the matter had taken from the initial complaint to come to hearing. The

initial complaint was lodged on the 5th November 2009, yet the report of the Ombudsman was not concluded until 28th March, 2011. He considered that the delay had prejudiced his ability to defend the allegations by particular reference to the fact that relevant members of staff of the Authority such as Hanna Llyn, Councillor Dyfed Edwards' assistant, had subsequently left the employment of the Authority and was not available to give evidence. In response, the Investigating Officer explained that the Ombudsman's office had been under considerable pressure of work when the complaint had initially been lodged, but that increases in staff resources had permitted investigations such as the one into the complaint against Councillor Aeron Maldwyn Jones to be progressed. The Committee considered the submissions and concluded that the nature of the evidence before it was almost exclusively concerned with written and recorded electronic materials and were not reliant on the recollection of facts and events by witnesses to any significant extent. It therefore concluded that the hearing could proceed and that there was no risk to Councillor Aeron Maldwyn Jones receiving an unfair hearing by reason of the delay. Nevertheless, the Committee was very concerned at the length of time the matter had taken to investigate. Notwithstanding the explanation it asked that the Ombudsman's office be made aware that it considered the length of time it had taken to have been unreasonable and should be avoided in future.

(ii) Findings of Facts

The Committee then considered which facts had been agreed and which had not. The Investigating Officer was invited to support the findings of facts in his report. Councillor Aeron Maldwyn Jones was then given the opportunity to make representations to support his version of the facts. All parties were also given an opportunity to question one another other.

The Committee then retired to consider its decision on the disputed facts on pages 15 and 16 of the Ombudsman's report.

After reaching a decision, the meeting was reconvened and the Chairman announced the Committee's findings of facts, as follows:-

Paragraph 48(a) – There is no evidence to prove that Councillor Dyfed Edwards set out to discourage other members and council officers from attending the meeting with Alun Ffred Jones, AM, the Heritage Minister, by asking his secretary to send out the e-mail at the last moment.

Paragraph 49(b) – There is no evidence to prove that Councillor Dyfed Edwards attempted to mislead, by claiming that he had to be in a meeting with Jane Hutt, AM, Education Minister during the morning of 7th October, 2009 whilst his diary entry shows that this meeting was to be held between 4.00pm and 4.15pm.

Paragraph 50(c) – There is no evidence to prove that there was a meeting with the Heritage Minister in an attempt to obtain funding for Gwynedd Council.

Paragraph 51(d) – Although Councillor Dyfed Edwards attended more than one meeting in Cardiff, there was no specific meeting with the Heritage minister, apart from the meeting with the Welsh Local Government Association at which the Heritage Minister was also present.

Paragraph 52(d) – There is firm evidence that the reference to flight costs of £120 per person is incorrect and the term "jolly" cannot be justified in the public arena. Councillor

Aeron Maldwyn Jones had also today admitted that the figure was incorrect and that he should not have used the term “jolly” and had apologised for this.

Paragraph 53(e) – There is no evidence to prove the accuracy of the statement “Dyfed will of course fly down as he generally does at taxpayers expense” in Councillor Aeron Maldwyn Jones’ blog entry dated 24th February, 2010.

(iii) Did the member fail to follow the code?

The Committee then considered, on the basis of the facts, whether Councillor Aeron Maldwyn Jones had breached the Code of Conduct.

Representations were invited from the Investigating Officer and Councillor Aeron Maldwyn Jones.

The Investigating Officer made further reference to the contents of the two blogs.

Councillor Aeron Maldwyn Jones made no further representations.

The Committee then retired to consider its decision.

After reaching a decision, the meeting was reconvened and the Chairman announced that the Committee had determined that Councillor Aeron Maldwyn Jones had failed to comply with the Code of Conduct, as follows:-

- (a) The Committee found that Councillor Aeron Maldwyn Jones’ conduct in relation to complaint 2(a) amounted to a breach of paragraph 7(a) of the Code of Conduct.

The reasons for the Committee’s conclusions were as follows:-

It found that the meeting on the 8th October, 2009 was a seminar arranged by the Welsh Local Government Association discussing the future problems faced by Heritage, the Arts and Tourism. The seminar was attended by the Heritage Minister and a number of guest speakers, councillors and senior officers from across Wales. The seminar was chaired by Councillor Dyfed Edwards. The description of the nature of the meeting in the blog was factually incorrect. The seminar was not attended by the Chief Executive or other members and officers and could not have taken place in Caernarfon as suggested in the blog.

The Committee further found that allegations that Councillor Dyfed Edwards had sought to discourage senior officers and members from attending by circulating an invitation to the meeting at the last moment to be unfounded. It was furthermore found that Councillor Dyfed Edwards had not sought to mislead the investigation by suggesting that a meeting with Jane Hutt, the Education Minister, had taken place during the afternoon of the 7th October rather than in the morning. The meeting had been changed as a consequence of bad weather disrupting flights on the day.

Although advised of these inaccuracies at an early stage by the Council’s Monitoring Officer, Councillor Aeron Maldwyn Jones had, as at the date of the hearing, failed to substantially remove the posting. The assertions in the blog as to the nature of the meeting, the attendees and Councillor Dyfed Edwards’ conduct were made by Councillor Aeron Maldwyn Jones in his capacity as member of the Council and were incorrect. The Committee found that the comments were improperly made and were designed to create a disadvantage to Councillor Dyfed

Edwards by attempting to create an impression that he was wasteful of public money.

- (b) The Committee found that Councillor Aeron Maldwyn Jones' conduct in relation to complaint 2(b) amounted to a breach of paragraph 61(1)(a) of the Code of Conduct. The Committee found that the Councillor's assertion that the cost of the return flight was £120 per attendee to be correct. The Committee also found that the meetings attended by Councillor Dyfed Edwards between 7 and 8 October, 2009 could not legitimately be considered to be a "jolly". The comments, which purported to relate to the Leader of the Council, its Chief Executive and other unspecified officers and members were derogatory and capable of bringing the authority into disrepute by suggesting that public resources were being wasted on frivolous journeys unrelated to the transation of legitimate Council business. This was inaccurate criticism of the authority in the public arena and could reasonably be regarded as bringing the Authority into disrepute contrary to paragraph 6(1)(a) of the Code of Conduct.
- (c) The Committee found that Councillor Aeron Maldwyn Jones' conduct in relation to complaint 2(c) amounted to a breach of paragraph 7(a) of the Code.

The Committee was mindful of the fact that there is a legitimate debate to be held about issues relating to the value for money of travel arrangements. However it considered the comments "Dyfed will of course fly down as he generally does at Gwynedd taxpayers expense" and the reference "DYFED AIR – PROVE IT" to have been derogatory. The comments implied that Councillor Dyfed Edwards flew frequently and unnecessarily to Cardiff at ratepayers expense. Yet Councillor Aeron Maldwyn Jones presented no evidence that such comments were justified. The nature of the references in the blog were derogatory and designed to create a disadvantage to Councillor Dyfed Edwards by attempting to create an impression that he was wasteful of public money.

(iv) Action to be taken

The Committee then considered what action to be taken.

Representations were invited from the Investigating Officer and Councillor Aeron Maldwyn Jones regarding whether there should be a penalty, and if so, what kind of penalty would be appropriate.

Both parties expressed the view that this was a matter for the Committee to decide, although the Investigating Officer made reference to the Wales Adjudication Panel's Sanctioning Guidelines.

The Committee then retired to consider its decision.

After reaching a decision, the meeting was reconvened and the Chairman announced that the Committee had decided that Councillor Aeron Maldwyn Jones should be suspended from being a member of Gwynedd Council for a period of one month.

The period of suspension shall commence on the day after the expiry of the time allowed to lodge a notice of appeal, as noted below.

The Committee also resolved:-

- (a) That Councillor Aeron Maldwyn Jones should undergo additional training with respect to the Code of Conduct.
- (b) That the relevant parts of the blog should be removed immediately.
- (c) That Councillor Aeron Maldwyn Jones should apologise to Councillor Dyfed Edwards for the remarks in the blog.

The Chairman declared that Councillor Aeron Maldwyn Jones may appeal against the determination of the Standards Committee to an appeals tribunal drawn from the Adjudication Panel for Wales. The appeal must be instigated by giving notice in writing to the President of the Adjudication Panel within 21 days of receiving the notice of determination. The notice of appeal must specify the grounds for appeal and whether or not the member consents to the appeal being conducted by way of written representations. A report on the outcome of this investigation would be sent to Councillor Aeron Maldwyn Jones, the complainant, the Public Services Ombudsman for Wales and the Monitoring Officer and would be published in accordance with the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 (as amended).

Councillor Aeron Maldwyn Jones thanked the Committee for a fair hearing and thanked the Investigating Officer and all present for their time.

The meeting commenced at 9.30am and concluded at 3.20pm.