
SPECIAL MEETING OF THE STANDARDS COMMITTEE, 26.09.12

Present: -

Elected Member:- Councillor Michael Sol Owen.

Independent Members:- Mr Gwilym Ellis Evans (Chairman), Miss Margaret Jones 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 - Dilys Phillips (Monitoring Officer), Siôn Huws (Compliance and Language Manager) and Eirian Roberts (Members' Support and Scrutiny Officer).

Apologies:- Ms Linda Byrne (independent member) and Councillors Charles Wyn Jones and Eryl Jones-Williams (elected members).

1. DECLARATION OF PERSONAL INTEREST

No declarations of personal interest were received from any member present.

2. ALLEGATION AGAINST COUNCILLOR AERON MALDWYN JONES, GWYNEDD COUNCIL

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

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

The Committee considered a report by the Public Services Ombudsman for Wales ("the Ombudsman") regarding alleged breaches of the Code of Conduct for Members of Gwynedd Council by Councillor Aeron Maldwyn Jones, which had been referred to the Standards Committee by the Ombudsman under Section 71(2) of the Local Government Act 2000 for determination.

The Ombudsman had received a complaint, on 17 July 2011, that Councillor Aeron Maldwyn Jones had failed to observe the Code of Conduct for Members of Gwynedd Council ("the Code of Conduct") in that he had on 6 July 2011 posted in his blog unfounded allegations that the complainant intended to retire soon and to stand for election to the Council in a seat held by another councillor. The Complainant had stated that the allegations were untrue and had complained that Councillor Jones was in breach of paragraph 6(1)(a) of the Code of Conduct (bringing the office of councillor or the authority into disrepute) by making unfounded allegations against a person who was on the Council's payroll and in breach of paragraph 7(a) (using or attempting to use the

position of councillor to create a disadvantage for another person) by making unfounded comments which had the potential to put the complainant at a substantial disadvantage professionally.

Councillor Jones did not appear at the hearing and was not represented. The Monitoring Officer explained to the Committee that her secretary had received a telephone call from Councillor Jones the previous afternoon explaining that he would not be attending as he would be at a meeting of the Snowdonia National Park Authority but that he would send a letter to be read at the hearing. By the commencement of the hearing no such letter had reached the Monitoring Officer or the Committee.

The Standards Committee considered whether or not to proceed in the absence of any representations from Councillor Jones. The Committee concluded that Councillor Jones, having been given notice of the date and place of the hearing by letter dated 19 July 2012, had been given ample opportunity to submit representations and that it was not satisfied that he had sufficient reason for failing to do so, either orally or in writing. Accordingly, the Standards Committee decided under regulation 8(4)(a) of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 to proceed in the absence of Councillor Jones.

The Standards Committee considered the Monitoring Officer's covering report, the written report of the Ombudsman's investigation and oral submissions from Mr Eirwyn Pritchard, Investigating Officer.

The Committee then withdrew to consider its decision.

After reaching its decision, the Committee reconvened and the Chairman announced that the Standards Committee had decided that Councillor Aeron Maldwyn Jones had failed to comply with the Code of Conduct as follows:-

- (1) The Committee found that Councillor Jones' conduct amounted to a breach of paragraph 7(a) of the Code of Conduct.

The reasons for the Committee's conclusions were as follows:

The Committee found that the comments made by Councillor Jones on his blog that the complainant intended to retire soon and would then stand for another councillor's seat on the Council had the potential to create a serious disadvantage to the complainant. In the absence of any explanation by Councillor Jones as to his reasons for posting the blog it accepted the complainant's evidence to the Ombudsman that the allegations were untrue. It concluded that the posting of these unfounded allegations could create significant difficulties for the complainant who held a post in public service. The Committee took the view that an untrue allegation of an impending retirement could cause serious difficulties for the complainant in the context of his employment as a head teacher.

The Committee gave consideration as to whether the comments fell within the definition of "political expression" within the meaning of Calver, R v The Adjudication Panel for Wales and were protected by the right to freedom of expression. The Committee concluded that the comments did not attract any protection because they were personal, not political. The Committee noted that the allegations referred to the complainant's personal plans, and were untrue.

The Committee also concluded that the blog was Councillor Jones' official blog and that the comments he had made on the blog regarding the complainant had been an attempt to use his position to create a disadvantage for the complainant.

- (2) The Committee found that Councillor Jones' conduct amounted to a breach of paragraph 6(1)(a) of the Code of Conduct.

The reasons for the Committee's conclusions were as follows:

The Committee found that the allegations made by Councillor Jones on his blog were untrue and without foundation. It concluded that the posting of untrue allegations on the blog could reasonably be regarded as conduct which brought the office of councillor into disrepute. It noted that the office of councillor had a certain status in society and that a high standard of conduct was expected from those who held it.

- (3) The Committee found that Councillor Jones' conduct amounted to a breach of paragraph 4(b) of the Code of Conduct.

The reasons for the Committee's conclusions were as follows:

The Committee found that Councillor Jones had failed to show respect and consideration for both the complainant and for the Committee and the ethics process. It found that Councillor Jones had failed to show respect and consideration for the complainant by making unfounded and presumptuous allegations as to his personal life and plans and had published those allegations. The committee noted that the allegations remained on Councillor Jones' blog page at the date of the hearing.

The Committee also found that Councillor Jones had shown disregard to the standards regime and in particular to the Ombudsman and his investigator and to the Committee in that he had failed to respond at all to any of the enquiries made of him during the course of the investigation, had failed to provide any explanation for his conduct, had failed to appear before the committee or to provide any representations. The Committee found that in all Councillor Jones had missed five opportunities to explain his position to the Ombudsman, being two letters with questionnaires enclosed dated 13 October 2011 and 28 November 2011 (the latter of which was sent by recorded delivery and was returned by the post office uncollected), an e-mail sent on 12 January 2012 again with a questionnaire, a request to comment on the draft report and an opportunity to respond to the final report. The Committee further found that Councillor Jones had failed to respond to a request from the Monitoring Officer on 19 July 2012 to complete a pre-hearing questionnaire as part of the Committee's procedure. Finally, it was dissatisfied with the reason given by Councillor Jones for failing to appear at the Committee.

The Committee was left with the impression that Councillor Jones was taking the proceedings lightly and was thereby failing to show due respect and consideration to the Committee, its members, the Ombudsman and his officers.

- (4) The Committee found that Councillor Jones' conduct amounted to a breach of paragraph 6(2) of the Code of Conduct.

The reasons for the Committee's conclusions were as follows:

The Committee found that Councillor Jones had ignored requests from the Ombudsman to respond to formal questions posed during the course of the Ombudsman's investigation. In the absence of any evidence to the contrary, it found that Councillor Jones' action in failing to collect the post which had been sent by recorded delivery was deliberate. The Committee also found that Councillor Jones had failed to respond to a request from the Monitoring Officer to complete a pre-hearing questionnaire, such request having been made for the purposes of facilitating the Committee's procedure.

The Committee found that Councillor Jones' actions were a failure to comply with requests made of him by the Ombudsman and the Monitoring Officer in connection with the investigation and were a breach of the Code of Conduct.

The Committee then withdrew to consider what action to take.

After reaching its decision, the Committee reconvened and the Chairman announced that the Standards Committee had decided that Councillor Aeron Maldwyn Jones should be suspended from being a member of Gwynedd Council for a period of three months. The period of suspension would commence on the day after the expiry of the time allowed to lodge a notice of appeal, as noted below.

The reasons for the Committee's conclusions were as follows:

- (1) This was the second occasion on which Councillor Jones had been referred to the Committee, for a similar breach of the Code of Conduct. On the first occasion (on 30 September 2011) which also involved the posting of untrue allegations on a blog, the Committee had determined that Councillor Jones should be suspended for a month.
- (2) The current breach of the Code of Conduct had occurred on 6 July 2011, after the Ombudsman had issued his final report in relation to the previous breach, albeit before the Committee had determined the matter and issued a sanction.
- (3) Despite the previous finding Councillor Jones had paid scant regard to the standards regime, the requirements of the Code of Conduct and the role of the Committee.
- (4) The Committee had found that on this occasion there were four breaches of the Code of Conduct.
- (5) The Committee's starting point was a suspension for one month. However, it found that the above were aggravating features and, accordingly, considered that a three month suspension was appropriate.

The Committee also resolved:

- (1) That Councillor Jones should remove the relevant page from his blog immediately;
- (2) That Councillor Jones should apologise to the complainant; and
- (3) That Councillor Jones should make himself fully conversant with the Code of Conduct.

The Chairman announced that:-

- (1) 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 this notice of determination. 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.
- (2) A report on the outcome of the investigation would be published in accordance with the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001.
- (3) Councillor Aeron Maldwyn Jones, the complainant and the Public Services Ombudsman for Wales would be notified accordingly.

The meeting commenced at 10.00am and concluded at 11.40am.