
SPECIAL MEETING OF THE STANDARDS COMMITTEE, 14.07.14

Present: -

Independent Members:- Mr Gwilym Ellis Evans (Chairman), Ms Linda Byrne, Miss Margaret Jones, Mr Sam Soysa and Dr Einir Young.

Community Committee Member:- Councillor David Clay.

Also present:

On behalf of the Public Services Ombudsman for Wales – Mrs Katrin Shaw (Manager) and Ms Annie Ginwalla (Investigating Officer).

Gwynedd Council Officers - Sion Huws (Compliance and Language Manager) and Eirian Roberts (Member Support and Scrutiny Officer).

Apologies:- Councillors Michael Sol Owen and Eryl Jones-Williams (elected members).

1. DECLARATION OF PERSONAL INTEREST

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

2. COMPLAINTS AGAINST COUNCILLOR CHRISTOPHER O'NEAL, GWYNEDD COUNCIL

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

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

- (A) 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 by Councillor Christopher O'Neal, which had been referred to the Standards Committee by the Ombudsman for determination.

The Ombudsman had received a complaint on 16 April 2013 that Councillor Christopher O'Neal had failed to observe the Code of Conduct for Members of Gwynedd Council. It was alleged that Councillor O'Neal had secretly filmed and recorded a conversation with the complainant whilst she was performing her duty as a civil enforcement officer, employed by Gwynedd Council, on 8 February and had later posted a video of this conversation on his Facebook page.

The Ombudsman had decided to investigate whether or not Councillor Christopher O'Neal had failed to comply with any of the following provisions of the Code of Conduct.

*"4. [a member] must –
(b) show respect and consideration for others.*

*6.- [a member] must –
(a) not conduct [themselves] in a manner which could reasonably be regarded as bringing [their] office into disrepute."*

The Standards Committee considered the Compliance and Language Manager's covering report, the written report of the Ombudsman's investigation (including the video footage in question) and oral submissions from Ms Annie Ginwalla, Investigating Officer, and Councillor O'Neal.

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 Christopher O'Neal had failed to comply with the Code of Conduct as follows:-

The Committee found that Councillor O'Neal's 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 believed that the Councillor's motives were commendable and wished to note that its decision was in no way a criticism of his aim of highlighting the problems faced by disabled people. It also accepted that he had the right as a councillor to express his political views and that this right was afforded protection. However in this case, the Councillor had concerns about how individual employees of the council were carrying out the Council's policies. The relationship between councillors and council employees should be one of mutual trust and respect, and specific procedures had been put in place to allow councillors to raise concerns directly with senior officers and members (i.e. Heads of Department and Cabinet Members). Councillor O'Neal had not followed these procedures and had instead raised his concerns in the public domain immediately. This had caused distress to the enforcement officer.

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 Christopher O'Neal should be censured.

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

The Councillor had breached the Code of Conduct and the Committee believed that some action should be taken, as it had affected the officers involved and had undermined them in their work. However it did not believe that the breach was particularly serious and it also took into account the Councillor's motives and also that he was a relatively new councillor at the time and may not have been familiar with all of the Council's procedures.

The Committee also resolved:

- (1) That Councillor O'Neal should remove the relevant footage and posting from his Facebook page immediately;
- (2) That Councillor O'Neal should receive training from the Council's Monitoring Officer on the Code of Conduct and all Council Protocols relevant to the conduct of councillors.

The Chairman announced that:-

- (1) Councillor Christopher O'Neal had the right to 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. The notice of appeal must specify the grounds for appeal and whether or not the member consented 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 Christopher O'Neal, the complainant and the Public Services Ombudsman for Wales were notified accordingly.
- (B) 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 by Councillor Christopher O'Neal, which had been referred to the Standards Committee by the Ombudsman for determination.

The Ombudsman had received a complaint, on 31 May 2013 that Councillor Christopher O'Neal had failed to observe the Code of Conduct for Members of Gwynedd Council. It was alleged that Councillor O'Neal had behaved in a threatening manner towards the complainant on 17 May 2013 whilst he was performing his duties as Civil Enforcement Officer. The complainant alleged that Councillor O'Neal had threatened to "put a rope around [his] neck."

The Ombudsman had decided to investigate whether or not Councillor Christopher O'Neal had failed to comply with any of the following provisions of the Code of Conduct.

"6.- [a member] must –

(a) not conduct [themselves] in a manner which could reasonably be regarded as bringing [their] office into disrepute."

The Standards Committee considered the Compliance and Language Manager's covering report, the written report of the Ombudsman's investigation (including viewing part of the CCTV footage where the alleged words were spoken, submitted as evidence as part of the Ombudsman's report) and oral submissions from Ms Annie Ginwalla, Investigating Officer, Councillor O'Neal and Paul Jones (witness on behalf of Councillor O'Neal).

As a preliminary issue the Committee considered a submission by Councillor O'Neal that this complaint should be heard in private as the incident had occurred at his workplace and would have a future impact on the company. The Committee considered whether the press and public should be excluded from the proceedings because the information would fall within one of the categories set out specifically in Schedule 12A of the Local Government Act 1972. Based on Councillor O'Neal's request, the Committee decided that the information referred to could come within paragraph 14 ("Information relating to the financial or business affairs of any particular person"). However the Committee did not believe that any sensitive information or information that could adversely affect the business would be revealed. In applying the public interest test, as required by the Act, the Committee did not believe that the public interest in of keeping the information exempt outweighed the public interest of its disclosure.

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 Christopher O'Neal had failed to comply with the Code of Conduct as follows:-

The Committee found that Councillor O'Neal's 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 believed that in putting himself up for public office, a councillor also placed himself in a position where the public could expect high standards of behaviour and behaviour that would also serve to set an example to others. This standard was applicable to a councillor whether or not he was acting in his capacity as a councillor, as evidenced by the fact that paragraph 6(1)(a) of the Code was applicable at all times and in any capacity. Therefore whilst Councillor O'Neal was in this instance acting as a private individual, his behaviour was capable of breaching the code.

The Committee recognised that the Councillor as an individual had a legal right to defend his property. The Committee also acknowledged that he may have been frustrated at the situation that arose, and was concerned that his property would be damaged. However it was not the Committee's role to decide on the extent of his legal rights in this situation but rather to decide whether, in the circumstances, his behaviour had breached the Code. The Committee expected the Councillor to have dealt with the situation in a manner befitting a public figure.

Taking all the circumstances of the case into consideration, the Committee concluded that Councillor O'Neal's behaviour in making a threat of physical violence was neither appropriate nor proportionate in the circumstances. It was not the kind of behaviour that the Committee expected from an elected member and as such he had brought both his office and the authority into disrepute.

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 Christopher O'Neal should be suspended from being a member of Gwynedd Council for a period of two months.

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

A threat of physical violence was considered a very serious matter. It was also a threat aimed at a member of the public carrying out his duty as an officer of the court at the time. It believed that bringing his office and the authority into disrepute was a breach that warranted consideration of suspension. It also considered, as an aggravating factor, that, whilst the Councillor had never denied using the alleged words, he at no time had showed any remorse or recognition that his behaviour was unacceptable in any way.

The Chairman announced that:-

- (1) Councillor Christopher O'Neal had the right to 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. The notice of appeal must specify the grounds for appeal and whether or not the member consented 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 Christopher O'Neal, the complainant and the Public Services Ombudsman for Wales were notified accordingly.

The meeting commenced at 10.30am and concluded at 5.10pm.