

Tribunal Reference Number: APW/001/2003/CT

Reference in Relation to a Possible Failure to Follow the Code of Conduct

Respondent: Councillor Mrs Patricia Lavinia Yale

Relevant Authority(ies): Flinthshire County Council / Hawarden Community Council

1. INTRODUCTION

1.1 A Case Tribunal convened by the President of the Adjudication Panel for Wales has considered a reference in respect of the above Respondent.

1.2 A hearing was held by the Case Tribunal on Tuesday 16 September 2003 at the Beaufort Park Hotel, Mold, Flintshire, CH7 6RQ. The meeting was open to the public.

2. PRELIMINARY DOCUMENTS

2.1. Reference from the Commission for Local Administration in Wales

2.1.1 In a letter dated 21 May 2003, the Adjudication Panel for Wales received a referral from the Commissioner for Local Administration in Wales ("the Local Commissioner") in relation to allegations made against Councillor Mrs Patricia Lavinia Yale. The allegations were that Councillor Yale had breached Flinthshire County Council's and Hawarden Community Council's Code of Conduct by committing a criminal offence by dishonestly securing remission of the whole or part of an existing council tax liability.

2.2. The Respondent's Response to the Reference

2.2.1 The Respondent made no response to the material facts nor to whether there had been a failure to follow the provisions of the Code of Conduct.

2.2.2 The Respondent outlined the pressure put upon her as a serving member due to the departure of her colleague. She also outlined certain personal difficulties which had put her under severe pressure.

3. FINDINGS OF FACT

3.1 The Case Tribunal found the following undisputed material facts:

3.1.1 Councillor Yale completed and submitted an application for Council Tax benefit dated 24 March 2001; it was accepted by all parties that this date was incorrect and should have read 24 March 2002.

3.1.2 Councillor Yale failed to declare on the application for Council Tax Benefit:

- a. her income as a Councillor (£5,466 for the year 2001-2002)
- b. her husband's pension (£104.18 per month)

- c. capital savings of approximately £15,000 held in a savings account
- d. approximately £3,000 in cash held at her home address.

3.1.3 At Mold Magistrates' Court on 14 January 2003, Councillor Yale was convicted of dishonestly securing the remission of the whole or part of an existing liability to make Council Tax payments to Flintshire County Council by falsely representing her financial situation, thereby securing a remission of £754.60. Councillor Yale pleaded guilty to the charge and was fined £125 plus costs.

3.1.4 Councillor Yale misled the Police as to the existence and whereabouts of building society passbooks.

3.1.5 On oath at Chester Civil Justice Court on 14 May 2002, Councillor Yale failed to declare her income as a Councillor and capital savings of approximately £15,000.

3.2 The Case Tribunal found the following disputed material facts:

3.2.1 Councillor Yale claimed she had handed in her P60 to Flintshire County Council to support an earlier application for Council Tax benefit.

3.2.2 Councillor Yale claimed that Flintshire County Council would be aware of her income as a Councillor and that details of her husband's pension were included in a copy of a building society book which accompanied the application.

3.3 Having regard to all the circumstances, the Case Tribunal were satisfied that there was a deliberate attempt by Councillor Yale to deceive Flintshire County Council by falsely representing her financial position. The Case Tribunal in particular based its decision on:

3.3.1 Councillor Yale's guilty plea to a criminal offence before Mold Magistrates' Court.

3.3.2 Councillor Yale's admissions to the Commissioner for Local Administration in Wales and to the Panel as to details omitted from the application form including:

- i. Councillor Yale's acceptance that no P60 had been included with the second application form for Council tax benefit.
- ii. The Panel were not satisfied on a balance of probabilities that the P60 had been handed in with the first application.
- iii. The application form contained a declaration that the Applicant would be prosecuted if the details were incomplete or incorrect. Councillor Yale would have been aware of the strict obligation put upon her.

3.3.3 It was accepted by Councillor Yale that she had not included details of her husband's pension on the form though, 3 months later at Chester County Court, she had provided details of her husband's pension.

3.3.4 Councillor Yale had made no mention of substantial capital savings which would have disallowed her application. The copy of the building society passbook handed in with the second application gave the indication that she only had limited capital savings.

4. FINDINGS OF WHETHER MATERIAL FACTS DISCLOSE A FAILURE TO COMPLY WITH THE CODE OF CONDUCT

4.1 The Respondent's Submissions

4.1.1 The Respondent accepted that her conduct amounted to a failure to comply with the Code of Conduct.

4.2 The Local Commissioner's Report

4.2.1 It was contended that the conviction of Councillor Yale at Mold Magistrates' Court on 14 January 2003 was a fundamental breach by Councillor Yale of the statutory Code of Conduct for members. The Report further concluded that Councillor Yale had tried to excuse her conduct by claiming that the events which had led to her conviction were in essence the result of an oversight by her and an administrative error by a council officer.

4.2.2 She had shown little sign of contrition.

4.2.3 The Commission concluded that an attempt by Councillor Yale to defraud the Council of which that Councillor is a member strikes at the heart of the principles embodied in the "principles of conduct" and the Model Code of Conduct issued by the National Assembly for Wales in June 2001.

4.3 Case Tribunal's Decision

4.3.1 The Case Tribunal found, by her conviction at Mold Magistrates' Court and circumstances surrounding her application for Council Tax benefit, the Respondent failed to comply with paragraph 6(1)(a) of the Code of Conduct of Flintshire County Council and paragraph 6(1)(a) of Hawarden Community Council Code of Conduct, namely:

Members must not in their official capacity or otherwise, commit a criminal offence or cause one to be committed.

5. SUBMISSIONS ON ACTION TO BE TAKEN

5.1 The Respondent's Submissions

5.1.1 The Respondent repeated her written submission in response to the reference and emphasised again the personal difficulties encountered.

5.1.2 Reference was made to the written testimonials which referred in particular to the support she had provided to the electorate of her ward.

5.1.3 The Respondent emphasised her length of service and commitment and was not proud of what she had done. She hoped for a suspension but accepted that some form of punishment was necessary.

5.2 Case Tribunal's Decision

5.2.1 The Case Tribunal considered all the facts of the case and in particular gave credit to the Respondent for her co-operation with the Panel, to the written testimonials and to her length of service and commitment to the electorate.

5.2.2 However, having regard to all the circumstances, the Case Tribunal considered that the breach of the Code was a most serious one. It involved an attempt to defraud the very authority of which she was a serving member. The Case Tribunal concluded by unanimous decision that the Respondent should be disqualified for 2 years from being or becoming a member of the relevant authorities or of any other relevant authority within the meaning of the Local Government Act 2000. The Standards Committee of the relevant authorities concerned is notified accordingly.

5.2.3 The Respondent has the right of appeal to the High Court against the above decision. A person considering an appeal is advised to take independent legal advice about how to appeal. It is the Adjudication Panel for Wales' understanding that a notice of appeal to the High Court should be made within 28 days of either the date of notification of the Case Tribunal's decision or the appellant's receipt of this reasoned decision, if later.

5.2.4 The Standards Committee of the relevant authorities concerned is required to act upon the Case Tribunal's decision.

Signed..... Date.....1 October 2003.....

Hywel James

Chairperson of the Case Tribunal

Cllr Christine Jones

Panel Member

Mr Ian Blair

Panel Member