

**PANEL DYFARNU CYMRU
ADJUDICATION PANEL FOR WALES**

DECISION REPORT

TRIBUNAL REFERENCE NUMBER: APW/001/2009-010/CT

**REFERENCE IN RELATION TO A POSSIBLE FAILURE TO FOLLOW THE
CODE OF CONDUCT**

RESPONDENT: Councillor William A Pritchard

RELEVANT AUTHORITY: Barmouth Town 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 at 10.30am on Friday 26 June 2009 in the Penmaenuchaf Hall Hotel, Penmaenpool, Dolgellau. The hearing was open to the public.

1.3 Cllr Pritchard attended and represented himself.

2. PRELIMINARY DOCUMENTS

2.1 Reference from the Public Services Ombudsman for Wales

2.1.1 In a letter dated 31 March 2008, the Adjudication Panel for Wales received a referral from the Public Services Ombudsman for Wales (“the Ombudsman”) in relation to allegations made against Cllr Pritchard. The allegations were that Cllr Pritchard had breached Barmouth Town Council’s Code of Conduct by making statements that were malicious, defamatory, factually inaccurate and homophobic in his letter of 22 October 2008 to Leighton Andrews AM, Deputy Minister for Regeneration.

2.1.2 On 22 October 2008, Cllr Pritchard wrote to Leighton Andrews AM, Deputy Minister for Regeneration. The letter contained statements about an employee of Gwynedd Council (“Mr Smith” in the Ombudsman’s Report) and “the organisation” of which he was controller. The letter was copied to the Chief Executive, Gwynedd Council who is “Mr Smith’s” employer.

2.2 The Respondent’s Written Response to the Reference

2.2.1 Cllr Pritchard responded to the reference to the Tribunal in a letter dated

14 April 2009. Matters commented on by Cllr Pritchard in the Ombudsman's report included:

- (i) He disputed the need for anonymity and questioned whether it was being suggested that Mr Smith's workmates on Gwynedd County Council were homophobic.
- (ii) The main issue was that Mr Smith's business affairs were "suspect". The Ombudsman should have addressed this issue rather than hide behind a smokescreen (of the complaint).
- (iii) Cllr Pritchard disputed that he was ever sent precise details as to which of his statements contravened the Code of Conduct.
- (iv) He might have glanced through a copy of the Code of Conduct at some time. He saw nothing in it that differed from his own strongly enforced Code of Conduct. If the Code of Conduct was open to interpretation it was badly written.
- (v) Cllr Pritchard believed the Ombudsman had "chickened out" from adjudicating on a controversial subject. He stated the Investigating Officer should be sacked and was illiterate.
- (vi) The Ombudsman was biased against Christian teaching. He referred to the teachings of the Catholic Church and to abuse by homosexual teachers, blaming the principle of tolerance.
- (vii) Cllr Pritchard made reference to his idea for a Gay Pride Weekend in Barmouth. He accused the Ombudsman's investigator of being blinded by her own prejudices. He was not describing homosexuality as a sin. This was a description used by the Holy Father. Cllr Pritchard described the Ombudsman as being a politically correct fool.
- (viii) In referring to his description "Notorious disability" he stated "of course it is. Would you like your son to be homosexual? Lesbians are OK."
- (ix) In reference to the need to have a "cure" Cllr Pritchard stated that biblical reasoning would provide a cure.

2.3 The Ombudsman's Written Representations

2.3.1 In a letter dated 17 April 2009, the Ombudsman stated that Cllr Pritchard's submission appeared to reinforce the conclusions of the Ombudsman's report.

3. ORAL SUBMISSIONS

3.1 Cllr Pritchard made no oral submissions with regard to the material facts of the case. He accepted that he had written the letters which were referred to in the undisputed material facts and accepted the contents as outlined.

4. FINDINGS OF FACT

4.1 The Case Tribunal found the following **undisputed** material facts:

4.1.1 Cllr Pritchard was an elected member for Barmouth Town Council from 1986 to 1990 and from May 2008 to the present day.

4.1.2 Cllr Pritchard gave an undertaking to observe the Council's code of conduct on 20 August 2008.

4.1.3 In a letter dated 1 September 2006, Gwynedd Council offered training for members on matters relating to the Members' Code of Conduct on 23 October 2006 at the Council Offices, Penarlag, Dolgellau. In a letter dated 28 May 2008, the Propriety Officer, Gwynedd Council invited community and town council clerks and members to training sessions on the new Code of Conduct on various dates and locations. Cllr Pritchard did not attend any of these training sessions.

4.1.4 On 22 October 2008, Cllr Pritchard wrote to Leighton Andrews AM, Deputy Minister for Regeneration. The letter contained statements about "Mr Smith" and "the organisation" of which he was controller. The letter was copied to the Chief Executive, Gwynedd Council who is Mr Smith's employer.

4.1.5 On 7 November 2008, "Mr Smith" complained to the Public Services Ombudsman about Cllr Pritchard's letter to the Deputy Minister for Regeneration.

4.1.6 On 21 November 2008, the Ombudsman's office forwarded a copy of "Mr Smith's" complaint to Cllr Pritchard. They advised Cllr Pritchard that they would let him know whether or not the Ombudsman was going to investigate that complaint.

4.1.7 Cllr Pritchard responded by writing to the Ombudsman on 1 December 2008.

4.1.8 On 8 December 2008, "Officer A" replied to Cllr Pritchard's letter of 22 October to the Deputy Minister for Regeneration that the Welsh Assembly Government was satisfied that "the organisation" and "Mr Smith" had acted properly. The letter also drew Cllr Pritchard's attention to his duties and responsibilities under the code of conduct.

4.1.9 On 12 December 2008, Cllr Pritchard responded to the letter from "Officer A". Cllr Pritchard copied the letter to the Ombudsman's office and to Gwynedd Council.

4.1.10 On 9 January 2009, Cllr Pritchard was advised that the Ombudsman had decided to investigate the complaint.

4.1.11 Cllr Pritchard responded to the Ombudsman on 22 January 2009.

4.2 The Case Tribunal referred to the contents of the correspondence which caused concern.

4.2.1 In the letter to the Minister for Regeneration Cllr Pritchard questioned the competence and motivation of Mr Smith. He made a number of comments of a disparaging and personal nature about Mr Smith and his associates.

4.2.2 In the letter to the Minister he raised the issue of homosexuality referring to it as a “*notorious disability*” and that “*the modern culture is to defend these people from any form of discrimination*” and “*hooray for diversity*”.

4.2.3 The letter went on to further indicate that “*There may indeed be a cure this disability as recently I...found a book. It seems to suggest that homosexuality is only a demon which can be driven out. Apparently you have to be very careful as at that moment it is then looking for a new home and bang! It'll have you if you're not careful*”.

4.2.4 Cllr Pritchard accepted these comments were contained in the letter he had written to the Minister. However he was seeking to raise concerns as to Mr Smith and the Organisation. He accepted he had copied the letter to Mr Smith's employer.

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

5.1 The Respondent's Submissions

5.1.1 Cllr Pritchard submitted his comments did not amount to a breach. Homosexuality he stated was viewed as a notorious disability. He did not call it a sin. Others have called it a sin. People have been rescued from “a difficult situation”. The Catholic Church viewed homosexuality as a sin. He himself was an Evangelical Christian. He had been elected as a Christian and therefore should not have to keep his views to himself.

5.1.2 He accepted he had signed the letter to the Minister describing himself as a Councillor. The Minister would not have taken any notice of the letter if he had written it as simply Bill Pritchard.

5.2.3 He had given the wording of the letter careful consideration. He stood by the wording in the letter. Councillor Pritchard accepted he had not attended the training session for Community Councillors. He probably should have but was unsure what the precise reason was for his non attendance.

5.2.4 He was concerned as to the use of public money in the project in Barmouth and the relationship between some of the individuals involved.

5.2.5 He would not retract the description of homosexuality as being a disability. He would continue to use this description in his role as a Councillor. He would love to rescue people from homosexuality.

5.2 Case Tribunal's Decision

5.2.1. The Case Tribunal noted the grave effects the letter of 22nd October 2001 had on the employee. It was noted the letter was deliberately copied to the employer. However the Case Tribunal noted that Clause 4(a) was specific in its wording in that there should be "equality of opportunity" by a Councillor when carrying out duties and responsibilities regardless of sexual orientation. The Case Tribunal, on a balance of probability, were not satisfied that the case had been made out that the main motivation of Cllr Pritchard in his lengthy letter to the Minister was a denial of opportunity primarily on the basis of sexual orientation. There were other issues raised in the letter. On this basis the Case Tribunal on an unanimous basis did not find that there was breach of 4(a) of the Code of Conduct, namely '*[Members] must carry out [their] duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion.*'

5.2.2 On the basis of the findings of fact, the Case Tribunal found by a unanimous decision that there was a failure to comply with the Barmouth Town Council's code of conduct as follows:-

(i) Paragraph 4(b) of the code of conduct states that '*[Members] must show respect and consideration for others*'.

(a) The Case Tribunal by a unanimous decision were satisfied on a balance of probability that the use of the words and their meaning had breached paragraph 4(b) of the Code of Conduct in that as a Councillor he had failed to show respect and consideration for others.

(b) The letter by Cllr Pritchard had intentionally been written by him as a Councillor to a Welsh Assembly Government Minister. He had copied the letter to the employer of Mr Smith. Cllr Pritchard had intentionally used the words and had given the wording of the letter careful consideration.

(c) Referring to Mr Smith's homosexuality as a "notorious disability" on more than one occasion, and commenting that homosexuality "is a demon which can be driven out" and implying that it can be "caught" failed in the view of the Case Tribunal to show due respect and consideration to people whatever their sexual orientation.

(d) The words could and did cause serious offence.

(ii) Paragraph 6(1) (a) of the Code of Conduct states that '*[Members] must not conduct [themselves] in a manner which could reasonably be regarded as bringing [their] office or authority into disrepute*'.

- (a) The Case Tribunal further found by a unanimous decision that the use of the words breached paragraph 6(1) (a) of the Code of Conduct in that it brought the office of member into disrepute. In signing the Code of Conduct a Councillor must ensure they do not conduct themselves in a manner which could reasonably be regarded as bringing the office or the Authority into disrepute.
- (b) The words used and the lack of insight into the offence caused to others were factors considered by the Case Tribunal.

6. SUBMISSIONS ON ACTION TO BE TAKEN

6.1 The Respondent's Submissions

6.1 Cllr Pritchard disagreed with the finding of the Case Tribunal that there had been a breach of the Code of Conduct. He believed that describing homosexuality as a disability was a useful adjective. He would continue to use this description. He submitted a suspension as the appropriate sanction.

6.2 Case Tribunal's Decision

6.2.1 The Case Tribunal considered all the facts of the case and that they were dealing with two breaches of the Code of Conduct. The Case Tribunal gave consideration to the following mitigating factors:-

- (i) Previous good record of Cllr Pritchard and that there had been no previous breaches of the Code of Conduct.
- (ii) However mistaken the views of Cllr Pritchard the Case Tribunal took into account that the views were genuinely held beliefs of Cllr Pritchard. The Case Tribunal noted however that in his role as a Councillor he must comply and abide by the Code of Conduct.

6.2.2 The Case Tribunal had regard to the following aggravating features:-

- (i) The lack of insight shown by Cllr Pritchard as to the effects his comments had on Mr Smith. The comments did cause distress.
- (ii) The comments brought the office of a Councillor into disrepute.
- (iii) The comments were deliberate. Cllr Pritchard indicated he had "carefully written the letter". He had deliberately copied the letter to Mr Smith's employer.
- (iv) Cllr Pritchard continued to deny any breach or any wrongdoing.

- (v) The Case Tribunal were particularly concerned that notwithstanding the issues raised Cllr Pritchard would repeat his comments in carrying out his duties as a councillor. The Case Tribunal took the view that he could not pick and choose which parts of the Code of Conduct he complied with.

6.2.3 The Case Tribunal concluded by unanimous decision that Cllr Pritchard should be disqualified for 12 months from being or becoming a member of Barmouth Town Council or of any other relevant authority within the meaning of the Local Government Act 2000.

6.2.4 Barmouth Town Council and Gwynedd Council's Standards Committee are notified accordingly.

6.2.5 The Respondent has the right to seek the appeal of the High Court to appeal 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 21 days of the date of the Case Tribunal's decision.

Signed.....
Hywel James
Chairperson of the Case Tribunal

Date.....

Christine Jones
Panel Member

Colin Evans
Panel Member