

**PANEL DYFARNU CYMRU
ADJUDICATION PANEL FOR WALES**

DECISION REPORT

TRIBUNAL REFERENCE NUMBER: APW/009/2009-010/CT

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

RESPONDENT: Councillor Owen Glyn Jones

RELEVANT AUTHORITY(IES): Anglesey County 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 In accordance with Cllr Jones' wishes, the Case Tribunal determined its adjudication by way of written representations at a meeting on Thursday 5 August 2010 at the Halliwell Centre, Trinity University College, Carmarthen.

2. PRELIMINARY DOCUMENTS

2.1 Reference from the Public Services Ombudsman for Wales

2.1.1 In a letter dated 28 January 2010, the Adjudication Panel for Wales received a referral from the Public Services Ombudsman for Wales ("the Ombudsman") in relation to allegations made against Cllr Jones. The allegations were that Cllr Jones had breached Anglesey County Council's Code of Conduct when chairing a meeting of the Council on 27 March 2009, by failing to have regard to advice given to him by the Council's Monitoring Officer.

2.1.2 The circumstances leading to the alleged breach are evident from the findings fact.

2.2 The Respondent's Written Response to the Reference

2.2.1 Cllr Jones did not seek to challenge the findings of the Ombudsman's report and accepted that he had breached the Council's Code of Conduct.

2.3 The Ombudsman's Written Representations

2.3.1 No further representations were made.

3. ORAL SUBMISSIONS

3.1. The Case Tribunal did not receive oral submissions.

4. FINDINGS OF FACT

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

4.1.1 At the material time, Cllr O G Jones was a member of Anglesey County Council.

4.1.2 Cllr Jones gave a written undertaking to observe the Council's code of conduct on 2 May 2008 and 4 June 2008.

4.1.3 On 27 March 2009, an extraordinary meeting of the Council was held to discuss the Wales Audit Office's Annual Letter and Cllr Jones took over as Chair when it was relinquished by Cllr Aled Morris Jones.

4.1.4 Cllr O G Jones proposed a vote of confidence in Cllr Aled Morris Jones and allowed the debate to continue following the Monitoring Officer's advice against the constitutional entitlement to have such a motion, debate or vote.

4.1.5 Cllr Jones subsequently concluded the debate by acknowledging that the Monitoring Officer's advice was correct.

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 No submissions were made.

5.2 The Ombudsman's Report

5.2.1 It was contended that, in failing to make a ruling on the vote of confidence immediately following the Monitoring Officer's advice and in allowing debate to continue, Cllr Jones failed to have due regard to that advice and, therefore, breached the Code of Conduct for members.

5.3 Case Tribunal's Decision

5.3.1 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 Council's Code of Conduct.

5.3.2 Paragraph 8(a)(iii) of the Council's Code of Conduct, which states that '*You must – (a) when participating in meetings or reaching decisions regarding the business of your authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by your authority's officers, in particular by -..... (iii) the authority's monitoring officer;.....*'

5.3.3 The Case Tribunal found that Cllr Jones, when chairing the meeting of 27 March 2009, proposed a vote of confidence in Cllr Aled Morris Jones. He allowed a debate on the matter to continue contrary to the Monitoring Officer's advice that there was no constitutional entitlement to have such a motion, debate or vote.

6. SUBMISSIONS ON ACTION TO BE TAKEN

6.1 The Respondent's Submissions

6.1.1 Cllr Jones contended that his breach was unintentional and that he had not set out to disregard the Monitoring Officer's advice, nor had he any intention of doing so again. He contended that no harm was caused nor was there the potential for harm from his failure to observe the Code of Conduct. He has made a full apology to all members, officers and "especially to the Monitoring Officer".

6.1.2 Cllr Jones referred to his inexperience as a Chair and said that he is attending a training course for chairing committees, arranged by his authority. The incident happened in the heat of the moment and he has a previous record of good service.

6.2 Case Tribunal's Decision

6.2.1 The Case Tribunal considered all the facts of the case, the Respondent's submissions in mitigation, the representations by Steve Thomas, Chief Executive, Welsh Local Government Association, David Bowles, Interim Managing Director, Anglesey County Council and the Adjudication Panel's sanction guidelines.

6.2.2 The Case Tribunal gives Cllr Jones credit for early acknowledgement of the breach, for apologising and accepting responsibility for his actions rather than seeking to blame anyone else.

6.2.3 The Case Tribunal notes his inexperience as a chair and his efforts to improve by undertaking training.

6.2.4 It is evident from the information received from Mr Thomas, Mr Bowles and from the Ombudsman's report that Anglesey County Council was facing particularly challenging times and is now seeking to put that experience behind it.

6.2.5 The Case Tribunal concluded by unanimous decision that Cllr Jones should be suspended from acting as a member of the Council for a period of 2 months or, if shorter, the remainder of his term of office, with effect from Monday 9 August 2010.

6.2.6 Failing to have regard to the advice of a Monitoring Officer is a serious matter. From previous cases, there is precedent that to "have regard" means following the advice received, unless there is good reason for not doing so, for example, if the advice is clearly incorrect. But for the factors stated above, the Tribunal would have been minded to impose a longer period of suspension upon Cllr Jones.

6.2.7 Anglesey County Council and its Standards Committee are notified accordingly.

6.2.8 The Respondent has the right to seek the leave 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.

Signed.....

Date...5 August 2010.....

Helen Cole
Chairperson of the Case Tribunal

Colin Evans
Panel Member

Juliet Morris
Panel Member