

**PANEL DYFARNU CYMRU  
ADJUDICATION PANEL FOR WALES**

**DECISION REPORT**

**TRIBUNAL REFERENCE NUMBER:** APW/001/2013-014/CT

**REFERENCE IN RELATION TO AN ALLEGED BREACH OF THE CODE OF CONDUCT**

**RESPONDENT:** Former Town Councillor Nathan Casey

**RELEVANT AUTHORITY:** Llandrindod Wells 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 Former Cllr Casey declined to provide an address for correspondence to the Adjudication Panel for Wales and all contact has therefore been conducted by e-mail and telephone. On the 3<sup>rd</sup> May 2013 the Adjudication Panel for Wales wrote to him and received a reply on the 30<sup>th</sup> May 2013 setting out his response to the complaint. Attempts were then made to arrange a hearing date which was set for the 27/28<sup>th</sup> November.

1.3 In a telephone call on the 23<sup>rd</sup> October 2013 former Cllr Casey refused to indicate whether he would attend the hearing, offering no reasons. He was subsequently advised that the Tribunal could proceed by way of written representations. On the 18<sup>th</sup> November he telephoned and said that he did wish to attend a hearing and he was asked to provide witness details and any further evidence. He did not provide any additional information.

1.4 On the 15<sup>th</sup> January 2014 former Cllr Casey was advised of the new dates for hearing on the 21<sup>st</sup>/22<sup>nd</sup> February 2014. On the 29<sup>th</sup> January he e-mailed to say that he would not attend the hearing.

1.5 Therefore in accordance with former Cllr Casey's wishes, the Case Tribunal determined its adjudication by way of written representations at a meeting on Friday 21 February 2014 at the New House Country Hotel, Thornhill, Cardiff. The hearing was not open to the public.

**2. PRELIMINARY DOCUMENTS**

**2.1 Reference from the Public Services Ombudsman for Wales**

2.1.1 In a letter dated 22 April 2013, the Adjudication Panel for Wales received a referral from the Public Services Ombudsman for Wales ("the Ombudsman") in

relation to allegations made against former Cllr Casey. The allegations were that former Cllr Casey had breached Llandrindod Wells Town Council's code of conduct by pursuing a course of conduct towards the complainant which would amount to harassment including conducting a survey which would mislead the public and damage the complainant's reputation; sending e-mails and posting Facebook messages which were disrespectful and distressing to the complainant; by not reporting what he believed to be a breach of the code of conduct to the Ombudsman and by not engaging with the investigation process.

2.1.2 The circumstances leading to the alleged breaches are self-evident from the Tribunal's findings of material facts set out in paragraph 4 below.

## **2.2 The Respondent's Written Response to the Reference**

2.2.1 Former Cllr Casey provided a written response to the reference in a letter dated 30<sup>th</sup> May 2013. He did not dispute the facts of the case in any substantive way. He complained about the manner in which the Ombudsman had conducted the investigation. He argued that he had justifiable grounds for his actions.

## **2.3 The Ombudsman's Written Representations**

2.3.1 The Ombudsman's response confirmed that former Cllr Casey had made a complaint about the service provided by officers dealing with the matter, and provided details of the investigation which found the complaint not to be upheld.

2.3.2 The Ombudsman also made a general comment on the respondent's response as follows:

"Mr Casey elected not to be involved in the investigation until after the report was written. After I persuaded Mr Casey, at the very least, to comment on the draft report he changed his mind. However he still chose not to provide a copy of the survey. In the response to the report he does not deny his actions as he believes they were justified and do not amount to a breach of the code of conduct. The Ombudsman has taken the view that his actions may amount to a breach of the code of conduct for the reasons set out in the report."

## **3. ORAL SUBMISSIONS**

3.1. No oral submissions were made to the Case Tribunal who decided the case on the basis of written representations.

## **4. FINDINGS OF FACT**

4.1 The Case Tribunal found the following undisputed material facts:

4.1.1 Former Town Councillor Casey became a councillor in May 2012.

4.1.2 He signed the declaration of acceptance and undertaking to comply with the code of conduct on the 15<sup>th</sup> June 2012.

4.1.3 Former Town Councillor Casey wrote to Powys County Council on the 16<sup>th</sup> July 2012 raising issues about another councillor, County Councillor Turner, who had been elected on the 3<sup>rd</sup> May 2012. His letter alleged that County Councillor Turner had sent an indecent picture exposing himself to an underage girl, and because of this it was unacceptable for County Councillor Turner to be appointed as a governor of an LEA school.

4.1.4 The concerns raised by this letter were investigated by the Monitoring Officer of Powys County Council and the council's lead officer on childcare. The investigation included an interview with County Councillor Turner, the Chair of Governors of the school concerned (Mrs Dorkenoo), and a discussion with the Chief Executive of Powys County Council in his capacity as Statutory Director of Social Services.

4.1.5 Following this investigation the MO and LOC met with Former Town Councillor Casey, in the presence of Mrs Dorkenoo, and provided him with full details of the outcome.

4.1.6 On the 12<sup>th</sup> September County Councillor Turner was advised that he could continue in his role as school governor.

4.1.7 On the 5<sup>th</sup> October Former Town Councillor Casey advised County Councillor Turner by e-mail that he intended to conduct a survey of the general public to establish opinion about his behaviour and fitness to be a school governor.

4.1.8 County Councillor Turner contacted the police on the 6<sup>th</sup> October who visited Former Town Councillor Casey. Following this visit Former Town Councillor Casey sent a further e-mail to County Councillor Turner saying he was "not frightened" by the police involvement and that he intended to continue with the survey unless County Councillor Turner withdrew from the position of school governor.

4.1.9 Former Town Councillor Casey received a further visit from the police on the 7<sup>th</sup> October. On the same day Former Town Councillor Casey spoke to two members of the public and asked them to sign a petition. Mr Margrave-Townsend declined. Mrs Walker signed the petition but later chose to remove her signature. Former Town Councillor Casey also attended and approached over 90 members of the public outside a Tesco store and a local primary school. He spoke to another Powys County Councillor Gary Price.

4.1.10 On or about the same day Former Town Councillor Casey posted a comment on County Councillor Turner's Facebook page in which he stated the



purpose of his survey was “to stop you becoming a member of the board of governors of a Powys primary school.”

4.1.11 On the 10<sup>th</sup> October Former Town Councillor Casey was served with a Police Information Notice (PIN) under the Protection from Harassment Act.

4.1.12 On the 12<sup>th</sup> October Former Town Councillor Casey advised County Councillor Turner by e-mail that he would no longer be conducting a survey.

4.1.13 At their meeting on the 16<sup>th</sup> October the Llandrindod Wells Town Council considered an item headed “Complaints against members” relating to a number of anonymous letters and one from Powys County Councillor Williams. The minutes record that the letters were passed to the Town Clerk for shredding.

4.1.14 On or around the 19<sup>th</sup> October a number of press articles appeared in the local press which included statements from both Former Town Councillor Casey and County Councillor Turner.

4.1.15 Former Town Councillor Casey was notified of the PSOW’s impending investigation on the 25<sup>th</sup> October. He resigned from office on or about the 7<sup>th</sup> January 2013 and spoke to the PSOW Investigating Officer to confirm this on the 9<sup>th</sup> January 2013. He said that he was moving from the area. He did not provide a forwarding address, or e-mail address, but he did provide a contact telephone number. On the 10<sup>th</sup> January he spoke again to the Investigating Officer and indicated that he would not respond to any further questions. Between the 10<sup>th</sup> January and 12<sup>th</sup> February the Investigating Officer telephoned Former Town Councillor Casey but left no message. On the 12<sup>th</sup> February Former Town Councillor Casey telephoned the PSOW and agreed to respond to the draft report.

4.2 The Case Tribunal found the following disputed material facts:

4.2.1 What was said or agreed at the meeting on the 22<sup>nd</sup> August 2012 between the Monitoring Officer, LCO and Former Town Councillor Casey.

4.2.2 Whether Former Town Councillor Casey’s e-mails of the 5<sup>th</sup>/6<sup>th</sup> October and his Facebook posting on the 7<sup>th</sup> October amounted to a course of conduct which constituted harassment or bullying.

4.2.3 Whether the survey/petition contained misleading information.

4.2.4 Whether Former Town Councillor Casey provided misleading information to members of the general public during the period 5<sup>th</sup>-7<sup>th</sup> October and in particular whether he directly identified County Councillor Turner, and whether he identified himself as a councillor.

4.2.5 How the issue came to be reported in the press – at whose instigation.

4.2.6 Whether Former Town Councillor Casey's statements during this period and his survey document could be considered to be legitimate political comment.

4.2.7 Whether, taken together, the e-mails, Facebook posting, survey/petition, press comment constituted a "hate campaign."

4.2.8 Whether the survey document was requested by the PSOW.

4.2.9 Whether Former Town Councillor Casey failed to comply with requests from the PSOW.

4.2.10 Whether County Councillor Turner used his position on the crime prevention panel to disadvantage Former Town Councillor Casey.

4.2.11 Whether the test applied by Former Town Councillor Casey of the "reasonable person" can properly justify his actions.

4.3 The Case Tribunal found the following in respect of the disputed facts:

4.3.1 The Case Tribunal were satisfied that the Ombudsman's report accurately recorded the outcome of the meeting on the 22<sup>nd</sup> August 2012 and that former Cllr Casey was advised that there were no outstanding matters which prevented Cllr Turner from being appointed to the post of school governor.

4.3.2 Former Cllr Casey has never disputed the content of the e-mails and Face book postings or that they were sent by him. The Case Tribunal considered that these e-mails did amount to harassment and bullying, in that they were a course of conduct which had the purpose or effect of creating a hostile, degrading, humiliating, or offensive environment for Cllr Turner, and additionally was a misuse of power intended to intimidate and denigrate Cllr Turner.

4.3.3 Former Cllr Casey was repeatedly asked to supply a copy of his survey both by the Ombudsman, and the Case Tribunal but chose not to do so. However in his e-mail to Cllr Turner sent on the 6<sup>th</sup> October 2012 he does set out what he intended to publish, namely

"Before Cllr Turner gained his position around 2/3 years ago, he found it acceptable to send a picture of himself to an underage girl exposing himself, this was done by mobile phone. Cllr Turner now thinks it is acceptable for him to sit on Cefnlllys School board of governors".

4.3.4 The Case Tribunal were satisfied that on the basis of this evidence that the survey contained partial and inflammatory information with the intention to mislead.



4.3.5 The Case Tribunal considered two sets of conflicting evidence, namely the witness statements of Mr Margrave- Townsend and Mrs Walker contained in the Ombudsman's report, and a bundle of statements supplied by former Cllr Casey. The former provided full and detailed accounts of their contact and discussion with former Cllr Casey. The latter provided minimal details of the witnesses (often with no identifiable addresses or clear names). These statements were short rote statements which did not address the issue of misleading information. The Case Tribunal found the evidence of Mr Margrave-Townsend and Mrs Walker to be both credible and relevant and preferred this evidence to that adduced by former Cllr Casey. Accordingly, taken together with the evidence in 4.3.3, they made a finding that Cllr Turner had been identified by former Cllr Casey during the survey, and that former Cllr Casey had held himself out as a councillor when conducting the survey.

4.3.6 The Case Tribunal did not have any evidence to decide at whose instigation the matter had been referred to the press and made no finding. However the Case Tribunal noted that former Cllr Casey had been widely quoted in the press on the issue in his capacity as a Town councillor.

4.3.7 The Case Tribunal found no evidence to support an allegation that there had been a campaign of hate against Cllr Turner. However they were satisfied that the e-mails sent by former Cllr Casey and the posting on Facebook formed part of a misguided form of harassment which caused immense distress and embarrassment to the recipient.

4.3.8 The evidence before the Case Tribunal was clear. The Ombudsman had requested a copy of the survey which had not been supplied by former Cllr Casey. A similar request from the Tribunal had also been ignored.

4.3.9 The Case Tribunal accepted the Ombudsman's evidence that former Cllr Casey had failed to comply with requests for information during the investigation and had only engaged after the report had been drafted. In particular the Case Tribunal noted a telephone call made by him to the Ombudsman's office on the 10<sup>th</sup> January 2013 when he explicitly said that he did not want anything more to do with the Ombudsman, would not provide details of his new address, would not provide details of his e-mail, and would not be willing to provide answers to questions.

4.3.10 Former Cllr Casey provided no evidence to support his allegation that Cllr Turner had used his position on the crime prevention panel improperly and the Case Tribunal rejected this assertion as having no basis in fact.

4.3.11 Former Cllr Casey sought to justify his actions on the basis that he was seeking to canvas the views of the public to establish what a reasonable person would think. This demonstrated a fundamental misunderstanding of the code of conduct. The test of reasonableness would have had no relevance in

determining any criticism of Cllr Turner's behaviour. Any allegation would have been the subject of an objective assessment against the evidence. Former Cllr Casey conducted his survey and campaign of harassment without seeking any advice from the Monitoring Officer and indeed in direct contravention of information provided to him both by the Monitoring Officer at the August meeting, and by the police in October prior to being issued with a PIN.

## **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 Former Cllr Casey made no additional submissions save those included in his response on the 30<sup>th</sup> May. His justification has been dealt with in paragraph 4.3.11 above.

### **5.2 The Ombudsman's Report**

5.2.1 The additional comments of the Ombudsman set out in paragraph 2.3.2 helpfully summarise his position.

### **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 Llandrindod Wells Town Council's code of conduct.

5.3.2 Paragraph 4(b) of the code of conduct states that "[You must] show respect and consideration for others."

5.3.3 The Case Tribunal found that former Cllr Casey had ignored information and advice from the Monitoring Officer and Police and had persisted in undertaking a survey which presented partial and misleading information about a fellow councillor which was likely to cause him immense reputational damage and considerable distress. The Case Tribunal considered whether the content of the survey attracted any protection under Article 10 of the Human Rights Act. They concluded that it was not political comment, legitimate or otherwise, but a personal attack on another person with no relevance to former Cllr Casey's political responsibilities.

5.3.4 Paragraph 4(c) of the code of conduct states that "[You must] not use bullying behaviour or harass any person."

5.3.5 The Case Tribunal found that former Cllr Casey had sent a series of e-mails and posted a comment on Cllr Turners Facebook page which were intimidating and likely to humiliate the recipient.



5.3.6 Paragraph 6(1)(a) of the code of conduct states “[You must] not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.”

5.3.7 The Case Tribunal found that former Cllr Casey spoken to up to 97 members of the public and had publically commented in the press on this issue whilst holding himself out as a councillor. His behaviour was such as to necessitate a Police Information Notice issued under the Protection from Harassment Act which was also reported in the local press.

5.3.8 Paragraph 6(2) of the code of conduct states “You must comply with any request of your authority’s monitoring officer, or the Public Services Ombudsman for Wales in connection with an investigation conducted in accordance with their respective statutory powers.”

5.3.9 The Case Tribunal found that former Cllr Casey had explicitly refused to answer questions or cooperate with the Ombudsman’s investigation.

## **6. SUBMISSIONS ON ACTION TO BE TAKEN**

### **6.1 The Respondent’s Submissions**

6.1.1 No submissions were received from former Cllr Casey.

### **6.2 Case Tribunal’s Decision**

6.2.1 The Case Tribunal considered all the facts of the case. They noted that former Cllr Casey had been a Town councillor for five months but had received training on the code and would have been aware of his responsibilities. They were particularly concerned that former Cllr Casey had persisted in a course of conduct, despite being provided with clear advice from the Monitoring Officer and the Police that he had no justification or reasonable basis to pursue Cllr Turner. His actions were premeditated, and despite being warned twice by the police he still continued to carry out his survey. During the course of the subsequent investigation he failed to cooperate and has never apologised or shown any understanding of the possible consequences of his actions.

6.2.2 The Case Tribunal concluded by unanimous decision that former Cllr Casey should be disqualified for 3 years from being or becoming a member of Llandrindod Wells Town Council or of any other relevant authority within the meaning of the Local Government Act 2000.

6.2.3 The Llandrindod Wells Town Council and its Standards Committee are notified accordingly.

6.2.4 The Respondent has the right to seek the permission 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.



**7. CASE TRIBUNAL RECOMMENDATIONS**

7.1 The Case Tribunal makes no recommendation.

Signed..........

Date.....*28th March 2014*.....

Ms Kate Berry

Chairperson of the Case Tribunal

Mr Colin Evans

Panel Member

Mrs Christine Jones

Panel Member