

Tribunal Reference Number: APW/005/2005/A

Appeal Against Standards Committee Determination in Relation to Alleged Failure to Follow the Local Government Code of Conduct

APPELLANT: Councillor Roger Brooks

RELEVANT AUTHORITY: Coedffranc Community Council

1. INTRODUCTION

1.1. An Appeal Tribunal convened by the President of the Adjudication Panel for Wales has considered an appeal by Councillor Roger Brooks against the decision of Neath Port Talbot County Borough Council's Standards Committee that he had breached Coedffranc Community Council's code of conduct and should be suspended for 2 months.

1.2. A meeting was held by the Appeal Tribunal at 10.00 am on Wednesday 3 May 2006 at the Halliwell Conference Centre, Trinity College, Carmarthen, SA31 3EP. With Councillor Brook's agreement, the Tribunal determined its adjudication by way of written representations.

2. PRELIMINARY DOCUMENTS

2.1. Appeal Against Decision of Standards Committee

2.1.1. In a letter dated 6 September 2005, the Adjudication Panel for Wales received an appeal from Peter J Williams, Solicitor, acting on behalf of Councillor Roger Brooks, against the determination of Neath Port Talbot County Borough Council's Standards Committee that he had breached Coedffranc Community Council's code of conduct and should be suspended for 2 months.

2.1.2. The Standards Committee's determination followed its consideration of a report by the Commissioner for Local Administration in Wales (now the "Public Services Ombudsman for Wales") under the terms of sections 69(4)(c) and 71(2) of the Local Government Act 2000.

2.1.3. The allegations were that Councillor Brooks had breached Coedffranc Community Council's Code of Conduct by:

i. Attempting to use his position as a councillor to secure an advantage for Skewen Athletic Football Club by seeking to influence Lonlas Youth Club to write-off a debt owed to it by the Football Club.

ii. Failing to declare an interest and withdraw from consideration of a letter of complaint against him at a meeting of the Community Council on 3 March 2004.

2.2. The Councillor's Response

2.2.1. In response to the first allegation, Councillor Brooks responded that:

he took no part in the decision made by Skewen Athletic Football Club at a meeting held at the Miners Public House, Skewen on 23 February 2004, that they would attempt to persuade Lonlas Youth Club to write off their debt of £375.

2.2.2. In response to the second allegation, Councillor Brooks admitted his attendance at the Coedffranc Community Council meeting on 3 March 2004 at the end of which the letter was read out. He asserts that he had no prior knowledge that the letter was to be read out and that it was an oversight on his behalf that he failed to declare an interest and take the appropriate action.

2.2.3. Councillor Brooks played no part in the Ombudsman's investigation but contests the Ombudsman's findings. Councillor Brooks did make representations to the Tribunal by completing the Tribunal's response form, providing written representation from his solicitor and furnishing the Tribunal with two witness statements.

3. FINDINGS OF FACT

3.1. The Appeal Tribunal found the following undisputed material facts:

3.1.1 Coedffranc Community Council adopted a code of conduct for Council members in December 2001.

3.1.2 In February and March 2004, the time of the alleged misconduct, Councillor Roger Brooks was a community councillor for Coedffranc.

3.1.3 Councillor Brooks gave a written undertaking to observe the Community Council's code of conduct on 1 February 2002.

3.1.4 At the material time, Councillor Brooks was Chairman of the Community Council.

3.1.5 At the material time, Councillor Brooks was also a committee member and Treasurer of Skewen Athletic Football Club.

3.1.6 At the material time, Skewen Athletic Football Club owed a sum of money to Lonlas Youth Club.

3.1.7 On 2 March 2004, Councillor Brooks paid the Youth Club a cheque in the sum of £375.00 on behalf of Skewen Football Club.

Alleged Breach - Failure to Disclose an Interest at Council Meeting on 3 March 2004

3.1.8 On 29 February 2004, Mr Neil Collins, a committee member of Lonlas Youth Club, wrote a letter of complaint to Mrs. Wendy Thomas, Clerk to Coedffranc Community Council, Carnegie Hall, Skewen. It made allegations against the Council, the Football Club and Councillor Brooks' conduct.

3.1.9 On Wednesday 3 March 2004, there was meeting of Coedffranc

Community Council at Carnegie Hall that was chaired by Councillor Brooks.

3.1.10 The letter of complaint from Mr Collins was read out at that meeting.

3.1.11 Councillor Brooks did not declare an interest or withdraw from the meeting of 3 March 2004, when the Council dealt with the letter of complaint from Mr Collins.

Alleged Breach - Misuse of Position

3.1.12 In a letter dated 5 February 2004, the Community Council granted Lonlas Youth Club permission to hold the "Lonlas Annual Tournament" at Tennant Park, free of charge, on 1 and 2 May 2004. The letter also indicated that 3 May was available at a fee of £60.

3.1.13 Councillor Brooks telephoned Mr Stuart John, Chairman of Lonlas Youth Club, to discuss a possible fixture at Tennant Park during the weekend scheduled for the annual tournament.

3.2. The Appeal Tribunal found the following disputed material facts:

Alleged Breach - Failure to Disclose an Interest at Council Meeting on 3 March 2004

3.2.1 Whether Councillor Brooks had prior knowledge of Mr Collins' letter of complaint and its contents before it was read out at the meeting of 3 March 2004.

Alleged Breach - Misuse of Position

3.2.2 Whether, in telephoning Mr John, Councillor Brooks implied that Skewen Athletic Football Club had priority over Tennant Park on one or more of the dates required by the Youth Club.

3.2.3 Whether Councillor Brooks was party to the decision by the Executive Committee of Skewen Athletic Football Club to seek to persuade the Youth Club to write off the debt owed to it by the Football Club.

3.2.4 Whether Councillor Brooks supported other members of the Football Club in seeking to persuade the Youth Club to write off the debt owed and later confirming this involvement in a telephone conversation with Mr Collins.

3.2.5 Whether Councillor Brooks used or adopted the following expression, "What is £375 to them when they can raise £3,000 if we allow them to have their tournament on that weekend".

3.3. The Appeal Tribunal found the following in respect of the disputed facts:

3.3.1. The tribunal was not satisfied that Councillor Brooks had prior knowledge of Mr Collins' letter of complaint of that it was going to be read out at the meeting of 3 March 2004. The letter of complaint did not feature in the published agenda for the meeting.

3.3.2. The Tribunal is satisfied that Councillor Brooks attended, as Treasurer, a meeting on 23 February 2004 of Skewen AFC at the Miners Public House in Skewen. At that meeting, the debt owed by Skewen AFC to Lonlas Youth Club was discussed. There was also a discussion concerning whether the debt could be extinguished by allowing the Youth Club the use of Tennant Park. Thereafter, there were phone calls in the community in which Councillor Brooks participated to discuss the debt and the use of Tennant park. The Tribunal is satisfied that during various discussions Councillor Brooks was involved in attempting to engineer the cancellation of the debt.

3.3.3. On the 29 February 2004, the complainant, Neil Collins, wrote a letter of complaint to Coedffranc Community Council alleging that Councillor Brooks had misused his position as Treasurer of Skewen AFC and Chair of the Community Council. The Community Council ultimately had the power to allow the use of the facilities at Tennant Park.

3.3.4. On 2 March 2004, Councillor Brooks, as Treasurer for the AFC, paid a cheque to Lonlas Youth Club in the sum of £375.

3.3.5. At the Community Council meeting of 3 March 2004, it must have been apparent to Councillor Brooks that the letter of complaint, read out at the end of the meeting, involved him. As soon as he heard that it involved a dispute between Skewen AFC and the Youth Club and, furthermore, made specific allegations against him, he should have immediately declared an interest. He should also have informed the Council that he would play no part in their deliberations, considered absenting himself and certainly stepped down from the Chair.

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

4.1. The Appellant's Submissions

4.1.1. Councillor Brooks has submitted to the Tribunal that his failure to leave the meeting was a mere oversight and that he played no part in trying to extinguish the debt in exchange for the use of facilities at Tennant Park.

4.2. The Ombudsman's Report

4.2.1. The Ombudsman was disparaging of Councillor Brooks for his failure to interact in his inquiries but made findings that both breaches of the Code were proven.

4.3. Appeal Tribunal's Decision

4.3.1. On the basis of the findings of fact, the Appeal Tribunal found by a unanimous decision that there was a failure to comply with the Coedffranc Community Council's Code of Conduct as follows:

- i. Paragraph 7(a) of the Code of Conduct states that:

“(a) [Members:] must not, in their official capacity or otherwise, use their position improperly to confer on or secure for any person and in particular their family, friends or those with whom they have a close personal association an advantage or disadvantage or to secure an advantage for themselves;”

The Appeal Tribunal found that Councillor Brooks was party to the Skewen AFC discussion and decision to try to extinguish the debt and made phone calls to members of the community. When making these phone calls, the Tribunal was satisfied that he was doing so as a councillor and as Treasurer of Skewen AFC. The purpose behind these actions being an attempt to gain a financial advantage for Skewen AFC. This amounts to a breach of paragraph 7(a).

ii. Paragraph 11(a) of the Code of Conduct states that:

“A member has a personal interest in a matter if that member anticipates that a decision upon it might reasonably be regarded as likely to benefit or disadvantage:

(a) the member, one of the member’s family or a friend, or any person with whom the member has a close personal association, or.....

to a greater extent than other council tax payers, ratepayers or inhabitants of the authority’s area.”

iii. Paragraph 16(3) of the Code of Conduct states that:

“A member who has a personal interest in a matter which is not specified in paragraphs 12, 13 or 14 above and who attends a meeting of the authority at which the matter is discussed must disclose the existence and nature of the interest at the commencement of that discussion or when the interest becomes apparent. If that personal interest is such that a member of the public might reasonably conclude that it would significantly affect the member’s ability to act purely on the merits of the case and in the public interest if that member were to take part in the discussion of that matter, the member must also withdraw from consideration of the matter at that meeting unless granted a dispensation by the authority’s standards committee.”

In relation to Paragraphs 11(a) and 16(3), the Tribunal found that Councillor Brooks, at the relevant meeting, failed to declare an interest, failed to absent himself and failed to step down as Chair of the meeting. This amounts to a breach of the Code.

5. SUBMISSIONS ON ACTION TO BE TAKEN

5.1. The Appellant’s Submissions

5.1.1. Councillor Brooks contended that the breach was trivial, no parties had suffered loss and that his further exemplary conduct should be taken into account in the event of a breach being found. Councillor Brooks and his solicitor advocated that a suspended sentence, censure or reprimand would be an appropriate penalty.

5.2. Appeal Tribunal’s Decision

5.2.1. The Appeal Tribunal considered all the facts of the case including the mitigation put forward.

5.2.2. The Appeal Tribunal accordingly decided by unanimous decision to uphold the determination of Neath Port Talbot County Borough Council's Standards Committee that Councillor Brooks had breached Coedffranc Community Council's code of conduct. The Appeal Tribunal further determined to dismiss Councillor Brooks' appeal and to endorse the decision of the Standards Committee that Councillor Brooks should be suspended from being a member of Coedffranc Community Council for a period of 2 months.

5.2.3. The Neath Port Talbot County Borough Council's Standards Committee and Coedffranc Community Council are notified accordingly.

Signed.....
2006...

Date...3 May

Stewart Sandbrook-Hughes

Chairperson of the Appeal Tribunal

Julia Morris

Panel Member

Ian Blair

Panel Member