

Tribunal Reference Number: APW/009/2005/A

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

APPELLANT: Councillor T G Davies

RELEVANT AUTHORITY(IES): St Brides Major 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 T G Davies against the decision of the Vale of Glamorgan Council Standards Committee that he had breached St Brides Major Community Council's code of conduct and should be suspended for a period of 3 months.

1.2 A hearing was held by the Appeal Tribunal at 10.00 am on Tuesday 24 October 2006 at the Copthorne Hotel, Culverhouse Cross, Cardiff. The hearing was open to the public.

2. PRELIMINARY DOCUMENTS

2.1 Appeal Against Decision of Standards Committee

2.1.1 In a letter dated 22 November 2005, the Adjudication Panel for Wales received an appeal from Councillor Davies against the determination of the Vale of Glamorgan Council Standards Committee that he had breached St Brides Major Community Council's code of conduct and should be suspended for a period of 3 months.

2.1.2 The Standards Committee's determination followed its consideration of a report by the Monitoring Officer of the Vale of Glamorgan Council under the terms of section 70(4) of the Local Government Act 2000 and the 'Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001.

2.1.3 The allegations were that Councillor Davies had breached St Brides Major Community Council's Code of Conduct by failing to declare an interest and withdraw from a meeting of the Community Council when a matter concerning a contract with his son's firm, CPD Maintenance, came before the Council for discussion and/or decision.

2.2 The Councillor's Response

2.2.1 Councillor Davies stated that the Standards Committee had failed to identify the date on which it concluded that he had breached the code of conduct. While furthermore the Committee had failed to discharge its duty to provide him with adequate reasons for its decision.

3. ORAL SUBMISSIONS

3.1 Councillor Davies confirmed paragraph 2.2.1 above. He supported his oral submissions with a written document presented to the Tribunal on the day of the hearing.

4. FINDINGS OF FACT

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

4.1.1 Councillor T G Davies has been a member of St Brides Major Community Council since May 1967.

4.1.2 St Brides Major Community Council adopted a code of conduct for members on 10 December 2001.

4.1.3 Councillor Davies gave an undertaking to observe the code of conduct on 11 February 2002 and, following his re-election, on 14 June 2004.

4.1.4 Councillor Davies attended a training session held by the Vale of Glamorgan Council for community councillors in June 2004.

4.1.5 Councillor Davies' son conducts a business known as CPD Maintenance.

4.1.6 CPD Maintenance undertakes work to bus shelters pursuant to a contract with St Brides Major Community Council.

4.1.7 In his written statement of 26 May 2005, Councillor Davies admits to speaking in relation to an issue concerning the performance of CPD Maintenance as a contractor to St Brides Major Community Council.

4.1.8 In his statement of 26 May 2005, Councillor Davies admits to being present at meetings of St Brides Major Community Council, on various unspecified dates, when the council authorised payments to CPD Maintenance.

4.1.9 Councillor Davies appeared before the Standards Committee of the Vale of Glamorgan Council on 13 October 2005 and was subsequently suspended from being a member of St Brides Major Community Council for a period of 3 months, subject to the outcome of any appeal.

4.2. The Appeal Tribunal was satisfied that the Standards Committee found that there was one breach of the code when it resolved that, "...Councillor Davies did not declare an interest and withdraw from a meeting when a matter concerning a contract with his son's firm....came before the Council for discussion and decision...". The breach must, therefore, have occurred on one occasion alone. The Standards Committee could not have been satisfied that there had been other breaches. The Committee failed to identify the date of the breach. Each individual is entitled to know the date of a transgression or, where it is a course of conduct, the period or periods when that conduct occurred. The appellant was

severely handicapped in presenting his case to this Tribunal without the foregoing information.

5. The Tribunal members unanimously considered the following, namely:

- a) Referring the matter back to the Standards Committee. However, the Tribunal has no statutory or other power to do so and, in any event, can only review the determination of the Standards Committee.
- b) There had been substantial delays in this matter.
- c) There would be further substantial public expense.
- d) Given the period of time witnesses' memories would have faded.

6. The Tribunal was satisfied that the Standards Committee had not specified the date of the breach(s), nor had it given adequate reasons for its decision. These defects are no criticism of those that appeared before the Committee, but of the way in which the Committee set out its determination. The Tribunal does not exist to remedy such defects for the reasons given above.

7. The Appeal Tribunal accordingly decided by unanimous decision to quash the determination of the Vale of Glamorgan Council Standards Committee that Councillor Davies had breached St Brides Major Community Council's code of conduct.

8. The Vale of Glamorgan Council Standards Committee and St Brides Major Community Council are notified accordingly.

Signed.....
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Date.....

Stewart Sandbrook-Hughes

Chairperson of the Appeal Tribunal

Colin Evans

Panel Member

Christine Jones

Panel Member