

Tribunal Reference Number: APW003/2006-07/CT

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

Respondent: Cllr Margaret Morris

RELEVANT AUTHORITY(IES): Brecon Beacons National Park Authority

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 10.00 am on Monday 12 March 2007 in the Penyfan Room, Peterstone Court Hotel, Llanhamlach, Brecon. The hearing was open to the public.

1.3 Councillor Morris attended and was represented by Mr Peter Keith-Lucas, Solicitor of Messrs Bevan Brittan, 35 Colston Avenue, Bristol, BS1 4TT.

2. PRELIMINARY DOCUMENTS

2.1 Reference from the Public Services Ombudsman for Wales

2.1.1 In a letter dated 29 June 2006, the Adjudication Panel for Wales received a referral from the Public Services Ombudsman for Wales ("the Ombudsman") in relation to allegations made against Councillor Margaret Morris. The allegations were that Councillor Morris had breached the Brecon Beacons National Park Authority's code of conduct by deliberately setting out to mislead the Ombudsman's investigating officer on two separate occasions, by failing to disclose information relating to an entry in the register of gifts and hospitality of the authority.

2.2 The Councillor's Written Response to the Reference

2.2.1 Councillor Morris responded to the reference as follows:

- a) Her visit to Dan-yr-Ogof Showcaves was not pre-arranged; it was simply an ad hoc visit when she happened to be in the area.
- b) She was accompanied by her two daughters-in-law and two small grandchildren as paying tourists.
- c) They did not receive free refreshments.
- d) They did not receive any particular attention during their visit.
- e) On the Monday following the visit, she casually mentioned the visit to her personal assistant, Mrs Julia Gruffydd. She had been a little taken aback when Mrs Gruffydd had said she must fill in the register of gifts and hospitality, but made no comment

and filled in the register.

f) She had not mentioned the entry in the register to the Ombudsman's investigating officer as it had nothing to do with her position as Chair of the National Park Authority and there was nothing personal to her or her family in the visit.

2.2.2 Matters commented on by Councillor Morris, referred to by paragraph numbers of the Ombudsman's report:

a) Paragraph 1. – the word "guest" had been wrongly defined.

b) Paragraph 2. – the word "hospitality" had been wrongly defined.

c) Paragraph 12. – Councillor Morris had said that she would visit the caves "sometime".

d) Paragraph 13. (the Ombudsman's conclusions) – Mrs Gruffydd might well have misheard or misconstrued the events. Councillor Morris had not mentioned the visit to the Ombudsman's investigating officers as it had nothing to do with her position as Chair of the authority and there was nothing personal to her or her family in the visit.

2.3 The Ombudsman's Written Representations

2.3.1 In letters dated 22 February and 6 March 2007, the Ombudsman reiterated that Councillor Morris' stance in her written response to the referral was out of accord with what she had told Mrs Gruffydd at the time. The Ombudsman found it difficult to accept that an experienced member would simply comply with an instruction from an officer, rather than making it clear at the time that she had not received any hospitality from Mr Ashford Price.

3. ORAL SUBMISSIONS

Mrs Julia Gruffydd

3.1 The Case Tribunal heard evidence from Mrs Julia Gruffydd who confirmed the information that she had given to the Ombudsman and his investigating officers. She was also certain that Councillor Morris had used the words that she had been "given tea" at the Showcaves. Mrs Gruffydd said that she had only suggested to Councillor Morris that she should sign the register of gifts and hospitality and that Councillor Morris had done so willingly without question. She also said that Councillor Morris had been given an invitation in advance by Mr Ashford Price to attend the Showcaves.

Councillor Margaret Morris

3.2 Councillor Morris made the following oral submissions.

3.2.1 Councillor Morris had met Mr Ashford Price, the owner of Dan-yr-Ogof Showcaves, after a meeting of the National Park Authority's Development Control Committee on 1 November 2005. She had mentioned in passing that she had not

been to the Showcaves for many years. Mr Price suggested that she should visit and she had said that she would. The matter was left at that, with no arrangements made. She had mentioned this to Mrs Gruffydd.

3.2.2 A fortnight or so later, she happened to be in the area on other entirely personal business with her two daughters-in-law and two small grandchildren. They visited the Showcaves on the way home from the family outing. She had informed Mrs Gruffydd of her intention to do so. She had not informed Mr Price.

3.2.3 The family visited the Showcaves as paying guests and bought refreshments in the coffee shop. She spoke to Mr Price who was on site talking to all visitors. He did not give her any particular or personal attention.

3.2.4 On the Monday following the visit, she informed Mrs Gruffydd of her visit. Mrs Gruffydd spoke to the Chief Executive and advised Councillor Morris to sign the register of gifts and hospitality.

3.2.5 Councillor Morris did not see why she should sign the register, but said that as she was a new Chair of the authority she accepted Mrs Gruffydd's advice as "the expert". She said that she signed the register and thought no more about it.

3.2.6 Councillor Morris said she may very well have used the words "we were given tea" and that this may have led Mrs Gruffydd to misunderstand the situation.

3.2.7 Councillor Morris' understanding of the term 'hospitality' is "friendliness" or "kindness" and not necessarily "gifts" or "freebies" or "backhanders".

3.2.8 As a Powys County Councillor, Councillor Morris had occasion to declare hospitality and gifts and was familiar with filling in the register. On this occasion she had filled in the register without great thought and as nothing more than a diary entry.

3.3 The Case Tribunal was provided with letters from the two daughters-in-law stating that the family had entered Dan-yr-Ogof Showcaves through the ticket turnstiles and that they had bought refreshments in the public tea rooms.

3.4 The Case Tribunal received a letter from Mr Ashford Price stating that he had mentioned to Councillor Morris that if she was ever passing the Showcaves that she should look in. He had bumped into her at the complex on a Sunday and came across her and her family having tea in the coffee shop.

4. FINDINGS OF FACT

4.1 The Case Tribunal found the following undisputed material facts:

4.1.1 At the material time, Councillor Morris was a member and Chairperson of the Brecon Beacons National Park Authority.

4.1.2 Councillor Morris was also a member of Powys County Council.

4.1.3 Councillor Morris signed a written undertaking to be guided by the local government code of conduct on 26 July 2004 and again on 24 June 2005, when elected as Chairperson of the Brecon Beacons National Park Authority.

4.1.4 Councillor Morris visited the National Showcaves Centre for Wales at Dan-yr-Ogof with members of her family in July 2005 and took refreshments during the visit.

4.1.5 During the visit, Councillor Morris spoke to the owner, who at the time was mixing with visitors to the Showcaves Centre.

4.1.6 Following the visit, the following entry was made in the "Register of Gifts and Hospitality" for members of the Brecon Beacons National Park Authority:

Number	Name of Member	Date Registered	Name of Donor	Nature of Gift / Hospitality Relationship of Donor with Authority / Member Action Taken
6.	Cllr M. Morris	22/7/05	Dan-yr-Ogof Caves	Afternoon tour of complex + tea & cakes for Chairman, 2 Daughters in law + 2 small children
			None	None

4.1.7 The above entry was not disclosed to the Ombudsman during the course of his investigations into the allegations made in November 2005 against Councillor Morris.

4.2 The Case Tribunal found the following disputed material facts:

4.2.1 Councillor Morris attended the Showcaves Centre free of charge as a guest of the owner.

4.2.2 Councillor Morris received refreshments from the owner free of charge.

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

4.3.1 Councillor Morris paid the admission price to Dan-yr-Ogof Showcaves.

4.3.2 Councillor Morris and her party did not receive free refreshments at Dan-yr-Ogof Showcaves during their visit.

4.3.3 The entry in the register of gifts and hospitality was made in all probability as a result of a misunderstanding.

4.3.4 Councillor Morris did not mention the entry to the Ombudsman of his investigators, as she had not appreciated its significance.

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 The Case Tribunal did not invite any further submissions from Councillor Morris.

5.2 The Ombudsman's Report

5.2.1 The Ombudsman concluded:

- a) Councillor Morris had insisted that she had visited the Showcaves as an ordinary paying guest, but this version of events did not accord with Mrs Julia Gruffydd's clear recollection of what Councillor Morris told her immediately after the event.
- b) He was extremely concerned that Councillor Morris failed to mention the entry in the register in her response to the allegations made against her.
- c) He was perturbed by the discrepancy between Councillor Morris' response to his latest investigation and what she told Mrs Gruffydd at the time.
- d) Councillor Morris had set out quite deliberately on two separate occasions to mislead his investigating officer, thereby behaving in a manner bringing the office of member into disrepute in breach of paragraph 6(1)(b) of the authority's code of conduct.

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 not a failure to comply with the Brecon Beacons National Park Authority's code of conduct.

5.3.2 The Brecon Beacons National Park Authority and its Standards Committee are notified accordingly.

6. SUBMISSIONS ON ACTION TO BE TAKEN

6.1 The Respondent's Submissions

6.1.1 Councillor Morris' legal representative made application to the Case Tribunal for the award of costs against the Public Services Ombudsman for Wales, on the basis that his conduct had been "wholly unreasonable" in that he had failed to conduct a proper investigation into the allegation against her.

6.1.2 The Case Tribunal deferred consideration of the application until 3 April, when written representations from both parties were received. The Case Tribunal concluded that it would have been possible for the Ombudsman to carry out further enquiries to verify matters relating to the allegation against Councillor Morris. However, the Case Tribunal did not regard the Ombudsman's conduct to be "wholly unreasonable" in this regard, as required under the relevant regulations. The application was, therefore, denied.

Signed..... Date...4 May 2007...

Mrs Helen Cole
Chairperson of the Case Tribunal

Mr J Peter Davies
Panel Member

Mrs Christine Jones
Panel Member