

**PANEL DYFARNU CYMRU  
ADJUDICATION PANEL FOR WALES**

**DECISION REPORT**

**TRIBUNAL REFERENCE NUMBER:** APW/004/2009-010/CT

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

**RESPONDENT:** Councillor Paul Baccara

**RELEVANT AUTHORITY(IES):** Rhondda Cynon Taf County Borough  
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 A meeting was held by the Case Tribunal at 10.30am on Monday 18 January 2010 at the Angel Hotel, Cardiff. With Cllr Baccara's agreement, the Case Tribunal determined its adjudication by way of written representations.

**2. PRELIMINARY DOCUMENTS**

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

2.1.1 In a letter dated 23 September 2009, the Adjudication Panel for Wales received a referral from the Public Services Ombudsman for Wales ("the Ombudsman") in relation to allegations made against Cllr Baccara. The allegations considered by the Case Tribunal were that Cllr Baccara had breached paragraph 4(b) of Rhondda Cynon Taf County Borough Council's Code of Conduct by failing to show respect for the feelings of a third party (referred to in this report as "Mrs M") when sending an e-mail dated 27 February 2009, the contents of which also brought the office of member into disrepute in breach of paragraph 6(1)(b) of the code.

2.1.2 Cllr Baccara had written an article in a local newspaper. An issue arose in respect of its contents and there was e-mail correspondence between Mrs M and Cllr Baccara.

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

2.2.1 In a letter dated 8 October, Cllr Baccara indicated that he did not dispute the content of the Ombudsman's report.

2.2.2 In a separate letter dated 8 October, Cllr Baccara made the following points:

- i. He accepted it was totally inappropriate and wrong for him to send an e-mail of 27 February 2009 but did feel that he was responding to a forceful e-mail.
- ii. The contents of the original article were not inappropriate.
- iii. That the inappropriate e-mail sent on 27 February 2009 was as a result of a long telephone conversation with Mrs M. He accepted that the e-mail went further than what was required in the circumstances.
- iv. He did not mean to hurt or upset anyone. He had forwarded a further e-mail to Mrs M apologising if what he had said had upset her.
- v. He regarded himself as a very hard working independent councillor and “this stupid mistake has devastated me”.
- vi. During the period of time that the e-mail was sent Cllr Baccara was suffering from ill health.

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

2.3.1 In an annex to a letter dated 22 October 2009, the Ombudsman made the following comments on the points made by Cllr Baccara in his written submissions:

- i. The comments made by Mrs M as reported by the Respondent himself do not appear to cross the line into being “extremely rude and verbally offensive” as suggested by Cllr Baccara.
- ii. The email of 27 February was not sent until some eight hours after the telephone conversation with Mrs M. The Respondent’s suggestion that he sent the inappropriate email as a result of his conversation with Mrs M and her subsequent email is entirely at odds with the evidence.
- iii. At interview, the Respondent confirmed that his email had been checked prior to sending via the procedure he had put in place following a previous appearance before the Adjudication Panel.
- iv. The Respondent’s email of 2 March 2009, whilst expressing regret at any upset that the newspaper article may have unintentionally caused, did not apologise for the tone or content of his email to Mrs M and therefore cannot be said to represent a sincere apology for the Respondent’s “error of judgement” – that is, the inappropriate email.

## **3. FINDINGS OF FACT**

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

3.1.1 Cllr Baccara is a member of Rhondda Cynon Taf County Borough Council and has been a member since 2001.

3.1.2 On 3 May 2008, Cllr Baccara signed an undertaking to comply with the Rhondda Cynon Taf County Borough Council members' Code of Conduct, adopted by the Council on 2 May 2008.

3.1.3 On 6 February 2009, a road traffic accident occurred in which a 10 year old boy was injured. Cllr Baccara wrote an article which made reference to the incident in the March 2009 edition of the "District Diary", a monthly publication for the Pontyclun area.

3.1.4 A telephone conversation subsequently took place between Cllr Baccara and Mrs M.

3.1.5 On 26 February 2009, at 15.24, Mrs M forwarded to Cllr Baccara a letter by way of e-mail referring to a telephone conversation at 10.41. This referred to her disappointment and shock at receiving "the abuse from you this morning". The e-mail concluded "I did not threaten you, neither did my husband. All we wanted from you was an apology for causing distress and to acknowledge that a bit more thought should have been put into this article and unfortunately all we have had is a torrent of abuse".

3.1.6 Cllr Baccara responded by way of an e-mail on 27 February 2009, at 18.33, stating as follows:-

*"You have not had abuse from me at all. What a load of Bull you talk. You seem to want your child and [another]" in the limelight. I will not do it, tolerate or accept that.*

*The fact is, your child was wrong. Crossed against a red man light. Why are you defending his lack of knowledge of the highway code. As a parent YOU are wrong! You fail to take ANY responsibility for allowing your 10yr old child out, alone (as in no adult) to cross a busy road.*

*You can scream and complain to whoever you like. I have spoken again to Police Inspector Jones today and the School. They have spoken to me. YOU must take responsibility for your child. YOU are responsible for his welfare. YOU ARE WRONG, don't you dare try and shift blame on me for an article trying to stop this happening again. All the blame is on you and your ill-educated in the highway code son. Have you even thought about the car driver?*

*Now don't you dare try and shift your inadequacies as a parent upon me. Until you contacted me, I was not aware who was involved because of data protection. Now I know it is you, I can use you as an example of bad parenting to warn others that 10yr old children are children and a good parent would not allow a 10 yr old out to cross the busiest road in RCT.*

*You can complain about me as much as you like, to whoever you like. You and your son are in the wrong and nearly caused a child to die. THINK. My Diary article informs and educates, your lack of parental judgement nearly lost a life. Get a balance please.*

*Cllr Baccara"*

3.1.7 On 2 March 2008, Cllr Baccara forwarded another e-mail to Mrs M referring to a subsequent conversation he had with the Police Inspector. Reference is made to an e-mail received from the mother of another child. The e-mail continues:

*“As far as I am concerned the matter is over. I have nothing to apologise for, for what I wrote in the Diary but, I do apologise if, for some reason it did upset you. I suspect other things have been said and this was the tip of the iceberg for you.*

*I will therefore not be making any further reference to this incident in the District Diary or anywhere else for that matter. It will only inflame the situation and be detrimental to the boys.*

*I trust you will except that the matter is now closed. For my own benefit tapes of your message, our conversation and all e-mails will be safely secured and filed away and I have every intention of never returning to the matter again.*

*Yours sincerely*

*CLLR PAUL BACCARA”*

3.1.8 On 11 March 2009, the Public Services Ombudsman for Wales received a complaint from Mrs M which included the complaint that:

*“...Cllr Baccara had sent me an inappropriate and threatening e-mail (enclosed) which upset me ..... After this I received what I regard as a veiled apology from Councillor Baccara. Both e-mails were sent using his RCT email address.”*

#### Relevant Disputed Facts

3.2 The Case Tribunal found no **disputed** material facts.

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

### **4.1 The Respondent’s Submissions**

4.1.1 Cllr Baccara had made no submissions as to whether the material facts disclosed a failure to comply with the Code of Conduct.

### **4.2 The Ombudsman’s Report**

4.2.1 In addition to the conclusion of his report, the Ombudsman made the following written response to Cllr Baccara’s submissions.

- i. The conclusion that the newspaper article did not breach the Code of Conduct was not relevant in respect of the inappropriate e-mail sent.

- ii. Whilst Cllr Baccara had discussed the matter with the police this again was not relevant to the issue of the inappropriate e-mail.
- iii. During the investigation Cllr Baccara had not raised the issue of his ill health.

#### **4.3 Case Tribunal's Decision**

4.3.1 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 Rhondda Cynon Taf County Borough Council's Code of Conduct.

4.3.2 Paragraph 4(b) of the Code of Conduct states that *"[members] must show respect and consideration for others."*

4.3.3 The Case Tribunal found that Cllr Baccara failed to show respect and consideration to others in particular to Mrs M. The e-mail of 27 February 2009 contained:-

- i. Inappropriate language (e.g. *"load of bull"*)
- ii. Emphasis by way of use of capital letters being the equivalent to shouting.
- iii. Unfounded allegations on the basis of Cllr Baccara's admitted knowledge of the facts.
- iv. Failures to take account of the feelings of a mother whose son had been involved in a road traffic accident and the making of serious allegations against her (e.g. *"your inadequacies as a parent," "your lack of parental judgement"*).
- v. Overall tone of the e-mail.

4.3.4 Paragraph 6(1)(a) of the Code of Conduct states that *"[members] must not conduct [themselves] in a manner which could reasonably be regarded as bringing [their] office or authority into disrepute."*

4.3.5 The Case Tribunal concluded that the e-mail could reasonably be regarded as bringing the office of a councillor into disrepute. In coming to this conclusion the Case Tribunal considered:-

- i. The aggressive tone of the e-mail.
- ii. Its threatening nature, in particular the words *"now I know it is you I can use you as an example of bad parenting"*
- iii. The serious and personal allegation on the basis of limited knowledge as to the parenting skills of Mrs M, e.g. *"your lack of potential judgement nearly cost a life"*.

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

### **5.1 The Respondent's Submissions**

5.1.1 In letters dated 8 October and 20 December 2009, Cllr Baccara stated:

- i. The e-mail was sent at a period of time when he was suffering from ill health. Evidence of ill health was received by the Tribunal.
- ii. He had worked hard as an independent councillor.
- iii. He acknowledged the inappropriate nature of the e-mail and had forwarded a further e-mail apologising within three days.
- iv. The e-mail was a stupid mistake which had devastated him. Eleven months had passed since the forwarding of the e-mail and he had attended to his Council duties diligently and without any cause of complaint. He had obtained further training. He had admitted he was in the wrong. He acknowledged a punishment must be forthcoming but hoped this will not allow his electorate to be unrepresented for a very long period of time because of his stupidity and thoughtlessness.

### **5.2 Case Tribunal's Decision**

5.2.1 The Case Tribunal considered all the facts of the case and in particular the following:

5.2.1.1 There were two breaches, one of which brought the office of councillor into disrepute.

5.2.1.2 Cllr Baccara had previously breached the Code of Conduct:-

- i. 1 September 2003 he was censured by the Standards Committee of Rhondda Cynon Taf for bringing the office of member into disrepute by postings on a website.
- ii. He had been suspended for two months on 13 September 2006 by the Adjudication Panel for Wales for:
  - (a) Breaching paragraph 4(a) (failure to show respect and consideration to the recipient of an e-mail, the contents of which were aggressive, upsetting and threatening and the sending of which was wholly unnecessary, inappropriate and unsolicited.
  - (b) Breaching paragraph 6(1)(a) by being convicted of a criminal offence of drink driving
  - (c) Breaching paragraph 6(1)(b) by bringing the office of Member into disrepute by sending an inappropriate e-mail.

5.2.1.3 Cllr Baccara's ill health and his statement that on this occasion safeguards in sending e-mails had not worked. He had fully cooperated with the

Investigating Officer and the Adjudication Panel. His acknowledgement that the e-mail should not have been sent, and his subsequent e-mail apologising to Mrs M, were taken into account by the Case Tribunal.

5.2.2 The Case Tribunal had regard to aggravating features:

- i. The breach included that of bringing the office of a councillor into disrepute.
- ii. The persistent pattern of behaviour by Cllr Baccara that involved repeated failures to abide by the provisions of the Code.
- iii. His failure to heed previous appropriate advice.
- iv. The previous findings of identical failures to follow the provisions of the Code. He was an experienced councillor.

5.2.3 The Case Tribunal gave serious consideration to disqualification being the appropriate sanction. There were previous breaches including a serious appearance before the Adjudication Panel for Wales where he had been suspended for two months. The Case Tribunal concluded, notwithstanding the fact that this was the second appearance before the Adjudication Panel for Wales, that this was an incident involving a single e-mail where there was an acknowledgement of its inappropriate nature. On this basis the Case Tribunal concluded that suspension was the appropriate remedy but that the period of suspension would be 12 months to reflect the serious nature of the breaches.

5.2.4. The Case Tribunal concluded by unanimous decision that Cllr Baccara should be suspended from acting as a member of Rhondda Cynon Taf County Borough Council for a period of 12 months or, if shorter, the remainder of his term of office.

5.2.5 The Rhondda Cynon Taf County Borough Council and its Standards Committee are notified accordingly.

Signed.....  
Hywel James  
Chairperson of the Case Tribunal

Date...10 February 2010...

Christine Jones  
Panel Member

Ian Blair  
Panel Member