

**PANEL DYFARNU CYMRU
ADJUDICATION PANEL FOR WALES**

DECISION REPORT

TRIBUNAL REFERENCE NUMBER: APW/004/2010/011/CT

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

RESPONDENT: Councillor Frederick Wildgust

RELEVANT AUTHORITY(IES): Torfaen 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 hearing was held by the Case Tribunal commencing at 9.30 am on 11 January 2011 and continuing on 12 January 2011 at the Glen yr Afon Hotel, Pontypool Road, Usk NP15 1SX. The hearing was open to the public.

1.3 Cllr Wildgust attended. He was unrepresented. He was accompanied, at his request, by an acquaintance, "local resident" Mr David Sanders for support and in case he should require his assistance.

2. PRELIMINARY DOCUMENTS

2.1 Reference from the Public Services Ombudsman for Wales

2.1.1 In a letter dated 16 July 2010, the Adjudication Panel for Wales received a referral from the Public Services Ombudsman for Wales ("the Ombudsman") in relation to allegations made against Cllr Wildgust. The allegations were that he had breached the Torfaen County Borough Council's Code of Conduct by disclosing confidential/exempt information; sending rude and disrespectful emails to fellow councillors; making a statement calculated to cause controversy and disruption, circulating it to the general public and press whilst being reckless as to whether the statements could be substantiated; and posting comments about a fellow councillor on a website incorrectly implying that he had been given a position attracting a Special Responsibility Allowance as a means of influencing his vote during Council meetings

2.1.2 The circumstances leading to the alleged breaches of the Code of Conduct are evident from the undisputed material facts and the disputed material facts set out in paragraph 4 of this Decision Report.

2.2 The Respondent's Written Response to the Reference

2.2.1 Cllr Wildgust provided a proforma response to the Ombudsman's report dated 16 July 2010.

2.2.2 Matters commented on by Cllr Wildgust, referred to by paragraph numbers of the Ombudsman's report:-

- a) **Paragraph 59** – It has now been highlighted on numerous occasions how the Monitoring Officer and the Chief Executive have worked to support the (Labour) regime. The facts are correct.
- b) **Paragraphs 61-62** – The Labour regime have published a newsletter about me (Cllr Wildgust) and I have every right to do the same.
- c) **Paragraph 64** - Lynda Willis could not accept that I (Cllr Wildgust) do not use any Council resources. This was proven and she had to inform Cllr Mawby, but again she was desperate to find me in breach of the Code. The fact is, again, she falsely supported the (Labour) regime.
- d) **Paragraph 69** - Lynda Willis informed me (Cllr Wildgust) that I must stop using the term "parliamentary candidate" or I would be in breach of the Code; a complaint was made to the Ombudsman but it was dismissed but she applied pressure on me with the sole aim of protecting the Labour regime before a General Election.
- e) **Paragraph 72** - My (Cllr Wildgust) concerns about the committee and its members have come to fruition - a Labour member is facing the Adjudication Panel.
- f) **Paragraph 73** - The committee have failed to create a protocol because I (Cllr Wildgust) highlighted the problems with it. I have met with the committee and explained my views. The existing protocol is good enough; the new one is aimed at silencing the opposition. The draft protocol is dead.
- g) **Paragraph 75** - Lynda Willis is partial, this has been proven time and time again and another councillor has made a formal written complaint about her.
- h) **Paragraph 78** - The Council's legal department is manipulated by the (Labour) regime.
- i) **Paragraph 81** - Alison Ward has bullied me (Cllr Wildgust) and used her position to make false claims about my wife and even tried to get an employee of Grant Thornton to report me to the Ombudsman. She is a puppet of the Labour regime.
- j) **Paragraph 85** - I (Cllr Wildgust) have every right to make a complaint to a professional body of which Alison Ward is a member. The complaint will be

made after November 2010 in full compliance with Solace's complaints procedure.

- k) **Paragraph 87** - The Leader of the Council abuses the Council's resources, Lynda Willis denies any wrongdoing - she is partial.
- l) **Paragraph 90** - The advert promotes a Labour MP and how can I (Cllr Wildgust) be denied the same opportunity.
- m) **Paragraph 99** - The payments were kept private, I (Cllr Wildgust) exposed the truth. I believe that the Labour regime is morally corrupt and use partial officers to support them and keep them in power.
- n) **Generally** - The Monitoring Officer is a Labour regime puppet, she says what she is told to say and does what she is told to do. The information given by her to the Ombudsman is highly questionable and suspect. The Ombudsman's report provides a catalogue of events against her and Alison Ward, both of whom are puppets. They are able to use the full weight of the Council to crush a simple councillor. They have allowed the constitution to be broken to secure a paid role for a (Labour) regime supporter and have failed to correct such error as they support the (Labour) regime. I (Cllr Wildgust) want the Adjudication Panel to highlight Torfaen's failings so as to force improvement. If I am suspended by the Adjudication Panel nothing will change. The Tribunal is not about Fred Wildgust, it is about Torfaen and securing better services and the truth for the residents. The documents show throughout simple themes of truth, quality of service, honesty and integrity on my part working for the people of Torfaen and not for Torfaen County Borough Council.

2.3 The Ombudsman's Written Representations

2.3.1 The Ombudsman provided a proforma response to the above comments as follows: -

- a) **Paragraphs 59, 61-62, 64, 69, 75, 78, 87, 90 and 99** - These points comments and concerns were raised by Cllr Wildgust during the course of the investigation and have all been addressed in the Ombudsman's report.
- b) **Paragraph 72** - This matter has no relevance to the investigation.
- c) **Paragraph 73** - The decision to introduce a new protocol is a matter for Torfaen County Borough Council not the Ombudsman.
- d) **Paragraph 81** - The points made by Cllr Wildgust about his wife and the issue regarding the employee of Grant Thornton are not relevant to this investigation. The specific comments made by Cllr Wildgust about the Chief Executive mirror those made during the course of the investigation and have been dealt with in the report.

- e) **Paragraph 85** - Cllr Wildgust's right to complain has been reflected in the report.
- f) **Generally** - The comments made by Cllr Wildgust reflect the comments he has made during the course of the investigation and they have already been addressed in the Ombudsman's report. His comments suggest that Cllr Wildgust still does not appear to recognise that it is his conduct, as opposed to the Council's conduct, which is under scrutiny in these proceedings.

3. ORAL SUBMISSIONS

3.1. The Case Tribunal heard oral evidence and submissions as follows.

Public Services Ombudsman for Wales

3.2 The Ombudsman was represented by Ms Katrin Shaw (assisted by Ms Beverley Allen).

3.2.1 The Ombudsman relies on his Report. In summary there are five complaints about Cllr Wildgust's conduct.

3.2.2 Firstly, the disclosure of confidential information. As a matter of fact the report was exempt and confidential. Cllr Wildgust's challenge was also confidential because it contained details, including financial information, contained within the report. Cllr Wildgust copied his challenge to the press. In the Tribunal Bundle there is a Witness Statement from the journalist Ben Frampton which quotes financial information given to him by Cllr Wildgust during a telephone conversation they had shortly after the email challenge was sent.

3.2.3 Secondly, the email exchange between Cllr Wildgust and Cllr Cunningham the content and language of which was rude and disrespectful.

3.2.4 Thirdly, the email exchange between Cllr Wildgust and Cllr Mason the content and language of which was rude and disrespectful; it also contained reference to Cllr Mason's literacy, it was disclosed to others including the public at large. It was a wholly inappropriate attack on a fellow member.

3.2.5 Fourthly, numerous statements and accusations made by Cllr Wildgust without any foundation or supporting evidence, of partiality, bias and corruption on the part of the Monitoring Officer and the Chief Executive. Cllr Wildgust also threatened them with a vote of no confidence and all of this was circulated widely in the public domain, including in the press. The officers were put in a position of being unable to fully defend themselves, this threatened to seriously discredit their reputation and that of the Authority. Cllr Wildgust's conduct showed no respect or consideration for the officers and amounted to bullying and harassment; it had potential to compromise the impartiality of the officers and also brought his office and the Authority into disrepute.

3.2.6 Finally the rude and disrespectful comments made by Cllr Wildgust about Cllr Doug Jones implying that he had been bought. These were circulated widely in the public domain and in the press and had potential to make people question Cllr Jones' integrity. These actions showed no respect or consideration for Cllr Jones.

Lynda Willis

3.3 Ms Willis has been Monitoring Officer since December 2005. She said she had given considerable thought to the matter before she had made a complaint to the Ombudsman about Cllr Wildgust's actions. She felt that these were serious matters which she was not in a position to rectify herself. She also felt that a decision by the Ombudsman would be final whereas seeking to deal with Cllr Wildgust's behaviour internally could go on indefinitely. She said she acts fairly to all members and her complaint had nothing to do with party political issues. Following an earlier disclosure of confidential information she had issued advice to all members about confidentiality. The exempt report was clearly marked as exempt and confidential. Whilst Cllr Wildgust was perfectly entitled to challenge the decision he was not entitled to copy it to the press because the challenge contained confidential information such as an indication of the price for which the land would be sold. She had on numerous occasions given advice and guidance to Cllr Wildgust about his conduct and how he may be vulnerable to complaints of breach of the Code of Conduct. In relation to the emails to Cllr Mason, he had indicated that he was unhappy that they had been circulated to the public, but was willing to have the matter dealt with internally. She was particularly concerned with the comments made and circulated to the public, about Cllr Mason's literacy. It was because Cllr Wildgust had refused to provide an undertaking as to his future conduct that she had made a complaint about this matter to the Ombudsman. In relation to the Chief Executive's complaint, Ms Willis had invested time and effort in seeking to set up a protocol for members' complaints about other members. All members had been invited to contribute, including attending meetings and Cllr Wildgust had repeatedly refused to engage. There had been previous occasions when Cllr Wildgust had alleged that she was partial. This time he not only alleged partiality on her part, but also on the part of the legal department and he circulated the matter widely in the public domain and in the press. She did not advise on the matter of the complaint made by the Chief Executive; that would have been inappropriate, especially as the allegation made against her was that of partiality. In relation to Cllr Doug Jones' complaint, he had raised the matter with her and she had felt it an appropriate matter to be referred to the Ombudsman and had advised him to do so. She felt that Cllr Jones was sufficiently concerned about the matter and was not simply having an informal chat with her about it or seeking an informal resolution. In response to questions by Cllr Wildgust, Ms Willis confirmed she had not and was not suggesting that a previous leak of confidential information was attributed to him. She had no specific recollection of a conversation they'd had when he had alerted her to his having been contacted by the press. When Cllr Wildgust referred to an earlier article in the Pontypool Free Press on 9 June, which put in the public domain details about proposals for the site, Ms Willis confirmed that her complaint to the Ombudsman had been because Cllr Wildgust had copied his email challenge to the press, which contained details from the exempt report and the subsequent article in the paper which quoted Cllr Wildgust, giving

confidential financial information. Ms Willis rejected Cllr Wildgust's assertion that she was targeting him personally and that she had "one rule for one and one rule for another".

Cllr John Cunningham

3.4 Cllr Cunningham gave evidence on oath. He said he had been an elected member for 33 years. He confirmed the truth and accuracy of his complaint to the Ombudsman. By means of background, when Cllr Wildgust became an elected member he initially referred to him as "Fred" before being told by Cllr Wildgust not to address him in that way, being as he regarded him neither as a friend nor a member of his family. When he received an email from Cllr Wildgust addressed to "Friends and Colleagues" he responded, with humorous intention, and an email exchange followed which included a tirade of abuse, not only about him but also about the MP Paul Murphy, which went beyond acceptable conduct. In response to questions by Cllr Wildgust, Cllr Cunningham confirmed that Paul Murphy is a personal friend of his and that he is the MP's election agent. Cllr Wildgust then asserted that Cllr Cunningham himself had breached the Code by abusing his position improperly to promote his friend the MP Paul Murphy (he was reminded by the Tribunal of its function which does not include consideration of any complaints or allegations about other members which he must refer to the Ombudsman if his concerns are genuine.) Cllr Cunningham described Cllr Wildgust as a "cyber bully" who fails to show respect for colleagues by circulating disrespectful and critical emails accusing others of corruption and by making frivolous complaints; this was in response to Cllr Wildgust asking how Cllr Cunningham believed he had breached the Code of Conduct.

Ms Alison Ward

3.5 Ms Ward gave evidence on oath. She has been the Chief Executive since 2004 and was previously, from 2002, the assistant Chief Executive. She is also the Chair of Solace Wales, which is a membership body/society of local authority chief executives with no regulatory function. She confirmed the truth and accuracy of her complaint to the Ombudsman. The background to the complaint was the proposals for setting up a local protocol for member complaints. Lynda Willis had asked all members to contribute. Cllr Wildgust said he did not wish to discuss the matter and would not engage. He then made accusations about her partiality, which he circulated to the press. Ms Ward believed that he had not addressed his concerns in an appropriate way. She has a duty of care to all her staff. Cllr Wildgust had made the most serious allegation. He also made the same allegation about her. She asked him to substantiate his allegations by evidence, which he failed to do. The officers were left unable to defend themselves, they could not repudiate the allegations as they had no details or evidence in relation to the allegations. Cllr Wildgust's conduct amounted to bullying. Her reputation had been seriously compromised. Cllr Wildgust offered to meet her, but "in public with cameras" and she felt this demonstrated that he was not genuinely wishing to resolve issues, but seeking to attract more publicity by involving the press yet again. She felt this was a wholly inappropriate course of action. Ms Ward said even if Cllr Wildgust had produced evidence tending to support his allegations about her and/or Lynda Willis, she would still have made a complaint to the

Ombudsman as she would still have felt that the language used by Cllr Wildgust and his public criticism of senior officers in the press, was not an appropriate means of pursuing complaints. She felt bullied by Cllr Wildgust's threats of a vote of no confidence. She felt he had a personal vendetta against her and Ms Willis and this view, she believes, is borne out by the escalation of similar activities by Cllr Wildgust, including further threats of a vote of no confidence, right up until literally a couple of days before this Tribunal hearing. Ms Ward said there is no evidence to support Cllr Wildgust's various allegations. He is attempting to bully her by discrediting her reputation publicly, with various organisations and nationally, being as she has a high public profile. She had seen his attempts to discredit Lynda Willis and could see that he was attempting to do the same to her. He is completely unrepentant.

Cllr Frederick Wildgust

3.6 Cllr Wildgust made the following oral submissions:

3.6.1 He does not believe he disclosed confidential information to Ben Frampton. He was at the meeting on 26 June and heard all the proposals and the full details of the sale of the site. He said that the figure for the sale price in the report is incorrect. The site was to be sold for £600,000. He was flabbergasted; it was like giving it away; the proposals amounted to selling the land on HP. He had grave concerns. He was of the view that the site was worth £10m-£15m. He remonstrated about all of this at the meeting and said he would be making a challenge. He did not take a copy of the report at the meeting. He said he was "paranoid" about how he is being treated in the Council. Cllr Wildgust said he knows more about this site and the proposals for it than anyone else at all, including all of the officers. After he sent a copy of the email challenge to the press at approximately 4.28 pm, he received a telephone call from Ben Frampton at about 5.00 pm. He pushed him for information; he told Ben Frampton that he had most of the story already, referring to the previous article which had appeared on 9 June. He said he told Ben Frampton that in his opinion the land was worth £10m-£15m and that he believed the Council were going to give it away (ie. sell it for much less). He then telephoned Lynda Willis to tell her that Ben Frampton had been in touch as he was concerned that he would be blamed for a leak. He said that if he had wanted to disclose information to Ben Frampton he could easily have walked into his office on the way home. He asserted, when referred to Ben Frampton's witness statement, that he had been misquoted. He confirmed he believed he had in fact said "That land is worth £15m and even if prices have dropped by 20% they are still going to give it away". Cllr Wildgust acknowledged that his email challenge contains financial details. In relation to Cllr Cunningham's complaint, Cllr Wildgust acknowledged that he had offended the MP and Cllr Cunningham and perhaps he should not have said what he did. Nevertheless, he asserted that most of what he had said is a matter of fact. He does not therefore consider it offensive, rude or disrespectful to call someone "useless" if as a matter of fact they are "useless". It was a means of seeking to achieve improvement and in his view nothing can be achieved in Torfaen without confrontation and diplomacy does not work there. Cllr Wildgust said he has no time for small talk and believes in being straight and frank. The email exchanges are a typical example of how he communicates. In relation to the complaints about his emails to Cllr Mason, he

said he was responding to rude and unnecessary emails from Cllr Mason, which came late at night from a member of the Labour regime and were unwarranted. He was outraged and didn't understand what Cllr Mason was talking about. It is utter rubbish to say that he was insulting to someone about the literacy skills - he too was illiterate originally. He had circulated all these emails to the public, as the public have the right to know. Cllr Wildgust said that on an objective basis, the emails could be interpreted as being rude and disrespectful and implying that Cllr Jones had been bought, in which case people could question his integrity. However he had not intended to be rude or disrespectful. In his view, on a subjective basis, the emails are not rude and disrespectful as they are supported by fact. In response to questioning by Ms Shaw, Cllr Wildgust accepted that it may very well look as though he had disclosed confidential information or confirmed certain details which were put to him by Ben Frampton, but the quotation attributed to him was not actually what he had said. In response to being asked why he felt the need to copy information to the press, he said "That is what I do".

4. FINDINGS OF FACT

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

4.1.2 Cllr Wildgust has been a member of Torfaen County Borough Council since May 2008.

4.1.2 Cllr Wildgust signed an undertaking to observe the Code of Conduct for members of the Council on 6 May 2008.

4.1.3 Cllr Wildgust attended training on the Code of Conduct for members on 14 May 2009.

4.1.4 The training on the Code of Code for members included a section on the duty to maintain confidentiality.

Complaint 1

4.1.5 On 22 January 2009, following a leak of confidential information to the Press, members received further advice about confidentiality from the Monitoring Officer. This stated that the disclosure of confidential information, or information which could reasonably be regarded as confidential in nature, is a breach of the Code of Conduct for members and may result in a serious sanction against the member.

4.1.6 Cllr Wildgust has not received any training on making challenges to Cabinet decisions.

4.1.7 On 23 June 2009, Cllr Wildgust attended the Cabinet meeting which considered the report on the proposed disposal of the former Trevethin Community School site.

4.1.8 The Cabinet agreed to the recommendations in the report, namely that the Cabinet gave delegated authority to the Executive member for Resources, the Head of Asset Management, the Chief Legal Officer and the Monitoring Officer, to finalise the contract for the sale of the former Trevethin Community School site, and that the purchaser was to make one full payment of the purchase price.

4.1.9 On 23 June 2009, Cllr Wildgust submitted a challenge to the Cabinet's decision to the Chief Executive on the grounds that the economic climate meant that the value of the land was depressed and that the sale of the land should be postponed until the property market recovered. Cllr Wildgust also challenged the decision based on the reduction in the Section 106 money that would be made available to the community. The Press had been included as recipients of the challenge.

4.1.10 The challenge did not disclose the sale price, the purchaser or the proposed plans for the site.

4.1.11 On 23 June 2009, Cllr Wildgust contacted the Chief Executive and the Monitoring Officer saying that he had been approached by the Pontypool Free Press about the matter and that the reporter had quoted the sale price to him. Cllr Wildgust also said that he had not disclosed the details of the sale to the Press.

4.1.12 On 24 June 2009, the Monitoring Officer asked Cllr Wildgust whether he was aware that he had included the Press in his email challenging the Cabinet decision on an exempt/confidential matter.

4.1.13 On 26 June 2009, an article by Ben Frampton in the Pontypool Free Press titled "Short-sighted: Claims site is under-valued – Council slammed over school sale" quoted Cllr Wildgust saying:

"There's a difference between house prices and land dropping by 20 percent to land coming from £15 million to £1.4 million, it's tantamount to giving the stuff away."

4.1.14 Cllr Wildgust has not disputed that he provided the financial details to Ben Frampton for his article on 26 June 2009 in the Pontypool Free Press.

Complaint 2, Part 1

4.1.15 Following an email exchange with Cllr Cunningham on 8 September 2009, which had started with Cllr Wildgust inviting his friends and colleagues to the Pontypool Flower Festival, Cllr Wildgust made a number of comments on the effectiveness of Paul Murphy MP.

4.1.16 In December 2009, Cllr Wildgust distributed his newsletter – the "Pontypudlian" – which made remarks about Paul Murphy MP's expenses claims and recent input into the community, as well as Cllr Doug Jones' Special Responsibility Allowance as a member of the Fire Service Committee.

4.1.17 The Monitoring Officer had contacted Cllr Wildgust in February, May and July 2009 in order to discuss the tone, language and comments used in his emails.

Complaint 2, Part 2

4.1.18 An email exchange occurred between Cllr Neil Mason and Cllr Wildgust on 3 June 2009 which was initiated by Cllr Mason.

4.1.19 On 8 June 2009, Cllr Mason made a complaint to the Monitoring Officer about Cllr Wildgust's comments during the email exchange.

4.1.20 On 17 June 2009, the Monitoring Officer informed Cllr Wildgust about Cllr Mason's complaint.

4.1.21 On 19 June 2009, Cllr Wildgust made a complaint to the Monitoring Officer about Cllr Mason's original email. He was informed by the Monitoring Officer that he should make his complaint to the Public Services Ombudsman for Wales and that she would not attempt an internal resolution. Cllr Wildgust declined to make the complaint.

4.1.22 On 15 July 2009, the Monitoring Officer met with Cllr Mason to discuss his complaint against Cllr Wildgust. The Monitoring Officer advised Cllr Mason to make his complaint to the Public Services Ombudsman for Wales, an option Cllr Mason declined asking that the matter be dealt with locally. Following her meeting with Cllr Mason, the Monitoring Officer wrote to Cllr Wildgust informing him that Cllr Mason did not intend to make a complaint, reminding him about acceptable comments in emails and requesting an undertaking from Cllr Wildgust that he would not make such comments again.

4.1.23 Cllr Wildgust refused to give such an undertaking.

Complaint 3

4.1.24 In July 2009, the party leaders and the Independent Members were invited by the Monitoring Officer and the Deputy Chief Executive to attend a meeting to identify and discuss what issues members wished to consider at the forthcoming members' seminar. The invitation to Cllr Wildgust was repeated on 12 August 2009 and 24 August 2009. Cllr Wildgust did not attend either the meeting or the seminar.

4.1.25 The seminar was held in September 2009. It resulted in a sub-committee of the Ethics and Standards Committee being created and the draft protocol and procedure for local resolution of complaints against members was drawn up.

4.1.26 On 28 November 2009, Cllr Wildgust expressed his concerns that the Monitoring Officer was under pressure by the Labour Group to exert pressure on the opposition councillors. Cllr Wildgust copied the press into his comments.

4.1.27 On 11 December 2009, the Council's Chief Executive responded to Cllr Wildgust asking him to withdraw his allegation and apologise to the Monitoring Officer. The Chief Executive copied the press into her communication.

4.1.28 On 11 December 2009, Cllr Wildgust said that he was making an official complaint that he thought that the Monitoring Officer was partial towards the Labour Group. Cllr Wildgust also accused the Chief Executive of acting in a way that had damaged the reputation of the authority. The communication was copied to the press.

4.1.29 On 12 December 2009, Cllr Wildgust contacted the Chief Executive in an attempt to resolve the matter. The Chief Executive declined his invitation after discovering that Cllr Wildgust had emailed the people on his address book as well as his friends on the Facebook social networking site drawing their attention to his previous email exchange between him and the Chief Executive.

4.1.30 On 14 December 2009, the Chief Executive gave Cllr Wildgust a deadline in order to provide his evidence substantiating his complaint about the Monitoring Officer. The Chief Executive also informed Cllr Wildgust that she intended to make a complaint to the Public Services Ombudsman for Wales. Cllr Wildgust said that given those circumstances he would not provide the evidence that he had as he did not want to give the Chief Executive advance notice of it.

4.1.31 On 5 February 2010, Cllr Wildgust contacted the Society of Local Authority Chief Executives (SOLACE) in order to make a complaint about the Chief Executive.

4.1.32 On 23 July 2009, Ms Andrews, Pontypool Park Manager, submitted a statement as part of her exit interview. In her statement, Ms Andrews accused Cllr Wildgust of unfairly pressuring her at work.

Complaint 4

4.1.33 On 19 May 2009, Cllr Doug Jones was nominated to represent the Council as a member of the Fire and Rescue Authority.

4.1.34 On 26 November 2009, the Monitoring Officer informed Cllr Wildgust that the position with the Fire and Rescue Authority attracted a Special Responsibility Allowance of approximately £1000 per annum plus expenses.

4.1.35 On 26 and 27 November 2009, Cllr Wildgust posted three comments on the Torfaen Democratic Forums website about Cllr Doug Jones' allowance.

4.1.36 The Fire and Rescue Authority allowance was not included in the list of members' expenses because it was paid by the Authority not the Council. The allowance was recorded in the Authority's own accounts.

4.1.37 On 27 July 2009, the Ombudsman received a complaint from the Monitoring Officer that Cllr Wildgust had failed to observe the Code of Conduct by disclosing

confidential / exempt information. Cllr Wildgust was put on notice of the Ombudsman's intention to investigate the complaint on 7 August 2009.

4.1.38 On 16 October 2009, the Ombudsman received a complaint from Cllr Cunningham alleging that Cllr Wildgust had sent a rude and disrespectful email to him. Cllr Wildgust was put on notice of the Ombudsman's intention to investigate the complaint on 2 November 2009.

4.1.39 On 3 December 2009, Cllr Wildgust was put on notice of the Ombudsman's intention to extend the scope of the investigation to include the content of Cllr Wildgust's email to Cllr Mason dated 5 June 2009.

4.1.40 On 21 December 2009, the Ombudsman received a complaint from the Chief Executive that Cllr Wildgust's behaviour had threatened to seriously discredit the reputation of both the Council and the Monitoring Officer. Cllr Wildgust was put on notice of the Ombudsman's intention to investigate the complaint on 15 January 2010. On 17 February 2010, Cllr Wildgust was put on notice of the Ombudsman's intention to extend the scope of his investigation to include further documents provided by the Chief Executive.

4.1.41 On 9 January 2010, the Ombudsman received a complaint from Cllr Doug Jones that Cllr Wildgust had posted comments on a website implying that the Leader of the Council had given Cllr Jones a position attracting a Special Responsibility Allowance, as a means of influencing his vote during Council meetings. Cllr Wildgust was put on notice of the Ombudsman's intention to investigate the complaint on 15 February 2010.

4.2 The Case Tribunal found the following **disputed** material facts:

4.2.1 Did Cllr Wildgust disclose confidential information?

4.2.2 Did Cllr Wildgust use rude and disrespectful language in the email dated 10 September 2009 to Cllr Cunningham?

4.2.3 Did Cllr Wildgust use rude and disrespectful in email dated 5 June 2009 to Cllr Neil Mason and was his conduct in sending it unbecoming of a councillor?

4.2.4 The email about Cllr Doug Jones' Special Responsibility Allowance implies that he was given the position in return for his vote.

4.2.5 The email about Cllr Doug Jones could lead people to question his integrity.

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

4.3.1 The report was an exempt report in which case there should not have been any disclosure or any discussion at all with anyone who was not at that meeting, about anything contained in the report or to which the report related. Cllr Wildgust's email challenge referred to details to which the report related; he copied that challenge to the press and very shortly afterwards discussed the matter, including financial information, with the reporter Ben Frampton. The Case Tribunal

found that Cllr Wildgust most certainly disclosed confidential information by sending a copy of his email challenge to the press and in his discussions with the reporter Ben Frampton.

4.3.2 In giving evidence Cllr Wildgust accepted that on the objective test which applies, the language used in his emails to Cllrs Cunningham and Mason and about Cllr Jones could reasonably be regarded as rude and disrespectful and again, on an objective basis, that the email about Cllr Jones could reasonably be regarded as implying that he was given the position in return for his vote and could lead people to question his integrity.

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 Cllr Wildgust submitted that "the Ombudsman is the professional". If the Ombudsman feels he has breached the Code of Conduct he would not propose to argue except to say that there are mitigating circumstances.

5.1.2 In relation to the allegation of disclosure of confidential information, Cllr Wildgust conceded a breach of paragraph 5(a) of the Code of Conduct, but disputed a breach of paragraph 6(1)(a).

5.1.3 In relation to the emails to Cllrs Cunningham and Mason and the email about Cllr Jones, Cllr Wildgust conceded breaches of paragraph 4(b) of the Code of Conduct in each case. He disputed breaches of paragraph 4(c) and 6(1)(a).

5.1.4 In relation to the Chief Executive's complaint, Cllr Wildgust disputed that he was in breach of any of the paragraphs of the Code of Conduct.

5.2 The Ombudsman's Report

5.2.1 It was contended that as the Case Tribunal has found as a matter of fact that Cllr Wildgust disclosed confidential information, it must follow that there is a breach of paragraph 5(a) and Cllr Wildgust has now conceded so. It is a matter for the Tribunal to decide whether there is also, in this respect, a breach of paragraph 6(1)(a). The Ombudsman's position is that there is in that airing private matters in public brings Cllr Wildgust's office and the Authority into disrepute.

5.2.2 It was contended that as the Case Tribunal has found as a matter of fact that the emails to Cllrs Cunningham and Mason and about Cllr Jones contained rude and disrespectful language, it follows that Cllr Wildgust has breached paragraph 4(b) of the Code of Conduct and he has now conceded so. It is a matter for the Case Tribunal to decide whether there are also breaches of paragraph 6(1)(a) of the Code of Conduct. It is the Ombudsman's position that by bringing these matters into the public domain and attracting publicity, Cllr Wildgust has brought his office into disrepute.

5.2.3 It was contended that the undisputed facts and the evidence speak for themselves. None of the allegations made by Cllr Wildgust about the Monitoring Officer or the Chief Executive were supported by fact. He did not pursue his complaints in an appropriate manner. He brought these matters into the public domain and left the officers unable to defend themselves. He showed them no respect or consideration. He bullied and harassed them. Cllr Wildgust has clearly breached paragraphs 4(b), 4(c), and 6(1)(a). Whether Cllr Wildgust has also breached paragraph 4(d) is a moot point. There was no evidence in this respect and it is a matter for the Case Tribunal to decide.

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 Authority's Code of Conduct.

5.3.2 Paragraph 5(a) of the Code of Conduct states that "you must not disclose confidential information or information which should reasonably be regarded as being of a confidential nature without the express consent of a person authorised to give such consent or unless required by law to do so".

5.3.3 Cllr Wildgust conceded that he had breached paragraph 5(a) of the Code of Conduct. The Case Tribunal had found as a matter of fact that Cllr Wildgust had disclosed confidential information and it follows that he is in breach of paragraph 5(a).

5.3.4 Paragraph 4(b) of the Code of Conduct states that "you must show respect and consideration for others".

5.3.5 Cllr Wildgust conceded that his emails to Cllrs Cunningham and Mason and about Cllr Jones breached this paragraph of the Code. The Case Tribunal had found as a matter of fact that the language and content of these emails were rude and disrespectful. Cllr Wildgust had also brought these emails into the public domain and potentially cast doubt on Cllr Jones' integrity. The Case Tribunal found that Cllr Wildgust's actions showed no respect or consideration for these members and accordingly found a breach of paragraph 4(b). The Case Tribunal also found a further breach of paragraph 4(b) by Cllr Wildgust's actions towards the Monitoring Officer and the Chief Executive. He had made and pursued serious allegations against them, which he had brought into the public domain. He had not produced any evidence or details supporting his allegations and had left them unable to defend themselves. These actions showed no respect or consideration to them or their office.

5.3.6 Paragraph 4(c) of the Code of Conduct states "you must not use bullying behaviour or harass any person".

5.3.7 The Case Tribunal found no evidence that Cllr Wildgust's emails to Cllr Mason amounted to bullying and harassment of him and accordingly found no breach of paragraph 4(c) in that respect. The Case Tribunal found Cllr Wildgust in breach of paragraph 4(c) as a result of his actions towards the Monitoring Officer

and the Chief Executive as previous described and his repeated threats of a vote of no confidence and their removal from office.

5.3.8 Paragraph 4(d) of the Code of Conduct states "you must not do anything which compromises or which is likely to compromise the impartiality of those who work for or on behalf of your authority".

5.3.9 The Case Tribunal found no evidence that any of Cllr Wildgust's actions had or was likely to compromise the impartiality of any officer or employee of the Authority and accordingly found no breach of this paragraph of the Code.

5.3.10 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".

5.3.11 The Case Tribunal found breaches of this paragraph of the Code by virtue of Cllr Wildgust's actions (as previously described) towards Cllrs Cunningham, Mason and Jones, the Chief Executive and the Monitoring Officer. His conduct fell far short of that which could reasonably be expected under the Code of Conduct and brought his own office into disrepute. Furthermore, the bringing and pursuing of his very serious unfounded allegations against the Monitoring Officer and the Chief Executive, into the public domain, also brought the Authority into disrepute in further breach of paragraph 6(1)(a), as it had potential to cast doubt on the integrity of the officers and the Authority in the public perception.

6. SUBMISSIONS ON ACTION TO BE TAKEN

6.1 The Respondent's Submissions

6.1.1 Cllr Wildgust stated that he stands by his principles and his belief that Torfaen County Borough Council is corrupt and that the political regime is supported by corrupt officers and that he appears before the Tribunal to make that public and with a view to bringing about change for the better. He has not been corrupt nor committed any criminal offence nor mis-used his position, unlike others.

6.1.2 Cllr Wildgust contended that he is a successful opposition member and the victim of an orchestrated campaign to remove him from office, indeed to destroy him because he questions and challenges how things are done.

6.1.3 Cllr Wildgust said he had acted "ferociously" and out of sheer frustration with being unable to get things done and as he felt that he and his family were under personal attack.

6.1.4 Cllr Wildgust described himself as a successful, popular and committed councillor. He produced a scrap book containing newspaper cuttings of local projects in which he had been involved and issues about which he had campaigned. He said his efforts had brought about some changes for the good. He also described himself as direct and forthright and "most officers feel stressed when in contact with me".

6.1.5 Cllr Wildgust apologised to "everyone and their families" who had been affected by his actions. He said he had already offered an apology to Cllr Jones. He said that his view of Torfaen County Borough Council will not change and he will continue to fight for improvement but he now appreciates that he must moderate his behaviour and must act within the Code of Conduct. He provided an undertaking to do so and said that from now on he will represent his constituents in a non-adversarial way. Cllr Wildgust also explained that he had been naive in failing to appreciate the importance of the Code of Conduct and the implications to him of breaching it, which he now understood. He said he had thought the Code "was a bit of paper which no one acted on".

6.1.6 Cllr Wildgust stated he had been elected on a mandate of change and improvement and he would continue to follow that, his promise to the electorate, but in an appropriate way through proper channels.

6.1.7 The Case Tribunal also heard evidence in mitigation from two local residents, Mr Jonathan Williams and Mr Peter Lawton (the latter of whom was a former employee of Torfaen County Borough Council). They both spoke of Cllr Wildgust's enthusiasm and commitment, sometimes overstepping the mark because of his passionate beliefs. They see him as an excellent local member who genuinely stands by his beliefs and upholds his mandate for transparency, illumination and improvement. They described him as having drive and the skill to achieve things in the best interests of his electorate, a genuine man with insight, whose removal as a member would be to the detriment of his Ward. They both spoke of their own negative experiences of this Authority.

6.2 The Ombudsman's Representations

6.2.1 Ms Shaw said that the level of sanction is a matter for the Tribunal who should consider various aggravating features including repeated breaches over a short period of time, the seriousness and number of breaches, a persistent pattern of behaviour, seeking to unfairly blame others, repeated failure to heed appropriate advice and warnings and although Cllr Wildgust had fully co-operated with the investigation, he had nevertheless fully denied all of the allegations against him until very late in the day. Ms Shaw also referred to an email sent by Cllr Wildgust very recently (9 January 2011) to members, copied to the press, in which he again threatened a vote of no confidence in the Chief Executive and the Monitoring Officer, which gives cause for concern about his continuing behaviour and pursuance of on-going issues. This was confirmed by the Monitoring Officer.

6.3 Case Tribunal's Decision

6.3.1 The Case Tribunal considered all of the facts of the case, all of the representations made and its sanction guidelines. The Case Tribunal was unanimously of the opinion that the matters before it are far, far too serious to merit merely a warning as to future conduct or a censure. Accordingly the Case Tribunal's deliberations were whether to impose a disqualification or a suspension.

6.3.2 In Cllr Wildgust's mitigation he seems to have honestly (although wholly mistakenly) held the view that his actions were not in breach of the Code of Conduct; he is an inexperienced member; he co-operated fully with the investigation and ultimately (though very late in the day) made some concessions about his conduct and some admission of breach. Cllr Wildgust was not motivated by personal gain nor did he act dishonestly. The Case Tribunal was persuaded that Cllr Wildgust acted out of frustration and (in the case of the emails to the other members) in response to emails received which also, frankly, left much to be desired. The Case Tribunal was also persuaded that Cllr Wildgust is a committed, active and enthusiastic ward member and that he is motivated by upholding his mandate of achieving change for the better. The Case Tribunal also accepts that Cllr Wildgust is entitled to question, challenge and complain where there are grounds to do so. However, the way in which Cllr Wildgust went about things was wholly unacceptable and inappropriate and has resulted in his being found in breach of several paragraphs of the Code of Conduct.

6.3.3 There are numerous aggravating features. There are several repeated breaches; Cllr Wildgust's actions have brought not only his own office but also the Authority into disrepute; he has continued to deny the facts until very late in the day; he has unfairly blamed others; he has persistently failed to heed appropriate advice and warnings given to him by the Monitoring Officer and has shown utter disrespect to her and the Chief Executive, personally and to their senior office. Persisting with his pattern of behaviour, even a couple of days before the Tribunal, gives cause for concern for the future.

6.3.4 The Case Tribunal's role is to uphold standards in public life, to uphold and ensure adherence to the Code of Conduct. In all the circumstances the Case Tribunal gave very serious consideration to imposing a disqualification and but for Cllr Wildgust's apology to those concerned, his acknowledgement of his now understanding of the importance of the Code of Conduct and to his having to adhere to it, his undertaking to do so and to moderate his behaviour and act in a non-adversarial fashion in the future, the Case Tribunal would have disqualified him from office. However, in reliance on the undertaking and so as to give Cllr Wildgust the opportunity of moderating his behaviour, the Case Tribunal decided unanimously to suspend Cllr Wildgust for a period of 12 months with immediate effect.

6.3.5 Torfaen County Borough Council and its Standards Committee are notified accordingly.

6.3.6 The Respondent has the right to seek the permission of the High Court to appeal this decision. A person considering an appeal is advised to take independent legal advice about how to proceed.

Signed.....
Helen Cole
Chairperson of the Case Tribunal

Date.....

Colin Evans
Panel Member

Christine Jones
Panel Member