

# **PANEL DYFARNU CYMRU ADJUDICATION PANEL FOR WALES**

## **DECISION REPORT**

**TRIBUNAL REFERENCE NUMBER:** APW/001/2011-012/CT

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

**RESPONDENT:** Former Councillor Fred Wildgust

**RELEVANT AUTHORITY:** Torfaen County Borough Council

### **INTRODUCTION**

1. The Case Tribunal convened by the President of the Adjudication Panel for Wales met on Monday 19 September 2011 at the ECM<sup>2</sup> Centre, Port Talbot and determined its adjudication by way of written representations.
2. Mr Wildgust did not respond to the Panel's correspondence concerning this referral to the Panel and did not send a written reply acknowledging receipt of the notice of the referral to the Panel by the Public Services Ombudsman for Wales' report within the statutory deadline.
3. Accordingly, in exercise of its powers under paragraph 3(3) of the schedule to the Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001, the Case Tribunal was entitled to make its adjudication in this referral on the basis of the papers before it.

### **FINDINGS OF FACT**

4. The Case Tribunal considered the following documentation:
  - a) The Ombudsman's report dated 4 April 2011 and the appendices thereto.
  - b) The press releases issued by Mr Wildgust on 13, 15 and 22 January 2011.
  - c) The email to the Chief Executive of Torfaen County Borough Council dated 26 January 2011.
  - d) The decision of the Case Tribunal ("the First Case Tribunal") dated 24 February 2011.
  - e) The undated statement prepared by Mr Wildgust headed 'Public Statement to be made to the Adjudication Panel for Wales' and sent to the Case Tribunal by email on 8 September 2011.

5. The Case Tribunal noted the Decision Report of the First Case Tribunal dated 24 February 2011 and in particular paragraph 6.3.4 which stated inter alia:

".....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 the Case Tribunal] 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 to suspend Cllr Wildgust for a period of 12 months with immediate effect".

6. The First Case Tribunal in its Decision Report (paragraphs 6.3.2 and 6.3.3) concluded that the way 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".

7. The First Case Tribunal further noted that there were numerous aggravating factors that had brought not only his own office but the local authority into disrepute and that he had shown utter disrespect to the Monitoring Officer and Chief Executive personally and to their senior officers.

8. It is clear from the Decision Report that Cllr Wildgust had apologised to the First Case Tribunal for his behaviour and disregard of the terms of the Code of Conduct and had undertaken to adhere to it.

9. The First Case Tribunal heard the case against Cllr Wildgust sitting over 2 days at public expense on 11 and 12 January 2011.

10. On the next day, 13 January 2011, Cllr Wildgust, notwithstanding his undertaking to the First Case Tribunal to comply with the Code of Conduct, resumed practices consistent with those that had brought him before the First Case Tribunal. He issued a press release regarding that hearing and the suspension he had received. He also expressed opinions in the emails which had previously been the subject of the First Case Tribunal about the integrity and honesty of the Council and its senior officers.

11. By way of example, his email of 13 January 2011 states:

"I state from the outset that ...I believe that Torfaen County Borough Council is a corrupt council and the political regime is supported by partial officers."

12. Similar derogatory opinions were again included in the press releases he issued on 15 January and 22 January 2011. That of 15 January 2011 states inter alia:

“At the tribunal I stated in public that Torfaen County Borough Council is a corrupt council and that the most senior council officers are partial and support the political regime.”

13. In his email of 26 January 2011 to the Chief Executive of the Council he states inter alia:

“It is not my intention to allow the labour regime and unprofessional public servants to secure my disqualification as a councillor, that would be playing into their hands.....The actions of partial officers are keeping a failing political regime in office at the cost to public services and faith in the political process.”

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

14. The Case Tribunal has considered carefully the emails issued by Mr Wildgust on 13, 15 and 22 January 2011 and finds that these emails clearly breached the terms of paragraph 6(1)(a) of the Code of Conduct for members and co-opted members of Torfaen County Borough Council.

15. The Case Tribunal also deliberated carefully over the Public Statement it had received from Mr Wildgust by email on 8 September 2011.

16. In this statement, he not only challenged the legal basis for the existence of the Adjudication Panel for Wales but accused it of inherent bias. Just as the claims made in the press releases he has issued, he gave no factual or evidential basis to support any of his allegations. The unfounded accusations against the Adjudication Panel for Wales and his refusal once again to accept the authority of the Case Tribunal is most noteworthy and a grave matter.

17. It is unacceptable and perverse for Mr Wildgust in his Public Statement to state:

“In the first instance, I do not recognise the authority of the Adjudication Panel for Wales as it is not funded from independent sources. As it is funded by a labour led government its officers and its committee members either consciously or subconsciously will carry out the bidding of that government.”

18. Mr Wildgust submitted to the lawful jurisdiction of the Adjudication Panel for Wales' First Case Tribunal. After attending a hearing of that Tribunal, convened on January 2011, he gave an undertaking not to repeat his conduct. It is now perverse for him to challenge the legitimacy of the Adjudication Panel for Wales.

19. Immediately following his appearance before the First Case Tribunal, he continued to issue press releases containing unsubstantiated allegations in

the same vein that gave rise to the complaints against him heard by the First Case Tribunal. As a result, this Case Tribunal has had to be convened at additional public expense.

20. Further, as demonstrated by the quote above from his Public Statement, he now states he does not recognise the jurisdiction of the Panel even though he explicitly did when he appeared before the First Case Tribunal.

21. He refused to co-operate with this Case Tribunal and returned the tribunal papers that were sent to him. He has refused to appear before this Case Tribunal to hear and respond to the complaints that have been made against him. In his Public Statement he even took it upon himself to advise the Case Tribunal of what sanctions it could apply against him.

### **ACTION TO BE TAKEN**

22. It is abundantly clear why the Code of Conduct has been introduced for councillors and why the Adjudication Panel for Wales has been established by statute. It is not appropriate for Mr Wildgust or any other councillor to flout brazenly the Code of Conduct or, without any legal or factual foundation, to question the legality of the Adjudication Panel for Wales or the integrity of its members and the staff who work for and support the Panel.

23. The Panel should not countenance or tolerate such wilful disregard on the part of Mr Wildgust or any other person.

24. It is also unacceptable that such wilful disregard should result in additional and what can only be regarded as unnecessary expense to public funds.

25. Mr Wildgust's conduct is wholly unacceptable and is not of a standard that can be expected of anyone who wishes to participate as an elected representative in our local democracy.

26. The First Case Tribunal decision was clear that but for Mr Wildgust's undertakings to comply with the terms of the Code of Conduct, to moderate his behaviour, to apologise and to act in a non-adversarial way in the future, they would have sanctioned a disqualification against him.

27. Mr Wildgust disregarded those undertakings the day following the First Case Tribunal hearing.

28. The Case Tribunal considers that Mr Wildgust's conduct merits a disqualification and that he should be disqualified from holding the office of councillor for a period of 3 years with immediate effect.

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

30. Mr Wildgust 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.

Signed.....  
Gwyn Davies  
Chair of the Tribunal

Dated:...24<sup>th</sup> November 2011...

Andrew Bellamy  
Panel Member

Juliet Morris  
Panel Member