



DECISION REPORT

TRIBUNAL REFERENCE NUMBER: APW/002/2015-016/CT

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

RESPONDENT: Councillor Robert Curtis

RELEVANT AUTHORITIES: Vale of Glamorgan Council
Barry Town 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 In accordance with Cllr Curtis' wishes, the Case Tribunal determined its adjudication by way of written representations at a meeting on 25 July 2016 at Welsh Tribunal Unit Office, Wood Street, Cardiff.

2. PRELIMINARY DOCUMENTS

2.1 Reference from the Public Services Ombudsman for Wales

- 2.1.1 In a letter dated 22 February 2016, the Adjudication Panel for Wales received a referral from the Public Services Ombudsman for Wales ("the Ombudsman") in relation to allegations made against Cllr Curtis. The allegations were that Cllr Curtis had breached Vale of Glamorgan Council and Barry Town Council Codes of Conduct by receiving a conviction on 27 May 2015 for common assault. The circumstances that led to the conviction were that Cllr Curtis touched the leg of a female with whom he was bird-watching in a bird hide on Skomer Island.

2.2 The Respondent's Written Response to the Reference

- 2.2.1 Cllr Curtis accepted that his behaviour was unacceptable and he agreed that his conduct had brought his office into disrepute. He said that he had apologised to everyone involved and that he was sorry for his actions. He said that he had insight into his actions and wanted to highlight his good work as a councillor.

2.3 The Ombudsman's Written Representations

2.3.1 In a letter dated 3 June 2016 the Ombudsman acknowledged that paragraph 14.1 of the Powers of Criminal Court (Sentencing) Act 2000 was applicable to Cllr Curtis' case and the conviction was not by itself evidence of a breach of the code. Nevertheless, the Ombudsman submitted that the conduct amounted to assault and was disreputable conduct in breach of the code.

3. Preliminary Issues

3.1 Two preliminary issues were raised by Cllr Curtis. The first was that he allegation was flawed and should not be proceeded with on the basis that his conviction could not be relied upon as evidence in these proceedings by virtue of The Powers of Criminal Court (Sentencing) Act 2000. The Case Tribunal had regard to Cllr Curtis' representations and those made by the Ombudsman. The Case Tribunal had regard to the relevant law and considered that although it could not rely on the conviction it did not mean that Cllr Curtis could assert that he hadn't committed the offence or been found guilty of it. The Case Tribunal concluded that it was entitled to look at the conduct that led to the conviction and decide whether it amounted to breach of the relevant Codes of Conduct.

3.2. The second preliminary issue related to the composition of the Case Tribunal. Cllr Curtis submitted that given the nature of the allegation he would prefer at least one male member on the panel. The Case Tribunal considered the request carefully and noted that Cllr Curtis did not suggest that any of the female members of the Case Tribunal had a particular bias. The Case Tribunal was sympathetic to Cllr Curtis' request but the current membership of the Adjudication Panel for Wales does not include a male so there was no practical way to accede to Cllr Curtis' request. The Case Tribunal considered whether it would be fair to proceed in these circumstances and concluded that as professional members of the Case Tribunal each person was capable of deciding the allegations according to the evidence. The alternative would be to dismiss the allegation and the Case Tribunal considered that this would be inappropriate.

4. FINDINGS OF FACT

4.1 The Case Tribunal found the following undisputed material facts:

4.1.1 At the relevant time Cllr Curtis was a member of the Vale of Glamorgan Council and Barry Town Council.

4.1.2 On the 8 May 2012 Cllr Curtis signed a declaration to confirm he agreed to observe the Code of Conduct of Barry Town Council.

4.1.3 On 9 May 2012 Cllr Curtis signed a declaration to confirm he agreed to observe the Code of Conduct of the Vale of Glamorgan Council.

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- 4.1.4 On 27 May 2015 Cllr Curtis pleaded guilty and was convicted of common assault. Cllr Curtis was given a conditional discharge and ordered to pay a victim surcharge and costs.
- 4.1.5 The events that led to the conviction were that Cllr Curtis touched the leg of a female whilst bird-watching on Skomer Island.
- 4.2 The Case Tribunal found the following disputed material facts:
- 4.2.1 That Cllr Curtis' behaviour that led to the conviction was inappropriate and had the potential to bring his office into disrepute.
- 4.2.2 Cllr Curtis conceded that his actions were inappropriate. The Case Tribunal considered that touching a female on the leg without her consent was unacceptable behaviour. The female was distressed by Cllr Curtis' actions and the matter was reported to the police.

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 Curtis accepted that his conduct was unacceptable but submitted that it would be unreasonable and disproportionate for the Case Tribunal to conclude that he had brought his office or authority into disrepute. He considered that the negative publicity surrounding the incident was misleading and no weight should be given to those comments.

5.2 The Ombudsman's Report

- 5.2.1 It was contended that Cllr Curtis' conduct was unacceptable and capable of bringing the office into disrepute.

5.3 Case Tribunal's Decision

- 5.3.1 Paragraph 6.1 (a) of the Vale of Glamorgan Council Code of Conduct states that you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute. Paragraph 6 bullet point 1 of the Barry Town Council Code of Conduct states members must not conduct themselves in a manner which could be regarded as bringing the office of member or their authority into disrepute.
- 5.3.2 Cllr Curtis pleaded guilty and was convicted of the offence of common assault. The Case Tribunal considered that this outcome together with the negative publicity surrounding the conviction served to bring Cllr Curtis' office into disrepute. Regardless of the nature of the comments the Case Tribunal considered it was Cllr Curtis' conduct and the following police action that created the negative impression and brought the office of councillor into disrepute.
- 5.3.3 Members of the public expect high standards of their elected representatives and the Case Tribunal considered that Cllr Curtis' conduct

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had fallen below those standards. His unsolicited touching of a young woman causing her distress and a resulting police prosecution was unacceptable conduct and would lower public confidence in local democracy.

5.3.4 The Case Tribunal took account of the sentence imposed by the Magistrates and Cllr Curtis previous good character and although it accepted that the offence was at the lower end of the criminal scale it considered that the conduct overall and its consequences had brought the office of councillor into disrepute.

5.3.5 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 relevant authority's code of conduct.

6. SUBMISSIONS ON ACTION TO BE TAKEN

6.1 The Respondent's Submissions

6.1.1 Cllr Curtis contended that he had not had any complaints about him previously and had an excellent record as a Councillor. He submitted that in view of the outcome of the criminal proceedings, it would be inexpedient for there to be a punishment and no further action should be taken.

6.2 Case Tribunal's Decision

6.2.1 The Case Tribunal considered all the facts of the case and in particular the fact that the conduct involved a young woman who was very distressed. The conduct led to a criminal conviction and negative press comment about Cllr Curtis.

6.2.2 The Case Tribunal also took into account Cllr Curtis' previous record of notable good service over a significant period. The Case Tribunal noted that Cllr Curtis had self-reported his conduct and had co-operated with this process. Cllr Curtis recognised that his conduct was unacceptable and stood down from some of his duties. Cllr Curtis has apologised repeatedly. The Case Tribunal considered that this was an isolated incident and was unlikely to be repeated.

6.2.3 The Case Tribunal had regard to the need to uphold and improve the standards of conduct expected from members of the relevant authorities as part of the process of fostering public confidence in local democracy. The Case Tribunal had in its mind the need to ensure that the behaviour is not repeated and to discourage similar action by others.

6.2.4 The Case Tribunal concluded by unanimous decision that Cllr Curtis should be suspended from acting as a member of Barry Town Council and Vale of Glamorgan Council for a period of 3 months or, if shorter, the remainder of his term of office. The Case Tribunal considered that 3 months was the appropriate period to mark the conduct as unacceptable and uphold proper standards of conduct and behaviour.

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6.2.5 The authorities and their Standards Committees are notified accordingly.

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



Signed: ...
Emma Boothroyd
Chairperson of the Case Tribunal

Date... 10 August 2016.....

Susan Hurds
Panel Member

Juliet Morris
Panel Member

