

Beverley Jones

From: Airey Mike JCP FIS WALES [MIKE.AIREY@JOBCENTREPLUS.GSI.GOV.UK]
Sent: 16 November 2011 10:57
To: Beverley Jones
Subject: RE: as discussed - restricted

Beverley,

The councillor in question was in receipt of Councillor Allowance (for attending meetings, normal councillor duties, fuel for transport etc.). These allowances are not subject to tax or National Insurance contributions.

He received allowances of between £367.60 and £195.60 per week during the period he was in receipt of incapacity benefit.

His weekly incapacity benefit ranged from £57.65 to £84.90 per week, after allowing a standard £88.50 "disregard" (i.e. the limit a Councillor can receive in allowances before it affects his benefit), he was not entitled to incapacity for the whole period of his claim (see previous e mail dated 18th August 11 below):

An example of the calculation of the weekly equivalents could be as follows:

| | |
|-----------------------------------|---------|
| Incapacity Benefit paid | £78.20 |
| Councillor allowance paid | £208.66 |
| Deduct Councillor Allowance limit | -£88.50 |
| Balance | £120.16 |
| Deduct balance from Benefit due | NIL. |

Hope this clarifies the position.

Regards,

Mike

Mike Airey

Team Fraud Investigator | Jobcentre Plus | Benefit Centre Directorate | 4A, Coed Pella Road | Colwyn Bay | LL29 8LR | Courier address Colwyn Bay Jobcentreplus | 01492 614861 | Mobile: 07825273816 | www.dwp.gov.uk

Ymchwilydd Twyll Tîm | Canolfan Byd Gwaith | 4A, Ffordd Coed Pella | Bae Colwyn | LL29 8LR | 01492 614861 | Symudol: 07825273816 | www.dwp.gov.uk/cymraeg

-----Original Message-----

From: Beverley Jones [mailto:Beverley.Jones@ombudsman-wales.org.uk]
Sent: 16 November 2011 09:11
To: Airey Mike JCP FIS WALES
Subject: RE: as discussed - restricted

Mr Airey,

Another point has cropped up on this case. Could you help please.

Are you able to advise me which element or elements of the councillor's income or allowances did he fail to declare?

Many thanks

Beverley Jones

From: Airey Mike JCP FIS WALES [mailto:MIKE.AIREY@JOBCENTREPLUS.GSI.GOV.UK]
Sent: 18 August 2011 11:53
To: Beverley Jones
Subject: FW: as discussed - restricted

Beverley,

Further to my e mail below, I believe that you also require the period of the overpayment involved (as follows):

03/11/05 to 02/05/06 (£1,495)

10/07/08 to 24/01/10 (£6,231)

Regards,

Mike

Mike Airey

Team Fraud Investigator | Jobcentre Plus | Benefit Centre Directorate | 4A,Coed Pella Road | Colwyn Bay | LL29 8LR | Courier address Colwyn Bay Jobcentreplus | 01492 614861 | Mobile: 07825273816 | www.dwp.gov.uk

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-----Original Message-----

From: Airey Mike JCP FIS WALES
Sent: 18 August 2011 11:27
To: 'Beverley.Jones@ombudsman-wales.org.uk'
Subject: as discussed - restricted

Beverley,

As discussed, we have taken advice from our Data Protection Team Legal Group and can disclose the following:

The person in question appeared in Holyhead Magistrates Court on the 12th April 11 where he pleaded guilty. He was fined £750, ordered to pay £100 costs and a £15.00 victim surcharge.

Appendix S

Our ref: 201100479/BJ/JH

Your ref:

Date: 30 November 2011

Ask Beverley Jones
for:

 01656 641186

 Beverley.Jones@ombudsman-wales.org.uk

Cllr H.W. Thomas
Parc yr Odin
Pentraeth
Anglesey
LL75 8UL

Dear Cllr Thomas,

I write further to your self referral to the Ombudsman to advise you that the investigation on this matter is substantially complete.

In accordance with our procedures, I enclose the evidence that has been supplied to me.

I would be grateful if you would consider these documents and advise me if you feel there are any inaccuracies in them.

I can advise you that the period of overpayment of Incapacity Benefit that occurred between 3 November 2005 and 2 May 2006 has been excluded from the investigation as the code of conduct did not at that time cover behaviour that occurred in a private capacity.

I would also be grateful if you could respond to the questions in the attached questionnaire.

I would be grateful to receive your response by **16 December**.

Yours sincerely,

Beverley Jones
Senior Investigator

Enc:

4. With regard to the period of overpayment of incapacity benefit that occurred between 10 July 2008 and 24 January 2010, can you please explain how this situation came about.

5. Also in relation to that period, can you please advise what element or elements of your income were understated or not notified by you to the DWP?

6. What is your understanding of the obligations placed upon members by paragraph 6(1)(b) of the Code of Conduct for members?

7. Is there any information which you would like to add?

Signed.....

Dated.....

Please return to PSOW for the attention of Beverley Jones.

Appendix

T

EIN CYF / OUR REF: GP/CT/THO326/1

EICH CYF / YOUR REF: 201100479/BJ/JH

**PARRY
DAVIES
CLWYD-JONES
LLOYD**

CYFREITHWYR ~ SOLICITORS

ymgorffori / incorporating
Owens, Williams, W. R. Jones (Amlwch/Benllech)
& Gwynfor Jones (Pwllheli)

Public Services Ombudsman for Wales,
1 Ffordd Yr Hen Gae,
Pencoed,
Bridgend.
CF35 5LJ

15 STRYD SALEM, AMLWCH,
YNYS MÔN LL68 9BP
TEL: 01407 831777 / 830665
FAX: 01407 839141

TREM Y DON, BENLLECH,
YNYS MÔN LL74 8TF
TEL/FAX: 01248 852782

14/12/2011

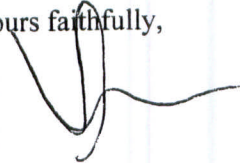
Dear Sirs,

Re: Councillor H.W. Thomas – Isle of Anglesey County Council.

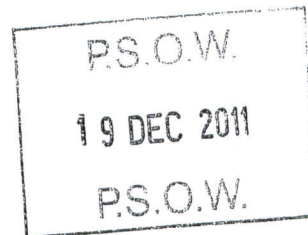
Our client has asked us to respond formally on his behalf with a Questionnaire attached to the Case Papers in your letter dated 30th November 2011. Please find enclosed his responses to the Questionnaire. We confirm that there are no obvious inaccuracies in the case papers.

We very much hope that you will now be able to conclude your enquiry following our client's best efforts in co-operating/self-referring. We can do no more than reiterate the views expressed by the Monitoring Officer Lynn Ball in her letter to you dated 25th October 2011 (Appendix P).

Yours faithfully,



Gareth Parry
Parry Davies Clwyd-Jones & Lloyd



PARTNERIAID/PARTNERS:

GERAINT CLWYD-JONES B.A. HONS. ALED W. JONES LL.B. HONS. NIA WYN LLOYD LL.B. HONS. GARETH PARRY B.A. HONS. LENA REES DAVIES LL.B. HONS. SION GWYN LL.B. HONS.

YMGYNGHORWYR/CONSULTANTS:

ELINOR C. DAVIES LL.B. HONS.
MYRDDIN W. OWENS
PETER EGAN LL.B. HONS.
GWYNFOR JONES LL.B. HONS.

*CYFREITHWYR CYNORTHWYOL/
ASSISTANT SOLICITORS:*

PETER C. DAVIES LL.B. HONS.
WINIFRED M. JONES LL.B. HONS.
CATRIN ELERI ROBERTS LL.B. CYMRU
SOPHIE MCANDREW LL.B. HONS.

HEFYD YN - ALSO AT:

CAERNARFON 01286 673381
LLANGFNI 01248 723106
PWLLHELI 01758 703000

Gwasanaeth
Cyfreithiol
Cymunedol



Gwasanaeth
Amdiffyn
Troseddol



RHEOLWR PRACTIS/PRACTICE MANAGER :

Questionnaire to Cllr H.W Thomas Case reference 201100479/BJ

1. Could you please confirm your length of time as a member?

16 YRS AS MEMBER OF ANGLESEY COUNTY COUNCIL
(elected post-reorganisation in 1995)

2. Can you please confirm that you declared your acceptance of the code of conduct on 2 June 2008?

YES

3. Could you please confirm what training you have been offered and/or received on the requirements of the code of conduct for members.

I missed the Briefing on Code of Conduct on 30/6/2008 due to ill-health (Back injury) & missed several training programmes in 2009 due to my incapacity.

2010 3 x Courses 24/3/10 / 28/4/10 / 14/6/10 - See APPENDIX O

2011 1 x Course 19/1/11 - Ditto

(ALL RELEVANT TO ETHICS/CONDUCT)

I AM CONSCIOUS OF THE NEED TO FURTHER DEVELOP MY TRAINING AS A RESULT OF THIS REFERRAL

4. With regard to the period of overpayment of incapacity benefit that occurred between 10 July 2008 and 24 January 2010, can you please explain how this situation came about.

I CAN DO NO MORE THAN REPEAT MY CASE AS OUTLINED
IN MY SELF-REFERRAL COMPLAINT - APPENDIX 'A'

(Particular reference to A4 > A7)
{ P Press Reports - APPENDICES J/K/L }

5. Also in relation to that period, can you please advise what element or elements of your income were understated or not notified by you to the DWP?

'COUNCILLOR'S ALLOWANCE' - unaware to be treated as
"Income" as not subject to Tax/National Insurance...
Sought advice from DWP locally when completing Claim
Form (see A4)

I was aware that 'Allowances' were
subject to "Disregard" (see Appendix R) but not of
the specific limit.

ALL OTHER INCOME FULLY DISCLOSED/ NO
DISHONEST INTENT.

6. What is your understanding of the obligations placed upon members by paragraph 6(1)(b) of the Code of Conduct for members?

6(1)(b) refers to conduct by "another member/ anyone working for the Council" - so unsure whether this covered "Self-Referral" until Monitoring Officer consulted & thereafter I contacted you.

At DWP Interview I was informed this would not necessarily involve criminal prosecution ie other sanctions/resolutions possible (FIXED PENALTIES/REPAYMENT). Only when I received a summons alleging "criminal conduct/dishonesty" did I seek advice from solicitor & Monitoring Officer - & I duly acted on such advice.

7. Is there any information which you would like to add?

Unreserved apology to the Council; my constituents & the Ombudsman. I have done all I can to rectify the position with the DWP & yourselves.

Signed Haji W. Shon
Dated 14th Dec 2011.

Please return to PSOW for the attention of Beverley Jones.

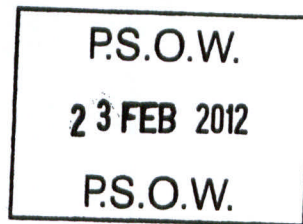
Appendix

U



**CYNGOR SIR
YNYS MÔN
ISLE OF ANGLESEY
COUNTY COUNCIL**

Ms Beverley Jones - Senior Investigator
Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae
Pencoed
Bridgend
CF35 5LJ



22 February, 2012

Dear Ms Jones

SELF REFERRAL BY COUNCILLOR HEFIN THOMAS

Further to your letter of the 19th January 2012 and your colleague's e-mail of the 2nd February 2012, I have now had an opportunity to consider the paperwork, and to consult with my Vice Chair and the Monitoring Officer.

I have a number of concerns regarding your draft Report. These concerns are:-

1. Appendix M to your Report is a letter from Councillor Thomas' Solicitors dated 13th September 2011. In the antepenultimate paragraph it is claimed, presumably on information provided to his Solicitors by Councillor Thomas, that he "has only previous (sic) been referred once to the Standards Committee, we (sic) after due consideration rejected the allegation then made against him".

This information is not accurate.

Councillor Thomas was referred to the Standards Committee following a complaint by the Corporate Director (Finance), arising from failure to declare an interest relating to his business as a self employed building contractor. The complaint was upheld and the Standards Committee issued a suspension, for two months. The decision to suspend was taken on the 4th March 2003.

Subject to hearing what Councillor Thomas has to say, and recognising that these events were almost a decade ago, I nevertheless find it difficult to understand how a

**ADRAN Y CYFARWYDDWR GWASANAETHAU
CYFREITHIOL A PHWYLLGORAU
DEPARTMENT OF THE DIRECTOR OF LEGAL
AND COMMITTEE SERVICES**

**LYNN BALL LL.B., (Hons.) Cyfreithiwr/Solicitor
CYFARWYDDWR GWASANAETHAU
CYFREITHIOL A PHWYLLGORAU/SWYDDOG
MONITRO / DIRECTOR OF LEGAL AND
COMMITTEE SERVICES / MONITORING OFFICER**

**CYNGOR SIR YNYS MÔN /
ISLE OF ANGLESEY COUNTY COUNCIL
Swyddfa'r Sir / Council Offices
LLANGEFNI
Ynys Môn / Anglesey
LL77 7TW**

DX: 701771 - LLANGEFNI

ffôn / tel: (01248) 751321

ffacs / fax:

E-Bost - E-mail: michaelbwilson@msn.com

Ein Cyf - Our Ref.

Eich Cyf - Your Ref. 201100479

member would forget a complaint against them, which necessitated a public hearing, resulting in a two month suspension.

2. Councillor Thomas was also previously investigated by the PSOW and referred to a Case Tribunal of the Adjudication Panel for Wales. A copy of the Case Tribunal's decision of the 22nd June 2007 is attached.

The facts of the case were also indirectly connected to Councillor Thomas' business as a self employed building contractor. The Tribunal concluded that there was a failure to declare an "indirect commercial relationship", resulting in a partial breach, but not necessitating a sanction.

This may be the matter which Councillor Thomas' Solicitors are referring to in Enclosure M but it is hardly an accurate reflection of the Case Tribunal's findings.

It is also clear that there are some parallels, in terms of failure to declare relevant information, between the historic matters described in paragraphs 1 and 2 above and the current issue described in your draft Report.

3. While Councillor Thomas' recent attendance at training is to be applauded, his failure to attend over a long period, despite his suspension in 2003, and the findings of the Case Tribunal in 2007, is also a concern which the Standards Committee may wish to explore further.
4. I attach copy letter sent by the Council's Corporate Director (Finance) to all the new members elected in May 2008, which contains specific advice regarding income tax and benefits. However, as Councillor Thomas was not a newly elected member in May 2008, I am advised that he would not have been a recipient of this letter. Nonetheless, the Council's Head of Service (Finance) confirms that similar advice would have gone out to Councillor Thomas following his first election as a County Councillor. While the County Council no longer holds these records, and acknowledging that considerable time has passed since such advice would have been given, Councillor Thomas should be asked about his recollections of this advice, and its availability to members. Presumably, he has also confirmed that he has made no other similar benefits claims during his term as a County Councillor?

Additionally, as a businessman, be it as a farmer or a building contractor, Councillor Thomas is likely to have instructed an accountant to deal with his tax affairs and, presumably, declared his members' allowances for the purpose of assessing his income tax liability. In my view, this also needs to be explored further in the context of the information contained in Appendix R, being an e-mail dated 16th November 2011, which is inaccurate and misleading with regard to the tax status of members' allowances. Please also see attached information from HMRC which confirms that members' basic allowance (being that which was not disclosed by Councillor Thomas for the purpose of incapacity benefit) is "taxable as earnings". This is relevant because, in his response to question 5 at Appendix T, Councillor Thomas now appears to be relying, not just on non specific advice received from the DWP at the time of completing his application for incapacity benefit, but also on his understanding of the tax position as erroneously described in Appendix R. This

document did not exist at the time of the material non disclosure and is inaccurate in any event. What may be perceived as opportunistic reliance on this information does not help the credibility of Councillor Thomas' mitigation and is an area that would bear closer questioning before its effect on any sanction may be properly considered.

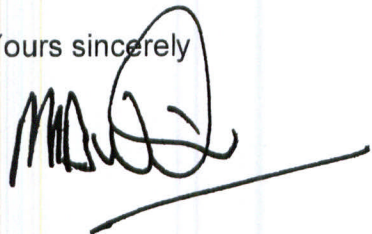
All in all, I believe there are presently unexplained anomalies in this case, which mean that I cannot conclude with any confidence that the Standards Committee would not apply a censure, or a suspension, in the event that this matter were to be referred for local determination and, while I agree with the Monitoring Officer's view that significant credit should be given for the mitigation described in Appendix P, there are also other issues that require closer consideration than is reflected in your current Report.

If the PSOW is ultimately satisfied with Councillor Thomas' responses to the points raised in paragraphs 1 to 4 above, and concludes that no further action is required, then I would ask for confirmation that the Standards Committee has your authority to publish your final Report in the public domain.

In the meantime, I am grateful to you for the opportunity to comment.

Obviously, I have no objection to this letter being copied to Councillor Thomas so that he may be given further opportunity to respond.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Michael Wilson', with a long horizontal line extending to the right below the signature.

Michael Wilson
Chair of the Standards Committee

Appendix

V

STANDARDS COMMITTEE

Minutes of the meeting held on 23 September 2002

PRESENT : Dr Gwyneth Roberts (Chair);

County Council Members

Councillor Robert J.Jones; G.Allan Roberts;

Independent Members

Mr Jeffrey Cotterell;
Dr John Griffiths;
Mr Gwynfor Jones;
Dr John Popplewell;

Town & Community Council Representative

Mrs Ceri Thomas;

IN ATTENDANCE : Monitoring Officer ;
Committee Officer (JMA);

APOLOGY : Councillor Trefor Lloyd Hughes;

* * * * *

1. **DECLARATION OF INTEREST**

Declaration of interest by Councillor T.Lloyd Hughes who was not present at the meeting.

2. **MINUTES**

Minutes of the meeting held on 9th September 2002 were submitted and confirmed as correct.

3. **FIRE AUTHORITY STANDARDS COMMITTEE**

A report was submitted by the Monitoring Officer informing members that the Clerk to the North Wales Fire Authority has requested a nomination of an

independent individual from this Council's Standard Committee to sit on a panel.

The Standards Committee of the North Wales Fire Authority will consist of three independent members and two members of the Fire Authority, each selected from the above mentioned panel. The Clerk to the Fire Authority has received three nominations of independent persons from Flintshire, Gwynedd and Wrexham and has, therefore, enough nominations to the panel to complete his work. However, he has requested Anglesey, Denbighshire and Conwy to make a nomination if they so wish in order to ensure that each authority has the same opportunity.

RESOLVED:

- (i) **that, as the Clerk to the Fire Authority had received sufficient nominations to the panel to complete his work, this Committee should not nominate an independent individual to sit on the Panel;**
- (ii) **to propose to the Clerk that should a vacancy occur, nominations be sought in the first instance from Anglesey, Denbighshire and Conwy so as to afford these authorities the same opportunity as that given to Flintshire, Gwynedd and Wrexham;**

4. **COMPLAINT AGAINST COUNCILLOR**

A report was submitted by the Solicitor to the Monitoring Officer providing the Committee with the necessary information to enable a full hearing to be conducted.

It was reported that the complaint form had been submitted by the Corporate Director (Finance), Isle of Anglesey County Council, on 9 March 2001. The substance of the complaint was twofold and could be summarised as follows:-

1. *That Councillor H.W.Thomas did not declare an interest at a meeting of the Social Inclusion Committee on 23 November 2000 in relation to the item on Housing Grants Policy. Councillor Thomas had, during October and November 2000, submitted tenders for work to be paid for by the Council under the Housing Grants Policy and had therefore a pecuniary interest in the matter being considered and he did not comply with the*

National

Code of Local Government Conduct, Clause 8.

2. *By the date of a special meeting of the County Council on 12 February 2001 Councillor Thomas was aware of the investigations into this matter. During the meeting Councillor Thomas stated he wished to declare an interest in any matter which anyone might think he ought to. This did not respect the Council's internal processes and contravened the Nolan "leadership"*

principle.

The Solicitor to the Monitoring Officer provided copies of the following documents:-