

IN THE COUNTY COURT AT WANDSWORTH

76- 78 Upper Richmond Road
Putney
London

Before DEPUTY DISTRICT JUDGE EVANS**IN THE MATTER OF****KERRY THORNE****(Claimant)****-v-****BIDBOROUGH PARISH COUNCIL****(Defendant)**

THE CLAIMANT appeared in person
MR S BELL appeared on behalf of the Defendant

JUDGMENT
24th MARCH 2026
(AS APPROVED)

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JUDGE EVANS:

1. This is judgment in the case of Mrs Kerry Thorne v Bidborough Parish Council. I have heard from Mrs Thorne today, acting as a litigant in person, and she has provided the court with four folders of documents as zip files, which I have been able to access. She has also produced a witness statement regarding her claim, which is essentially a claim for £9,030, being sums that she incurred seeking legal advice as part of her position as the chairman of the defendant council before 2023.

2. I have also heard from Mr Bell who has acted for the defendant. The defendants have provided a bundle of some 355 pages, including witness statements from Mr Harris, Miss Summers and Miss Vidler, and I have also had the benefit of the defendant's submissions, and also case law including *O'Reilly v Mackman*. I have also considered CPR 54 regarding the judicial review powers.

3. It is the claimant's position that as chairman of the parish council, she took legal advice regarding an individual who had been a clerk, and that legal advice she incurred as an individual. There are five invoices in question, and they total the sum of £9,030, which is the basis of her claim. The claimant has explained that the defendant used that legal advice and adopted that legal advice, and therefore she was entitled to claim an amount to be reimbursed to her in relation to that matter.

4. The first key document in relation to the claim were the minutes of the defendant's meeting on 27 March 2023, and I will take a moment to read those minutes. At paragraph 20 the heading is "Employment Matter; Legal Advice Costs." "The council considered the request from the chairman of the council for reimbursement of the legal fees she has incurred at the outset of the employment matter that the council have subsequently taken forward. She felt that the request for reimbursement was reasonable as the matter on which the advice had been sought was an employment issue for the council and which was subsequently taken forward by the council. She stated that all the advice received was subsequently made available to the council, either directly or in work taken which was used by the council in dealing with this matter. Additionally, advice was also sought and received in the preparation of the papers for the council meeting held on 31 January 2022. The chairman indicated that total cost of the advice received was £9,030. It was agreed that subject to confirmation that the invoices had been paid, that the chairman be reimbursed £9,030 as requested above." It is the claimant's case that she did provide those invoices the next day.

5. The claimant's case, in essence, is that that resolution formed a contract between her and the parish council to be paid, reimbursed, the amount of £9,030, subject to her providing the invoices, which she then did.

6. On 24 April 2023, there was a further meeting of the defendant, of which the minutes recorded the following at paragraph 12: "Personal Statement of the Chairman in relation to Legal Expenses." "The chairman read out a personal statement she had issued with the agenda, clarifying her position in respect of the legal expenses on which she was seeking a refund. Councillor, Mrs Vidler, indicated to the council that she had a number of concerns over this matter and had asked the TWBC monitoring officer and the external auditor to look at this. The monitoring officer had informed her that she was investigating the matter, including discussing it with KALC. The clerk reported that the minute of the last meeting in respect of the reimbursement of the chairman's legal expenses had been confirmed by the council and that since the last meeting he had confirmed that all the bills had been paid. Therefore, in line with the decision made, the payment could be made. However, he advised

the council that as this matter was under investigation by the monitoring officer, it would not be appropriate to make this payment until this matter had been clarified with the monitoring officer and the conclusion of any investigation that could prevent payment. It was agreed that (1) no payment should be made until clarification had been sought from the monitoring officer in respect of the investigation she was undertaking and whether this prevented the agreed payment being made, and (2) the council would like to see clarification it is seeking on the status of the investigation, the conclusion of the same investigation by Friday 5 May.”

7. It is the claimant’s case that that resolution varied the contract she says that the defendant had with her in that provided the investigation would be resolved, then payment could then be made. The claimant’s case, and I think it is agreed, that no payment has been made.

8. On 31 July 2023, there was a further meeting of the defendant and item 24 in the minutes says as follows: “Employment Matter; Legal Advice Costs – Expenses Claim.” “The clerk reported that the additional information sought from Mrs K Thorne had not been received by the deadline requested, and therefore the council needed to reconsider the previous decision made on whether the council was in a position to reimburse the expenses claim of £9,030 submitted by Mrs K Thorne. The council considered that it could not make a final decision in respect of the expenses claim by Mrs K Thorne until it had received the information it had previously requested. The clerk reported that Mrs K Thorne had made a data subject access request to the council and he would be in touch with members very shortly, indicating what was required from them. It was agreed that the decision in minute 20 of the council meeting of 27 March 2023 to reimburse the expenses claim from Mrs K Thorne in the sum of £9,030 be rescinded, that the council would consider the payment of Mrs K Thorne’s expenses again on receipt of all the information requested from the council. It was further agreed that the clerk be instructed to inform Mrs K Thorne of the decision of the council but take no further action such as chasing Mrs K Thorne for this information.”

9. It is Mrs Thorne’s position that the resolution to rescind what she says was a contract between herself and the defendant was unlawful and it was not permitted, and she referred to the 2022 standing orders which were in effect at the relevant time.

10. On questioning from me in relation to the defendant’s position regarding judicial review, the claimant’s position is that it is not relevant to her as she is a litigant in person and she is seeking claim of her expenses. It is not a matter that should be escalated to public law, and it was inappropriate for the defendant to refer to the case law it has in a situation such as this when it has been allocated to the small claim track. The claimant also explained that her DSAR showed that the invoices had been sent, and she referred me to an email on 25/4/2023 regarding correspondence with the monitoring officers and therefore, in her submission, the conditions had been complied with, which required the council to comply with its, she says “contract” in relation to the matter.

11. Turning now to the defendant’s position, it is accepted that the claimant was chairman of the defendant at the relevant time. It is also accepted that she had taken legal advice as an individual, and the defendant was not a party to that legal advice that was sought. It is also accepted that the defendant had used or adopted that legal advice in some shape or form. The defendant’s position, however, is that there was not a contract that was made by reason of the 27 March 2023 resolution, and the same point applies to the 24 April 2023 variation of the resolution. The defendant’s position is that whilst the claim is characterised as a private law contract claim, in effect it is a challenge to the lawfulness of a decision made by the parish council.

12. It is the defendant's position that it did comply with the relevant standing orders, but if there is a challenge in relation to that, then that challenge should be made by judicial review in accordance with CPR 54. The procedural exclusivity of judicial review was established by *O'Reilly v Mackman* [1983] which says that it is generally considered contrary to public policy an abuse of process for a claimant to complain of public bodies' infringements and seek redress by a private law claim.

13. Mr Bell also referred me to section 101 of the Local Government Act 1972 regarding the ability of a chair of a parish council to engage in activities and he says that she was not permitted to instruct solicitors in the way that she did, in a way to discharge the functions of the local authority in that way. Mr Bell did accept that the defendant could enter into contracts, but it would do so by delegating its functions to a committee, a subcommittee or an officer of the court.

14. In the circumstances of this matter, I find that no contract was made between the claimant and the defendant by reason of the resolutions of 27 March 2023 or 24 April 2023. This is on the basis these resolutions were effectively an indication that an expenses claim would be pursued, subject to certain conditions. The facts of the matter is that the claimant did incur a personal liability and was seeking reimbursement, but the fact that the resolutions were made in this way did not create a private law contract which would allow the claimant to bring this claim in the county court today.

15. In relation to whether the decision of 31 July 2023 could be challenged, that is not a matter which I have jurisdiction to consider in this matter. I note Mr Harris has submitted evidence as to the procedural correctness of that decision. I do not comment on whether it was a laudable decision, or not, but I do find that if that decision of 31 July '23 is to be challenged, that is something that should be brought as a public law claim under CPR 54. I note that there is a time limit of three months to bring such a claim, and no claim has been brought, but that is a matter for Mrs Thorne whether she wished to make submissions regarding a matter out of time.

16. It is clear to me that even though Miss Thorne referred me to the letter from Wellers Hedleys dated 5 November 2024, in which it is said on the claimant's behalf the council has entered into a contractual agreement to reimburse specific expenses incurred in the course of her providing services, I have not found that a contract was formed by the resolutions of March and April 2023.

17. On the basis that no contract has been found, obviously, there can be no breach of contract claim that can be sustained, and as I say, any challenge in relation to the July '23 decision is something that should be dealt with by way of judicial review rather than by a county court claim. I do also refer to the basis of the challenge and the time limit, and the reason why there is that time limit is because of the good administration that is required of public policies, and here we are almost three years later, and for those reasons I dismiss the claim.

(There followed submissions on costs)

18. I am not persuaded that Mrs Thorne has behaved unreasonably at all. She has pursued a claim diligently and the way that she has presented her evidence and presented her arguments is well within the bounds of reasonableness. Refusing an offer to settle was not made out of hand, and I do not think this falls into extreme or vexatious conduct. There is no allegations of fraud or dishonesty on Mrs Thorne's part. It is a matter that she has pursued

with vigour because she was prepared to argue her case before me today, and therefore the costs order will be no order as to costs.

This transcript has been approved by the Judge