



Report of Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 12th July 2007

Subject: Adjudication Panel for England: Decisions of Case Tribunals

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. This report provides summaries of the recent decisions made by the Adjudication Panel for England regarding allegations of misconduct against Members. The case tribunal decisions have each been summarised and then conclusions drawn regarding whether there are any lessons to be learnt for Leeds City Council.
2. Members of the Committee are asked to note the recent decisions of the case tribunals and to consider the lessons to be learnt for Leeds City Council.

1.0 Purpose Of This Report

- 1.1 This report provides summaries of recent decisions made by the Adjudication Panel for England in its role of determining allegations of misconduct. Further details of specific cases are available at www.adjudicationpanel.co.uk

2.0 Background Information

- 2.1 Three case tribunal decisions have been published since the last report. The decisions are summarised below, in order that Members of the Committee may consider if there are any lessons to be learned by this authority. Copies of each case summary published on the Adjudication Panel for England's website have been sent separately to those Members who have requested them.
- 2.2 The Committee will note that the majority of cases highlight the need for comprehensive and regular training for elected and co-opted Members, on the detailed requirements of the Code of Conduct.
- 2.3 Members of the Committee may wish to note that the cases have been separated into those involving Parish and Town Councils, those involving Borough, City or District Councils, and those which are appeals against local standards committee decisions, for ease of reference.

3.0 Main Issues

Borough, City or District Councils

Portsmouth City Council

- 3.1 It was alleged that a Councillor failed to treat others with respect, sought to compromise the impartiality of officers, used his position improperly in an attempt to confer an advantage on another person, and brought his office and authority into disrepute.
- 3.2 It was alleged that the Councillor sent an email to a senior officer asking her to withdraw a letter regarding sickness absence to a member of staff. The case tribunal found that the email was both unfair and unreasonable because it provided insufficient time for a reasoned response based on an investigation of the facts. It was demeaning because the Councillor demanded that the officer ignore good management practice in order to comply with his request. It further demeaned her by making an unjustified threat to embarrass the officer by writing to other members of staff if she did not comply with his demands.
- 3.3 The case tribunal decided that as a result of writing this email the Councillor had failed to treat the officer with respect and had sought to compromise her impartiality. Further to this, the case tribunal also decided that the Councillor had sought to use his position to improperly confer an advantage on the employee in question, as he

did not have the authority to demand the withdrawal of the letter and had made the demand without having all the relevant facts.

- 3.4 Secondly, it was alleged that when the same Council officer suggested that the Councillor may need to declare a personal interest in a matter being discussed at a Committee meeting regarding sickness absence, the Councillor subjected the officer to a long and angry outburst. He accused the officer of telling him “how to run his life”, threatened to have her disciplined and ordered her to leave the meeting.
- 3.5 The case tribunal found that the Councillor’s comments to the officer were made in anger and with a raised voice. They also found that there was no evidence that the officer’s conduct at the meeting was anything other than professional or that the manner in which she raised the issue justified such a response. In the case tribunal’s opinion, the comments made to the officer were demeaning as they were made without any reasonable basis in fact. They also related to the officer personally and so should not have been made in an open meeting in front of officers and Members. The case tribunal concluded that through his actions the Councillor had failed to treat the officer with respect.
- 3.6 Finally it was alleged that once the Councillor became aware that he was being investigated by the Standards Board, he wrote to the Council’s monitoring officer threatening to email every member of staff on the Council warning them to “have no faith” in the complainant and her department and demanding to know why the Council still employed the officer.
- 3.7 The case tribunal found that the comments concerning the Council officer in the letter amounted to a failure to treat her with respect. Also the threats to write to staff and contact the press placed undue pressure on the monitoring officer to comply with his demands, therefore the Councillor had sought to improperly influence the monitoring officer in this matter. The case tribunal also found that the Councillor had sought to inflict a disadvantage on the Council officer for no rational reason.
- 3.8 In all of the above circumstances the Councillor was acting in his official capacity and these incidents were part of a pattern of inappropriate behaviour in the case tribunal’s opinion. On two other occasions the Councillor threatened to write to other Council employees about the officer’s competence. Therefore the case tribunal also found that the Councillor had brought his office and authority into disrepute.
- 3.9 The Councillor was subsequently disqualified from being or becoming a Councillor for three months.
- 3.10 The case tribunal decided that a sanction of three month’s disqualification was appropriate for the following reasons:
- Although the Councillor had apologised, these did not seem sincere and he had still failed to accept responsibility for his actions;
 - He had deliberately sought to misuse his position in order to disadvantage some other person, and had repeatedly breached the Code (both of which indicate

disqualification is appropriate according to the guidance issued by the President of the Adjudication Panel); and

- That the Councillor had been under personal pressure at the time of the incidents in that he was going through a divorce.

- 3.11 This case was reported on the Standards Board website, and Sir Anthony Holland the Chair of the Standards Board for England stated that “While Members are entitled to question and challenge officers about their work, it is important that Councillors set a tone of mutual respect, trust and professionalism, as representatives of their communities and their authority. By failing to treat others with respect, Councillors undermine confidence in their office and the Council as a whole.”
- 3.12 **In Leeds, Members and officers are instructed to treat each other with respect through the Protocol on Member Officer Relations. Members are also provided with guidance as to how to address any issues with an officer’s performance, namely by raising those concerns with their manager and not through personal attacks on the officer.**

Appeals against local standards committee decisions

Bassetlaw District Council

- 3.13 A Councillor appealed the local standards committee decision that he had breached the Code of Conduct due to a dispute over the facts of the case. Because of this, the appeals panel conducted a full re hearing of the case.
- 3.14 It was alleged that at a meeting of Bassetlaw District Council’s Planning Committee, a Councillor made a number of accusations regarding the Council’s Building Control Manager’s conduct in relation to a planning application being considered by the Committee. It was alleged that by his actions the Councillor failed to comply with the Code of Conduct in that he failed to treat the officer with respect and brought his office and the authority into disrepute.
- 3.15 The evidence presented to the appeals tribunal was conflicting on many points. However the appeals tribunal decided to accept the evidence of those witnesses which supported the fact that the Councillor had spoken in an inappropriate and personal manner about the way that the application had been handled and the officer’s participation in it. In particular the appeals tribunal concluded that the Councillor had used the words ‘plagiarism’, ‘dishonest’ and ‘connivance’ in his speech about the planning application. Therefore the appeals tribunal found that the Councillor had breached the Code as alleged.
- 3.16 The appeals tribunal concluded that the Councillor had no understanding that there was a line over which he should not go when making robust comments about reports and challenging the basis on which recommendations had been made in a public meeting. In the appeals tribunal’s view, implying that a department or an officer was acting dishonestly or unprofessionally would bring the reputation of the council into question.

- 3.17 Due to the lack of an apology, and even recognition by the Councillor that an apology to the officer concerned was required, the appeals tribunal upheld the decision and sanction of the standards committee.
- 3.18 **In Leeds, Members are provided with training on the Code of Conduct during the induction period. They are also instructed on how to deal with concerns regarding an officer's performance by the Protocol on Member Officer Relations, as detailed in paragraph 3.12. Any similar behaviour by Leeds City Councillors towards officers would be referred to the Standards Board for England.**

Hinckley & Bosworth Borough Council

- 3.19 The Councillor appealed against the standards committee's finding that he had breached the Code of Conduct by continually engaging in rumours and attacks on the Parish Council Clerk of Groby Parish Council. It was alleged that the Councillor's behaviour was bullying and constituted victimisation of the clerk and that he sought to undermine her position and role, with particular reference to email correspondence.
- 3.20 The standards committee found that the Councillor had breached both the Borough Council's and the Parish Council's Code of Conduct on two counts. These were that a Member must treat others with respect, and must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.
- 3.21 The Councillor also appealed against the sanction applied by the standards committee. That sanction was to censure the Councillor in relation to the two breaches of the Borough Council's Code of Conduct and to suspend the Councillor from Groby Parish Council for two months for the two breaches of the Parish Council's Code of Conduct.
- 3.22 The appeals tribunal considered the facts of the case and made the following findings. The Councillor sent two emails to the clerk, both of which contained phrases which the appeals tribunal found were capable of causing offence to the recipient. The appeals tribunal also found that the Councillor had informed the clerk that he would be making a complaint against her regarding an allegation of political misconduct which he subsequently lodged.
- 3.23 However, the appeals tribunal did not agree with the standards committee's conclusions that the Councillor had breached both the Borough Council and the Parish Council's Code of Conduct. In order to breach those paragraphs of the Borough's Code the Councillor had to be acting in his capacity as a Borough Councillor. In all the circumstances outlined above the Councillor was acting in his capacity as a Parish Councillor, therefore he had only breached the Parish Council's Code.
- 3.24 Further to this, although the emails written by the Councillor did fail to treat the clerk with respect, the behaviour was not so serious as to bring the Councillor's office or

authority into disrepute. Therefore the appeals tribunal did not uphold the sanction applied by the standards committee and instead reduced this to a censure.

3.25 **In Leeds, the Standards Committee are kept up to date with Adjudication Panel cases in order to develop best practice knowledge and their understanding of how to apply the Code of Conduct.**

4.0 Implications For Council Policy And Governance

4.1 There are no implications for Council Policy.

4.2 By continually monitoring decisions made by the Adjudication Panel and the implications for Leeds, the Standards Committee is fulfilling its terms of reference by keeping the codes and protocols of the Council under review.

4.3 By identifying problem areas the Standards Committee are also able to improve the training provided for Members on conduct issues, and maintain good conduct in the Council.

5.0 Legal And Resource Implications

5.1 There are no legal or resource implications to noting this report.

6.0 Conclusions

6.1 This report summarises the case tribunal decisions that have been published by the Adjudication Panel for England since the last Committee meeting. The possible lessons to be learnt for Leeds City Council are highlighted in bold at the end of each summary.

7.0 Recommendations

7.1 Members of the Committee are asked to note the latest decisions of the Adjudication Panel's case tribunals, and consider if there are any lessons to be learned for Leeds.