

Report of	Meeting	Date
Monitoring Officer	Standards Committee	10 th December 2009

CASE UPDATE

PURPOSE OF REPORT

1. To advise Members of recent cases which have been considered nationally.

RECOMMENDATION(S)

2. That the report be noted.

DETAILS OF CASES

2. Ten Adjudication panel decisions have been reported since the last meeting of the Committee. In view of the volume of cases and the length of some of them they have not on this occasion been attached as an appendix to this report but they are freely available to view on the website of the Adjudication Panel.
3. There was some interesting learning in case number APE 0439 involving former Cllr. Hore of Suffolk County Council. Cllr Hore was disqualified from office for one year for having voted twice on a matter in a Council meeting using the Council's electronic voting system. The original allegation had been investigated by an Ethical Standards Officer who had referred his report to the Council's Monitoring Officer rather than the Adjudication Panel. Having received that report the Monitoring Officer was obliged to place it before the Standards Committee. Had the Committee kept the case then the maximum sanction normally would have been a six-month suspension but as Councillor Hore had lost her seat by the time the case came before the Committee, even that sanction would not have been available. The Standards Committee referred the case to the Adjudication Panel. This was the first time that this had happened and the Panel had to consider whether it had the legal powers to take the case. It decided that it did and the Standards Committee's decision to refer the matter was clearly vindicated by the eventual outcome.
4. Case APE448 involved Cllr. Brewer from Crossways Parish Council in West Dorset. He had a longstanding personal association with the Scout Association and declared a personal interest when the Council considered an application for remission of charges by the Scouts. However, he remained in the meeting. The interest was clearly prejudicial meaning he ought to have withdrawn. The Standards Committee imposed a three-month suspension. In light of findings that the offence was committed by a mistaken interpretation of advice received rather than disregard for it, the fact that Cllr. Brewer had not sought to improperly influence the meeting and that he had subsequently taken up training, the Panel reduced the penalty to one of censure.
5. A Town Councillor from Pendle appealed to the Adjudication Panel in case APE441. Councillor Whipp of Barnoldswick Town Council had been required to submit a letter of apology when the Standards Committee found that he had failed to treat others with respect. Two Councillors complained that Councillor Whipp had breached the Code when he responded to a question from a member of the public at a Council meeting by saying: 'It



is you who owe the apology as you are the liars. The CPS got it wrong. You are the guilty ones.'

6. The background to this was that the complainants and the person who had asked the question had been the subject of a police investigation having produced an election leaflet which had contained inaccurate information about a candidate. The CPS had considered the evidence and chosen not to prosecute – a decision which the Panel questioned.
7. The Panel said that there were aspects of the evidence which suggested that Councillor Whipp might have been justified. They said that the investigating officer's and the Committee's approach had been flawed as they considered simply whether or not the word 'liar' 'went beyond political expression, was rude and offensive and amounted to an expression of anger and personal abuse. They did not appear to have considered whether or not the Appellant was justified in using the word on the basis that it might be true. In fact, they specifically determined that such possibility did not concern them.
8. Unfortunately it is somewhat difficult to reconcile the approach of the Panel in this case with that take in the Needham Market case which I reported to the last Standards Committee where a Councillor called the incoming Mayor and an officer "proven liars". In that case the Panel did not think it was necessary to judge the truth of the allegation.
9. It would clearly be helpful to have more guidance on this issue although it may well not be forthcoming given that Tribunal decisions do not technically set a precedent.

ANDREW DOCHERTY
MONITORING OFFICER

There are no background papers to this report.

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