

Report of	Meeting	Date
The Monitoring Officer	Standards Committee	4 March 2010

CASE UPDATE

PURPOSE OF REPORT

- To advise Members of Cases considered nationally since the last meeting.

RECOMMENDATION(S)

- That the content of the report be noted.

DETAILS OF CASES

- There have been 13 Adjudication Panel decisions reported since the last meeting of the Standards Committee. Some of which are joint decisions relating to investigations or appeals that apply to more than one person. Members are invited to review these decisions on the Adjudication Panels website. The link to this site is www.adjudicationpanel.tribunals.gov.uk.
- The following cases are however of interest

4.1 APE 0464 – Fraser –v- Leicestershire County Council

This matter has a number of interesting features, as it involves Cllr Frasers' attendance in his role as a County Councillor at a Parish Council meeting. During the course of that meeting Cllr Fraser made a number of statements concerning Travellers that were found to breach the code of conduct. Of particular interest is the fact that a member of the public attending the Parish Council Meeting videoed the comments and placed them on Youtube.

The Standards Committee imposed a number of sanctions upon Cllr Fraser including 1 month's suspension from office and the consequential withholding of his allowance and the requirement to undertake further equalities training and requiring Cllr Fraser to bare the cost of the first £250 of the training.

Cllr Fraser didn't appeal the finding that he had breached the code, but did appeal the sanction. He was successful and the Tribunal confirmed that the Standards Committee can only impose the sanctions contained within the Regulations. They had no power to withhold allowances nor order the payment toward the cost of training. These sanctions were removed. Interestingly, the Tribunal also disappplied the sanction requiring training as they felt it would serve no purpose.

4.2 LGS/2009/0462 – Jonathan Wigmore – v – Cllr John Lynch

This application deals with the disclosure by a Member of confidential information relating to a proposed Sainsbury's development in Penrith. On 2 separate occasions the Cllr disclosed information that he had received marked as confidential. The first time the information was contained in a report to council where the press and public had been excluded from its consideration. The second occasion the Cllr had received a letter from the Monitoring Officer and indeed had provided an undertaking not to release the information received.

The Cllr sought to argue firstly that the information was not confidential and secondly that it was in the public interest to disclose.

The tribunal conducted a detailed analysis of both propositions and found against the Cllr on both representations. Whilst it was acknowledged that the information disclosed was not in itself of a confidential nature, it had to be put in the context of on-going negotiations with the Developer, and its disclosure affected the credibility of the Council. In deciding whether the disclosure was in the public interest the tribunal considered the expectation of Sainburys that the information would remain confidential and again the sensitive nature of the negotiations. These matters coupled with the directions of the Monitoring Officer and other senior officers meant the code had been breached.

4.3 LGS/2009/0465-0468 - Cllrs Hollis, Clark and Fawcett – v – Durham County Council

This is a decision which I would suggest that members of the Committee read in full. It demonstrates the regrettable situation that can arise when relationships between Parish Councillors deteriorate significantly. Of interest is the finding of the Tribunal that whilst the main protagonists conduct is a breach of the Code of Conduct they also made findings against the accuracy of the minutes of the meetings finding that there was bias against the complained of Cllrs.

It is also worth noting the distinction that the tribunal draws between failing to treat others with respect and bullying whilst it is clear that the former can lead to the latter, it doesn't automatically follow.

4.4 LGS/2009/0470 – Cllr Barnbrook – v – London Borough of Barking and Dagenham

This complaint arises from the video statement by Cllr Barnbrook that a young girl had been murdered in Barking and Dagenham and the knifing to death of 2 further people on the streets of the borough. No such killings had taken place and the Cllr is alleged to have known this at the time of making the video. Further, he continued to have the video on his blog and youtube account after a time when he should have known.

The key issue in this complaint however is whether Cllr Barnbrook was acting in his capacity as a LBBB Cllr. In presenting the video, Cllr Barnbrook had referred to himself as a member of the Greater London Assembly; he did not mention his being a LBBB Cllr. The Tribunal actually found that critical references to LBBB in fact distanced him from being a member of that Council.

It is important that when the conduct of Members is being assessed that the Standards Committee satisfy themselves that they are conducting the business **of that authority**. Simply being a Member of an authority is not sufficient to tie any breaches of the Code of Conduct to that authority.

5. As ever, whilst the findings of the Tribunals do not bind the Standards Committee the analysis and reasoning used is persuasive and will offer the Committee assistance in considering complaints.

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MONITORING OFFICER**

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Chris Moister	5160	23 February 2010	CasesUpdateMarch10