

Report of	Meeting	Date
The Monitoring Officer	Standards Committee	17 June 2010

CASE UPDATE

PURPOSE OF REPORT

1. To advise members of Cases considered nationally since the last meeting.

RECOMMENDATION(S)

2. That the content of the Report be noted.

DETAILS OF CASES

3. There have been 8 Adjudication Panel decisions reported since the last meeting of the Standards Committee. Members are invited to review these decisions on the Adjudication Panels website. The link to this site is www.adjudicationpanel.tribunals.gov.uk.
4. The following cases are however of interest

4.1 APE 0459 – Rod Frazer: Astley Village Parish Council

I wouldn't propose to revisit the factual history to this matter which has been before this committee before. It is of interest however as it relates to a matter which this standards committee has considered.

The Tribunal upheld the decision to suspend Cllr Frazer for a period of 4 months for the following reasons

- Persistent and unsubstantiated defamatory statements
- Posting defamatory and unsubstantiated comments on a website
- Harassment of the Parish Council Clerk.

4.2 APE 0483 – Cllr Colin Willets: London Borough of Bromley

This decision is of interest as it demonstrates the Tribunals approach to unacceptable behaviour by a member towards officers. It provides a considered approach to individual complaints, balancing the rights of the member to be politically active against their obligations under the code. It also provides guidance on the sliding approach the Tribunal have to such behaviours depending on the seniority of the officer. Finally the Tribunal also demonstrate how the individual instances should be considered as a pattern of behaviour.

The Cllr, was clearly active in his role within the community and much of his activity was directed towards the cleanliness of the streets and the streetscene within his ward. The Tribunal did not criticise this. What was at issues were the methods used by the Cllr. He had twice been asked (by 2 different Chief Executives) to use a single



point of contact for reporting issues to neighbourhoods officers and had largely overlooked these requests, continuing to approach junior officers directly. He had used aggressive and belittling language to Directors and had accused at Council meetings the Chief Executive of being a liar and a cheat. This, couple with emailed and postal communications which had been shared with other including residents of the Borough was found to be a pattern of bullying and abusive behaviour. Whilst the Tribunal acknowledged that the Chief Executive should have a thicker skin than junior officers, what had been stated by the Cllr was over the line.

The Tribunal imposed a sanction of 12 months suspension for what it felt was a very serious infraction of the code of conduct. Members of the Committee are encouraged to read this decision.

4.3 **APE 0493 – Cllr Peter Farrell; Doncaster MBC**

This is a decision of particular relevance to this Council as it relates to the breach of an email usage policy. Members of this Committee may be aware that such a policy is soon to be introduced within this Authority.

The Cllr received a total of 4 jokes into his Council email account. All were discriminatory being either sexist or racist. It should also be noted that the Cllr accessed this email account using a council supplied laptop. The Cllr then forwarded the emails to multiple recipients with no covering explanation. The Cllr accepted what he had done and also acknowledged having signed the email usage policy which precluded such a use.

What is unfortunate about this decision is the matter on which it doesn't make any finding or decision. The Tribunal supported the Ethical Standards Officers (ESO) finding that the Cllr was acting in accordance with his role as a Cllr. However, the ESO does state that the Cllr made no attempt to distinguish these emails from his role as a Cllr by marking them personal or private. The decision does not address the situation where a Cllr sends a discriminatory or offensive email from his council email account but marks it as Personal and does not sign it off as "Cllr.....". As usual it will depend on the circumstances but I would suspect that the Cllr concerned would have to work very hard to provide the necessary distance between his personal usage and the council account. It may also be that this use would still be a breach of the Usage Policy with its own sanctions even if personal use were allowed.

Although it was found that 2 of the emails were at the lower end of the scale, the Cllr was suspended for a period of 3 months. It should also be noted that the Tribunal had mitigated this punishment to reflect that the Cllr had stood down from the position of civic mayor which he was to hold for the following municipal year.

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

Chris Moister
Monitoring Officer

There are no background papers to this report.

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