

Digest of Adjudication Panel Cases

Introduction

At their last meeting, the members of the Standards Committee said that they would find it useful to receive a digest of recent Adjudication Panel decisions. The following decisions illustrate how the Members' Code of Conduct was interpreted in particular instances, and were selected either because they are of particular relevance to County Councils, or because they contain decisions of particular interest or complexity. None of the cases involves a Wiltshire County Councillor.

The Adjudication Panel for England

The Adjudication Panel for England is an independent judicial Tribunal which was established by Part III, Chapter IV of the Local Government Act 2000 to hear and adjudicate on matters concerning the conduct of local authority members.

Pursuant to section 59(4)(d) the Adjudication Panel for England considers references made to it by an Ethical Standards Officer of the Standards Board for England.

The Adjudication Panel for England also considers appeals pursuant to Part 3(9) of The Local Authorities (Code of Conduct) (Local Determination) Regulations 2003.

The Adjudication Panel for England consists of a President and members who were appointed by the Lord Chancellor after consultation with the Deputy Prime Minister.

Case One – Bringing Office or Authority into Disrepute (Paragraph 4 of the Code of Conduct)

Case Reference APE 0147

There was an altercation between an elected member and the matron of a nursing home. The matron made a complaint, and the matter was determined in the first instance by the Council's Standards Committee. The Committee censured the councillor, but did not name him. They also strongly recommended that the councillor send a letter of apology to the matron, which he agreed to do. The recollection of those present was that this agreement was unconditional. This was borne out by the minutes of the Standards Committee's hearing, and by contemporaneous notes made by the Democratic Services officer.

The councillor failed to apologise, and the matron complained to the Standards Board for England. The case was heard by the Adjudication Panel, who determined that the councillor was in breach of paragraph 4 of the Code, which provides as follows: "A member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute."

They found that his failure to apologise was such that the credibility of his office as councillor and the credibility of the authority's Standards Committee could be undermined. This could be reasonably regarded as bringing his office and the authority into disrepute.

Interestingly, the Adjudication Panel further relied on the Relevant Authorities (General Principles) Order 2001 in reaching their conclusion. A copy of the Order is attached.

Standards Committee members may find it useful in any determinations they themselves may have to conduct.

The Adjudication Panel found that the councillor's failure to comply with the Standards Committee's recommendations undermined that Committee's effectiveness in promoting high standards of conduct in the council, thereby jeopardising public confidence in the authority. They considered this to be sufficiently serious to warrant the member's suspension from office. Accordingly, the member was suspended for 6 months.

Case Two – Failure to declare a personal and prejudicial interest (Paragraph 5 of the Code of Conduct)
Case Number APE 0154

Although Wiltshire County Council is not a planning authority, as a highways authority it does consider applications relating to highways and rights of way, and it is in that context that this case may be of interest.

A councillor lived in a lane with 11 dwellings. A planning application was made to which 10 of the residents in the lane objected. The councillor's wife, Mrs White, objected very strongly. On consideration of the facts, most objective readers may find themselves in sympathy with the substance of the objections: the lane is very narrow; there is already very limited parking; local planning regulations have designated this lane as one in which future development should be restricted; the houses on the lane are of historic significance.

Councillor White did not object personally. However, he was a member of the council's Planning Applications Committee, and considered the application. He declared no interest, despite prior advice from the Monitoring Officer that he should do so, and despite an internal planning protocol that made it clear that a spouse's interests in planning matters constituted a personal and possibly prejudicial interest for members.

At the Planning Applications Committee meeting, Councillor White sought to prevent planning permission being granted. He spoke and voted against the application. The officer recommendation was that planning permission should be granted. Planning permission was refused, but was granted on appeal. At the time of the events, Councillor White was also a member of the Council's Standards Committee. The applicant complained to the Standards Board for England.

The Adjudication Panel determined that Councillor White should be suspended from acting as a member of the Planning Applications Committee for one year.

Case Three: Failure to Treat With Respect (Paragraph 2b of the Code of Conduct)
Case Numbers APE 0155 and 0156

2 opposition councillors objected to the Local Plan proposed by the ruling group. As part of their campaign, they suggested that the senior officer involved in developing the plan was incompetent, unprofessional and politically motivated. This officer held a politically restricted post. These allegations were made in correspondence which the 2 councillors asked to be circulated to other members, and in full council meetings.

At the panel hearing, the councillors said that they intended the comments to form part of a complaint about the officer concerned, not as a personal attack.

The Adjudication Panel found that the public nature of the councillors' comments, and the words employed, suggested that they had not intended the issue to be dealt with as a

complaint, and that their approach had made it difficult to sustain effective working relationships with officers of the council. Further, although the councillors accepted, at the hearing, that they should have acted more temperately, there was little evidence of contrition. The members were each suspended for one year. The panel further recommended that the council involved should establish procedures by means of which councillors who had concerns about the behaviour of officers could pursue those concerns.