

**STANDARDS COMMITTEE  
18 APRIL 2007**

---

**DIGEST OF ADJUDICATION PANEL CASES**

**Introduction**

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 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 – Failing to treat others with respect - Paragraph 2 (b) of the Code;  
Bringing his office or authority into disrepute - Paragraph 4 of the Code; Using  
position as a member improperly to confer and advantage or disadvantage;  
Paragraph 5 of the Code  
Case Reference APE 0361**

Facts of the case. The member was the proprietor of Northern Soul, a company that hosts music events. He advertised some of the events in the council's staff canteen, stating that he was a council member in the advertisement. He hired a hall owned and run by the council as a venue for some of the events. The councillor is diabetic and has dyslexia.

There were 22 allegations in all. It was alleged, inter alia, that the member was rude and aggressive to several officers when arranging events and in resolving difficulties and misunderstandings. He contacted officers at home and out of hours on their emergency contact numbers in order to raise concerns about his personal business interests. He went on to complain about several officers. He personally conducted an investigation into the behaviour of an officer whom he suspected of misusing council property, instead of referring his concerns to the officer's line manager. He persuaded an officer to reduce the booking fee for the hall when an event did not secure sufficient attendance: this was contrary to policy, and the officer was disciplined. He sought to discuss the details of the forthcoming disciplinary hearing with a member of the disciplinary panel, and to obtain confidential

information about the hearing. It was further alleged that he sought to pressurise relatively junior officers to disclose information relating to a planning application in which he had a personal interest.

The member stated to the Tribunal that his diabetes often made him irritable, and that the large volumes of paperwork associated with being a member were difficult for him to fully understand as a result of his dyslexia.

The Tribunal did not uphold all of the allegations. They remarked that the large number of allegations made might have been a tactic adopted to ensure that some of them “stuck”. They expressed disquiet about such an approach, making it clear that every allegation would be considered on its merits.

Despite their reservations about the preparation of the case they considered that the member had breached the Code in a number of ways over a sustained period of time. He had used his office for personal gain, failed to show respect to others, and brought his office and the authority into disrepute. They stated that they had considered disqualification to be an appropriate sanction. However, they took into account the member’s representations regarding his disabilities, and the fact that two other members had volunteered to mentor him. They recommended that the member’s contact with officers should be restricted so that it took place only with a named person.

The tribunal suspended the member for 6 months.

**Case Two – Bringing office or authority into disrepute (Paragraph 4 of the Code of Conduct)**  
**Case Number APE 0346**

Facts of the case. The member was involved in a traffic accident and later convicted for driving with excess alcohol. This was the member’s second such conviction. Details of the conviction were published in the local press. At the time of the accident, the member was driving to visit a constituent who had called with regard to a casework issue. It was therefore alleged that the member was engaged in council business at the time of the accident, and it was further alleged that this brought her office or authority into disrepute. It was also alleged that the member had not had regard to the eighth general principle in the Relevant Authorities (General Principles) Order 2001, which states that “Members shall uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them”.

The member stated to the Tribunal that drink driving was not as serious an offence as, say, dishonesty or theft. She also stated that she was now seeking medical help for alcohol dependency.

The Tribunal did not agree with the member’s assessment of the seriousness of the offence, particularly in view of the possible consequences of driving with excess alcohol. The member was disqualified for a year.

**Case Three: Failing to treat others with respect – Paragraph 2.1 (b) of the Code; Bringing office or authority into disrepute (Paragraph 4 of the Code of Conduct)**  
**Case Reference: APE 0322**

It was alleged that the member had failed to treat officers with respect, and in making public criticisms of officers had brought the authority into disrepute. The member did not attend the

Adjudication Panel hearing, claiming that the stress of being the subject of this complaint had made him too unwell to attend.

The Tribunal considered a large body of documentary evidence consisting of e-mails, web postings and letters. Because the member was not present at the hearing, they placed more reliance on this documentary evidence than they did on written statements, which could not be tested in oral evidence.

During the course of the investigation, the Ethical Standards Officer sought to arrange an interview with the member to discuss the allegations made against him. The member said that he would be too busy to attend such a meeting until after the May 2005 elections. The member did not respond to the ESD's proposed dates after May 2005. Nor did he make any comment on the ESO's draft report.

The Adjudication Panel was set down for a hearing on 10<sup>th</sup> and 11<sup>th</sup> January 2006. On 9<sup>th</sup> January the member requested an adjournment, which was agreed. The panel reconvened on 23<sup>rd</sup> March 2006. On 22<sup>nd</sup> March, the member again requested an adjournment on the grounds of ill health. He provided a statutory sick note from the doctor stating that he should refrain from work for 2 weeks on account of stress. The chairwoman did not grant an adjournment on the grounds that this was not a medical report and that the doctor had not given an opinion that the member was not fit to attend the hearing. She issued a direction that any further communication from the doctor should contain the following information:

- details of his medical condition
- whether this meant that he was medically unfit to attend the hearing and if so, what would be the medical consequences of his attending
- for how long the diagnosis was likely to last
- whether there were any conditions under which the hearing could go ahead, i.e., what the Case Tribunal might do to alleviate any stress

The Tribunal was provided with a letter from the member's doctor on the morning of the hearing. The letter confirmed the source of the stress was the forthcoming tribunal and that his symptoms were "headaches, sleep disorder and lack of concentration, which have led to an inability to prepare for this tribunal."

The tribunal took into account that the medical evidence did not adequately address the nature or severity of the member's condition and in particular the prognosis for how long this might continue. The significance of this was that, given the cause of the stress was the hearing itself, this raised the possibility that the member would not for some significant period of time, or indeed ever, be fit to attend the hearing. The Tribunal had to take into account the public interest in the matter being resolved within a reasonable period of time.

The hearing took place in the member's absence, and the Tribunal determined, on the basis of the evidence before it, that the member should be disqualified for a year.

**NINA WILTON**  
**CORPORATE STANDARDS MANAGER**