

**STANDARDS COMMITTEE
4 JULY 2007**

ADJUDICATION PANEL CASE

Introduction

The following decision illustrates how the Members' Code of Conduct was interpreted by a Tribunal of the Adjudication Panel for England. This case is of particular interest because it clearly shows how the Adjudication Panel weighed evidence and reached its decision based upon the facts, with specific reference to guidance on sanctions issued by the President of the Adjudication Panel. Members may therefore find it useful as a reference case in the event that they are required to act as members of a local Standards Committee panel hearing a case.

The member was not 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.

Failing to treat others with respect – paragraph 2(b); seeking to compromise the impartiality of officers – paragraph 2(c); using position improperly in an attempt to confer advantage on another person – paragraph 5(a); bringing office or authority into disrepute – paragraph 4.

Case Reference APO 0374

The councillor was a long standing member of the authority. He wrote an e-mail to the head of Human Resources demanding that disciplinary action taken against a member of staff (and a former mistress of his) be withdrawn with immediate effect. The tone of the e-mail was threatening, and the demand was not consistent with the council's policies relating to this issue.

The matter was exacerbated in a subsequent committee meeting, where the member repeatedly raised the facts of this particular disciplinary case, without declaring an interest, and in a public meeting. The head of HR asked him to consider whether he had a personal interest that he should declare. The councillor became very angry and abusive.

A complaint was made to the Standards Board by the head of HR. The member wrote to the Monitoring Officer demanding the dismissal of the head of HR, on the grounds that she had made the complaint. He threatened to write to the local press, and instruct officers to refuse to follow instructions given by the head of HR if she were not dismissed.

At the hearing, the Adjudication Panel found the head of HR "to be an impressive witness who was at pains to answer questions accurately, clearly and in a disinterested manner. For these reasons the Tribunal placed substantial weight on her evidence".

The Tribunal also found that the member "appeared to be ignorant of how the Council was organized and ...of his role in dealing with policy and the role of the officers in providing advice and dealing with the implementation of policy".

The Tribunal took into account guidance from the President of the Adjudication Panel, which states that disqualification is likely to be appropriate where a member has sought to misuse his position in order to disadvantage another person, and/or where there have been repeated breaches of the Code of Conduct. They considered that both of these considerations were pertinent to this case.

They considered the member's behaviour to have been aggravated by his demands for the head of HR to be dismissed upon learning that she had complained to the Standards Board for England about his behaviour.

Although the member's long record of service was considered as a possible mitigating factor, they did not consider that this alone would serve to vitiate disqualification as a suitable remedy. However, the member was also undergoing an unusually difficult divorce and his financial situation was precarious, causing him considerable personal distress. These were considered to be mitigating factors.

The Tribunal determined, therefore, that the member had breached the code of conduct, in that he had failed to treat others with respect – paragraph 2(b); sought to compromise the impartiality of officers and used his position

improperly in an attempt to confer advantage on another person – paragraphs 2(c) and 5(a); and brought his office and authority into disrepute – paragraph 4. Having taken the mitigating factors into account, the member was disqualified for 3 months.

A copy of the President's guidance referred to in this decision is attached. Although the range of sanctions is different from those available to a Standards Committee, the factors considered in reaching a decision are relevant to local determinations.

NINA WILTON
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