

Recent Decisions Of The Adjudication Panel For England
Standards Committee Item 8

Committee: STANDARDS COMMITTEE
Date: 21 SEPTEMBER 2009
Title: RECENT DECISIONS OF THE
ADJUDICATION PANEL FOR ENGLAND
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Agenda Item

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Item for
information

Summary

- 1 This report is to inform Members of the decisions of the Adjudication Panel for England in cases published since the last meeting of this Committee. The report will indicate in each case whether the matter was a hearing or an appeal.

Recommendations

Members note this report

Background Papers

Adjudication Panel for England's website
www.adjudicationpanel@tribunals.gov.uk.

Impact

Communication/Consultation	None
Community Safety	None
Equalities	None
Finance	None
Human Rights	None
Legal implications	An appeal lies from the Adjudication Panel to the High Court on a point of law with the permission of the High Court.
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

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Situation

- 2 Since the last meeting of this Committee there have been 6 cases published on the Adjudication Panel's website which are summarised below:-

- 3 On 23 June 2009 the Panel heard an appeal by Cllr Cox of the London Borough of Hillingdon against that Council's Standards Committee which had found that Cllr Cox had breached the Code of Conduct by failing to treat others with respect and bringing his authority into disrepute. The allegation (which the Standards Committee found to be proved after hearing evidence) was that Cllr Cox had called the Conservative administration of the Council "corrupt" at a meeting of the Council during a debate. The Standards Committee found that no further action needed to be taken in the circumstances of the case. The Adjudication Tribunal found that the comment was a "throwaway remark" made without malice but that the comment was made at Full Council where councillors, officers and members of the public were present. He had therefore failed to treat Conservative councillors with respect and by making an unjustified allegation that the administration of the Council was corrupt he had also brought the Council into disrepute. The Panel upheld the findings of the Standards Committee.

- 4 On 6 July 2009 the Panel held a hearing into an allegation that Cllr Chegwyn of Gosport Borough Council had breached the Code of Conduct following an investigation carried out by an ethical standards officer. As the events leading to the complaint post date the shift of responsibility for vetting complaints from the Standards Board to Standards Committees the inference is that the Standards Committee of the Council considered that this was a case which should not be dealt with at local level. Cllr Chegwyn was the owner and an employee of a company which staged music festivals. He applied to the Council for a land licence to hold a festival within the borough. Approval was given in principal. It seems that the proposed event was highly controversial. There were moves to re-open the decision. In order to do so it was necessary for a resolution to be passed to suspend standing orders. A resolution was moved in 3 parts, the first to suspend standing orders and the next 2 parts to deal with re-examining the terms of the permission. Cllr Chegwyn attended the meeting. He did not declare an interest nor did he withdraw from the room. He voted against the first part of the motion to suspend standing orders. This was defeated by a single vote. As a result the remaining parts of the motion could not be considered. The Panel found that the motion had a direct

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bearing on the financial position of Cllr Chegwyn's company. As a result his interest was both personal and prejudicial. He had therefore breached the code by failing to declare an interest, failing to withdraw before a vote was taken on an item in which he had a prejudicial interest, using his position as a councillor to improperly secure an advantage for another and bringing his Council and his office into disrepute. Cllr Chegwyn had accepted the ethical standards officer's finding that there had been a breach of the code of conduct. He had made a public apology for his actions. He resigned his positions as deputy leader of the Council and chairman of the Council's Community and Environment Board. He stated that he would not act as chairman of any other Council Board until after he sought re-election in 2010. The Panel found this was a very serious breach of the code and notwithstanding the fact that Cllr Chegwyn was also a county councillor and that its decision would mean that Cllr Chegwyn would be unable to seek re-election in 2010 the Panel disqualified Cllr Chegwyn from being a member of any relevant authority for a period of 2 years.

- 5 On 23 July 2009 the Panel considered an allegation that Cllr Buchanan of Somerset County Council had intimidated or attempted to intimidate the Chief Executive of the Council who was a complainant in a complaint regarding an alleged breach of the Code, that he used his position improperly to confer a disadvantage on the Chief Executive and that he had brought his Council into disrepute. Following complaints made by the Chief Executive to the Standards Board regarding Cllr Buchanan's conduct Cllr Buchanan wrote to the Society of Local Authority Chief Executives and Senior Managers ('SOLACE'), the Association of Local Authority Chief Executives ('ALACE') and to the County Council making serious allegations of misconduct on the part of the Chief Executive. The Adjudication Panel found as a fact that all the allegations against the Chief Executive were unfounded. There had been no evidence that the Chief Executive had felt intimidated by the letters. However the Ethical Standards Officer submitted that this was not necessary as the Code also prohibits attempts to intimidate a person. The Panel held that the allegations made by Cllr Buchanan were made maliciously out of a desire to gain revenge and that Cllr Buchanan was not therefore attempting to intimidate the Chief Executive. However in writing the letters Cllr Buchanan was endeavouring to secure a disadvantage for the Chief Executive because the allegations made, if true, could have led to the Chief Executive's dismissal. He was therefore in breach of that part of the Code. His conduct also constituted bringing his authority into disrepute as his actions reflected on all members of the county council. The Panel noted that Cllr Buchanan was no longer a councillor having been

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de-selected by his group and not having therefore been re-elected in 2009. However it was of the view that the conduct was so serious that had he still been a councillor a period of disqualification would have been justified and a 2 year disqualification was therefore imposed.

- 6 On 21 July 2009 the Adjudication Panel heard a complaint that Cllr Mason of Needham Town Council had breached the Code of Conduct by failing to treat a fellow member of the Council and the deputy town clerk with respect. It was alleged and admitted that Cllr Mason had said that his fellow councillor and the deputy town clerk were “proven blatant liars” at a publicly held meeting of the Council. Cllr Mason’s defence was that the statement was true. The matter arose out of a disagreement as to whether a particular telephone conversation had taken place some years earlier. Cllr Mason maintained it did not, the fellow councillor (who at the relevant time was town clerk) stated it did. The Panel did not find it necessary to determine which version of events was true. It found that the language used was improper, that there had in any event been no adjudication on the issue so the expression “proven” was not accurate. The language used was intended to be insulting and insofar as the deputy town clerk was concerned she did not have a right of reply in the public meeting. The Panel held that there was an interference with Cllr Mason’s right of freedom of expression contained in the European Convention of Human Rights but that in the circumstances of the case such interference was justified. Cllr Mason was found to have breached the Code by failing to treat others with respect. The Panel noted that Cllr Mason had been suspended for 3 months in respect of a similar but different allegation by the relevant Standards Committee. Before the Panel had retired to consider the sanction Cllr Mason said he had that morning resigned from the Council and that he would not stand again until 2011. This removed the option of a suspension from the Panel. The Panel felt that the resignation was tactical and in the circumstances a period of disqualification was warranted. Cllr Mason was disqualified from being a member of any relevant authority for 12 months.
- 7 On 30 July 2009 the Adjudication Panel considered the case of 5 serving and one former member of Ludlow Town Council. The reference was one from a monitoring officer for a Standards Committee which ceased to exist as a result of local government re-organisation. It was alleged that the members had failed to treat others with respect in sending a strongly worded note to the parish clerk regarding the investigation of some financial irregularities within the Council; had disclosed confidential information in breach

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of a duty of confidence; had brought their office or council into disrepute and had improperly used their positions to secure an advantage or disadvantage for another. The panel held that the note concerned expressed real concerns and that the contents were not intemperate or abusive. There was therefore no breach of this part of the Code. With regard to confidential information the allegation was that the statement was made to the clerk, press and police in breach of confidence. The disclosure to the clerk contained no information not already know to him. There was no evidence that any of the subject members had disclosed the statement to the press. There was evidence that 2 of the members had given statements to the press but only after matters had gone into the public domain and therefore were no longer confidential. The disclosure to the police related to a potentially serious criminal offence and as such was either a disclosure required by law or was made in the public interest. As the members had behaved properly in these respects the questions of bringing the authority or office of councillor into disrepute or improper use of position did not arise.

- 8 On 12 August 2009 the Adjudication panel considered an appeal by Cllr Ames of Alford Parish Council against a finding of a Standards Sub-Committee of Waverley Borough Council that she had breached the Code of Conduct by failing to declare a personal interest in a planning application. The Sub –Committee had decided to impose no sanction. The matter turned on the status of a meeting which was called outside of the calendar of normal parish council meetings “to discuss and hear residents opinions” about a significant planning application. Cllr Ames and other Members of the Parish Council took a view that the meeting was a public not council led meeting to discuss the application. In a confusingly worded decision the Adjudication Panel upheld the decision of the Standards Sub-Committee that the meeting had been a correctly convened meeting of the Parish Council due to the manner in which it was called, advertised, convened and conducted. As a consequence the Code of Conduct applied. Cllr Ames admitted that she had a personal interest which she had declared at previous and subsequent meetings of the Parish Council. The Adjudication Panel therefore upheld the decision of the Standards Sub-Committee that the interest should have been declared. No sanction was considered necessary because Cllr Ames had acted under a genuine mistake as to the nature of the meeting and no declarations of interest had been asked for or given.

Risk Analysis

There are no risks associated with this report