

Committee: STANDARDS COMMITTEE

Agenda Item

Date: 14 May 2012

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**Title: REPORT ON THE OUTCOME OF AN
APPEAL BY CLLR A. DEAN AGAINST A
DECISION OF THE STANDARDS
COMMITTEE**

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Summary

1. This report is to inform members of the decision of the First Tier Tribunal – Local Government Standards in England on an appeal by Cllr Alan Dean against a decision of the Standards Sub-Committee that he had breached the Council's Code of Conduct by bringing his authority into disrepute.

Recommendations

2. That members note this report

Financial Implications

3. None

Background Papers

4. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

Notice of Decision of First Tier Tribunal 25 April 2012

Impact

- 5.

Communication/Consultation	None
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	The Council may seek permission to appeal the decision if it considers there are grounds to do so within 28 days of receipt of the detailed reasons for the Tribunal's

	decision
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

6. On 2 August 2011 Cllr Dean published the following statement on his weblog “Recipients of council tax and housing (rent) benefits have to tell the council if their financial circumstances change. This is to allow the council to reassess their entitlement. However what happens is that benefit payments are suspended whilst council officers re-calculate the payments. This can take up to 2 months and has been causing major financial stress to some people. Have you experienced this difficulty or do you know someone whose benefits have ceased and then resumed after a long break? Please let me know”.
7. Subsequently the same statement was published in the September issue of the Link, a newsletter distributed to all households in Stansted.
8. The Council’s Chief Executive made a complaint to the Standards Committee that these words brought the Council into disrepute as then statement implied that a 2 month suspension of benefits while recalculation was taking place was common practice when it is not and talked of “some people” when he only had 1 anonymous complainant upon which to base his assertion.
9. The complaint was passed for investigation. An investigation was carried out by me and I prepared a report.
10. In my report I found that the only reasonable interpretation of Cllr Dean’s statement was that it was normal for changes in circumstances to take up to 2 months to be processed with payment of the claim suspended in the meantime and that a number of people have been caused major financial stress as a result. I also found that there was no evidence to support either statement as there was only 1 person who had complained of delay. That person refused to be identified so that there could be no investigation into the circumstances of the delay and therefore it could not be ascertained whether the delay was justified. While Cllr Dean had received complaints regarding the housing benefit service from another constituent there had been no delay in that case.
11. My conclusion was that publishing a statement which gives a clear impression that it is normal for changes in circumstances to take up to 2 months to be processed with payment of the claim suspended in the meantime and that a number of people have been caused major financial stress as a result could reasonably be regarded as reducing public confidence in the authority being able to fulfil its functions and duties and would bring the Council into disrepute. In the absence of evidence supporting the statement I found that there had been a breach of the Code of Conduct.

12. On 28 November 2011 the Standards Sub-Committee met to consider my report. The decision of the Sub-Committee was that the Code had been breached in that the impression had been given that council officers take up to 2 months to recalculate payments and that this has been causing major financial stress to some people. While the Sub-Committee found that there may be deficiencies in the system it found no evidence that the cause of these is as alleged by Cllr Dean in his blog and the article in the Link. Having found that there was a breach of the Code of Conduct the Sub-Committee resolved to take no further action.
13. Cllr Dean applied for permission to appeal which was granted on 2 grounds. Firstly the President of the Tribunal said it seemed arguable as to whether the Council was brought into disrepute. Secondly the Tribunal would need to take into account Cllr Dean's right of freedom of expression under Article 10 of the European Convention of Human Rights.
14. The matter was dealt with by the Tribunal on 25 April 2012. The practice of the Tribunal is to give a short decision notice on the day followed by detailed reasons for the decision which should be issued within 14 days of the hearing. At the time of the preparation of this report the detailed reasons are not to hand but they will be reported verbally to the Committee if they are received before the meeting.
15. The Notice of Decision issued by the Tribunal states that the Tribunal found that Cllr Dean did not fail to comply with the Code of Conduct. The Notice does not state that the Tribunal found Cllr Dean's remarks were justified. However it considered that "the interpretation which the Standards Committee had placed upon the wording used by Cllr Dean in his weblog and Link was too restrictive. A wider and natural interpretation of the language employed by Cllr Dean would lead the reader to consider that he was requesting information rather than making any critical statement. Cllr Dean was using his communication to gather information from the public, having first raised issues with appropriate officers, whilst at the same time gathering information from other sources inside the Council to identify whether there were any administrative problems which could be addressed and whether these administrative problems rested with claimants, the council or both."
16. The Tribunal therefore rejected the findings of the Standards Committee and directed that the decision ceased to have effect immediately.

Risk Analysis

17. There are no risks arising from this report

- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.