

Standards Committee - 14th January 2008

Report of the Monitoring Officer

Digest of Recent Decisions by the Adjudication Panel for England

Purpose of Report

1. To consider a digest of 3 cases recently considered by the Adjudication Panel for England (APE).

Background

2. The Standards Committee has previously indicated that it would be helpful for members to see a digest of cases dealt with by the APE and this report sets out brief details of 3 cases.

Carlisle City Council (Case Reference APE0384)

3. By the time of the hearing by the APE the elected member concerned, Councillor Aldersey, was no longer an elected member.
4. This was an appeal by the elected member from a decision of the local Standards Committee. The core of the complaint was that the member had behaved inappropriately during a visit to a local Children's Home. The APE found that:-
 - The member had visited the Home without prior arrangement.
 - His demeanour and interaction with a member of staff was assertive and demanding, which was inappropriate to the circumstances, bearing in mind that it was a Children's Home, it was 7.30 pm and no attempt had been made to make an appointment before the visit. However, his behaviour did not constitute threatening or bullying conduct.
 - The member referred to a senior County Councillor during the visit as "all mouth and no action" which was disrespectful and a breach of the Code.
 - In all the circumstances the member did not bring his office or the authority into disrepute.

5. The decision of the APE was to uphold the decision of the Standards Committee to censure the member in respect of his comments about the County Councillor and their requirement that he should give a written apology to the County Councillor within 7 days in a form approved by the Chairman of the Committee.

Comment

This case demonstrates the importance of the context in which comments are made. If this particular statement had been made during the rough and tumble of a Council meeting where the other member would have had an opportunity to respond, it is unlikely that the comments would have been held to be a breach of the Code. However, in view of the fact that the statement was made to a member of staff during an unplanned visit about an elected member who was not present to defend himself, the circumstances were inappropriate and the member breached the Code by failing to show respect.

Great Yarmouth Borough Council (Case Reference APE0377)

6. This case involved a member making comments about a planning officer. The APE held that the member had shown a lack of respect to a planning officer by using one of his subordinates to question the competence of the planning officer and repeating the same allegation to the Ombudsman when there was no substance to the allegation. In addition the APE held that the member had told members of the Council that he had heard 4 people with connections to the Council mislead the Court from the witness box during the trial of another elected member.
7. The decision of the APE was that the member could and should have referred this allegation to the Police as soon as possible if he had a legitimate case. However, he chose to publicise this allegation during a meeting of the Council and, because it had not been reported to the Police, those who had their reputations brought into question by the comments had not been given any opportunity to clear their names.
8. In determining the sanction the APE took a number of factors into account before imposing a disqualification for 18 months.

Comment

Free speech is an important legal right but this case reminds us that there are limitations, particularly when allegations may be defamatory. Before making any statement of a personal nature regarding the competence or conduct of an officer or elected member, a member should ensure that they have sufficient evidence to support the allegation and they should also consider whether they have chosen the right vehicle for making the statement. For example, it may be perfectly proper for a member to privately question the competence of an officer in a meeting with the Chief Executive but to do so in a public arena will normally amount to a breach of the Code as a failure to show respect.

Sedgefield Borough Council (Case Reference APE0387)

9. In this case the APE held that a member attempted to pressurise another member of the Planning Committee into voting in favour of a particular planning application and threatened to have him de-selected if he did not do so. The member had also used offensive language in making the threat. In the circumstances the APE decided that this conduct had brought the reputation of the office of the member and the Council into disrepute.
10. The APE also held that the member had failed to comply with the Planning Code of Practice and thereby had brought the reputation of the Council into disrepute.
11. The sanction imposed by the APE was to suspend the member for 1 month.

Comment

12. Interestingly the decision of the APE makes a particular reference to the Planning Code of Good Practice which states:-

“Don't excessively lobby fellow Councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken”.
13. This underlines the importance of ensuring that there is a fair and equitable system for making quasi-judicial decisions, such as planning and licensing, and that such decisions are taken entirely upon their merits. Any attempt to put pressure on a member to vote in a particular way at a planning committee under threat of de-selection, would clearly bring the Council into disrepute because the public would lose confidence in the integrity of the process.

Finance

14. There are no financial implications arising from this report.

Law

15. Section III of the Local Government Act 1972 enables the Council to do any thing which is calculated to facilitate or is conducive or incidental to the discharge of its functions.
16. The relevant provisions regarding the Members' Code of Conduct are contained in Sections 49 – 52 of the Local Government Act 2000 and Regulations made by the Secretary of State.

Equality Impact

17. This report complies fully with the Council's policies on equality and diversity. The decision with regard to Carlisle City Council highlights the importance of showing judgement and respect when visiting a Children's Home.

Recommendation

18. It is recommended that this report be noted.

John Polychronakis

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J. Polychronakis.
Monitoring Officer

Contact Officer: John Polychronakis.
Telephone: 01384 (81)5300
Email: john.polychronakis@dudley.gov.uk

List of Background Papers

1. APE Decision (Case Reference APE0384).
2. APE Decision (Case Reference APE0377).
3. APE Decision (Case Reference APE0387).