



Briefing Report No: **282/2010** Public Agenda Item: **Yes**

Title: **The Adjudication Panel**

Wards Affected: **All Wards in Torbay**

To: **Standards Committee** On: **3 June 2010**

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## **1. Appeal Tribunal Results**

- 1.1 The purpose of this report is to indicate reasons why the Tribunals disagreed with the Standards Committee of the individual local authority. This should be helpful to members of the Torbay Council Standards Committee in furthering its objective of making sound and equitable decisions.
- 1.2 This Report analyses a number of cases which may assist subcommittees in assessing and hearing complaints.

### **499 Bolton**

Tribunal disagreed with Standards Committee finding of disrespect and nullified 4 months suspension imposed.

Appellant had replied to an e-mail from a member of the public in terms which the Tribunal viewed as not being abusive or overtly offensive. Tribunal did not consider that it was unreasonable for the Appellant to regard the widely circulated and critical e-mail from a member of the public as unfair and politically motivated; on that basis, Tribunal found that Appellant's conduct in replying in the way he did to the member of the public did not breach the threshold of being unfair, unreasonable or demeaning to the extent necessary to engage paragraph 3(1).

**497    South Tyneside**

Respondent at full council persisted in speaking when Chairman had stood up contrary to Standing Orders, caused meeting to be suspended and then referred to another date when she persisted to interrupt after the suspension. Tribunal held she had brought the council into disrepute, issued a censure and warned that if she repeated her action she could expect a less lenient sanction.

**498    Solihull**

Standards Committee decision to require parish councillor appellant to undertake training on effective chairmanship was overturned. Case turns on its peculiar facts relating to alleged failure to take into account medical condition of another councillor.

**485    Havering**

Respondent informed local newspaper on 2 separate occasions of his findings arising from covert surveillance he had arranged on properties lived in by another councillor in an attempt to prove he was ineligible for election. His allegations, as published, were not well founded and there were other ways he could have instigated such an investigation provided for by law. Respondent had only been a councillor for a few months but had shown no remorse. Held breach of disrespect paragraph and one month suspension; Standards Committee decision upheld.

**502    Milton Keynes**

Tribunal reduced suspension from 6 months to 3 months in view of appellant's poor health and record of service. Tribunal upheld Standards Committee finding of 4 breaches resulting from appellant making threats to officer and calling her a liar in front of others. When the appellant received a letter from Standards for England she wrote to Chief Executive asking for action to be taken against the complainants and failed to show an appropriate degree of contrition at any stage. Tribunal was also satisfied that there had been previous incidents of misconduct by appellant similar to the one complained about and endorsed Standards Committee decision that appellant should meet with Monitoring Officer to clarify her understanding of protocol on member and officer relations.

**500    Wigan**

Respondent was found to have shown disrespect to, and bullied an officer, in a number of respects. He had already been disqualified in 2004 and 2005 for periods totalling 3 years running consecutively for similar breaches.

Tribunal was concerned that no training had been offered to him on his re-election to the Council, contrary to a recommendation of a previous Case Tribunal. The respondent had agreed to mediation following a meeting with a senior officer. Tribunal considered respondent should be given a further opportunity to show he was fit to be a councillor. Tribunal decided that respondent be suspended for 6 months and then for up to 12 months in total until such time as he provides an apology in a required format, undertakes training by an external provider and takes part in a conciliation process with the officer if she agrees. The apology to be addressed to the officer in writing and read out by the respondent councillor at the first (practicable) meeting of full council.

#### **508 Preston**

Standards Committee's decision, that a parish councillor's accusation that some members of the public had been "coerced" into signing a petition meant that the councillor had not treated the petition organisers with respect was overturned.

#### **507 Cornwall**

A member of Penzance Town Council referred to another member, with which he had previously been on good terms, as a liar during the course of an intemperate outburst at a Town Council meeting. Evidence was given of the appellant's excellent record of service and the Tribunal concluded that the word was used in a single unplanned outburst. This contrasted with the other main case involving the use of the word "liars" (Neesham Market/Mid Suffolk 427) where the facts had been very different and the words used were clearly pre-planned and part of a long-running dispute between the councillors involved.

The Tribunal found the breach to be minor in the circumstances of the Penzance Town Council meeting and that no useful purpose would be served by a suspension. The Tribunal therefore reduced the Standards Committee's four month suspension to a censure. The Mid Suffolk Case had been the subject of a one year disqualification but the Tribunal decided that the facts in that case were much more serious than the present one, and that a significantly lighter sanction was all that was warranted.

#### **504    Rotherham**

The facts involved the Monitoring Officer and deputy and the investigation was carried out by an ESO who produced a 770 page report. It was alleged that a Parish Council Chairman had concealed legal advice from the MO on a constitutional matter, and that the respondent had sent an e-mail to the local newspaper containing an e-mail he had sent to the DMO, insulting him, attacking his personal integrity and including veiled threats.

The paper published an edited version of the e-mail. On the first allegation, the Tribunal ruled that the councillor did not breach the code. His actions were “foolish, ill-thought and self-opinionated, but did not bring either his office or authority into disrepute”. On the second allegation, the Tribunal found that the attacks on the DMO were pejorative, unjustified and sustained and were harmful to the person attacked and the public interest. The Tribunal decided they constituted breaches of 3(1) and 5. No remorse or understanding of his responsibilities had been shown by the councillor. The tribunal did not consider the attacks amounted to bullying, but emphasised that, had the officer been less senior or employed by the councillor’s authority, they would have taken a different view.

The councillor was suspended for six months. *Sanders v Kingston and Chegwyn* were applied.

#### **503    South Tyneside**

An interesting case involving issues about a community newsletter issued by a councillor, his Twitter site and his right to ask the council to issue a press release. Tribunal held that unjustified comments on his Twitter site and political comments in his newsletter about the Standards Committee (for which there was arguably some justification) were protected under human rights legislation and did not constitute a breach. However the Tribunal found that the reference to the Monitoring Officer as a “maggot” was not protected and breached 3(1). A censure was issued. The Tribunal then made recommendations that the council should commission a review of the operation of the standards regime in the council and its media protocol with the aim of achieving greater confidence in the working of the council’s standards regime and promoting a culture which substantially reduces the number of complaints from councillors about each other.

## **512    West Berkshire**

Standards Committee finding of bullying was overturned on appeal and sanction of training and requirement to apologise was quashed. Appellant had been appointed Proper Officer of a Town Council with responsibility for training new Clerk for 12 months. New Clerk resigned after one year on grounds of bullying, but produced no evidence of any significant examples of bullying or that she had actively sought more responsibility in the face of a reluctance by the appellant to transfer more duties to her.

## **513    Central Bedfordshire**

Facts concerned an allegation of bullying by the Former Town Mayor in a pub at around midnight. Tribunal concluded that he had given the impression by his conduct that he was acting as a representative of the Town Council and therefore not the “official capacity” test. However, Tribunal found that there was insufficient evidence of intent or detriment to justify a finding of bullying, contrary to the decision of the Standards Committee.

## **505    Gosport**

Tribunal suspended councillor for six months after finding he had sent offensive, bullying e-mails to officers, bullied the complainants by making unfounded allegations about their conduct, made unfounded claims of officer corruption to the media and attempted to use his position improperly to favour one council contractor.

Tribunal held that whilst councillors should be able to express concerns about the running of the Council, including criticism of how officers handle particular matters, this should not involve anger and personal abuse. Such concerns should not be expressed in a persistent and lecturing manner which has a detrimental effect on the health and well being of recipients; it was therefore necessary for the respondent’s Article 10 rights to be curbed “to protect the reputation and rights of others”, in accordance with Article 10(2).