

BABERGH DISTRICT COUNCIL

FROM: Acting Head of Legal and Administrative Services

REPORT NUMBER **F12**

TO: STANDARDS COMMITTEE

DATE OF MEETING 21 April 2006

MEMBERS CODE OF CONDUCT CASE REPORTS

1. **SUMMARY**

This is the second report of the ongoing series of recent case reports arising from investigations of alleged breaches of the Members Code of Conduct. The case reports will pick up on any relevant court cases, findings of the Adjudication Panel of the Standards Board for England along with significant local determinations.

2. **RECOMMENDATIONS**

That the content of this report be noted.

The Committee is able to resolve this matter.

3. **FINANCIAL IMPLICATIONS**

None.

4. **KEY INFORMATION**

4.1 **SELECTED CASE TRIBUNAL DECISIONS**

4.1.1 **CLLR D (APE 309) – training of parishes**

After disqualifying the Councillor for 3 years, the Adjudication panel recommended that the council should look at training of parish councillors, especially those who are independent and those elected at by-elections.

4.1.2 **CLLR B (APE 321) – planning/prejudicial interests**

Cllr B's company made a planning application for residential development on its land. Cllr B ignored advice and spoke on the planning application. He argued that any disability on him speaking to the committee was a breach of his human rights, and that the breach of the code of conduct had not been sufficiently explained to him. The tribunal found that this was a breach of the code of conduct and Cllr B was suspended for 12 months.

4.1.3 **CLLR C (APE 326) – conduct at meetings**

Cllr C had concerns about how the council was being run. He raised them at a meeting, and ultimately the council resolved that he 'be not further heard'. Cllr C continued to disrupt the meeting. At two meetings he left the room on police advice (the police said that they feared a breach of the peace) and at a third he behaved in a similar way but the police were not involved. Cllr C argued that he was following one of the general principles - upholding the law - by raising his concerns in this way. The tribunal found that conduct of breaches of the code could not be justified in this way and that he had broken the code of conduct on all three occasions. Cllr C was disqualified for 1 year.

4.1.4 **CLLR L (APE 327) – commission of offences prosecuted by the council**

Cllr L claimed welfare benefits from his council. He failed to notify the council's benefit office of a change in his circumstances and pleaded guilty to this offence. The tribunal held that this was *capable* of being a breach of paragraph 4 of the code of conduct but felt that because of the circumstances (Cllr L told the tribunal that he had been under a lot of pressure at the time) this was not, on these facts, a breach of the code.

4.2 APPEALS AGAINST STANDARDS COMMITTEE DECISIONS

4.2.1 **CLLR B (APE 334) – dispute over record of proceedings at a standards committee**

The Standards Committee at Cllr B's authority found that he had failed to treat others with respect (paragraph 2 of the code). The committee found that Cllr B had a conversation with another councillor, but made no finding as to precisely what was said. At the appeal one of the issues was whether or not Cllr B had made an admission at the original Standards Committee hearing. The clerk to the committee had taken a note of the proceedings but the note only covered the disputes of evidence. The Adjudication Panel recommended that the council review its procedures for taking notes at Standards Committee hearings.

4.3 COURT DECISIONS AFFECTING STANDARDS ISSUES

4.3.1 **HARE v. MARCAR [2006] EWHC 822 (Admin)**

The appellant was suspended for 6 months. He had no legal qualification but was being paid to assist a resident in an arbitration against the council. He made a number of serious allegations about the behaviour of officers. A case tribunal suspended him for six months saying that it:

“considered that the failure to apologise was a significant aggravating feature and that, together with the lack of understanding of the gravity of his allegations was a matter of deep concern. Given the gravity of the allegations of an essentially criminal nature against professional staff in senior positions of trust in a major body a reprimand would be wholly inadequate. The lack of understanding and insight shown by the Respondent caused the Case Tribunal serious concern that this conduct was likely to be repeated”.

4.3.2 The appellant appealed to the High Court who held that the Case Tribunal had properly considered the guidance and that although useful comparisons could be drawn between different cases, different issues would arise in each case. The court also considered the argument that the electorate would be deprived of their representative, and did not dissent from the guidance prepared by the adjudication panel which makes clear that the crucial factor when considering the punishment for a council member who behaves as the appellant did, is to impose penalties “directed towards upholding and improving the Standards of Conduct expected of Members.

5. APPENDICES

None

6. BACKGROUND PAPERS REFERRED TO

None

CONTACT: Kathryn Saward

DIRECT LINE: 01473 825729