

AGENDA MANAGEMENT SHEET

Name of Committee	Audit & Standards Committee	
Date of Committee	22 September 2008	
Report Title	Annual Report 2007-08 Adjudication Panel for England	
Summary	This report summarises the key messages from the Adjudication Panel for England annual Report 2007-08	
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Would the recommended decision be contrary to the Budget and Policy Framework?	No.	
Background papers	Adjudication Panel for England Annual Report 2007-08 http://www.adjudicationpanel.co.uk/documents/annual_report_web_copy.pdf	

CONSULTATION ALREADY UNDERTAKEN:-

Details to be specified

- Other Committees
- Local Member(s) N/A
- Other Elected Members
- Cabinet Member
- Chief Executive
- Legal Jane Pollard
- Finance
- Other Strategic Directors
- District Councils

Health Authority

Police

Other Bodies/Individuals

FINAL DECISION YES

SUGGESTED NEXT STEPS:

Details to be specified

Further consideration by this Committee

To Council

To Cabinet

To an O & S Committee

To an Area Committee

Further Consultation

Agenda No 3

Audit & Standards Committee - 22 September 2008.

Annual Report 2007-08 Adjudication Panel for England

Report of the Strategic Director of Performance and Development

Recommendation

That the committee consider the key messages and any implications for Warwickshire practice

Introduction

1. Only the most serious of the matters investigated by Ethical Standards Officers are referred to the Adjudication Panel. Determinations which would previously have been made by Case Tribunals are now being made by local Standards Committees. 279 such determinations were made by local Standards Committees last year (2007-08) which is considerably more than the Adjudication Panel would have expected to receive under the previous arrangements. In 61% of those cases no breach of the Code was found.
2. The Adjudication Panel comment that this is a far higher percentage than applied when such references were being made to the Adjudication Panel. They speculate that a lower threshold is now being applied in determining whether or not to hold a hearing (albeit now before a local committee) than was being applied in deciding whether to refer the matter to a hearing by the Panel.
3. By comparison with the 88 local hearings which ended with a decision to apply some sanction to the councillor, the Adjudication Panel received 15 applications (13 in 2006-07) to appeal of which 11 were allowed to proceed. One of the appeals was subsequently withdrawn by the appellant and the remainder were refused on the ground that there was no prospect of the appeal succeeding.
4. Grounds for appeal frequently include allegations of an unfair hearing either because of real or apparent bias on the part of the Standards Committee or because of procedural irregularities. Appeals Tribunals usually avoid directly determining such allegations, taking the view that their own rehearing of the matter effectively remedies any allegations of bias or unfairness on the part of the original committee.

Appeals Tribunal determinations for year ending 31 March 2008	
Appeal refused by President	31%
Standards Committee finding upheld	38%
Standards Committee finding dismissed	23%
Appeal withdrawn	8%

- The Adjudication Panel suggest that a possible reason for the low number of appeals against local determinations is that by the time the appeal is heard any sanction imposed by the local Standards Committee will already have been spent. This will change under the Standards Committee (England) Regulations, which came into force in May 2008, which provides power for a sanction to be stayed pending the outcome of an appeal.

Effectiveness and Efficiency

- Statistics showing the level of activity by the Adjudication Panel are set out in the appendix.
- The Adjudication Panel has a target of completing its work within 16 weeks of receiving the reference from the ESO. That target was achieved for 50% of the determinations made during the year compared with 42% in the preceding year. The main reason for the target not being met was the Adjudication Panel acceding to requests from respondents for postponements or adjournments either on medical grounds or due to the unavailability of counsel.
- The cost per case determined by the Adjudication Panel for the year ending 31 March 2008 was £11,958 by comparison with £9,472 for the preceding year. That figure is calculated by dividing the total expenses of the Adjudication Panel by the number of decisions issued in the year. The increased cost is due to the significant fall in the number of references received.
- Whenever a Tribunal is held, expenses are incurred in hiring a venue and paying the fees for Panel Members and a tribunal assistant. Those expenses average about £2,226 per tribunal.

Specific Case of Interest

- One decision made in the course of the year related to allegations that a councillor had failed to treat others with respect¹. In its determination, the Case Tribunal said that it was important that members should be able to express in robust terms concerns they have about any aspect of the running of the council to the Chief Executive and the freedom to make the person in that position 'sit-up' and take notice. The Tribunal could understand that strong language is sometimes necessary to ensure that matters are dealt with

properly. The Tribunal also said that the threshold for deciding whether there had been a failure to treat another with respect should be set at a level that allowed for the passion and frustration that often accompanies political debate and the discussion of the efficient running of a council.

11. The Tribunal found that a particular communication to the council's Chief Executive did not give rise to a breach of the Code of Conduct. On the other hand the Tribunal was critical of the wide distribution of emails from the same councillor about a senior police officer to police officers senior and junior to him and to the council's Chief Executive. The Tribunal noted that the councillor made a conscious choice to address the senior police officer in a manner which was excessively rude involving not just a failure to treat him with respect but also bringing her office as a councillor into disrepute.
12. The councillor was also criticised for making derogatory statements (for which she had no factual basis) of other officers of the council, which were found to have brought her own office and the authority of which she was a member into disrepute. In the course of dealing with one of those failings the Tribunal observed that one of the officers was in a post in which she should expect to deal with irate members of the public and at times irate councillors. However, this does not give councillors free reign to make personal attacks on her or indeed any other officer.
13. The Tribunal felt that the particular councillor had misunderstood the respective roles of councillor and officers. The fact that the councillor did not like the policies of the council is not surprising as she was a member of the opposition. However, to attack officers as politically biased because they were doing their job of implementing the policies of the council was misplaced and failed to treat them with respect. The Tribunal was particularly critical of a personal attack on a particular officer when the real cause of her anger was the political policy of the council. (Case Reference APE0378)

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01 September 2008

Activity during 2007-08

During the course of the year 9 references were received from ESO's, by comparison with 8 in the previous year. 10 decisions were made by Case Tribunals by comparison with 19 the previous year. The outcomes of the 10 cases were

- 0 no sanction
- 1 no breach
- 4 disqualified for 15 months to five years
- 2 suspended for up to a year
- 3 disqualified for up to a year

Standards committee determinations

By comparison the Standards Board report that they sent 15 cases to standards committees in 2007-08 following investigations by ethical standards officers.

Of these, three are still to be heard. Standards committees made 14 determinations, as two cases were heard in 2007-08 but referred in 2006-07. The outcomes of which were

- 10 suspension (including training and apology)
- 1 no breach
- 1 censure
- 1 training
- 0 partial suspension
- 1 censure and training
- 0 apology and training

Table detailing the sanctions imposed in respect of all completed Case Tribunals (Adjudication Panel decisions) from January 2003 to 31 March 2008

Sanctions imposed	Length of time	No of decisions
Disqualification	5 years	4
	4 1/2 years	1
	4 years	7
	3 years	9
	2 years	19
	18 months	10
	15 months	5
	1 year	121
	9 months	3
	6 months	7
	5 months	1
	3 months	4
	2 months	2
Suspension	1 year	12
	9 months	7
	6 months	8
	5 months	2
	4 months	4
	3 months	12
	2 months	4
	1 month	4
	19 days	1
	1 week	11
	5 days	1
Partial suspension	12 months	1
	6 months	2
	2 months	1
Reprimanded		2
No breach		31
Breach- but no further action		39
Case withdrawn		1
Case closed - no decision		1
TOTAL		337