

STANDARDS COMMITTEE - 13TH OCTOBER 2005

SUBJECT: DECISION AND RECOMMENDATIONS OF THE ADJUDICATION PANEL

REPORT BY: MONITORING OFFICER

1. PURPOSE OF REPORT

- 1.1 To report the outcome of a hearing before the Adjudication Panel, and to consider a response to recommendations made by the Panel.

2. LINKS TO STRATEGY

- 2.1 The authority through the Standards Committee is under a duty to keep under review the ethical framework and this report is in discharge of that duty.

3. THE REPORT

- 3.1 Members will be aware that allegations of a breach of the code of conduct may in the case of more serious alleged breaches be heard by the Adjudication Panel for Wales.
- 3.2 An allegation was made by a member of the public some time ago to the Local Government Ombudsman that Councillor Keith Derrick who is a councillor both of Caerphilly County Borough Council and Gelligaer Community Council had breached the code of conduct by:-
- (a) having failed to declare an interest under the code of conduct; and
 - (b) by having disclosed confidential information.
- 3.3 The allegations arose out of matters before the Adoption Panel and because of the sensitivity of those matters, and the obvious confidentiality attached to the Adoption Panel business I have been unable to discuss this complaint in any detail. I have however kept the chair of the Standards Committee informed of what has been happening.
- 3.4 The allegation was investigated by the Local Government Ombudsman - unfortunately his report was not finalised until May of this year. His finding was that both allegations were proved and he sent it to the Adjudication Panel for Wales for determination.
- 3.5 As soon as the allegation was made Councillor Derrick withdrew from the work of the Adoption Panel, and at the Council's A.G.M. in 2004 did not offer his name for nomination to the panel.
- 3.6 A case tribunal held a hearing on the 14 September. The tribunal had previously directed that because of the sensitive nature of the evidence the case should be held in private and so there was no publicity about the hearing date. The Council's Monitoring Officer is entitled as of right to attend the hearing whether or not it is held in private and I attended the case tribunal on the 14 September as an observer.

- 3.7 The tribunal dealt with the case in three parts:-
- (a) hearing evidence and deciding on the facts in dispute;
 - (b) having made findings of fact did those amount to a breach of the code of conduct?
 - (c) if there was a breach of the code of conduct what penalty should be imposed.
- 3.8 The tribunal concluded that there was a breach of the code of conduct on both counts, and while they did not see the count of failing to declare an interest a particularly serious breach, the disclosure of confidential information was seen as a serious breach of the code. Members should note that Councillor Derrick had already acknowledged to the tribunal that he had disclosed confidential information.
- 3.9 The tribunal gave credit to Councillor Derrick's contrition, co-operation and the isolated nature of the disclosures and regard was given to his long years of service and to the effect the investigation and attendance at the case tribunal had had upon him. The tribunal commented that it did not believe that he had acted maliciously in the disclosure of confidential information.
- 3.10 The decision of the tribunal was to suspend Councillor Derrick from acting as a member of Caerphilly County Borough Council for a period of six months.
- 3.11 This decision has already been actioned as Councillor Derrick's suspension took immediate effect from the 14 September. I have given him advice about his position. It is slightly complicated in that he has not been suspended as a community councillor but so long as he only deals with matters appropriate to his position as a community councillor there is no restriction upon him.
- 3.12 The committee needs to take no action on this other than to note the decision.
- 3.13 A copy of the full decision report appears as Appendix 1.

4. RECOMMENDATIONS FROM THE ADJUDICATION PANEL

- 4.1 Members will see at paragraph 7 of the decision two recommendations made by the case tribunal:-
- (a) to remind the Council's members of paragraph 20 of the code of conduct which sets out the individual member's personal responsibility in deciding whether they have an interest such that they should disclose it. The code provides that they may seek advice from the authority's Monitoring Officer and must have regard to any advice from the relevant Standards Committee in doing so;
 - (b) a reminder to the Adoption Panel and all panels and committees that any discussion whether informal or not as to a declaration of interest should be recorded in the minutes.
- 4.2 In relation to the first recommendation this can be done by a letter to each councillor of the authority and I would suggest that this letter comes from both myself and the chairman of the Standards Committee, so bearing the authority of the Standards Committee as well.
- 4.3 In relation to the second recommendation there are some practical difficulties to overcome but it is possible to ensure that discussions as to declarations of interest are recorded. I have already separately from this case taken steps to ensure that people are aware of the need to notify me of declarations of interest at meetings other than formal committee meetings, so that the entry gets recorded in the statutory register. There is already a longstanding and effective

system of putting declarations of interest at committee meetings into the register.

- 4.4 Discussions which are outside the meeting itself cause me more difficulty. Firstly, not all the discussions about declarations of interest are with me - members will see in this case that the discussion was with the chair of the Adoption Panel. There is a very real practical difficulty in recording discussions of that sort. Secondly, and more importantly however I have always treated discussion outside a meeting as confidential between myself and the councillor involved, and members have expected that confidentiality. It would be inappropriate therefore to record such discussions in the minutes of the meeting. If a member is happy for those discussions to be recorded then there is no particular issue but it cannot be taken for granted. If a member knows that if they seek advice it will be recorded in a public way it may inhibit members from asking for advice, and this must be a retrograde step.
- 4.5 This needs to be discussed in some more detail both with councillors and with either the Adjudication Panel or the Local Government Ombudsman before a final response to this recommendation can be given.

5. FINANCIAL IMPLICATIONS

- 5.1 None.

6. PERSONNEL IMPLICATIONS

- 6.1 There are no significant personnel implications and the recommendations can be incorporated into existing processes.

7. CONSULTATIONS

- 7.1 There are no consultation responses which have not been reflected in the body of the report.

8. RECOMMENDATIONS

- 8.1 It is recommended that:-

- (a) the outcome of the case tribunal be noted;
- (b) in relation to the recommendations from the case tribunal:-
 - (i) the chairman of the Standards Committee and the Monitoring Officer jointly write to all councillors (including community councillors) to remind them of the requirements of paragraph 20 of the code; and
 - (ii) in relation to the recommendations about recording discussions about declarations of interest the Monitoring Officer report back to the committee as soon as possible about how the recommendations could be implemented in practice.

9. REASONS FOR THE RECOMMENDATIONS

- 9.1 In order to discharge the committee's obligations in relation to the ethical framework and to give advice to members in relation to the code of conduct.

10. STATUTORY POWER

10.1 Local Government Act 2000 and regulations made under the Act. This is a Council function delegated to this committee for determination.

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Consultees: Chair Standards Committee, Cabinet member Policy and Resources (because of time limitations between the issue of the case tribunal decision and the date of the Standards Committee meeting that consultation has taken place after the publication of this report but any comments will be reflected at the meeting).

Background Papers:

None other than published documents.

Appendices:

Appendix 1 Adjudication Panel for Wales decision report.