



# Ryedale District Council

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**REPORT TO:** Standards Committee

**DATE:** 22 NOVEMBER 2007

**REPORTING OFFICER:** Council Solicitor  
Anthony Winship

**SUBJECT:** Adjudication Panel for England Annual Report 2006/7

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## 1.0 PURPOSE OF REPORT

To advise Members of the Committee of the contents of the Adjudication Panel's Annual Report for the year ending 31<sup>st</sup> March 2007.

## 2.0 RECOMMENDATIONS

Members of the Committee are asked to note the contents of this report and to consider the implications of the suggestion that Standards Committee Members should be trained in the competencies set out by the Judicial Studies Board.

## 3.0 BACKGROUND INFORMATION

3.1 This is a report about the third Annual Report from the Adjudication Panel. The first report was published in March 2005 and concentrated on the early years of the Panel's work, and the second was published towards the end of 2006.

3.2 The Annual Report 2006/7 can be downloaded from the Adjudication Panel's website  
[http://www.adjudicationpanel.co.uk/documents/web\\_final\\_ape\\_annual\\_report.pdf](http://www.adjudicationpanel.co.uk/documents/web_final_ape_annual_report.pdf). A copy is attached to this report.

3.3 The third Adjudication Panel Annual Report concentrates on several aspects of the Panel's work:

- Casework
- Appeals against Standards Committee determinations
- Complaints
- High Court appeals against Case Tribunal decisions
- Casework statistics

## **4.0 REPORT**

The third Adjudication Panel Annual Report includes an introduction by Mr Laverick the President of the Adjudication Panel.

- 4.1 The President of the Adjudication Panel outlines the uncertainty there has been during the previous year, especially regarding the interpretation of the Code of Conduct following Ken Livingstone's successful appeal and the proposed changes to the procedural framework.
- 4.2 It is proposed that the Adjudication Panel will soon be moved from the sponsorship of the Department for Communities and Local Government to being part of the first tier tribunal to be sponsored by the Ministry of Justice, although this is dependent on legislation.
- 4.3 Members of the Standards Committee are advised that in the last annual report, Mr Laverick put forward an argument that hearings by Standards Committees should be chaired by a lawyer familiar with the "Competency Framework for the Chairmen and Members of Tribunals 2002" produced by the Judicial Studies Board. A copy of this document is attached to this report. The Standards Board for England has confirmed that this opinion was not shared by them, and it was not likely that this would become a requirement for Standards Committees in future.
- 4.4 However, in this annual report, Mr Laverick reiterates this view, and claims that further evidence has come to light during this past year to support his argument. Of the six applications for appeal that were allowed to proceed, five of them alleged bias or procedural impropriety on the part of the Standards Committee. Mr Laverick argues that if the government are still not persuaded that an independent and experienced lawyer should chair the local hearings, then the Standards Board should be asked to arrange suitable training programmes to ensure that current Chairs are able to fulfill the role and meet the competencies set out by the Judicial Studies Board.

### **Casework:**

- 4.5 There has been a significant reduction in the number of cases referred to the Adjudication Panel in comparison with previous years. Only 8 references were received from Ethical Standards Officers last year in comparison with 66 in the previous year, and the Adjudication Panel only made 19 decisions last year in comparison with 89 in the previous year.
- 4.6 The Adjudication Panel has a target of completing its work within 16 weeks of receiving a reference from an Ethical Standards Officer. This target was only achieved in 42% of the decisions made this year, in comparison with 72% the previous year. There are two main reasons for this failure, firstly that the case could not be concluded within a day, and secondly because the panel granted Councillors' requests that the matter be delayed.

- 4.7 In response to criticism about the length of time taken by the process, Mr Laverick argues that the reality is that some Councillors think that delaying the process would benefit them. In some cases requests are valid, for instance to take account of availability of a witness, but in other cases they are less valid. In particular, the Adjudication Panel cite the case of Councillor Janik (details provided in the section regarding High Court appeals).

#### **Appeals against Standards Committee determinations:**

- 4.8 Thirteen applications were received last year for permission to appeal against the determinations of local Standards Committees, whereas 18 were received in the previous year. As a percentage of decisions taken by Standards Committees, the number of applications for appeal have decreased from 16% to 7%.
- 4.9 The Appeals Tribunal considered 11 appeals in comparison with six the previous year. The decision of the Standards Committee was upheld in five cases, dismissed in four cases, and the other two appeals resulted in a different sanction being imposed on the Councillor.

#### **Complaints:**

- 4.10 Seven complaints were received about some aspect of the Adjudication Panel's work within the last year. These were made about the conduct of panel members, the hearing, administration issues, and the decision or wording of the decision.
- 4.11 The two complaints about administration issues led to alterations to the website to display start times for each tribunal and to staff consulting locally regarding whether to publish the notice of the appeal decision in the same newspaper as the Standards Committee used to publish their original finding.

#### **High Court appeals against Case Tribunal decisions:**

- 4.12 Two High Court appeals were decided in the last year. The first appeal was that of Ken Livingstone, and this one was successful. The second was that of Mr Janik, and this appeal failed.
- 4.13 Mr Janik's appeal was largely about the decision of the Case Tribunal to proceed with the hearing in his absence. The hearing was originally delayed due to a medical condition and was subsequently rescheduled. Mr Janik was also unable to attend on the rescheduled date.
- 4.14 The Case Tribunal considered whether there would be another date when Mr Janik would be able to represent himself. However, given that there was:
- No prognosis of his condition;
  - no reason provided as to why he was unable to represent himself;
  - no evidence as to what damage the hearing would have on his health;

- the previous hearing had been adjourned due to a last minute doctor's note; and
- no response from Mr Janik as to the substance of the complaints made against.

The Court agreed that the Case Tribunal were justified in their decision to proceed with the hearing in Mr Janik's absence.

- 4.15 In addition, the evidence in the case was almost entirely written and the Case Tribunal had been informed that Mr Janik was continuing with the kind of conduct, which formed the substance of the allegations against him. Therefore, the decision to disqualify Mr Janik for one year was upheld.

**Casework statistics:**

- 4.16 The casework statistics in the annual report show that the most common sanction imposed by Case Tribunals is one year's disqualification. This sanction has been applied in 120 decisions. The second most common is a finding of 'Breach but no further action' (reached in 39 decisions), and thirdly a finding of 'No Breach' (reached in 30 decisions).
- 4.17 Parish and Town Councils account for the highest percentage of cases referred for a Tribunal with 61%, whilst District/Borough/City Councils account for 29% of cases.
- 4.18 The most common origin of the complaint is the Monitoring Officer (31% of cases), followed by a fellow Councillor (30% of cases). Members of the public only account for 12% of complaints, as do Council employees and Parish Clerks.
- 4.19 Finally, Yorkshire and Humberside as a region only account for 6% of cases referred for a Tribunal.

**5.0 COUNCIL POLICY**

- 5.1 Consideration of the Adjudication Panel's Annual Report contributes positively to the Council's Corporate Governance arrangements by ensuring that Members are kept up to date with standards issues and guidance on the code of conduct.
- 5.2 The President of the Adjudication Panel's recommendation that Standards Committees should be chaired by a lawyer when conducting hearings is contrary to the Council's current arrangements. If the Committee were minded to comply with this advice, changes would have to be made to the Standards Committee.

## **6.0 FINANCIAL IMPLICATIONS**

6.1 The High Court appeals, which are summarised in this Annual Report, provide useful case law for interpreting the Code of Conduct.

6.2 There are no resource implications to this report.

## **7.0 CONCLUSIONS**

7.1 The Adjudication Panel have published their Annual Report for the year ending March 2007. The report provides useful case law on the Code of Conduct.

7.2 The President of the Adjudication Panel has again recommended that Standards Committees should be chaired by a lawyer when conducting hearings, which is contrary to the Council's current arrangements.

## **BACKGROUND PAPERS:**

Adjudication Panel for England Annual Report 2006/7

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