

STANDARDS AND ETHICS COMMITTEE

27 APRIL 2016

CONDUCT OF MEMBERS – DEFAMATION ISSUES

Recommendation

1 The Head of Legal and Democratic Services recommends that the Committee:

(a) notes the report; and

(b) considers whether any further training or reminder should be circulated to members.

Background

2. The Committee has the role of promoting and maintaining high standards of conduct by County Councillors and assisting them to observe their Code of Conduct through advice or training as needed.

3. The Committee will recall that the Members' Code of Conduct applies when acting as a member or representative of the Council. This requires members to treat others with respect and also avoid any conduct which brings the office or councillor or the Council into disrepute.

4. A recent national case has underlined the need for members to ensure that comments they make do not breach the Code and are not defamatory. Some other national cases are referred to, which underline the need to ensure that comments in social media do not breach the Code or the law.

Comments and defamation

5. Members will know that they must remain within the Code and the law in their conduct. A member of a council in the north of England has been sued for defamation, with damages to be assessed in May 2016. The member had made comments in a TV interview to the effect that local MPs had been aware of large-scale sex abuse but failed to do anything about it, letting down the children. The court found this was defamatory of the MPs, and the member has been found liable to pay damages at a level to be assessed in May 2016.

6. The law has been codified and updated in the Defamation Act 2013. A statement - which has a wide definition and can be either verbal or in writing, and would cover texts and other social media comments - can be considered defamatory if:

- its publication has caused or is likely to cause **serious harm to a reputation** (serious financial loss if relating to a trading body)

There are defences available:

- the imputation in the statement is substantially true or
- it was an honest opinion which could be reasonably held, not an assertion of fact or
- publication was on a matter of public interest or
- the statement is protected by absolute privilege, or qualified privilege (which applies to honestly believed statements made in relevant Council debate).

7. Members will note that comments on social media can lead to legal liability. In Autumn 2015 a North-East businessman won defamation damages against 2 local councillors after 1 made comments about his business dealings on a Facebook site hosted by the other, suggesting he had bought a school site at an improper undervalue from the local authority. The 2 councillors had to pay £32k costs (plus their own) and £15k damages.

8. In 2011 a Welsh county councillor had to pay £3k and costs to a political rival for posting a defamatory post on Twitter, wrongly claiming that he had to be forcibly removed from a polling station. The imputation that he had to be removed for criminal or disreputable electoral conduct was defamatory as it was damaging to his reputation. The councillor said *'this case will no doubt act as a warning to people, including politicians, to be extremely careful when using Twitter and other social media such as blogs'*.

Contact Points

County Council Contact Points

County Council: 01905 763763
Worcestershire Hub: 01905 765765
Email: worcestershirehub@worcestershire.gov.uk

Specific Contact Points for this report

Simon Mallinson, Head of Legal and Democratic Services
(01905) 846670
smallinson@worcestershire.gov.uk

Background Papers

In the opinion of the proper officer (in this case the Head of Legal and Democratic Services) there are no background papers relating to the subject matter of this report.