

STANDARDS COMMITTEE

26 March 2009

AGENDA STATUS: PUBLIC

Report Title	'R (on the application of Gardner) v Harrogate Borough Council' [2008] EWHC 2942 (Admin)- comment
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Date of Meeting:	26 March 2009
Directorate:	Chief Executive's
Ward(s)	All

1. Summary

In this report some comments are made about this decision.

2. Recommendations

That members note the report.

3. Report Background

Members are asked to note the following:-

3.1 This was an unusual case in that the leader of the Council, Mr Gardner, was effectively seeking on its behalf a court order quashing one of its planning decisions, following an adverse report by the Local Government Ombudsman in which she found that the grant of permission concerned was procedurally flawed due to apparent bias on the part of the chair of the committee on whose casting vote the permission had been granted. In effect, the Council was a defendant to the claim in name only; resistance to the claim was made only by the interested parties in whose favour the grant of permission had been made. They argued that the Ombudsman had been wrong to find bias and that the Council ought not to take action on her finding.

3.2 The main point of interest, for those concerned with ethical standards matters, is how the Court dealt with the issue of the alleged bias in the light of a separate report, made on behalf of the Standards Board for England following a complaint about the conduct of the committee chair. In that report it was concluded that the chair did not have a 'personal interest' (for the purpose of the Council's code of conduct) and at first sight this contradicted the Ombudsman's own conclusion. The Court went on to consider the differences of approach between maladministration and standards investigations.

4. Implications (including financial implications)

4.1 Resources and risk

There are none- apart from, perhaps, the resources needed to include training for members on any points arising.

4.2 Legal

See points made above.

4.3 Other implications

None worth mentioning.

5. Background papers)

None

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