

Hearings: The essentials

Case study

Stage 1: Establishing the facts

The findings of fact set out in the report are:

At approximately 19:45, minors A, B and C were kicking a football against the end wall of a local authority library. The wall had a sign fixed to it, which stated “no ball games.” Councillor Evans lives approx 200 yards from where the minors were kicking the ball.

A nearby resident who knew Cllr Evans was a councillor and youth liaison officer telephoned him to complain about what minors A, B and C were doing. Minors A, B and C were perceived to be trouble makers in the area and the local police had received numerous complaints about the minors.

Cllr Evans approached the minors and asked them to move on and stop kicking the ball against the wall. An altercation ensued. He dragged one of the minors away from his friends and threatened him saying; “You are a stupid little idiot. Stop it or I will sort you”. He also said “I am a councillor and I can get you and your family thrown out of your property.” Cllr Evans did not call upon the local police for assistance during the incident because people in the local area had always tried to deal with problems as a community.

Cllr Evans had a good relationship generally with the youth in the community. On occasion, youths would visit him at home and he would talk to them about any problems they had.

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Questions

If Cllr Evans denied making any of the comments would you want to hear from witnesses? If so who?

What if Cllr Evans accepted the findings of fact except that he denied saying “You are a stupid little idiot” but confirmed that he said “You are a stupid little prat”? Who would you want to hear from?

Cllr Evans did not respond to the investigator’s draft report and has failed to respond to any of the correspondence sent to him concerning this matter. On the day of the hearing he leaves an answerphone message with one of the committee clerks to say he wants an adjournment because he has some important new evidence. What do you do and what factors do you take into account?

Stage 2: Based on the facts has there been a failure to comply with the Code?

During his submissions at the hearing Cllr Evans recognised and acknowledged the error of judgement he had made and apologised for his actions. He showed genuine remorse from the time he was first interviewed by the police and it was maintained during the hearing. He acknowledged that he had breached the Code of Conduct and should the incident occur again he would contact the police. He said that he had been provoked into doing something out of character.

He also stated that he did not fully understand the Code of Conduct and had not attended any training sessions on the Code because he did not have the time.

Questions

Has there been a failure to comply with the Code? If yes, what paragraphs have been breached and give brief reasons.

If Cllr Evans accepts that he failed to comply with the Code can you accept this as proof? If not why not?

You have read the investigator’s report and think that he has done an excellent job. There is nothing in the report you disagree with. Can you take the wording of the report and use it as the basis of the committee’s decision?

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Stage 3: Sanction, if any

Councillor Evans' background

Cllr Evans has been a member of the council since 2000 and had an unblemished record prior to the incident which gave rise to this case. He is also the council's representative for Neighbourhood Watch and also the Community and Police Liaison meetings.

Cllr Evans called PC Smith who gave evidence as to his character. PC Smith also gave evidence as to the impact his removal or suspension from office would have on those he represents, in that the community is very small, he is highly regarded and the majority of the community's youth look up to him and appreciate the work he does for the community as a whole.

Questions

Are there any mitigating factors. If yes, what are they?

Are there any aggravating factors. If yes, what are they?

Finally what is the appropriate sanction, if any, and why?

Would any of the following affect your decision on sanction?

- 1) Cllr Evans was cautioned by police. He raised the point when he addressed you on sanctions that he thought he was being punished twice.
- 2) Cllr Evans states that he was provoked by the minors and is therefore not responsible for his actions and refuses to recognise that he is at fault.
- 3) During the hearing Cllr Evans raised his voice and became angry and frustrated.
- 4) Cllr Evans produces a case summary for a nearby authority in which he says a councillor was "let off" for a similar breach.