

STANDARDS HEARING SUB-COMMITTEE

DRAFT MINUTES OF THE STANDARDS HEARING SUB-COMMITTEE MEETING HELD ON 14 JANUARY 2013 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM, SN15 1ER.

Present:

Cllr Allison Bucknell, Cllr Christopher Cochrane and Cllr Brian Dalton

Also Present:

Caroline Baynes, Frank Cain, Colin Malcolm and Roger Wiltshire

1 Election of Chairman

Nominations for a Chairman of the Hearing Sub-Committee were sought and it was

Resolved:

To elect Councillor Alison Bucknell as Chairman for this meeting only.

2 Chairman's Welcome, Introduction and Announcements

The Chairman welcomed everyone to the meeting and introduced the sub-committee members and others present at the meeting.

3 Declarations of Interest

There were no declarations of interest

4 Exclusion of the Press and Public

Resolved:

Each party having confirmed that they had no objection to the matter being heard in public, the sub-committee agreed that in the interests of transparency the matter should be heard in public.

5 Standards Committee Preliminary Hearing into the Complaint regarding the alleged conduct of Councillor Malcolm Hewson of Bradford upon Avon Town Council and in particular whether the matter should proceed to a full hearing on 28th and 29th January 2013.

The Chairman began by outlining the role of the pre-hearing and the scope for which councillors should base their decision. The Chairman outlined that the function of this hearing was to determine whether or not the current claim should proceed to a full hearing, and not to debate the material facts of the case. It was also stated that all claims would be heard as one, as they all referred to the same incident.

The Sub-committee heard from two of the complainants (Mr Derrick and Mr Glover) who confirmed that they wished the matter to proceed and felt that the evidence was there in the witness statements and there was sufficient evidence for the sub-committee to proceed. They emphasized that witnesses had been waiting to give evidence and that the hearing had been put aside at great cost to both the council and to rate payers, whilst complainants have been waiting for the day for their complaint to be heard by the council.

They also had drawn to their attention the written submissions from the two complainants who could not make the hearing and which confirmed that they wished the matter to proceed to a full hearing.

They also heard from the subject Member Councillor Hewson who confirmed that the ongoing delay had caused significant trauma to him and his family, and that the parish for which he stands had also suffered as a result.

Mr Cain summarised the relevant area of law and in particular Article 6 of the Human Rights Act 1998. Which stated that “everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law”.

Mr Cain outlined that councillors should consider a two stage test to determine their decision. Firstly:

1. Councillors should consider the time elapsed between the date of the initial claim (21/7/11), to that of the current hearing (14/1/13) and the scheduled full hearing (28/1/13). Secondly:
2. Councillors should also review the circumstances behind the causation for the delay, and all intervening and mitigating facts.

Mr Cain then stated that if councillors found both the current time frame and the reason for the delay to be reasonable and non prejudicial to assessing the evidence, then councillor's could proceed to a full hearing. If however, councillors found that the timeframe or the delay was unreasonable or prejudicial towards the subjects right to a fair trial, or that the delay would likely result in a reduction in the ability to address the integrity of evidence, then councillors should consider whether in light of this, it would be reasonable to progress to a full hearing.

At 14:45 the retired to consider their decision.

At 15:20 the Panel reconvened in the Monkton Park Committee Room and delivered the Sub committee's decision:

"This is a preliminary hearing to determine whether this matter should proceed to a hearing on the 28th and 29th January 2013. The issue that we have to determine is whether the delay between 25 July 2011 and 28 January 2013 (18 months) is sufficient whereby it would be a breach of the Subject Member's article 6 right to a fair and public hearing within a reasonable time.

The Sub-Committee has unanimously concluded that the delay is sufficient that this matter should not proceed.

The reason for this is that the delay will make it difficult for the evidence to be fairly tested to allow the Sub-Committee to resolve the conflicts within the evidence.

The delay is unfortunate but not of any one person's making but has come about due to a number of circumstances including the change in procedure, the difficulty of arranging a hearing due to the number of complainants and witnesses.

We are pleased to note that with the new arrangements adopted by the Council these difficulties are less likely to occur.

Cllr Hewson then made a statement to the room whereby he stated his desire to have dealt with the matter away from formal proceedings. In addition he stated that it was never his intention to cause distress or offense to the claimants. He then went on to thank his independent representative, and highlighted his belief that the process was 'missing a step'.

The Chairman then thanked the attendees, and asked for the work of Mr Wiltshire to be recognised by the Committee. Finally the Chairman addressed the Cllr Hewson's statement by re-iterating that the process had since been reviewed, and that future claims would be managed using the updated procedure.

(Duration of meeting: 2.00 - 3.20 pm)

The Officer who has produced these minutes is Pam Denton, of Democratic Services,
direct line (01225) 718371, e-mail pam.denton@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115