

## **DECISION NOTICE**

### **TAKE NO FURTHER ACTION**

**Wiltshire Council Reference No: WC 20/09**

**Date of Determination** 17 March 2011

**Subject Member**

Councillor Peggy Dow, Wiltshire Council and Marlborough Town Council.

**Complainant**

Councillor Stewart Dobson

**Hearing Sub-Committee Membership**

Mr Stuart Middleton – Chairman (Independent Co-Opted Member)

Councillor Julian Johnson (Wiltshire Council Member)

His Honour David MacLaren-Webster (Town / Parish Co-Opted Member)

**Monitoring Officer / Legal Adviser**

Mr Frank Cain

**Investigating Officer**

Mr R Wiltshire

**Clerk**

Ms P Denton

**Complaint**

The Hearing Sub-Committee of Wiltshire Council's Standards Committee met to consider an investigation report on a complaint that Councillor Peggy Dow had failed to comply with the Model Code of Conduct for Members, adopted by the Marlborough Town Council.

1. The complaint alleges that Councillor Dow's behaviour breached paragraph 3(1) and paragraph 3(2) (b) of the Code of Conduct.
  - 3(1)-You must treat others with respect
  - 3(2)You must not (b) – bully any person

The complaint was assessed by the Standards Assessment Sub-Committee of Kennet District Council on 24<sup>th</sup> November 2008 and it was decided that no further action should be taken.

The Monitoring Officer of Kennet District Council received an appeal on the 23<sup>rd</sup> December 2008, made by Councillor Dobson against the decision to take no further action. The appeal was not considered by Kennet District Council's

Standards Committee before its responsibilities were transferred to Wiltshire Council, on the 1<sup>st</sup> April 2009.

Under the provisions of the Local Government (Structural Changes)(Further Transitional and Supplementary Provisions and Miscellaneous Amendments) Regulations 2009 the appeal was considered by a Standards Review Sub-Committee of Wiltshire Council on the 23<sup>rd</sup> June 2009. The Sub-Committee allowed the appeal and decided to pass the complaint to Wiltshire Council's Monitoring Officer for investigation.

The Monitoring Officer delegated his investigatory powers to Mr Roger Wiltshire, Ethical Governance Officer, pursuant to section 82A of the Local Government Act 2000. A copy of the letter of instruction is included in the report.

A hearing of the Hearing Sub-Committee was convened on 17 March 2011 in accordance with Regulations 18 and 19 of the Standards Committee (England) Regulations 2008 and the Council's Procedure for Determination of Complaints.

The Chairman introduced those present and explained the purpose and process for the hearing.

There were no declarations of interest by the members of the Sub-Committee.

### **Preliminary Issues**

The Sub-Committee considered submissions from the parties on whether the hearing should be open to the public. They also received advice from the Legal adviser on the legal position and statutory guidance from Standards for England.

The Sub-Committee decided not to exclude the public from the hearing as they considered that the public interest in openness and transparency outweighed the public interest in preserving confidentiality. However, they did exclude from disclosure to the public material contained on page 29 of the agenda.

### **Preliminary Issues for Consideration**

The Sub-Committee considered the following preliminary issues:

- Timing of the process since the complaint was made in November 2008
- Article 6 Human Rights Act

The Sub-Committee adjourned the meeting to consider these preliminary issues. The Clerk and the Legal Adviser remained with the Sub-Committee to record their decision and provide advice on matters of law and procedure.

## **Decision**

Following due consideration and legal advice, the Chair announced that having carefully considered the representations made on behalf of Councillor Dow in respect to the time delays concerning Councillor Dobson's complaint and also the further representations made in respect of the Human Rights Act. the sub-committee decided unanimously that, in the circumstances, it would be in breach of Article 6 of the Human Rights Act 1998 to continue with the hearing.

Therefore under Section 57A (2)(c) of the Local Government Act 2000, the sub-committee determined that no further action should be taken in respect of the allegations.

This Decision Notice is prepared pursuant to s57A (4) of the Local Government Act 2000.