

## **DECISION NOTICE: NO FURTHER ACTION**

### **Reference WC - ENQ00219**

#### **Subject Member**

Cllr Paul Oatway QPM – Wiltshire Council

#### **Complainant**

Mr Larry Baldry

#### **Representative of the Monitoring Officer**

Mr Paul Barnett

#### **Independent Person**

Mrs Caroline Baynes

#### **Review Sub-Committee**

Cllr Bob Jones MBE - Chairman

Cllr Fred Westmoreland

Cllr Graham Wright

#### **Issue Date**

28 March 2018

#### **Complaint**

The complaint is that Cllr Oatway lied when giving evidence to a Public Inquiry held on 23 May 2017. The Public Inquiry was considering an application by the complainant for a stopping up order under s.247 Town & County Planning Act 1990, affecting part of the highway at Dragons Lane, Manningford Abbots. The effect of this stopping up order, if granted, would be to allow the erection of a fence on the affected land.

Cllr. Oatway attended this Public Inquiry, as local member, and gave evidence. The complaint by Mr. Baldry is that, when giving that evidence:

- a) Cllr Oatway stated that Kristian Price, who had been a Highway Engineer with Wiltshire Council at the relevant time, had sent two letters to Mr. Baldry asking him to stop work on a fence and retaining wall at Aero View and that Mr. Baldry had ignored those letters. Mr. Baldry claims that no such letters were sent.

- b) Cllr Oatway stated that he had been present at a meeting of Manningford Parish Council when the matter of the Highway Authority's requirements for a pedestrian refuge at this part of Dragons Lane was discussed. Mr. Baldry claims that there is no record of such discussions in the parish council minutes.

The complainant also claimed that, in his submission to the Planning Inspectorate in relation to a planning application made by Mr. Baldry in 2014 for a retaining wall and fence at Aero View, Cllr Oatway had stated that Wiltshire Council's Highways Officers had no idea what Mr. Baldry's plans were for the site and that during the construction phase he was asked to stop until permission had been granted by Wiltshire Council. The complainant claims that these statements, made in Cllr Oatway's letter of 27 April 2015 were untrue.

The complainant alleges that Cllr Oatway has, therefore, breached the following provisions of Wiltshire Council's Code of Conduct for Members:

*You are a member or co-opted member of Wiltshire Council and hence you shall have regard to the following principles: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.*

*You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the following requirements, by leadership and example. Accordingly, when acting in your capacity as a member or co-opted member:*

*You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material*

## **Decision**

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 26 June 2012, which came into effect on 1 July 2012 and after hearing from the Independent Person, the Review Sub-Committee has decided to take no further action.

## **Reasons for Decision**

### Preamble

The complaint had received an initial assessment which had concluded that the alleged behaviour, if proven, would amount to a breach of the Code of Conduct. Although the complaint had been submitted out of time under procedure, the matter had been referred for investigation to establish whether or not a breach had occurred in the interests of transparency, which was not challenged by the subject member.

Following that investigation the Investigating Officer's report concluded that there was no evidence of a breach of the Code of Conduct. In consultation with one of the council's Independent Persons, the Monitoring Officer had then upheld the Investigating Officer's finding of there being no breach. The complainant then requested a review of

the Monitoring Officer's decision to uphold the findings of the Investigating Officer's reports.

In reaching its decision, the Sub-Committee took into account the Investigating Officer's report and supporting documentation, which included the original complaint, the response of the subject member, the initial assessment decision, other evidence provided during the investigation, comments on the report itself from both parties, the decision notice of the Monitoring Officer, and the complainant's request for a review. The Sub-Committee also considered the verbal representations made at the Review by the complainant and the subject member.

### Conclusion

As the Investigating Officer had noted in their report, the issue was whether, if the subject member was incorrect in what he told the public inquiry on 23 May 2017, that mis-statement was made deliberately in order to disadvantage the complainant. While there was a dispute over precisely what had been said by the subject member, or to the subject member, and what impact his statements had on the wider issues being determined by the independent inspector at the inquiry, on the basis of the evidence available to him the Investigating Officer had concluded that there was no evidence of such an attempt to misrepresent the facts.

The Sub-Committee considered the report and the representations made by both parties, and were of the view that no submissions had been made which would justify overturning the decision of the Monitoring Officer to uphold the findings of the Investigating Officer. It was the view of the Sub-Committee that the Investigating Officer's report had been thorough in its examination of the key allegations and facts of the incidents which had given rise to the complaint, and therefore they accepted the conclusions that there was no breach of the Code of Conduct.

### **Additional Help**

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