

Wiltshire Council

Council

13 November 2012

Item No. 13 – Minutes of Cabinet and Committees

Question from Councillor Christopher Newbury on the Minutes of the Standards Committee – ‘Minutes of a Hearing Sub-Committee’ (on the Hearing of a Complaint against Councillor Chris Humphries)

(Minute no. 23, dated 24 October 2012, page 124 of Agenda Supplement)

On the Standards Committee's decision in the Chris Humphries case, I have looked at the file of papers online and read the sub-committee's minutes. As Mr Humphries was advised by his solicitor to withdraw, it seems unfair that the sub-committee went on in his absence to give more weight to the complainant's evidence than to his, especially on points where they were contradicting each other.

Another worry I have is that it is also very clear from the documents that from the outset there was collaboration between the complainant and one of the council's key witnesses. It also seems to be a mistake that the council judged the case by reference to the old Model Code of Conduct, instead of the seven Nolan principles, which does not seem to comply with the Secretary of State's intentions which were given effect by the Localism Act 2011 (Commencement No. 6) Order 2012.

Under the former Model Code of Conduct there was a right of appeal to the First Tier Tribunal, but there is now no right of appeal, except to the High Court, with the risk of all the costs of both sides falling on Mr Humphries. In those circumstances, should there not be a new local hearing, so that Mr Humphries's evidence can be heard? Alternatively, should the council not offer to pay its own costs in the High Court in any event, agreeing not to seek to claim them against Mr Humphries?

Response from Councillor Julian Johnson, Chairman of the Standards Hearing Sub-Committee

The Sub-Committee considered the evidence before them and made findings of fact on careful and proper weighing of the evidence, applying the correct standard of proof, having regard to legal advice and the views of the independent person.

Councillor Humphries, on legal advice, chose to withdraw from the process and, therefore, his statements could not be tested by cross examination. While Councillor Humphries denied himself the opportunity to challenge the evidence against him, that evidence was tested by the Sub-Committee.

The Sub-Committee, therefore, directed themselves properly on the law and evidence, in reaching their decision.

It is not clear on what basis it is suggested that there was collaboration between the complainant and a witness. However, it would have been open to Councillor Humphries to challenge the evidence on these grounds if he had remained in the hearing.

On a correct interpretation of the transitional regulations it was appropriate to determine the case by reference to the Code of Conduct that was in place at the material time.

There is no power to rehear the case under the Council's procedures and no grounds for doing so. The Sub-Committee's decision, including the decision to proceed in the absence of Councillor Humphries, was lawful and reasonable in the circumstances. Therefore, the Council should not waive the right to recover public funds in the event of an unsuccessful application to the High Court.