

STANDARDS COMMITTEE HEARINGS PANEL

FRIDAY, 19 OCTOBER 2012

PRESENT:- Councillor Fay Howard (Chair), Councillor Mary Friend and Councillor Richard Hurley.

Non-Voting Assessors: Mr David Dawson (Lay Member) and Mr Mike Compton (Parish Representative).

1. Declarations of Interest

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

2. Exempt Items - Exclusion of Press and Public

The Chair invited the parties to put forward any reasons why they would wish the press and public to be excluded from all or any or part of the Hearing. No applications for the hearing to be held in private, or papers to be withheld, were made and therefore all the papers held to be exempt until this point were made available at the start of the Hearing.

However, it was agreed that the press and public should be excluded from the deliberations of the Panel at the end of each stage of the procedure.

Resolved - That, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public would be excluded from the deliberations of the Panel at the end of each stage of the procedure as these deliberations would involve the likely disclosure of exempt information as defined in Paragraph 1 of Schedule 12A of the Local Government Act 1972 and that the public interest in maintaining the exemption outweighed the public interest in disclosing the information concerned.

3. Hearing of Complaint under the Protocol of Member / Officer Relations

The Standards Hearings Panel met to conduct a hearing of a complaint in respect of an allegation that Councillor Nick Martin had breached Swindon Borough Council's Protocol of Member / Officer Relations by his conduct at the Civic Dinner on 20th June 2011 at the Steam Museum.

The complaint was from Mrs Helen Miah, an officer of the Council, and was that Councillor Martin had sexually harassed and bullied her during a break between the dinner and the speeches at the Civic Dinner.

The matter had originally been considered by the Assessment Sub-Committee on 22nd June 2011 as a complaint under the Members Code of Conduct. The Assessment Sub-Committee had concluded that Councillor Martin was not performing his function as a Councillor at the time of the alleged incident and therefore the complaint could not be taken forward under the Members Code of Conduct. However, the Sub-Committee asked that the Monitoring Officer, in consultation with the Chair of the Standards Committee and the Head of Human

Resources, consider whether the matter should be investigated under the Protocol of Member / Officer Relations, and it was agreed that it should be investigated.

The Monitoring Officer had appointed Mr Felix Hetherington as the Investigating Officer and he attended the meeting of the Standards Committee Hearings Panel to present his report. Councillor Nick Martin was present at the meeting and he was represented by Mr Charles Parry of Counsel. Mrs Helen Miah attended the meeting as the complainant and a witness. Ms Janice Banks and Mr Bernie Brannan attended as witnesses, as requested by the Investigator. Mr Mallinson attended the hearing as a witness, at the invitation of Councillor Martin. In addition, the Panel took account of eight letters received in support of Councillor Martin

At the start of the Hearing the Panel considered a representation from Mr Parry as to the validity of the proceedings. The Monitoring Officer gave his advice on the matter, having sought the opinion of Queen's Counsel. Having received that advice, the Panel determined that it should proceed to hear the complaint on this basis, in accordance with its agreed procedure: 'Swindon Borough Council Procedure for Determination of Complaints under the Protocol of Member / Officer Relations'.

The Panel first heard evidence on each side and heard witness statements. The Panel then withdrew and considered Findings of Fact and returned and announced the Findings and invited representations from Mr Parry and Mr Hetherington as to whether these constituted a breach of the Protocol. The Panel withdrew to discuss, and returned to advise their determination that it was a breach of the Protocol, and invited representations on suitable sanctions. The Panel withdrew a final time to determine sanctions. The Panel was of the view that neither a censure nor a referral to Council was appropriate, and returned to announce the sanctions that were agreed by the Panel.

Resolved – (1) That, having considered the evidence presented by all Parties to the case, the Panel confirmed Findings of Fact were as set out in the Full Decision of the Standards Committee Hearings Panel.

(2) That, having considered the evidence presented by all Parties to the case the Panel determined that by his conduct Councillor Martin had breached paragraphs 4.2 (use of inappropriate language) and 4.3 (close personal familiarity) of the Protocol of Member / Officer Relations.

(3) That, having determined that a breach of the Protocol of Member / Officer Relations had taken place, the Panel determined that the following sanctions be applied:

- Councillor Martin be required to provide Mrs Miah with a written apology, in a form acceptable to the Monitoring Officer in consultation with the Chair of the Hearings Panel.
- Councillor Martin be requested to undertake relevant training from the Monitoring Officer on the operation of the Protocol of Member / Officer Relations.