

# STANDARDS HEARING PANEL

Tuesday, 2 November 2010

Present: Councillor B Cummings (Chair)  
Mr Ken Harrison (Vice-Chair)

Councillors C Blakeley C Meaden  
Ken Harrison P Williams

In attendance: Councillors R Abbey  
A Jones  
P Davies  
G Davies  
H Smith  
D Knowles  
S Taylor  
J Keeley  
A Hodson

Monday 22 November 2010

Present: Councillor B Cummings (Chair)  
Mr Ken Harrison (Vice-Chair)

Councillors C Blakeley C Meaden  
Ken Harrison P Williams

In attendance: Councillors R Abbey  
P Davies  
G Davies  
H Smith  
D Knowles  
S Taylor  
T Harney

## 4 CHAIR'S OPENING REMARKS

The Chair introduced the panel and everyone present who would be participating in the meeting. He outlined the hearing procedure which involved:

- hearing the evidence;
- making Findings of Fact
- deciding if the Members' Code of Conduct had been breached;
- deciding on the imposition of any penalty and making any recommendations on the Council

5      **PROCEDURE**

(a) Councillor Harry Smith asked for clarification of the role of the Head of Legal and Democratic Services as legal adviser to the panel given that he had previously expressed an opinion in his reply to an email (dated 7/6/10) seeking clarification on the content of Councillor Smith's evidence to the Investigating Officer.

Having received advice from the Monitoring Officer, the Chair responded on behalf of the panel indicating that it did not accept that the legal adviser to the panel is prejudiced in continuing to provide advice to the panel.

(b) Councillor Adrian Jones also expressed his concern regarding the delay in the hearing process. He referred to his casework experience and guidelines indicating that a case should be dealt with as close as possible to its point of origin. He commented that the delay in dealing with this matter had prejudiced his position at the hearing because Councillor Knowles was a candidate in his ward at the May elections. He had therefore decided not give oral evidence and asked for his written evidence to be presented to the panel.

The Chair responded indicating that the panel considered that it was a matter for Councillor Jones regarding the presentation of his evidence today.

(c) Councillor Ron Abbey stated that he had only received the Investigating Officer's on 20 October, and had been denied the opportunity to respond to the report until now. He commented that the process was flawed having taken 14 months to reach the hearing stage.

The Chair responded that the panel note that the complainants were afforded the opportunity to make comments on the Investigating Officer's final report and, as requested by Councillor Abbey, representations made by him have been included in the report and therefore believe that any prejudice has been mitigated.

The Investigating Officer reported that the complainants were given the opportunity to comment on the evidence set out in his report.

This was acknowledged but Councillor Abbey had only seen the final report on 20 October.

Councillor Phil Davies reported that Councillor Abbey's comments on the draft Monitoring Officer's report were not included with the complainants' papers for the hearing and they needed to see all of the documentation.

In the light of the above it was:-

**Resolved – That the meeting be adjourned to 9.00 am on Monday 22 November, 2010**

6      **RECONVENED MEETING - 22 NOVEMBER  
PROCEDURE**

The Panel received the following statement from Councillor Harry Smith;

“ Chair, I would like to record my objection to the presence of Surjit tour at this hearing panel.

I stated at the recently suspended hearing that I objected to his presence because of the contents of the e-mail response (9 June 2010) to a question I asked about the assessment of my evidence submitted on the matter at hand. The e-mail response (read by panel members on the day) went totally over the top and contained information that was wholly superfluous to the question I asked. What is more, it was tantamount to a case for a defence against the complaint that I and other councillors made. It was a plea for mitigating circumstances.

My objection to his presence today is as it was then. The objection would include Bill Norman, Director of Law, HR and Asset Management, because he was “copied in” on the above – referred e-mail and did not disown the comments made in it.

I am requesting that this objection statement be lodged on the records of today’s hearing panel.”

## 7 EXEMPT INFORMATION

The Hearings Panel was asked to consider whether the hearing should be conducted in private. Having applied the public interest test, the panel decided that the release of the documentation outweighed any argument that it be withheld.

## 8 COMPLAINT AGAINST A MEMBER OF THE COUNCIL - CASE REF: SFE 2009/04

### **Summary of the complaint:**

The complainants allege that at a Council meeting on 13 July, 2009 with members of the public present in the public gallery, Councillor Denis Knowles made a threatening gesture directed at Councillor Ron Abbey.

### **Relevant sections of the Code of Conduct:**

The complaint is that Councillor Knowles has acted in a manner which amounts to a breach of the Code of Conduct for members of Wirral Council. The current code was adopted by Council on 21 May 2007. The relevant parts of the Code in relation to this complaint are:

*Paragraph 3(1) You must treat others with respect.*

*Paragraph 5 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.*

### **Summary of the Evidence Considered and Representations Made**

The Investigating Officer presented his report describing the outcome of the investigation, including written statements by:

- the complainants (Appendix 1)
- Councillor T Harney (Appendices 2 and 6))
- Councillor Denis Knowles (Appendix 3)
- Councillor Susan Taylor (Appendix 4)
- Councillor James Keeley (Appendix 5)
- Councillor Phil Davies (Appendix 7)
- Councillor Adrian Jones (Appendix 8)
- Councillor Ron Abbey (Appendix 9)
- Councillor A Hodson (Appendix 10).

The Panel also considered:

- a letter from Councillor Abbey dated 9 June, 2010 setting his comments on the Investigating Officer's report.
- the written statements provided by Councillors A Hodson, A Jones and J Keeley which were attached to the Investigating Officer's report

The Panel also heard verbal evidence provided by Councillor Denis Knowles, the complainants, and Councillors S Taylor and T Harney.

At the conclusion of the evidence, the Chair asked members of the panel to confirm that they were satisfied that they had sufficient information to make a decision on this matter.

### **Findings of Fact**

The panel considered 3 specific allegations that Councillor Knowles had:

- (i) made a fist gesture;
- (ii) made a zipping of the mouth /cut throat gesture;
- (iii) mouthed verbal threats

The Panel decided by a majority vote (3:2) (Councillor Blakeley and Williams dissenting) that Councillor Knowles had failed to treat people with respect and had brought the Council into disrepute through his actions in making a fist gesture in a threatening manner in the direction of Councillor Abbey during a debate at the Council meeting on 13 July, 2009

The Panel did not, however, accept that there was sufficient evidence, on the balance of probabilities, to prove that Councillor Knowles had made a cut throat gesture or mouthed threats, as had been alleged. The Panel did not find that Councillor Knowles was in breach of the Code of Conduct in relation to these specific actions.

### **Reasons for the Decision**

The Panel concluded that Councillor Knowles had acknowledged both in his written statement and in mitigation that he may have been shaking his fist during his speech

and may have reacted to the provocation that he received from some labour members. The other allegations relating to the cut throat gesture and mouthing of threats across the council chamber could not be substantiated and there were contradictory statements regarding these matters.

### **Sanctions Imposed**

The Panel decided that Councillor Knowles should make verbal apology to all members of the council at the next meeting of the Council on 13 December 2010.

### **Reasons for the Sanctions**

Councillor Knowles had accepted that he was at fault for waving his fist at the Council meeting on 13 July 2009. He apologised to the Panel and gave an assurance that he would conduct himself more carefully at any future council or committee meetings.

### **Right to Appeal**

Councillor Knowles has been informed of his right to apply to the president of the Adjudication Panel for England for permission to appeal the decision of the Panel.