

1 November 2020

Dear Liz

Thank you for your email. It seems that you believe that I am attempting to manipulate or delay the process by changing what I will or will not accept. Therefore, I will clarify the sequence of events over the last ten months.

I met with Maggie, Peter Bibawy and Stuart Ward in December last year. They were aware that I am prepared to take this case to court. Maggie offered an external review by an 'independent' company. I accepted the offer but made clear that it must be equitable, transparent and fair. Maggie agreed and stated that the process needs to be agreeable to me. At the meeting, I stated that I would prefer an open meeting with myself and WHCCG present and we debate each point with an individual making a determination. As a result of the proposal of an external review, I offered to identify key issues that would be addressed by the review.

In my initial conversation with Niche, I stated my preferred review process of an open meeting.

Following notification of the planned review process which denied me the opportunity to hear or comment on WHCCG's comments, despite them hearing and responding to my case, I contacted Maggie. Following discussion, I emailed my summary of our telephone call:

- *"It is agreed that I will receive answers to all the questions raised in my letter of 22 June 2020. This will provide all the evidence that WHCCG will be using to defend its position in our case."*
- *Once I am satisfied that WHCCG has provided all the relevant information, the 'initial meeting' of the 'independent' review by Niche can take place. The meeting will include myself, key personnel from WHCCG and the investigators from Niche.*
- *Subsequent to the meeting, Niche will interview any relevant staff from WHCCG, as required and determined by Niche.*
- *As part of the investigative process, Niche will then meet with me to discuss the conversations held with WHCCG. This will provide an opportunity for me to challenge any assertions made by WHCCG in their discussions with Niche.*
- *The draft report will not be written until after Niche have gone through the steps outlined above.*
- *WHCCG continued to defend their position in September 2019. We do not believe that the staff of WHCCG will fulfil their Duty of Candour during this process. We can prove that they have misled yourself (as CEO of NEHFCCG, etc) and other organisations through misinformation and major omissions. We believe that this will continue through the 'independent' review.*
- *You have clearly stated that you have not utilised solicitors at any time during your handling of the case."*

Maggie agreed with this stating in email, *"I agree with the process you have outlined and I appreciate how important it is for you to be fully involved at every stage of the process."*

Unfortunately, it has become apparent that Niche were not prepared to offer this process. In addition, they record investigation interviews but stated that they would not release copies to us. This would be a breach of GDPR (Article 15) as the exemptions (Article 23 and Recital 51) are not applicable in this case. This highlights that the process on offer by Niche is not equitable, transparent or lawful.

The criteria I have are simple. The process must be fair, equitable, transparent and lawful. It cannot be fair or equitable if WHCCG hear my case and respond yet I am not afforded the corresponding opportunity.

I requested all the evidence that WHCCG will use and they have consistently stated that it has conducted “*robust*” complaint investigations. As such, the only debate would be regarding the interpretation of their evidence.

In response to your questions:

- Requesting an open meeting – This is my preferred approach as it is a clearly fair and equitable process which will be the most time efficient. This has consistently been my preferred approach, although I have been willing to consider alternative methods so long as they meets my basic criteria.
- Outcome of the meeting – We get a final determination as to the view of Maggie's organisation regarding the agreed key issues. Please note that further issues have come to light in the last couple of weeks; these matters can wait for now.
- Hosting of the meeting – This is something for Maggie to decide as it is a review being set up by her.
- WHCCG staff – It needs to be senior staff who have been directly involved. This includes any or all of Mike Fulford, Ellen McNicholas, Ciara Rogers and Pauline Jeffrey.

I hope this clarifies the current circumstances. Whilst I have remained consistent in my expectations of the review, it is notable that by the time Maggie responds to me, it will be approximately eleven months since the concept of an external review was agreed.

Yours sincerely

Phil Austen-Jones