

STANDARDS SUB-COMMITTEE HEARING

29th and 30th September 2014

**Consideration of whether
Councillor I Robinson
was in breach of the Councillors' Code of Conduct
of Northill Parish Council**

Case reference MON001.19706

Localism Act 2011

Members of the Hearing Sub-Committee: Cllr K Matthews (Chairman)
Cllr D Bowater
Cllr D Jones
Cllr Mrs J Lawrence
Cllr A Shadbolt

Legal Advisor to the Hearing	Ms Melanie Clay, Monitoring Officer
Hearing Administrator	Mr Leslie Manning, Committee Service Officer
Others Present	Miss Maria Damigos, Corporate Lawyer Ms Mel Peaston, Committee Services Manager Mr Martin Leppert, Independent Person Mr Christopher Fogden, Independent Person
Member:	Cllr Ian Robinson Cllr Robinson is a member of Northill Parish Council and was a councillor at the time of the incident which gave rise to the allegations. During the hearing Cllr Robinson was assisted by Mr Christopher Fogden as the Independent Person appointed under the Localism Act 2011.
Investigating Officer	Ms Lorna McShane, Solicitor
Witnesses:	Cllr Helen Papworth, Northill Parish Council Cllr Sally Mandley, Northill Parish Council Mrs Leanne Bacon, Clerk to Northill Parish Council Mrs Randle, Northill Parish resident Mr Davies, Northill Parish resident Mrs Parker, Northill Parish resident The Sub-Committee also heard from Cllr Mrs P.E. Turner, MBE, Member of Central Bedfordshire Council and Ward Member for Northill Parish
DOCUMENTATION:	<ul style="list-style-type: none">• Procedure for the hearing• Report of Investigating Officer, including appendices A - T to that report. This report was treated as containing exempt information until the Sub-Committee determined whether to exclude the press and public from the hearing.

Central Bedfordshire Council

Re: Cllr I Robinson of Northill Parish Council (Ref: MON001.10976)

Date: 14th October 2014

Page 1 of 8

1 INTRODUCTION

- 1.1 The outcome of an investigation concerning seven complaints into Cllr Robinson was to be further considered at a hearing of the Standards Sub-Committee.
- 1.2 The hearing took place at 10.30am on 29th September 2014, adjourned overnight and continued at 10.30am on 30th September 2014 at Beadlow Manor Golf Club, Shefford. The Standards Sub-Committee consisted of Cllrs K Matthews, D Bowater, D Jones, Mrs J Lawrence and A Shadbolt, all being councillors of Central Bedfordshire Council. The hearing was chaired by Cllr K Matthews.
- 1.3 The subject member, Cllr I Robinson attended the hearing and was supported by Mr Christopher Fogden, appointed as an Independent Person under the Localism Act 2011.
- 1.4 The Investigating Officer, Ms Lorna McShane, also attended the hearing.
- 1.5 Martin Leppert, appointed as an Independent Person under the Localism Act 2011, was also in attendance to assist the Sub-Committee. Mr Leppert was the Independent Person consulted by the Investigating Officer during the investigation into the complaints.
- 1.6 The Monitoring Officer and legal advisor to the panel was Ms Melanie Clay, assisted by Miss Maria Damigos. The hearing was clerked by Mr Leslie Manning, supported by Ms Mel Peaston.

2. PROCEDURE

- 2.1 The Chairman Cllr Matthews made reference to the Agenda which included the hearing procedure and the Investigating Officer's final report. He introduced the Sub-Committee, dealt with housekeeping and preliminary issues and went through the Agenda items. He confirmed that the hearing was to be held in public.
- 2.2 A member of the public indicated that they wished to film the hearing and this was facilitated.
- 2.3 Having referred the Subject Member and Investigating Officer to the procedure the Chairman indicated that subject to timing he anticipated calling the Ward Member to comment on her views of the behaviour of Cllr Robinson after hearing the witnesses for the Investigating Officer. The Chairman indicated this change in the order of witnesses was being accommodated due to the time constraints of other business of the Ward Member and all parties agreed.

3 PRELIMINARY DOCUMENTS

- 3.1 The Sub-Committee was provided with the investigation report and its annexes together with a defence document submitted by the subject member in sufficient time to enable preparation in advance of the hearing.
- 3.2 Prior to the hearing there was an agreed exchange of witnesses statements which were relied upon by the Subject Member and the Investigating Officer in presenting their cases.
- 3.3 The hearing was advised that although the Agenda documents provided to the Sub-Committee contained exempt information, those parts of the documents referred to or relied upon during the course of the hearing would become public as the Sub-Committee had determined that the matter would be heard in public.
- 3.4 The complaints all related to one set of circumstances, namely that during the Northill Parish Council meeting of 8th April 2013 the Subject Member's behaviour breached the Northill Parish Council Councillors' Code of Conduct.

4 PARAGRAPHS OF THE CODE OF CONDUCT CONSIDERED RELEVANT AT THE TIME OF THE ALLEGATION

4.1 The Investigating Officer stated that the relevant paragraphs of the Northill Councillors' Code of Conduct were:

“4.14 Members must set an example by their behaviour and shall act in a way that enhances public trust and confidence in the integrity of the Council and its Members

4.15 Members must show respect and courtesy to others

4.16 Members should value the Council's officers and work alongside them to achieve the Council's objectives. Members must on no account behave in a manner that might constitute bullying.”

5 SUMMARY OF THE INVESTIGATING OFFICER'S REPORT

5.1 All of the complaints corroborate each other and set out the same version of events on the evening of 8th April 2013. As there was no dispute as to the facts that led to the complaints being made the Investigating Officer interviewed Leanne Bacon, the Clerk to Northill Parish Council, and Cllr Robinson, the Subject Member.

5.2 Based on evidence set out in the Investigating Officer's report, the additional information received from members of the public and after consultation with the Independent Person the Investigating Officer concluded that Cllr Robinson had behaved as alleged.

5.3 The Investigating Officer concluded that Cllr Robinson had breached the Northill Councillors' Code of Conduct in failing to set an example by his behaviour; failing to act in a way that enhances public trust and confidence in the integrity of the Council and its Members; failing to show respect and courtesy to others and; failing to value the Council's officers and work alongside them, in that he behaved in a manner that might constitute bullying.

5.4 The Investigating Officer recommended that a local resolution be sought to conclude the matter.

6. EVIDENCE SUBMITTED BY THE SUBJECT MEMBER IN RESPONSE TO THE INVESTIGATOR'S REPORT

6.1 The Subject Member having received the Investigating Officer's final report and being advised that the matter was going to a hearing was given the opportunity to put forward any further information which he wished to be considered by the Sub-Committee. Cllr Robinson submitted a document disputing the facts set out in the report and the complaints. He submitted that his actions did not breach the Nolan principles or paragraphs 4.14, 4.15 and 4.16 of the Northill Councillors' Code of Conduct. Specifically Cllr Robinson also denied that he:

6.1.1 repeatedly made statements contravening previous resolutions

6.1.2 refused to let anyone else speak

6.1.3 behaved in a way which was out of control

6.1.4 prevented the Chairman from chairing the meeting

6.1.5 talked for more than 10 minutes despite requests to stop

6.1.6 received adequate answers to his questions

6.1.7 banged his hand on the table and gesticulated

6.1.8 shouted during this period

6.1.9 talked over the responses of the Clerk

6.1.10 displayed erratic and inappropriate behaviour

6.1.11 played to the audience composed of members of the public

6.1.12 disregarded Northill Parish Council's Standing Orders

6.1.13 behaved in an aggressive manner

6.1.14 belittled two Northill Parish Councillors

6.1.15 was disrespectful to the Chair

6.1.16 failed to observe protocol.

7 REPRESENTATIONS MADE BY THE INVESTIGATING OFFICER ON THE FINDINGS OF FACT

7.1 In support of the findings in the Report the Investigating Officer called three witnesses:

7.1.1 Cllr Helen Papworth, Chairman of Northill Parish Council

7.1.2 Cllr Sally Mandley, Member of Northill Parish Council

7.1.3 Mrs Leanne Bacon, Clerk to Northill Parish Council

7.2 Each of the above witnesses read from their witness statement and provided evidence which was substantially the same as the details contained in their original complaints.

7.3 After hearing from Cllr Papworth, the Sub-Committee indicated that due to the availability of Cllr Mrs P.E.Turner they would hear from her at that point and received her views on the meeting of 8th April 2013 as Ward Member for Northill in the context of her considerable experience of Council meetings, having been a Member and Leader of both the previous Mid Beds District Council and current Central Bedfordshire Council. Cllr Turner's view was that Cllr Robinson's contribution went past heated debate and that the Subject Member crossed the line of acceptable behaviour.

7.4 The Subject Member had the opportunity to question all the witnesses.

8 REPRESENTATIONS MADE BY THE SUBJECT MEMBER ON THE FINDINGS OF FACT

8.1 The Subject Member called 3 witnesses:

8.1.1 Mrs Randle

8.1.2 Mr Davies

8.1.3 Mrs Parker

8.2 Each of the witnesses read from their witness statement evidencing their support of the Subject Member's representation of the parishioners of Northill Parish. Their evidence highlighted the following points:

8.2.1 The Chairman of the meeting did not control the meeting

8.2.2 The Clerk took over answering the questions

8.2.3 There was dispute as to whether the Chairman had passed over the Subject Member's questions to the Clerk for her to answer

8.2.4 The Clerk was unable to provide full answers

8.2.5 It was noisy at the meeting and the layout and acoustics of the room mean it is not easy for the public to hear what was being said.

8.3 The Subject Member also read out his statement "Comments on the facts" denying that his actions had harassed and distressed the Clerk. He then set out his suggestions as to what were the sequence of events that had resulted in her feeling harassed and distressed. Cllr Robinson further stated that seven statements corroborated his view of the reasons for the harassment and distress.

8.4 Cllr Robinson also stated that correct protocol had not been followed by the Chairman and the Clerk.

9 FINDINGS OF FACT

9.1 Based on the documents provided to the Sub-Committee and the submissions and evidence given for the Subject Member the Sub-Committee made the following findings of fact:

9.1.1 Cllr Robinson directed questions to the Chairman, who did ask the Clerk to respond

- 9.1.2 Cllr Robinson was persistent
- 9.1.3 Cllr Robinson was enthusiastic
- 9.1.4 Cllr Robinson tried to represent parishioners' views at the meeting on 8th April 2013
- 9.1.5 The Clerk did direct answers to Cllr Robinson
- 9.1.6 The Clerk was the most appropriate person to give answers to Cllr Robinson's questions as she had the paperwork and had knowledge of the issues
- 9.1.7 The Chairman did not retain control of the meeting
- 9.1.8 There was dialogue between Cllr Robinson and the Clerk
- 9.1.9 The meeting on 8th April 2013 was disorderly
- 9.1.10 The Chairman did not stop Cllr Robinson's questions
- 9.1.11 That Cllr Robinson harassed the Clerk based on the following definition from the Protection from Harassment Act 1997:-
"harassing a person includes alarming the person or causing the person distress" (i.e. the effect the conduct has on the person is relevant) and the person whose course of conduct is in question ought to know that it amounts to (or involves) harassment of another if a reasonable person in possession of the same information would think the course of conduct amounted to (or involved) harassment of the other.
- 9.1.12 The length of time of Cllr Robinson's questioning was at least 10 minutes
- 9.1.13 There was a misunderstanding by Councillor Robinson as to the status and use of confidential information in the meeting of 8th April 2013
- 9.1.14 That Cllr Robinson monopolised the floor
- 9.1.15 Cllr Robinson would not relinquish the floor
- 9.1.16 That Cllr Robinson raised his voice
- 9.1.17 That Cllr Robinson took advantage of the Chairman not having control of the meeting
- 9.1.18 Cllr Robinson did not use offensive or insulting language.

10 SUBMISSIONS MADE BY THE INVESTIGATING OFFICER REGARDING BREACH OF THE CODE OF CONDUCT

- 10.1 The Investigating Officer submitted the following:
- 10.2 That the relevant sections of Northhill's Councillors' Code of Conduct are sufficiently similar to the former National Model Councillors' Code of Conduct to make the use of the Standard's Board guidance of relevance when looking at the standard of conduct here.
- 10.3 That Guidance had indicated that a clear line must be drawn between the requirement to show respect to others and the freedom to disagree with their views and opinions. It was the Investigating Officer's view that the evidence heard by the Sub-Committee showed that this line had been crossed and that this was the view of the seven complainants and also the Ward Member.
- 10.4 That the Subject Member's behaviour is ongoing as evidenced by a grievance being raised by the Clerk and being upheld by the grievance panel convened by Northhill Parish Council as employer, resulting in all correspondence from Cllr Robinson to the Clerk being stopped.

11 SUBMISSIONS MADE BY THE SUBJECT MEMBER REGARDING BREACH OF THE CODE OF CONDUCT

- 11.1 Cllr Robinson referred to his document "Comments on the Code of Conduct" submitted to the panel and stated that although his questioning at the meeting was persistent it was not such as to breach paragraph 4.14 of the Councillors' Code of Conduct ("Members must set an example by their behaviour and shall act in a way that enhances public trust and confidence in the integrity of the Council and its Members") as he was in fact attempting to promote transparency and show the integrity of the Council.

- 11.2 Cllr Robinson submitted that his actions were intended merely to emphasise his comments and questions and were not meant to be offensive. Cllr Robinson also answered the point about his forgetting a councillor's name as being that he did indeed simply forget it. He agreed that he raised his voice, but commented that he did so to combat the poor acoustics in the room and he pointed out that the Sub-Committee had already established that he had not used offensive language and as such did not breach paragraph 4.15 of the Code ("Members must show respect and courtesy to others").
- 11.3 Cllr Robinson reminded the Sub-Committee of his positive comments at the Clerk's appraisal. Despite the Sub-Committee's findings of harassment of the Clerk, Cllr Robinson submitted that this had not been malicious but accidental and due to his nature, and was not a breach of paragraph 4.16 of the Code of Conduct ("Members should value the Council's officers and work alongside them to achieve the Council's objectives. Members must on no account behave in a manner that might constitute bullying").
- 11.4 Councillor Robinson also pointed out that certain procedural points of Northill Parish Council's Standing Orders had been clarified during the hearing and the fact that he had not previously been aware of those could explain his concerns at the meeting, and therefore his questioning during the meeting was at that time appropriate and rational.

12 FINDINGS ON THE BREACH OF THE CODE OF CONDUCT

- 12.1 The Standards Sub-Committee found unanimously that Cllr Robinson's behaviour at the meeting on 8th April 2013 had breached the requirement to set an example and act in a way that enhances public trust and confidence in the integrity of the Council and its Members. Cllr Robinson's behaviour was instrumental in the Chairman being unable to control the meeting as he took advantage of the failure of the Chairman to control the meeting and monopolised the floor, and would not relinquish the floor. The Sub-Committee considered that this did not set a good standard of behaviour for a councillor. The Sub-Committee accepted that Cllr Mrs Turner's knowledge and experience (over many years as a principal council member and leader) led her to conclude that Cllr Robinson had crossed an acceptable line thus breaching this part of the Councillor Code of Conduct by such behaviour.
- 12.2 The Sub-Committee also considered that the persistent questioning at the meeting would not enhance public trust and confidence in the integrity of the Council. The fact that one of its own members had failed to accept the answers provided to him could indicate that there was more information that was not being given. Whilst this could be the case, dealing with such issues in the way that he did Cllr Robinson did not allow reasoned explanation and possibly enhanced the feelings of some that any failure to provide information was being done maliciously. Furthermore it could be expected that Cllr Robinson should understand the decision making processes of the Council and the limitations imposed on the Council in respect of information provided in confidence.
- 12.3 The Standards Sub-Committee also found unanimously that at the meeting of 8th April 2013 Cllr Robinson had demonstrated a lack of respect and courtesy to others. It is not a prerequisite to use offensive or insulting language in order to demonstrate a lack of respect and courtesy to others and the Sub-Committee agreed that raising one's voice, monopolising the floor and failing to relinquish the floor despite others wanting to speak amid the meeting deteriorating generally showed disrespect and a lack of courtesy to the Chairman and the other councillors. The fact that the Chairman did not have control of the meeting and that he failed to stop Cllr Robinson's questioning did not excuse Cllr Robinson's behaviour.
- 12.4 It was noted by the Sub-Committee that 10 minutes could be considered a short time, however the fact that the questioning continued despite the restive state of the meeting was the relevant issue and to continue with such behaviour for any length of time showed a lack of respect and courtesy.

- 12.5 The Standards Sub-Committee also found unanimously that as Cllr Robinson had harassed the Clerk by his questioning and behaviour he had also failed to work alongside and value the Council's officers to achieve the Council's objectives. Whilst Cllr Robinson had directed his questions to the Chairman, the Chairman had asked the Clerk to respond. It was therefore appropriate for the Clerk to answer the questions in order to move the meeting along as she was the most appropriate person to do so. Cllr Robinson's frustrations at this were misguided and he confirmed during the hearing that he did not mind the Clerk answering him direct. To continue questioning in the manner that he did amounted, in the Sub-Committee's view, to harassment as the end result was that the Clerk felt harassed. It was irrelevant that the questions were directed to the Chairman as it was the Clerk who was needed to respond. The Sub-Committee accepted the Clerk, Mrs Bacon's, evidence that it was the impact on her of Cllr Robinson's unrelenting questioning that caused her to leave the room.
- 12.6 The Sub-Committee did agree that Cllr Robinson's actions fell short of actual bullying, however his behaviour was of such a kind as to indicate that Cllr Robinson was certainly not working with the Clerk to achieve the Council's objectives.
- 12.7 Whilst Cllr Robinson can be acknowledged as enthusiastically representing his parishioners' views there is no reason to do so in such a manner which obviously caused some distress to the Clerk specifically and to other persons present.
- 12.8 The Sub-Committee did discuss whether there had been a breach of the Code of Conduct with Martin Leppert, the Independent Person consulted by the Investigating Officer during the investigation. Mr Leppert did not demur from the Sub-Committee's view that there was a breach of the Councillors' Code of Conduct and that some sanction should be applied. He further expressed the view that this matter should have been dealt with long before now and that the events since the meeting of 8th April 2013 had led to the public hearing. Mr Leppert also made the point, and the Sub-Committee agreed, that it is very odd that Cllr Robinson was not made aware of certain procedural issues and requirements of the Council until the first day of the hearing.

13 REPRESENTATIONS ON SANCTIONS TO BE IMPOSED MADE BY THE INVESTIGATING OFFICER

- 13.1 The Investigating Officer confirmed that during her investigation she was keen to explore if there was a breakdown of communications or a lack of trust which could perhaps be dealt with by a local resolution but this did not appear to be the case. The Investigating Officer suggested that an appropriate person could work independently with the Council and Cllr Robinson to assist with this.

14 REPRESENTATIONS ON SANCTIONS TO BE IMPOSED MADE BY THE SUBJECT MEMBER

- 14.1 Cllr Robinson reiterated that he had apologised to the Clerk and that he had previously undertaken training in respect of appropriate behaviour at Council meetings, but was nonetheless willing to undertake more training

15 SANCTIONS IMPOSED BY THE STANDARDS SUB-COMMITTEE

- 15.1 The Standards Sub-Committee took into account the submissions by the Investigating Officer and Cllr Robinson in relation to potential sanctions. In particular the Sub-Committee took into account the previous training Cllr Robinson has already received and that he considered that his apology had been 'the gentlemanly thing to do' and the serious nature of the breaches of the Code of Conduct and the long-lasting effects resulting from those.

- 15.2 The Sub-Committee agreed to apply the following sanctions:

- 15.2.1 the public censure of Cllr Robinson; and
15.2.2 that Cllr Robinson be required to issue a public apology to all Northill Parish Council members and the Clerk, Mrs Bacon, at the next appropriate Northill Parish Council meeting, the wording of the apology to be approved in advance by the Monitoring Officer.

16 RIGHT TO APPEAL

- 16.1 If either the complainant or the Member against whom a complaint has been made is dissatisfied with the outcome, he/she may ask for the decision to be reviewed (an appeal). A review (appeal) will be undertaken by the Standards Appeals Sub-Committee made up of Members who have not previously been involved in the consideration of the complaint.
- 16.2 Any review (appeal) must be received in writing by the Monitoring Officer within 21 days of issue of the written decision notice and may be made only on the grounds of:
- the procedure being wrongly applied;
 - new evidence has come to light since the hearing ; or
 - a misdirection in law.
- 16.3 The review (appeal) will not be a rehearing and will be conducted on papers only.
- 16.3 A new Independent Person will also be asked to give their view prior to any decision being made.
- 16.4 The Standards Appeals Sub-Committee may confirm, or set aside the original decision if it considers it unreasonable and substitute its own decision.
- 16.5 The Standards Appeal Sub-Committee decision is final and there is no further review (appeal).

17 RECOMMENDATIONS TO THE COUNCIL

- 17.1 It is accepted that the misunderstandings of Cllr Robinson of the procedural requirements and the Standing Orders of Northill Parish Council contributed, in part, to the reasons for his behaviour and it is recommended that Northill Parish Council ask the National Association of Local Councils to assist them to review their Standing Orders (SO's). It is further recommended that the Council ensures all Members have access to an updated copy of the SO's and briefings are provided to Northill Parish Councillors to secure proper understanding across the Council of the SOs.