



**CENTRAL BEDFORDSHIRE COUNCIL**

**DECISION NOTICE**

**LOCALISM ACT 2011**

**DECISION OF THE STANDARDS SUB-COMMITTEE (APPEAL)**

Date of Hearing	5 <sup>th</sup> March 2015 at 10.00 a.m.
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Appellant subject member:	Cllr Ian Robinson – Northill Parish Council
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Reasons for Hearing:	Appeal by the subject member of the decision of the Standards Sub-Committee dated 14 <sup>th</sup> October 2014
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Members of the Standards Sub-Committee:	Chair : Cllr R B Pepworth Cllrs P N Aldis, N B Costin, D J Hopkin.
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Other Persons Present:	Ifty Ali - Locum Corporate Lawyer Leslie Manning – Committee Services Officer John Jones – Independent Person Members of the Public
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(Note: at 9.30 a.m., immediately prior to the start of the Standards Sub-Committee, a pre-meeting was held to enable IA to advise Members of the appeal procedure, as set out on page 5 of the agenda, and answer their queries on this issue. In addition, IA presented the Members with envelopes containing an additional submission from Cllr Robinson (the subject of the appeal) which had been delivered to the Council offices at 9.05 a.m. that morning).

(Note: There were no Members' interests declared or apologies for absence and Cllr Pepworth was duly elected chair).



## **Standards Sub-Committee Hearing (Appeal)**

The Chairman introduced the Members, officers and the Independent Person attending the meeting.

The Chairman explained the purpose of the meeting. He referred to the receipt of the additional submission from Cllr Robinson dated 4<sup>th</sup> March 2015. The Sub-Committee agreed to accept the document and to formally consider its content. The Chairman then referred to the receipt of an advice document from John Jones, the Independent Person, setting out his view in regard to Cllr Robinson's appeal. John Jones agreed to the document being made public.

Ifty Ali explained to the Sub-Committee that there were no grounds (under the Access to Information Act) to exclude the press and public from the meeting. However, the press and public could be required to leave the meeting room when Members reached the point at which they wished to deliberate in private.

The Sub-Committee stated that it would want both Ifty Ali and Leslie Manning to remain with Members during the period of deliberation. Ifty Ali reminded the meeting that he would only be able to provide guidance on matters of law during this period.

The Sub-Committee stated that it would want John Jones to remain with Members during the period of deliberation to provide clarification if required.

At 10.15 a.m., at the request of the Chairman, members of the public left the meeting room.

### **Deliberation**

The Chairman reminded the Sub-Committee that it could only consider the three defined grounds for an appeal; these related to the procedure being wrongly applied, new evidence appearing since the Hearing or a mis-direction in law.

As part of the agenda pack Members had before them the appeal documents submitted by Cllr Robinson and the report prepared by the Acting Monitoring Officer and the Corporate Lawyer which set out a detailed response to Cllr Robinson's appeal.

## 1) Procedure being wrongly applied

Members referred to various points raised by Cllr Robinson. In response John Jones stated that there was no evidence to suggest that the procedure for the Hearing had been wrongly applied or that Cllr Robinson had received evidence for the Hearing at the last moment. As regards Cllr Robinson's claim that the Monitoring Officer had failed to provide foresight of her questions to him before the Hearing, given the nature of such meetings he would have been surprised if this had occurred as it was not usual to provide the questions beforehand. Reference was made to the late submission of paperwork by the Clerk to the Parish Council and that she had provided an explanation for this and this had not prejudiced the case.

The Sub-Committee agreed that the procedure had not been wrongly applied so as to prejudice Cllr Robinson.

## 2) New evidence appearing

No new evidence had been presented by Cllr Robinson regarding the events of 8 April 2013. To ensure that Members were fully aware of the content of Cllr Robinson's additional submission the Sub-Committee adjourned for 10 minutes at 10.22 a.m. to allow Members to read the document.

There was a discussion in regard to Cllr Robinson's point as to why the complaints against him had been considered at a Hearing when this process was reserved for complaints of a potentially criminal nature. Ifty Ali explained how the Council's procedure was applied generally and that it did not prevent complaints of a non-criminal nature being considered by a Standards Sub-Committee.

Cllr Robinson's submissions of 4<sup>th</sup> March 2015 made reference to a ruling by a District Judge Temperley to uphold 'freedom of expression' in a case of the alleged harassment of a Rutland County Councillor and the County Council's Chief Executive. The ruling appeared to negate the finding of the Hearing against Cllr Robinson on grounds of harassment. Copies of the blog by Amber Melville-Brown on the ruling and referred to in the submission were obtained. Members considered the blog but felt it did not change the view that Cllr Robinson had undertaken aggressive questioning of the Clerk which had constituted harassment. The alleged case of harassment in the blog had been considered as a potential criminal offence, the decision by the Hearing relating to harassment by Cllr Robinson was viewed as a civil matter. There was a different burden of proof in criminal and civil cases and that whilst the latter required a case to be made on the balance of probabilities a criminal charge had to be proven beyond all reasonable doubt.

The discussion was that the Clerk did not assume the role of Chairman at the Parish Council meeting on 8 April 2013 but the Chairman had deferred to the Clerk because of the technical nature of the questions raised by Cllr Robinson. The Sub-Committee considered that this was not unusual and the Chairman concurred.

Reference was made to the notes of the Parish Council meeting and its heated nature. The meeting was out of control and it was up to Cllr Robinson to decide whether acting in the manner that he did helped his case. Cllr Robinson would have been aware of the tension building up in the Clerk as a result of his method of questioning.

Cllr Robinson was, to a degree, goading the Clerk and that is where the harassment arose. Cllr Robinson was asking questions and the Clerk was the best person to respond. By doing so, however, the formal process was bypassed and whilst Cllr Robinson gained answers they were not liked. There was discussion as to the increasingly aggressive nature of the questioning. There was an understanding of Cllr Robinson's frustration but he had gone too far and breached the Code of Conduct.

The Sub-Committee agreed that the no new evidence had come to light since the Hearing.

### 3) A mis-direction in law

The Sub-Committee was aware that the Hearing had been directed to use the definition of harassment as used in the Protection of Harassment Act 1997. The Chairman commented that the Sub-Committee had already given consideration to the definition of harassment. The Sub-Committee heard Ifty Ali's advice on the interpretation of the law and that the given definition of harassment was the one the Sub-Committee could use. Ifty Ali stressed that the Sub-Committee could come to its own conclusion as to what definition to use. The Sub-Committee found the definitions of harassment provided by the Independent Person to be useful. John Jones explained that 'harassment' was a long established phrase in law (although not present in the Code of Conduct) and that whilst Cllr Robinson had referred to the ACAS definition this was not helpful or relevant although the normal interpretation of the word, as set out in the Oxford English Dictionary, was. He also referred to the Dictionary's definition of bullying, a word used in the Code, which had the same 'feel' in the context of the Hearing.

The Sub-Committee agreed that there had been no mis-direction in law.

## Conclusion and Decision

The Sub-Committee considered the Hearing's decision dated 14<sup>th</sup> October 2014 and whether it accepted that decision as being reasonable. To ensure complete accuracy in their findings the Sub-Committee reread the decision and, in particular, went through paragraph 12 (Findings on the Breach of the Code of Conduct) of the decision notice.

The Sub-Committee understood that it was not undertaking a rehearing but did need to understand the background to the original decision and to test the Hearing's decision by working through paragraph 12 and establish if the conclusion reached was reasonable or not given the evidence before them.

**The Sub-Committee, having reviewed the evidence very thoroughly, came to the conclusion that the decision reached by the Standards Sub-Committee (Hearing), and set out within the decision notice dated 14th October 2014, was correct and reasonable and there were no matters of concern. The Sub-Committee therefore confirm the original decision.**

There is no right of appeal against this decision under the Council's process.

Signed: \_\_\_\_\_

Chairman of Standards Sub-Committee (Appeal)

Date: 12<sup>th</sup> March 2015

