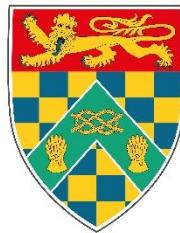


Decision Notice

HEARING REVIEW PANEL

TUESDAY, 21 JANUARY 2025 10AM



SOUTH
KESTEVEN
DISTRICT
COUNCIL

This notice confirms the decision taken by the Council's Hearing Review Panel held on 21 January 2025 regarding an investigation into alleged breaches of the Councillor Code of Conduct by Councillor Tim Harrison.

Panel members present

Councillor Pam Byrd
Councillor Richard Dixon-Warren
Councillor Chris Noon
Councillor Sarah Trotter

In attendance

Councillor Tim Harrison (subject councillor)
Councillor Graham Jeal (complainant)

Graham Watts –Monitoring Officer
James Welbourn –Deputy Monitoring Officer

Patrick Astill (Communications Officer)

Estelle Culligan – Investigating Officer, Wilkin Chapman Solicitors (virtually present via MS Teams)
Gill Thompson – Investigating Officer, Wilkin Chapman Solicitors (virtually present via MS Teams)

1. Introductions

A formal investigation was undertaken further to allegations made by Councillors Ben Green, Graham Jeal and Sue Woolley that Councillor Tim Harrison had breached the Councillor Code of Conduct. The investigation found that breaches of the Councillor Code of Conduct had occurred. The matter was referred to a meeting of the Hearing Review Panel (the Panel). The Panel was requested to consider the investigator's report in accordance with the Council's procedures for dealing with complaints against councillors. It was the role of the Panel to make a decision on the investigator's findings as to whether Councillor Harrison had breached the Councillor Code of Conduct.

Prior to the commencement of formal business, the Panel were informed that the Independent Person was unable to attend the Hearing due to ill health. After deliberating, both the Panel and the subject councillor confirmed that they were content to proceed in his absence.

2. Election of Chairman

Councillor Pam Byrd was elected as Chairman of the Panel.

3. Declarations of Interests

Councillor Chris Noon wished to highlight that Councillor Tim Harrison was the Leader of the Grantham Independent Group on the Council, of which Councillor Noon was a member. Councillor Noon confirmed that he would make an informed decision based on the evidence before him.

Councillor Richard Dixon-Warren commented that the complainants in this case were Conservative Councillors, and that he was the Conservative Group whip. He emphasised his commitment to make a judgment based on the evidence as presented.

Councillor Pam Byrd stated that the members of the Panel had not met beforehand to discuss content and had not arrived at a pre-determined outcome.

4. To consider any requests for the exclusion of the Press and Public

It was confirmed that there had been no requests to hold the hearing in private. The Monitoring Officer confirmed that the report contained redactions of personal information of some third parties which did not impact on ability of the Panel to understand the report. The Panel determined to hold the hearing in public.

5. Councillor Code of Conduct Hearing - Councillors Ben Green, Graham Jeal and Sue Woolley v Councillor Tim Harrison

The Investigating Officer (IO) introduced Wilkin Chapman's report, and the supporting evidence bundle and summarised the three complaints made against Councillor Harrison by Councillors Ben Green, Graham Jeal and Sue Woolley:

Complaint 1 (Councillor Green)

The complaint submitted by Councillor Green was in two parts – part 1 related to the sharing of multiple posts by Councillor Harrison from the Facebook page of Councillor Ben Green, which in Councillor Green's view amounted to 'vitriolic attacks'. Part 2 referred to the sharing of a post created by the organisation Lincolnshire Against the Cull, which contained a large image of Councillor Green alongside an image of his ward which had the caption 'ALL BADGERS ARE TO BE KILLED HERE' written across it. It contained a threatening comment by a member of the public; 'what is the chance of culling this waste of space. I'm sure nobody would notice him missing from his ward.'

Complaint 2 (Councillor Jeal)

The complaint also concerned the sharing of a post created by the organisation Lincolnshire Against the Cull, which contained a large image of Councillor Green

alongside an image of his ward which had the caption ‘ALL BADGERS ARE TO BE KILLED HERE’ written across it. It contained a threatening comment by a member of the public; ‘what is the chance of culling this waste of space. I’m sure nobody would notice him missing from his ward.’

Complaint 3 (Councillor Woolley)

Similarly, Councillor Woolley’s complaint concerned the Lincolnshire Against the Cull post shared in complaints 1 and 2, and the comment posted in reply.

The complainants alleged breaches of the Nolan Principles (the seven Principles of Public Life). Councillor Green alleged incitement of local animal rights activists through the sharing of the above post. He confirmed that the threatening comment added by a member of the public to this post attracted a fixed penalty notice from the Police.

The Investigator explained that the Nolan Principles underpinned the Code of Conduct but did not form part of it. Allegations must relate to behaviours under the Code and the IO confirmed that they were able to investigate any behaviours which they felt were relevant. They investigated against the behaviours of disrespect, bullying and disrepute, under parts 1, 2 and 5 of the Code of Conduct.

The IO outlined the principles of freedom of expression and the relevant legislation; Article 10 of the European Convention on Human Rights (ECHR). The right to freedom of expression was enhanced in the area of political commentary, but mere personal abuse did not attract the higher protection. Freedom of speech may be curtailed if it was lawful to do so to protect the rights and freedoms of others; there were several pieces of UK and European caselaw which supported this which were referenced in the IO’s report.

The IO found that the first part of Councillor Green’s complaint relating to Councillor Harrison sharing various of his posts to his own Facebook page and commenting on them, was not a breach of the Code of Conduct because Councillor Harrison was making political comment on Councillor Green’s posts. As political commentary, Councillor Harrison’s posts attracted a high degree of protection under the principles and law of freedom of expression.

In the view of the IO the sharing of the post by Lincolnshire Against the Cull referred to in all three complaints constituted a breach of the Code of Conduct under ‘respect’, ‘bullying’, and ‘disrepute’. The finding of disrespect was due to their view that the post was clearly meant to be critical of Councillor Green and highlight what Councillor Harrison felt was his hypocrisy.

In respect of bullying, the IO considered the guidance from the Local Government Association (LGA) on the Model Code of Conduct and the definition of bullying used by the Arbitration, Conciliation and Advice Service (ACAS). The IO found that Councillor Green had been seriously impacted by the post, felt fearful and had had to postpone or cancel two parish council meetings. Also considered were the amount of telephone calls received by Councillor Jeal on this subject, as well as comments by

Councillor Woolley that she was unhappy that Councillor Harrison had not responded to, or remove, the threatening comment by member of the public.

The IO found that Councillor Harrison brought the Council and himself as a Councillor into disrepute. Even if he was originally unaware of the comment, once he had been contacted by the Police, he would have been expected to take the issue seriously and remove his original post. However, even after being asked to remove the post by the Police, he refused to do so.

Freedom of Expression

The IO had considered freedom of expression and found that, since Councillor Harrison was making a political point in sharing the Lincolnshire against the Cull post to his Facebook page, his post attracted the enhanced protection of political freedom of expression. However, the IO considered that it was reasonable to restrict that freedom by a finding of breaches of the Code because of the seriousness of the issue, the impact on Councillor Green, the fact that a death threat was made in the comments and that Councillor Harrison refused to remove the post when asked to do so by the Police.

The IO did not find that Councillor Harrison had harassed Councillor Green as this would have involved behaviour on more than two occasions.

The IO's report and evidence bundle included statements submitted by Councillors Graham Jeal, Sue Woolley and Ben Green. Although Councillor Harrison had not agreed its content, a transcript of the interview conducted with Councillor Harrison was included as part of the evidence bundle.

The Panel was provided with an opportunity to ask any points of clarification of the IO in relation to the report and evidence bundle. The IO provided clarity to the points raised, which covered:

- explanations of the difference between bullying and harassment
- whether bullying had to be a pattern of behaviour
- whether the removal of the Lincolnshire Against the Cull post would have been mitigation
- whether, even without the comments, the shared post itself was a breach

Councillor Jeal provided a written statement to the Panel which supported the investigation and conclusions carried out by Wilkin Chapman Solicitors. He was satisfied that a 'thorough and comprehensive process' had been undertaken.

Councillor Harrison as the subject councillor had the opportunity to ask any points of clarification of the IO in relation to the report and evidence bundle. The IO provided clarity to the points raised, which covered:

- Councillors should be able to operate on social media without having to block each other. The only post found to be an issue was the shared post from Lincolnshire Against the Cull.

- The fact that Councillor Green had continued to operate publicly on social media etc, after the post, did not lessen the impact on him of the post.
- The terminology within the Lincolnshire Against the Cull post was quite shocking.

Councillor Harrison then used the opportunity to give his position on the complaints, The following is a summary of the information expressed by Councillor Harrison:

- He shared the post by Lincolnshire Against the Cull in the interests of openness and to highlight hypocrisy. The actions of Councillor Green immediately afterwards were quite suspect.
- The 'culling' threat posted by a member of the public on the shared post was removed within hours. Councillor Harrison was called by the Police who informed him that the commenter had removed their post and had been issued with a fixed penalty notice.
- He had been too busy to sign off the transcript put together by Wilkin Chapman.
- These complaints should have been considered as vexatious.
- An email had previously been sent to Councillor Green by Councillor Harrison asking to work together without 'theatre'.
- Councillor Green had blocked Councillor Harrison on Friday 17 January 2025 on Facebook.
- No attempt had been made to incite anything – the offending comment by the member of the public had been removed by the Police.
- Security was brought into the Council offices for the perceived death threat against Councillor Green, but then six days later he was making a video alongside the A1.
- 26 complaints had been received against Councillor Harrison in one weekend; one of these was about a social media post from the previous year. No complaints had been received by members of the public or any other political party other than the Conservatives.

The Panel adjourned at 11:38am and reconvened at 11:53am.

Finally, the Panel asked any clarifications of the subject councillor, who confirmed:

- The Police called Councillor Harrison and said 'I've been asked to ask you to take the post down, would you consider this?' Councillor Harrison refused to do so as he believed he had done nothing illegal.
- The post shared was wholly created by Lincolnshire Against the Cull.
- Councillor Harrison had recently decided to stop responding to posts by Councillor Green.

The Panel adjourned to deliberate and reach a conclusion at 12:02pm and reconvened at 1:32pm.

Conclusion

The Panel agreed that whilst the posts in the first part of Councillor Green's complaint appeared to be disrespectful, they were within the legal limits of freedom of expression. The Panel concluded that the complaints on the shared post from the Lincolnshire Against the Cull Facebook page were a breach of the Councillor Code of Conduct under 'respect' and 'disrepute' but found that there was insufficient evidence that 'bullying' had been demonstrated.

The Hearing Review Panel therefore **AGREED** that the following elements of the Councillor Code of Conduct were breached by Councillor Harrison:

1. *Respect*

As a Councillor:

1.1 *I treat other Councillors and members of the public with respect*

5. *Disrepute*

As a Councillor:

5.1 *I do not bring my role into disrepute*

The Panel **AGREED** that the following sanctions be applied:

- a. That Councillor Tim Harrison be required to attend training on the appropriate use of social media whilst acting in an official capacity as a Councillor.
- b. That Councillor Tim Harrison be required to attend further training on the Councillor Code of Conduct.
- c. That Councillor Tim Harrison be required to attend the above training sessions within six months.
- d. That a Censure Notice be placed on Councillor Tim Harrison's profile on the Council's website regarding bringing his office as a Councillor into disrepute, for a period of twelve months.

Right of Appeal

Subject to judicial review, there is no right of appeal against the decision of the Hearing Review Panel.

The Hearing closed at 1:38pm.