

# Written Decision of West Berkshire Council's Advisory Panel

<b>Date of the Advisory Panel:</b>	13 April 2015
<b>Reference Number :</b>	NPC5/14
<b>Member who this Decision relates to:</b>	Ruwan Uduwera-Perera
<b>Person who made the original allegation:</b>	Granville Taylor on behalf of Newbury Town Council
<b>Authority:</b>	Newbury Town Council
<b>Chair of the Advisory Panel:</b>	Lindsey Appleton
<b>Other Members of the Advisory Panel:</b>	Richard Crumly, Mollie Lock, Tony Renouf, Darren Peace
<b>Apologies:</b>	Adrian Edwards, Alan Macro, Mike Wall
<b>Declarations of Interest:</b>	<p>Councillor Adrian Edwards declared a personal and prejudicial interest in this item by virtue of the fact that he was a member of Newbury Town Council. As his interest was personal and prejudicial he gave his apologies, did not attend the meeting and therefore did not take part in the debate or vote on this item.</p> <p>Councillor Alan Macro declared a personal and prejudicial interest in this item by virtue of the fact that he had participated in an internal Liberal Democrat investigation into this matter. As his interest was personal and prejudicial he gave his apologies, did not attend the meeting and therefore did not take part in the debate or vote on this item.</p>

Darren Peace declared a personal interest in this item by virtue of the fact that he had appointed Gardner Leader to conduct a family matter on his behalf. As his interest was personal and not prejudicial or a disclosable pecuniary interest he participated in the debate and voted on this item.

Councillor Mollie Lock declared a personal interest in this item by virtue of the fact that she was a member of the Liberal Democrat Party. As her interest was personal and not prejudicial or a disclosable pecuniary interest she participated in the debate and voted on this item.

**Monitoring Officer:**

Andy Day

**Clerk of the Advisory Panel:**

Rob Alexander

**Investigator:**

Elizabeth Howlett, solicitor from  
EJHLegal

**Date Decision Issued:**

14 August 2015

## **Summary of the Original Complaint**

It is alleged that:

- On 29th May 2014 the Subject Member while Deputy Leader of Newbury Town Council (NTC) behaved towards a member of staff in such a way that a reasonable person would regard as:
  - a) Disrespectful, contrary to Paragraph 1 of the NTC Code of Conduct; and
  - b) Bullying and intimidatory, contrary to Paragraph 2 of the NTC Code of Conduct.
- In particular he alleges that the then Councillor Uduwera-Perera raised his voice and spoke to Mr Hunt (the then Chief Executive Officer) in an unprofessional manner; told Mr Hunt to go home before the meeting that Mr Hunt was due to have with him and the Leader of Council had started/concluded; told Mr Hunt not to take notes of the discussion and made allegations that Mr Hunt was responsible for an issue relating to the Town Council's insurance policy.
- Mr Taylor alleges that on 19th May 2014 the Subject Member while Deputy Leader of NTC behaved towards a member of staff in such a way that a reasonable person would regard as disrespectful, contrary to Paragraph 1 of the NTC Code of Conduct.
- In particular following a disagreement with Mr Taylor in the Town Hall office, former Councillor Uduwera-Perera made a reference to "Numpty Officers" and "a Numpty Ex-Prison Officer" in a raised voice before leaving the Town Hall.

## **Outcome of the Initial Assessment**

The complaint, which was received on the 04 November 2014, was initially assessed on 22 April 2015 by the Monitoring Officer and Independent Person of West Berkshire Council. They concluded that in this case:

- "While not making any findings of fact, if the allegations were substantiated they may constitute a breach of the Code of Conduct and therefore the allegation should be referred for investigation.
- They also noted the comment in the subject member's response about alleged breaches of the 'Misconduct in Public Office' legislation. They considered that if the subject member wished to pursue this, this is a matter which the subject member should properly refer to the Thames Valley Police as the Standards Committee does not have authority to deal with this matter."

## **Conclusion of the Independent Investigator**

This is the complaint about the behaviour of Councillor Uduwera-Perera on 19<sup>th</sup> and 29<sup>th</sup> May 2014 which gave rise to the grievance process mentioned above. The complaint was lodged by Granville Taylor on behalf of Newbury Town Council. It might

have reduced confusion if this complaint had been made to the Monitoring Officer as soon as the incidents in May 2014 took place. However, all parties agree that employees have the right to raise grievances and that employers are under a duty to deal with any such grievances raised in accordance with their policies and in a timely fashion. There were two incidents. The first was on 19<sup>th</sup> May 2014 where Councillor Uduwera-Perera is alleged to have behaved towards Granville Taylor in a disrespectful way. The second was on 29<sup>th</sup> May 2014 where Granville Taylor alleges Councillor Uduwera-Perera behaved in a disrespectful, bullying and intimidatory manner towards Graham Hunt, the then Chief Executive. In both cases I find that there was a breach of the Code of Conduct by Councillor Uduwera-Perera.

## **Decision of the Advisory Panel**

The Advisory Panel did not identify any areas of the Investigator's report that required further clarification.

In respect of complaint NPC5/14 the Advisory Panel concurred with the findings of the Investigator that a potential breach of Newbury Town Council's Code of Conduct had occurred.

The Advisory Panel recommended that the following people be invited to attend the Governance and Ethics Committee where the matter will be determined:

1. Investigator – Elizabeth Howlett
2. Complainant – A representative from Newbury Town Council
3. Subject Member – Ruwan Uduwera -Perera

The Advisory Panel commented that the Complainant and the Subject Member should be able to be accompanied by a representative if they wished to do so. They recommended that no additional witnesses should be invited to attend.

The Advisory Panel recommended that if the Governance and Ethics Committee concurred with the finding that a breach of the Code of Conduct has occurred the Panel would recommend that the following sanctions be applied:

1. A Public Notice should be placed in the Newbury Weekly News.

## **Right to Appeal**

Under the revised Localism Act 2011 there is no appeals mechanism in place. Parties may challenge the decision by way of Judicial Review in the High Court. Parties are advised to seek independent legal advice prior to pursuing this option