

FILEY TOWN COUNCIL

APPEAL HEARING PANEL MEETING HELD ON TUESDAY 26 MAY 2015 at 7.00pm

Present: Appeal Hearing Panel Members
Councillors Kevin Wilkie (Chairman) John Casey and John Haxby
Mr Andy Strangeway (complainant)
Mr Nigel Ward (complainant's representative)
Mrs Gina Robinson, Town Clerk.

Also present: Cllrs Diane Glanvill, Robert Horley (Substitute Panel members), Jeff Meek,
Town Mayor Cllr John Shackleton and Mrs Maureen Prentice, Deputy Town Clerk.
Recording Technician

ELECTION OF CHAIRMAN

Cllr Haxby proposed Cllr K Wilkie as Chairman and this proposal was duly seconded by Cllr Casey. It was

RESOLVED : That Cllr Kevin Wilkie be elected as Chairman for this meeting only. 394/015

Cllr Wilkie informed all present that a trial filming and recording was taking place and enquired whether anyone else wished to record or film the meeting and it was noted that the complainant was also filming and recording the meeting.

Cllr K Wilkie reminded everyone present of the emergency fire evacuation procedure in the event of an emergency taking place and reminded everyone to sign in and out of the building for their own personal safety.

NOTICE OF MEETING

RESOLVED: That Public Notice of the meeting had been given in accordance with Schedule 12, para 10(2) of the Local Government Act 1972.

395/015

APOLOGIES

RESOLVED: That no apologies were made.

396/015

DECLARATIONS OF INTEREST

The Chairman reminded members of the need to consider whether they needed to declare a disclosable pecuniary interest (DPI) or personal interest, as detailed in Appendix A and Appendix B of the Town Council's Code of Conduct. It was

RESOLVED: That no declarations of interest were made.

397/015

TERMS OF REFERENCE

Members of the Panel and the complainant had previously been circulated with a copy of the Terms of Reference for the Appeal Hearing Panel which had been agreed by the full Council on 20 May 2015. It was

RESOLVED: That the Terms of Reference for the Appeal Hearing Panel be duly accepted.

398/015

STAGE 2 COMPLAINT

The Chairman stated that the complainant had requested that his complaint be progressed to Stage 2 as detailed in the Town Council's Complaints Policy, a copy of which had been provided to all parties, and be considered as per the format of the Complaints Policy. He then went on to welcome Mr Strangeway and his representative, Mr Nigel Ward to the meeting as well as members of the public and other Councillors.

- 1. The Council shall consider whether the circumstances of the meeting warrant the exclusion of the public and press. Any decision on a complainant shall be announced at the council meeting in public**

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The Chairman went on to inform the meeting that normally all complaints would be heard in confidence by the Panel to protect the rights of the complainant under the Data Protection Act 1998, however it was noted that Mr Strangeway had requested to waive his personal rights under this Act in order that the meeting could be held in public.

STAGE 2 COMPLAINT continued

The Chairman went on to ask if both Mr Strangeway and his representative were willing to sign a disclaimer to waive their rights under the Data Protection Act 1998 and as they both notified their agreement they were handed a form on which to print their name, sign and enter full contact details. Mr Strangeway and his representative duly complied and the forms were handed back to the Panel. At this point the Chairman confirmed that the meeting would proceed in public but explained that the Panel would retire from the room at the end of the meeting to a room downstairs to make their deliberations which would be held in private.

2. Chairman to introduce everyone

At this point the Chairman introduced the members of the Panel, the Town Clerk, the Deputy Town Clerk and other members of the Town Council present at the meeting to Mr Strangeway and Mr Ward and went on to explain the procedure as follows:

3. Chairman to explain the procedure

The purpose of the meeting was to undertake a review of a complaint received on 29 January 2015 by Mr Andy Strangeway which was duly investigated by the Town Clerk, Mrs Gina Robinson, under Stage 1 of the Town Council's Complaints Procedure and a response sent to Mr Strangeway on 13 February 2015. Mr Strangeway was not satisfied with this response and had requested his complaint to be progressed to Stage 2 of the Complaints Procedure and reviewed by the Appeal Hearing Panel. The Chairman reminded members of the Panel that it was only the original complaint and the Stage 1 response which would be considered by the Appeal Hearing Panel.

The Chairman stated that the Town Council had given due notice to Mr Strangeway of the date of the meeting on 7 May 2015 and submitted the Council's evidence/documentation to the complainant on 13 May 2015. The Chairman stated that to date no evidence/documentation had been submitted by Mr Strangeway within the required timescale and on that basis if anything was relied on by him at the meeting this would not be taken into consideration by the Panel.

4. Complainant (or representative) to outline grounds for complaint.

The following is a copy of Mr Strangeway's complaint which was read out at the meeting by the Chairman, Cllr K Wilkie.

From: Andy Strangeway [<mailto:info@island-man.co.uk>]
Sent: 29 January 2015 17:31
To: mail@fileytowncouncil.co.uk
Cc: Cllr.Sam.Crossl@scarborough.gov.uk; news@nyenquirer.uk
Subject: Filey - The Racist Council
Importance: High

Dear Filey Town Council,

Could I please refer you to <https://andystrangeway.wordpress.com/2015/01/29/filey-the-racist-council/>

I believe that Filey Town Council brought shame to themselves and the town of Filey last night by accepting the scripted apology from Councillor Cockerill.

STAGE 2 COMPLAINT continued

Complainant's letter continued

The message this gives out is clear:

The “N” word can be spoken in any public place in Filey so long as you apologise if requested to do so. In addition your racism will not be reported to the Police.

Filey Town Council MUST lead by example by not only insisting that Councillor Cockerill resigns his seat on SBC but also report him to the Police.

I would like to register a complaint with Filey Town Council for their handling of this matter.

Filey Town Council MUST lead by example by not only insisting that Councillor Cockerill resigns his seat on SBC but also report him to the Police.

Kindest Regards,

Andy Strangeway

At this point Mr Strangeway drew member's attention to Page 3 No 6 of the Terms of Reference and stated that he had not supplied any evidence or documentation as the Town Clerk had delayed answering his questions. The Chairman stated that plenty of time had been given by the Town Council and reminded Mr Strangeway that only the original complaint could be considered. Mr Strangeway also considered that just sending a letter to Borough Cllr M Cockerill was not acceptable. Mr Strangeway stated that there was no other meaning for the 'n' word other than it being a racist comment and being unlawful and did not accept it was an inappropriate comment. He went on to state that the Council had failed to grasp the enormity of its use and should look at in a wider perspective and if this same word had been used at another council e.g. London, Leeds or Birmingham it would have been dealt with differently and if a member of an ethnic minority had been a member of the Council it would not have been dealt with in the same way. Mr Strangeway felt that the Council should lead by example for the youth of the town. He went on to state that an Equality & Diversity Policy did not exist and the members of the Appeal Panel had not had any training in Equality & Diversity Policy. The Chairman informed Mr Strangeway that this was a separate matter and reminded him that his complaint had been ongoing since 29 January 2015. Mr Strangeway stated that the matter should have been reported to the Police as it was a criminal offence and considered that this was a civic duty.

5. Members to ask any question of the complainant

Cllr Casey asked why Cty/Boro Cllr Sam Cross had not reported this to the Police as he had been at that meeting. Mr Strangeway went on to state that the Town Council failed to deal with this appropriately and not made any calls on Borough Cllr Mike Cockerill to resign. Cllr Haxby commented that upon research, in 2008 Lord Dixon Smith had uttered the same inappropriate phrase in the House of Lords and had apologised to David Cameron, the Prime Minister who had accepted his apology therefore the Town Council had followed the same procedure as the House of Lords, Jeremy Clarkson also used this word on television but the BBC did not sack him nor report him to the Police. Mr Strangeway replied that members of the Town Council were not qualified to deal with this matter because there was no Equality & Diversity Policy in place and members had received no training.

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At this point Cllr John Casey stated that he had received Equality & Diversity training in a past employment with Scarborough Borough Council and Cllr John Haxby confirmed that he also had received Equality & Diversity training in a past employment with the Environment Agency. The Chairman stated that the lack of an Equality & Diversity Policy was not part of the complaint and could not be considered by the Panel. Mr Strangeway went on to ask how many members had had training when the Town Council had made the decision to accept Borough Cllr Cockerill's apology as without this they could not deal with the matter appropriately. At this point, Mr Nigel Ward enquired whether Standing Orders could be suspended so that he could clarify Mr Strangeway's position but the Chairman stated that the Panel had to follow to the Complaints Policy procedure and Standing Orders could therefore not be suspended. Cllr John Haxby asked Mr Strangeway whether he was present at the meeting when the inappropriate phrase had been used and was informed by him that he was not present.

Cllr John Haxby went on to state that he had used this phrase in the past as it had meant that it was an obstacle to something progressing however the context had now changed with this word but everyone was fallible and made mistakes and apologies can be accepted. He went on to state that Borough Cllr Cockerill did use this phrase at the meeting and had made a public apology, Mr Strangeway stated that this phrase was not used in anything but a racial term. Cllr Haxby asked why Mr Strangeway had not reported this to the Police to which he replied that it was not up to him to report it, it was the responsibility of the Council to report it. Cllr Casey stated that anybody can report race/hate crimes to the Police and asked Mr Strangeway if he reported the matter to Scarborough Borough Council and replied that he had not reported it as it as he was aware it had been reported by UKIP Member Cllr Sam Cross. Cllr Casey enquired as to how Mr Strangeway would see this matter resolved. Mr Strangeway replied that the Town Council needed an Equality & Diversity Policy as soon as possible, Borough Cllr Mike Cockerill should not have stood for election and the matter should have been dealt with sooner. Mr Strangeway went on to state that the honourable thing for Cllr Cockerill to do was for him not to have stood for election and he should resign from Filey Town Council and then re-stand for election once the people of Filey knew the full facts.

6. If relevant the Town Clerk or other proper officer to explain the council's position

The following is a copy of the Stage 1 response from the Town Clerk to Mr Strangeway.

STAGE 1 COMPLAINT RESPONSE

From: [Filey Town Council](#)

To: [Andy Strangeway](#)

Sent: Friday, February 13, 2015 4:09 PM

Subject: FW: Filey - The Racist Council

Dear Mr Strangeway

Complaint to Filey Town Council

Further to your formal complaint received at this office on 30 January 2015 and your subsequent confirmation received on 2 February 2015 I am pleased to advise you that I have investigated your concerns in line with the Town Council's Complaints Policy (a copy of which has previously been supplied to you) and have provided responses as detailed below.

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Your Complaint

I believe that Filey Town Council brought shame to themselves and the town of Filey last night by accepting the scripted apology from Councillor Cockerill.

The message this gives out is clear:

The “N” word can be spoken in any public place in Filey so long as you apologise if requested to do so. In addition your racism will not be reported to the Police.

Filey Town Council MUST lead by example by not only insisting that Councillor Cockerill resigns his seat on SBC but also report him to the Police.

I would like to register a complaint with Filey Town Council for their handling of this matter.

Filey Town Council MUST lead by example by not only insisting that Councillor Cockerill resigns his seat on SBC but also report him to the Police.

Kindest Regards,

Andy Strangeway

<https://andystrangeway.wordpress.com/>

RESPONSE

A verbal complaint was made to the Town Council by Cty/Borough Cllr Sam Cross on Monday 19 January 2015 regarding an inappropriate remark made by Borough Cllr M Cockerill at a Filey Town Council meeting held on 14 January 2015.

The Chairman, Vice-Chairman and Town Clerk invited Borough Cllr M Cockerill to a private & confidential meeting the following day on Tuesday 20 January 2015 and he was made aware that the language he had used was inappropriate and could be perceived as having a racial connotation. At the meeting Borough Cllr Cockerill agreed to give a verbal and written apology to members of the Town Council as soon as possible and it was agreed that he could do this at the Special Council meeting on 28 January 2015. A letter was sent to Borough Cllr M Cockerill by the Chairman to inform him that inappropriate comments or language of this nature are not acceptable at Filey Town Council meetings. Members of the Town Council were also informed of the meeting held with Borough Cllr M Cockerill.

As you are aware Borough Cllr M Cockerill gave a verbal and written apology to members of the Town Council (I attach a copy of the minutes) at the Special Council meeting held on 28 January 2015 and this was considered by members of the Town Council and accepted by Resolution and a recorded vote.

As a Borough Cllr M Cockerill is a member of Scarborough Borough Council and he has signed a Code of Conduct with Scarborough Borough Council and it is noted that he is not a member of Filey Town Council.

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RESPONSE continued

I am aware that Cty/Borough Cllr Sam Cross has made an alleged breach of conduct complaint to the Monitoring Officer at Scarborough Borough Council regarding Borough Cllr M Cockerill's conduct and advise you that this is the correct procedure for making a complaint regarding the conduct of a Borough Councillor and I am aware that this procedure is ongoing. Members of the public can also make a complaint regarding an alleged breach of conduct of a Councillor and further information regarding this process can be found at the following weblink

<http://democracy.scarborough.gov.uk/mgFormDisplay.aspx?formname=standardscomplaint>

CONCLUSION: The Town Council have acted in a timely manner to address this matter and a Resolution was made by the corporate body to accept Borough Cllr M Cockerill's apology.

The draft minutes of the Special Council meeting held on 28 January 2015 were agreed and accepted as a true record of the proceedings by members of the Town Council at a full council meeting held on 11 February 2015.

If you are not satisfied with my response as detailed above you have the right to have your complaint considered by the Council or by the Council's Appeal Committee under Stage 2 of the Town Council's Complaints Procedure (a copy of which has been previously sent to you).

Kind regards.

Gina Robinson

Town Clerk

Filey Town Council

mail@fileytowncouncil.co.uk

Tel 01723 514498

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7. Members to ask any question of the Town Clerk or other proper officer

When asked by members of the Panel whether the Town Clerk was satisfied that the Town Council had acted within its statutory procedures and met its obligations in dealing with the complaint she replied in the affirmative stating that no members of the public or Filey residents had complained to the Town Council after it had been published in the press. She stated that she had also taken verbal advice from the Yorkshire Local Councils Associations in the presence of the Chairman of the Town Council prior to the Chairman, Vice Chairman and herself speaking with Borough Cllr Cockerill and that she had also sought verbal advice from the Society of Local Council Clerks and that both organisations were of the opinion that the complaint had been dealt with appropriately.

Mr Strangeway commented that the Yorkshire Local Councils Associations gave discredited advice and quoted recent misguided information regarding the recording and filming of meetings they had supplied to over 500 Councils and he went on to state that in his opinion they were a quango and were not legal. The Chairman reminded Mr Strangeway that was a separate matter.

8. Town Clerk or other proper officer and complainant to be offered the opportunity of the last word (in this order)

TOWN CLERK'S SUMMING UP

Chairman, Members of the Panel, I would request that you consider the following points prior to making your decision

1. No member of the Town Council requested the matter be reported to the Police.
2. No member of the public has reported the matter to the Police as far as I and the members of the Town Council are aware and indeed Mr Strangeway has not reported the matter to the Police as far as the Council is aware.
3. The Chairman of the Town Council acted in a timely manner and treated the matter seriously on behalf of the Town Council sending a letter to Borough Cllr Mike Cockerill, (who was not a member of Filey Town Council at the time) informing him that inappropriate comments or language would not be tolerated at Filey Town Council meetings.
4. Members of the Town Council agreed that the comment made by Borough Cllr Mike Cockerill at a full council meeting held on 14.1.15 was not racially motivated in the context of what he was speaking about i.e. an amount of funding relating to an affordable housing scheme, an inanimate object and not directed against a person prior to accepting Borough Councillor Cockerill's apology.
5. Borough Cllr Mike Cockerill's apology was accepted by members of the Town Council which was a decision made by the corporate body with a recorded vote.
6. A complaint was made against Borough Cllr Mike Cockerill by Borough Cllr Sam Cross to the Monitoring Officer at Scarborough Borough Council which was independently investigated.
7. Borough Cllr Mike Cockerill made a public apology to members of Scarborough Borough Council which was also accepted and is available to view on the Scarborough Borough Council webcast. Scarborough Borough Council neither reported the matter to the Police nor asked for his resignation.

8. The Town Council has given the complainant so many opportunities to attend the Stage 2 Complaint Hearing by offering 6 dates for an Appeal Hearing Meeting without any dates being accepted by him. The Strategic Planning Committee has made a decision that the hearing would proceed in order to address the complaint. It is noted that I as Town Clerk upon receipt of his original complaint on 29 January 2015 first confirmed with Mr Strangeway that he had no further information to add and received his confirmation on 1 February 2015 that he was happy for myself as Town Clerk to investigate his complaint on what he had originally submitted. Mr Strangeway has been given 11 clear working days' notice (only 7 clear working days is stated in the Complaints Policy) to submit any evidence/documentation to the Town Council for which he wishes to rely on at the hearing but has declined to submit any evidence/documentation to date. I have provided a Stage 1 response to Mr Strangeway within the required timescale of 14 days.
9. The Panel has a copy of the Town Council's Complaints Policy and in my professional opinion the Town Council's Complaints procedure has been followed and the Town Council has acted in a more than reasonable manner to address Mr Strangeway's complaint.

MR STRANGEWAY'S SUMMING UP

Mr Strangeway commenced his summing up by stating that he could not submit his evidence within the timescale as the Town Clerk had withheld evidence by not answering his question which he thought relevant to provide his evidence.

At this point Mr Nigel Ward once again requested that Standing Orders be suspended to permit him to clarify the situation on behalf of the complainant but the Chairman did not comply with this request.

Mr Strangeway went on to state that because his emails had not been answered promptly he had requested that tonight's meeting be cancelled and he stated that the Clerk had made false statements regarding decisions made by the Council. The Chairman reminded Mr Strangeway that the questions he was referring to were subsequent to his original complaint and that it was the decision of the Strategic Planning Committee that the hearing went ahead. Mr Strangeway stated that the Town Council is putting out a message that it is acceptable that anyone can use the word as long as they apologise and that no other council would find that acceptable and that he thought the Town Council needed to take stronger action.

Cllr Haxby asked the complainant who the Town Council could go to for advice if they cannot look to the House of Lords, and follow their example, nor the YLCA or SLCC. Mr Strangeway replied a local solicitor. Cllr Haxby asked him whether it was a criminal offence to which Mr Strangeway replied yes in his opinion it was. Cllr Haxby went on to state that the law does not say it is a criminal offence to say the 'n' word unless it is directed to a person. Mr Strangeway once again repeated that this meeting should not have taken place.

Cllr Casey clarified that the questions Mr Strangeway was referring to were the ones he submitted on 24 April 2015 which were answered by the Clerk on 15 May 2015 and Mr Strangeway confirmed this was correct and there were other questions that had not been answered but upon being asked by Cllr Casey what they were Mr Strangeway could not quote them.

At this point Mr Nigel Ward again requested that Standing Orders be suspended and after due consideration by Panel Members:

Standing Orders were suspended at this point (8.20pm) to permit Mr Nigel Ward to speak

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Mr Ward stated that the issues with the Town Clerk were a separate issue. He felt that Mr Strangeway considered the Council misguided in their decision regarding the 'n' word as they should be a leader. He went on to state that the apology was scripted and not a genuine apology and he wondered if it had been appropriate to accept this apology. Cllr Haxby commented that the Town Council had not turned a blind eye.

Standing Orders were re-instated at this point

9. Town Clerk or other proper officer and complainant to be asked to leave the room while Members decide whether or not the grounds for the complaint have been made. (If a point of clarification is necessary, both parties to be invited back).

The members of the Appeal Hearing Panel left the room at this stage to make their deliberations (8.25pm) and returned at 9.00pm.

10. Town Clerk or other proper officer and complainant return to hear decision, or to be advised when decision will be made.

The Chairman re-convened the meeting and gave the Panel's decision as follows:

“The Panel considers that the Stage 1 complaint had been dealt with fully and correctly in accordance with Filey Town Council's Complaints Policy.

In making this decision the panel believes that Filey Town Council:

- 1. Did follow its own procedures**
- 2. Did comply with the law**
- 3. Did act in good faith**
- 4. Did take appropriate action under the circumstances**

However the Panel does recognise that having an Equality & Diversity Policy would be beneficial to Filey Town Council and would advise the Town Clerk to move forward and implement such a policy. We do understand this has already been put in motion.

The decision of the panel is final and will be sent to Mr Strangeway in writing within 7 working days”

RESOLVED: That the Appeal Hearing Panel's decision as detailed above be final and a copy of the above decision be sent to Mr Strangeway within seven working days.

399/015

Mr Ward thanked the members of the Panel for their time.

The meeting closed at 9.05pm

**Councillor Kevin Wilkie
Chairman
Appeal Hearing Panel**