

Our ref: HAR.JA.128014-0006  
Ask for: Howard Rutter  
Your ref:

**lupton**  
**fawcett** LLP  
putting you ahead

**BY POST AND EMAIL**  
**STRICTLY PRIVATE & CONFIDENTIAL**

The Democratic Services Manager  
Scarborough Borough Council  
Town Hall  
St Nicholas Street  
Scarborough  
North Yorkshire  
YO11 2HG

DISPUTE RESOLUTION DEPARTMENT  
DIRECT TEL : 0113 280 2074  
DIRECT FAX : 0113 245 6782  
email : [howard.rutter@luptonfawcett.law](mailto:howard.rutter@luptonfawcett.law)

18 December 2020

By e-mail : [StJohn.Harris@scarborough.gov.uk](mailto:StJohn.Harris@scarborough.gov.uk) and [democraticservices@scarborough.gov.uk](mailto:democraticservices@scarborough.gov.uk)

Dear Sirs

**Our Client: James Corrigan, 47-48 Sandside, Scarborough**  
**Public Question to Cabinet 15 December 2020**

- 1 We are writing on behalf of our client in connection with correspondence he received from the Democratic Services Manager on the evening of 14 December 2020 in response to questions he had submitted to be dealt with at public questions in the Cabinet meeting on 15 December 2020.
- 2 We have attached copies of the e-mail exchanges commencing with the submission of the Questions on 9 December 2020.
- 3 It appears from the e-mail sent to our client that the Democratic Services Manager was advised that the questions should be rejected. However, whilst this advice was communicated to our client no actual decision to reject the questions was made.
- 4 Our client e-mailed back to the Democratic Services Manager on the evening of 14 December 2020, requesting clarification and explaining that the advice given to reject the questions was incorrect in relation to the ground of "defamatory", in accordance with para 16.4 of section 4.1 of the Constitution. In particular, Our Client referred to *Derbyshire County Council v Times Newspapers (1993)*, which established the principle that a Local Authority cannot be defamed. It necessarily follows that the question could not be defamatory.
- 5 Para 16.4 of Section 4.1 of the Constitution states:



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## Scope of questions

A question will be rejected if it:-

- i. is, in substance, a statement and not a question;
- ii. is not about a matter for which the Council has a responsibility or which does not affect the Borough;
- iii. is defamatory, frivolous or offensive;
- iv. is substantially the same as a question which has been put at a meeting in the past six months; or
- v. requires the disclosure of confidential or exempt information;
- vi. relates to a matter in respect of which the Council is exercising a quasi judicial role or where there is a statutory or local procedure for public consultation or appeal including planning applications, traffic regulation orders, public rights of way applications and licensing applications.

6 Our Client was not allowed to participate in the meeting. The Chairman announced to the meeting that there were no public questions.

7 It is our opinion that the actions of the Democratic Services Manager were an undemocratic abuse of process denying Our Client his right to participate in the meeting and not in accordance with the Constitution for the following reasons:

- i. Our Client did not receive any communication confirming his question had been rejected. The correspondence he received confirmed "advise that had been received from Lisa Dixon", but did not give a clear statement of rejection of the questions.
- ii. Our client was not admitted to the meeting and following the statement of the Chairman, he has concluded that his questions were rejected.
- iii. Our Client was not given any right of Appeal against the purported decision to reject the question, contrary to Article 6 of the Human Rights Act 1998.
- iv. Whilst it is clear that a question can be rejected if defamatory, it is not possible to "defame" a public authority and the question could not be construed or

interpreted as referring in any way to any specific individual. The use of the "defamatory" ground to reject the question was invalid.

- 8 Our Client believes that the questions were rejected for political reasons in order to protect Senior officers from criticism in relation to maladministration of the Council's affairs. This is a serious abuse on the Constitution.
- 9 Our Client requires a formal apology to be sent to him by the Leader of the Council and included in the Minutes of the next meeting together with the Questions raised and the answers.
- 10 In the absence of the requested remedy Our Client will seek costs for any further correspondence.

Yours faithfully

A handwritten signature in black ink, appearing to read "Lupton Fawcett". The signature is written in a cursive, slightly slanted style.

Lupton Fawcett LLP

**From:** James Corrigan <[mrjamescorrigan@gmail.com](mailto:mrjamescorrigan@gmail.com)>  
**Date:** 14 December 2020 at 21:16:48 GMT  
**To:** StJohn Harris <[StJohn.Harris@scarborough.gov.uk](mailto:StJohn.Harris@scarborough.gov.uk)>  
**Cc:** Lisa Dixon <[Lisa.Dixon@scarborough.gov.uk](mailto:Lisa.Dixon@scarborough.gov.uk)>, Carol Rehill <[Carol.Rehill@scarborough.gov.uk](mailto:Carol.Rehill@scarborough.gov.uk)>, Robert Goodwill <[robert.goodwill.mp@parliament.uk](mailto:robert.goodwill.mp@parliament.uk)>, Mike Greene <[Mike.Greene@scarborough.gov.uk](mailto:Mike.Greene@scarborough.gov.uk)>  
**Subject: Re: Question for Cabinet 15 December 2020.**

Dear Mr Harris

Thank you for your e-mail this evening. I note the advise you have received from Mrs Dixon. Your reply does not inform me of any decision about the questions I have submitted, only the advice you have received from Mrs Dixon. Please confirm if you have rejected my questions.

I have spoken with my lawyer this evening who has advised that the rejection of the question would be ultra virus and referred me to the case of Derbyshire County Council v Times Newspapers (1993) 1 All ER 1011 HL that established the fundamental principle that a public authority cannot be defamed. Please explain who you are alleging is being defamed.

Please provide the access codes for the Zoom meeting by 9.45am on 15 November 2020. In the absence of a reply I will be exploring all legal remedies and would suggest that the Council's actions are an illegal attempt to frustrate legitimate questioning of its actions. Is this deliberate censorship of information available to Members to prevent scrutiny of officers?

Please provide details of the appeal process in relation to this decision.

Please acknowledge receipt of this e-mail.  
James Corrigan  
47-48 Sandside

**Please note demon.co.uk will not support email services after 28th May 2020-My new email address is [mrjamescorrigan@gmail.com](mailto:mrjamescorrigan@gmail.com)**

On 14 Dec 2020, at 17:16, StJohn Harris <[StJohn.Harris@scarborough.gov.uk](mailto:StJohn.Harris@scarborough.gov.uk)> wrote:

Dear Mr Corrigan

Further to my reply dated 10 December, I have now obtained advice from the Council's Monitoring Officer about your proposed public questions.

Mrs Dixon advises that your three questions should be rejected in accordance with para 16.4 of section 4.1 of the Constitution: Questions 1 and 3 are commercially confidential and question 2 is defamatory.

Regards

St John Harris, Democratic Services Manager, Democratic and Legal Services  
Scarborough Borough Council, Town Hall, St Nicholas St, Scarborough, YO11 2HG  
Tel: 01723 383556. Mob: 07517 132090  
e: [stjohn.harris@scarborough.gov.uk](mailto:stjohn.harris@scarborough.gov.uk)  
w: [www.scarborough.gov.uk](http://www.scarborough.gov.uk)

**From:** StJohn Harris  
**Sent:** 10 December 2020 09:21  
**To:** 'James Corrigan' <[mrjamescorrigan@gmail.com](mailto:mrjamescorrigan@gmail.com)>  
**Subject:** RE: Question for Cabinet 15 December 2020.

Dear Mr Corrigan  
This is to acknowledge receipt.  
Further details to follow.  
Regards

St John Harris, Democratic Services Manager, Democratic and Legal Services  
Scarborough Borough Council, Town Hall, St Nicholas St, Scarborough, YO11 2HG  
Tel: 01723 383556. Mob: 07517 132090  
e: [stjohn.harris@scarborough.gov.uk](mailto:stjohn.harris@scarborough.gov.uk)  
w: [www.scarborough.gov.uk](http://www.scarborough.gov.uk)

**From:** James Corrigan <[mrjamescorrigan@gmail.com](mailto:mrjamescorrigan@gmail.com)>  
**Sent:** 09 December 2020 15:31  
**To:** Democratic Services <[democraticservices@scarborough.gov.uk](mailto:democraticservices@scarborough.gov.uk)>  
**Cc:** StJohn Harris <[StJohn.Harris@scarborough.gov.uk](mailto:StJohn.Harris@scarborough.gov.uk)>; James Corrigan <[mrjamescorrigan@gmail.com](mailto:mrjamescorrigan@gmail.com)>  
**Subject:** Question for Cabinet 15 December 2020.

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Sir

On 16 June 2020 I asked a question to this cabinet about the £9million loan in relation to the water park. Councillor Jefferson referred me to the Council accounts that would be made public in due course. I have been exercising my rights to raise questions on those accounts. I have been advised in correspondence with the Section 151 officer that the latest receipt of funds this Council received in relation to the £9million loan and the lease of the waterpark was on 9 April 2019 (a year before the impact of the pandemic was even known about). No rent payments on the lease of the water park. No loan repayments on the £9 million loan for at least 20 months. I am advised that there is a bond guarantee from the parent company worth £1million. This Council sent letters to its small business tenants struggling with the effects of the pandemic, chasing payment. No concessions offered. Yet

this very large developer with clearly a preferential status is nearly 2 years in arrears and no action appears to be taken. I note that the waterpark has been closed down until at least March next year.

1. Why hasn't the guarantee been called in? The Council clearly needs this money as it plans to borrow more in the latest budgeted figures.
2. Why does this Council appear to use bully boy tactics against small businesses but let the big boys off without any consequences?
3. What is the total amount owed in relation to the waterpark loan and other amounts due in relation to the arrangements regarding the waterpark at the present time?

Please confirm safe receipt of this email.

James Corrigan  
47-48 Sandside

In the interests of progressing the meeting and enabling a reply to my supplementary question to be given in the meeting I am giving advance notice of my possible follow up question thus ensuring a complete record for the Cabinets minutes.

-I am pleased that the Council is pursuing this overdue debt and not treating small businesses more harshly, but I am disappointed that no payments have been forthcoming. Has the Council included projected receipts for recovery of these amounts in its post Covid recovery plan, and if so when is the loan budgeted to be up to date?

Or

-Does this Council agree that the late payment of these loan repayments is a serious matter and in the interest of the rate payers of this Borough to bring up to date as soon as possible?

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