

CORRESPONDENCE RECORD - NW to and from NYC Harbours

----- Original Message -----

Subject: 'Right of Reply'

Date: Tue, 27 Aug 2024 19:21:55 +0100

From: Nigel Ward

To: Karl Battersby <karl.battersby@northyorks.gov.uk>

Mr Karl BATTERSBY - Corporate Director of Environment - North Yorkshire Council

IN THE PUBLIC INTEREST

Karl,

Good evening to you.

I write to you as a matter of urgency regarding a matter brought to my attention by a member of our maritime community which, in my view, requires your urgent consideration.

I have received the following communication, accompanied by confirmatory photographic material. Please read on:

Nigel,

Scarborough & Whitby have produced some notable seafarers, probably the world's most memorable one coming from Staithes (although Whitby lays claim to him); that being Captain James Cook.

However, in our midst we have many exemplary seafarers who have made the grade as qualified ships Officers of lifelong experience. If not Captains in their own right, these include Masters of VLCS (Very Large Container Ships), Cruise Ships, VLCC (Very Large Crude Carriers) and the work-horses of the Maritime World, the humble AHT (Anchor Handling Tugs), not forgetting, of course, our honourable colleagues in the Royal Navy.

All of these require a specialist skill appropriate to their respective duties and purposes.

The Masters of these vessels have the enviable right to wear their badges and insignia of rank by dint of exacting qualifications which they, both men and women, have worked so hard to achieve.

Regrettably, it seems that in our midst around the harboursides of Scarborough and Whitby, we have what are known in Military jargon as "Walts". This sobriquet arises from the character created by James Thurber in his book "The Secret Life of Walter Mitty", based on the life of a daydreamer who escapes his mundane life through living out fantasies.

NYC has seen fit to award the rank of Captain to two of their workers presently seen walking around the harbours parading the rank insignia of Merchant Navy Officers (please see attached photographs) which are not in accordance with the requirements of the Merchant Shipping Act 1995, Section 57.

This practice is disgraceful and an insult to those who have earned their ranks on the high seas.

Please advise on the best course to rectify this rank injustice.

Yours sincerely

Having consulted the legislation and examined the photographs and relevant works of reference, I now look to you to assure me that this practice will cease, ideally forthwith, and no later than the end of the working week. I would also appreciate a statement of apology to our maritime communities, for publication, which I offer to you as your 'Right of Reply'.

Kind regards,

Nigel

NB: No mention of “allegations”, no mention of “complaint”, just an offer of ‘Right to Reply’.

----- Original Message -----

Subject: Automatic reply: 'Right of Reply'

Date: Tue, 27 Aug 2024 18:30:37 +0000

From: Karl Battersby <karl.battersby@northyorks.gov.uk>

To: Nigel Ward

Thank you for your email.

I am on leave from the 23rd August, returning on the 9th September. My emails will be monitored in my absence.

Regards

Karl

Karl Battersby

Corporate Director of Environment

North Yorkshire Council

----- Original Message -----

Subject:RE: 'Right of Reply'

Date: **Wed, 28 Aug 2024** 08:05:20 +0000

From: Karl Battersby <karl.battersby@northyorks.gov.uk>

To: Nigel Ward

Dear Mr Ward

Thank you for your email. Karl is currently on annual leave but I shall make him aware of your correspondence upon his return in a couple of weeks. In the meantime, I have forwarded it on to Chris Bourne, Head of Harbours to review and respond.

You refer to confirmatory photographic material which is not attached, are you able to send this through separately?

Kind regards

Tricia Richards

Leadership Support Officer to Karl Battersby, Corporate Director of Environment

North Yorkshire Council, Environment Directorate, County Hall, Northallerton, DL7 8AD

01609 532556 / tricia.richards@northyorks.gov.uk / www.northyorks.gov.uk



----- Forwarded Message -----

Subject:Re: 'Right of Reply'

Date: **Wed, 28 Aug 2024** 12:41:31 +0100

From: Nigel Ward

To: Karl Battersby <karl.battersby@northyorks.gov.uk>, Tricia Richards <Tricia.Richards@northyorks.gov.uk>

Tricia RICHARDS - Leadership Support Officer to Karl BATTERSBY - Corporate Director of Environment - NYC

IN THE PUBLIC INTEREST

Tricia,

Thank you for your email.

I think you will find Mr PEARSON's *LinkedIn* profile informative. I also append a photograph of Mr BUCK in company with Councillor Janet JEFFERSON.

I would be happy to make myself available for a one-on-one meeting with Chris today or tomorrow, at his convenience, here in Whitby.

I sincerely hope that the Council will find itself able to resolve this unpleasantness without public embarrassment of the sort featured in this not dissimilar newspaper report:

- <https://www.dailymail.co.uk/news/article-2172437/amp/Bogus-war-hero-masqueraded-distinguished-Royal-Navy-Captain-exposed-medal-ribbon-upside-down.html>

I look forward to hearing from you ahead of my publication deadline. Thank you.

Very kind regards,

Nigel



NB: No mention of *“allegations”*, no mention of *“complaint”*; requested information provided and offer to meet reiterated.

----- Original Message -----

Subject:RE: 'Right of Reply'

Date: **Wed, 28 Aug 2024** 12:00:30 +0000

From: Tricia Richards <Tricia.Richards@northyorks.gov.uk>

To: Nigel Ward

CC: Karl Battersby <Karl.Battersby@northyorks.gov.uk>

Hello Nigel

Received, with thanks.

Regards

Tricia

-----Original Message -----

Subject:Fwd: 'Right of Reply'

Date: **Thu, 29 Aug 2024** 22:04:08 +0100

From: Nigel Ward

To: chris.bourne@northyorks.gov.uk

Mr Chris BOURNE - Head of Harbours - North Yorkshire Council

IN THE PUBLIC INTEREST

Chris,

I am given to understand that you are aware of the matters raised in the appended 'thread' of emails.

In the wake of Ms RICHARDS' assurances, and in Karl's absence, I am disappointed not to have heard from you.

Irrespective of the legalities, for the moment, I hoped that you would appreciate, the perceptions of the Harbour communities being so important to the future success of the Harbours of Whitby and Scarborough at this sensitive juncture, that even actions considered tactless and high-handed carry a significant importance.

I would be grateful for your views on how this present issue may be appropriately resolved.

To that end, could I ask you, please, to make yourself available for a productive one-on-one dialogue? I am at your services any time on Friday.

Kind regards,

Nigel

NB: No mention of “*allegations*”, no mention of “*complaint*”, just another offer to meet.

----- Original Message -----

Subject: RE: 'Right of Reply'

Date: Fri, 30 Aug 2024 15:38:17 +0000

From: Chris Bourne <Chris.Bourne@northyorks.gov.uk>

To: Nigel Ward

Dear Mr Ward,

I have **investigated** the matters you have raised and am satisfied that the **allegations** are not true.

The following article may also be of interest to you [Environment Agency waterways stars win back their stripes | Thames Anglers' Conservancy \(rivertac.org\)](#)

Regards

Chris Bourne

Head of Harbours and Coastal Infrastructure

North Yorkshire Council

Town Hall, St Nicholas Street, Scarborough, North Yorkshire, YO11 2HG

Telephone : 01723 232447

Email : chris.bourne@northyorks.gov.uk

Web : www.northyorks.gov.uk



MR BOURNE CLAIMS TO HAVE "INVESTIGATED" THE "ALLEGATIONS" - WHICH, HE ASSERTS, ARE "NOT TRUE".

READERS WILL NOTE (AND ARE INVITED TO 'WORD SEARCH' THIS CORRESPONDENCE RECORD) THAT NOWHERE HAVE I USED THE WORD "ALLEGATIONS" - ONLY EXPRESSED CONCERNS WITH A VIEW TO OFFERING MY ASSISTANCE IN RESOLVING DISCONTENT AND SPARING NYC CONSIDERABLE REPUTATIONAL EMBARRASSMENT.

----- ORIGINAL Message -----

Subject:Re: 'Right of Reply'

Date: Tue, 3 Sep 2024 13:42:24 +0100

From: Nigel Ward

To: Chris Bourne <Chris.Bourne@northyorks.gov.uk>

Mr Chris BOURNE - Head of Harbours & Coastal Infrastructure - NYC

IN THE PUBLIC INTEREST

Chris,

Thank you for your email. Please accept my apologies for my tardy response; I am undergoing some serious health difficulties and attending to correspondence as I am able.

Firstly, I made no allegations. Please do not impute that to me. I passed on information. I approached Karl (who I was not to know was on annual leave) hoping to defuse an ugly and unncesassary PR embarrassment at a time when relations between harbour users and the Authority are already fraught. I refrained from submitting one of my articles to the *North Yorks Enquirer* and/or the *Private Eye* magazine as a token of reasonableness. I was attempting to facilitate a commonsensical *rapprochement*. With respect, your email to me stands to escalate the very difficulty that I was hoping to obviate.

You tell me you have "investigated". I hope that, in a spirit of mutual co-operation, you will accede to my request for you to provide me now with the working notes and formal Decision Notice pursuant to your "investigation" without obliging me to engage the Freedom of Information process. Please do so - or log my request formally as an FOI - which I normally conduct in the public domain via *WhatDoThey Know.com* (a further measure of my resolve to settle the matter amicably and without publicity).

To assist in you, I draw your attention to the following legislation:

Changes to legislation:

Merchant Shipping Act 1995, Section 57 is up to date with all changes known to be in force on or before 23 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. [?](#)

▼ View outstanding changes

57 Uniform.

- (1) Subject to subsection (3) below, if any person, not being entitled to wear the merchant navy uniform, wears that uniform or any part thereof, or any dress having the appearance or bearing any of the distinctive marks of that uniform, he shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) above shall be liable, on summary conviction,—
 - (a) except in a case falling within paragraph (b) below, to a fine not exceeding level 1 on the standard scale;
 - (b) if he wears it in such a manner or under such circumstances as to be likely to bring contempt on the uniform, to a fine not exceeding level 1 on the standard scale or to imprisonment for a term not exceeding one month.
- (3) Subsection (1) above shall not prevent any person from wearing any uniform or dress in the course or for the purposes of a stage play or representation, or a music-hall or circus performance if the uniform is not worn in such a manner or under such circumstances as to bring it into contempt.
- (4) If any person entitled to wear the merchant navy uniform when aboard a ship in port or on shore appears dressed partly in uniform and partly not in uniform under such circumstances as to be likely to bring contempt on the uniform, or, being entitled to wear the uniform appropriate to a particular rank or position, wears the uniform appropriate to some higher rank or position, he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

I have this morning received, in an email, the following - from a long-standing business partner of SBC who is incandescent over the display or unauthorised insignia/uniforms:

[REDACTED]

My barrister Ed tells me it is clear the authority officers should not wear braid or rank they are not entitled to wear. The 1995 Merchant Shipping Act is clear and it should be referred to the MCA enforcement department. His view is shared by us. They think they are above the law!

[REDACTED]

[Sent from Yahoo Mail on Android](#)

Your URL-link to the *Thames Anglers Conservancy* website is dated 25th January 2012 and is **simply not germane**. There is no comparison between lower ranks operating on an inland water way and Master Mariners (Captains) in charge of two Ports of Refuge servicing many harbour users with decades of sea-going experience.

Chris, to my knowledge, I have never met or corresponded with you. **Please - please - do not disrespect me**. I am a fair-minded man. I am trying to help.

So I am asking you, politely, to reconsider your stance on a matter **which can so easily be resolved without unpleasantness.**

Irrespective of the legalities, nothing can be gained by the Authority upholding a tactless and heavy-handed approach to harbour users who are, in my view, quite rightly irked to see their maritime career experience denigrated so publicly. Further, the following images (culled from social media today) **should be enough to demonstrate that your present position is bringing derision upon your two (already unpopular) employees and the Authority - to the benefit of nobody.**



Thank you.

And please confirm that the appended photograph is a true likeness of your good self.

Kind regards,

Nigel



MR CHRIS BOURNE - NYC HEAD OF HARBOURS & COASTAL INFRASTRUCTURE

----- Original Message -----

Subject:202402545 - Freedom of Information Request [REF/LO/2W/wP/Ep/]

Date: **Wed, 4 Sep** 2024 14:27:00 +0000

From: Infogov@northyorks.gov.uk

To: Nigel Ward

Dear Nigel Ward,

Thank you for submitting a request for information to North Yorkshire Council dated 03/09/2024.

We have acknowledged receipt of your request and it is being processed. In line with statutory requirements we aim to respond within twenty working days.

Please ensure you use the reference 202402545 in any further correspondence regarding the request.

If you have any queries, please do not hesitate to contact us.

Kind Regards

The Information Governance Team

North Yorkshire Council



veritau.co.uk | [@veritaugroup](https://twitter.com/veritaugroup) | [linkedin.com/veritau](https://www.linkedin.com/company/veritau)

----- Original Message -----

Subject:Re: 202402545 - CLARIFICATION - Freedom of Information Request [REF/LO/2W/wP/Ep/]

Date: **Sun, 8 Sep 2024** 14:57:13 +0100

From: Nigel Ward

To: Infogov@northyorks.gov.uk

The Information Governance Team - North Yorkshire Council

Thank you for your acknowledgement of **REF/LO/2W/wP/Ep/**.

As you may be aware, when I submitted **my informal request for information** from Mr BOURNE, I had hoped that openness and transparency would prevail. I stated:

"You tell me you have "investigated". I hope that, in a spirit of mutual co-operation, you will accede to my request for you to provide me now with the working notes and formal Decision Notice pursuant to your "investigation" without obliging me to engage the Freedom of Information process."

Now that Mr BOURNE has elected to place a (to my mind) unnecessary burden on your resources by formalising my request, some clarification/definitions are in order.

"Working Notes"

By this, I mean Mr BOURNE's record of his investigation, as recorded in:

- 1)** correspondence on this topic to and from Mr BOURNE (by letter, email, SMS text, voice-mail and whatsoever other form of written or audio-recorded communication) with members of staff and/or members of the public (these latter, redacted as necessary);
- 2)** any and all contemporaneous notes of telephone (and/or *WhatsApp, FaceTime*, etc) conversions pursuant to Mr Bourne's "investigation";
- 3)** any and all correspondence on this topic to and from Mr BOURNE (by letter, email, SMS text, voice-mail and whatsoever other form of written or audio-recorded communication) with Trinity House, the Merchant Marine or any authoritative body responsible for specifying the details of uniforms/insignia lawfully to be displayed by maritime staff in public;
- 4)** any charts, photographs, verbal and/or written descriptions, etc, identifying the authorised uniforms/insignia in question.

"Formal Decision Notice"

- 1)** any recorded written and formal documentation detailing the concerns (not "allegations" that I had raised) and Mr BOURNE's findings and outcome.

I would respectfully suggest that, in the event that the requested information is not held by the Authority, that a timely response citing s.1(1)(a) of [the Act](#) is provided to me without stringing the matter out for the full 20 working-days. Otherwise, s.1(1)(b) of the Act applies.

Ladies and gentlemen, I look forward to you full co-operation in moving this along. Thank you very kindly.

Yours, etc

Nigel

NB: I lodged no formal FOIA request. That was unilaterally imposed on me by Mr BOURNE. Nevertheless, I provided clarification sufficient to establish whether or not Mr BOURNE had ever actually undertaken an *“investigation”*, in any reasonable interpretation of that word.



Nigel Ward

Chris Bourne
Town Hall
St. Nicholas Street
SCARBOROUGH
YO11 2HG
Tel: 0300 131 2 131
Email: chris.bourne@northyorks.gov.uk
Web: www.northyorks.gov.uk

Your ref:	
Our ref:	
Contact:	Chris Bourne
Date:	24 September 2024

Dear Mr Ward

Freedom of Information Act 2000

FOI - 202402545 [REF/LO/2W/wP/Ep/] – Harbours Staff Uniforms

Thank you for your request which has been dealt with under the Freedom of Information Act 2000 (FOIA). You requested the following information:

Your Request:

“In relation to your allegations that the Harbour Master and Deputy Harbour Master are not entitled to wear the Merchant Navy Uniform and are committing a criminal offence under Section 57 of the Merchant Shipping Act 1995, and my response that “I have investigated the matters you have raised and am satisfied that the allegations are not true”, you have requested:

1. the working notes and formal Decision Notice pursuant to your "investigation", including:
 - a. correspondence on this topic to and from Mr Bourne (by letter, email, SMS text, voicemail and whatsoever other form of written or audio-recorded communication) with members of staff and/or members of the public (these latter, redacted as necessary);

- b. any and all contemporaneous notes of telephone (and/or WhatsApp, FaceTime, etc) conversions pursuant to Mr Bourne's "investigation".
- c. any and all correspondence on this topic to and from Mr Bourne (by letter, email, SMS text, voice-mail and whatsoever other form of written or audio-recorded communication) with Trinity House, the Merchant Marine or any authoritative body responsible for specifying the details of uniforms/insignia lawfully to be displayed by maritime staff in public;
- d. any charts, photographs, verbal and/or written descriptions, etc, identifying the authorised uniforms/insignia in question.
- e. any recorded written and formal documentation detailing the concerns and Mr Bourne's findings and outcome."

North Yorkshire Council's Response:

The Council can confirm that it does not hold working notes or a formal decision notice pursuant to this investigation due to discussions being verbal.

The Council does hold some recorded information in relation to your request in the form of 3 Microsoft Teams messages.

However, because the information contains the personal data of third parties, this is exempt from disclosure by virtue of Section 40(2) of the Freedom of Information Act 2000, where disclosure would breach one or more data protection principles specified by Section 5(1) of the General Data Protection Regulation (UK GDPR). In this case we consider that disclosure would breach the first principle, namely that personal information must be processed lawfully, fairly, and in a transparent manner in relation to the Data Subject. In this case we consider that the disclosure would be unfair and none of the conditions for processing, listed in Articles 6 and 9 of the UK GDPR, would be met.

As far as the first condition is met, the section 40(2) exemption is absolute, and no public interest test is required.

Please find attached the Council's information governance appeals procedure for your information. Please remember to quote the reference number above in any future communications.

Yours sincerely

Chris Bourne
Head of Harbours and Coastal Infrastructure

THIS CITATION OF s.40(2) OF THE FOIA IS ERRONEOUS. THERE ARE ONLY TWO PARTIES INVOLVED - MYSELF AND NORTH YORKSHIRE COUNCIL (INCLUDING ITS MEMBERS AND STAFF). THUS, THERE ARE NO THIRD PARTIES INVOLVED AND NO LEGITIMATE GROUNDS FOR WITHHOLDING THE NAMES OF Mr KARL BATTERSBY, Mssrs GARY PEARSON and JAMES BUCK, and Mr Chris BOURNE - WHICH, IN ANY CASE, ARE ALREADY KNOWN TO ME AND ARE WIDELY-CIRCULATED IN THE PUBLIC DOMAIN.

CLEARLY, THE NOTION OF 'OPENESS & TRANSPARENCY' IS ANATHEMA TO MR BOURNE AND NYC MORE GENERALLY.

~ END OF CORRESPONDENCE ~
