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**FW: The Ledbury Judgment**

1 message

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**Liam Henry** <Liam.Henry@northumberland.gov.uk>

15 October 2018 at 15:19

To: Lesley Bennett &lt;lesley.bennett@northumberland.gov.uk&gt;

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**From:** Stephen Rickitt [mailto:[stephenrickitt@northumberlandalc.uk](mailto:stephenrickitt@northumberlandalc.uk)]**Sent:** 27 September 2018 11:29**To:** Alex Wallace; [andrew.tebbutt@morpeth-tc.gov.uk](mailto:andrew.tebbutt@morpeth-tc.gov.uk); Henry, Liam**Subject:** The Ledbury Judgment**To the Northumberland County Council's Standards Committee****Copy to the County Committee for Information****The Ledbury Judgment**

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1. This case involved allegations of a clerk and other staff being bullied by a councillor at Ledbury Town Council. The Town Council investigated the allegations and imposed sanctions against the councillors. The process and the ability to impose sanctions were then the subject of judicial review. This is a very brief summary and the full judgment is available at

<http://www.bailii.org/ew/cases/EWHC/Admin/2018/1151.html>

2. One of the key issues in the judicial review was whether a town/parish council can impose sanctions on a councillor under the auspices of dealing with a staff grievance.

3. The court has made it clear that the only way in which sanctions can be imposed on individual councils is under the standards regime contained in the Localism Act 2011. There is concern amongst the county associations of local council that the range of sanctions is too limited and lack teeth – a comment made to the Committee on Standards in Public Life (the CSPL) by the Northumberland Association of Local Councils.

4. Councils still have a duty of care towards their employees but need to be careful that arrangements made are not directed against individual councillors and thus seen as a sanction.

5. I met my counterparts from the northern associations and the head of the national NALC's Legal Dept. on 18 September 2018. The discussion widened into the lessons learnt from Ledbury and issues being brought to county associations.

6. Unfortunately, there are instances of unacceptable behaviour by some councillors or clerks. Training may help but some individuals seem to regard adverse finding as a perverse recognition that they are fighting their corner. Protocols on Councillor/Officer relations may assist in setting out what either may expect of the other. One common issue is councillors expecting staff to react instantly to issues raised by individuals irrespective of work allocated by the council and in some cases at any times of the day and/or non-working days. A protocol making contact arrangements clear may assist in dispelling misunderstandings on both "sides". *I shall be progressing this with a view to a discussion at a meeting of the association's county committee.*

7. Ms Moore was able to provide a little more background. For reasons of confidentiality she was not able to provide full details of the nature and extent advice to the Town Council but she was able to say that the Town Council had instructed their own solicitors when it was clear that there was a likelihood of legal proceedings. Paragraph 23 of the judgment includes

"I should make clear at this point that what the Standing Committee did it did not do randomly or without serious thought. It acted advisedly, in the sense that it sought guidance from NALC and HALC – and possibly also ACAS – and acted on that advice. I have not seen the advice which was given but I have seen guidance which Oxfordshire Association of Local Councils issued in 2017."

HALC is the Herefordshire Association and it is unclear why guidance from the Oxfordshire Association was brought before the judge. It is also unclear why the advice to the Town Council's Standing Committee was not made available.

8. Most readers of the judgment were unsurprised by the adverse findings of the judge on the procedure used by the town council.

9. The standards regime in Wales is very different with the involvement of their ombudsman and a greater range of sanctions. Details are available at

<https://www.ombudsman.wales/wp-content/uploads/2018/03/Code-of-Conduct-Community-Councils-August-2016-ENGLISH.pdf>

It's lengthy but is quite readable. The opening pages are a summary of their regime.

## **My Conclusions**

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- A. There seems common consensus that the current English national standards regime needs more effective sanctions. The national NALC have met the CSPL to make this point. Ms Moore was pressed on her reading of that discussion but she was unable to get a feel for the CSPL's likely recommendations.
- B. Individual Councils can do an initial sift of a complaint against an individual councillor to see if it can be dealt with very informally at the local level.
- C. If, however, there appears there may be substance to a complaint against an individual councillor, then the issue must be referred to the appropriate monitoring officer for investigation. A council may not conduct its own investigation if the monitoring officer decides not to investigate or take the case to the relevant standards C'tee.
- D. A Council still owes a duty of care towards its employees but arrangements made following a formal or informal grievance must not be directed against an individual councillor but should apply to all councillors to avoid the appearance of a sanction.

Stephen

*Stephen Rickitt*

*Chief Officer*



**Northumberland Association of Local Councils**

*Please note that I work part-time and so responses may be delayed*

*My usual working pattern is Tuesday, Wednesday and Thursday each week.*

10/16/2018

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