



Report of the Monitoring Officer

Standards Committee – 20 July 2018

R (Harvey) v Ledbury Town Council

Purpose: To update the Standards Committee on a recent High Court decision which sets out how a council should deal with a complaint against a councillor.

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For Information

1. Background

- 1.1 Councillor Harvey had served as a Ledbury Town Councillor since 2011. The town clerk and deputy town clerk brought a grievance alleging that Councillor Harvey had bullied, intimidated and harassed staff.
- 1.2 Rather than refer under the Code of Conduct process under the Localism Act 2011 it was dealt with under the grievance procedure. Councillor Harvey was not happy and self-referred as a Code of Conduct complaint to the Monitoring Officer of Herefordshire Council. Notwithstanding that referral the town council proceeded with the grievance and found against Councillor Harvey. It further imposed sanctions namely that the Councillor could not serve on any committee, sub-committee or outside body and that all correspondence from her had to go via the Mayor.
- 1.3 Meanwhile the Monitoring Officer instructed an independent investigator who found that there was no breach of the Code of Conduct and consequently the Monitoring Officer took no further action.

- 1.4 The town council, despite the independent investigators finding, made a further decision to continue with the sanctions.
- 1.5 Councillor Harvey initiated judicial review proceedings against the town council. The grounds being:
 - That the council had acted ultra vires in determining the complaint through the grievance procedure instead of the Code of Conduct procedure
 - The council's actions were unfair and in breach of Article 10 ECHR
 - Procedural unfairness
- 1.6 The matter was heard in the High Court in Cardiff by Mrs Justice Cockerill on 15 May 2018.

2. Issues

- 2.1 The High Court found for the councillor on all grounds of challenge and the decision was quashed. The High Court found that there is no general power to run a grievance procedure process in tandem with or as an alternative to a Code of Conduct procedure.
- 2.2 Although this case related to the standards regime applicable in England it is significant as it makes clear:
 - A sanction imposed through any other procedure than the Code of Conduct process is unlawful;
 - Any grievance process must be fair and accord with the principles of natural justice. The right to a fair hearing under Art 6 ECHR has to be complied with.
 - The action taken was disproportionate to the conduct alleged and had been imposed in a process by which the councillor had not meaningfully been able to participate.

3. Equality and Engagement Implications

There are no equality and engagement implications associated with this report.

4. Legal Implications

There are no legal implications associated with this report.

5. Financial Implications

There are no financial implications.

Background Papers: None

Appendices: Appendix A – Harvey v Ledbury Judgement