

North Tyneside Council Report to Standards Committee Date: 29 November 2018

ITEM

Title: Recent Standards Case:
Ledbury Town Council (2018)

Report from Service Area: Law and Governance

Responsible Officer: Louise Watson, Monitoring Officer (Tel: 643 5325)

Wards affected: All

PART 1

1.1 Executive Summary

This report updates Members about a recent standards case considered by the High Court.

1.2 Recommendation(s):

The Committee is recommended to note this report.

1.3 Information

The Committee receives occasional reports on general matters relating to the standards regime. This is the latest of those reports.

As Members are aware, under s28(6) of the Localism Act 2011 (“the Localism Act”), a relevant authority (other than a parish council) is required to have arrangements in place for dealing with a complaint against a councillor. As part of the arrangements, the relevant authority must appoint at least one Independent Person whose views must be sought by the authority before it takes a decision on a complaint which has been investigated, and whose views may also be sought by the authority, or the member against whom the complaint has been made, at any stage in the process.

Case – R (Harvey) v Ledbury Town Council (2018)

Councillor Harvey was a member of Ledbury Town Council (“the town council”) and sat on three of its committees. Following complaints that she had bullied and harassed staff, the town council’s grievance panel met to discuss the allegations. Councillor Harvey did not attend as she did not recognise the panel’s authority. The grievance was upheld and the town council then resolved to impose a number of prohibitions on Councillor Harvey, including that she should not sit on any committees, sub-committees, panels or working groups and that all communications between her and its clerk and deputy clerk should go through the mayor.

Herefordshire County Council had responsibility for investigating complaints about parish councillors. Councillor Harvey referred herself to its Monitoring Officer as a code of

conduct complaint. This was referred for external investigation. The town council subsequently maintained and expanded the restrictions placed on Councillor Harvey.

Herefordshire County Council then advised that the investigators had found no breach by Councillor Harvey of the town council's code of conduct.

Councillor Harvey applied for judicial review of the town council's decision to continue and expand the sanctions under its grievance procedures, claiming that it was acting ultra vires. In particular, she contended that a councillor's conduct must always and only be considered under the code of conduct procedures required by the Localism Act. The town council claimed it had powers to determine complaints about councillors through its grievance procedure and under powers in the Local Government Act 1972.

The court granted Councillor Harvey's application and ruled that the town council's decision to continue and enlarge the prohibitions must be quashed. The judge found that there was no "general power to run a grievance procedure process in tandem with or as an alternative to the Code of Conduct process envisaged by" the Localism Act, as that would be "contrary to the intention of Parliament". The judge discussed the process contemplated by the Localism Act and stressed that an independent person had to be involved and consulted.

The key message from this case is that a local authority must ensure that complaints about a councillor's conduct are dealt with under the local authority's standards arrangements. An authority will be at risk if it tries to discipline councillors outside the procedures laid down by the Localism Act.

1.4 Appendices:

None

1.5 Contact officers:

Stephen Ballantyne, Legal Manager: Governance and Employment - (0191) 643 5329

1.6 Background information:

None