

Why The Action Against Cllrs Harrison and Harvey Is Wrong. 11 May 2016.

Andrew Harrison and Liz Harvey have been falsely accused and 'convicted' of bullying, intimidation and harassment by Ledbury Town Council.

This explains in six ways how this process has been unfair, unsafe and incompetent.

1. The evidence presented by the staff complainants is insubstantial and inaccurate.

Cllrs Harrison and Harvey are not at liberty to comment further on this aspect pending the Monitoring Officer's independent investigation.

2. Elected members' conduct must be investigated by Herefordshire Council, not Ledbury Town Council.

Staff are entitled to raise a Grievance against LTC as their employers. However, since the Grievance pertained to a breach of the elected members Code of Conduct, this matter should have been handed to the Monitoring Officer of the principal authority (Herefordshire Council), for her to adjudicate on. The law is quite clear on this point (Localism Act 2011, Section 28, para 6). Elected members are not employees of town councils, and any complaints about them must be investigated impartially by the Monitoring Officer, not town councillors who have vested interests in the outcome.

If the monitoring officer found that a breach in the code of conduct had occurred, and that staff had been bullied, or otherwise ill-treated, she would make recommendations to the town council, up to and including sanctions such as debarring councillors from council committees and outside bodies. The Town Council would then be mandated to take the necessary action, but not before.

Writing to Ledbury Town Council (10.5.16), the Monitoring Officer of Herefordshire Council Claire Ward said: "I understand the duty of care to your own staff and why therefore you have followed the grievance procedure and made decisions at the extra ordinary meeting on 5th May. However this is in conflict with the requirements in the Localism Act and could expose the council to risk which I would want you to avoid."

3. The 'Grievance Process' implemented by LTC is illegal and unconstitutional.

Even if LTC were allowed to pursue a grievance procedure against elected members (which they are not, see Para 1), the Council has not followed its own agreed standing orders and guidelines. To prosecute this complaint, it abandoned its established procedure and hastily invented a new process

which seriously disadvantaged Cllrs Harrison and Harvey from defending themselves.

Even this new process has not been followed. Fundamental changes have been introduced at a number of stages, some of which rendered the 'Appeals' stage effectively meaningless.

Key information has been withheld from Town Councillors being asked to decide on aspects of the case, up to and including the falsification of committee minutes by the acting clerk, Lynda Wilcox of HALC (Herefordshire Association of Local Councils – a local advisory body for parish councils).

4. The Grievance Process was designed to be partial and predetermined.

It is clear that the process which LTC has followed has been weighted to achieve a 'guilty' verdict from the outset.

Councillors, and acting clerk Lynda Wilcox, who are themselves implicated in the irregularities which Cllrs Harrison and Harvey have sought to scrutinise, have created the novel process and sat in judgement on the grievance and appeals panels.

Lynda Wilcox as acting clerk to the council was judged by LTC's Standing Committee not to be impartial and independent. It resolved to dispense with her services and involve a truly independent person to administer the process. Lynda Wilcox omitted this key fact from the official minutes of that meeting and has retained control throughout all subsequent actions.

Lynda Wilcox has a pecuniary interest in HALC's continued involvement in this process.

Staff opposed the involvement of an independent alternative to Lynda Wilcox and the Monitoring Officer of Herefordshire Council.

No independent scrutiny of the process and decisions has been undertaken, and no objectively fair appeal has been possible.

5. The agreed sanctions against Cllrs Harrison and Harvey are disproportionate and draconian.

At LTC's meeting to discuss sanctions, many councillors had no idea what they were voting on. The grievance panel provided no report or commentary on the staff complaints; nor did it recommend what sanctions would be appropriate, contrary to its terms of reference.

The complaint against Councillor Harrison has been conflated with that of Cllr Harvey, despite their being totally different in scope and scale. The two councillors have been treated as one entity.

This is unfair and contrary to natural justice, as well as ACAS guidelines, where each case should be judged on its own merits and the confidentiality of each party maintained throughout.

6. The irregularities and illegalities of this process have denied Cllrs Harrison and Harvey any ability to defend themselves.

LTC has argued that it has a 'duty of care' to its staff, who according to Cllr Crowe (Mayor) have threatened the council with legal action if their complaints are not upheld. The staff have been inappropriately consulted on the process to be followed and have influenced who should, and should not be involved in its implementation.

In so doing, LTC has completely failed to consider its 'duty of care' to elected members by denying them their legal rights as granted by statute and set out within the Council's standing orders.

The Council has persistently ignored the requests of the Monitoring Officer of Herefordshire Council to desist, as well as disregarding the considered legal opinion of barrister Jonathan Wragg who is one of England's leading specialists in local government law.

Neither Andrew Harrison nor Liz Harvey have had any opportunity to defend themselves through a fair, impartial and objective process.

Andrew Harrison and Elizabeth Harvey, 10 May 2016.