

## **The Chief Executive's email to Councillors of Thursday 4th October 2018**

The Mayor has passed the requisition for an extraordinary meeting to me and asked me to respond.

You should be aware that the circumstances surrounding the matter to which you refer are highly sensitive, affecting the personal well-being of not only the Councillor involved but also other Councillors and members of staff.

Due to the sensitivity, unusual and extreme nature of the circumstances, the Council has taken advice throughout from external lawyers including Wilkin Chapman solicitors and Bevan Brittan. Both firms specialise in local government issues including Councillor conduct.

Their advice has been, and remains even after recent case law developments, that any Councillor's right to attend meetings is not absolute and the Council needs to strike a balance between the safety and welfare and the rights of the Councillor and the safety and welfare and rights of others. They have supported the actions taken by the Council in these circumstances.

In particular, amongst others, local authorities have duties towards:-

- their staff, members, suppliers and visitors to maintain safe premises and prevent risks to health and under the Health and Safety at Work etc Act 1974;
- their staff to maintain a reasonably conducive and safe working environment and a safe system of work as an employer;
- visitors and others generally in negligence.

As I pointed out in my note to members of 6 June 2018, under the Council's Constitution, as Chief Executive, I have overall corporate management and operational responsibility. This gives me the right to exclude anyone who poses a threat to the safety and well-being of staff, Members, and indeed, other members of the public who may visit the building.

To be clear, the purpose of the actions taken have been the protection of those mentioned above as well as of the member herself. They are not intended to be sanctions. The measures are kept under regular review and are capable of being varied if appropriate.

With regard to the recent judgments, rulings and barristerial opinions to which you refer, I presume this refers to the case of R (on the application of Harvey) v Ledbury Town Council [2018] EWHC 1151 (Admin) ("the Ledbury case") and subsequent legal opinions. Both Wilkin Chapman (who were

involved in the Ledbury case) and Bevan Brittan have confirmed that they would not change their advice to the Council in the light of this case due to the extreme circumstances which the Council faced. Judith Barnes of Bevan Brittan has recently confirmed to the Council that:

“The Ledbury case was decided on its own facts and circumstances and the facts and circumstances behind the decision taken by the Council in the present circumstances are very different. Further, as I understand the position the Council has not taken action by way of sanction or punishment; the action taken was a necessary and proportionate response in order to protect staff and others including elected members, and to facilitate the discharge of the Council's functions.”

With regard to the request to hold an extraordinary meeting, any discussion around the legality of the my actions, since the circumstances in question are so extreme, would necessitate the disclosure of sensitive personal information relating to those members and officers who have been involved in this situation. Without the consent of the parties involved this would be unlawful and may cause further harm to the wellbeing of all concerned.

Bearing in mind that two external legal firms specialising in local government law have advised and supported my actions in this case, together with the fact that it would be neither lawful nor appropriate for the individual circumstances of those involved in this matter to be debated in public, I do not intend to call the meeting requested. I hope that members will respect this decision.

Yours sincerely

Jim Dillon  
Chief Executive

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