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## They Knew They Would Lose All Along

30/10/2018

As if we thought Ledbury Town Council, the *ancien regime* that is, could be any worse, devastating new evidence of dishonesty and recklessness is emerging.

Piecing together the sequence of events surrounding the councillor bannings of Harvey and Harrison has been difficult since so much of the legal documentation was removed and destroyed by ex-councillors, and possibly ex-staff. Even so, some of the missing legal material has been recovered – at the Council’s expense – from the various solicitors engaged by the Council during 2016 and 2017.

The latest bundle shows that after they had banned Harvey and Harrison, the delinquent ruling councillors knew that what they were doing was indefensible and reckless.

In the aftermath of the original bannings in May 2016, the town council consulted local legal firm DF Legal to help it to take measures to ‘protect’ council staff from alleged bullying and harassment. The advice received was disagreeable, not at all what they had expected. During the autumn of 2016, the lawyers told the then Mayor Debbie Baker and other ex-councillors, that the councillor bannings were unlawful.

The little inner circle of ruling councillors – Crowe, Barnes, Fieldhouse, Eager and others – demanded an expensive ‘barrister’s opinion’ to confirm this position.

Read out, line by line, to Bob Barnes and Mayor Debbie Baker in a fractious meeting during late 2016, the barrister wrote that Ledbury Town Council would be unable to defend itself in court should Harvey launch legal action to have the bannings rescinded. Barnes and Baker did not apparently wish to have this galling information fed to them spoonful by bitter spoonful, but their solicitor, with commendable ethical determination insisted that they not only listen, but confirm that they had understood.

It was agreed that Baker and Barnes would consult Council colleagues to decide a way forward.

At this point the trail goes cold. There are no more meetings with DF Legal. It is assumed the barrister’s opinion was brought to the Standing Committee of Barnes, Crowe, Eager, Fieldhouse and Baker as chair in January 2017. This isn’t certain however, since the committee minutes are opaque.

What is beyond dispute is the fact that all of the legal opinions received by the ruling councillor circle were withheld from their fellow town councillors.

Over a two year period, they received three separate legal opinions which said that the council had been acting beyond its powers, ultra vires, in banning the two councillors:

- From Herefordshire's Council's Monitoring Officer (chief legal officer) in April 2016 and again in May 2017 advising Ledbury Town Council (LTC) to desist from its investigation, and later sanctioning of the councillors.
- From Liz Harvey's barrister, Jonathan Wragg, who told the council it was acting unlawfully. Mr Wragg normally advises the National Association of Local Council's, the parish council umbrella body.
- From the barrister engaged by DF Legal (Colin Bourne, of Kings Chambers), in December 2016 advising that LTC was acting ultra vires and would not be able to defend itself in court.
- From Adam Hepenstall, barrister, in August 2017 advising LTC to settle with Liz Harvey outside of judicial review as he believed the Council would lose.
- There was a fourth barrister's opinion (Lisa Busch QC) that gave qualified endorsement of the Council's 'vires' in the bannings, but advised that it would be unable to defend the remaining two grounds (namely substantive and procedural unfairness) meaning the Council would have lost the judicial review anyway.

What part of "You're Going To Lose" did these town councillors not understand?

Far from seeking to diffuse the crisis, they continued intentionally to act against the two councillors by extending and expanding the scope of the sanctions in May 2017, even when Herefordshire Council's independent investigation into the conduct of the two had found the bullying allegations against them to be baseless.

In prosecuting the banning and denunciation of the two councillors, it is now beyond question that this group of town councillors (some now resigned) knew precisely that what they were doing to Harvey and Harrison was entirely wrong.

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