

What went wrong and who is responsible? Episode 3.

So far in this series we have examined what happened within the Review and Staffing Committee on 29th November 2023 and 7th December 2023 which resulted in a decision to reinstate a Clerk who had been accused of being a bully without undertaking any further enquiries and in doing so, abandoned Helen King. We learned in particular that the Review and Staffing Committee decided (minute RS29/23.1) “*previous resolutions regarding the disciplinary of a member of staff be disregarded due to new evidence and information being received to justify that action.*”

It's important that we don't forget that the minutes for most of the meetings of Newby and Scalby Town Council at that time, including the Review and Staffing Committee, were written some four months after the events and signed by Chairman Thompson. We will leave our readers to decide for themselves why that happened.

So, what was that “new evidence and information” that the Review and Staffing Committee placed so much emphasis on in deciding to disregard previous resolutions? How strong was that evidence and why did the committee decide that it should reinstate Mrs Marley and deny the natural justice due to Helen King? This is what Employment Judge Flanagan had to say:

26. In a council meeting on the 7th December 2023, a decision was made to ‘disregard’ the disciplinary matter against Ms Marley, with the available notes stating that this was due to ‘new evidence and information being received’. It has never been explained what this new evidence was; the only development that is evidenced in the short intervening period was Ms Marley’s resignation and retraction of that resignation.

So Judge Flanagan found that this crucial “new evidence has never been explained.” Recall the Judges observation - **70.** “*The Tribunal noted the absence of various significant documents ...*” Helen's legal team requested this “new evidence and information” from the council but it was never made available, if it ever existed, to the Tribunal. It is reasonable for us to expect the council to retain such crucial information in a secure place knowing that it would need to be disclosed as part of legal proceedings. Before we delve any further into the “new evidence and information” it is important that we remind ourselves about what, exactly, Mrs Marley was accused:

18. A report was then prepared by the independent investigator, Ms Nicky Shelton, dated 8th November 2023. It found that there were substantiated findings of bullying, harassment and/or intimidation, as well as evidence of aggressive behaviour, which had resulted in intimidation. The report concluded that the conduct breached the principles of dignity at work, civility and respect. There were also specific findings in relation to ‘chuntering and snarling’, occurring between the parties, with all the findings made on the balance of probabilities. The Council was provided with a detailed written report, as well as several annexes which included notes of the interviews and other documentary material.

19. The report concluded with a recommendation for disciplinary action to be taken against Ms Marley.

It is an inescapable fact that these are very serious accusations that the Council had a duty to investigate. Judge Flanagan notes that the findings were “on the balance of probabilities” but it was the Council's duty to fairly apply their adopted Disciplinary Procedure and determine where that balance lay. The Council failed in that duty and in doing so failed Helen King in particular but also the people of Newby and Scalby. Since then we have had the systematic cover-up of their failures. We will examine further in Episode 4 what this “new evidence and information” is.