

## Newby and Scalby Town Council and the “sham redundancy.”

### What went wrong and who is responsible?

In September 2023, our friend, Helen King made a formal Grievance complaint against the Town Clerk, Mrs Jools Marley. Less than six months later, Helen was made redundant. We now have the Employment Tribunal Judge's Reasons for finding in Helen's favour and can piece together the multiple abuses at the heart of our local council.

#### What happened on 29th November 2023?

This is a key date and there were actually two meetings of the council on 29 November. The first was a meeting of the Review and Staffing Committee which was called to confirm the arrangements for the 12 December disciplinary hearing into Mrs Marley's alleged bullying behaviour. The second was an Extraordinary Meeting called to hear the findings of the Review and Staffing Committee.

#### Who attended the Review and Staffing committee meeting and what was decided?

Committee members were **Reg Towse (Chairman), Cllrs Bastiman Holliday, Smith and Thompson**. Having been suspended, Mrs Marley had handed in her resignation with 12 weeks notice before the meeting and the main issue was whether to continue with the disciplinary hearing on 12 December or to end the whole process. ACAS (the Advisory, Conciliation and Arbitration Service) who, is the recognised authority in employment matters, advised continuing with the disciplinary hearing but the R&SC decided otherwise by a majority of four to one (our friend Reg Towse was outvoted.)

The official minutes of this meeting were mysteriously signed by Cllr Thompson (who became the Chairman after Cllr Towse resigned on principle after this debacle) some four months later so we now need to delve into the draft minutes produced contemporaneously by Cllr Smith:

*“Cllr R Thompson proposed this be brought to a conclusion and it was **Agreed** by Cllr Halliday, Cllr Bastiman and Cllr Smith. that a Settlement Agreement be drafted for consideration. **Objection to be noted** by Cllr Towse who believed that the Disciplinary process should continue. Cllrs Thompson, Smith and Halliday agreed to meet on 4th December for the purposes of drafting the agreement, which would need to be approved at the next R&S meeting before it can be offered.*

This is what Judge Flanagan had to say about this in his findings at the Employment Tribunal:

23. Rather than await the outcome of the disciplinary process, following a further council meeting that took place on the 29<sup>th</sup> November 2023, the decision was made to bring the disciplinary meeting to an immediate conclusion. It is notable that this occurred without any hearing taking place or any further enquiry. The Clerk to Council, Ms Marley was then informed that the suspension was lifted and she was directed to return to work. In the course of this meeting, Counsellor Towse, who had been chair of the council, objected. However, the motion to cease the disciplinary process nevertheless carried. **It has not been possible to make any specific findings regarding how these events transpired, save to observe that not all documentation and communications regarding the events appear to have been disclosed by the Respondent.**

So, on 29th November 2023, **Cllrs Bastiman, Holliday, Smith and Thompson** decided to bring the disciplinary meeting to an immediate conclusion with no reasons given. Why? - for that we



## What went wrong and who is responsible? Episode 2.

In the first episode of this series we looked at what happened on 29th November 2023 when the Review and Staffing Committee voted by four votes to one to, in Judge Flanagan’s words “*bring the disciplinary meeting to an immediate conclusion.*” Judge Flanagan goes on to say “*It is notable that this occurred without any hearing taking place or any further enquiry.*” The subtext here is that the Judge believes this was a serious mistake that influenced his final judgment.

**Councillors Bastiman, Holliday, Smith and Thompson** voted for this “*notable decision*” with Reg Towse voting against. Many people ask the reasonable questions: “Why did the four councillors vote to retain the Town Clerk even though they knew that she had been accused of being a bully and harassing a member of staff?” “Wasn’t it their job to find out the facts and make a decision?” “Where would this leave Helen King and her Grievance Procedure complaint?”

These are questions that should be answered by **Councillors Bastiman, Holliday, Smith and Thompson** but neither has responded when asked. A witness reports that at the 29 November meeting and after some discussion, **Councillor Bastiman** “nodded his head” and, according to Cllr Smith’s Draft Minutes “**Cllr R Thompson** proposed this be brought to a conclusion and it was **Agreed** by **Cllr Halliday, Cllr Bastiman and Cllr Smith** that a Settlement Agreement be drafted for consideration.” Some might argue that the “nodding” is evidence of a prior agreement amongst the Gang of Four being reached but we couldn’t possibly comment on that.

### What happened on 4th December 2023?

We know that a meeting of a Sub Committee of the Review and Staffing Committee consisting of **Cllrs Halliday, Smith and Thompson** met on 4th December to consider a “Settlement Agreement” but the minutes of this meeting have yet to surface. As Judge Flanagan observed: **70.** “*The Tribunal noted the absence of various significant documents, in particular Council Meeting Minutes, but no specific factual findings or adverse inferences were made regarding the impact of their absence.*” Employment Tribunal Judges are notable for their discretion and their ability to avoid giving the opportunity for their decisions being challenged in law so it is reasonable to assume that there is some significance in this statement. We can return to the Settlement Agreement at another time after we look at what happened on 7th December 2023.

### What happened on 7th December 2023?

Reg Towse resigned “on principle” because of the “foolish” Review and Staffing Committee decision to reinstate Mrs Marley without, in Judge Flanagan’s words “*any hearing taking place or any further enquiry.*” Like many others, the minutes of the meeting were signed by Chairman Thompson over four months later but include:

RS29/23.1 That previous resolutions regarding the disciplinary of a member of staff be disregarded **due to new evidence and information being received to justify that action.**

RS29/23.2 [Minute RS20/23.6 refers] That the locum engaged by ex-Cllr. Towse be paid for the hours worked to date but her services were no longer required.

RS29/23.3 [Minute RS9/23.1 refers] That a member of staff who raised a grievance be informed of the outcome and notified of the Council’s appeals procedure.

So, in quick succession, **Cllrs Bastiman, Holliday, Smith and Thompson** decided to reinstate a Clerk who had been accused of being a bully without undertaking any further enquiries and also abandoned Helen King. They also, very rudely, dispensed with the services of a locum Town Clerk who had been brought in to help. For what happened next - see Episode 3 of this series that examines the inner workings of our local council together with the “new evidence received.”



### 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 7<sup>th</sup> 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 8<sup>th</sup> 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.



## Newby and Scalby Town Council and the “sham redundancy.”

5 pages

### What went wrong and who is responsible? Episode 4.

At the end of Episode 3 we reminded ourselves of the serious accusations that had been made against the Clerk, Mrs Marley, and the substantiated findings of the independent investigator, Nicky Shelton. In this episode, we will examine in some detail the “new evidence and Information” that was used to justify the reinstatement of Mrs Marley with the inevitable consequence that Helen King would be made the victim of a “sham redundancy.”

*27. In evidence before the Tribunal, Ms Smith – who was a member of the council who made the decision to stop the proceedings – stated that the Council was unimpressed with the ‘structure’ of the independent report. In answering questions to the Tribunal, she also stated that the conclusions were reached on the balance of probabilities, not so that the investigator was ‘sure’.*

*30. Ms Smith gave evidence to the Council would be ‘left in lurch’ without Ms Marley and ‘in disarray’.*

It’s time to unpick these two findings of Judge Flanagan - beginning with the claim (27) that “Council were unimpressed with the structure of the report.” Did they ask any questions of Nicky Shelton or ask for further investigations to be carried out? Evidently not because, as Judge Flanagan finds (23) this crucial decision was taken “without any hearing taking place or any further enquiry.” Why did **Cllrs Bastiman, Holliday, Smith and Thompson** fail to undertake the due diligence that was required and expected of their roles as Councillors? **Cllr Smith** gives us some further insight when she answered the Tribunal that Nicky Shelton “reached the conclusions on the balance of probabilities and not so that the investigator was sure.” Reading through this testimony, even over eighteen months after the events, one is left with the feeling of dismal incompetence at the heart of the Council. Is Cllr Smith, who is now the Chairman of the Council, really saying that they abandoned the Disciplinary Procedure because the investigator “wasn’t sure” when, in fact, it was the Council’s responsibility to determine where fault lay “on the balance of probabilities.”

**Cllr Smith** reveals more than she intended in paragraph 30. when she confessed to the Tribunal that the Council “would be left in (the) lurch and in disarray without Mrs Marley.” We’ll leave to one side, for now, the fact that Newby and Scalby is in complete disarray with Mrs Marley and focus on what Cllr Smith revealed in this statement and why the Council’s case at the Tribunal failed so spectacularly. Cllr Smith admitted that the reason for the Review and Staffing Committee deciding to end the Disciplinary Procedure against a member of staff who had been accused of bullying another member staff was that she was too valuable to lose. It didn’t matter that Helen King had made a Grievance Procedure complaint against the Clerk. Newby and Scalby Town Council’s adopted policies (Dignity at Work, Civility and Respect, Disciplinary Procedure, Grievance Procedure or its Mission Statement and Corporate Objectives) mattered not a jot compared with the overarching imperative (as Cllr Smith saw it) of bringing back Mrs Marley (on the 8th December 2023) and getting rid of Helen King at all costs. Never mind Helen King and her employment rights. That is why the Council lost and Helen won but there are also other factors.

For now, let us look at paragraph 31 in which we learn that Helen King and Reg Towse met the Woodsmith Foundation “without authorisation.” In Episode 5, we shall explore the murky business of the Maoni Report:

*31. In a further Council meeting on the 20<sup>th</sup> December 2023, Cllr Thompson was elected Chair. The confidential notes also state that meetings had taken place ‘which were unauthorised with the Claimant and Cllr Towse’, as well as a discussion about how the Claimant would be managed now that Cllr Towse had left his role.*



### What went wrong and who is responsible? Episode 5.

In Episode 4 we learned from Cllr Smith that the reason for the Review and Staffing Committee ending the Disciplinary Procedure against the Clerk, Mrs Marley, was that the Council “*would be left in (the) lurch and in disarray without Mrs Marley.*” We are now going to investigate the murky business of the Maoni Report which, it will be remembered, decided to recommend to the Council that they should return grants to the Woodsmith Foundation, amongst others. We will also investigate how this was used as a pretext to make Helen redundant. Let us remind ourselves about what Judge Flanagan said in his Reasons for finding in Helen’s favour:

**31.** *In a further Council meeting on the 20<sup>th</sup> December 2023, Cllr Thompson was elected Chair. The confidential notes also state that meetings had taken place ‘which were unauthorised with the Claimant and Cllr Towse’, as well as a discussion about how the Claimant would be managed now that Cllr Towse had left his role.*

This is an extraordinary claim even for this council. Their claim is that Reg Towse and Helen King took part in meetings with the Woodsmith Foundation ‘*which were unauthorised.*’ Reasonable people, like our readers, would be entitled to ask themselves the question “Why can’t Reg Towse, as Chairman of Newby and Scalby Town Council, meet with whoever he sees fit?” Back to Judge Flanagan:

**33.** *Shortly afterwards, the Respondent made the decision, with the assistance of Ms Marley, to undertake an investigation in to the Woodsmith Grant; entitled the ‘Maoni’ report. The result of an investigation was that the investigator determined that the money received from the Grant should be returned. In evidence, the Claimant made complaints regarding the Respondent failing to disclose communications between the Council and the Maoni investigator around this time. In any event, the Respondent later characterised the position as that the money had to be returned, as there had been a failure to comply with the conditions attached to the Grant. It is notable that the Claimant and Cllr Towse had spoken with Woodsmith in November 2023, when there was no suggestion that the money needed to be returned and that no demand for repayment was made at any stage.*

Let us not forget that the *Respondent* is Newby and Scalby Town Council whilst *Ms Marley* is the Town Clerk, who also carries the designation of the Proper Officer and Responsible Financial Officer who, we recall, has been accused of being a bully. The *Claimant* is our friend - the soon to be made redundant, Helen King. It is easy for us to lose our way given all this legal terminology. The Clerk is supposed to provide independent advice to the Council who then decides policy direction. It is important that we hold the independence of the Clerk in mind as we read in 33 above that the Council decided to undertake an investigation into the Woodsmith Grant “*with the assistance of Ms Marley.*”

Our readers, would no doubt question how a Clerk who has not been cleared of the accusation of being a bully can possibly be able to provide fully independent advice to the Council about a matter to which there is such a close, personal connection. So, what is the Maoni Report and who is the investigator who carried out the investigation on behalf of the Council and, of course, ourselves as the precept<sup>1</sup> payers? It turns out that the person carrying out what the council refers to as an “*independent investigation*” (note that Judge Flanagan, for reasons known only to himself, avoids placing the word “independent” in front of investigation) is none other than the Regional Director for the North of England of the Society of Local Council Clerks - the same society which Mrs Marley is a member.

Readers will have to be patient as we move on to Episode 6.

<sup>1</sup> The precept is the amount paid to the council by local residents - currently about £36/year.



## What went wrong and who is responsible? Episode 6.

In Episode 5, we learned that Newby and Scalby Town Council decided to set up what they called an “independent investigation” into the Woodsmith Grant with the Town Clerk acting on behalf of the Council. We also learned that the person carrying out this “*independent investigation*” was Mr Ian Morris, the Northern Director of the Society of Local Council Clerks of which, it will be recalled, Mrs Marley is a member. In this Episode, we will examine the process by which the Maoni Report was commissioned and reported to the council before examining in some detail the report’s findings.

Perhaps now would be a good time for our readers to be introduced to the official minutes of Newby and Scalby Town Council. At the Extraordinary Meeting of the council held on 26 January 2024 in the Confidential Business part of the meeting (minute 24/24.1 - shown below) we find that Cllr Thompson made a confidential report “*which was **noted.***” Sadly, for undisclosed reasons, this report was not made available to the Employment Tribunal so we are unable to examine its contents but the minute goes on to **Resolve** (council speak for decide) “*that following a meeting with the Chief Executive of The Woodsmith Foundation, an external investigation was necessary to get an independent view of what had taken place as well as to protect the reputation and integrity of both the RFO/Proper Officer and the Council. Resolved that Maoni Consulting (Ian Morris) be appointed to carry out an investigation at a cost of £1000 plus any additional costs agreed by N&STC. Resolved that it be delegated to the Clerk to enter into and sign a contract with Maoni Consulting.*”

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### 24/24      CONFIDENTIAL BUSINESS

24/24.1      **Resolved** that the Chairman’s confidential report be **noted**. **Resolved** that following a meeting with the Chief Executive of The Woodsmith Foundation, an external investigation was necessary to get an independent view of what had taken place as well as to protect the reputation and integrity of both the RFO/Proper Officer and the Council. **Resolved** that Maoni Consulting (Ian Morris) be appointed to carry out an investigation at a cost of £1,000 plus any additional costs agreed by N&STC. **Resolved** that it be delegated to the Clerk to enter into and sign a contract with Maoni Consulting. **Resolved** that the Clerk write to the Woodsmith Foundation confirming an external investigation had been commissioned and giving brief details of the scope thereof. As part of the correspondence the Clerk would place on record with the Foundation that in the period 1<sup>st</sup> June 2023 to 31<sup>st</sup> December 2023 it had not given any staff or councillors authority to hold meetings with Woodsmith or make offers on behalf of the Town Council. It was **noted** a further meeting would be held in February with the Foundation.

There is an old saying: “Laws are like sausages - it is better not to see them being made.” To that we might like to add the decision making processes of some local councils. Let us, once again, unpick what was going on here. Firstly, Chairman Thompson’s confidential report, under mysterious circumstances, was unavailable for disclosure to the Tribunal. Then we see that “*following a meeting with the Chief Executive of The Woodsmith Foundation*” an “*independent, external investigation*” was necessary “*to protect the reputation and integrity of both the RFO/Proper Officer and the Council.*” Perhaps, on reflection, we should have warned our readers in advance about that last sentence. We hope that you soon recover.

So, Newby and Scalby Town Council decided to delegate Mrs Marley to enter into and sign a contract with Maoni Consulting’s Mr Ian Morris, who is the Northern Director of the same professional association as herself. We have not forgotten that only a few weeks before this, the same Council decided to end “*without explanation*” the disciplinary proceedings against the same Mrs Marley. Sometimes, words fail even the author of this series so let us simply reflect upon the facts outlined above and await the outcome of the Maoni Report which, readers will be amazed to learn, was received by the council exactly one week after this dubious decision. Patience, dear readers as we await Episode 7 and the Maoni Report itself.



## What went wrong and who is responsible? Episode 7.

Episode 6 of this series revealed the process by which Newby and Scalby Town Council decided to commission what was described as “an independent external investigation” into grants awarded by The Woodsmith Foundation. The claimed reason given for this investigation was that an “unauthorised meeting” had taken place between Chairman Reg Towse, our friend Helen and the CEO of the Woodsmith Foundation. The investigation was to be carried out by Ian Morris who, it will be recalled, was the Northern Director of the Society of Local Council Clerks. Mrs Marley (a member of the SLCC) was delegated to brief Mr Morris and commission what was to become the infamous Maoni Report.

Before we examine the Maoni Report, we would like to say a few words about the Woodsmith Foundation, alongside others, who are completely innocent bystanders in this sorry affair. They offered a grant in good faith to the Council to be used to Support People 65+. The Woodsmith Foundation acted with absolute integrity throughout and it is regrettable that they became embroiled in what became known as the Maoni Affair.

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28/24
CONFIDENTIAL BUSINESS

28/24.1
**Supporting People 65+ grant from The Woodsmith Foundation.** Minute 24/24.1 refers. The confidential report from Maoni Consulting plus a confidential report by the Town Clerk were **received**. **Resolved** the consultant's report be accepted. Further **resolved** all the recommendations in the Town Clerk's report be **carried**. The Clerk was instructed to carry out those recommendations and write accordingly to the Chief Executive of The Woodsmith Foundation. **Resolved** the online transaction in the sum of £16,557.28 for repayment of the grant was to be authorised by Cllrs. Smith and Thompson.

The minute above is taken from the Extraordinary Meeting of the Town Council held on 2nd February 2024 - exactly one week after the Council decided to commission the Maoni Report. This meeting was a confidential meeting from which the public were excluded so the only information we have is the minutes of the meeting shown above. Unusually for this time, these minutes were not retrospectively altered *en bloc* and signed by the Chairman on 20 March 2024 so we can, with caution, consider them as being, within limits, reasonably accurate.

We are told that the Maoni report is confidential and it was **Received** by the Council along with another confidential report from the Town Clerk. It remains an abiding mystery why the confidential report from the Town Clerk was also unavailable to be disclosed to the Employment Tribunal. Our readers will recall the similar mysterious unavailability of another confidential report delivered by the Chairman at the previous meeting (see Episode 6) of the Council. Inevitably such mysteries result in speculation about the reasons for their non disclosure but that is not our task - which is to refer to the facts as far as we can. It was **Resolved** that the consultant's report be accepted and further **Resolved** that all the recommendations in the Town Clerk's report be **carried**.

It should be noted that we do not know what the recommendations in the Town Clerk's report were but we can see that £16557.28 was to be returned to The Woodsmith Foundation by **Cllrs Smith and Thompson** and the Clerk was instructed to write accordingly to the Chief Executive of The Woodsmith Foundation.

We can only marvel at Mr Morris's prodigious work rate as he managed to be briefed by Mrs Marley, research all of the considerable documentation, interview some of the people involved (but, for some unexplained reason, not Helen or Reg Towse) and produce a detailed report to Council in less than a week. There is no evidence in any of the above that the Members of the Council even saw the Maoni Report and there is absolutely no evidence that the clear conflicts of interest were disclosed to the Council or the “independent investigator.” As we move on to Episode 8 where we examine the Maoni Report in depth, we should recall that Council didn't expect the Information Commissioner to force disclosure - but we did, didn't we.



### What went wrong and who is responsible? Episode 8.

In Episode 7 we looked at the process by which Newby and Scalby Town Council decided to commission the Northern Director of the Society of Local Council Clerks to produce what was described as an “independent investigation” into various grants that had been successfully applied for by Helen. We have previously noted that Judge Flanagan avoided placing the words “independent” and “investigation” together in the way that N&STC always does - a fact from which we can draw our own conclusions.

The Maoni Report is 20 pages long and contains detailed and complex information but, helpfully, Newby and Scalby Town Council have provided a brief summary on their website that provides a useful starting point. Of course, we understand that the Council are only putting their partisan and vindictive version forward so we will compare what they say with the findings of Judge Flanagan and the Information Commissioner. This is what the Town Council claims:

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## Publication of Maoni Report & Return of Grant Funding

30th June 2025

Newby & Scalby Town Council is pleased to provide an update regarding grant funding awarded to the Council in January 2023, and subsequently returned to the Woodsmith Foundation in February 2024.

In January 2024, Newby & Scalby Town Council discovered the apparent misuse of a substantial grant that it had been given by a local charitable organisation.

The grant had been given for a particular project at the Council's Community Hub and was subject to specific terms and conditions. The Council discovered that the former Head of Hub and Community Services, who was supervised by the then Chairman, had apparently not complied with the terms and conditions and the charitable organisation had queried the use of its grant.

Newby & Scalby Town Council appointed an independent consultant with considerable experience in local government practice to investigate the grant application process, Council governance practices, project delivery and associated matters. The investigation's findings are set out in the “MAONI” report.

The Council determined the report to be confidential because it contained staff and employment information, but an application was made to the Information Commissioner's Office by a local resident for disclosure of the report and the Commissioner has now decided that it is in the public interest to disclose the report, subject to deletion of some personal information.

We are reminded of the popular television show - “Would I lie to you?” when we read the first sentence “Newby & Scalby Town Council **is pleased to provide an update** regarding grant funding awarded to the Council in January 2023, and subsequently returned to the Woodsmith Foundation in February 2024.” As the Compare of the TV show would say - “It is, of course, a lie.” The Town Council spent over a year desperately trying to avoid the Maoni Report from being exposed to daylight and have been forced by the Information Commissioner to release it to the public. What is clear is that this misinformation was not approved by the whole Council but only a small and as yet unidentified cabal. Questions have been asked and, of course, not answered but we find that time and persistence can provide more details - especially when the Information Commissioner becomes involved.

So now we move on to lie number two - “Newby & Scalby Town Council **discovered the apparent misuse of a substantial grant** .....” We will examine this extraordinary claim in Episode 9.



## What went wrong and who is responsible? Episode 9.

Having dealt with the suspicious circumstances surrounding the commissioning and delivery of the Maoni Report, we are now examining the report itself starting with the claims made by Newby and Scalby Town Council on their website. To avoid unnecessary repetition, readers are asked to also refer to the screenshot shown of the Council’s website in Episode 8. We have already noted the first lie (*is pleased to provide an update*) and we are now ready to discuss lie number two:

*“Newby & Scalby Town Council discovered the apparent misuse of a substantial grant ....”*

This is a very serious accusation that no council should make without proof and we are reminded of the findings of the Information Commissioner who, having seen the report, dismissed this claim outright (para 19.) and said that the *“failings are those of the Council as a whole.”*

*19. The Council does appear to be suggesting within its submissions to the Commissioner that the subject of the report is the failings of the individual to whom the employment tribunal relates. However, having seen the report the Commissioner’s view is that it is clear that the subject of the report is the Council as a whole.*

*15. In its submissions to the Commissioner, the Council acknowledged that, “the report highlights governance failures, financial mismanagement, and procedural oversights”.*

We agree with the Information Commissioner who, at the time of reaching his decision that the Council must publish the Maoni Report, was unaware that Judge Flanagan was about to issue a Judgement at the Leeds Tribunal that also blows the Council’s claim completely out of the water. It would be helpful if we reminded ourselves of a key finding made by the Judge:

*33. Shortly afterwards, the Respondent made the decision, with the assistance of Ms Marley, to undertake an investigation in to the Woodsmith Grant; entitled the ‘Maoni’ report. The result of an investigation was that the investigator determined that the money received from the Grant should be returned. In evidence, the Claimant made complaints regarding the Respondent failing to disclose communications between the Council and the Maoni investigator around this time. In any event, the Respondent later characterised the position as that the money had to be returned, as there had been a failure to comply with the conditions attached to the Grant. It is notable that the Claimant and Cllr Towse had spoken with Woodsmith in November 2023, when there was no suggestion that the money needed to be returned and that no demand for repayment was made at any stage.*

We have already noted in Episode 7 the shady circumstances (our words) surrounding the Council’s decision, with the assistance of Ms Marley, to undertake an investigation into the Woodsmith Grant. They claimed that Reg Towse and Helen had had an unauthorised meeting with the CEO of the Woodsmith Foundation and here we learn that Judge Flanagan finds: *“It is notable that the Claimant and Cllr Towse had spoken with Woodsmith in November 2023, when there was no suggestion that the money needed to be returned and that no demand for repayment was made at any stage.”* Recall that the Judge found (para 69.) that Helen and Reg’s evidence was *“consistent and compelling”* but for reasons known only to himself did not make a similar finding for the council. Also para 69 - She (Helen) *“had raised a grievance that had simply been glossed over by the Council ...”* and *“the Council simply took steps to remove the Claimant (Helen) from her role.”*

Take heart, dear reader, as we move on to Episode 10 of our series examining the corrupt practices of our local council.



**What went wrong and who is responsible? Episode 10.****The Maoni Report - what does it say?**

The Maoni Report starts by providing a background to the Woodsmith Grant Application which was made to the Town Council in December 2022 with the offer “*being accepted by two Council Officers in January 2023.*” The reference to two Council Officers is significant because there were only two employees of the council - Mrs Marley - the Town Clerk and Responsible Financial Officer and Helen King - the Head of Hub and Community Services.

The report goes into some detail before reaching its most significant conclusion - that the Woodsmith Grant should be returned. The council's claim at the Employment Tribunal is that because the money needed to be returned the position of Head of Hub and Community Services was no longer financially viable and council had to make Helen redundant to reduce costs. At the Tribunal, Mrs Marley (para 34 below) stated that funds and grants were being “*applied for without her knowledge*” but the Maoni Report informs us that the Woodsmith Grant was “*accepted by two Council Officers in January 2023.*” There were, at the time, only two Council Officers. Judge Flanagan:

34. The Respondent raised other issues with the Claimant and the issuing of grants, with Ms Marley stating that grants and funds were being applied for without her knowledge. I was not directed to any specific policy or other document that precluded the Claimant applying for grants without Ms Marley’s knowledge.
35. Significantly, prior to the Maoni report into funding being received, advice was sought by the Respondent about terminating Claimant’s employment. The response to the enquiry was that Claimant could be made redundant, although no further context was provided. When asked about why this enquiry was made, Ms Marley stated that her ‘*impression at time was that the Claimant and I could not work together*’. The Tribunal was satisfied that the reason for the enquiry being made was because of the personality conflict between the Claimant and Ms Marley.

Judges tend to use the word significantly when they are referring to matters of such importance that they are likely to affect their decisions. Judge Flanagan, in the opening sentence of paragraph 35 above informs us that “*Significantly, prior to the Maoni Report into funding being received, advice was sought by the Respondent about terminating the Claimant’s employment. The response to the enquiry was that the Claimant could be made redundant. When asked about why this enquiry was made, Mrs Marley stated that her impression at the time was that the Claimant and I could not work together.*”

Judge Flanagan goes further in para 90 of the Judgement: “*The Respondent had access to human resources support, but inaccurate information had been supplied to the advisers.*” Reasonable people would ask what the “inaccurate information” was that had been supplied to the human resources advisers and why inaccurate information had been supplied. Unfortunately, we do not (yet) have access to this “*inaccurate information*” but we do not give up and will continue to make further enquiries. We are reminded of Judge Flanagan’s finding:

73. This Tribunal was satisfied that had the Claimant not raised a grievance against Ms Marley, the ‘redundancy situation’ would never have arisen and the dismissal would never have occurred. It follows that there was not a genuine redundancy situation and the entire process was a sham.



## What went wrong and who is responsible? Episode 11.

We commend our readers for showing great fortitude as we continue to delve into the details of this abiding and (in our view) vindictive injustice carried out in our name and using our money by our local council. In this episode, we shall summarise our journey so far and show some signposts for our next steps towards truth and justice.

### The story so far

In Episode 1 we were reminded that in September 2023 our friend, Helen, made a formal Grievance Procedure complaint against the Clerk of the Council, Mrs Marley. The then Chairman, Reg Towse, correctly followed the Council's Disciplinary Procedure and took Helen's complaint to the Review and Staffing Committee who decided to commission an independent investigation by Nicky Shelton of local HR Consultancy, Castle Associates. Ms Shelton's investigation<sup>2</sup> (18) *“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.”* It concluded (19) *“with a recommendation for disciplinary action to be taken against Ms Marley.”* A disciplinary hearing was set up for 12 December 2023, Mrs Marley was suspended and quickly tendered her resignation.

In Episode 2 and 3 we learned that the Review and Staffing Committee met on 29 November and decided (23) to *“bring the disciplinary meeting to an immediate conclusion ... without any hearing taking place or any further enquiry.”* At a later meeting on 7th December 2023 it was claimed that the disciplinary action against Mrs Marley should be *“disregarded due to new evidence and information being received to justify that action.”* This ‘new evidence’ has never been produced (26) in court, where it would have been cross examined under oath and yet, remarkably, it was made available by a Councillor during (confidential) Code of Conduct investigations which, of course, are not subject to cross examination under oath.

We then moved on to hear about an *“unauthorised meeting”* between Reg, Helen and the CEO of the Woodsmith Foundation which was used as a pretext to commission an *“independent investigation”* to *“protect the good name and reputation of the Clerk/RFO and the council.”* This investigation was carried out by Mr Ian Morris of Maoni Consulting (who happened to be the Northern Director of The Society of Local Council Clerks - the same society of which Mrs Marley is a member) and the subsequent report became known as the Maoni Report. The main recommendation of the Maoni Report was that the balance of the Woodsmith Foundation grant (£16,557.28) should be returned. The Council then went on to claim that Helen's role could not be afforded and she was made redundant.

The claim of *“unaffordable”* was, as repeatedly exposed by Judge Flanagan, untrue and led to the Judgement that Helen's dismissal was a *“sham redundancy using lamentable procedures and creative accounting.”* *“It follows that there was not a genuine redundancy situation and the entire process was a sham.”* (73.)

So far in this series, we have examined the “lamentable process” (Judge Flanagan's words) that led to the “sham redundancy” but we have not yet examined the “creative accounting” that was used to falsely justify Helen's dismissal. We will be investigating this aspect further in future episodes of this series and will attempt to answer the many questions that have been put on the popular local Facebook Page - Friends of Newby and Scalby Wellbeing Hub. Amongst these questions, repeatedly asked, is “What can be done to remove this council and replace them with people of integrity?” For now, we are gathering information and will return in September.

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<sup>2</sup> The numbers in brackets contain the paragraph reference from the Leeds Tribunal Judgement.



## **What went wrong and who is responsible? Episode 12.**

In this series so far we have examined in some detail the “*lamentable process*” used by Newby and Scalby Town Council to remove our friend Helen from her job as the Head of the Wellbeing Hub. Many of our readers have testified about how important The Hub was to them and how much they miss the services that were offered. We are now going to examine the part that Judge Flanagan described as “*creative accounting*” also played in this grubby story. Later we will look at the total costs involved and will answer the question that has often been raised by our readers – “Who paid for all this?” (Spoiler alert – we paid!) Finally, we will attempt to answer the question “What is the Council for?” before looking at how things can be done better. We have work to do!

### **Creative accounting**

Knowing how quickly Newby and Scalby Town Council reaches for the most expensive law firms (at our expense, of course) when they are trying to hide their activities from public view, we need to be very careful about how we examine what Judge Flanagan has referred to as “*creative accounting*.” We need to first of all draw our readers’ attention to the fact that Employment Tribunal Judgements are made on “the balance of probabilities” and not “beyond reasonable doubt” as would be the case in a criminal case before a court of law.

This difference is important because until a criminal case is proven in a court of law, it would be libellous to accuse someone of committing a criminal act. Having said all that, we are only interested in examining the facts and findings provided to us by Judge Flanagan and the evidence we have before us. So, what evidence do we have?

*7.4 To receive details (circulated with agenda of 13/3/24) on profitability/costs of the hub, and agree action to be taken.*

The agenda item 7.4 above is taken from the Extraordinary Meeting of the Council held on 20th March 2024 (and 13th March 2024) and informs us that a decision will be made about the “*profitability/loss of the hub, and agree action to be taken.*” If we examine the supporting documents for this meeting we find a memorandum from the Clerk to all councillors which refers to two spreadsheets purporting to show the profitability/loss making of The Hub. Having provided the information to the Council (we must not forget that the Clerk must offer independent advice to the Council) who are then invited to “*study the enclosed spreadsheets ..... and agree a course of action in respect of the hub.*”

Councillors are asked to study the enclosed spreadsheets in order to make their own assessment of hub profitability and its impact on Council's finances.

### **Recommendations**

Council is asked to consider this report and the attached spreadsheets and agree a course of action to be taken in respect of the hub.

Of course, the Council deemed The Hub to be “unprofitable” and therefore must be closed. So what did Judge Flanagan say about this? That we will examine in Episode 13.