

Milly Southworth

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Sent: 11 September 2024 11:16
To: CornwallALC Enquiries; Training Cornwall ALC
Subject: CALC: NALC LEGAL UPDATE AND INFORMATION SHARING: HIGHWAYS/TRAFFIC MANAGEMENT TRAINING
Attachments: TM FOR COMMUNITY ROAD WARDENS.doc

Information Classification: CONTROLLED

Dear All -

We have recently received the following Legal Update Notes from the NAC Legal Team which contains items of interest:

[NALC Legal Bulletin Update – August 2024](#)

Can a council co-opt a councillor who lives in Canada?

We were asked by a council if they could co-opt a person as a councillor who owns a property and business in the parish but resides in Canada and intended to remain in Canada.

Our answer was that although the person could meet the eligibility requirements under section 79 of the Local Government Act 1972, they wouldn't be able to make their declaration of acceptance of office remotely and they wouldn't be able to attend council meetings remotely.

Do councillors have joint and several liability?

A council wanted our advice on a draft agreement they were presented with, which stated that councillors would have joint and several liability under the agreement.

Our advice was that there is no need for such a clause. The council is the body corporate and legal person. We presumed the agreement was the party's standard agreement and did not take into account the corporate nature of councils. The request also highlighted the importance of councils seeking legal advice when presented with drafts by other parties and not unwittingly signing up to onerous conditions.

Councillors speaking at planning inquiries:

We were asked whether it is advisable for councillors to speak at planning inquiries.

The question is not a legal one as such and we provided practical advice. It was our experience that the planning inspector will usually ask at the beginning of the inquiry who wishes to speak/make representations. Interested parties are encouraged to take part in the inquiry as local knowledge and opinion can often be a valuable addition to the evidence given by the appellant and the Local Planning Authority (LPA). It is usually the chair of the council who makes the representations for the council. The LPA ward councillor might do so if there are numerous parish/towns within the ward making similar representations, and there are numerous parties wishing to speak.

We recommend the following:

[Planning appeals dealt with by an inquiry: taking part - GOV.UK \(www.gov.uk\)](#)

[Guide to taking part in planning and listed building consent appeals proceeding by an inquiry - GOV.UK \(www.gov.uk\)](#)

Vexatious request vs requester

We have seen recent requests where the council has deemed a freedom of information or subject access request to be vexatious because of the person making the request. We reminded the councils that the FOI regime is purpose

and applicant blind. The question is whether the request itself is vexatious rather than the person making the request. The Information Commissioner's Office has given the following [guidance](#):

- an applicant (requester) does not need to give you a reason for wanting the information. On the contrary, you must justify refusing them information;
- you must treat all requests for information equally, except under some circumstances relating to vexatious requests and personal data (see [When can we refuse a request?](#) for details on these). The information someone can get under the Act should not be affected by who they are. You should treat all requesters equally, whether they are journalists, local residents, public authority employees, or foreign researchers; and
- because you should treat all requesters equally, you should only disclose information under the Act if you would disclose it to anyone else who asked. In other words, you should consider any information you release under the Act as if it were being released to the world at large.

Electronic printouts and wet signatures:

We were asked if council documents can be stored in electronic format for archive purposes or do they still have to be held in hardcopy format and if documents previously stored in paper format could be scanned and stored in digital format.

Our in principle advice was that an electronic printout of information would count as a hard copy unless a wet signature is required (e.g. as is the case with council minutes). For documents where wet signatures are not required, electronic records are acceptable. As such, if the historic records have been copied into electronic form then the original documents are not required. Councils may wish to consider offering original documents to local archivists.

The King's Speech: employment law proposals:

The King's Speech in July set out the Government's legislative programme for the coming year. It included an Employment Rights Bill and a Draft Equality Bill.

The Government proposals include:

- banning "exploitative" zero hours contracts
- ending "fire and rehire"
- granting additional rights to all workers from day one of employment e.g. unfair dismissal protection
- changing statutory sick pay
- making unfair most dismissals of new mothers for six months after return to work
- establishing the Fair Work Agency to enforce workplace rights.
- making changes to collective bargaining and industrial relations law

For more information see [Labour's Plan to Make Work Pay: Delivering A New Deal for Working People](#)

The Draft Equality (Race and Disability) Bill is intended to make it easier to bring equal pay claims on grounds of race or disability. A draft Bill gets an extra stage of parliamentary scrutiny before becoming a Bill.

We are aware of other mooted employment rights. We will update as and when is necessary. The Bill has not come into force as yet so no action is needed at this time.

Recent team activity

As communicated in previous Chief Executive's bulletins, we have reissued the planning LTN, consolidating a number of LTNs into one document. We also reissued the contracts LTN (basic contract law).

In out and abouts, Jane Moore, legal services manager, attended the LALC conference, held in Grantham on 24 July.

With best regards.

NALC Legal

We have also been asked to share the following information regarding Traffic Management training by the clerk to Feock Parish Council, Debra Roberts

We need to train up one of our contractors in Traffic Management to put up VAS signs around Feock parish beside the highway.

Cormac are able to deliver this course for us but we only have one contractor to attend so wondered if any other Parishes had contractors/employees that need the same training so that we could share the cost?

It is likely that the training will be run at Cormacs Scorrier Centre near to Redruth.

If we were able to fill the course with 8 attendees it would work out at £63.75 each.

This is not a full Chapter 8 course but does cover the relevant parts of Chapter 8 needed to carry out the work we are looking at having done working beside the highway.

If anyone is interested please look at the attached information sheet and please contact me directly so I can keep a list of those interested and make the arrangements. We would be happy to run it with less attendees and are just trying to keep our costs down.

Debra Roberts

Parish Clerk & Responsible Financial Officer

Feock Parish Council

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www.feockparishcouncil.co.uk

Kind regards,

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