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Sent: 05 March 2024 17:09
To: CornwallALC Enquiries; Sarah Mason (CAPTC - Town Council)
Subject: NALC LEGAL UPDATE - FEBRUARY 2024

Information Classification: CONTROLLED

TO ALL MEMBERS

We would like to draw your attention to the latest **NALC Legal Update** which includes information on **Procurement Thresholds, Local Election Dates for 2024, Funding to Schools and more – please see below:**

NALC Legal Update – February 2024

New procurement thresholds

We have updated Legal Topic Note 87 on procurement with the new public procurement thresholds that took effect on 1 January 2024 and which are updated every other year. The thresholds apply to public works, public services, and public supply contracts. You can find the updated guidance in the **members area of the NALC website** (login required).

Annual council meeting dates for councils with elections

We are asked every year there is an election to provide dates for annual council meetings. The principle for our calculation remains the same every year. It is the dates that vary.

The 2024 local election date is Thursday 2 May and councillors would ordinarily take office on Monday 6 May. As that day is a bank holiday, our view is that councillors will now take office on Tuesday 7 May making the relevant 14 day meeting period for the purposes of paragraph 7 (2) of Schedule 12 to the Local Government Act 1972 Wednesday 8-Thursday 23 May inclusive.

This an area where we are aware there have been different interpretations of the computation of days and we have not counted Sundays in our 14 day calculation.

We are also asked about the earliest date a council annual meeting can be held where there is no contested election. Our view is that where there is no contested election, so it is known whom to summons, the summons can be served with the requisite three clear days' notice, which could be the day councillors take office. Councils have to know who they need to summons so notice cannot be given before results are known where there are contested elections.

We will update our guidance in the event a General Election is called in May.

Can a council give a character reference?

We were asked recently if a council could give a corporate good character reference. Our view was that a council as a corporate body cannot "know" someone or have thoughts on a person's character. The chair and individual councillors are free to do so in their individual capacity and could relate their knowledge of a person's character to their links to or activities for the council, e.g. a person who took part in a council event. This advice would apply to other forms of reference.

Foreign convictions/ bankruptcy

We were asked about a scenario where it had been brought to the council's attention that a councillor had a bankruptcy conviction in another country. The council asked us if this was a disqualification under section 80 of the Local Government Act 1972. The relevant criterion is a bankruptcy restrictions order, however the answer was no in any event as the disqualification only applies to bankruptcy or criminal convictions if in UK, Channel Islands and the Isle of Man.

Funding to schools

A few of you have asked us recently whether councils can make grants to schools. The status of a school is relevant when considering powers related to funding. The general power of competence could apply or section 137 of the Local Government Act. If a school is a local authority school and the funding would be for recreational facilities, a council could consider using section 19 (3) (b) of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act), in cooperation with the principal authority. Alternatively, a grant could be made to the school's PTA under section 19 (3) (a) of the 1976 Act if there are concerns about double taxation, assuming the PTA is a voluntary organisation carrying on or proposing to carry on an undertaking otherwise than for profit.

The introduction of section 19A of the Local Government Act 1894 in England (see our briefing L02-23) means that councils are not prohibited from giving money to faith schools for works to school property. As with any funding request, a council would need to consider if it is reasonable and appropriate to make a grant. Our general powers LTN 31E advice would apply.

Use of clerks' addresses for documents

We were asked for advice where a clerk works from home and was concerned about their address being entered on a council document. We believe practice varies on how councils navigate this. Some councils may have a registered PO Box address for complying with service requirements.

Recent team activity

As set out above, we updated Legal Topic Note 87 on procurement in January.

On 31 January Jane gave a virtual legal update to clerks and councillors at a Buckinghamshire ALC event.

With best regards,

NALC Legal

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