

**Public Interest Report under Schedule 7
Local Audit and Accountability Act 2014**

**In respect of
Rothbury Parish Council
In relation to the year ended
31 March 2016 and 31 March 2017**



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Inside this report

Introduction

Overview

Improvement required

Summary

Introduction

BDO LLP was appointed by the Audit Commission, now Public Sector Audit Appointments Limited, as the auditor of Rothbury Parish Council (the “Council” or “You”), Northumberland for the audit year ending 31 March 2012 and thereafter. The appointment contract was novated to Public Sector Audit Appointments Limited (PSAA) following the abolition of the Audit Commission on 31 March 2015.

Rothbury is a town in Northumberland with a population of approx. 2,800. The Council requested a precept of £52,000 in the year to 31 March 2016 and £72,418 in the year to 31 March 2017.

The Council is responsible for the use of funds raised by taxation and other sources. Citizens expect the Council to account for how it has used and protected those funds.

Under the Audit and Accounts Regulations 2015, the Council is responsible for ensuring that its financial management is adequate and effective and that it has a sound system of internal control.

Under the Local Audit and Accountability Act 2014, we have responsibility to consider whether, in the public interest, we should report on any matter that comes to our attention so that it is brought to the attention of the audited body and the public. Schedule 7 of the Local Audit and Accountability Act 2014 sets out our powers to issue a public interest report and the process that must be followed by the auditor and the audited body which is the subject of the report. We carry out our responsibilities under the National Audit Office’s Code of Audit Practice.

We have issued a number of recommendations to the council over the previous years. In 2007 we noted that the council had not carried out independent internal audit. In 2012, we made recommendations relating to a lack of risk assessments, lack of Standing Orders and Financial Regulations, lack of budget monitoring and no review of the internal audit process. In January 2013, the council resolved a series of internal controls, including standing orders, financial standing orders and a complaint process intended to make the necessary improvements. In 2013 we received questions from electors, detailing specific concerns about the council’s governance, compliance with law and financial control, which resulted in issues being raised with the Council in our reports on the 2013 and 2014 annual returns.

We received formal objections under the Local Audit and Accountability Act 2014 (Act) to the year ended 31 March 2015 accounts from electors of the area. These objections resulted in schedule 7 recommendations being made in relation to the 2015 annual return.

We also received extensive formal objections under the Act for 2016 and 2017 annual returns alleging ineffective internal audit and other governance failings. The Council were copied into these objections when they were sent to us in August 2016 and July 2017.

We are mindful that the reporting periods on which we are reporting concluded some time ago and that there have been changes in the Council’s membership since then. However, we have decided to issue this report in the public interest concerning Rothbury Parish Council, its governance and controls for the year ended 31 March 2016 and 2017 to highlight improvements that can be made by the

Council. We are hopeful that this document will be used in a constructive way to improve the governance arrangements at the Council.

We have sent a copy of this report to the Secretary of State as we are required to do. We also have the power to send a copy of this report to anybody we deem appropriate. We have therefore sent a copy of the report to the Monitoring Officer of the billing authority, Northumberland County Council, and also to Objectors.

We refer you in particular to paragraphs 3 to 10, excluding 6, of Schedule 7 of the Local Audit and Accountability Act 2014 which sets out, amongst other things, the requirements for publicity, consideration and decision-making in response to this report.

The Council must consider the report in public at a meeting held within one month of receiving it.

At that meeting, the Council must decide what action to take in response to our recommendations and must notify us of this.

By issuing this report we intend to certify completion of the audit and to bring our responsibilities to an end.

Overview

Electors submitted objections to the year ended 31 March 2016 on the 5th August 2016 and for the year ended 31 March 2017 on the 13 July 2017.

The objections covered numerous issues concerning the governance and running of the both the Council and the joint burial committee. The majority of these matters are referred to in this report.

A number of similar issues concerning the governance arrangements of the Council were raised electors during the period of electors' rights for the year ended 31 March 2015 and we raised a number of statutory recommendations, issued under Schedule 7, for the year ended 31 March 2015. This report was issued in August 2016.

Some action has been taken by the Council to rectify the issues which have arisen over the past few years but a number of the issues are still prevalent. As such we feel that we should issue this report. This report is issued to ensure that the public is aware of persistent governance and financial control concerns, to assist the Council to make a plan for progress which is considered necessary, and to support regular public awareness of that progress.

Our role is not to adjudicate on the wisdom or otherwise of what the Council has done. The Council is a democratically elected body and, within the constraints imposed by the law, has significant freedom of action. But the Council has a duty to conduct its affairs in the right way - so that it complies with the law, complies with its own procedures, accounts for its resources, protects the resources entrusted to it and, vitally, can be seen to have done so.

Transparency about governance provides reassurance to citizens and it protects councillors and officers of the Council from allegations of impropriety.

The Council has a statutory responsibility to ensure that it maintains a system of internal control and governance that enables the Council to function in an open and transparent way.

It is important that the Council improves its governance arrangements to ensure it is operating efficiently and effectively and in line with the regulations and legislation which are in force.

A number of the issues highlighted in this report arise from the minuting, or lack of minuting, of decisions and a decision making process which is not in line with legislation or the Councils own Financial Regulations. The clerk and councillors should be reminded that the Council is a corporate body funded from public taxation and it must operate within the legislation and regulations which are in force. The Council as a whole can make decisions or it can delegate decisions to committees or officers. Individual councillors cannot be delegated powers.

Where several examples have been identified of any failings, we have used those examples which, in our opinion, best illustrate those failings.

Throughout this report we have referred to the clerk. The person to whom we are referring has been in position for a number of years and has also been acting in the role of the Responsible Financial Officer (RFO). We refer to the appointment of this person in more detail later in the report.

Improvement required

Appointment of Solicitor

Proper practices and legislation was not followed when solicitors were appointed by the Council.

At the 29 July 2015 meeting of the Council it was proposed and accepted that a specialist solicitor be contacted with regards to complaints received from a member of the public. No officer was delegated authority and no committee was formed to decide who to appoint as the specialist solicitor. The Local Government Act 1972, section 101, states that a Council decision may only be made at a properly constituted Council meeting or under Council delegation. Powers can only be delegated to a committee, a sub-committee or an officer of the authority. Neither the chairman nor individual councillors have the legal authority to act or make decisions on behalf of the Council.

At the 14 October 2015 meeting, under the private session, it was recorded that a meeting had been held with specialist solicitors. It is not clear who attended this meeting or what the outcome of the meeting was as this is not recorded in the minutes. However, from correspondence it appears that the clerk and a councillor attended this meeting. As no committee has been formed to appoint a solicitor it is not clear when or how the choice of solicitor was made and by whom.

On the 29 September 2015 the Council were sent an engagement letter from a specialist legal advisor.

A resolution was not passed by the Council giving authority to anyone to sign the engagement letter with the specialist solicitors, and there was no resolution made to appoint the solicitor. The clerk signed the engagement letter without council authority being delegated.

No budget was resolved by the Council for the costs which were to be incurred by appointing the advisors. In February 2016 the 2016/17 budget was resolved under the Local Government Finance Act 1992 and the budget included £15,000 for legal fees. No budget was included in the 2015/16 budget for any legal fees.

Subsequent to this appointment the Council incurred over £35,000 in legal fees in the year to 31 March 2016 and over £25,000 in the year to 31 March 2017. Therefore, costs were incurred which were not budgeted for and no resolution to vire resources from other budget headings could be found in the minutes of the Council.

Although the above costs were approved when presented for payment there is minimal record of any discussions relating to the legal fees in the minutes. Often there was discussion of the ongoing legal dispute in the section of the meeting where the press and public were excluded but no resolutions were proposed or resolved in those sections. There are, therefore, no resolutions made to proceed with legal action or to pursue the repayment of legal fees.

BDO was provided with notes alleged to have been taken by a councillor relating to the July 2015 meeting. Although no credence can be given to these notes which were provided almost 30 months after the minutes were approved, these notes suggest that the minutes of that meeting did not properly reflect a discussion which took place. It is clear however that once approved, minutes are the lawful record of decisions taken and the councillor who made these notes failed to request amendment to the minutes before they were approved. It is the duty of councillors when approving minutes to confirm that they are an accurate record of the discussions held and the resolutions adopted.

Barristers were also engaged through the specialist solicitor to represent the Council at hearings and to advise the Council which were not minuted as approved by the Council. The Council was awarded costs of £7,500 in respect to the ongoing legal case which was recorded as a receipt in the year to 31 March 2017, again this action was not resolved by the Council.

This lack of adherence to legislation and Financial Regulations by the full Council over the appointment of advisors, the budgeting of costs and the approving of actions and payments are serious governance issues. There are breaches to legislation (The Local Government Act 1972, Local Government Finance Act 1992) and the council made assurances to the public via the Annual Governance Statement, which its members were not entitled to make based on the evidence which should have been available to them. The Council should also have considered the legal action as part of the risk assessment which was considered by the Council during the years 2016 and 2017.

Recommendation

R1 A budget to be set for all anticipated expenditure in a year. If an unbudgeted cost occurs then funds to be vired, in accordance with the Financial Regulations by Council resolution, from another budget heading or reserves to meet those costs;

R2 The overspend of budgeted and unbudgeted costs to be minuted as accepted by the Council;

R3 When making decisions the Clerk to ensure that the minutes are sufficiently detailed to identify the specific factors which have been taken into account in reaching the decision;

R4 The Clerk and all councillors to ensure that all decisions are taken by the appropriate grouping of members (Council or committee) with no decision-making by individual members, and that implementation of agreed actions is the responsibility of the Clerk or committee delegated such powers.

R5 The Council should assess the risk it has created by its failure to comply with the law and internal controls.

Employment status of workers/employees

Under the Local Government Act 1972 a Council can appoint '*officers as they think necessary for the proper discharge of their functions*'. Proper practices have not been followed when staff or contractors have been engaged.

The clerk has been acting in that capacity and as the RFO for a number of years for both the Council and the joint burial committee, as well as to a number of other councils. The appointment of the individual to the role of clerk and RFO has not been minuted as accepted by the Council during the year to 31 March 2016 and 2017 or previously.

The Council could also not locate a copy of a contract of employment for the clerk and RFO during the 2016 audit. The clerk's employment contract was not discussed by the Council until the May 2016 meeting when during a private session it was decided that the clerk and chairman should 'sign the contract tonight'.

The appointment of the individual to the role of clerk and RFO has not been resolved by the Council nor has the approval of the contract of employment been ratified by the Council. This lack of resolution and contract does bring into question the legal status of the clerk and the authority given to them to undertake business on behalf of the Council.

The new scheme of delegation approved in December 2015 does state that the clerk is appointed to the role of RFO. However, the status of the scheme of delegation is uncertain as it was not listed as business to be transacted when it was adopted in December 2015.

The Council also use the services of a gardener, the contract for which was discussed during 2017. In January 2017 it is minuted in the finance and general purposes committee that two expressions of interest were received, not three quotes as detailed in the Financial Regulations, and the lowest of these was accepted by the committee. This was accepted by the full Council during their

meeting in February 2017. Therefore, proper tenders have not been sought for this arrangement for a considerable number of years.

From a review of the minutes there is no review of the tax status of the individuals now engaged by the Council to provide the gardening and grass cutting services as contractors. As such the Council may be exposed to the risk of tax and national insurance liabilities and any fines imposed should HMRC challenge the arrangement. The payments have also been made to individuals although invoices were approved to be paid to 'the village gardeners'. This could be a collective term to refer to the individuals but it should be made clear when approving the payments who specifically they are being made to.

The changes to legislation in April 2017 by HMRC now place the responsibility for ensuring that the tax is paid onto the public sector body. Therefore, the Council is exposed to this risk and should ensure that the individuals are disclosing the income received to HMRC. Although this change in HMRC regulations occurred after the end of the year HMRC have stated that existing contracts will be affected and in April 2016 they recommend that all contracts were reviewed to ensure they are compliant, therefore the year ended 31 March 2016 and 2017 and previously may be effected.

Recommendation

R6 The Council to confirm the tax status of contractors;

R7 The Council to follow Financial Regulations and ensure they obtain required tenders, quotes or estimates as required;

R8 The clerk's contract of employment to be resolved by the Council;

R9 The Council to resolve the appointment of a Responsible Financial Officer (RFO), even if the Scheme of Delegation is not rescinded.

Revising Standing Orders and Financial Regulations

Legislation and Proper practices have not been followed when the Financial Regulations were updated.

The Local Government Act 1972 states that items must be listed on the summons which should be sent by the Proper Officer. This is so councillors can prepare for the discussions which will arise and be able to debate the issues effectively in the Council meeting and take an active take part of the decision-making process.

In October 2015 Standing Orders was a summons item and it was agreed to review Standing Orders. The Financial Regulations were not referred to either on the summons or in the minutes of that meeting.

In November 2015 under '*councillor updates*', a councillor gave an update on how he together with Northumberland County Council legal department have redrafted the standing orders and Financial Regulations. It was minuted that '*Documents would mean significant changes to how RPC meet, with proposal full council meet every quarter with two standing committees having delegated power - finance and policy committee and planning and community services, with terms of reference that delegate powers to these committees*'.

In December 2015 'Standing Orders/Financial Regulations' was listed as an agenda item. No other details were given as to describe what was to be transacted. The councillor who gave the update in November emailed the updated standing orders to the clerk on 4th December and these were forwarded onto six out of the nine councillors the same day. The Financial regulations, Standing orders and scheme of delegation were forwarded by the councillor later that same day for discussion the following Wednesday. None of these documents were made available to the public.

At the December 2015 meeting the revised Standing Orders, Financial Regulations and delegated powers to include the formation of two new committees were presented for approval. These documents were all approved, subject to the Financial Regulations being subject to further review as there were some clauses that not all councillors were in agreement with. It was also decided at this meeting to appoint an interim chairman to each of the two new committees.

The revision of the Standing Orders, Financial Regulations, delegated powers and the formation of two new committees were not listed as 'business to be transacted' and the papers were not displayed on the website or made available to the public.

The Council may have been aware of the changes to the regulations which a councillor was proposing due to the November meeting discussing their replacement. However, three Councillors gave their apologies for the November meeting and did not attend so not all councillors were present.

Recommendation

R10 The summons for meetings must be maintained in accordance with the Local Government Act 1972 and only business listed on them to be transacted.

R11 Under the Local Government Act 1972 the Proper Officer is responsible for all formal communications on behalf of the council and should send all agenda related items to councillors concerning meetings.

Formation of committees

When new committees were formed legislation and proper practices were not followed.

During the consideration in December 2015 of proposed changes to the Council's governance arrangements (as described in Revising Standing Orders and Financial Regulations), the Council decided to form two new committees. However membership of the committees was not decided which is in breach of S102 of the Local Government Act 1972 which states membership must be decided along with the terms of reference and area of responsibility of the committee. There is also no record of the Council subsequently approving membership of the two committees. The committees therefore have no authority and cannot lawfully operate and any decisions made by them may be ultra vires.

The scheme of delegation which was also approved when the committees were formed also did not specify how many councillors constituted each of the committees.

These two committees met in January, February and March 2016 and throughout 2017 and made decisions such as agreeing payments to be made. They also

approved amendments to Standing Orders and Financial Regulations subject to Council approval, donations were agreed and private sessions held to discuss the budget and other matters.

The resolution to claim legal costs against an elector was proposed and seconded at the Finance and Policy committee in August 2016. There was no motion to that effect on the summons as this simply stated '*consider professional legal advice*'. This committee had no authorised membership, and was therefore inquorate, and decisions should not have been made.

Recommendation

R12 The membership of the committees to be resolved by the Council and this to be stated in the scheme of delegation.

Maintenance and provision of minutes

Minutes have not been maintained in accordance with legislation or proper practices.

It is evident from a review of the minutes that they do not record all decisions taken by the Council and as such are deficient.

Basic issues such as the date of the previous meeting's minutes which are being approved and the date of the next meeting are not always recorded, therefore it is not possible to ensure that all months' minutes are being approved, or those published on the website are complete.

The minutes published on the website can be the draft versions however the Council decided in an earlier year to not publish draft minutes. As previously noted in earlier audit reports, a proper minute book should be maintained and made available when requested. These minutes should be recorded in a book or if they are printed loose pages then each page should be numbered; initialled by the person approving the minutes and all items should be referenced. It is also good practice to initial any pages on minutes which are put into the public domain.

The Council has stated that a master set of minutes is maintained by the clerk and retained by them. The electors, despite requesting the approved minute book, were not provided with the master set of approved minutes for the year to 31 March 2016 or 2017 when they inspected the accounts. Although the Council is referencing its minutes from a review of those held at the library and those displayed in the town not all the pages of the minutes are initialled and signed.

The integrity of the Council's minutes is of utmost importance. In order to demonstrate the completeness and validity of the record of the Council's proceedings (and those of its committees), it is important that a systematic referencing system is maintained, that all minutes are properly approved and signed at the next available meeting and that a clear master set is kept by the Clerk and made available when requested.

Agenda items at Council meetings from which the public can be lawfully excluded are rare and must follow the specific rules set out in Public Bodies (admission to meetings) Act 1960'. The Council must be able to justify excluding the public by reasoned argument. However, the public are often excluded to discuss various

matters including the legal proceedings which have been ongoing with an elector during both 2016 and 2017. However, the reasons for exclusion also include discussions of items which may not be prejudicial or confidential such as budget setting discussions and matters concerning the assets of the Council or the joint burial committee.

In accordance with legislation and Financial Regulations minutes, when they are approved, should only be amended if a resolution is passed by the Council. In December 2015 under correspondence it was minuted that *'Ongoing correspondence from T Tait regarding his attendance and comments at September's RPC meeting and request minutes be altered. T Tait had been asked to attend November meeting, but had been unable to and could not see attending a meeting would make any difference. No further action to be taken by RPC'*. No resolution to amend the September 2015 minutes was made yet they were amended after they had previously been agreed.

Recommendation

R13 A master set of approved minutes to be maintained by the clerk and made available to the public when requested;

R14 The date of the previous minutes being approved and the date of the next proposed meeting should be recorded on all minutes;

R15 The minutes, although they should not record verbatim all that is discussed, they are to include sufficient detail to enable a reader to understand what was discussed and they must include all resolutions or decisions made;

R16 Motions must be clear from the summons, motions can only be proposed if on the summons, and the chair must prevent voting on any items not clear from the summons;

R17 The exclusion of the public to a Council meeting must be limited to only the items which meet the criteria of the Public Bodies (admission to meetings) Act 1960. This act states 'A body may, by resolution, exclude the public from a meeting (whether during the whole or part of the proceedings) whenever publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted or for other special reasons stated in the resolution and arising from the nature of that business or of the proceedings; and where such a resolution is passed, this Act shall not require the meeting to be open to the public during proceedings to which the resolution applies.';

R18 The reasons for taking motions into private session should be recorded against each agenda item referred to in private session. The council is required to confirm publicly, motions put, and resolutions adopted.

R19 Draft minutes to only be amended if standing orders are followed and a resolution is proposed and resolved by Council. Once approved the approved minutes cannot be amended. Any subsequent errors should be noted in subsequent minutes.

Acceptance of tenders/Contracts

When awarding contracts legislation and Proper practices have not been followed. 10.3 of the Financial Regulations states *'A member may not issue an official order or make any contract on behalf of the Council'*. The Local Government Act 1972, Section 101, also states that powers can only be delegated to an officer, a committee or another public authority.

We have noted a few instances of non-compliance with the acceptance of tenders criteria in the Financial Regulations and legislation:

- **Riverside Toilets.**

In December 2014 the decision was taken to put the opening of the riverside toilets on hold. In March 2015 the Council minuted that *'one quote had been received for the cost of cleaning the riverside toilets but one more should be obtained with the opening in May being realistic'*.

In April 2015 it was reported that a councillor had been in touch with Northumberland County Council (NCC) concerning the opening the riverside toilets despite the Council saying they were going to defer making the decision and no delegated authority had been given by the Council for this action. In April 2015 the Council minuted *'full support of the action taken'*, although no vote was taken, and also minuted that the contract with Northumberland County Council should continue until like for like quotes had been obtained. Neither of these motions were listed as summons items to be discussed.

The Council have paid NCC for this service since this date despite only a verbal instruction from a councillor, no alternative quotes being received and no contract being in place. No minuted resolution exists which states that the decision was taken that the NCC service is good value for money and alternative quotes are not required.

When payments were authorised a parish councillor who is also a county councillor breached the code of conduct by failing to declare his interests as a member of the invoicing body when approving payments to NCC.

- **Upper Coquetdale Community Transport (UCCT).**

UCCT is a registered charity local. The council has made regular monthly payments to UCCT during both 2016, 2017 and earlier. From a review of the minutes there is no resolution made by the council to fund this bus service. A councillor is a trustee of the charity, and when authorising payments, the councillor failed to declare his interest as a trustee of UCCT as he is required to do under the Code of Conduct.

- **Ride on Mower.**

In April 2015 quotes were requested for a ride on mower and a smaller petrol mower. Two quotes were received and the lowest quote was accepted with delegated authority given to a councillor and the clerk to purchase equipment *'based on whether or not training could be carried out before machinery purchased'*.

Delegated authority must never been given to councillors, only officers of the Council, and a committee can be delegated authority to take action on behalf of the Council. However, the clerk, as an officer of the Council could be delegated authority.

This machinery was never purchased from the agreed supplier.

A decision was taken at the July 2015 meeting to purchase the machinery from another bidder who was cheaper than the original quotes obtained in April 2015.

The original decision taken in April 2015 was not reversed by the Council and in accordance with the standing orders would not be able to be reversed for 6 months unless a special motion is passed. *'A resolution shall not be reversed within six months except either by a special motion, which requires written notice by at least 6 councillors to be given to the Proper Officer in accordance with standing order 9 below, or by a motion moved in pursuance of the recommendation of a committee or a sub-committee'.*

It appears from emails that a councillor contacted some suppliers and *'negotiated the best terms in respect to guarantee length, service agreement and operator training'*. From a video recording of the meeting it is also apparent that the councillor disclosed tender information to others thereby creating an advantage to the others. This therefore did not follow public authority procurement procedures.

These actions also ignored the Financial Regulations which stipulate that the clerk must obtain three quotes or three estimates. Individual councillors have no delegated powers to take this action.

Recommendation

R20 Only the clerk as an officer of the Council or a committee delegated with powers to implement agreed actions which have been resolved by the Council;

R21 If resolutions are to be reversed then a special motion must be passed in accordance with Financial Regulations.

Internal audit

The appointment of an internal auditor has not been done in accordance with Proper practices. According to the Practitioners' guide in force in 2016 and 2017 *'Internal auditing is an independent, objective assurance activity designed to improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes. The purpose of internal audit is to review and report to the authority on whether its systems of financial and other internal controls over its activities and operating procedures are effective'.*

Proper Practices state that a parish council should appoint a competent and independent internal auditor. The internal audit should include a review of both financial and governance matters, including compliance with internal controls and Financial Regulations

The Council have not properly contracted for the services via an engagement letter with an internal auditor which details down the scope of the work, roles and responsibilities of the Council or the internal auditor. Also, no resolution exists to appoint an internal auditor. It is unclear who, if anyone, briefed the internal auditor as to the requirements of the engagement as the internal audit reports do

not conform to the requirements as detailed in proper practices, The Practitioners Guide.

Although the Councils share of the financial transactions of the joint burial committee are included in the annual return of the Council there was no review of any of the figures, or governance arrangements, of the joint burial committee by the council prior to the approval of the Council's accounts or annual governance statement.

The internal audit report which was presented to the Council and minuted as reviewed did not include reference to the joint burial committee to which the Council is the host authority. An internal auditor appointed by the joint committee did issue a report on the joint burial committee but this was not minuted as reviewed by the Council before the Councils annual governance statement was approved.

This lack of review of the internal audit report demonstrates a lack of control over the joint burial committee which should be undertaken by the Council as they are the committee's host authority.

Recommendation

R22 As previously advised to the Council a letter of engagement to be put in place between the Council and the internal auditor specifying the scope of the work, the responsibilities of the Council, the internal auditor and signed by both parties and resolved by the Parish Council;

R23 The Council to review the internal audit report of both the joint burial committee and the Council to enable them to answer the Internal audit assurance affirmatively in the annual governance statement;

R24 If any actions are given by the internal auditor, agree actions for implementation of internal audit recommendations and monitor their implementation.

Approval of payments and meetings summons

The approval of payments has not always been done in accordance with legislation and Proper practices. The Local Government Act 1972 specifies under schedule 12, para 10, that the notice and summons for a meeting must '...specifying the business proposed to be transacted at the meeting'.

The calling of meetings and the issuing of summons is done within the 3 days prescribed by legislation. However, the summons does not always clearly specify the business to be transacted and as such the Chairman should not accept any resolutions for approval. Often under headings it will simply say 'discuss' with no proposed resolution stated. For example the October 2016 summons listed '*To review committee system*'. No proposed resolution was listed and no guidance is given as to what explicitly the discussion is likely to entail.

The payments to be made are listed on the summons but at three meetings during the year to 31 March 2016, and at meetings during the year to 31 March 2017, additional items of expenditure were added to the list of payments to be approved. The additional payments were simply recorded as approved in the year to 31 March 2016 and totalled over £17,000.

As these additional items were not listed on the summons then they were not 'business to be transacted' and should not have been approved at the meeting. In line with the Financial Regulations the appointed RFO should use delegated authority to approve the payments 'if payment is necessary to avoid a charge to interest under the Late Payment of Commercial Debts (Interest) Act 1998'. If this is not relevant then the payments should be deferred until the next meeting. Payments can only be authorised by the Council, a properly constituted and authorised committee or officers authorised by resolution of the council, if this is in line with the Financial Regulations.

Invoices paid between July 2015 and September 2015 were not approved at a meeting of the Council. Only some of the invoices were reported to Council at the meeting in October 2015, however, they were not resolved as accepted. They were simply listed as paid outside of the meetings.

These payments included those relating to the riverside toilets and the grass cutting equipment, which were both referred to previously in this report. A bus shelter was also paid for in October 2015 which despite being discussed at meetings for the past few years no resolution was minuted by the Council to delegate authority to an officer or committee to agree to the shelter being installed. The amount paid also exceeded the limit set by the Financial Regulations which specify that three quotes must be received for all orders over £3,000. No quotes were minuted as reviewed and accepted by the Council in relation to the bus shelter.

During both the year to 31 March 2016 and 2017 members expenses were approved for payment which had not previously been approved by the Council or included in the budget. These expenses included such items as watering equipment which could have been purchased by the Council and VAT reclaimed, if applied.

The Council therefore may not be reclaiming all VAT they are entitled to reclaim and this is therefore reducing the income available to it to allocate in its budget.

During both the year to 31 March 2016 and 2017 payments were made to lawyers. As noted previously in this report the minutes show no resolutions to appoint the lawyers and no delegated authority is resolved and given to the clerk to sign the engagement letter to engage them.

Recommendation

R25 Only payments recorded on the summons to be approved at the meeting;

R26 Payments can be approved in line with Financial Regulations if their late payment would result in interest being incurred;

R27 Payments only to be approved if the Council has previously resolved for them to be incurred.

Adherence to Financial Regulations

The Financial Regulations help to establish the financial control system and identify the general rules applicable at Council or committee meetings and in carrying out the Council's business. The Council have not always followed the Financial Regulations in force.

The Financial Regulations are in place to be followed to ensure that the Council is operating in an efficient, effective and legally compliant way.

The Financial Regulations which were in force for most of the year to 31 March 2016 specify that purchase orders must be produced for every purchase. This was not adhered to as purchase orders were not issued and reviewed by the Council prior to the costs being incurred.

The Clerk has provided a list of orders issued but this does not cover all costs incurred and there is no evidence from a review of the minutes that any purchase orders were reviewed by the Council and authorised by them during the year to 31 March 2016 or 2017.

Therefore all payments made during the year, until the Financial Regulations were replaced in December 2015, are in breach of the Council's Financial Regulations in force. When the Financial Regulations were discussed in December 2015 it may be argued that as they were not listed as 'business to be transacted' then they were not properly approved and the Financial Regulations adopted in 2013 were still in force throughout 2016 and 2017.

The Financial Regulations were updated in December 2015, see comments on pages 8 and 9, and were revised by the finance committee during 2016 and were formally approved in November 2016 by full Council. The requirement to issue purchase orders was removed from this updated version. Another revision was made in December 2016 and it was minuted that the cover page was amended.

Only two versions of the Financial Regulations appear on the Council's website. One dated December 2015 and another updated in June 2017.

The revised regulations dated December 2015 however require that '...having satisfied itself shall authorise payment by a resolution'

When reviewing the payments made during the year to 31 March 2016 only the payments authorised in March 2016 were proposed by a named councillor, seconded by a named councillor and resolved as approved.

The other meetings where payments were made the payments were simply listed as authorised. No resolutions were proposed, seconded and approved approving the amounts for payment.

During the year to 31 March 2017 payments were not proposed by a named councillor, seconded by a named councillor and resolved in accordance with the regulations on a regular basis. It would appear that only some costs added to the list of payments to be approved after the summons had been issued were proposed and seconded.

Not only is it noted in the Financial Regulations but it is also good practice to ensure that all payments approved by the Council are properly proposed, seconded and resolved. This is because a Council can only make decisions that are within its powers. These are set out in The Local Government Act 1972, as well as in other legislation. Under the Act, councils have broad powers to achieve the objectives of local government and perform their functions including safeguarding public money. This is subject, of course, to any limitations or restrictions imposed by the Local

Government Act, or any other relevant act. Due to these restrictions it is important that all payments are adequately approved before payments are made and the Council ensure they have the power to incur the costs proposed. The proposal and approval process is designed to ensure that the Council only incurs costs that it has the legal power to incur.

The revised Financial Regulations dated December 2015 have other clauses which were not met during the period to 31 March 2016 and the year to 31 March 2017:

No expenditure may be authorised that will exceed the amount provided in the revenue budget for that class of expenditure other than by resolution of the Council, or duly delegated Committee. During the budget year and with the approval of Council or its Committees having considered fully the implications for public services, unspent and available amounts may be moved to other budget headings or to an earmarked reserve as appropriate ('virement').

From a review of the minutes we found no resolutions minuted as evidence of any reserves being vired between budget headings despite budget headings being overspent. In the case of legal fees these were overspent by £35,000 in the year to March 2016 and £10,000 in the year to March 2017.

A record of regular payments shall be drawn up and presented to the Finance and Policy Committee on each and every occasion when payment is authorised - thus controlling the risk of duplicated payments being authorised and / or made.

From a review of the minutes we found no resolution minuted as evidence of this control being operational.

On a regular basis, at least quarterly, a member of the council other than the chair or a cheque signatory shall verify the bank reconciliation, sign them and report this, together with any exceptions, to the Council.

From a review of the minutes we found no resolution minuted as evidence of this control being operational.

The above recommendation was amended, sometime during 2016, to:

On a regular basis, at least once in each quarter, and at each financial year end, the Finance and Policy Committee (or a Sub-Committee) shall consider and verify bank reconciliations (for all accounts) produced by the RFO. The Finance and Policy Committee (or a Sub-Committee) Chairman shall sign the reconciliations and the original bank statements (or similar document) as evidence of verification. This activity shall on conclusion be reported, including any exceptions, to and noted by the Council

From a review of the minutes we found no minuted evidence of this control being operational.

Recommendation

R28 If budget limits are exceeded then 'corrective action should be taken' in accordance with the Practitioners' Guide. Funds should be vired from other headings or taken from reserves by Council resolution in line with the Financial Regulations;

R29 Councillors and the clerk have a duty to comply with both the law and internal controls and must follow any Regulations in force;

R30 The date and minute reference for when the Financial Regulations are approved to be recorded on them to enable a trace of any amendments being made;

R31 The Council to ensure they follow their Financial Regulations at all times.

Control of Assets

The Council have not adhered to Proper practices when maintaining the asset register. The Council does not hold the title deeds for all land held by the Council. The whereabouts of the deeds, if they exist, is unknown but it has been minuted that the Council is progressing the matter of locating the deeds.

The Council does not have a lease agreement to support payments made for the lease of land.

The burial ground, for which the Council is the host authority, is not included in its assets or recorded on its assets register.

The burial ground is included in the asset register of the joint burial committee, as noted by the internal auditor in their report to the joint burial committee. However, joint burial committees cannot hold land or property as they are not a corporate body. The land is held in the name of individuals and not the joint burial committee or the Council.

The Council should take steps to ensure that the Council's ownership of the land and other assets held and used by it, such as the cemetery land, cemetery lodge and village greens, are documented and retained by them.

A detailed asset register, which is prepared in accordance with proper practices, should be drawn up and approved by the Council as soon as possible and reviewed to ensure it is up to date on a regular basis by the Council and the internal auditor.

Recommendation

R32 The deeds of all assets used or owned by the Council and the joint burial committee to be located;

R33 The Council to ensure that the asset register is updated to include all assets under their control;

R34 The land leased by the Council to be confirmed to a lease agreement which should be put in place as soon as possible if one cannot be located.

Summary

Corporate governance underpins how parish and town councils operate. Without strong corporate governance arrangements fraud and error can go undetected and also the Council will not be able to ensure that they effectively direct and control the provision of their services to local taxpayers.

According to the Practitioners Guide, which sets out proper practices for local town and parish councils, *'good governance, accountability and transparency are*

essential to local councils and a cornerstone of the government's approach to improving public services'.

Those who are responsible for the conduct of public business and for spending public money are accountable for ensuring that public business is conducted in accordance with the law and proper standards. They must also ensure that public money is safeguarded, properly accounted for and used economically, efficiently and effectively.

In discharging this responsibility, public bodies and their management (both members and officers) are responsible for putting in place proper arrangements for the governance of their affairs and the stewardship of the resources in their care. They are required to report on these arrangements in their published annual governance statement.

In order to comply with the principles of good governance the Council must undertake to ensure that systems and processes are continually monitored and reviewed, and are kept up to date.

The Council is responsible for the maintenance of a good system of internal control and to implement a system of internal audit. The Council needs to improve its oversight of the controls in place and ensure they are fit for purpose.

Councils are accountable to the local electorate and should listen to any concerns they have. If concerns are raised these should be investigated and remedial action taken.

We have raised issues with the council over the past few years and it is hoped that this report will be used to make the improvements that are required in order for the council to function in an efficient, effective and legally compliant way and to move forward in a progressive manner.

General recommendations

R35 To be able to provide annual assurance to local taxpayers about its governance, the Council to make arrangements for the regular training of its Members and Officers. NALC training is available for Members and Officer training is provided by SLCC and CILCA



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Dated.....17 January 2018

Appointed External Auditor
March 2012 to date