

Summary and conclusions on the points raised to the auditor.

We have now concluded our review of the 2020 Annual Governance and Accountability Return which had been delayed due to issues raised to the auditor by Cllr [REDACTED]

It has been noted that in the intervening period some of the matters raised have been resolved. Others reflect purely internal matters that do not and should not be referred to the external auditor as they are matters of opinion between councilors and do not appear to affect the overall ability of the council to function.

Where matters have been raised which are felt to be within the purview of the external auditor, I have commented here.

These comments are made separately from the External Auditors Report given on AGAR itself.

Any recommendations provided here do not constitute statutory recommendations made under Schedule 7 of the Local Audit and Accountability Act 2014. Therefore, the council needs to meet to discuss the report and its conclusions as soon as practicable, most likely its next meeting.

The last correspondence received from Cllr [REDACTED] was dated 2 November 2020 and it stated that, as far as he was concerned, some of the items were resolved and some were unresolved. He also noted 'emerging issues' which I have taken note of in respect of the 2021 reporting period as they do not apply to the 2020 reporting period.

I have attempted to limit my comments to the unresolved original matters raised and how they impact or otherwise on my Report as External Auditor under the current 'limited assurance' regime.

As external auditor in relation to smaller authorities I find the volume of the internal issues of this council extraordinary and would urge the Councilors to actively work towards a conclusion. Where these matters affect the annual reporting regime it must be remembered that it is the members of the council who have a duty to their Parish to act in accordance with the necessary laws and regulations.

Internal Audit – 2019-20

The internal audit was completed by Tim Light due to required timescale. This has apparently caused a dispute with Arrow Accounting, the incumbent internal audit firm which had expected to complete the contract.

This suggests that there was potentially a failure to cancel the existing internal audit contract before appointing the replacement internal auditor. My understanding is that this was caused by a one-off late change due to covid restrictions and as such is unlikely to be repeated. If the original internal auditor fee is required to be paid then it is unlikely to be so significant as to be financially problematic for the council and it will not be illegal. Therefore, whilst the council should take steps to ensure any similar cancelled contracts are confirmed as cancelled prior to signing new contracts, I cannot see any public benefit in enquiring further into this matter.

Minutes of Meetings

The requirement of a council to keep minutes comes from the Local Government Act 1972.

The fact that minutes are recorded and approved suggests that there is a process which is being followed. As I have not attended any meetings I am not in a position to comment on the accuracy or otherwise of those minutes, it is the councilors responsibility to review, consider and comment on the minutes to ensure they sufficiently record the meeting actions and decisions as required. The minutes should then be approved.

Arnold-Baker on Local Council Administration¹ is an established guide in the specialist field of local government law. It provides the following in relation to council minutes:

7.39 Minutes of proceedings of a council and of its committees must be kept². They are intended to be formal records of official acts and decisions, not reports, still less verbatim reports, of the speeches made by councilors. Minutes should, therefore, be as short as is consistent with clarity and accuracy, and the arguments used in the discussion need be recorded only if the decision cannot be clearly expressed in any other way. Short simple minutes are less likely to be defamatory than long reports.

7.41 The minutes must be signed and loose-leaf pages initialed at the meeting which they are recorded at or the next meeting, by the person presiding thereat³, but the Secretary of State has power to make regulations permitting some other day. In the world of local councils there does not seem to be any good reason for making them⁴. A council before allowing the chairman to sign should satisfy itself of their accuracy, but discussion of the words should not be allowed to stray into the merits of the decision which they express.

The practice of signing minutes at the next meeting should not be regarded as invariable. In a difficult or complicated matter, and especially when an interval of some months or a change of membership is expected, it is preferable to adjourn while the minutes are drawn up and then to approve them then and there.

This provides that there are requirements for recording and approving minutes. The internal auditor has, as part of their process, reviewed some minutes and not reported any specific issues with them. The council should agree with the clerk how detailed, or otherwise, it requires the minutes to be to ensure it continues to satisfy the formal requirements. A process to agree minutes should be adhered to and, once minutes are approved, it should not be a regular practice for a council to amend/update them.

GDPR and potential misuse of personal data

The Information Commissioner's Office (ICO) has clear guidance which needs to be followed on this. The council has a right to hold sufficient personal data as it requires to fulfil its contract as 'landlord to tenant' in respect of allotment holders. It should keep that data secure and private. It has no right to share that information with 3rd parties nor use it itself for any other purpose without express

¹ Arnold-Baker on Local Council Administration – 10th edition

² Local Government Act 1972, Sch 12, para 41(1)

³ Local Government Act 1972, Sch 12, para 41(1)

⁴ Local Government Act 1972, Sch 12, para 41(4)

permission of the data subject. If it has been identified that data is being used for other purposes than those for which it was obtained and was being held, then the council should review its internal systems and procedures and correct them as necessary. If the breach is reportable under the ICO regulations then the council/clerk should inform the ICO as soon as possible – guidance on this can be found at <https://ico.org.uk/for-organisations/report-a-breach/personal-data-breach/personal-data-breach-examples/>.

Complaints Handling Policy

CLL [REDACTED] has ended his GDPR concern paragraph saying not resolved due to the new Complaints Handling policy. This is an internal procedure which should be fit for purpose, agreed by the council, and reviewed regularly to ensure it is appropriate and effective. There has been no evidence provided of the misuse of this policy therefore I do not consider there to be any public benefit from my further enquiry/review of this matter at this time.

Section 64 of Standing Orders – Right to Inspect Documents

CLL [REDACTED] has concluded that the council is no longer abiding by, nor accepting of, section 64 of Standing Orders. From my review of the various correspondence, he has requested and been provided with documents and/or explanations in respect of documents accessibility. He has referenced a comment from another Councilor about the volume of documents being requested. I have, however, not seen evidence that CLL [REDACTED] has not been provided with the information he has requested.

If there are significant documents which have not been provided and no reasonable explanation has been given for the non-provision, then these should be specifically identified.

Review of Risks - Legal Advice /Risk of Action

There appear to be dissenting opinions in relation to this matter. The council is required to assess its various risks. The outcome of this assessment will then require a decision as to whether further action is required.

Not all assessed risks will require further action to be taken, however all decisions should be documented, even where the decision is 'no further action deemed necessary'.

Where an action was 'to take legal advice' then the council should obtain its advice in writing. If the matter is ongoing then it is not unreasonable to expect regular updates/statements are obtained (at the very least annually), and/or retention of the final advice provided in relation to a matter is retained. Any decisions taken following receipt of legal advice should clearly identify how that advice has impacted the decision.

It was noted on the 2020 AGAR that a risk review had not been completed during the period. A reasonable explanation was provided as to why and that the review was concluded post year end. I do not consider there to be any public benefit from my further enquiry/review of this matter at this time.

Emergency protocols – Covid-19

It is reasonably allowed that councils can set up emergency committees to take decisions in extreme circumstances such as those we found ourselves in in March 2020. With emergency decision making, it may not be possible to undertake/maintain the normal level of pre-authorisation review and oversight. Where the emergency protocol is used, the council should carefully document how and why decisions have been made in case of later challenge. When the emergency circumstance has passed, the council may wish to review any issues which occurred under the emergency protocols to ratify decisions and/or look to improve them to prevent similar issues arising in the future.

My understanding is that the council was not required to activate its emergency protocols and therefore I do not consider there to be any public benefit from my further enquiry/review of this matter at this time.

Availability of deeds/lease agreements etc. for public inspection

The council is required to make available documents for public inspection. Some documents may not be held locally and therefore it may be necessary to request to view these specifically. Such a request should not reasonably be refused. However, if 'the public' do not request to view these documents it is not the same as those documents not being made available.

Where documents include personal data, it is not unreasonable for public access to be limited or for personal information to be redacted. Redaction of personal data should not be treated as information not being made available.

Review conclusion

Consideration of the points raised by Cllr [REDACTED] and the clerk's responses has not identified any specific items which require me to call on any of the supplementary powers of the external auditor to make a public interest report or a statutory declaration.

Neither do I consider there to be any matters of account for which I would apply to a court to have declared unlawful.

There appear to be internal procedures which require review and updating such as practical access to documents, by whom and when, to enable the council to operate more efficiently and effectively. There may also be some meeting practicalities which need to be agreed – such as how detailed the council requires its minutes to be.

The council may wish to approach its local association for more detailed advice on best practice if there continue to be disagreements over the currently adopted practices and protocols.

Carolyn Rossiter on behalf of Moore

22 June 2021