

EXTERNAL AUDIT – CHALLENGE CORRESPONDENCE REPORT

Challenges received against Shaftesbury Town Council's External Audit for the year
2019 – 2020

Review and report carried out by
Claire Commons, Proper Officer, Shaftesbury Town Council.



Report date: 21st June 2021

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Scope

This review has been carried out on the request of the External Auditor, PKF Littlejohn following a number of challenges submitted by an individual elector. It is a thorough examination of the challenges submitted and the Council's handling of those matter, it takes into account the circumstances which applied at the time.

Documents referred to which are in the public domain will be cited and referenced in a bibliography at the end of the report. Documents which are not in the public domain will be referenced with endnotes and appended to this report.

Reviewer

The Town Council's Proper Officer is also appointed as the Responsible Finance Officer and has carried out this review. This report is brought to councillors' attention in accordance with Financial Regulations (Shaftesbury Town Council, 2020) through a meeting of Full Council. The Corporate Body will be requested to consider and resolve the response to provide to the External Auditor

Exercise of Public Rights

The authority provided for the exercise of public rights as required in legislation (Local Audit and Accountability Act ss 26-27, 2014)

Each challenge that is submitted to the external auditor must also be copied to the authority. The external auditor must then decide whether to consider the objection.

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Extra fees may also be charged, subject to SAAA's approval, in other circumstances, for example where auditors have to:

- consider objections to the accounts from local electors, from the point at which the auditor accepts the objection as valid;
- exercise special powers in relation to the review, such as issuing a report in the public interest; or
- undertake any special investigations, such as those arising from disclosures under the Public Interest Disclosure Act 1998.

Objecting to your authority's accounts is a serious matter. It's therefore a good idea to have thought about inspecting the accounts and associated records and asking the authority questions first. It may be that the issue can be resolved without making an objection (National Audit Office, 2020)

Elector Queries

1 – Budget and Precept Setting – Requests Public Interest Report

Members are directed to the confidential paper EQ1 for the unredacted and unabridged query.

Summary of Query

That that the Council process in Jan/Feb 2020 for the authorisation of the Budget and Precept for 2020/21 is potentially unlawful.

That the Clerk did not declare a pecuniary interest.

That the Human Resources Committee signed off the budget

That confidential minutes are produced and not provided to Councillors.

That the Town Clerk is being unlawful by refusing access to financial data.

Response

The Budget was signed off by Full Council subject to the Human Resources Committee signing off the salary budget [Full Council minutes 14 January 2020 \(shaftesbury-tc.gov.uk\)](#) .

The matter of an individual's salary is exempt information. Section 3(2) defines personal data as:.. *“any information relating to an identified or identifiable living individual”*. (Data Protection Act, 2018).

Councillors conduct in relation to interests and the registration of them, are regulated by the Localism Act 201 ss26-34 (Localism Act ss.26-34, 2011). This does not

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extend to officers. In this instance the Clerk considered the request but as her individual salary was not being debated or changed, considered there was no declaration to be made.

As the budget and precept had already been resolved, the Human Resources Committee had no scope to increase the budget without returning it to Full Council. The matter of the level of budget in North Dorset is outside the scope of the audit, there are no rules for fixing the amount of salaries and councils vary widely in the amounts paid and methods by which they are calculated (Clayden, 2018, p. 84).

The Council does not produce confidential minutes as minutes of meetings are a public document.

The budget / precept was signed off by Council in accordance with the Council's financial regulations. (Shaftesbury Town Council, 2020)

It is not an audit requirement for councillors to see the individual salary, pension and NI contributions for members of staff. It is a requirement that the total salary bill is published – this is included in the Council papers and is published on the Council's website. It is a requirement that the salaries budget is properly constructed to the satisfaction full council as is confirmed when the budget and precept is resolved.

To reveal individual salary information to a councillor who has no specific role in relation to HR finance would be a data breach, exempt information defined as;

Information relating to any individual

3. Information relating to the financial or business affairs of any particular person (including the authority holding that information) (Local Government Act, 1972 Sch 12a)

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The ICO has confirmed that the council was entitled to withhold the information under section 40(2), by way of section 40(3A)(a) of the FOIA. (ICO, 2021)

Salary levels have not exceeded the scales resolved by Full Council and the Human Resources Committee checks this annual as part of its budget setting process.

2 – Covid-19 Antibody Testing Kit – Requests Public Interest Report

Members are directed to the confidential paper EQ2 for the unredacted and unabridged query.

Summary of Query

That the Council process in Mar 2020 for the ‘pledge’ of purchase of Covid-19 Antibody Testing Kit and PPE is potentially unlawful.

That a meeting was held without access to the public for expenditure.

That the Town Clerk places items on Council agendas under ‘General Power of Competence’.

Response

The Clerk and Council responded to the unprecedented situation arising from the global pandemic. At a point where it was prohibited to meet in person and before any arrangements were made for online meetings, the Clerk sought the collective views of Councillors. Society of Local Council Clerks advice at this point was *“in exceptional circumstances an Officer makes the decision inclusive of the views of members' views”*. The decision was *“To pledge £20,000 for the purchase of test kits and lancets or for*

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other need identified by Dorset Health Care if of direct benefit to Shaftesbury residents or the Westminster Memorial Hospital. Delegated to the Clerk to review any alternative proposals for the use of money and determination on whether the money is provided to Dorset Health Care in the form of a grant or the direct purchase of kits by Shaftesbury Town Council. Budget: General Reserves” The purchase was not made at this point and subsequent delegation was provided to the clerk in a formally convened online meeting. Subsequent conversations with Dorset Healthcare in relation to what assistance the Council could provide resulted in the purchase not being made and therefore the question of whether the spend was unlawful is void.

The meeting was not public as this was at the very start of the pandemic before arrangements for online public meetings were made. The consultation was with all councillors and a decision notice recorded.

The preparation of the agenda is the responsibility of the clerk (NALC, 2018), this responsibility is set out in the Council’s Scheme of Delegation. The General Power of Competence is considered the power of first resort “*A local authority has power to do anything that individuals generally may do* (Localism Act, 2011).

3 – Auditor Report – Requests Public Interest Report

Members are directed to the confidential paper EQ3 for the unredacted and unabridged query.

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Summary of Query

That the Council process in for the voting of the AGAR and all of the Internal Auditors report up to 31st Mar 2020 for Shaftesbury Town Council is potentially unlawful.

That fact that the Financial Quarterly Reporting does not go to Full Council is unlawful.

That a Councillor was 'deleted' from the Zoom meeting by the Town Clerk and the Chair and was removed from being able to vote on the whole agenda for this Full Council.

That the Town Clerk excludes Council from being able to scrutinise and comment on all of the Quarterly Financial Reports (APPENDIX D). The Town Clerk only allows the Councillors who sit on the GEM management committee to vote and discuss the quarterly financial position of council.

Response

The Council resolved the Annual Governance and Accountability Return (AGAR) at a meeting of Full Council. (Shaftesbury Town Council Scheme of Delegation, 2021)

The Scheme of delegation sets out that the General Management Committee is responsible for All matters relating to Finance, including the recommendation of the approval of the Year End Accounts & approval of the Annual Return (Statement of Accounts) to Full Council. All Councillors receive these papers and may attend the meetings where these are discussed. In addition, the Year End Accounts and approval of the Annual Return was taken at Full Council.

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The Councillor's conduct at the meeting in question was determined by the majority of members present to be significantly disruptive. In reference to 'Knowles on Local Authority Meetings'; *"The chairman of a meeting is entitled to call upon any disorderly person, whether councillor or stranger, to behave properly."* McCourt goes on to write *"Standing orders will usually set out a procedure seeking first to stop the individual member from engaging in disorderly conduct"* (McCourt, 2016). Further authority on this topic is covered in 'Arnold Baker on Local Council Administration'; *"Anyone (whether a member of the council or of the public) who disturbs the proceedings may be required by resolution to withdraw."* (Clayden, 2018). The Council's Standing Orders sets out the process and this was correctly followed.

Additional Questions from the Auditor

1 – Earmarked Reserves

Could you please send me a breakdown of the earmarked reserves as at 31 March 2020 together with any policy that the Council has in respect of the level of general reserves to be held. Can you also please confirm the procedure for the review of earmarked reserves (for example is this reviewed on a regular basis and appropriate amendments made).

Response

23/06/2020
16:07

Shaftesbury Town Council
Earmarked Reserves

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Account	Opening Balance	Net Transfers	Closing Balance
320 EMR Capital Reserve	0.00		0.00
321 EMR Capital Replacement Fund	0.00		0.00
322 EMR CCTV	0.00	5,000.00	5,000.00
323 EMR Cycle Routes	11,500.00	-11,500.00	0.00
324 EMR Playground Equipment	1,812.00	15,000.00	16,812.00
325 EMR Toilet Capital Re-build	0.00		0.00
326 EMR Swimming Pool	0.00	0.00	0.00
327 EMR Town Hall Building Fund	74,988.92		74,988.92
328 EMR Goldhill Wall	0.00		0.00
329 EMR Town Hall Energy Fund	0.00		0.00
330 EMR Ground Works Equipment	0.00		0.00
331 EMR Grit Bins	4,000.00	-400.00	3,600.00
332 EMR Heritage Style Lanterns	10,000.00		10,000.00
333 EMR Town Entrance Sign	0.00		0.00

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334	EMR Tree Removal	0.00		0.00
335	EMR Ground Planting/SIB	19.66	-19.66	0.00
336	EMR Street Furniture	24,311.04	-2,485.20	21,825.84
337	EMR Strategic Tree Works	1,973.31		1,973.31
338	EMR Toilet Improvement Fund	0.00		0.00
339	EMR Swimming Pool	29,145.52	-11,104.26	18,041.26
340	EMR Neighbourhood Planning	7,663.30	-7,663.30	0.00
341	EMR Community Chest Fund	0.00		0.00
342	EMR Traffic Calming	3,150.00	-2,495.00	655.00
343	EMR Town Centre Enhancement	7,108.71	-7,108.71	0.00
344	EMR Cemetery Enhancement	0.00		0.00
345	EMR Jubilee Steps Enhancement	10,000.00		10,000.00
346	EMR Community Hall Cockrams	13,000.00		13,000.00
347	EMR Vehicles	8,005.00	12,489.00	20,494.00
348	EMR Replacement IT Equipment	3,597.24	2,982.00	6,579.24
349	EMR A30 Allotment Site	25,000.00	-1,611.40	23,388.60
350	EMR Shaftesbury Bee Friendly	0.00		0.00
351	EMR Cobbles	1,000.00	-1,000.00	0.00
352	EMR Bus Shelters	3,500.00		3,500.00
353	EMR Mayors Charity Acc 2017/18	0.00	345.00	345.00
354	EMR Project Belle	79,250.00	8,078.00	87,328.00
355	EMR Ecology Competition	3,402.00		3,402.00
356	EMR Memorial Stones Eastern De	2,450.00		2,450.00
357	ERM Castle Hill	4,680.00	-4,680.00	0.00
358	EMR Commuted Sum King Alfreds	70,443.75	-70,443.75	0.00
359	RMR Commuted Sum Little Shilli	12,500.00	-12,500.00	0.00
360	EMR Litter Free Dorst	0.00	424.24	424.24
361	EMR Victory Celebrations 2020	0.00	3,825.00	3,825.00
		412,500.45	-84,868.04	327,632.41

Earmarked reserves are reviewed in the autumn during the budget setting process to identify any dormant or underspent projects which can be stood down and the money reallocated to limit the impact on the precept of any new projects, the budget which is resolved in January each year is then adopted. EMRs are then often reviewed again at the end of the financial year to make sure that everything is set up correctly for the coming year.

2 – Town Hall Refurbishment

Reference has been made to a budgeted item of £74,000 for Town Hall refurbishment which has not taken place. Can you please confirm that this was in the budget (which year?) and whether or not any expenditure was incurred, and what the current status is (if any).

Response

The Town Hall is a grade 2 listed building and the EMR is a standing reserve for repairs to the building. Quotes are currently being sought for a schedule of works to be drawn up so that Council can agree how to progress, work was due to start during 2020/21 but has been delayed due to re-prioritising a response to Covid-19.

Conclusion and Recommendations

This review concludes that the Council has carried out its duties in accordance with its adopted procedures and the law. It is recommended that these responses are submitted to the External Auditor to address the challenges that have been submitted in relation to the 2019/20 Annual Governance and Accountability Return (AGAR).

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