



Spaldington Parish Council



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EXTERNAL AUDITOR INVESTIGATION - RESPONSE FROM THE PARISH COUNCIL ON INDIVIDUAL POINTS

The complaints were submitted to the External Auditors by two individuals who felt that the various documents and the end of year financial management for 2017/18, 2018/19 and 2019/20 were not correct or that it meant the various pieces of legislation that the process the Council, Councillors and Clerk were obliged to follow. The complaints were submitted in the autumn of 2020 and the formal response by the Parish Council (responding to each complaint) was sent around Christmas 2020. Unfortunately it has taken 18 months for the External Auditor to fully investigate the numerous complaints and submit a formal response to the complaints.

The current administration has maintained at all times that most of the issues that the complaint as about were about decisions of a previous administration and actions of a previous acting clerk - most (if not all) if the actual core process issues had now been reviewed and the necessary standard of operation implemented to meet the legislative requirements. The current administration has at all times being open and transparent with the External Auditor so that they could establish the credibility of the complaint issues. There have been various findings by the External Auditor that have criticised the minute taking and the financial management of the previous administration - however they have noted that now there is an experienced Chair and Clerk in the roles that a lot of the process that took place during the years in question have now been strengthened and managed to meet the legislation.

Unfortunately the complaints that were submitted by the individuals have cost the community £8,900 (net) which equates to around an average of nearly £50 a property. From the 17 complaints that were submitted, six were deemed not to have met the criteria for being permitted for a complaint investigation. All the remaining 11 complaints have also been discontinued on the grounds any “...further auditor response would disproportionate [to the actual complaint]...”.

Overall the Parish Council do feel that while there are lessons to be learned, and all operational processes should be under constant review, the administration and management processes now do meet the necessary statutory obligations as well as the high standards that the community of Spaldington have a right to expect. But the Council do hope that now the overall issues that were the basis of the complaints and other legal issues can now be ‘put to bed’ and allow the Council and the Community to look forward.

Below is the list of the complaints, the findings of the EA and conclusion - as well as the SPC response:

	Initial complaint details	Findings of External Auditor Investigation	Conclusion by External Auditor	Permitted objection under 2015 AA Act	Impact and response of SPC
A	Engagement of Heptonstalls solicitors and subsequent payment of invoices.	We note that there were issues with the timings of formal decisions being made by the Council, partly due to the nature of the engagement, i.e. conflict of interest with regard to this issue of the Chair and Clerk to the Council. We note that all decisions were ratified at a subsequent meeting. In our view, the engagement of and payments to solicitors is not unlawful.	It is our view that the cost of the auditor considering these objections further would be disproportionate to the sums to which the objections relate. We are aware that there has been a subsequent employment tribunal which investigated the issues in detail.		Objection has been dismissed and the item of expenditure was found to be appropriate and legal.
B	Removal of clerk from role	We further note that the Council acted on professional advice throughout the process and in our view the Council’s actions appear to have been reasonable.	In regard to an application to the court to have this item of account declared unlawful - in our view, the item of account, being the expenditure on legal fees, is not unlawful and no further audit action is required.	YES	No further action needed.



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C	Inconsistencies between Annual Governance Statement and minutes	The Council's meeting minutes express concern over procedures and the system of internal control. Despite this fact, Assertion 2 on the Annual Governance Statement in relation to the adequacy of the Council's system of internal control has been given a positive response. The Council was an exempt authority in 2017/18 and was not subject to a limited assurance review.	In our view Assertion 2 on the 2017/18 Annual Governance Statement should have been answered 'No' in relation to the adequacy of the Council's system of internal control. It was incorrectly answered 'Yes'. The 2017/18 AGAR was exempt from limited assurance review; however, had an external auditor's report been issued, this would have been reported as a qualification of our limited assurance opinion. It is our view that the cost of the auditor considering this objection further would indicate that further consideration is a disproportionate response.	YES	It was noted that there was some incorrect input on the 17/18 AGAR by the previous administration. However as it was exempt from limited assurance no EA comment can be made. Objection has been dismissed on grounds of proportionality. No further action needed.
D	Inconsistencies between Accounting Statements on AGAR and underlying records	The bank reconciliation and other supporting documents provided by the Council do not agree with the AGAR and are confusing. The AGAR is correct and is properly prepared on a receipts and payments basis. In our view, the errors are in the supporting documents.	In our view these objections do not relate to an item of account or a governance assertion on the AGAR. Therefore, in our view, they do not meet the requirements of Regulation 17 of the 2015 Regulations.	NO	Objection has been dismissed on the ground that the objection does not meet the criteria under the Accounts and Audit Act 2015 Regulation 17 No further action needed.
E	Recording of VAT refund	VAT refund has not been recorded on the AGAR. In our view, this is correct as the AGAR is properly prepared on a receipts and payments basis and the refund was received in 2018/19.		NO	
F	2018/19 Budget setting and precept setting	The Council's budget and precept setting for 2018/19 appears to have been either weak or poorly minuted. Despite this fact, Assertions 1 and 3 on the 2017/18 Annual Governance Statement in relation to the adequacy of the Council's financial arrangements and compliance with proper practices have been given positive responses.	Assertions 1 and 3 on the 2017/18 and 2018/19 Annual Governance Statements should have been answered 'No' in relation to the adequacy of the Council's financial arrangements and compliance with proper practices. The 2017/18 and 2018/19 AGARs were exempt from limited assurance review; however, had an external auditor's report been issued, this would have been reported as a qualification of our limited assurance opinion in each year. It is our view that the cost of the auditor considering these objections further would indicate that further consideration is a disproportionate response.	YES	It was noted a significant issue was the poor minutes by the former acting clerk (who was a Councillor at the time). In addition there was incorrect data added as well as lack of proper financial management. Objection overall has been dismissed on grounds of proportionality. No further action needed.
O	Unlawful setting of 2020/21 precept				
G	Discrepancies between agenda and minutes when approving 2017/18 AGAR	The issues raised are historical administrative issues and as such do not justify further audit consideration; however, please refer to our work on Objection I below which relates to a similar matter.	In our view these objections do not relate to an item of account or a governance assertion on the AGAR. Therefore, in our view, they do not meet the requirements of Regulation 17 of the 2015 Regulations.	NO	Objection has been dismissed on the ground that the objection does not meet the criteria under the Accounts and Audit Act 2015 Regulation 17 No further action needed.
H	Issues with publication and accuracy and completeness of minutes and agendas			NO	



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I	<p>Matters involving approval, accuracy and publication of the 2018/19 AGAR and public rights</p>	<p>In our view, the approval of the 2018/19 AGAR is not properly recorded in the Council's meeting minutes and the Council's provision for the exercise of public rights in 2019/20 relating to the 2018/19 AGAR was not compliant with the requirements of the Accounts and Audit Regulations 2015. We note that the Clerk was on leave during the inspection period; however inspection was still possible. There is insufficient evidence available due to the passage of time to determine whether the 2018/19 AGAR was properly published on the Council's website.</p> <p>Despite these facts, Assertion 1 on the 2018/19 Annual Governance Statement in relation to the adequacy of the Council's financial arrangements and Assertion 4 on the 2019/20 Annual Governance Statement in relation to the provision for the exercise of public rights in 2019/20 in respect of the 2018/19 AGAR have been given positive responses. The Council was an exempt authority in 2018/19 and was not subject to a limited assurance review.</p>	<p>It is our view that Assertion 1 on the Annual Governance Statement on the 2018/19 AGAR should have been answered 'No' in relation to the Council approval of the statement of accounts for 2018/19. The 2018/19 AGAR was exempt from limited assurance review; however, had an external auditor's report been issued, this would have been reported as a qualification of our limited assurance opinion. It is our view that Assertion 4 on the Annual Governance Statement on the 2019/20 AGAR should have been answered 'No' in relation to the Council's failure to properly provide for public rights in relation to the 2018/19 AGAR. We are minded to include this as a reporting matter on the 2019/20 external auditor's report.</p> <p>It is our view that the cost of the auditor considering this objection further would indicate that further consideration is a disproportionate response.</p>	<p>YES</p>	<p>It was noted a significant issue was the poor minutes by the former acting clerk (who was a Councillor at the time). In addition there was incorrect data added.</p> <p>However as it was exempt from limited assurance no EA comment can be made.</p> <p>Objection overall has been dismissed on grounds of proportionality.</p> <p>No further action needed.</p>
J	<p>Incorrect responses on Annual Internal Audit Report</p>	<p>There are inconsistencies between the positive responses on the Annual Internal Audit Report and the actual internal controls that were in place. The Internal Auditor has indicated that they were intimidated during the audit and felt they could not give negative responses. In our view, Assertion 2 on the 2018/19 Annual Governance Statement should have been answered 'No' in relation to the adequacy of the Council's system of internal control. It was incorrectly answered 'Yes'. The 2018/19 AGAR was exempt from our limited assurance review; had an external auditor's report been issued, we would have reported this as qualification.</p> <p>In our view, as a result of the matters referred to above, Assertion 6 on the 2019/20 Annual Governance Statement should have been answered 'No' in relation to the adequacy and effectiveness of the Council's system of internal audit. It was incorrectly answered 'Yes'. We are minded to include this as an 'except for' matter (qualification) on the 2019/20 external auditor's report (see also our comments below in respect of Objection R)</p>	<p>In our view this objection does not relate to an item of account or a governance assertion on the 2018/19 AGAR. Therefore, in our view, this objection does not meet the requirements of Regulation 17 of the 2015 Regulations.</p>	<p>NO</p>	<p>Objection has been dismissed on the ground that the objection does not meet the criteria under the Accounts and Audit Act 2015 Regulation 17</p> <p>No further action needed.</p>



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K	No clerk RFO in place since October 2018	<p>We were informed that Members of the Council were covering the roles of Clerk and RFO between them prior to the subsequent appointment of a Clerk/RFO. It is a requirement for the Council to appoint an officer to be responsible for the financial administration of the authority in accordance with section 151 of the Local Government Act 1972.</p> <p>The Council was an exempt authority in 2018/19 and was not subject to a limited assurance review.</p>	<p>It is our view that Assertion 3 on the Annual Governance Statement on the 2018/19 AGAR should have been answered 'No' in relation to the Council's failure to comply with section 151 of the Local Government Act 1972. The 2018/19 AGAR was exempt from limited assurance review; however, had an external auditor's report been issued, this would have been reported as a qualification of our limited assurance opinion.</p> <p>It is our view that the cost of the auditor considering this objection further would indicate that further consideration is a disproportionate response.</p>	YES	<p>It was clear there was lack of proper management control at the time.</p> <p>However as it was exempt from limited assurance no EA comment can be made.</p> <p>Objection has been dismissed on grounds of proportionality.</p> <p>No further action needed.</p>
L	Co-option of Councillor when ineligible as not resident in Spaldington for previous 12 months.	<p>We note that section 79 of the Local Government Act 1972 specifies a number of possible eligibility criteria for holding office:</p> <p><i>(a) on that day he is and thereafter he continues to be a local government elector for the area of the authority;</i></p> <p>We note that the councillor in question not been resident in Spaldington for the previous 12 months; however, he was at the time of his co-option onto the Council and thereafter, in compliance with section 79(1)(a).</p>	<p>It is our view that the cost of the auditor considering this objection further would indicate that further consideration is a disproportionate response.</p>	YES	<p>The objection was initially dismissed on the grounds that the cooption of the Councillor was permitted under the LA 1972.</p> <p>Objection has also been dismissed on grounds of proportionality.</p> <p>No further action needed.</p>
M	Failure to provide documents under Freedom of Information Act	<p>The Council informed us that it has no record of the FOIA requests to which your objection refers. It is our view that there is insufficient historic evidence available to ascertain what has occurred.</p> <p>In our view, if the Council did not comply with an FOIA request to provide information, Assertion 3 on the Annual Governance Statement of the 2018/19 AGAR should have been answered 'No' in relation to the Council's compliance with laws and regulations. The Council was an exempt authority in 2018/19 and was not subject to a limited assurance review.</p>	<p>It is our view that the cost of the auditor considering this objection further would indicate that further consideration is a disproportionate response.</p>	YES	<p>However as it was exempt from limited assurance no EA comment can be made. Complaint should be made to ICO not EA</p> <p>Objection has been dismissed on grounds of proportionality.</p> <p>No further action needed.</p>
N	Failure to complete Declaration of Acceptance of Office of Councillor forms	<p>The three councillors did not submit the forms within the required timeframe. None of the three people to which this relates are still serving in the office of parish councillor.</p> <p>Assertion 3 on the 2019/20 Annual Governance Statement in relation to the Council's compliance with laws and regulations has been given a positive response.</p>	<p>It is our view that Assertion 3 on the Annual Governance Statement on the 2019/20 AGAR should have been answered 'No' in relation to the Council's failure to comply with laws and regulations. We are minded to include this as a reporting matter on the 2019/20 external auditor's report.</p> <p>It is our view that the cost of the auditor considering this objection further would indicate that further consideration is a disproportionate response.</p>	YES	<p>Objection has been dismissed on grounds of proportionality.</p> <p>No further action needed.</p>



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Q	Matters involving payments and receipts: payments not supported by invoices; expenditure not being properly approved; invoices omitted from VAT claim form, income not being promptly banked	<p>The Council has accepted all of the examples provided in the objection correspondence and has commented that all of the matters raised were administrative errors. In our view, there is no evidence of unlawful expenditure.</p> <p>The Council now has an experienced clerk and a new Chair in position and steps have been taken to improve systems and internal controls.</p> <p>Assertion 2 on the 2019/20 Annual Governance Statement in relation to the adequacy of the Council's system of internal controls has been given a positive response.</p>	<p>It is our view that Assertion 2 on the Annual Governance Statement on the 2019/20 AGAR should have been answered 'No' in relation to the adequacy of the Council' system of internal controls. We are minded to include this as a reporting matter on the 2019/20 external auditor's report.</p> <p>It is our view that the cost of the auditor considering this objection further would indicate that further consideration is a disproportionate response.</p>	YES	<p>There was clearly a lack of proper financial management by the former administration.</p> <p>Objection has been dismissed on grounds of proportionality.</p> <p>No further action needed.</p>
R	Discrepancies between Annual Internal Audit Report and internal auditor's checklist	<p>There are inconsistencies between the positive responses on the Annual Internal Audit Report and the responses on the internal auditor's checklist.</p> <p>In our view, the Council should have carefully considered its response to Assertion 6 of the 2020/21 AGAR as a result of these inconsistencies. The 2020/21 AGAR is not the subject of these objections.</p>	In our view this objection does not relate to an item of account or a governance assertion on the 2019/20 AGAR. Therefore, in our view, this objection does not meet the requirements of Regulation 17 of the 2015 Regulations.	NO	<p>Objection has been dismissed on the ground that the objection does not meet the criteria under the Accounts and Audit Act 2015 Regulation 17</p> <p>No further action needed.</p>

* There was no 'P' in the list of complaints