



DDI:

+44 (0)20 7516 2200

Email:

sba@pkf-l.com

Date:

29 August 2024

Ref:

Sent by email: bps0457@gmail.com

Upton Bishop Parish Council: audit of accounts for the year ended 31 March 2023

Dear [REDACTED]

Thank you for your email and attached letter of objection which was received by us as appointed auditors to the Council on 14 July 2023 in connection with Upton Bishop Parish Council (the Council). You have raised matters in respect of the 2022/23 Annual Governance and Accountability Return (AGAR).

We wrote to you on 30 November 2023 to inform you that six of your eligible objections had been accepted for further consideration. We have written to the Council and received its formal response and all of the additional information that we requested, including a number of sensitive and confidential items. All documents material to our decisions on the accepted objections are in the public domain or have previously been shared with you with the exception of confidential notes from closed sessions of the Council meetings at which the [REDACTED] was considered and a redacted copy of the associated agreement.

You have asked us to consider reporting on these matters in a public interest report and to consider the lawfulness of the items of account in 2022/23. We have considered whether each accepted objection should be included in a public interest report and whether we should apply for a declaration under section 28(3) of the Local Audit and Accountability Act 2014 (the 2014 Act) in respect of Objection 23.

Our decisions following consideration of the accepted objections under Step 3 of the National Audit Office's Auditor Guidance Note 04 are set out below:

Objection 12: You object to the internal auditor's (HALC) lack of independence.

Findings: This objection relates to the response given in Assertion 6 of the Annual Governance Statement.

We note the Council's comments that the internal auditor (Herefordshire Association of Local Councils (HALC)) was entirely independent of the Council. We are aware that the Council was using HALC's clerking services for Council meetings and also relying on their advice in the absence of an appointed Responsible Finance Officer (RFO). Although, in the circumstances, it was helpful for the Council to rely on HALC for the provision of these three different services;

PKF Littlejohn LLP
15 Westferry Circus,
Canary Wharf, London
E14 4HD

T: +44 (0)20 7516 2200
www.pkf-l.com

we can understand why the internal auditor was perceived by the objector as lacking in independence.

We understand that the HALC team members that provided Clerking/RFO services and internal audit services during 2022/23 and 2023/24 were not the same and were independent of each other. We further note that the Council has resolved to avoid this perceived conflict of interest in future years by appointing a different internal audit provider if other HALC services have been used during the year.

Conclusion: We do not uphold this objection.

Objections 18 and 21: You object to the circumstances surrounding the election of the incoming Chair, his involvement with the Council's banking arrangements and [REDACTED] prior to becoming a member of the Council, the associated breaches of GDPR and the Council's finances being under the control of one person.

Findings: These objections relate to responses given in Assertions 2 and 3 of the Annual Governance Statement.

We note that the Council had responded 'No' to Assertions 2 and 3, but were minded to investigate the circumstances of these objections further.

You allege that [REDACTED] was involved with the Council's banking arrangements in May 2022, when he attempted to update the bank mandate for the three remaining councillors. We note the Council's comments that [REDACTED] was not involved in Council decision making at this time, nor did he have access to the accounts prior to his co-option onto the Council. Although the Council states that he was simply transporting documentation between former signatories and the bank, we found no delegated authority for dealing with the bank mandate within the Council minutes and, in our view, the Council may have breached GDPR in so instructing him.

You also allege that [REDACTED] was involved with the [REDACTED] acting as 'Assistant to the Parish Council' for discussions about the Council's [REDACTED] with HALC. We have found no record of the appointment of [REDACTED] to deal with the [REDACTED] within the Council minutes and, in our view, the Council may have breached GDPR in so instructing him.

We note that the Council has commented that [REDACTED] was coopted onto the Council as a Member at the Council meeting on 27 June 2022. From a review of the minutes of that meeting, it is clear that the ongoing [REDACTED] were discussed at the meeting in closed session.

The minutes of the Council meeting on 4 July 2022 show that [REDACTED] was elected as a permanent Chair of the Council. Four other councillors were coopted onto the Council at the same meeting.

We note that the Council has confirmed that the two signatories rule is still followed within the Council's use of its bank account.

Conclusion: We partially uphold these objections and are minded to raise the possible breaches of GDPR by the Council as a non-statutory recommendation.

Objections 22, 23 and 30: You object to the Chair's decision to sign the agreement resulting from the [REDACTED] on behalf of the respondents; the Council's expenditure of approx. £8,000 on legal fees during the year (Objection 23); and the Council's 'Yes' response to Assertion 8 due to the lack of transparency to the Council of the committed expenditure as a result of the employment tribunal.

Findings: These objections relate to the responses given in Assertions 2, 3 and 8 of the Annual Governance Statement as well as items of account in the Accounting Statements (Objection 23).

We note that the Council has already responded 'No' to Assertions 2 and 3, but we are minded to investigate the circumstances of all three objections as they are linked.

We note that the Council has commented that:

- it sought to protect the liability of other respondents, but has not acted as their representative;
- the signed agreement was between the claimant and the Council exclusively. The Council or Chair did not seek to represent other respondents; however, the Council sought to minimise the liability of the other respondents by making the agreement contingent on the claimant withdrawing the claim in its entirety, including against all named respondents;
- it was within its rights to seek legal advice, which came at a cost; we concur with this view and note that the Council has powers to incur such expenditure under section 111(1) of the Local Government Act 1972;
- it was appropriate to discuss the [REDACTED] in closed session; we concur with this view.

We note from confidential meeting notes that the amounts involved in the [REDACTED] had been discussed prior to approving the AGAR, so it is clear that the Council had considered the ongoing/just completing litigation and, in our view, a 'Yes' response to Assertion 8 was appropriate.

Conclusion: We do not uphold these objections.

Having considered whether each accepted objection should be included in a public interest report and whether we should apply for a declaration under section 28(3) of the 2014 Act in respect of Objection 23, we have decided not to take either course of action.

Please note that there is no right of appeal against a decision not to issue a public interest report in respect of any of the objections. With regard to Objection 23, you have a right to appeal our decision not to apply for a declaration under section 28(3) of the 2014 Act. Should you wish to do so, you must appeal to the High Court within the period of 21 days beginning with the day after you receive this statement of written reasons.

At this stage, we would like to remind both you and the Council of the need to ensure compliance with relevant data protection legislation (including GDPR). This could include, for example, redacting personal information (such as the objector's name, address or other identifying information) from any subsequent publication or sharing of the objections and related correspondence.

Yours sincerely



PKF Littlejohn LLP

cc Upton Bishop Parish Council c/o [REDACTED] – Council Clerk/RFO