

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

**In respect of
Ulley Parish Council
In relation to the financial years ended
31 March 2015, 2016 and 2017**



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Inside this report

Introduction

Overview

Improvements required

Recommendations

Summary

Introduction

BDO LLP was appointed by the Audit Commission as the external auditor of Ulley Parish Council, South Yorkshire (the “Council” or “You”), for the audit years ending 31 March 2012 to 31 March 2017. The appointment contract was novated to Public Sector Audit Appointments Limited (PSAA) following the abolition of the Audit Commission on 31 March 2015.

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 and the Accounts and Audit (England) Regulations 2011, 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 and the Audit Commission Act 1998, 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 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 Ulley Parish Council, its governance and controls to highlight improvements that should be made by 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. As this report concerns the theft of public money we have therefore sent a copy of the report to the Monitoring Officer of the billing authority, Rotherham Metropolitan Borough Council, as they are the principal body responsible for the Council.

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 on the Council 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.

This report covers the three years to 31 March 2017 which we did not close until the case against the former clerk was concluded. By issuing this report we intend to certify completion of the three years of audits to 31 March 2017 and to bring our statutory audit responsibilities to an end.

Overview

Ulley is a small village situated above Ulley Country Park, South Yorkshire. With some 79 properties and around 180 residents, village amenities include a Recreational Ground and a village hall. It has a Parish Council with 5 elected members and a parish clerk. In 2015 the then parish clerk had been in the position for approximately 18 years.

We had not previously concluded on the audits for the year ended 31 March 2015, 2016 and 2017 as we were informed in 2015 that the former parish clerk had been suspended and the accounts were being reviewed by the chairman with the police.

The former clerk to the council was charged with fraud by abuse of position between 1 April 2010 and 20 June 2015. They were charged with taking £15,997, however, they pleaded guilty to approximately £10,000 which was accepted by the Crown.

The former clerk was charged in March 2017 and received a suspended imprisonment of 12 months wholly suspended for 24 months, unpaid work requirement of 175 hours and compensation of £10,000.

None of the money taken by the former clerk from the funds of the Council has been recovered by the Council and the Council is not in the process of trying to recover any of the amounts in line with advice they have received.

In early 2015 the former clerk failed to set the budgets for the 2015/16 year and the Chairman at the time became concerned about his ability to perform his duties as Parish Clerk. The former clerk attended the January 2015 meeting, when the budget should have been sent, but no documents were presented, and then after this time reported himself as sick. The former clerk was suspended in May 2015 due to absence from meetings and lack of communication with council members and resigned in July 2015, returning two cheque books but no other council records despite these being requested by the chairman at the time and another councillor.

A former clerk was able to commit the fraud due to the weak governance arrangements which existed at the Council and the high level of trust they placed in the clerk to do the role. Payments were not regularly approved at meetings, budgets were not monitored and no review of the bank was undertaken by the councillors.

This lack of embedded controls over receipts and payments of the former clerk allowed him to make cheques payable to himself, which were fraudulently signed by himself, and banked. This was not detected as regular reviews of payments made was not undertaken by the Council members.

The former clerk confirmed to the police that his annual salary was £1,188 but from a review of the cheque payments compiled by the police it was apparent that he had been paid £5,436 in the year to 31 March 2014, £4,998 in the year to 31 March 2015 and £2,227 since April 2015 until he resigned in July 2015. There were cheque payments found to have been made, which were written after the former clerk was suspended, which were not signed by current members of the Council.

From a review of the bank mandate undertaken by the police, which is referred to in statements from witnesses, it was noted that it only includes the councillors who were serving at the time the clerk was appointed. The bank have confirmed to the Police that it has not been updated since 1998. The chairman told the Police that

the former clerk had told the councillors in 2015 that the bank mandate had been updated to include their signatures but this had never been done.

The former clerk under police caution confirmed that the records were 'poor and in fact that he didn't keep any records as such'.

The former clerk claimed under interview that he was owed money for using his home as an office, heating, lighting, phone calls, broadband, printing and postage over the 15 or 18 years he was working for the Council. However, he did not get Council approval for payments to cover these costs and he did not have a contract of employment which stated he was entitled to these payments.

The former clerk also felt that the lack of job description and supervision and the fact that he was never interviewed and assessed for the role of parish clerk was an issue that the Council should have resolved. However, he never raised these concerns with any of the councillors when he was undertaking the role of clerk. However, the former clerk's comments do highlight a lack of governance arrangements around the appointment of the clerk which should be rectified.

The Council has a statutory duty to follow Proper Practices which are detailed in Regulation 33 of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (made under section 21 LGA 2003) provides that in relation to Category 2 authorities (other than internal drainage boards), proper practices refer to "Governance and Accountability for Local Councils: A Practitioners' Guide (England) March 2014". 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 income which it receives from public taxation, protects the resources entrusted to it and, vitally, can be seen to have done so.

Transparency about governance provides reassurance to citizens and 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 continues to improve its governance arrangements to ensure it is operating efficiently and effectively and in line with the regulations and legislation which are in force.

Improvements required

Employment of clerk

The former clerk was self-employed with no contract of employment. He was responsible for paying his own Tax and National insurance on his earnings. Under police caution the former clerk confirmed that no tax or national insurance was paid on the amounts he received from the Council. Under HMRC guidance issued in April 2011 the clerk of a parish council should always be an employee.

When the former clerk was employed no formal interview process took place, no contract of employment was signed by both the clerk and the Council were not registered with HMRC as an employer, so no tax or National insurance was paid on any salaries paid. There was no ongoing review of the job and no job description was established.

The former clerk was allowed full control over the bank account and was expected to deal with all of the financial transactions on behalf of the Council, yet no oversight of this was undertaken by the Council.

When seeking to appoint a new clerk it is essential that the council as a whole, or a committee delegated with powers, engages in the employment process. The National Association of Local Councils (NALC), the main advisory body to parish and town Councils, offers advice about the required skills needed to be a clerk and it is recommended that these are reviewed and tailored for the council's specific needs as part of the process. NALC also provides model contracts of employment.

When a preferred candidate is identified, the council should consider this at a meeting, and pass a resolution confirming their decision to appoint. Thereafter, the candidate should be issued with a contract of employment which states their and the Council's roles and responsibilities.

On an annual basis, normally around the budget setting time, the clerk's salary should be reviewed in line with NALC guidance and any change agreed by Council to allow for the budget to be set. The employee budget should include all costs associated with the employment such as pensions, allowances etc. The clerk should also have an appraisal on a regular basis

There have been a few clerks in place since the former clerk was suspended. We are pleased to note that the council registered with HMRC in November 2015 and the clerk is now an employee with job descriptions and an employment contract. However, from a review of the minutes we have not seen any minuted resolutions to appoint new clerks. When the current clerk was appointed it is just minuted that the old clerk resigned and the new clerk was appointed. It is not clear from the minutes how the current clerk was selected and who made the decision to appoint them or on what terms and conditions.

Governance Arrangements

The Chairman of the Council, who served before and during 2015, who gave statements to the Police stated that *'he never saw the former clerk attend any meetings with any ledgers or paperwork for the finances, except for a yearly spreadsheet with the proposed budgets which were suggested by him.'*

There were no reviews of bank reconciliations' checks by any members as is required by proper practices, there was no budget set for 2015/16 by the Council and no review of payments made on a regular basis. When the budget was set for 2014/15 it was suggested by the former clerk and accepted by the Council but no monitoring of it was undertaken during the year.

From a review of the minutes it is also clear that payments were not being resolved and approved by the Council on a regular basis. Only in March 2016 did payments appear in the minutes as resolved at meetings. In these circumstances it is possible that all unapproved payments are unlawful.

For the year to March 2016 there was no budget set by the Council despite a precept request being made by the former clerk. This lack of a budget is a serious concern as without a budget the Local Government Finance Act 1992, which states that every smaller authority must make calculations to calculate a budget, has been breached.

In the years when a budget was set, as no financial records were brought to any meetings by the former clerk, there was no review of payments being made and no comparison to budgets set. This is a requirement of good practice which states that regular budget reviews should be undertaken.

As a minimum a clerk should keep a cash book which enables the tracing of payments made and received to be done at any time. The Council should expect that a summary of this cash book should be brought before the Council on a regular basis and reviewed by councillors.

It is the responsibility of the Council under the Audit and Accounts Regulations 2015 to give *'instructions given by a relevant authority to its responsible financial officer, that officer must determine, on behalf of the authority–*

- (a) the form of its accounting records and supporting records; and*
- (b) its financial control systems.*

It goes onto state:

- (a) entries from day to day of all sums of money received and expended by the authority and the matters to which its income and expenditure or receipts and payments relate; and*
- (b) a record of the assets and liabilities of the authority.*

No bank reconciliations were undertaken and presented for review to the Council by the former clerk. This is a good internal control and should be undertaken regularly to ensure all payments made and receipts received are accounted for correctly. This control coupled with the budget setting and review are the cornerstone of all good internal controls procedures.

The lack of oversight by the Council and the lack of controls undertaken by the former clerk enabled the former clerk to fraudulently take money which he was not entitled to. The council did have one procedure in place which they believed was sufficient and this was the two councillor signatures were required on all cheques. However, the previous clerk forged signatures on cheques presented for payment and this was not detected, a there was no policy for approving payments at the bi-monthly meetings or reviewing of budgets undertaken.

We note that a budget was in place for 2016/17. From a review of the minutes it is also clear that updates are given by the clerk on the level of the bank balances held

and bank reconciliations are now undertaken. It is not clear, however, from a review of the minutes the extent of any monitoring of the budget which is undertaken.

Internal audit

One of the corner stones of good governance is the statutory requirement to have an independent internal auditor. The internal auditor appointed should be both independent of the Council and councillors and competent to undertake the role. As part of the role they should report back to the Council on any improvements which could be made to internal controls. The Council did have an appointed internal auditor but they never appeared to highlight any improvements required to the Council. From a review of the minutes for the years under audit we could find no reference to any reports from the internal auditor being put before the Council for review.

Policies and procedures

In November 2015 the Council resolved a number of policies and procedures including those related to staffing and finances. Before this time there were none in place therefore the Council was not operating efficiently and effectively during these previous years, and an environment in which it was easy for the fraud to be perpetrated existed.

A few of its policies and procedures are available on the Council website but not all of them are.

Statutory Recommendations

R1 When appointing a new clerk standard proper practices should be followed. When an individual is selected this decision to be brought before the council to be resolved.

R2 A contract of employment must be signed by both the new clerk and the council on appointment.

R3 Update the website with all policies and procedures which are currently in force.

R4 Oversight of the bank reconciliations and financial records to be undertaken by the Council and reported in the minutes.

R5 Internal audit should be undertaken in accordance with Proper practices.

R6 The budget to be regularly reviewed during the year and all movements investigated. This review to be minuted to evidence that it has taken place.

Summary

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 Ulley Parish Council, its governance and controls to highlight continuing weaknesses in its arrangements and improvements that can be made by the Council.

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, or provide assurance to taxpayers, that they effectively direct and control the provision of their services.

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.



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Dated.....14/9/12

Appointed External Auditor
March 2012 to date