

Waterbeach Parish Council

Annual Return 2013-2014 – Statement of Governance

At the Finance Committee meeting on June 10th, some discussion took place concerning two of the questions in the Statement of Governance (3 and 8) to be agreed at the Extraordinary Parish Council meeting on June 17th. This is a summary of the points raised so that members of the Council can consider the points before the meeting.

Please note that this summary should normally be written by the Clerk, but in her absence on holiday it seemed expedient for them to be written by the Chairman of the Finance committee.

The questions are quoted below together with extracts from the 'Practitioners Guide 2010' which can be found at http://www.nalc.gov.uk/Latest_News/Governance_and_Accountability_2010.aspx

Question 3

3. 'We have taken all reasonable steps to assure ourselves that there are no matters of actual or potential non-compliance with laws, regulations and codes of practice which could have a significant financial effect on the ability of the council to conduct its business or on its finances.'

4. 'We have provided proper opportunity during the year for the exercise of electors' rights in accordance with the requirements of the Accounts and Audit Regulations.'

2.44 The third and fourth statements cover the local council's responsibility to act within the law and to put in place proper arrangements to ensure that its financial affairs are conducted in accordance with the law and relevant regulations, including providing the opportunity for electors to exercise their rights to inspect the financial records and ask questions of the auditor.

2.45 The third statement confirms that the council has only done things that it has the legal power to do, and, at the fourth statement, confirms that it has during the year allowed all persons who may be interested the opportunity to exercise their rights. A positive response confirms that the council has also complied with the codes of practice which it has endorsed and adopted to regulate the way in which it carries out its business.

The concerns expressed here were in connection with decisions made by, in particular, the Employment Panel, which one member felt were not covered properly by decisions made by the Parish Council. In particular, there is a conflict between the original terms of reference of the panel which state that 'The Employment panel has no delegated authority but will act to provide recommendations to the Council and advice to line managers and employees' and some decisions of the panel in respect of expenditure on legal fees.

At the Council meeting on May 7th, 2013, it was agreed to 'grant both [employment and disciplinary] panels delegated powers, with a limited spend up to £2000 for advice and services'. It is also the case that, as far as can be seen from the minutes, the Chairman and Vice Chairman are specifically excluded from being members of the Employment Panel and certainly during the past two years both have attended meetings.

Although this could mean that some of the decisions to spend money have been made incorrectly, it should be pointed out that all cheque payments are approved at a Council meeting and so no funds have been paid out without the Council's approval.

If the Council feels that it is unable to answer 'Yes' to question 3, then it is obliged to add an explanation for the external auditor together with action taken to address the weaknesses being identified. A suitable explanation could be:

The previous Clerk resigned in July 2013 and we were served by a temporary Clerk until the appointment of our new Clerk in December. During that period, some of the procedures of the Council were not fully under the control of experienced staff resulting in some decisions not being made with the full approval of the Council.

Now the new Clerk is in place, the Council is confident that the governance of the Council will be kept under proper supervision.

Question 8

*8. 'We have considered whether any litigation, liabilities or commitments, events or transactions, occurring either during or after the year-end, have a financial impact on the council **and**, where appropriate have included them in the accounting statements.'*

2.47 The eighth statement covers the local council's responsibility to conduct its financial affairs and to put in place proper arrangements to ensure that its financial standing is soundly based.

2.48 This statement provides assurance that the council has considered and disclosed in the annual return all matters relevant to its business, including any relevant events which have taken place in the period between the end of the financial year being reported and the date of the annual return, which could have an impact on its ability to continue its work.

The issue here is whether the question should be answered 'no' in view of the continuing litigation between the former Clerk, Mrs Sarah Smart, and the Council.

As Councillors will be aware, following her dismissal from the post of Clerk, Mrs Smart took the Council to an Employment Tribunal in July 2012 claiming unfair dismissal. Judge Hepworth found that the dismissal was fair.

Subsequently, Mrs Smart took a case at the Employment Appeal Tribunal which was heard in February, 2014. At that hearing, HHJ Shanks said:

It seems to me that, regrettably, the Employment Tribunal has not supplied sufficient reasons in this case and that its conclusion cannot therefore be supported, and that the matter will have to be remitted for further consideration. When I say "the matter", I mean the question of whether there were reasonable grounds for the conclusions reached by the appeal panel, and it will need to focus very clearly on that.

He therefore allowed the appeal on the grounds that Mrs Smart was 'entitled to proper reasons'.

The Council should be reminded that a similar issue came up in regard to the original claim when completing the Annual Return for 2011-2012. At that time advice was sought as to whether the existence of the claim should cause the Council to answer 'no' to question 8 and the general advice was that it should consider the matter carefully but that the mere existence of the claim should not imply a 'no' answer. In fact, the annual return in that year was not submitted until after the judgement of the Tribunal, so the matter did not come up.

The Council is in a similar position now, and needs to decide how to respond to question 8.

Michael Williamson, Chairman Finance Committee.