



## Independent Review Report.

Council:	Bardney Group Parish Council
Author:	Mr A. Everard, Deputy Chief Executive
Date of Report	7th August 2023

This report has been commissioned by Bardney Parish Council to undertake an independent review of the parish council's internal controls and governance. After a review of minutes, accounts and other documents the findings are being reported with a number of recommendations that will improve the council's operations designed to improve the effectiveness and efficiency of the activities and operating procedure.

Managing the council's internal controls should be a day-to-day function of the council through its staff and management. This report is based on the evidence made available to me and consequently the report is limited to those matters set out below. It is not the purpose of this report to investigate any fraud or error, however, some issues highlighted may lead to further enquiries.

# Lincolnshire Association of Local Councils

## Independent Review Report

### **1. To the Chairman and Councillors of Bardney Group Parish Council**

1.1 I have undertaken a number of tests and checks on the documents, accounts and other evidence held by the council and I have been able to undertake walkthrough checks to see if the procedures and policies adopted by Bardney Parish Council appear to be fit for purpose and being operated. I have had no involvement with Bardney Group Parish Council prior to this review.

1.2 The aim of recommendations in this report is to improve the governance and operations of the council to make sure these are lawful, effective, efficient, economic and that the council can ensure its operations are transparent for taxpayers and electors who wish to hold the council to account.

1.3 Through the Chair of the Parish Council some councillors raised several questions about the operation of the council, and these are listed in Appendix 1 – it is not possible to answer every question in detail but some of the questions posed highlight a weak internal control or Proper Practice that is picked up in the recommendations made in this report. Where necessary I have undertaken specific tests to check and advise on Proper Practices and best practice within the body of the report if these raise any issues that need the Council to change their procedures or operations.

1.4 The Council's attention is drawn to the JPAG Practitioners' Guide which Responsible Financial Officers should apply in all financial matters relating to the council.

### **2. Context for this review**

2.1 A new council was elected in May 2023 and a new Clerk will be appointed shortly following the resignation of the previous Clerk. The new council want to ensure that the current working arrangements are operating and where appropriate to identify improvements.

### **3. Auditor reports**

3.1 There was an internal auditor annual statement produced by the internal auditor that indicated that no significant issues arose from their testing over the past 4 years. An imbalance between the accounting system and HMRC had been identified in 2018/19, 2019/20.

3.2 The external auditor indicated that they considered there was a lack of detail in the minutes for approval of Section 1 and Section 2 of the Annual Governance and Accountability Return for 2020/21 financial year.

### **4. Governance and Internal Controls**

4.1 The NALC model Standing Orders appear to have been put into place but they had not been updated to show how they operate for Bardney Parish Council, for example, Standing Order 13, options for who decides dispensations had not been adopted (either the Council or the Clerk (not both), and Standing Order 15 Planning Applications and Standing Order 20 Information Management it was not clear who has responsibility to deal with these issues when they come up. This can lead to confusion and challenges/complaints if they arise. The Council seems to have Financial Regulations in place but they are out of date as they refer to the Audit Commission and repealed legislation and have been modified to give more delegation to the Clerk in paragraphs 3.4, 4.1, 10.5, 10.6 and section 20 and 21 but effectively this leads to duplicated delegations and confusion. There is no mention in minutes when these delegations have been used so effectively the parish council has lost internal control of some spending decisions. It is usual for the scheme of delegation to be stated only in paragraph 4.1 and therefore not mentioned elsewhere in the Financial Regulations.

4.2 The Council does have a Code of Conduct but it is out of date as West Lindsey District Council has adopted the LGA model Councillor Code of Conduct (issued in 2020-21) and the parish council should bring its Code of Conduct into line with all of the principal councils across Lincolnshire as all breaches of the Code will be investigated by the Monitoring Officer of West Lindsey District Council. Parish Council declined to adopt the latest Code of Conduct in Minute 66-2022/23 and failed to appreciate there had been changes to the law since the previous code was adopted in 2018. The new model Code of Conduct reflects that change in the law.

4.3 A Complaints Procedure has been adopted and it is accessible via the website.

4.4 Insurance policies displayed on the website expired on 31<sup>st</sup> May 2023 (Public Liability/ Employers).

4.5 The Parish Council adopted a Publication Scheme under the Freedom of Information Act 2000 Ss.19 & 20 in 2016.

4.6 Data Protection Policies are available to view on the website (dated from 2018) but they refer to the Town Council in places suggesting it has been copied from elsewhere but not carefully considered before adoption.

### **4.7 Recommendations**

- a) The council should adopt up to date Standing Orders, Financial Regulations, and Councillor Code of Conduct and ensure the Data Protection Policy and Freedom of Information Policy and Publication Scheme is brought up to date as soon as possible.
- b) Current insurance employer and public liability insurance certificates should be displayed on the website.

## 5. Transparency

5.1 While the parish council is not subject to the Transparency Code for Smaller Authorities it has adopted a model Publication Scheme under the Freedom of Information Act 2000 and undertakes to publish a lot of information as stated under its adopted (in 2016) Freedom of Information and Publication Scheme Policy displayed on its website.

5.2 The Council publishes its Annual Governance and Accounting Return and regular monthly spending returns. It would increase transparency if the full year to date transactions were published and end of year spending against budget totals were published. It is not clear from the current bank reconciliation format and the payments for ratification process how much is being spent against the approved budget line. A percentage spent alone is not sufficient.

5.3 Many of the financial and audit documents on the website for previous years are inaccessible by the public when they try to access them. It is good practice to have the last 5 year's of financial accounts to be shown on the website. Having discussed this issue with the website administrator at Lincolnshire County Council this may be due to the number of 'homepages' created (they recommend that no more than 6 homepages exist on the website). A review of the website structure with the technical skill may be needed to correct this.

5.4 Minutes of meetings lack the detail to be sure what has been approved by resolution, such as, Minute 23-2021/22 regarding St Oswald's Feast and 24-2021/22 regarding the Parish Office. The minutes do not state what was decided, what was approved to be spent or the supplier chosen, or the action to be taken. This means that it is not easy to decide if spending was lawful or not or in accordance with Financial Regulations and Standing Orders. Regulation 7 and 8 of The Openness of Local Government Bodies Regulations 2014 would require a more open approach particularly if the implementation of a decision is delegated to an officer of the council. Councillors may only make a decision when they are in a meeting of the parish council or a committee and most operational matters are then delegated to the Clerk or other officer to implement. This process does not appear in minutes. Vague, incomplete and unspecific minutes do not assist transparency and the process of holding the council, councillors and officers to account and may affect the reputation of the council and result in challenges to the external auditor.

5.5 The minutes displayed on the website show frequent agenda items where the public and media were excluded from the meeting under the Public Bodies (admissions to Meetings) Act 1960 when the council went into a closed session. The resolutions decided by the parish council during these items are not recorded in the minutes or displayed on the website which is not lawful. There cannot be 'secret' minutes – all resolutions made by the parish council must be explicitly recorded within the minutes. The discussion and debate during a confidential item should not be recorded but the resolution must always be recorded as they form the historic adopted record of all decisions made which can be viewed at any time in the future or presented to a court as evidence of the council's decision in years to come.

5.6 Typical items that may be considered in a session where the public and media are excluded may be employment matters affecting an individual staff member, considering tenders and quotations, legal matters and an issue concerning an individual person or family where confidential information needs to be discussed – but the council's resolution should be published. A confidential discussion and vote should not be used to hide matters that should normally be discussed in public.

5.7 There are three types of interest that a councillor must consider declaring – pecuniary interests, other registerable interests, and non-registerable interests. The parish council's Code of Conduct needs updating. The legal responsibilities for the council and individual councillors are stated in Ss28 – 34 Localism Act 2011. A dispensation was requested in minute 107-2022/23 for a councillor but there is no resolution recorded as to whether it was granted or not. A further issue identified in the parish council minutes (minute 77-2022/23) is that quotations and tenders are considered 'blind' by the councillors so that they do not know who has submitted the quotations or tenders – this has the unfortunate effect of allowing a councillor who may have an interest in a matter being discussed to fail to declare that interest because the names of the businesses seeking the contract are not disclosed to the councillors or to the public – the failure to declare an interest may be a criminal offence under S.34 Localism Act 2011. The Council's

process can allow a councillor's interests to remain hidden and yet they may influence the debate and vote. Hiding the information also means the public find it harder to hold that councillor to account. All contractors/businesses being considered must be disclosed before the matter is discussed by the council in the agenda or before that agenda item proceeds. Even if the bids are considered 'blind' by labelling quotes/tenders A, B, C, etc the council is not obliged to select the cheapest because there may be issues such as due diligence, capacity, prior knowledge of complaints and quality that should always be taken into account before making the final decision and this should be recorded within the information provided to councillors. Failure to do this will result in higher risks for the council. The minutes should also be clear what has been decided (see Minute 39-2022/23) so the name of the business awarded the contract for insurance and the amount to be paid should be clearly minuted – it did not occur in this minute. In this instance it is also odd that the matter has already been decided prior to the meeting and remains undisclosed. Further minutes (see 40-2022/23, 43-2022/23, 44-2022-23) show that the council did publish business names and costs if displayed on the internet. The resolutions should always state the business awarded a contract and the amount approved by the council

5.8 The law in S.26 Accounts and Audit Act 2014 states that all accounting documents and related documents are disclosable except for confidential information

- protected on the grounds of commercial confidentiality where there is no overriding public interest to disclose or
- the matter relates to personal information such as staff but this does not relate to an individual who is a sole trader.

There is no legal reason not to disclose business names of companies, sole traders or other organisations – their names are in the public domain and not restricted by Data Protection Act or GDPR provisions and their consent to publish their business name is not required. The Council can make it clear in any procurement process that they must disclose the names of businesses they deal with.

5.9 My attention has been drawn to the planning for St Oswald's Feast, the costs of the move of the Parish Office and costs incurred to obtain legal advice. The minutes tend to contain little or no information on this spending and background papers are limited. It is unclear that the parish council were fully aware of the costs to be incurred and approved them and there is no evidence that decisions were being made by either a committee or the parish council and actions delegated to the Clerk. It gives the impression that the spending was not controlled well by the council and certainly not spent in a transparent and accountable manner.

5.10 While there has been an emphasis on Data Protection and not putting information into the minutes for this reason it is noticeable that the Clerk and Chair of the Parish Council have issued statements at the meetings and these have been published verbatim in the minutes. This is not good practice. Only a summary should be published and the parish council must ensure that the names of members of the public is not contained in the minutes (other than parish councillors and officers) to reduce the risk of breaching data protection and rules of defamation (see minute 150-2022/23 where three members of the public are named). Members of the public have the right to have their names removed from the adopted minutes if they exercise their rights under the Data Protection Act 2018. It is also unnecessary to reproduce a whole policy in the minutes (as in minute 153-2022/23) which is labelled 'draft' and the council did not resolve to adopt any amendments. It is unclear in many minutes what was decided at the meetings.

Examples of effective minute-taking would be as follows

*The Clerk reported that work had been completed on the items in minutes 157-20XX/XX, 164-20XX/XX.*

*a) It was proposed, seconded and RESOLVED that the report from the Clerk was noted.*

*b) It was proposed, seconded and RESOLVED to approve the 'Allotment Policy – Health Issues and Community Groups'.*

*c) It was proposed, seconded and RESOLVED to approve the purchase of new laptop, mouse and software for £675 from Amazon and the purchase is delegated to the Clerk to implement.*

d) *The Chair made a statement to the meeting highlighting the following issues*

- *a meeting with the X group, LCC Highways Officer, and a resident over the state of parking on Any street.*
- *Progress has been made organising the next community event and an item to approve the risk assessment, insurance cover and suppliers is on the agenda.*

5.11 It appears that the council may have assumed that it can delegate issues to working parties or sub-committees led by a councillor or some individual and left them to get on with the work. There is no legal power to do this – they must bring their recommendations back to the parish council or committee and only properly summoned meetings with agenda called by the Clerk can decide and pass resolutions on the spending and procurement to be undertaken. Informal arrangements will mean that the council's insurance, risk management and other policies are not being applied and in the event of an incident the council could face serious financial and legal issues.

## **5.12 Recommendations**

- a) Spending items for the full financial year should be published alongside the AGAR, Explanation of Variances, Analysis of Reserves and spending against budget should be published.
- b) With assistance and advice from Lincolnshire County Council website administrator and suitably trained individuals restructure the website so that documents can be easily accessed on all browser types.
- c) Ensure that exclusion of the media and the public from meetings is limited to suitable items only and that resolutions are clearly minuted for all agenda items while protecting confidential information.
- d) Procurement resolutions must comply with Standing Orders, Financial Regulations, the Practitioners Guide and the Publication Scheme, Accounts and Audit Act 2014, Accounts and Audit Regulations 2015 and be disclosed.
- e) Ensure that councillors have sufficient information about the business to be conducted to be able to disclose their interests prior to the item being debated or voted on and that they have opportunity to request a dispensation prior to or at the meeting if they wish to do so.
- f) Minutes must contain enough information to be able to see what has been decided by the parish council, particularly spending decisions and background reports and papers should be available to be published to justify the decision.
- g) Decisions made by the Clerk under delegated powers should be reported to the council to be included in the minutes.
- h) Working parties and sub-committees must report to the parish council or committees for properly recorded resolutions to be decided about spending and other commitments to be accepted by the council.

## 6. Financial Management

- 6.1 The external auditor indicated in their comments on the 2020/21 financial year minutes issued on 18<sup>th</sup> August 2021 that there was a lack of detail in the minutes for approval of the AGAR. My review of several key pieces of information confirms that the council did not receive this information from the Clerk in Minute 55 – 2021/22iii
- 6.2 The Council has periodically considered the viability of projects but has allowed the earmarked and general reserves to decrease from £58,295 in 2018/19 to just £21,488 as at 31<sup>st</sup> March 2023. Expenditure appears to be running at over £100,000 a year. General reserves are usually recommended in the Practitioners Guide to be about 3 to 12 months of the budget (for unforeseen issues such as the precept not arriving, inflation, late income, election/ballot costs, unplanned repairs and maintenance, external auditor fees if they receive challenges, cover for long-term absence of staff, legal costs or compensation that has to be paid) plus earmarked reserves for specific projects.
- 6.3 As the level of reserves has reduced significantly over the last 5 year's and is now below the recommended level (stated in paragraph 5.32 to 5.38 Practitioners' Guide 2023) there is little money building up in any earmarked funds this will mean that any unforeseen events and future projects the council wish to pursue will need to plan for carefully in the budget and either cut spending, increase the precept, increase fees, and seek grants and other funding for projects.
- 6.4 Monthly payment reports with the final 2022/23 budget analysis issued in February 2023 indicate that spending against budget is running at about 80-89% budget, however in 2021-22 financial year some elements of the budget was being overspent in March 2022 for total village spending at 595% and cemetery spending at 112% . No full-year budget analysis has been provided to explain the variances and no virements were reported by the RFO (in accordance with 3.2 of the council's Financial Regulations).
- 6.5 No document was available for me to inspect to see that the council undertakes a full line-by-line budget-setting process considering their actual spending in the prior year against their spending estimate for the current year and then an estimate of the next financial year's spending and the RFO should provide line by line explanations of the assumptions behind any estimates. This would provide clarity in developing the budget. The precept is the gap between the planned expenditure and the planned income and if council wish to adjust the estimated precept they will need to increase revenue or decrease costs. A deficit budget cannot be agreed.
- 6.6 Petty cash is still being used by the council. At the time of my review the level of petty cash had well exceeded the level specified in paragraph 6.5 of the Council's Financial Regulations and cash income had been added to the petty cash instead of being accounted for as income so paragraph 6.5 c) had not been followed.
- 6.7 The council maintains an asset register, however, testing of certain items to see if they were on the register failed. This means that the council may have a partial asset register and a full review of all assets should be undertaken following the guidance in the Practitioners' Guide. The Asset Register should contain the date of purchase/ acquisition and the purchase value of the item. The Asset Register may also contain insurance value and the current condition of the asset. This will highlight any potential maintenance or replacement costs that should be built into the budget. The Asset Register should be reviewed at least annually.
- 6.8 It is unclear when or why certain spending was approved as there were either no minute to record the approval or the detail is missing from the minutes (see minutes 23-2021/22, 24-2021/22, 103-2022/23).

6.9 All pay changes should be minuted so it is clear what has been decided by the council. In minute 100-2022/23 the officer reported that the national pay increase was set at 2.75%. No resolution came from this to implement the pay increase and from what date (in fact the pay increase was a more complex pay outcome of a higher percentage increases for the lower paid and lower percentages for those on higher pay rates). This evidence indicates that the council has little control over the pay rates of staff.

#### **6.10 Recommendations**

- a) A robust budgeting process should be implemented, and the approved budget should then be used as a regular reporting tool to identify over and under-spending throughout the financial year using Year-To-Date figures.
- b) Petty cash handling and records needs to be improved.
- c) The Asset Register should be reviewed to ensure all assets have been identified and added to the register along with purchase and insurance value figures so that a review of insurance can be completed.
- d) The Council's level of general reserves are low and reducing each year and the council must consider whether it has strong arrangements in place to cope with any unforeseen incidents or events and whether this means reductions in expenditure, increases in revenue or increasing the precept.
- e) The Council should ensure there is an active staffing committee who can keep pay and conditions under review and meets at least twice a year to ensure that all staffing matters are kept under control.



## 7. Risk Management

- 7.1 A risk register has been maintained by the council and reviewed by the RFO, internal auditor and the council each year as required by section 17 of the council's Financial Regulations. However, some events were clearly not planned for fully and while in the risk register the strong mitigations needed were not put in place to reduce their impact. A few situations that were not fully planned for
- Loss of key personnel through sickness and/ or resignation
  - Maintaining sufficient bank mandate signatories
  - Loss of access to online banking facilities
  - Recruitment without agreeing the terms of the position prior to advertising the position (see Minute 6-P&R2021/22)
  - Loss of the lease for the Parish Office located at the Fire Station
  - Plans to increase the number of days for the St Oswald's Feast event.
- 7.2 The Council has statutory responsibilities under Health and Safety legislation to maintain a minimum office temperature of 16C but due to the lack of power from the generator the office is often colder than this in Winter and much warmer than necessary in Summer. Power levels fluctuate depending on the items being used which affects the ability of staff to work in the Parish Office and the reliability of equipment to be used in the office.
- 7.3 The Council has a Health and Safety Policy (last reviewed in March 2021) that still reflects the situation when the Parish Office was located at the Fire station.
- 7.4 The Council's Equality and Diversity Policy was approved in 2016. There are allegations of harassment being made by the community and inside and outside the parish council some of which relate to protected characteristics. The Parish Office moved to a portacabin which is not accessible to disabled members of the community.
- 7.5 The Council is an employer and it must comply with the various legal requirements that the law imposes including minimum wage, holidays, pensions, issuing terms of employment on first day of employment, ensuring employment contracts and policies are up to date, HMRC and The Pensions Regulator requirements. Appraisals do not appear to have been carried out often enough. Employment contracts are in place for employees of the council but the council's staffing committee should review them to ensure they are up to date.
- 7.6 All terms and conditions of employment and changes to rates of pay should be minuted. Reference can be made to the relevant pay scale for a post and the dates of any increases applied should be minuted.
- 7.7 Regular monthly payments for travel costs have been paid to staff but the council do not appear to hold any business mileage details – regular lump sums being paid without mileage incurred may be a taxable benefit and a P11D may need to be produced for HMRC (see HMRC EIM31360 guidance). Failure to comply with HMRC requirements could result in a financial penalty applying to the council as employer. Home to work mileage allowances are taxable. In minute 157-2022/23 the council resolved to pay a sum of £200 towards the cost of a tow bar for an employee. No consideration appears to have been given as to whether this sum is taxable and should be declared on a P11D as a taxable benefit – to qualify as a business cost it must be exclusively used for business use.
- 7.8 The term 'portfolio holder' is used throughout minutes of the parish council which is a term only applicable to District and County Council roles. There is no provision within S.101 Local Government Act to delegate decision-making responsibilities to any one councillor within parish councils. It is only possible to delegate to an officer, a committee or a joint committee. Decisions made by a single councillor or individual councillors (not part of a committee meeting) would be acting ultra vires and any payment made would be found to be unlawful. The external auditor would

charge fees and issue a public interest report such as this one published this year  
[https://www.saaa.co.uk/wp-content/uploads/2023/06/Groby\\_PC\\_PIR25APRIL2023.pdf](https://www.saaa.co.uk/wp-content/uploads/2023/06/Groby_PC_PIR25APRIL2023.pdf)

7.9 I was shown evidence that some former officers have used council computer assets to store some of their personal documents on and have used their official email account for their private use. This should be an item for the staffing committee to consider and to ensure that employment contracts and/or policies cover this eventuality.

#### **7.10 Recommendations**

- a) The use of the Parish Office in a portacabin does not appear to have been carefully considered and minuted due to the need to move quickly and may not have met the needs of the parish council and community.
- b) Policies and the risk register needs to be reviewed and updated.
- c) Financial risks should be fully costed and built into the financial plans for the Council to reduce the financial burden on reserves.
- d) Ensure that the council records its delegated powers in Terms of Reference for its committees and any decisions it delegates to the Clerk and any other officers.
- e) Private use of council assets should be limited and covered by employment contracts and employment policies and the council should ensure that it complies with ACAS, HMRC and The Pension Regulator's guidance when it makes decisions.

## Appendix 1: Questions and issues raised by Parish Councillors

- Lack of handover details to take over bank and personnel matters
- Delayed payments due to lack of online access
- Personnel files not up to date
- No clear sickness and holiday procedure in place
- Pay scales not up to date
- Appraisal system not up to date
- Files for various working groups not updated
- Allotment files not up to date
- Computer systems not secure or up to date
- Handyman not clear about their role and who is line manager
- Phone and broadband signal not strong enough to support the office
- What was the full cost of relocating the office to its current location on St Oswald's field and is the office now fit for purpose – was a feasibility study carried out before the move took place?
- Does the council have a formal health and safety policy on file and regular risk assessments carried out?
- Why does the parish office not have disabled access?
- Has a fixed wiring inspection been carried out?
- Do we have formal contracts of employment on file?
- Is there a formal purchase ordering system in place?
- Why has the handyman been on a PAT testing course but does not have the equipment to carry out the tests?
- Why is the handyman contracted out to Wragby Parish Council with an income of £270 a month when we are employing outside contractors to cut the cemetery at a cost of £1375 per cut?
- Why is the old grass-cutting equipment left in the container and not sold?
- Why is there no proper monthly accounting reports showing month and year to date figures against the budgeted figures so that councillors can quickly verify?
- Why is the allotment land not rented out for income?
- Why did the council buy speed testing equipment and presumably pay for training and then discontinue it?
- Does the council hold a log of mileage undertaken by employees against all claims for mileage expenses?
- Do the parish council check that every employee has business use insurance on their vehicle when using their vehicle on parish council business and that the vehicle has current MOT and insurance?
- Why is the ride-on mower not road registered as required by law for the way it is being used?
- Why is the mower removed from the parish council's premises for part of the week?
- Why do the minutes not show the amount of money spent on St Oswald's Feast events 2021-2023?
- What policies and procedures are there in place for when the Clerk/RFO and assistant Clerk is away?
- What policies and procedures are in place when the handyman is away on holiday or ill as he is a member of staff?
- The purchase of the portacabin is not shown on public minutes (24<sup>th</sup> June 2021) proposed to go ahead and purchase?
- The laptop and computer are not working well and needs updated software and hardware.
- The portacabin is too hot in Summer and too cold in Winter for employees of the parish council and its only source of power is a manually operated generator – was this deemed suitable by the council to meet its legal obligations to staff?