

KINGTON TOWN COUNCIL

REPORT AND RECOMMENDATIONS FROM SCRUTINY COMMITTEE MEETING, HELD 21st January 2015

The Scrutiny Committee was convened to review a series of issues identified by a Kington resident. The attached paper was prepared for the meeting, which was also attended by the complainant. The meeting agreed that the paper covered the issues appropriately, with the exception of a few points of clarification. This report is in two parts – the main points of discussion and findings of the committee and a series of recommendations at the end of the paper. **The Scrutiny Committee would request that these recommendations are noted and agreed to at the Council meeting.**

1. COMMITTEE FINDINGS

The following highlights the key findings of the committee:

- 1. Grants apparently taken in confidential session at the December meeting**
 - Was the referral of the items to a confidential session appropriate or not? If decisions were taken, are these appropriately recorded in the minutes? Is there sufficient evidence that the Council has paid due regard to its policies and procedures in relation to these matters?

The procedure adopted of taking the grant items (Kington Museum, Rough Rides) in confidential session was correct. The main reason for this was to ensure that the Council's grants procedure had been properly followed in relation to these grants. However, the minute does not reflect this, nor the decision taken in respect of these items. The Council was therefore remiss in accepting a minute that was not accurate at its January meeting.

The issue of the payment in relation to the Recreation Ground Trust was also appropriately taken in confidential session but again the minute does not reflect the decisions taken. Issues relating to this payment are addressed later on in this report.

As the minutes were inaccurate and the decisions from the confidential session were not properly recorded, the Council has engaged in what could be seen as an unlawful act in relation to these payments. The payments have been made and the Council cannot in retrospect alter the minutes approved at its January meeting.

It is critical that minutes are emailed out as soon as possible after the meeting, to the Chair of the meeting for checking for accuracy.

The Scrutiny Committee agreed that the failure to properly record the decisions in relation to these payments should be pointed out to the Council's Internal Auditor.

2. Payments by the Council

- What procedures were followed in relation to the work carried out on the shed, if this was a matter between the council and the insurance company? What written evidence is there of the negotiations with the insurance company? Was there a full specification for the works against which satisfactory completion of the works can be judged? What monitoring of the work was carried out during its execution?

Clarification was provided on the works to the shed. This involved an insurance claim, and the work was contracted directly from the Council's Handyman by the insurance company. Neither the Recreation Ground Trust management group nor the Clerk had any direct involvement in the specification of the works to be undertaken. However, monitoring of the progress on the works was carried out by members of the Council. The payment from the insurance company should have been directly made to the contractor, and the council has an obligation to pass on this payment to the contractor. If the Council or the Recreation Ground Trust felt that the work on the shed had not been completed satisfactorily, this should have been taken up with the insurance company. They appeared to undertake no monitoring of the work whatsoever. The question was raised as to whether the insurance company expected the Town Council to act as its agent in respect of the work and therefore undertake the supervision and report on satisfactory (or not) completion of work.

It was noted that this is the first time that this situation has arisen. Issues were raised by the Committee about whether the Recreation Ground Trust should have separate insurance, rather than being covered by the Council's insurance policy. There are also issues about what the council's procedure should be in relation to insurance claims and a policy on this area is needed. The Clerk will be speaking with the insurance company about its handling of the claim.

- Is there any evidence that the Council is in breach of its regulations in relation to the passing of and minuting of resolutions for payment?

No minute references have been noted in the schedule of payments submitted to the Council, despite this being part of the financial procedure of the Council. All invoices submitted for approval for payment must in future have a minute reference, showing that consideration of the item and recommendation for payment has been made by the appropriate committee. It was suggested that the schedule of payments should also be formatted differently, with a separation of payments to the Recreation Ground Trust in respect of their grant.

Again, this lapse on the part of the Council would be notified to the Internal Auditor.

3. Contracts and Employment

Handyman

- Was an appropriate specification prepared for the work for which the payment has been questioned and partly withheld? Does the contract with the contractor allow for the withholding of payment if work is not deemed to have been satisfactorily carried out?

Discussion on the contract with the Handyman noted that he is not an employee of the council but a contractor. As this contract will go out for re-tender, it was suggested that a revision of the contract for general handyman services should be revised and should include appropriate clauses to cover withholding of payments if work is deemed not to have been completed satisfactorily. The issue of who the handyman works to – as working on jobs initiated by both the Town Council and the Recreation Ground Trust – needs to be addressed.

It was further noted, as above, that the specification for the works to the shed, if any, would have been decided upon by the insurance company. It was agreed that for general works, the contract for the handyman would identify broad areas of work, as detailed specifications for small routine jobs would not be appropriate. For larger works, to be undertaken under the Council's contracting and tendering procedures, specifications should be written for all jobs and appropriate supervision for all works identified.

Christmas Lights

- By what process were the arrangements for storage of the Christmas Lights arrived at? Was this undertaken with full knowledge of the Council?

This was an ad hoc arrangement, until appropriate storage space for the lights could be identified. In the light of works to the shed in the Recreation Ground, the Town Council will make a formal request to the Recreation Ground Trust for space in the shed for the Christmas lights (and for the hanging baskets) and will consider appropriate payment to the Trust for this facility.

Re-Tendering Procedures

Lengthsman

1. Is the Council about to enter into a contract with Herefordshire Council to take on an extended Lengthsman Scheme? What are the details of this scheme and what will be the financial implication for the Council (given that any additional expenditure in relation to an extended scheme may not have been considered by the Council in drawing up its budget for the next financial year)? Have detailed specifications been drawn up, or will they be drawn up,

in relation to the tendering procedures for both the Handyman and the Lengthsman?

The Town Council has been asked to consider if it will take on the extended lengthsman scheme in the next financial year – however, this requires a matching payment from the Town Council which has not been factored into the precept for the next financial year. The Clerk will be attending a meeting on the extended scheme in February and will report back to the Council. His recommendation is that the Council should consider re-tendering for the current scheme, as there are additional skills that are needed, to prepare for additional work in the future. It was also noted that the current contract expires at the end of March 2015 (though it was also noted that there are some inaccuracies in the current contract) and that a re-tendering process will be needed. A detailed specification will be drawn up. Similarly for the Handyman, a detailed specification for the re-tendering will be drawn up. These will need to be submitted to the appropriate committee, or to full council, for approval prior to the re-tendering process.

4. Further items of complaint

1. Is there evidence, in relation to the complaint, that council procedures were not properly followed, as noted under Key Issues in the paper for Scrutiny Committee?

The Scrutiny Committee considers that in the main, the Council's procedures have been followed, but with some lapses as noted in this report. In the light of the elections this year, there will be a need for comprehensive training of all councillors at the inauguration of the new council. It was also suggested that refresher training for all councillors should be carried out on a periodic basis. The committee considers that issues about the governance of the council raised in the past have by and large been dealt with during the past four years, with a range of procedures now in place.

The issue of the amount of business now on council agendas, and how the council deals with this was also raised. It was suggested that the new Council should review its committee structure very early on to decide whether it has the appropriate mechanisms to both deal with business in a timely and appropriate way and to ensure that there is sufficient space for the discussion of issues facing the town.

2. RECOMMENDATIONS:

The Scrutiny Committee recommends to the Council the following:

1. That the Council resolves to refer its lapses from its procedures and resultant irregularities, as noted in this report, to the Council's Internal Auditor.
2. That the Council takes note of the need for full public accountability and transparency in all of its work. This requires that as far as possible, all items for discussion should be taken in sessions, which are open to the press and public. However, it recognises the provisions of the Freedom of Information Act in respect of

exempt items and will use this as a guide for items to be taken in confidential session, also recognising where an external body, such as Herefordshire Council, may also request that an item is kept confidential. The reasons for an item being taken in confidential session must be noted in the minutes of the council meeting and any decisions in respect of these items, whilst ensuring **appropriate** confidentiality is maintained, must be noted in the minutes.

3. The Council requests that minutes of meetings should be prepared in a timely fashion following a meeting, and referred to the Chair of the Committee, or in the case of the full Council meetings, to the Mayor and Deputy Mayors, for review to ensure accuracy of recording decisions, and general accuracy in the minutes.

4. The Council requests that the schedule for payments submitted to the Council should

- (a) Identify the appropriate minute (Council, committee or Recreation Ground Trust) that requests payment.
- (b) Be reformatted to separate out items in relation to the grant to the Recreation Ground Trust

No items should be approved for payment which do not note the relevant minute.

5. The Council requests that a policy be drawn up to cover exceptional circumstances that may surround any insurance claims (including how insurance payments will be dealt with, supervision of any works etc), following appropriate discussions with the Council's insurers.

6. The Council resolves to make a formal request to the Recreation Ground Trust for storage facilities in the Recreation Ground shed for the Christmas lights and such other items as hanging baskets and to make such payment as may be appropriate, to the Trust, for this facility.

7. The Council notes that full specifications for both the Handyman and Lengthsman contracts will be drawn up and submitted to the appropriate committee or full Council for approval, prior to the Council following its Tendering and Contracting procedures for these contracts. Due notice will be given to the current contract holders of the Council's intention to re-tender. The contracts for these posts will be reviewed and appropriate clauses in respect of withholding all or part payments in relation to satisfactory completion of works will be included in these contracts.

8. The Council recommends that the new Council should review its current arrangements for the management of its business, including its committee structures, at the commencement of its term of office. It recognises that this can only be a recommendation for the new Council, as it cannot bind the new Council to any specific course of action.

9. The Council notes that training for councillors is important and recommends to the new Council that comprehensive training on procedures and code of conduct should be undertaken very early in the life of the new Council and that refresher training should be carried out periodically.

*Christine Forrester
Chair
Scrutiny Committee*

22nd January 2015