

INTERIM REPORT OF LOCUM

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Title	Parish Council Governance and Financial Situation		
Summary:	A report serves to inform Councillors of the severe financial and governance issues facing the Parish Council. It outlines the current fiscal position, details statutory non-compliance, and proposes a set of recommendations aimed at rectifying the situation and averting financial insolvency.		

1. PUBLIC INTEREST TEST

- 1.1. The author of this report has determined that the report is confidential and should not be disclosed at this time to the public.
- 1.2. Under the Public Bodies (Admissions to Meetings) Act 1960, the Council may resolve to exclude the press and public from a meeting of the local authority during the discussion of certain items if publicity would be prejudicial to the public interest. This report meets the criteria for exclusion on the following grounds:
 - 1.2.1. Discussing or disclosing this advice publicly would be prejudicial to the effective conduct of public affairs, contrary to the public interest.
- 1.3. The following public interest test considerations were considered prior to determination:
- 1.4. Factors Favouring Disclosure:
 - 1.4.1. Transparency and Accountability: Disclosure of the report would demonstrate the Parish Council's decision-making process, ensuring transparency and accountability to the public
 - 1.4.2. Public Awareness: Access to the report could enhance public understanding of the issue and enable informed community discussions.
- 1.5. Factors Against Disclosure:
 - 1.5.1. Effective Governance (Public Bodies Act 1960): Confidentiality supports the free and frank exchange of advice and opinions. Public disclosure could deter candid discussions in similar cases, undermining effective governance.

- 1.5.2. Financial and Legal Risks: Revealing legal strategy or advice could expose the Parish Council to increased risks in litigation or negotiation, potentially resulting in financial losses that are not in the public interest.

2. PURPOSE OF THE REPORT

- 2.1. This report serves to inform Councillors of the severe financial and governance issues facing the Parish Council. It outlines the current fiscal position, details statutory non-compliance, and proposes a set of recommendations aimed at rectifying the situation and averting financial insolvency.

3. BACKGROUND INFORMATION

- 3.1. Since assuming post on Monday 2nd December 2024, I have worked alongside the Council's Clerk and Responsible Financial Officer (Pippa Stothard) to attempt to bring the Council back into alignment with best practice in regards to its governance and compliance with statutory requirements as well as restore a credible financial position.
- 3.2. During initial discussions with the Clerk and investigatory work, it is clear that the initial issues that faced the Parish Council are significantly worse than could ever have been feared. The Council has failed on a multitude of areas (which this report outlines); failed to comply with statutory requirements and to discharge its duty to protect public money.
- 3.3. As it stands at the time of writing this report, the Parish Council will at the close of the current fiscal year will have incurred a deficit of -£216,255.53, this means that in the early months of the new calendar year the Parish Council unless immediate action is taken will become effectively bankrupt and risks defaulting on its loans with the Public Works Loan Board [PWLb].
- 3.3.1. The Parish Council owes approximately £230,862.32 to Bolsover District Council [BDC] of which £106,288.71 is owed immediately as a loan taken out by the Council and £124,573.61 is owed in previously unpaid bills spanning from the early part of the current decade.
- 3.3.2. Departments of BDC have begun the process of starting legal proceedings against the Council for failure to make payment, going so far as to issue the Council with a court summons in order to obtain payment from the Council for the debt it has failed to pay back to the authority.
- 3.3.3. The loan that is required to be paid back to BDC was due on Friday 29th November 2024, the Council will now start to incur daily interest charges for everyday that the loan isn't repaid back to the authority further increasing the estimated budget deficit faced by the Council.

- 3.3.4. Following initial discussions with the finance team at BDC, the authority will not allow the Council to set up a payment plan nor delay repayment of the loan. Legally the Parish Council is required to repay the loan to the authority.
- 3.3.5. As it currently stands at the time of writing, the Parish possesses £33,249.94 in its Santander bank account (these funds are earmarked for loan repayments to the PWLB) and £327,817.50 in its Virgin Money bank account.
- 3.3.6. Repayment of all outstanding debt to BDC would leave the Parish Council with only £96,955.18 to pay for all day-to-day management of the Council's functions, liabilities, staff and other outstanding debts for the remainder of the financial year.
- 3.3.7. For reference the average monthly outgoings of the Parish Council are £53,537.80, this would mean that at the current rate of spending the Parish Council would most likely become insolvent and unable to pay its creditors or staff in mid to late January 2025.
- 3.3.8. It should be noted by Councillors that at the time of writing both myself and the Clerk have been unable to find any documentation which contains authorisation from the Secretary of State for Levelling Up, Housing and Communities to have incurred loans from BDC with term duration outside of the fiscal year to be taken by the Council in accordance with Section 2 of the Local Government Act 2003.
- 3.4. Should the Parish Council become insolvent it would default on the loans it owes to the British Government for the construction of the Creswell Wellbeing Centre which were obtained via the PWLB to sum of over three million pounds. Defaulting on the loans would most likely result in the PWLB calling in its debt immediately in an effort to protect the Government from loss of public money.
- 3.4.1. In normal circumstances Parish Councillors are normally protected from the liability of the Council's debts, however, given the large and systemic failure to follow basic legal obligations placed on the Council by legislation, councillors could face potential prosecution should they be seen to have contributed to taking illegal decisions and failure to take recommended action to avert financial loss once their attention has been drawn to the issue.
- 3.5. The Parish Council has failed on multiple counts to adhere not only to the fiscal rules it has set for itself, but also failed to comply with basic statutory requirements placed on local government authorities which the Parish Council is legally required to comply with.

- 3.5.1. The Council has failed to adhere to the fiscal rules it has set for itself as stated in the Council's adopted Financial Regulations which is a legal requirement placed on all Councils by the Audit and Accountability Act 2016.
- 3.5.2. The Council failed to set a budget for the current fiscal year which is a contravention of the Local Government Finance Act 1992 Section 49A, and the Audit and Accountability Act 2016
- 3.5.3. The Council has failed to keep its accounts in the Income and Expenditure system of accounting as required by law.
- 3.5.4. Furthermore the Council has no established policy on investments as set out by the Secretary of State.
- 3.6. The Council has also engaged in governance outside of the permitted regulatory environment of the authority.
- 3.6.1. The Parish Council is currently engaging in disciplinary action against a councillor of the authority, this activity is non compliant with the High Court judgement of R (Harvey) v Ledbury Town Council [2018] EWHC 1151 on 15 May 2018 which is the current case law on the matter of discipline against Councillors.
- 3.6.2. The High Court of England and Wales ruled that complaints must be confined to the code of conduct process as set out in the Localism Act 2011. In practice this means that Parish and Town Council's can take no action against a Councillor other than refer the matter to the monitoring officer of the Borough/District/Unitary authority.
- 3.6.3. Furthermore the Council has engaged in discussion and debate on motions and items on agenda items such as 'any other business' which is contrary to the requirements as set out in the Local Government Act 1972 which requires all business to be decided and debated on be advertised in the public notice for the meeting three clear days before hand.
- 3.7. The failure of the Parish Council to operate both its fiscal governance and day-to-day administration in accordance with the regulatory and legal requirements opens up the Council for its decisions to be called into question via litigation from members of the public and the Council's external auditors could issue a public interest report which would be sent to the Ministry of Housing, Communities and Local Government.
- 3.8. It has further been discovered that the Council may be in contravention of Regulation 19 of the Environmental Information Regulations [EIR] 2004 and Section 77 of the Freedom of Information Act 2000 [FOIA].

- 3.8.1. The Clerk discovered that all e-mails of the Parish Council from before August 2024 have been deleted by the former officers of the Council prior to their departure. This course of action appears on the face value to be very suspect and the reasoning for it should be investigated at the right juncture.
- 3.8.2. The current Clerk was informed following contact by the Information Commissioners Office that the Parish Council had failed to reply to and supply information to a member of the public who had submitted a request to the Council under the FOIA for information from the Council in relation to both documentation and internal communications of the Council.
- 3.8.3. On the balance of probabilities it is reasonable to assume that there is a high likelihood that the e-mails deleted were done so in order to avoid the need to produce them to the requester of information. Regulation 19 of the EIR made actions listed in Section 77 of the FOIA a criminal offence of which deletion of data is considered to be a specific offence.
- 3.8.4. The Council should be aware that in March 2020 the first ever prosecution in regards to the destruction of information requested by a member of public was done against Nicola Young the Town Clerk of Whitchurch Town Council.
- 3.8.5. Should the Council failure to report a suspected offence to the Information Commissioners Office it could result in fines and sanctions being levied against the Council, and Councillors.
- 3.9. The Council should be left with no illusion that this is not a comprehensive list of the issues that face the Council, the issues detailed to you in this report are but the tip of the iceberg that is on course to hit the Council. It would not be productive at this juncture to explore and investigate every issue that has arisen since I have begun my tenure, given the unfolding crisis that faces the Council, the ultimate aim must be to ensure that the Council is in position to be able to investigate these issues at a time when imminent insolvency is clear and the luxury of time returned.
- 3.10. It cannot be understated that without the tireless efforts and competence of the current Parish Clerk, Pippa, this Council would have found itself in a much more difficult place than what it already finds itself in. Pippa's dedication to implementing sound and compliant financial management practices has provided the only semblance of stability within this authority.
- 3.10.1. Despite facing significant obstacles—including the absence of basic tools, resources, and institutional support necessary for the effective execution of her role—Pippa has worked relentlessly to rectify the myriad failings inherited from previous administrations

3.10.2. This Council owes an immense debt of gratitude to Pippa for her extraordinary service. It is incumbent upon every member of this body to ensure she receives the full support and resources necessary to continue her critical work. Pippa's work has laid the ground work for a path to recovery.

4. RECOMENDATIONS

- 4.1. **RESOLVE:** The Council cease all non-essential spending, effective immediately, to preserve remaining funds for critical operations and debt repayments.
- 4.2. **RESOLVE:** Authorise the Responsible Financial Officer (RFO) to take all necessary actions, including reallocation of funds, renegotiation of contracts, and consolidation of expenditures, to stabilize the Council's financial position.
- 4.3. **RESOLVE:** The Council refer it's self to the Information Commissioners Office in regards to the potential contravention of the Freedom of Information Act 2000.
- 4.4. **RESOLVE:** That the Clerk be authorised to meet with the Chief Executive and other officers of Bolsover District Council in order to discuss and negotiate the Council's fiscal obligations and debt to the District Council.
- 4.5. **RESOLVE:** That the Clerk be authorised to contact and demand from all current and former Councillors and Officers of the Council to surrender back into their custody any documents which are the legal property of the Parish Council.
- 4.6. **RESOLVE:** To cease all disciplinary action against Councillors, and that all existing complaints be referred to the monitoring officer of Bolsover District Council in compliance with the Ledbury High Court ruling.
- 4.7. **RESOLVE:** Direct the Clerk and Councillors to implement a comprehensive review of all policies and procedures to ensure compliance with statutory obligations under the Local Government Act 2003, Local Government Finance Act 1992, and other relevant legislation.
- 4.8. **RESOLVE:** Authorise the Clerk to extend the contract of the Locum and issue more hours as and when needed to aid in the rescue efforts of the Council.
- 4.9. **RESOLVE:** Authorise the Clerk to be added as a signatory and authorised representative to all of the Council's bank accounts.
- 4.10. **RESOLVE:** Authorise the Clerk to repay the loan owed to Bolsover District Council.

5. IMPLICATIONS

5.1. Financial

- 5.1.1. By implementing the recommendations of the report the Council will begin to institute a regime of sound financial governance compliant with the requisite legislation which is binding on the Council.
- 5.1.2. Paying the loan off owed to Bolsover District Council will prevent further debt from being incurred by the Council by means of interest.
- 5.1.3. Authorising the Clerk to be a signatory of the accounts will give her live access to the current finances of the Council and would enable her to make better fiscal judgements with more accurate and up to date information, and would remove the need for her to access accounts via proxy which presents ethical and moral issues.
- 5.1.4. The Council referring itself might result in the Council being issued a fine, however, this would be significantly better outcome than being discovered without admission which could result in more harsh fiscal penalties.
- 5.1.5. Authorising the Clerk to cease all non essential spending will buy the Council breathing room to pay off its debts and to plan out a credible financial plan to rescue itself from insolvency.

5.2. Legal

- 5.2.1. Implementing the recommendations would bring the Council into compliance with the following pieces of legislation: Local Government Finance Act 1992 (Section 49A), Accounts and Audit Regulations 2015, Local Government Act 1972 (Section 111)
- 5.2.2. Referring the Council to the ICO may trigger an inquiry into how and why the data was destroyed which could result in prosecutions of responsible individuals. Failure to refer the matter to the Information Commissioner's Office (ICO) risks potential sanctions against the Council, enforcement actions could include fines, public reprimands, or legal proceedings.

5.3. Personnel

- 5.3.1. [REDACTED]
[REDACTED]

[REDACTED]

5.3.2. The additional workload placed on the Clerk and RFO to manage the crisis may result in stress or burnout. Under the Health and Safety at Work Act 1974, the Council has a legal duty to safeguard the well-being of its employees, including mental health.

5.3.3. [REDACTED]

[REDACTED]

[REDACTED]

5.4. Governance

5.4.1. The absence of critical financial policies, such as an investment policy required under Section 15 of the Local Government Act 2003, indicates systemic governance failures. Addressing these deficiencies will require a comprehensive review of all governance documents and policies.

5.4.2. The Council's non-compliance with the statutory requirements for financial reporting and budget-setting undermines public trust and exposes the Council to audit sanctions under the Audit and Accountability Act 2014.

5.4.3. Referring all existing complaints to Bolsover District Council's Monitoring Officer ensures compliance with the Ledbury High Court Ruling (R (Harvey) v Ledbury Town Council [2018] EWHC 1151 (Admin)). This ruling clarified that all Councillor complaints must be handled through the standards process, preventing undue conflicts within the Parish Council.

5.4.4. Failure to address these governance issues will have long-term consequences, including potential intervention by external regulators and loss of public confidence.

6. CONCLUSION

6.1. Ultimately the Parish Council now stands at a crossroads of unprecedented magnitude, the severity of which the current financial and governance crises cannot be overstated. Councillors must confront the gravity of this situation with absolute clarity and unflinching resolve.

6.2. This Council has systematically failed in its statutory duties, resulting in breaches of multiple legislative frameworks, including but not limited to the Local Government Act 2003, the Freedom of Information Act 2000, and the Local Government Finance Act 1992. These breaches have not only exposed the Council to significant legal liability but have also imperilled the very existence of this institution.

- 6.3. Should the Council default on its obligations to the Public Works Loan Board (PWLb), the repercussions could be catastrophic. Defaulting on these debts risks the PWLB calling in the whole debt immediately.
- 6.4. Furthermore, the destruction of key information and potential breaches of the Freedom of Information Act 2000 place the Council and at risk of criminal prosecution.
- 6.5. Beyond legal and financial consequences, the public trust that this Council is obligated to uphold is hanging by a thread. The electorate has placed its faith in each Councillor to safeguard the interests of this community, and thus councillors are duty bound to take any and all action needed without further delay.
- 6.6. Councillors must rise to the challenge with the seriousness this crisis demands. The path to recovery is steep and fraught with difficulty, but it is navigable with unified resolve, adherence to the law, and a commitment to rebuilding trust.

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