

Shimpling Parish Council

Notes to support annual return for year ended 2015/16

Background information:

- The current Clerk took over in July 2015.
- Little evidence of training available to new incumbent or that previous Clerks had fully undertaken the depth and breadth of the role as expected by statutory and regulatory change over recent years.
- There was limited documentation made available to Clerk on taking over role - it transpired subsequently that many documents were out of date or missing, e.g. Asset Register, past cashbooks/accounts etc.
- Clerk began SLCC training course ILCA in Winter 2015/January 2016 by which time it was apparent from basic legal audit documentation and also the Transparency Rules that there were a number of documents, policies and procedures lacking or out of date which meant that the PC was at great risk of non-compliance with statutory and regulatory requirements in a number of fields.

Initial steps taken to rectify the situation:

- March 2016: Clerk undertook informal training 1:1 on topic of end of year procedures with representative SALC covering requirements of FRs, accountability and governance.
- Clerk sought legal and practical advice from range of sources, e.g. SALC, SLCC, NALC etc on how best to ensure compliance
- Clerk discussed these requirements in detail with the then Chair and the other Councillors who all eventually agreed that all necessary steps had to be taken to rectify the situation and ensure full compliance. Councillors all stated they understood the consequences (joint and several) of not taking prompt remedial action.
- The former Chair resigned in mid-May.
- An Annual Meeting of the Parish Council ('Governance Meeting') was held for the first time on 23rd May 2016 at which a range of governance documents were ratified and adopted and a new Chair elected. This was the earliest date at which the meeting could take place given the extent of the paperwork and administration which needed to take place and at which the meeting could be quorate.
- An Annual Parish Meeting was held on 31st May: this had never been held as a separate meeting in accordance with statutory requirements.
- At subsequent 'usual' Parish Meeting on 31st May, matters concerning the approval of the accounts and audit documentation for 2015/16 were adjourned for further examination as faults and errors had been found with the Cashbook etc of 2014/15 and 2015/16 which warranted further exploration. There had been two un-presented cheques from the end of FY 2014/15 (unclassified as such in those accounts) which had been mistakenly included in the 2015/16 accounts.
- A second councillor then resigned.
- New Chair attended in June a training course on Chair and Councillor responsibilities and procedures

- A meeting was hoped for earlier in June to consider audit documentation but given that there were only five remaining councillors from seven, the PC could not summon a quorum of at least three until the beginning of July.
- Clerk sought an extension to SALC audit document submission to 4th July and the BDO submissions to 25th July. Dates for public examination of documents remain 1st July - 11th August.
- A PC Meeting to approve and sign audit documentation was arranged for Friday 1st July
- All financial and year end documentation has been published on the PC website in accordance with Transparency Regulations and also audit requirements
- Co-option of two vacancies will take place on Monday 11th July as there were insufficient electors giving notice to the District Council of a wish for a public election
- Various training is being planned for Clerk, Chair and Councillors (old and new) to ensure fuller understanding and awareness of all issues raised and impact of new procedures.

Summary of issues identified, steps taken and further steps required:

In January 2016, it became apparent that many statutory and regulatory requirements were not being met to the extent that concerns were raised with members of the Council and also supporting advisory services to determine the steps that needed to be taken to rectify the situation and ensure that the PC was henceforth operating lawfully and legally.

Although it would appear that a number of the core regulatory requirements for 2015/16 may not have been complied with, the measures taken following identification of problems have ensured that for the FY 2016/17 onwards, the PC is compliant - as far as possible and practicable at this stage - with all requirements and regulations for its effective and lawful functioning as a smaller authority.

Below is a table of the issues identified in the governance and functioning of the PC, the steps taken thus far to rectify the situation and the details of any further work or steps required to ensure continued compliance.

Issue	Solution	Further steps required
No up to date declaration of members' interests; some missing; not published on website	Forms completed and updated and submitted to MO; published on website; introduction of Declaration of Members Interests at start of each meeting; reminders to Councillors to maintain register accurately and to consult MO in event of any queries	Approach MO to offer training to old and new councillors on declaration of interests, Code of Conduct etc
No Code of Conduct or Complaints procedure	Code of Conduct and Complaints Procedure adopted and published on website	Review regularly and offer training (through MO? see above) to remind Cllrs of duties and obligations
No Standing Orders	SO adopted May 2016	Clerk to continue ILCA qualification; Training required for Cllrs
No Financial Regulations	FR adopted May 2016	Clerk to continue ILCA qualification; Training required for Cllrs

No system of internal control or risk assessment for financial or other procedural matters	Adopted system of internal control May 2016	Regular review, quarterly reports etc to PC
Incomplete and out of date website page	New website set up though onesuffolk.net Oct 2015 over which PC has better control to ensure timely publication of documents etc: http://shimplingpc.onesuffolk.net	Regular updates to ensure that all governance and finance documents etc are published, including archive from previous years of those documents available
Not adhering to 3 day notice rule for meetings etc or publishing agendas etc	Robust system established by Clerk and Chair for preparation for agendas and meetings in advance; Cllrs and public offered opportunities to raise matters for the agenda under specific procedure	Regular review and adjustments to ensure that all administrative requirements of meetings, including notices, agendas, minutes etc are all published correctly and promptly.
Not offering Public Participation at meetings	PP now included since March 2016 in all PC meetings	Review needed in due course of manner in which PC records issues raised in meetings in line with DPA and confidentiality of other parties
Not ensuring that public and press aware that meetings are open to be filmed or recorded	Statement on each agenda since May 2016 that press and public entitled to film/ record meetings unless otherwise prohibited	Press and Media policy is being drafted (June 2016) to also include guidance on who is lawfully permitted to speak on behalf of the PC to the press etc.
Not publishing minutes or financial records etc online	All agendas, notices, minutes etc now published on website	Currently retrieving and scanning various archive documents to publish
Insufficient auditing - inadequate consideration of governance issues and also possible incomplete consideration of all financial aspects, e.g. s137 payments, risk management etc	New internal auditor appointed - SALC; Clerk completed 1:1 training with Finance Officer of SALC on general financial and auditing principles; Clerk undergoing training on governance matters; large-scale adoption of various governance polices and procedures	Ongoing review of training and procedures to ensure that all policies, documents etc are in place for end of FY 2016/17
No financial risk assessments	Introduced and adopted May 2016	Ongoing quarterly review
No Asset Register since 2010 (subsequent document produced purporting to be from 2013 but unclear if this used in subsequent audit returns)	Updated and adopted by PC May 2016 following re-valuation of Village Hall property	Annual review required in order to inform budget and insurance requirements

Many previous documents missing or incomplete, in particular audit records	Past Clerk(s) and Cllrs asked to check past documents and records in attempt to plug gaps	All documentation now stored in hard copy and digital backup; where required and available being published online
No DPA registration	DPA registration completed March 2016	Regular review of DPA requirements and compliance
No FOI information, policy or procedure	FOI details completed and made available online June 2016	Regular review of FOI requirements and compliance; publication scheme; ensuring that information in hard copy etc is available to the public even if no internet connection
Unclear status of Village Hall Committee and other local charity for which PC may be a trustee	Currently unresolved at year end 2015/16	Ongoing conversations and consultations to resolve legal status of relationship between PC and VHC and other local charity
Potentially inadequate / incorrect recording of PAYE etc at HMRC; possible issues with past accuracy of payroll	Currently undertaking review and overhaul of PAYE and HMRC procedures to ensure full compliance	Clerk to undergo training on HMRC and PAYE procedures; Clerk to continue ILCA qualification; Consultation with HMRC in event of any queries
No employment contract or policies for Clerk	Employment contract adopted May 2016 and Staffing Committee established under Delegated Powers scheme	Staffing Committee to undertake regular review of employment issues etc and to make recommendations to PC
Cheque writing process not robust - insufficient transparency and internal control; FR at meetings possibly incomplete	FRs adopted May 2016; FR at meetings now includes signature of invoices, cheques, stubs and bank statements	Possible further training required for Clerk and Cllrs on impact of FRs, SOs etc
Inadequate awareness of and recording of s137 donations	Separate s137 documentation introduced May 2016 tighter with accounting procedures	Clerk to continue ILCA qualification; Training required for Cllrs on scope and impact of s137
No details of Significant Variances for 2014/15 accounting statement	Prepared and submitted for end of FY 2015/16	Clerk to continue ILCA qualification with particular focus on Finances and FRs
No evidence of budget procedure for 2015/16 or of subsequent budgetary control	Regular review of budgetary processes and adequacy to ensure timely and suitable application for precept etc	Clerk to continue ILCA qualification with particular focus on Finances and FRs

Lack of documents and any digital records for pre-2014	Previous Clerk(s) and Cllrs requested to search through documents, emails etc to locate missing items or any matters which may be of significance	Documents to be published on website if and when they are made available
Decisions possibly being made ultra vires as no evidence of consideration of power under which decision is made	Legal advice sought for majority of decisions and procedural changes from January 2016 onwards	Clerk to continue ILCA training qualification and acquire Charles Arnold Baker and to seek legal advice in event of any queries
Powers under which decisions taken at meetings not recorded	May 2016 - introduced full recording of powers under which decisions made in agendas and minutes	Clerk to continue ILCA qualification and acquire copy of Charles Arnold Baker to assist with further awareness of recording of powers

Sections of Audit form:

Comments for each element of this section have been formulated in line with the most recent guidance: 'Governance and Accountability for Smaller Authorities in England' of March 2016. It is noted that whilst such provisions and guidance are applicable for FY 2016/17 onwards and is only voluntarily applicable to the procedures of 2015/16, we have used these steps to guide our responses and to explain our current and previous situation.

1. We have put in place arrangements for effective financial management during the year and for the preparation of the accounting statements.

Our response: NO

- 1.1. **Budgeting** – It is unclear from the available documentation when the budget for 2015/16 was agreed and set in accordance with auditing and governance requirements concerning the use of public monies and how it was monitored or corrective action taken, if at all. Following the governance and financial issues raised towards the end of FY 2015/16, the PC has taken steps to rectify this for the current and future FYs and provide a robust budget and precept setting and monitoring process for the future.
- 1.2. **Accounting records and supporting documents** – Clerk was not appointed as RFO under s151 LGA 1972 until 2016/17 – Clerk and Council were previously unaware of this role and responsibilities. No evidence that the RFO had independently determined a system of financial controls and discharged their responsibilities under the Regulations. No Financial Regulations, Standing Orders etc, no Financial Risk Assessment, no system of Internal Control (see below) but since 23rd May 2016 these have all been put into place and their effectiveness are being regularly reviewed.
- 1.3. **Bank reconciliation** - Bi-monthly financial reports are produced for councillors and presented at PC meetings, but these were not published or available to the public until March 2016 when it became clear that there was an obligation to do so. There is no evidence that these financial reports resulted in any subsequent review of expenditure etc. These FRs appear to be basic as they only show non-itemised receipts and expenditure and bank balances. There does not appear to have been in the past any link to budgetary provisions, expectations etc or a consideration of the bi-monthly FRs in the context of the

greater financial picture. It should be noted too that until May 2016 there was no financial risk assessment mechanism or formal system of internal control in place.

- 1.4. **Investments** – The PC holds a deposit account held separately to current account and there are internal transfers between accounts to ensure correct balance for payments to come out of current account. Any income of interest from both accounts are accounted for in cashbook etc. There does not appear to be any other consideration or review of the system by which the deposit funds are held. The PC is undertaking a review of its obligations with regards to monies held on deposit.
- 1.5. **Statement of Accounts** – Issues were identified at the end of FY 2015/16 with the way in which the annual cashbook was produced and after consideration and consultation, the issues were rectified and more detail is included for each entry on the cashbook to ensure compliance with accounting requirements and to avoid errors being made, e.g. the recording on un-presented cheques at the end of the financial year. It would also seem that for FY 2014/15 there were errors transposing balances from the Receipts and Payments document to the Annual Audit Return form (see separate document detailing these issues).

2. We maintained an adequate system of internal control, including measures designed to prevent and detect fraud and corruption and reviewed its effectiveness

Our answer: NO

- 2.1. **Standing Orders and Financial Regulations** - These were not in place until 23rd May 2016. There does not appear to be evidence available for previous years that there was an appropriate tender process for e.g. grass cutting, insurance quotes etc. This has been rectified for 2016/17 with for example grass cutting contract terms recorded in minutes and a resolution to seek to tender appropriately on all contracts in the future, e.g. grass cutting, fire equipment testing, insurance policies for Village Hall and for PC etc.
- 2.2. **Safe and Efficient Arrangements to Safeguard Public Money:**
 - 2.2.1. **Regular review of effectiveness of procedures** – There does not appear to be evidence or this proper to 2016/17 nor of the PC as a whole being aware of the role and responsibilities of the RFO or the details of the FRs. In May 2016 however, the PC adopted the FRs, internal control policies and procedures and also a system of financial risk management which are to be regularly reported on to the PC and also subject to review.
 - 2.2.2. **Controls over money to be embedded in Standing Orders and Financial Regulations** – The FRs were not in place until 23rd May 2016. There are currently two signatories to the accounts and one has always been the Clerk. Currently due to resignations, only Clerk and Chair are signatories but PC has applied (May 2016) to include additional elected members as signatories on bank mandate. Once further members are included on the mandate, Clerk will no longer be signatory on cheques for Clerk wages or expenses.
 - 2.2.3. **Approval required of setting up of and any changes to bank accounts etc** – see above in relation to adding new signatories and ensuring that elected members are able to sign.
 - 2.2.4. **Credit cards** – not applicable
 - 2.2.5. **Authority to approve every bank mandate, list of authorised signatories, amendments etc** - no evidence that this formally done by means of minutes etc in the past but PC is currently undertaking process to set this up as part of internal control and also financial risk assessment, as adopted in May 2016
- 2.3. **Employment** - No evidence that remuneration or expenses had been pre-approved by council. Payroll processes are questionable and some documents and records appear to be missing, e.g. pay slips, HMRC records, NI payments etc. There is currently no evidence

of pensions arrangements for Clerk having been set up. Clerk is currently undertaking training in all aspects of HMRC and pension procedures. Until May 2016 Clerk did not have an employment contract and some Cllrs were even under the impression that it was a self-employed consultancy position, even though wages etc were paid through PAYE using HMRC tools. Until May 2016 there was no Staffing or Appeals Committee to deal with employment-related issues.

- 2.4. **VAT** – Whilst there is evidence of applications for VAT refunds, there is no evidence of “robust arrangements” for dealing with payment for, accounting of and recovering payment of VAT. Clerk is currently undertaking training in this respect.
 - 2.5. **Fixed assets and equipment** – The latest full Asset Register available to the Clerk dated from 2010 although a later one dated 2013 was subsequently made available by a previous Clerk. There is however little evidence that either of these ARs had been taken into account when considering insurance or liability issues in the past or that any assets contained therein were properly managed or secured. There is also very little evidence to show whether and how any of these ARs had been taken into account in preparing subsequent Annual Audit Returns. The AR was updated in March 2016 and approved May 2016 for 2016/17 to take into account new valuation of VH property etc and will be subject to regular review and annual updates in the future.
 - 2.6. **Loans and long term liabilities** – n/a
 - 2.7. **Review of effectiveness** – There was no evidence of internal control or review of effectiveness of financial or governance control and no evidence that this informed previous annual governance statements. The previous internal auditor confirmed that he had never been asked to consider this, nor had taken steps to acquire information about this.
3. **We took all reasonable steps to assure ourselves that there are no matters of actual or potential non-compliance with laws, regulations and proper practices that could have a significant financial effect on the ability of this smaller authority to conduct its business or on its finances**

Our answer: No (partial yes: problems identified during the year but not changes not ratified until 2016/17)

- 3.1. **Acting within powers** – As soon as it had been identified that a number of procedures were incorrect or lacking, we acted to resolve this by seeking legal advice from various Council sources (SALC, SLCC, NALC etc), urgently adopting a raft of governance documents and financial transparency procedures and reviewing all policies and practices to ensure compliance with all regulations and powers and that henceforth, no decision would be taken or procedure enacted which would be outside the powers of the the PC. Given the urgency of resolving this situation, there has not yet been an opportunity to consider which, if any actions from 2015/16 might lay outside of the powers of the PC and which therefore might be subject to challenge, although completing this task is a priority for the current FY as part of the ongoing financial risk assessment and internal control processes.
- 3.2. **General Power of Competence** – not applicable to our PC
- 3.3. **Regulations and proper practices** – The various governance documents adopted in May 2016 included DPA and FOI policies, Codes of Conduct, Complaints Procedures, Employment contracts and policies etc.
- 3.4. **Actions during the year** – Whilst many of the issues were identified during the FY 2015/16, it took some time to bring all the documents, policies and procedures etc together and to ensure that they could be ratified, so the actual adoption of the changes did not take place until May 2016.

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

Our answer: PARTIAL YES

- 4.1. **Exercise of public rights** – The PC's internally and externally audited Annual Return documents and supporting accounting information for 2014/15 was published on the website, although location of accounting documents for previous FYs for publication are not available to be published but once they have been successfully located they will be published on the PC website.
- 4.2. **External Auditor's Review** – This was published on the PC website together with a note of any recommendations.

5. We carried out an assessment of this risks facing the smaller authority and took appropriate steps to manage those risks including the introduction of internal controls and/or external insurance cover where required

Our response: YES

- 5.1. **Identifying and assessing risks of those actions which could have financial consequence** - It was identified in early 2016 that we had not been copying with governance, audit requirements and transparency conditions and therefore Clerk and Chair took steps to implement missing documents, policies and procedures in a complete overhaul of PC procedures and records which was largely implemented by May 2016. As part of this was considered the inherent risk of personal and corporate financial liability in the event of a judicial challenge to any decision of the PC and potential extent of limitation of of scope of insurance policy currently in place.
- 5.2. **Addressing risks and putting into place appropriate measures to mitigate and manage the risk, e.g. internal controls or insurance cover** – We identified the risks of continued non-compliance with regulations as set out above and took emergency action to ensure governance documents etc were adopted and ratified. We also adopted various internal control and financial risk assessment techniques and procedures which had previously been lacking. One issue still however to be resolved is the legal status of the relationship between the Village Hall Committee and another local charity. In respect of the VHC the issues mainly revolve around whether it acts as a sub-committee of the PC or as an independent charity and the true extent of financial and legal liability of the PC for the actions of the VHC and scope of insurance cover provided for by the PC.

6. We maintained throughout the year an adequate and effective system of internal audit of the accounting records and control systems

Our response: NO

- 6.1. **Internal audit** – The internal audit for 2014/15 was conducted by a local retired accountant but this appeared only to consider financial balancing of books rather than governance matters or risk management etc. There does not appear to have been adequate consideration of governance issues for previous governance statements on annual returns, for which all answers had previously been 'yes' desire the evidence now available that many of the issues could not have been complied with to the extent required by statute and regulation. It is respectfully submitted that this was due to Councillors and Clerk not having

been aware at the time of the full implications of what each section of the governance statement on previous annual returns contained. As soon as this issue was identified, alternative external auditors were appointed and advice sought from number of sources to rectify the situation, including large scale adoption of new processes and procedures, and governance documents etc so as to ensure compliance for 2016/17. It therefore appears that the audit documentation for 2014/15 and governance statement contained therein had not properly considered all the relevant governance issues in as much detail as required, as all boxes had been ticked 'yes' although there was little evidence that these had been completed in detail. It is submitted that this was not done as a result of malice or deliberate wilful negligence on the part of Councillors or the Clerk, but rather lack of awareness of the various contemporaneous legal provisions by which the PC ought to have conducted business.

- 6.2. **Provision of information to those conducting the internal audit** – documents were provided to the former auditor to enable the completion of a book-balancing exercise but evidence suggests that the PC was unaware of its wider responsibilities and duties to ensure auditing of governance and other risk aspects, therefore this aspect would not have been fulfilled.

7. We took appropriate action on all matters raised in reports from internal and external audit

Our response: YES

- 7.1. In the external audit from 2015/16, BDO found that the sums of monies differed by £1 therefore we introduced a more rigorous form of rounding up/down for purposes of accounting and bookkeeping in the 2015/16 audit. Indeed when completing the 2015/16 audit return it transpired that some of the figures for 2014/15 had been incorrectly included on the current year's audit, therefore they have been amended on the 2015/16 document to reflect the accurate financial records currently held by the PC. There were no other issues raised at this point by BDO as it had yet not come to light by this stage that the PC was meeting all its regulatory requirements as outlined above.

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

Our response: YES

- 8.1. **Significant events** – We considered the risks and effects of continued non-compliance with with auditing requirements and statutory and governance regulations as outlined in detail above and where possible and appropriate, took these into account within the budget for 2016/17 and therefore allowed - for example - for additional expenditure on e.g. DPA registration, higher Clerk's wages, cost of training and subscriptions.

9. (For local councils only) Trust funds including charitable. In our capacity as the sole managing trustee we discharged our accountability responsibilities for the fund(s)/ assets, including financial reporting and, if required, independent examination or audit.

Our response: see below

- 9.1. As set out above, we are in the process of clarifying the legal status of the Village Hall Committee and the Halifax Trust in the context of the legal/charitable etc role which the PC ought to be taking, in light of the recent governance changes and whether this means we have duties to report on this aspect in the future.

Signed:

Jenny O'Reilly-Turner

Clerk and Proper Officer to Shimpling Parish Council

July 2016