

## Review of Purchase Invoices Incurred under Heading HR to 31 March 2020.

At the Policy and Resource Meeting of 19 May 2020 I requested a schedule of expenditure under the heading Professional Fees; HR within Bingham Town Council's Annual accounts for the Year End 31 March 2020. I received the following analysis:

<b>Invoice Date</b>	<b>Supplier</b>	<b>Purpose</b>	<b>Net Cost</b>
14/08/2019	Ellis Whittam	Disciplinary Appeal	£ 1,950.00
12/09/2019	Hays	Minute-taking	£ 145.80
02/10/2019	Moretime PA	Minute-taking	£ 55.44
30/10/2019	Moretime PA	Minute-taking	£ 55.44
30/10/2019	Castle Associates	Grievance	£ 416.67
23/12/2019	Castle Associates	Grievance	£ 341.68
03/01/2020	Ellis Whittam	HR Consultancy - Annual Fee	£ 1,362.50
29/01/2020	Castle Associates	Grievance	£ 416.67
			<b>£ 4,744.20</b>

The full analysis is provided for completeness however, as I will demonstrate, only the three invoices provided by Castle Associates will be of interest to Full Council.

I have concerns over whether this expenditure was properly authorised and incurred in accordance with the Standing Orders of Bingham Town Council and whether councillors have breached the Financial Regulations upon which the business of BTC must be conducted by law. I am further concerned over whether the process embarked upon by P&R protected the right to confidentiality of Councillors who may have been the subject of the Grievance, and the member of staff bringing the Grievance

For the record, should any councillor believe that I am applying retrospection to this analysis, you will see from the contemporaneous note of the meeting on 29 October 2019, emailed to fellow Councillors on the 30<sup>th</sup> October 2019, that I raised my concerns with Councillor Purdue-Horan at the meeting on 29 October itself.

Councillors will also be aware of Councillor Purdue-Horan's refusal, in his capacity as Chair of P&R, to sign the minute of the meeting of 29 October on the basis that the minute includes "Recommendations" rather than "Agreements" at item 3. His position is that the minute, as drafted is incorrect, and he is supported in that position by Cllr John Stockwood the Mayor and vice chairman of P&R. Whilst I expressed my displeasure at what I described as "pedantry" at last week's P&R there is a deeper reason as to why the Chair of P&R and the Mayor want this change. They wish to confer upon P&R an authority which it does not possess.

## **Were P&R empowered to take an executive decision to incur expenditure on behalf of Bingham Town Council without the explicit authority of Full Council?**

For simplicity I will begin by setting out what Bingham Town Council Standing Orders have to say on the matter:

### **4. COMMITTEES AND SUB-COMMITTEES**

e The Council may appoint standing committees or other committees as may be necessary, and:

i. shall determine their terms of reference;

Policy and Resource is a Standing Committee. Councillors should be familiar with its Terms of Reference, but if not, they can be found on the Town Council Website:

#### **Policy and Resources Committee**

Level of authority from Full Council: **Advisory**

Councillors Members:

John Stockwood – Vice Chair

Andrew Shelton

Francis Purdue-Horan - Chair

Maureen Stockwood

Tony Wallace

Rowan Bird

It is clear that The Policy and Resource Committee is an Advisory, **not** an Executive Committee. It is there to advise full Council and is **not** entitled to commit Council to expenditure in its own right. Neither is it empowered to take executive powers unto itself, whether it has agreed with itself to do so or not. The terms of reference are determined by Full Council and have not been changed within the past two years.

Returning to BTC Standing Orders; in addition to setting out rules governing the proper business of Standing Committees, it has the following to say about how staffing matters should be handled and covers the management of grievances at 19 (e).

#### **19: Handling Staff Matters**

e Subject to the Council's policy regarding the handling of grievance matters, if an informal or formal grievance matter raised by the Council's most senior member of staff (or other members of staff) relates to the chairman or vice chairman of the Policy and Resources, this shall be communicated to another member of the Policy and Resources committee, which shall be reported back and progressed by resolution of Council.

Although the Councillors named in the Staff Member's Grievance were not disclosed, and I do not do so now, it is a reasonable inference, given that the staff member gave the grievance to another member of P&R, that the persons involved in the Grievance may well have included either, or both, the chair and vice chair of P&R. The Chair and Vice Chair should have considered that possibility given their long experience as councillors. Following 19 (e), it is obvious that this matter should never have fallen within the ambit of P&R to take forward. The matter should have been reported back and progressed by resolution of Full Council throughout. It is a matter of regret that it was not.

What 19(e) does not permit; is for the chair of P&R to independently commission an HR firm of his choosing to investigate the matter or to take it upon himself to approach any other Councillor to undertake any action ahead of a resolution from Council authorising him to do so.

On 29 October, I asked Councillor Purdue-Horan to set out for P&R the authority upon which he personally had contacted Castle Associates and Cllr Moskwa *before* laying the matter before P&R. His response was minuted thus:

- Councillor Purdue--Horan took the decision to speak with Councillor Moskwa...
- Councillor Purdue-Horan confirmed he had discussed this with the Mayor and P&R Vice Chair, John Stockwood.

What they did, as the Chair and Vice Chair of P&R, in approaching Cllr Moskwa before receiving the necessary resolution of Full Council, ran directly counter to Standing Order 19 (e).

### **Extraordinary Meeting of Policy and Resource (P&R) dated 29 October 2019.**

The official minute of the meeting of 29 October records the following:

#### **3. Confidential Business**

Public Bodies (admission to meetings) Act 1960:-

To resolve that "in view of the confidential nature of the business about to be transacted,

The Press and Public be excluded for the remainder of the meeting"

The following matter was discussed:

Staffing Matter

**RECOMMEND:** The Committee instructs that an external HR agency be engaged to assist the Town Council.

A recorded vote was requested:

For: Councillor Bird, Councillor Wallace, Councillor Purdue-Horan, Mayor Stockwood, Councillor Stockwood and Councillor Shelton

**RECOMMEND:** The external agency is Castle Associates Ltd, of 28a Musters Road, West Bridgford, Nottingham, NG2 7PL. **An upfront deposit of £500** payable to Castle Associates is authorised, subject to an invoice.

A recorded vote was requested:

Against: Councillor Bird & Councillor Wallace

For: Councillor Purdue-Horan, Mayor Stockwood, Councillor Stockwood and Councillor Shelton

Councillor Purdue-Horan and Councillor Stockwood continue to reject these minutes on the basis that they are incorrect.

The following fuller extracts of the discussion are drawn from the notes of the same meeting on 29 October, and sent to BTC on 30 of October 2019. Those notes were prepared by Vickie Carnill of Moretime PA Services. They are therefore contemporaneous; I emailed Vickie to say that I agreed the contents of these notes as accurate on 3/11/2019. However, the highlighting below is my own and is provided for emphasis:

- Councillor Wallace required clarification as he did not know a grievance was in place and the progress on this and why Councillor Moskwa has agreed to take forward when he is not on the P&R Committee.
- Councillor Bird advised the grievance is with Bingham Town Council and that 4 Councillors are named. It has not been shared with anyone except Ellis Witham to understand what happens next.
- **Councillor Purdue-Horan advised the proposal is to ensure objectivity that we move it to an external company.**
- **Councillor Wallace advised he still doesn't understand why this has been discussed with Councillor Moskwa and on who's authority it took place and when?**
- **Councillor Purdue--Horan took the decision to speak with Councillor Moskwa** and felt it was appropriate that as 4 Councillors (names unknown) had been named in the grievance.
- Councillor Bird advised he was unaware of the conversation with Councillor Moskwa before tonight's meeting.
- **Councillor Purdue-Horan confirmed he had discussed this with Mayor Stockwood.**
- Councillor Wallace advised he is strongly objecting to this as he does not feel a grievance matter should be discussed with another Councillor.
- **Councillor Wallace asked what is the function of P&R Committee?**

- **Councillor Purdue-Horan advised it is to make a decision.** The previous discussion was to enable us to take a decision and authority in the manner it will be carried out.
- Councillor Wallace asked as chair of P&R Committee Councillor Purdue-Horan took a decision to approach another Councillor who is not a member of the P&R Committee to discuss the management of a grievance before other members of this Committee had the opportunity to be made aware that a grievance had been lodged.
- Councillor Purdue-Horan confirmed he had not discussed the contents of the grievance but the asked another Councillor who is not a member of this Committee is willing to take actions forward in appropriate liaison with our external agency.
- Councillor Wallace asked if Councillor Purdue-Horan thought it was more appropriate for another member of this Committee to take this forward? Why are we now proposing to use another agency instead?
- Mayor advised just 1 statement from each person and then to go to vote.
- Councillor Purdue-Horan advised we have used the Castle Associates in the past and are professional and effective. Last used around Christmas 2016. Ellis Witham have not provided a quotation.
- **Councillor Wallace advised he is extremely disappointed with this and asked due to this Committee not an Executive of the Council so are we taking this back to full Council for discussion?**
- **Councillor Purdue-Horan advised no because we have authority (from previous minutes) and the current Staff Handbook to move matters such as a grievance forward.**

What is clear from these minutes is the following:

1. Councillor Purdue Horan discussed the management of the grievance with Councillor Moskwa, a Councillor from outside of P&R before obtaining the authority to do so from P&R or, as was required under Standing Orders, Full Council. He did this with the authority of the Mayor.
2. Cllr Purdue-Horan commissioned Castle Associates to undertake work on behalf of BTC before bringing the matter before P&R. That work has to date cost Bingham Town Council £1,175.02 + VAT
3. Councillor Moskwa was empowered to act as the single point of contact with Castle Associates to protect the member of staff bringing the grievance and those members of BTC against whom the Grievance was lodged. Cllr Moskwa was not empowered to act in a capacity beyond that liaison role, he was a buffer between BTC and Castle Associates to ensure that no other Councillor, who might be tainted by the grievance, was involved in the management of the process.
4. Cllr Purdue-Horan maintained that P&R was empowered to make this decision and incur expenditure, even against Cllr Wallace's challenge that it was not.

5. Castle Associates first invoice to BTC for a deposit of £500 is dated 30 October. Discussions had clearly proceeded with Castle Associates on the terms under which they would be engaged, and their fee, before the meeting of P&R on the evening of 29 October.

Whilst Cllr Purdue-Horan may continue to argue that P&R “Agreed” both the amount to be spent and the basis upon which it should be spent, such an argument is irrelevant when placed beside Bingham Town Council’s Standing Orders and P&R’s Terms of Reference.

At best P&R could agree to recommend to full council the actions it proposed; but that is a very different matter from taking the authority upon itself to incur such expenditure before obtaining the authority and agreement of full council. Furthermore, it is clear from Standing Order 19 (e) that given the nature of the grievance it should not have done even that.

Cllr Purdue-Horan and Cllr John Stockwood have clearly acted in a manner which is Ultra-Vires of the Standing orders of Full Council and the Terms of Reference of P&R.

### **Was Confidentiality Maintained Through the Process Adopted**

I think that this can be shortly stated.

Cllr Moskwa was engaged to ensure that there was a buffer between Castle Associates and the rest of Bingham Town Council. Cllr Moskwa alone, P&R and Councillors were told, would correspond and liaise with Castle Associates. No other Councillor would be involved. Furthermore, councillors were told that on more than one occasion.

Why, therefore, is the email which passed between Castle Associates and Cllr Moskwa dated 23 December 2019 copied to Cllr Purdue-Horan? This raises the obvious question of what other emails may have passed between Castle Associates and Cllr Purdue-Horan, and how was the right to confidentiality of the complainant protected?

In view of this email, and in the interests of good order, I would ask that Cllr Purdue-Horan provide a written undertaking that; no further items of correspondence passed between himself and Castle Associates, no conversations took place between himself and Castle Associates and no further emails were shared between himself, Cllr Moskwa and Castle Associates in relation to the conduct, management or outcome of the Grievance.

The Terms of Reference under which Castle Associates were engaged must also be supplied to Councillors. It is not acceptable that any single Councillor should feel empowered to withhold documents, which are the property of Bingham Town Council, from fellow Councillors.

### **Were Appropriate Financial Regulations Followed?**

I will begin by setting out some basic provisions by which BTC, and Councillors, are expected to behave to ensure that public funds are spent appropriately. The following provisions are drawn from the 2019 version of BTC's financial regulations which all councillors have signed:

## 1. GENERAL

- 1.1. These financial regulations govern the conduct of financial management by the Council and may only be amended or varied by resolution of the Council. Financial Regulations are one of the Council's three governing policy documents providing procedural guidance for members and officers. Financial Regulations must be observed in conjunction with the Council's Standing Orders and any individual Financial Regulations relating to contracts.
- 1.2. The council is responsible in law for ensuring that its financial management is adequate and effective and that the Council has a competent system of internal control which facilitates the effective exercise of the Council's functions, including arrangements for the management of risk.
- 1.6. Deliberate or wilful breach of these Regulations by an employee may give rise to disciplinary proceedings.
- 1.7. Members of Council are expected to follow the instructions within these Regulations and not to entice employees to breach them. Failure to follow instructions within these Regulations brings the office of councillor into disrepute.

Budgetary Controls are set out at Chapter 4

## 4. BUDGETARY CONTROL AND AUTHORITY TO SPEND

- 4.1. Expenditure on revenue items may be authorised up to the amounts included for that class of expenditure in the approved budget. This authority is to be determined by:
  - the council for all items over £2,000;
  - the RFO, in conjunction with Chairman of Council or Chairman of the appropriate committee, for any items below £500.

Such authority is to be evidenced by a minute or by an authorisation slip duly signed by the RFO, and where necessary also by the appropriate Chairman.

Contracts may not be disaggregated to avoid controls imposed by these regulations.

- 4.2. No expenditure may be authorised that will exceed the amount provided in the revenue budget for that class of expenditure other than by resolution of

the council, or duly delegated committee. During the budget year and with the approval of council having considered fully the implications for public services, unspent and available amounts may be moved to other budget headings or to an earmarked reserve as appropriate ('virement').

These regulations demonstrate that good financial management is at the heart of what councillors are obliged to do to protect the interest of the people of Bingham and comply with the law. Any failure to follow them brings the office of councillor into disrepute.

It is of primary importance that **before** any expenditure is incurred it must be properly authorised up to the amount included for that expenditure in the approved budget and that it must be evidenced. Furthermore, no expenditure will be authorised where it exceeds the amount authorised in the budget without the resolution of council or a duly regulated Committee.

The budget for BTC's HR spend for the year to 31 March 2020 was £1,500. The actual spend was £4,774.20, a sum well in excess of the agreed budget. Of this £1,175.02 was booked against Castle Associates and, as I have demonstrated above, was incurred on the say so of Councillor Purdue-Horan through P&R in advance of any resolution being presented to Full Council for agreement. Cllr Purdue-Horan and Cllr John Stockwood have consistently argued that they had authority to incur such expenditure by resolution of P&R. As I have demonstrated at length above, P&R had no such delegated authority.

Whilst it might be argued that a new Councillor may have made such an error in good faith, it is difficult to accept Councillors Stockwood and Purdue-Horan could fall into that bracket. Both are long standing members of Bingham Town Council, Rushcliffe Borough Council and, in Cllr Purdue-Horan's case, Nottinghamshire County Council. It is my belief that they are both aware of this shortcoming and that it is for this reason that both Councillors are so keen to have Council accept that P&R had the explicit authority of Council to authorise the expenditure invoiced by Castle Associates.

To be clear, neither they personally, nor P&R had that authority.

## **Conclusion**

This is a lengthy document and I take no pleasure in writing it, however over the past year Councillors Purdue-Horan and Stockwood have treated fellow Councillors with contempt. They have refused to share documents and information with their fellow councillors, documents which have been paid for by the people of Bingham and which are the property of Bingham Town Council. Indeed, within recent weeks they contacted the council's providers of HR services demanding explicitly that those advisors do not share such advice with councillors outside of themselves.

For the past six months Cllrs Purdue-Horan and Stockwood have consistently argued that P&R was authorised to spend money on behalf of Full Council. Throughout that period it has been clear that P&R is an Advisory, not an Executive Standing Committee. Despite their



protestations, the authority to authorise this expenditure and action without reference back to full council does not exist.

Cllr Purdue-Horan further exceeded his authority, even before P&R, by taking it upon himself to discuss P&R matters with a Councillor who is not a member of that committee without a resolution authorising him to do so. He entered into discussions with Castle Associates to provide Bingham Town Council with HR services before placing the matter before P&R or Full Council. Furthermore, he did that despite the fact that BTC had already incurred an annual fee to its existing HR providers Ellis Whittam. He claimed that his actions were designed to protect the right to confidentiality of the complainant and the councillors against whom complaints had been lodged. Given that at least one email from Castle Associates to Councillor Paul Moskwa was copied to Councillor Purdue-Horan, the protection which should have been in place to protect the aggrieved member of staff, was simply not there. This is a serious failure to protect a member of staff in a vulnerable position.

As expenditure was not, as a matter of record, properly authorised by way of a resolution passed by Full Council before being incurred under the umbrella of recommendations made at P&R, there has been a serious breakdown in the Financial Regulations of Bingham Town Council. The Mayor and the Chair of P&R, by their actions, are responsible for that failure.

I will be copying this analysis to Rushcliffe Borough Council's Monitoring Officer and tabling it for discussion before Full Council at the extraordinary meeting set down for next week. In the meantime, I invite Councillors Purdue-Horan and John Stockwood to consider their positions as Councillors.

A Wallace

Cllr

25 May 2020 (amended 27 May 2020)