



FAO: The Members of Preston Parish Council

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SB06827

Preston Parish Council

Statutory recommendation: Failure to submit an Annual Governance & Accountability Return (AGAR) for the year ending 31 March 2022

Dear Members

The Local Audit and Accountability Act 2014 (the Act) requires that the accounts of smaller authorities are made up each year to 31 March and then reviewed by the appointed auditor.

Preston Parish Council is required by law:

- to prepare Accounting Statements for the year ended 31 March 2022 in the form required by proper practices¹ (the AGAR);
- to approve and publish the AGAR including the Accounting Statements;
- to provide for the exercise of public rights of inspection; and
- to publish the AGAR, including the external auditor's signed report, by 30 September 2022.

As set out in our instructions issued in March 2022, statutory recommendations are issued to financially active authorities who fail to submit the relevant documentation where either of the following circumstances apply:

- The authority has not contacted us to agree an alternative submission deadline to the default deadline of 1 July 2022 and we have made several unsuccessful attempts to obtain an approved AGAR (with all relevant supporting documentation) or Certificate of Exemption; or

¹ Proper practices are set out in *Governance and Accountability for Smaller Authorities in England*, which is approved by the Joint Panel on Accountability and Governance (JPAG) and published jointly by the Society of Local Council Clerks (SLCC), the National Association of Local Councils (NALC) and the Association of Drainage Authorities (ADA).

- the authority has contacted us to agree at least one alternative submission deadline but failed to submit an approved AGAR (with all relevant supporting documentation) or Certificate of Exemption either by the most recently agreed deadline or by 15 September 2022.

We are the appointed auditors to Preston Parish Council (the smaller authority) and we have yet to receive either your approved AGAR (with all relevant supporting documentation) or Certificate of Exemption, hence Preston Parish Council meets one of the above stated criteria. Depending on whether Preston Parish Council has previously contacted us to agree alternative submission deadlines and the timing of that contact, Preston Parish Council may also have been sent letters chasing the outstanding information; each chaser letter is charged at £40+VAT per letter.

Members of Preston Parish Council should be aware that the local electors and other interested persons must be provided with the opportunity to exercise their statutory rights with regard to the accounts of the smaller authority as set out in the Act and the Accounts and Audit Regulations 2015.

It is possible that the smaller authority has certified itself exempt from a limited assurance review for 2021/22 but has failed to submit a copy of the Certificate of Exemption. To be exempt from review, the Local Audit (Smaller Authorities) Regulations 2015 require that the smaller authority certifies itself exempt, but also notifies the 'specified person' that they have done so (Regulation 6). The specified person, currently Smaller Authorities' Audit Appointments Ltd (SAAA), has contractually agreed that the appointed auditors will be responsible for receiving notification by way of a completed Certificate of Exemption. As we have not yet received a Certificate of Exemption, we are required to proceed on the basis that the smaller authority is not claiming exemption with regard to the AGAR for the year ended 31 March 2022 and should therefore have submitted an AGAR.

As a result of the smaller authority's failure to submit an AGAR for the year ended 31 March 2022, we are issuing the following statutory recommendation under Schedule 7 of the Act:

- **The smaller authority should submit the approved Annual Governance & Accountability Certificate of Exemption (if appropriate) for the year ended 31 March 2022 for our review within 7 days of the public meeting required as a result of this recommendation.**

Please ensure that the following requirements are also met:

- Schedule 7 of the Act requires the smaller authority to consider this recommendation at a meeting to be held within one month of the date of this letter. At that meeting the smaller authority must decide whether the recommendation is to be accepted, and what, if any, action to take in response to it; and
- Publicity for the meeting must also be in accordance with Schedule 7 of the Act (see attached of Schedule 7).

The smaller authority should also contact us within 7 days of the date of this letter to inform us that it has received the recommendation. If we receive no response from the smaller authority within 42 days of the date of this letter, we will consider further exercising our additional powers by issuing a public interest report. Please note, this would give rise to a further charge equivalent to that charged for this statutory recommendation.

This statutory recommendation gives rise to an additional fee of £200.00 plus VAT payable by Preston Parish Council on conclusion of the review process, for the additional work involved in repeatedly chasing for the required documentation and the production of the statutory recommendation letter.

The smaller authority should also note that, as a result of receiving this statutory recommendation, the smaller authority will not be eligible to certify itself as exempt from a limited assurance review in 2022/23 (if it would otherwise be eligible), as it will have failed one of the qualifying requirements set out in Regulation 9(3) of The Local Audit (Smaller Authorities) Regulations 2015.

Yours faithfully



PKF Littlejohn LLP

cc Clerk – Preston Parish Council, Secretary of State, National Audit Office, Monitoring Officer of local authority (local councils only)

Extracts of Schedule 7 of the Local Audit and Accountability Act 2014:

Written recommendations

2 (1) A local auditor of the accounts of a relevant authority may make a written recommendation to the authority relating to the authority or an entity connected with it, so that the recommendation can be considered under this Schedule.

(2) A recommendation may be made during or at the end of an audit.

(3) A recommendation must be sent at the time it is made—

(a) to the Secretary of State,

(b) where the recommendation relates to an entity connected with the relevant authority, to that entity and to any other relevant authority with which the entity is connected,

(c) where the relevant authority is itself a connected entity, to its related authority or authorities;

...

(4) A local auditor may recover from a relevant authority—

(a) the reasonable costs of determining whether to make a recommendation relating to the authority or an entity connected with it, and

(b) the reasonable costs of making a recommendation relating to the authority or an entity connected with it.

(5) Sub-paragraph (4)(a) applies regardless of whether the recommendation is in fact made.

(6) In this Act 'related authority', in relation to a connected entity, means the relevant authority with which the entity is connected.

Consideration of report or recommendation

5 (1) Subject to sub-paragraphs (2) and (4), this paragraph applies to a relevant authority if—

(a) a local auditor has made a public interest report relating to the authority or an entity connected with it, or

(b) a local auditor has made a recommendation relating to the authority or an entity connected with it.

...

(5) The relevant authority must consider the report or recommendation at a meeting held before the end of the period of one month beginning with the day on which it was sent to the authority.

(6) At that meeting the relevant authority must decide—

(a) whether the report requires the authority to take any action or whether the recommendation is to be accepted, and

(b) what, if any, action to take in response to the report or recommendation.

...

(8) If the local auditor is satisfied that it is reasonable to allow more time for the relevant authority to comply with sub-paragraph (5) or (7), the auditor may extend or further extend the period of one month mentioned in that sub-paragraph.

(9) This paragraph does not affect any duties (so far as they relate to the subject matter of a report or recommendation sent to a relevant authority) which are imposed by or under—

(a) this Act,

(b) sections 114 to 116 of the Local Government Finance Act 1988 (functions and reports of finance officers),

(c) section 5 of the Local Government and Housing Act 1989 (functions of monitoring officers), or

(d) any other enactment.

(10) The Secretary of State may by regulations provide for this paragraph to apply with modifications in relation to a relevant authority specified, or of a description specified, in the regulations.

- (11) The Secretary of State may by regulations provide for any provisions of the following that do not otherwise apply to a meeting of a relevant authority under this paragraph to apply (with or without modifications) to such a meeting–
- (a) the Public Bodies (Admission to Meetings) Act 1960;
 - (b) Part 5A of the Local Government Act 1972 (access to meetings and documents);
 - (c) Schedule 12 to that Act (meetings and proceedings of local authorities).

Bar on delegation of functions relating to meetings

...
7 (2) If a relevant authority is a local authority within the meaning of section 101 of the Local Government Act 1972 (arrangements for discharge of functions), that section does not apply to its functions under paragraph 5.

(3) The functions of a parish meeting under paragraph 5 are to be exercised by the parish meeting itself (and not by its chairman on behalf of the parish meeting).

Publicity for meetings

8 (1) If a relevant authority is required to hold a meeting under paragraph 5, it must publish a notice in compliance with sub-paragraphs (2) to (4).

(2) The notice must be published–

- (a) if the relevant authority has a website, on its website;
- (b) otherwise, in such manner as the authority thinks is likely to bring the notice to the attention of persons who live in its area.

(3) The notice must–

- (a) state the time and place of the meeting,
- (b) indicate that the meeting is to be held to consider a local auditor's report or recommendation (as the case may be),
- (c) if the meeting is to be held to consider a report, describe the subject matter of the report, and
- (d) if the meeting is to be held to consider a recommendation, set out the recommendation or, where this is not reasonably practicable, describe its subject matter.

(4) The notice must be published before the beginning of the period of 8 days ending with the day of the meeting.

(5) The agenda supplied to the members of the relevant authority for the meeting must be accompanied by a copy of the report or recommendation (as the case may be).

(6) Sub-paragraph (5) does not apply in relation to a parish meeting.

...
(9) This paragraph applies in addition to any provision made in relation to the relevant authority in question by or under the Public Bodies (Admission to Meetings) Act 1960, the Local Government Act 1972 or any other enactment.

Access to meetings and documents

9 (1) Where a public interest report or a recommendation is to be considered under paragraph 5 by a relevant authority to which the Public Bodies (Admission to Meetings) Act 1960 applies, the report or recommendation is not to be excluded from the matter supplied under section 1(4)(b) of that Act (supply of agenda etc. to newspapers).

...
(3) Sub-paragraphs (4) to (6) apply in relation to the consideration under paragraph 5 or 6 of a public interest report or a recommendation by a relevant authority to which Part 5A (access to meetings and documents) of the Local Government Act 1972 applies.

- (4) Information contained in the report or recommendation is not to be treated as exempt information for the purposes of that Part.
- (5) The report or recommendation is not to be excluded–
- (a) from the documents open to inspection under section 100B(1) of that Act (public access to agenda and reports before meetings), or
 - (b) from the matter supplied under section 100B(7) of that Act (supply of agenda etc. to newspapers).
- (6) Part 5A of the Local Government Act 1972 has effect in relation to the report or recommendation as if section 100C(1)(d) of that Act (public access to copies of reports for six years after meeting) were not limited to so much of the report or recommendation as relates to an item during which the meeting was open to the public.
- (7) Information contained in a public interest report or a recommendation is not to be treated as exempt information for the purposes of any Act or instrument made under an Act that applies in relation to exempt information within the meaning of Part 5A of the Local Government Act 1972.
- (8) References in this paragraph to a public interest report or a recommendation include any report on the report or recommendation.

Publicity for decisions under paragraph 5 or 6

- 10 (1) As soon as is practicable after making decisions under paragraph 5(6) or (7) or 6(6), a relevant authority must–
- (a) notify the authority's local auditor of those decisions, and
 - (b) publish a notice containing a summary of those decisions which has been approved by the auditor.
- (2) The notice under sub-paragraph (1)(b) must be published–
- (a) if the relevant authority has a website, on its website;
 - (b) otherwise, in such manner as the authority thinks is likely to bring the notice to the attention of persons who live in its area.
- (3) The notice required by sub-paragraph (1)(b) in relation to a meeting need not summarise any decision made while the public were excluded from the meeting–
- (a) as the result of a resolution under section 1(2) of the Public Bodies (Admission to Meetings) Act 1960 (protection of public interest),
 - (b) under section 100A(2) of the Local Government Act 1972 (confidential matters), or
 - (c) as the result of a resolution under section 100A(4) of that Act (exempt information).
- (4) If sections 100C and 100D of the Local Government Act 1972 (availability for inspection after meetings of minutes etc.) apply in relation to a meeting under paragraph 5 or 6, the notice required by sub-paragraph (1)(b) must indicate the documents in relation to the meeting that are open for inspection in accordance with those paragraphs.
- (5) This paragraph applies in addition to any provision made in relation to the relevant authority by or under the Public Bodies (Admission to Meetings) Act 1960, the Local Government Act 1972 or any other enactment.