

## Questions asked by Mr Phil Carrigan and responses made by Honiton Town Council

**Question 1** - Item 25 ; Why did HTC ask for a copy of the business plan. Is it the normal practice of HTC to ask private companies which have dealings with HTC to provide business plans? If not, why from HCC? Why has, presumably HCC, asked HTC to comment on it, and why did HTC do so?

**Response:** HTC asked HCC for a copy of its Business Plan following HCC giving Notice in February 2022 to end its lease of the Beehive, so HCC provided the Business Plan and HTC agreed to provide its comments.

**Question 2** - Item 26 ; HTC allocating no funds for HCC in 2023/24 budget provides no comfort. HTC allocated no funds the previous year, only to provide substantial funds to them. Why would HTC enter a "financial safety net mechanism"?

**Response:** To manage the risk of HCC giving Notice on its lease and cost and reputational risks to the Council.

**Question 3** - What period does this mechanism cover?

**Response:** This was decided by Full Council 13.3.23 at 12 months from 1 April 2023.

**Question 4** - Is the liability limited by amount?

**Response:** Yes

**Question 5** - Does the period cover the period of the new Council after the May elections?

**Response:** Yes, the period was decided by Full Council 13.3.23 at 12 months from 1 April 2023.

**Question 6** - Does this safety net extend past the current lease period?

**Response:** No, the period was decided by Full Council 13.3.23 at 12 months from 1 April 2023.

**Question 7** - Why is this, in effect, possible "unlimited grant" included in Part B, rather than Part A.

**Response:** It is commercially confidential.

**Question 8** - This "financial safety net mechanism" does not appear to be a contractual matter, but a grant, for amounts unknown!

**Response:** Grant using specific powers in the Local Government Act, S145 and Local Government (Miscellaneous Provisions) Act 1974, S19 (3) and with the General Power of Competence.

**Question 9** - You refer to Council business continuing even with forthcoming elections. But it is wrong in principle to bind a new council to future financial commitments, unless there is a strong case requiring it, I cannot see any possible case!

**Response:** Council decisions continue regardless of local elections; there are other mechanisms for reconsideration of Council's decisions.

**Question 10** - In addition, I have been made aware of HCC involving themselves in previous HTC Council elections, writing to their volunteers and supporters informing them which candidates were supportive of HCC, and preferably elected. Therefore supporting HCC during perdue could be considered to be breaking the pre-election perdue rules.

**Response:** The Town Council cannot use Council resources to influence an election; other individuals and organisations are not similarly restricted.

**Question 11** - Regarding an audit of HCC, as I'm sure Mulberry & Co have made clear to you, HTC can place no reliance on the accuracy of the accounts from a brief monthly review of the P&L accounts by them. Particularly as there has never been an independent audit, and no one can place any reliance on the underlying processes, procedures and the internal controls which have produced the P&L's HTC appear to be relying on!

**Response:** As a Charity, HCC must comply with the Charity Commission regulations including audited annual accounts.

**Question 12** - Regarding the Council/Councillors being regarded as "Shadow Directors", I don't understand your response. The two directors appointed by HTC to HCC's board are presumably covered by Directors liability cover taken out by HCC. The risk is not to these two directors/councillors, but to the other Councillors, and possibly to the Council itself.

You state "The operation of the Council and HCC are separate including governance and decision making."

The question is are they totally separate, or is HTC becoming involved in the management and monthly funding of HCC, possibly acting as a shadow director? This question is answered on the basis of the facts in any particular situation. If yes, then it is questionable if they would be covered Councils insurance cover, as they would be possibly liable under Company Law as being shadow directors of HCC. This would likely not be considered normal Council business!

**Response:** The Council and HCC are separately governed and decision making bodies; therefore all Councillors are not Directors of HCC other than 1 Councillor (nominated by HTC) who is a voting Director of HCC and 1 Councillor (nominated by HTC) who is not a voting Director of HCC. The Council's insurer has confirmed that HTC's insurance covers Councillors acting in their role as Councillor; Zurich "will cover the Councillors and exclusively their actions for this Charity under the Council's Public Liability cover". HCC has its own insurance for its Directors.